

SCHEDULE 6

LEASES

PART 5

CALCULATION OF TAX CHARGEABLE

Residential leases, non-residential leases and mixed leases

- 26 For the purposes of this Part of this Schedule, a transaction is—
- (a) an acquisition of a residential lease if—
 - (i) it is the acquisition of a lease or other chargeable interest relating to a lease, the main subject-matter of which consists entirely of residential property, or
 - (ii) where the acquisition is one of a number of linked transactions, the main subject-matter of each transaction consists entirely of residential property;
 - (b) an acquisition of a non-residential lease if—
 - (i) it is the acquisition of a lease or other chargeable interest relating to a lease, the main subject-matter of which consists entirely of land which is not residential property, or
 - (ii) where the acquisition is one of a number of linked transactions, the main subject-matter of each transaction consists entirely of land which is not residential property;
 - (c) an acquisition of a mixed lease if—
 - (i) it is the acquisition of a lease or other chargeable interest relating to a lease, the main subject-matter of which includes land which is not residential property, or
 - (ii) where the acquisition is one of a number of linked transactions, the main subject-matter of any of the transactions includes land which is not residential property.

No tax chargeable in respect of rent: residential leases

- 27 (1) In the case of an acquisition of a residential lease, no tax is chargeable in respect of so much of the chargeable consideration as consists of rent.
- (2) The Welsh Ministers may by regulations amend this paragraph so as to substitute sub-paragraph (1) with a calculation of tax chargeable in respect of so much of the chargeable consideration as consists of rent in the case of an acquisition of a residential lease.
- (3) Regulations under sub-paragraph (2)—
- (a) must specify the method of calculation (including the method applicable to a case where the acquisition is one of a number of linked transactions each of which being the acquisition of a residential lease), and
 - (b) may make such other supplemental, incidental or consequential modifications of any enactment (including this Act) as the Welsh Ministers consider necessary or expedient.

- (4) If regulations are made under sub-paragraph (2), the Welsh Ministers must by regulations specify the tax bands and percentage tax rates for each band applicable to the chargeable consideration which consists of rent.
- (5) Regulations under sub-paragraph (4) must specify—
 - (a) a tax band for which the applicable tax rate is 0% (“the RL zero rate band”),
 - (b) two or more tax bands above the RL zero rate band,
 - (c) the tax rate for each band above the RL zero rate band so that the rate for each band is higher than the rate for the band below it, and
 - (d) a date on which the tax bands and tax rates apply in relation to transactions with an effective date on or after that date.
- (6) Regulations under sub-paragraph (4) may specify—
 - (a) different tax bands and tax rates in respect of different categories of acquisition of a residential lease;
 - (b) different dates under sub-paragraph (5)(d) in respect of each specified tax band or tax rate.

Tax rates and bands: rent element of non-residential and mixed leases

- 28 (1) The Welsh Ministers must by regulations specify the tax bands and the percentage tax rates for each band applicable to chargeable consideration which consists of rent in cases of the acquisition of a non-residential lease or mixed lease.
- (2) Regulations under sub-paragraph (1) must specify—
- (a) a tax band for which the applicable tax rate is 0% (“the NRL zero rate band”),
 - (b) two or more tax bands above the NRL zero rate band,
 - (c) the tax rate for each band above the NRL zero rate band so that the rate for each band is higher than the rate for the band below it, and
 - (d) a date on which the tax bands and tax rates apply in relation to transactions with an effective date on or after that date.
- (3) Regulations under sub-paragraph (1) may specify—
- (a) different tax bands and tax rates in respect of different categories of acquisition of a non-residential lease or mixed lease;
 - (b) different dates under sub-paragraph (2)(d) in respect of each specified tax band or tax rate.

Calculation of tax chargeable in respect of rent: non-residential and mixed leases

- 29 In the case of the acquisition of a non-residential lease or mixed lease, the amount of tax chargeable on so much of the chargeable consideration as consists of rent is to be calculated as follows (unless paragraph 30 (linked transactions) applies).

Step 1

Calculate the net present value (the “NPV”) of the rent payable over the term of the lease (see paragraph 31).

Step 2

For each tax band applicable to the acquisition, multiply so much of the NPV as falls within the band by the tax rate for that band.

Step 3

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Calculate the sum of the amounts reached under Step 2.
The result is the amount of tax chargeable in respect of rent.

