

Status: Point in time view as at 18/10/2017. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, SCHEDULE 10. (See end of Document for details)

VALID FROM 01/04/2018

SCHEDULE 10 (as introduced by section 30(1))

ALTERNATIVE PROPERTY FINANCE RELIEFS

PART 1

INTRODUCTORY

Overview

- 1 (1) This Schedule makes provision for relief in the case of certain land transactions connected to alternative property finance arrangements.
- (2) The Schedule is arranged as follows—
- (a) Part 2 sets out the circumstances in which certain transactions are relieved from tax;
 - (b) Part 3 sets out the circumstances where relief is not available;
 - (c) Part 4 makes provision for an interest held by a financial institution in certain circumstances to be treated as an exempt interest;
 - (d) Part 5 defines certain terms for the purposes of this Schedule.

PART 2

THE RELIEFS

Land sold to financial institution and leased to a person

- 2 (1) This paragraph applies where arrangements are entered into between a person (“P”) and a financial institution under which—
- (a) the institution purchases a major interest in land or an undivided share of a major interest in land (“the first transaction”),
 - (b) where the interest purchased is an undivided share, the major interest is held on trust for the institution and P as beneficial tenants in common,
 - (c) the institution (or the person holding the land on trust as mentioned in paragraph (b)) grants to P out of the major interest a lease (if the major interest is freehold) or a sub-lease (if the major interest is leasehold) (“the second transaction”), and
 - (d) the institution and P enter into an agreement under which P has a right to require the institution or its successor in title to transfer to P (in one transaction or a series of transactions) the whole interest purchased by the institution under the first transaction.
- (2) The first transaction is relieved from tax if the seller is—
- (a) P, or

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- (b) another financial institution by whom the interest was acquired under arrangements of the kind mentioned in sub-paragraph (1) entered into between it and P.
- (3) The second transaction is relieved from tax if the provisions of this Act and TCMA relating to the first transaction are complied with (including any requirement to pay tax chargeable on the first transaction).
- (4) A transfer to P that results from the exercise of the right mentioned in sub-paragraph (1)(d) (“a further transaction”) is relieved from tax if—
 - (a) the provisions of this Act and TCMA relating to the first and second transactions are complied with, and
 - (b) at all times between the second transaction and the further transaction—
 - (i) the interest purchased under the first transaction is held by a financial institution so far as not transferred by a previous further transaction, and
 - (ii) the lease or sub-lease granted under the second transaction is held by P.
- (5) The agreement mentioned in sub-paragraph (1)(d) is not to be treated—
 - (a) as substantially performed unless and until the whole interest purchased by the institution under the first transaction has been transferred to P (and accordingly section 14(1) does not apply), nor
 - (b) as a distinct land transaction by virtue of section 15 (options and rights of pre-emption).
- (6) A further transaction that is relieved from tax by virtue of sub-paragraph (4) is not a notifiable transaction unless it involves the transfer to P of the whole interest purchased by the institution under the first transaction, so far as not transferred by a previous further transaction.

Land sold to financial institution and re-sold to a person

- 3
- (1) This paragraph applies where arrangements are entered into between a person (“P”) and a financial institution under which—
 - (a) the institution—
 - (i) purchases a major interest in land (“the first transaction”), and
 - (ii) sells that interest to P (“the second transaction”), and
 - (b) P grants the institution a legal mortgage (as defined in section 205(1)(xvi) of the Law of Property Act 1925 (c. 20)) over that interest.
 - (2) The first transaction is relieved from tax if the seller is—
 - (a) P, or
 - (b) another financial institution by whom the interest was acquired under other arrangements of the kind mentioned in paragraph 2(1) entered into between it and P.
 - (3) The second transaction is relieved from tax if the financial institution complies with the provisions of this Act and TCMA relating to the first transaction and, where that includes a requirement to pay tax chargeable on the first transaction, the tax so chargeable must be based on chargeable consideration that is not less than the market value of the interest and, in the case of the grant of a lease at a rent, the market rent.

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- (4) For the purposes of sub-paragraph (3), the market rent of a lease at any time is the rent which the lease might reasonably be expected to fetch at that time in the open market.

References to P where P is an individual who has died

- 4 References in paragraphs 2 and 3 to P are to be read, in relation to times after P has died, as references to P's personal representatives.

PART 3

CIRCUMSTANCES WHERE ARRANGEMENTS NOT RELIEVED

No relief where group relief, acquisition relief or reconstruction relief available on first transaction

- 5 Paragraphs 2 and 3 do not apply to arrangements in relation to which group relief, acquisition relief or reconstruction relief is available on the first transaction (even if such a relief is subsequently withdrawn).

Land sold to financial institution and leased to a person: arrangements to transfer control of institution

- 6 (1) Paragraph 2 does not apply to alternative finance arrangements if those arrangements, or any connected arrangements, include arrangements for a person to acquire control of the relevant financial institution.
- (2) That includes arrangements for a person to acquire control of the relevant financial institution only if one or more conditions are met (such as an event occurring or the carrying out of an act).
- (3) In this paragraph—
- “alternative finance arrangements” (“*trefniadau cyllid eraill*”) means the arrangements referred to in paragraph 2(1);
- “connected arrangements” (“*trefniadau cysylltiedig*”) means any arrangements entered into in connection with the making of alternative finance arrangements (including arrangements involving one or more persons who are not parties to the alternative finance arrangements);
- “relevant financial institution” (“*sefydliad ariannol perthnasol*”) means the financial institution which enters into the alternative finance arrangements.
- (4) Section 1124 of the Corporation Tax Act 2010 (c. 4) applies for the purposes of determining who has control of the relevant financial institution.

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PART 4

EXEMPT INTEREST

Interest held by financial institution an exempt interest

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- (1) An interest held by a financial institution as a result of the first transaction within the meaning of paragraph 2(1)(a) is an exempt interest (but see the following).
 - (2) The interest ceases to be an exempt interest if—
 - (a) the lease mentioned in paragraph 2(1)(c) ceases to have effect, or
 - (b) the right under paragraph 2(1)(d) ceases to have effect or becomes subject to a restriction.
 - (3) The interest is not an exempt interest if group relief, acquisition relief or reconstruction relief is available on the first transaction (even if such a relief is subsequently withdrawn).
 - (4) Despite sub-paragraph (1), the interest is not an exempt interest in respect of—
 - (a) the first transaction itself, or
 - (b) a further transaction within the meaning of paragraph 2(4).

PART 5

INTERPRETATION

Meaning of ““financial institution””

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- In this Schedule, ““financial institution”” means—
- (a) a financial institution within the meaning of section 564B of the Income Tax Act 2007 (c. 3) (alternative finance arrangements: meaning of ““financial institution””) other than a person referred to in subsection (1) (d) of that section (persons with permission to enter into credit agreements and contracts for hire of goods);
 - (b) a person with permission under Part 4A of the Financial Services and Markets Act 2000 (c. 8) to carry on the regulated activity specified in Article 63F(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (entering into regulated home purchase plans as home purchase providers).

Meaning of ““arrangements””

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- In this Schedule, ““arrangements”” includes any agreement, understanding, scheme, transaction or series of any of those things (whether or not legally enforceable).

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