

*Status:* Point in time view as at 18/10/2017. This version of this part 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, PART 4. (See end of Document for details)

VALID FROM 01/04/2018

## SCHEDULE 17

### RECONSTRUCTION AND ACQUISITION RELIEFS

#### PART 4

#### WITHDRAWAL OF RECONSTRUCTION OR ACQUISITION RELIEF

##### *Interpretation*

- 4 In this Part and in Part 5 of this Schedule, a transaction—
- (a) that is relieved from tax by virtue of reconstruction relief, or
  - (b) on which tax is chargeable in accordance with paragraph 3 (acquisition relief),
- is referred to as a “relieved transaction”.

##### *Withdrawal of reconstruction or acquisition relief*

- 5 (1) Where sub-paragraph (2) applies, reconstruction or acquisition relief in relation to a relieved transaction, or an appropriate proportion of it, is withdrawn and tax is chargeable in accordance with this paragraph.
- (2) This sub-paragraph applies where—
- (a) control of the acquiring company changes—
    - (i) before the end of the period of 3 years beginning with the effective date of the transaction, or
    - (ii) in pursuance of, or in connection with, arrangements made before the end of that period, and
  - (b) at the time control of the acquiring company changes (“the relevant time”), it or a relevant associated company holds a chargeable interest—
    - (i) that was acquired by the acquiring company under the relieved transaction, or
    - (ii) that is derived from an interest so acquired,and that has not subsequently been acquired at market value under a chargeable transaction in relation to which reconstruction or acquisition relief was available but was not claimed.
- (3) The amount chargeable is the tax that would have been chargeable in respect of the relieved transaction but for reconstruction or acquisition relief if the chargeable consideration for that transaction had been an amount equal to—
- (a) the market value of the subject-matter of the transaction, and
  - (b) if the acquisition was the grant of a lease at a rent, that rent,
- or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.

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- (4) In sub-paragraphs (1) and (3), “an appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relieved transaction and what is held at the relevant time by the acquiring company or, as the case may be, by that company and any relevant associated companies.
- (5) In this paragraph, “relevant associated company”, in relation to the acquiring company, means a company—
- (a) that is controlled by the acquiring company immediately before the control of that company changes, and
  - (b) of which control changes in consequence of the change of control of that company.
- (6) In this paragraph—
- (a) “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;
  - (b) “control” is to be construed in accordance with sections 450 and 451 of the Corporation Tax Act 2010 (c. 4);
  - (c) references to control of a company changing are to the company becoming controlled—
    - (i) by a different person,
    - (ii) by a different number of persons, or
    - (iii) by two or more persons at least one of whom is not the person, or one of the persons, by whom the company was previously controlled.
- (7) This paragraph has effect subject to paragraph 6 (cases in which reconstruction or acquisition relief not withdrawn).
- Cases in which reconstruction or acquisition relief not withdrawn*
- 6 (1) Reconstruction or acquisition relief is not withdrawn under paragraph 5 in the following cases.
- (2) The first case is where control of the acquiring company changes as a result of a share transaction that is effected as mentioned in—
- (a) any of paragraphs (a) to (d) of paragraph 3 of Schedule 3 (transactions in connection with divorce etc.), or
  - (b) any of paragraphs (a) to (d) of paragraph 4 of that Schedule (transactions in connection with dissolution of civil partnership etc.).
- (3) The second case is where control of the acquiring company changes as a result of a share transaction that—
- (a) is effected as mentioned in sub-paragraph (1) of paragraph 6 of Schedule 3 (variation of testamentary dispositions etc.), and
  - (b) meets the conditions in sub-paragraph (2) of that paragraph.
- (4) The third case is where control of the acquiring company changes as a result of an exempt intra-group transfer.
- (5) An “exempt intra-group transfer” means a transfer of shares effected by an instrument that is exempt from stamp duty by virtue of section 42 of the Finance

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Act 1930 (c. 28) or section 11 of the Finance Act (Northern Ireland) 1954 (c. 23 (N.I.)) (transfers between associated bodies corporate).

