



# Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017

2017 anaw 1

## PART 2

### THE TAX AND KEY CONCEPTS

#### CHAPTER 2

##### LAND TRANSACTIONS

VALID FROM 01/04/2018

#### **3 Land transaction**

- (1) In this Act, a “land transaction” means an acquisition of a chargeable interest.
- (2) Except as otherwise provided, this Act applies however the acquisition is effected, whether by act of the parties, by order of a court or other authority, by or under any enactment or by operation of law.
- (3) See section 15 as to when the acquisition of an option or right of pre-emption is a land transaction.

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#### **4 Chargeable interest**

- (1) A chargeable interest is—
  - (a) an estate, interest, right or power in or over land in Wales, or

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- (b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power, other than an exempt interest.
- (2) In this Act, ““land in Wales”” does not include land below mean low water mark.
- (3) See section 9 as to land partly in Wales and partly in England.

VALID FROM 01/04/2018

## 5 Exempt interest

- (1) The following are exempt interests—
- (a) a security interest;
  - (b) a licence to use or occupy land;
  - (c) a tenancy at will;
  - (d) a franchise or manor.
- (2) In subsection (1)—
- (a) ““security interest”” means an interest or right (other than a rentcharge) held for the purpose of securing the payment of money or the performance of any other obligation;
  - (b) ““franchise”” means a grant from the Crown such as the right to hold a market or fair, or the right to take tolls.
- (3) See also paragraph 7 of Schedule 10 (which makes additional provision about exempt interests in relation to alternative financial arrangements).
- (4) The Welsh Ministers may by regulations amend this section so as to—
- (a) provide that any other description of interest or right in relation to land in Wales is an exempt interest;
  - (b) provide that a description of interest or right in relation to land in Wales is no longer an exempt interest;
  - (c) vary a description of an exempt interest.

VALID FROM 01/04/2018

## 6 Acquisition and disposal of chargeable interest

- (1) For the purposes of this Act, each of the following is an acquisition and a disposal of a chargeable interest—
- (a) the creation of the interest;
  - (b) the surrender or release of the interest;
  - (c) the variation of the interest.
- (2) But the variation of a lease is an acquisition and disposal of a chargeable interest only where—
- (a) it takes effect, or is treated for the purposes of this Act, as the grant of a new lease, or

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- (b) paragraph 24 of Schedule 6 (reduction of rent or term or other variation of lease) applies.
- (3) A person acquires a chargeable interest where—
  - (a) the person becomes entitled to the interest on its creation,
  - (b) the person's interest or right is benefited or enlarged by the surrender or release of the interest, or
  - (c) the person benefits from the variation of the interest.
- (4) A person disposes of a chargeable interest where—
  - (a) the person's interest or right becomes subject to the interest on its creation,
  - (b) the person ceases to be entitled to the interest on its being surrendered or released, or
  - (c) the person's interest or right is subject to or limited by the variation of the interest.
- (5) This section has effect subject to section 10(4) (substantial performance without completion), section 11(3) (substantial performance of contract providing for transfer to third party) and paragraphs 20 and 24 of Schedule 6 (agreement for lease and reduction of rent or term or other variation of lease).

VALID FROM 01/04/2018

## 7 Buyer and seller

- (1) The buyer in a land transaction is the person acquiring the subject-matter of the transaction.
- (2) The seller in a land transaction is the person disposing of the subject-matter of the transaction.
- (3) These expressions apply even if there is no consideration given for the transaction.

VALID FROM 01/04/2018

## 8 Linked transactions

- (1) For the purposes of this Act, a land transaction is a linked transaction if it is one of a number of land transactions forming part of a single scheme, arrangement or series of transactions between the same seller and buyer or, in either case, persons connected with them.
- (2) This section is subject to section 16 (exchanges; in particular see subsection (1) of that section which provides for transactions forming an exchange not to be treated as linked transactions).

## 9 Land partly in Wales and partly in England

- (1) This section sets out how this Act applies to a transaction which is the acquisition of—

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- (a) an estate, interest, right or power in or over land, or  
 (b) the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power,  
 where the land is partly in Wales and partly in England.
- (2) The transaction is to be treated as if it were two transactions, one relating to the land in Wales (“the Welsh transaction”) and the other relating to the land in England (“the English transaction”).
- (3) The consideration for the transaction is to be apportioned between those two transactions on a just and reasonable basis.
- (4) Accordingly, the Welsh transaction is to be treated as a land transaction within the meaning of this Act (being the acquisition of a chargeable interest relating to the land in Wales).
- (5) But subsection (4) does not apply in the case of an exempt interest.
- (6) WRA must publish guidance about transactions to which subsection (1) applies, including guidance about identifying the location of the border between Wales and England.
- (7) WRA may revise guidance published under subsection (6) and must publish the revised guidance.
- (8) See section 48A of the Finance Act 2003 (c. 14) as to the application of Part 4 of that Act (stamp duty land tax) to the English transaction.
- (9) In section 48A of the Finance Act 2003 (c. 14), after subsection (5) insert—
- “(6) See section 9 of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 0) as to the application of that Act to the transaction relating to the land in Wales.”

**Commencement Information**

**II** S. 9(6) in force at 18.10.2017 by [S.I. 2017/953](#), [art. 2\(a\)](#)

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