Calculation of tax chargeable in respect of rent: linked transactions

30 Where the acquisition of a non-residential lease or mixed lease is one of a number of linked transactions for which the chargeable consideration consists of or includes rent, the amount of tax chargeable in respect of the rent is to be calculated as follows.

Step 1

Calculate the total of the net present values (the “TNPV”) of the rent payable over the terms of all the linked leases (see paragraph 31).

Step 2

For each tax band applicable to the acquisition, multiply so much of the TNPV as falls within the band by the tax rate for that band.

Step 3

Calculate the sum of the amounts reached under Step 2.

The result is the total tax chargeable in respect of rent.

Step 4

Divide the NPV of the rent payable over the term of the lease in question by the TNPV.

Step 5

Multiply the total tax chargeable in respect of rent by the fraction reached under Step 4.

The result is the amount of tax chargeable in respect of rent for the lease in question.

Net present value

31 The NPV of the rent payable over the term of a lease is calculated by applying the following formula—

$$NPV = \sum_{i=1}^n \frac{r_i}{(1+T)^i}$$

Figure 8

where—

- r_i is the rent payable in respect of year i ,
- i is the first, second, third etc. year of the term of the lease,
- n is the term of the lease, and
- T is the temporal discount rate (see paragraph 32).

Temporal discount rate

32 For the purposes of paragraph 31 the “temporal discount rate” is 3.5% or such other rate as the Welsh Ministers may by regulations specify.

Tax chargeable in respect of consideration other than rent: general

- 33 (1) Where in the case of an acquisition of a lease there is chargeable consideration other than rent, the provisions of this Act apply in relation to that consideration as in relation to other chargeable consideration (but see paragraphs 34 and 35).
- (2) Tax chargeable under this Part of this Schedule in respect of rent is in addition to any tax chargeable under any provision of this Act in respect of consideration other than rent.

Tax chargeable in respect of consideration other than rent: no zero rate band for non-residential leases

- 34 (1) This paragraph applies in the case of an acquisition of a non-residential lease where—
- (a) there is chargeable consideration other than rent, and
 - (b) section 27 (amount of tax chargeable: transactions which are not linked) or 28 (amount of tax chargeable: linked transactions) applies to the acquisition.
- (2) If the relevant rent is at least the specified amount, the zero rate band does not apply in relation to the consideration other than rent and, accordingly, any case which would have fallen within that band is treated as falling within the next tax band.

Tax chargeable in respect of consideration other than rent: mixed leases

- 35 (1) This paragraph applies in the case of an acquisition of a mixed lease where—
- (a) there is chargeable consideration other than rent, and
 - (b) the relevant rent attributable, on a just and reasonable apportionment, to the land which is not residential property is at least the specified amount.
- (2) For the purpose of determining the amount of tax chargeable in relation to the consideration other than rent, the transaction (or where it is one of a number of linked transactions, that set of transactions) is treated as if it were two separate but linked transactions (or two separate sets of linked transactions which are themselves linked) namely—
- (a) one whose subject-matter consists of all the land that is residential property (and section 28 (amount of tax chargeable: linked transactions) applies accordingly), and
 - (b) one whose subject-matter consists of all the land that is not residential property (and that section as modified by paragraph 34 applies accordingly).
- (3) For that purpose, the chargeable consideration attributable to each of those separate transactions (or sets of linked transactions) is the chargeable consideration so attributable on a just and reasonable basis.

Relevant rent

- 36 (1) In paragraphs 34 and 35—
- (a) “the relevant rent” means—
 - (i) the annual rent in relation to the transaction in question, or
 - (ii) if that transaction is one of a number of linked transactions for which the chargeable consideration consists of or includes rent, the total of the annual rents in relation to all of those transactions;

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- (b) “the specified amount” means an amount of relevant rent specified by the Welsh Ministers by regulations.
- (2) In sub-paragraph (1)(a) “the annual rent” means—
- (a) the average annual rent over the term of the lease, or
 - (b) if—
 - (i) different amounts of rent are payable for different parts of the term, and
 - (ii) those amounts (or any of them) are ascertainable at the effective date of the transaction,the average annual rent over the term for which the highest ascertainable rent is payable.

Power to amend or repeal paragraphs 34 to 36

37 The Welsh Ministers may by regulations amend or repeal paragraphs 34 to 36.