

Status: This version of this schedule contains provisions that are prospective.
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 13. (See end of Document for details)

PROSPECTIVE

SCHEDULE 13

(as introduced by section 30(1))

RELIEF FOR ACQUISITIONS INVOLVING MULTIPLE DWELLINGS

Overview

- 1 This Schedule makes provision about relief available for acquisitions involving multiple dwellings.
- 2 This Schedule is arranged as follows—
- (a) paragraph 3 identifies the transactions to which this Schedule applies,
 - (b) paragraph 4 defines key terms,
 - (c) paragraph 5 provides for the amount of tax chargeable,
 - (d) paragraphs 6 and 7 make further provision about how the tax is calculated, and
 - (e) paragraph 8 provides for certain buildings which are yet to be constructed or adapted to be treated as dwellings for the purposes of this Schedule.

Transactions to which this Schedule applies

- 3 (1) This Schedule applies to a relevant transaction.
- (2) A ““relevant transaction”” is a chargeable transaction that is—
- (a) within sub-paragraph (3) or (4), and
 - (b) not excluded by sub-paragraph (5).
- (3) A transaction is within this sub-paragraph if its main subject-matter consists of—
- (a) an interest in at least two dwellings, or
 - (b) an interest in at least two dwellings and other property.
- (4) A transaction is within this sub-paragraph if—
- (a) its main subject-matter consists of—
 - (i) an interest in a dwelling, or
 - (ii) an interest in a dwelling and other property,
 - (b) it is one of a number of linked transactions, and
 - (c) the main subject-matter of at least one of the other linked transactions consists of—
 - (i) an interest in some other dwelling or dwellings, or
 - (ii) an interest in some other dwelling or dwellings and other property.
- (5) A transaction is excluded by this sub-paragraph if—
- (a) paragraph 10 (relief for transactions entered into by persons exercising collective rights) of Schedule 14 applies to it, or
 - (b) relief under Schedule 16 (group relief), Schedule 17 (reconstruction and acquisition relief) or Schedule 18 (charities relief) is available for it (even if such a relief is withdrawn).

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- (6) A reference in this Schedule to an interest in a dwelling is to any chargeable interest in or over a dwelling.
- (7) But, in the case of a dwelling subject to a lease granted for an initial term of more than 21 years, any interest that is a superior interest in relation to the lease is not to be treated as an interest in a dwelling for the purposes of paragraphs 4 and 5.
- (8) Sub-paragraph (7) does not apply where—
 - (a) the seller is a qualifying body within the meaning given by paragraph 9(3) of Schedule 15 (relief for certain acquisitions of residential properties by tenants),
 - (b) the transaction is a sale under a sale and leaseback arrangement within the meaning of paragraph 2 of Schedule 9 (sale and leaseback arrangements),
 - (c) that sale is the grant of a leasehold interest, and
 - (d) the leaseback element of that arrangement is relieved from tax under Schedule 9 (sale and leaseback relief).

Key terms

- 4 (1) ““The consideration attributable to dwellings”” is—
 - (a) for a single dwelling transaction, so much of the chargeable consideration for the transaction as is attributable to the dwelling;
 - (b) for a multiple dwelling transaction, so much of the chargeable consideration for the transaction as is attributable to the dwellings in total.
- (2) ““The remaining consideration”” is the chargeable consideration for the transaction less the consideration attributable to dwellings.
- (3) A relevant transaction is a ““single dwelling transaction”” if its main subject-matter consists of—
 - (a) an interest in a dwelling, or
 - (b) an interest in a dwelling and other property.
- (4) A relevant transaction is a ““multiple dwelling transaction”” if its main subject-matter consists of—
 - (a) an interest in at least two dwellings, or
 - (b) an interest in at least two dwellings and other property.
- (5) ““Attributable”” means attributable on a just and reasonable apportionment.

The amount of tax chargeable

- 5 (1) If relief under this Schedule is claimed for a relevant transaction, the amount of tax chargeable in respect of the transaction is the sum of—
 - (a) the tax related to the consideration attributable to dwellings, and
 - (b) the tax related to the remaining consideration (if any).
- (2) If the whole or part of the chargeable consideration for a relevant transaction is rent, sub-paragraph (1) has effect subject to Part 5 of Schedule 6 (leases: calculation of tax chargeable).

