

LAND TRANSACTION TAX AND ANTI-AVOIDANCE OF DEVOLVED TAXES (WALES) ACT 2017

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8 – Interpretation and Final Provisions

Schedule 18 - Charities relief

382. This Schedule provides relief (referred to as “charities relief”) from LTT where the buyer, or one of the buyers, in a land transaction is a qualifying charity, subject to certain conditions being met. Charities relief is provided so that the resources of the charity can be used for furthering the charitable purposes of the charity rather than payment of LTT.

Transactions eligible for relief

383. A charity (“C”) which is a buyer in a land transaction is a “qualifying charity” if it intends to hold the whole of the subject-matter of the transaction for “qualifying charitable purposes”.

384. However, where C is a buyer in the land transaction with one or more buyers, C is a “qualifying charity” and can claim partial relief from LTT *if* C intends to hold its undivided share of the subject-matter of the transaction for qualifying charitable purposes.

385. The subject-matter of the transaction is held by a charity for “qualifying charitable purposes” if it is used by that charity or another charity for charitable purposes; or as an investment from which the profits are used to further the charitable purposes of the buyer. For the purposes of this relief, “charitable purpose” has the meaning given by section 2 of the Charities Act 2011, and “charity” is defined in accordance with Part 1 of Schedule 6 to the Finance Act 2010.

Withdrawal of charities relief

386. Charities relief is withdrawn, or partially withdrawn in the following circumstances:

- If –
 - a disqualifying event occurs before the end of 3 years beginning with the effective date of the transaction for which charities relief was claimed (“the relieved transaction”), or
 - if the disqualifying event occurs due to or in relation to an arrangement put in place during that 3 year period,
- and

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- in each case, at the time the disqualifying event occurs, C holds a chargeable interest that it acquired under the relieved transaction or holds a chargeable interest derived from the interest acquired under the relieved transaction.
387. A “disqualifying event” is defined by paragraph 2(4) as when C ceases to be established for charitable purposes only, or the whole or any part of the subject-matter acquired under the relevant transaction (or any interest or right derived from it) is used or held for purposes other than qualifying charitable purposes.
388. Where the relieved transaction becomes liable for LTT the amount chargeable is the amount of tax that would have been chargeable, or an appropriate proportion of that amount, had the transaction not been originally relieved from LTT. An “appropriate proportion” in this context is determined by taking into account what was acquired in the relieved transaction and is still held by C, and what is being used by C for non-charitable purposes.

Charity not a qualifying charity

389. [Paragraph 5](#) makes provision for charities relief to be available where a charity (“C”) is a buyer but not a qualifying charity but still intends to hold the greater part of its share of the subject-matter for qualifying charitable purposes. In this situation C is eligible for charities relief, and the rules relating to disqualifying events (paragraph 4) apply as already outlined (subject to the modifications at paragraph 5(4)) but includes that relief may be wholly or partially withdrawn if -
- C transfers a major interest in the whole or part of the subject-matter of the relieved transaction; or
 - C grants a low rental lease at a premium for reasons other than C’s charitable purposes.
390. In this Schedule, a lease is granted at a premium if there is consideration other than rent and a lease is a “low rental” lease if the annual rent is less than £1000 a year.

Joint purchase by qualifying charity and another person: partial relief

391. [Paragraph 6](#) of this Schedule makes provision for partial relief for joint buyers where:
- there are two or more buyers under a land transaction;
 - the buyers acquire the land as tenants in common;
 - at least one of the buyers is a qualifying charity and at least one of the buyers is another person who is not; and
 - the transaction is not entered into to avoid the LTT charge.
392. Partial relief is calculated by reducing the tax due on the transaction by the amount of relief provided for under sub-paragraph (3). This states that the relief available is equal to the “relevant proportion” of the tax that would otherwise have been chargeable on the transaction.
393. Relevant proportion is defined as the lower of the proportion of the subject-matter acquired by all the qualifying charities (P1) and the proportion of the chargeable consideration for the transaction that is given by the qualifying charities (P2).

Withdrawal of partial relief

394. [Paragraph 7](#) of the Schedule provides for the withdrawal of partial relief where charities relief is provided under paragraph 6 but a disqualifying event occurs. The disqualifying event must occur before the end of 3 years from the effective date of the transaction or in pursuance of, or in connection with, arrangements that were made before the end

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of that 3 year period. In addition, at the time of the disqualifying event, the charity (“C”) must hold a chargeable interest in, or an interest derived from, the subject-matter acquired under the relevant transaction.

395. Sub-paragraph (5) provides that the amount of tax chargeable is the amount of relief given under paragraph 6, or an appropriate proportion of that relief. The proportion of the relief is calculated by sub-paragraph (7) or (8); the precise calculation charged will depend on whether P1 or P2 was the lower amount in the calculation under paragraph 6.
396. Sub-paragraph (9) provides that in determining the appropriate proportions, account must be taken of what C acquired and what it held at the time of the disqualifying event, and the extent to which what is held by C at the time of the disqualifying event is used or held for non-charitable purposes.

Partial relief: charity not a qualifying charity

397. [Paragraph 8\(1\)](#) provides the conditions under which a charity (“C”) which is not a qualifying charity is eligible for partial relief under paragraphs 6 and 7. These are where:
- C is acquiring land jointly as tenants in common with a non-charity;
 - C is not a qualifying charity;
 - the partial relief provisions would apply if C were a qualifying charity; and
 - C intends to hold the greater part of its share in the property for qualifying charitable purposes.
398. Where paragraph 7 (withdrawal of partial relief) applies, sub-paragraph (2) provides that a disqualifying event includes:
- any transfer by C of a major interest in the whole or any part of the subject-matter of the relevant transaction; and
 - any grant by C at a premium of a low-rental lease of the whole or any part of that subject-matter.
399. [Paragraph 7](#) is subject to modifications.

Application of this Schedule to certain trusts

400. Charities relief is available to charitable trusts in the same way that it applies to charities. A charitable trust is a trust of which all the beneficiaries are charities or a unit trust scheme in which all the unit holders are charities.