



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

2017 anaw 1

## PART 8

### INTERPRETATION AND FINAL PROVISIONS

#### *Interpretation*

**67 Meaning of tax**

Except as otherwise provided, in this Act, “tax” means land transaction tax.

**68 Meaning of major interest in land**

References in this Act to a “major interest” in land are to—

- (a) an estate in fee simple absolute, or
- (b) a term of years absolute,

whether subsisting at law or in equity.

**69 Meaning of subject-matter and main subject-matter**

Except as otherwise provided, references in this Act to the subject-matter of a land transaction are to the chargeable interest acquired (the “main subject-matter”), together with any interest or right appurtenant or pertaining to it that is acquired with it.

**70 Meaning of market value**

For the purposes of this Act, “market value” is to be determined as for the purposes of the Taxation of Chargeable Gains Act 1992 (c. 12) (see sections 272 to 274 of that Act).

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## 71 Meaning of effective date of transaction

Except as otherwise provided, the effective date of a land transaction for the purposes of this Act is the date of completion.

## 72 Meaning of residential property

- (1) In this Act, ““residential property”” means—
  - (a) a building that is used or suitable for use as one or more dwellings, or is in the process of being constructed or adapted for such use;
  - (b) land that is or forms part of the garden or grounds of a building within paragraph (a) (including any building or structure on such land);
  - (c) an interest in or right over land that subsists for the benefit of a building within paragraph (a) or of land within paragraph (b).
- (2) Accordingly, ““non-residential property”” means any property that is not residential property.
- (3) But see the rule in subsection (9) in the case of a transaction involving 6 or more dwellings.
- (4) For the purposes of subsection (1), a building used for any of the following purposes is used as a dwelling—
  - (a) residential accommodation for school pupils;
  - (b) residential accommodation for students, other than accommodation falling with subsection (5)(b);
  - (c) residential accommodation for members of the armed forces;
  - (d) an institution that is the sole or main residence of at least 90% of its residents and does not fall within any of paragraphs (a) to (f) of subsection (5).
- (5) For the purposes of subsection (1), a building used for any of the following purposes is not used as a dwelling—
  - (a) a home or other institution providing residential accommodation for children;
  - (b) a hall of residence for students in further or higher education;
  - (c) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder;
  - (d) a hospital or hospice;
  - (e) a prison or similar establishment;
  - (f) a hotel or similar establishment.
- (6) Where a building is used for a purpose specified in subsection (5), no account is to be taken for the purposes of subsection (1)(a) of its suitability for any other use.
- (7) Where a building that is not in use is suitable for use for at least one of the purposes specified in subsection (4) and at least one of those specified in subsection (5)—
  - (a) if there is one such use for which it is most suitable, or if the uses for which it is most suitable are all specified in the same subsection, no account is to be taken for the purposes of subsection (1)(a) of its suitability for any other use,
  - (b) otherwise, the building is to be treated for those purposes as suitable for use as a dwelling.

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- (8) In this section, ““building”” includes part of a building.
- (9) Where 6 or more dwellings are the subject of a single transaction involving the transfer of a major interest in, or the grant of a lease over, them, then, for the purposes of this Act as it applies in relation to that transaction, those dwellings are treated as being non-residential property.
- (10) The Welsh Ministers may by regulations amend this section.

### 73 Meaning of dwelling

References in this Act to a ““dwelling”” are to residential property comprising a single dwelling.

### 74 References to connected persons

- (1) Section 1122 of the Corporation Tax Act 2010 (c. 4) (connected persons) applies for the purposes of any reference in this Act to a person being connected with another person.
- (2) But see the particular provision made in the following provisions—
  - (a) section 23(3)(b) (exceptions to deemed market value rule in transactions with connected companies);
  - (b) paragraphs 16(2)(b) and 24(2)(b) of Schedule 7 (partnership transactions: determining the corresponding partners);
  - (c) paragraph 51 of that Schedule (partnerships: application of section 1122 of the Corporation Tax Act 2010 (c. 4) to Schedule 7 generally);
  - (d) paragraph 5(5) of Schedule 16 (group relief: joint venture companies);
  - (e) paragraph 6(3) of that Schedule (group relief: mortgage arrangements).

### 75 Other definitions

In this Act—

““child”” (“*plentyn*”) means a person under the age of 18;

““consumer prices index”” (“*mynegai prisiau defnyddwyr*”) means the all items consumer prices index published by the Statistics Board;

““enactment”” (“*deddfiad*”) means an enactment (whenever enacted or made) which is, or is contained in—

- (a) an Act of Parliament,
- (b) an Act or a Measure of the National Assembly for Wales, or
- (c) subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made under—
  - (i) an Act of Parliament, or
  - (ii) an Act or a Measure of the National Assembly for Wales;

““land”” (“*tir*”) includes—

- (a) buildings and structures;
- (b) land covered by water;

““registered social landlord”” (“*landlord cymdeithasol cofrestredig*”) means a body registered as a social landlord in a register maintained under section 1(1) of the Housing Act 1996 (c. 52);

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“retail prices index” (“*mynegai prisiau manwerthu*”) means the United Kingdom General Index of Retail Prices published by the Statistics Board under section 21 of the Statistics and Registration Service Act 2007 (c. 18);

“TCMA” (“*DCRhT*”) means the Tax Collection and Management (Wales) Act 2016 (anaw 6);

“Wales” (“*Cymru*”) has the meaning given by section 158(1) of the Government of Wales Act 2006 (c. 32).