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Determining the tax related to the consideration attributable to dwellings

- 6 (1) For the purposes of paragraph 5(1)(a), “the tax related to the consideration attributable to dwellings” is determined as follows—

Step 1 Determine the amount of tax that would be chargeable under section 27 on the assumption that—

- (a) the chargeable transaction is a residential property transaction, and
- (b) the chargeable consideration were the fraction produced by dividing total dwellings consideration by total dwellings.

Step 2 Multiply the amount determined at Step 1 by total dwellings.

Step 3 If the relevant transaction is one of a number of linked transactions, go to Step 4. Otherwise, the amount found at Step 2 is the tax related to the consideration attributable to dwellings.

Step 4 Multiply the amount found at Step 2 by—

$$\frac{CD}{TDC}$$

Figure 12 where—

“CD” is the consideration attributable to dwellings for the relevant transaction, and

“TDC” is total dwellings consideration.

- (2) But if the amount found at Step 2 of sub-paragraph (1) is less than 1% of total dwellings consideration, for the purposes of paragraph 5(1)(a) “the tax related to the consideration attributable to dwellings” is an amount equal to 1% of the consideration attributable to dwellings.
- (3) “Total dwellings consideration” means—
 - (a) for a transaction that is not one of a number of linked transactions, the consideration attributable to dwellings for that transaction;
 - (b) for one of a number of linked transactions—
 - (i) the total of the consideration attributable to dwellings for that transaction and all the other linked transactions that are relevant transactions, plus
 - (ii) so much of the chargeable consideration for any of the linked transactions (whether or not relevant transactions) as is not included in the calculation under paragraph (i) but is attributable to the same dwellings by reference to which that calculation is made.
- (4) “Total dwellings” means the total number of dwellings by reference to which total dwellings consideration is calculated.
- (5) In the application of sub-paragraph (1), no account is to be taken of—
 - (a) section 72(9) (transfer of 6 or more separate dwellings treated as non-residential property), or
 - (b) paragraph 34 (tax chargeable for consideration other than rent: mixed leases) of Schedule 6 (leases).

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- (6) In the application of sub-paragraph (1), where a relevant transaction is a higher rates residential property transaction (as provided for in Schedule 5), the amount of tax that would be chargeable under section 27 is to be determined on that basis.
- (7) The Welsh Ministers may by regulations amend sub-paragraph (2) so as to substitute for the percentages for the time being specified there, different percentages.

Determining the tax related to the remaining consideration

- 7 (1) For the purposes of paragraph 5(1)(b), “the tax related to the remaining consideration” is the appropriate fraction of the amount of tax which (but for this Schedule) would be due in respect of the relevant transaction.
- (2) In sub-paragraph (1), “the appropriate fraction” means—

$$\frac{RC}{TDC + TRC}$$

Figure 13 where—

“RC” is the remaining consideration for the relevant transaction,

“TDC” is total dwellings consideration, and

“TRC” is total remaining consideration.

- (3) The “total remaining consideration” is—
- (a) for a transaction that is not one of a number of linked transactions, the remaining consideration for that transaction;
 - (b) for one of a number of linked transactions—
 - (i) the total of the chargeable consideration for all those transactions, less
 - (ii) total dwellings consideration.

Certain buildings not yet constructed or adapted to count as a dwelling

- 8 (1) For the purposes of this Schedule, the main subject-matter of a transaction is to be taken to consist of or include an interest in a dwelling if—
- (a) substantial performance of a contract constitutes the effective date of that transaction by virtue of a relevant deeming provision,
 - (b) the main subject-matter of the transaction consists of or includes an interest in a building, or a part of a building, that is to be constructed or adapted under the contract for use as a dwelling, and
 - (c) construction or adaptation of the building, or the part of a building, has not begun by the time the contract is substantially performed.
- (2) In sub-paragraph (1)—
- “contract” (“*contract*”) includes any agreement;
- “relevant deeming provision” (“*darpariaeth dybio berthnasol*”) means any of—
- (a) section 10 (contract and transfer),
 - (b) section 11 (contract providing transfer to third party),

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(c) paragraph 8(1) to (5) of Schedule 2 (assignment of rights: transferor treated as making a separate acquisition), or

(d) paragraph 20 of Schedule 6 (agreement for lease);

“substantially performed” (“*cyflawni'n sylweddol*”) has the meaning given by section 14.

(3) Subsections (4) to (7) of section 72 (meaning of residential property) apply for the purposes of this paragraph as they apply for the purposes of subsection (1)(a) of that section.

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