- (6) But see paragraph 7 (withdrawal of relief in case of subsequent non-exempt transfer).
- (7) The fourth case is where control of the acquiring company changes as a result of a transfer of shares to another company in relation to which share acquisition relief applies.
- (8) “Share acquisition relief” means relief under section 77 of the Finance Act 1986 (c. 41) and a transfer is one in relation to which that relief applies if an instrument effecting the transfer is exempt from stamp duty by virtue of that provision.
- (9) But see paragraph 7 (withdrawal of relief in case of subsequent non-exempt transfer).
- (10) The fifth case is where—
  - (a) control of the acquiring company changes as a result of a loan creditor becoming, or ceasing to be, treated as having control of the company, and
  - (b) the other persons who were previously treated as controlling the company continue to be so treated.
- (11) “Loan creditor” here has the meaning given by section 453 of the Corporation Tax Act 2010 (c. 4).

*Withdrawal of reconstruction or acquisition relief on subsequent non-exempt transfer*

- 7 (1) Reconstruction or acquisition relief in relation to a relieved transaction, or an appropriate proportion of it, is withdrawn and tax is chargeable in accordance with this paragraph in the following cases.
- (2) The first case is where paragraph 6(4) (change of control of acquiring company as a result of exempt intra-group transfer) has effect to prevent the withdrawal of reconstruction or acquisition relief on a change of control of the acquiring company, but—
  - (a) a company holding shares in the acquiring company to which the exempt intra-group transfer related, or that are derived from shares to which that transfer related, ceases to be a member of the same group as the target company—
    - (i) before the end of the period of 3 years beginning with the effective date of the relieved transaction, or
    - (ii) in pursuance of or in connection with arrangements made before the end of that period, and
  - (b) the acquiring company or a relevant associated company, at that time (“the relevant time”), holds a chargeable interest—
    - (i) that was transferred to the acquiring company by the relieved transaction, or
    - (ii) that is derived from an interest that was so transferred,and that has not subsequently been transferred at market value by a chargeable transaction in relation to which reconstruction or acquisition relief was available but was not claimed.

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- (3) The second case is where paragraph 6(7) (change of control of acquiring company as a result of a transfer to which share acquisition relief applies) has effect to prevent the withdrawal of reconstruction or acquisition relief on a change of control of the acquiring company, but—
- (a) control of the other company mentioned in that provision changes—
    - (i) before the end of the period of 3 years beginning with the effective date of the relieved transaction, or
    - (ii) in pursuance of or in connection with arrangements made before the end of that period,
 at a time when that company holds any shares transferred to it by the exempt transfer, or any shares derived from shares so transferred, and
  - (b) the acquiring company or a relevant associated company, at that time (“the relevant time”), holds a chargeable interest—
    - (i) that was transferred to the acquiring company by the relieved transaction, or
    - (ii) that is derived from an interest that was so transferred,
 and that has not subsequently been transferred at market value by a chargeable transaction in relation to which reconstruction or acquisition relief was available but was not claimed.
- (4) The amount chargeable is the tax that would have been chargeable in respect of the relieved transaction but for reconstruction or acquisition relief if the chargeable consideration for that transaction had been an amount equal to the market value of the subject-matter of the transaction or, as the case may be, an appropriate proportion of the tax that would have been so chargeable.
- (5) In sub-paragraphs (1) and (4), “an appropriate proportion” means an appropriate proportion having regard to the subject-matter of the relieved transaction and what is held at the relevant time by the acquiring company or, as the case may be, by that company and any relevant associated companies.
- (6) In this paragraph, “relevant associated company”, in relation to the acquiring company, means a company—
- (a) that is controlled by the acquiring company immediately before the control of that company changes, and
  - (b) of which control changes in consequence of the change of control of that company.
- (7) In this paragraph—
- (a) “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;
  - (b) “control” is to be construed in accordance with sections 450 and 451 of the Corporation Tax Act 2010 (c. 4);
  - (c) references to control of a company changing are to the company becoming controlled—
    - (i) by a different person,
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