### *Amendments to the Tax Collection and Management (Wales) Act 2016*

## **76 Amendments to TCMA**

Schedule 23 makes amendments to TCMA.

#### **Annotations:**

#### **Commencement Information**

- I1** S. 76 in force at 18.10.2017 for specified purposes by [S.I. 2017/953](#), [art. 2\(i\)](#)
- I2** S. 76 in force at 25.1.2018 for specified purposes by [S.I. 2018/34](#), [art. 2\(a\)](#)
- I3** S. 76 in force at 1.4.2018 in so far as not already in force by [S.I. 2018/34](#), [art. 3](#)

### *Independent review*

## **77 Independent review of land transaction tax**

- (1) The Welsh Ministers must make arrangements for an independent review of land transaction tax to be completed before the expiry of the period of 6 years beginning with the day on which this subsection comes into force.
- (2) Following the completion of the review, the Welsh Ministers must publish a report of it.
- (3) The arrangements mentioned in subsection (1) may include—
  - (a) payment of expenses incurred by a person in carrying out (or assisting in carrying out) the review;
  - (b) provision of assistance (including financial assistance) to such a person;
  - (c) directing WRA to assist in carrying out the review.

### *Final provisions*

## **78 Power to make consequential etc. provision**

- (1) The Welsh Ministers may by regulations make such incidental, consequential, supplemental, transitional, transitory or saving provision as they think appropriate for the purposes of, or in connection with, or for giving full effect to, any provision made by or under this Act.
- (2) Regulations under this section may amend, revoke or repeal any enactment (including any provision made by or under this Act).

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- (3) If a statutory instrument contains regulations under this section which the Welsh Ministers consider makes provision which may have the effect mentioned in subsection (4), the instrument may not be made unless a draft has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (4) The effect is that, in respect of a land transaction—
  - (a) the amount of tax chargeable is more than the amount which would be chargeable if the regulations are not made, or
  - (b) tax is chargeable where none would be chargeable if the regulations are not made.

## 79 Regulations

- (1) Any power to make regulations under this Act—
  - (a) must be exercised by statutory instrument, and
  - (b) includes power to make different provision for different purposes.
- (2) A statutory instrument containing regulations made under any of the following provisions may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales—
  - (a) section 5(4) (exempt interests);
  - (b) section 18(2) (chargeable consideration);
  - (c) section 24(11) (higher rates residential property transactions);
  - (d) section 30(6) (reliefs);
  - (e) section 33(7) (companies);
  - (f) section 34(6) (unit trusts);
  - (g) section 35(1) (open-ended investment companies);
  - (h) section 36(8) (co-ownership authorised contractual schemes);
  - (i) section 41(2) (partnerships);
  - (j) section 42(2) (trusts);
  - (k) section 46(10) (thresholds for notifiable transactions);
  - (l) section 47(5) (late payment interest start date);
  - (m) section 49(5) (late payment interest start date);
  - (n) section 52(1) (period within which returns must be made);
  - (o) section 64(1) (regulations about deferral of tax);
  - (p) section 72(10) (residential property);
  - (q) paragraph 7 of Schedule 3 (exempt transactions);
  - (r) paragraph 27(2) of Schedule 6 (charging tax on rent element of residential leases);
  - (s) paragraph 32 of that Schedule (temporal discount rate for leases);
  - (t) paragraph 36(1)(b) of that Schedule (specified amount of relevant rent);
  - (u) paragraph 37 of that Schedule (power to amend or repeal paragraphs 34 to 36);
  - (v) paragraph 6(7) of Schedule 13 (multiple dwellings relief: minimum percentage of tax attributable to dwellings);
  - (w) paragraph 3 of Schedule 17 (acquisition relief: proportion of tax relieved).

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- (3) Any other statutory instrument containing regulations made under this Act (except an instrument mentioned in subsection (4)) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (4) Subsection (3) does not apply to a statutory instrument containing any of the following
  - (a) regulations made under section 24(1) or paragraph 27(4) or 28(1) of Schedule 6 (regulations about tax rates and bands);
  - (b) regulations made under section 78 to which subsection (3) of that section applies.

## **80 Crown application**

- (1) This Act binds the Crown.
- (2) But see paragraph 2 of Schedule 3 (which exempts land transactions from charge where the buyer is a specified Crown body).
- (3) And nothing in Chapter 2 of Part 6 (liability for and payment of tax) affects the operation of sections 8 and 9 of the Crown Private Estates Act 1862 (c. 37).
- (4) Subsection (1) does not make the Crown liable to prosecution for an offence.

## **81 Coming into force**

- (1) This Part (except section 76 and Schedule 23) comes into force on the day after the day on which this Act receives Royal Assent.
- (2) The remaining provisions of this Act come into force on such day as the Welsh Ministers may appoint by order made by statutory instrument.
- (3) An order under subsection (2) may appoint different days for different purposes.

## **82 Short title**

The short title of this Act is the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017.

**Changes to legislation:**

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