

Status: Point in time view as at 18/10/2017.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 5. (See end of Document for details)

VALID FROM 01/04/2018

SCHEDULE 7
PARTNERSHIPS

PART 5

TRANSACTIONS INVOLVING TRANSFERS FROM A PARTNERSHIP

Introduction

20 This Part of this Schedule makes provision about the treatment of certain land transactions involving the transfer of a chargeable interest from a partnership.

Transfer of chargeable interest from a partnership: general

- 21 (1) This paragraph applies where a chargeable interest is transferred—
- (a) from a partnership to a person who is or has been one of the partners, or
 - (b) from a partnership to a person connected with a person who is or has been one of the partners.
- (2) The chargeable consideration for the transaction is (subject to paragraph 30) taken to be equal to—

$$MV \times (100 - SLP)\%$$

Figure 10 where—

MV is the market value of the interest transferred, and

SLP is the sum of the lower proportions.

- (3) Paragraph 22 provides for determining the sum of the lower proportions.
- (4) Part 7 applies if the whole or part of the chargeable consideration for the transaction is rent.
- (5) For the purposes of this paragraph, property that was partnership property before the partnership was dissolved or otherwise ceased to exist is to be treated as remaining partnership property until it is distributed.
- (6) This paragraph has effect subject to any election under paragraph 36.

Transfer of chargeable interest from a partnership: sum of the lower proportions

22 The sum of the lower proportions in relation to a transaction to which paragraph 21 applies is determined as follows—

Step 1 Identify the relevant owner or owners (see paragraph 23).

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Step 2 For each relevant owner, identify the corresponding partner or partners (see paragraph 24). If there is no relevant owner with a corresponding partner, the sum of the lower proportions is zero.

Step 3 For each relevant owner, find the proportion of the chargeable interest to which that owner is entitled immediately after the transaction. Apportion that proportion between any one or more of the relevant owner's corresponding partners.

Step 4 Find the lower of the following (“the lower proportion”) for each corresponding partner—

- (a) the proportion of the chargeable interest attributable to the partner (see paragraph 25);
- (b) the partnership share attributable to the partner (see paragraphs 26 and 27).

Step 5 Add together the lower proportions of each corresponding partner. The result is the sum of the lower proportions.

Relevant owner

- 23 (1) For the purposes of paragraph 22 (see Step 1), a person is a relevant owner if—
- (a) immediately after the transaction, that person is entitled to a proportion of the chargeable interest, and
 - (b) immediately before the transaction, that person was a partner or connected with a partner.
- (2) For the purposes of paragraph 22 and this paragraph, persons who are entitled to a chargeable interest as beneficial joint tenants are to be taken to be entitled to the chargeable interest as beneficial tenants in common in equal shares.

Corresponding partner

- 24 (1) For the purposes of paragraph 22 (see Step 2), a person is a corresponding partner in relation to a relevant owner if, immediately before the transaction—
- (a) the person was a partner, and
 - (b) the person was the relevant owner or was an individual connected with the relevant owner.
- (2) For the purpose of sub-paragraph (1)(b), a company is to be treated as an individual connected with the relevant owner if it—
- (a) holds property as trustee, and
 - (b) is connected with the relevant owner only because of section 1122(6) of the Corporation Tax Act 2010 (c. 4) (as it has effect with the omission of subsection (6)(c) to (e)).

Proportion of chargeable interest attributable to corresponding partner

- 25 For the purposes of paragraph 22 (see Step 4), the proportion of the chargeable interest attributable to a corresponding partner is—
- (a) if the partner is a corresponding partner in relation to only one relevant owner, the proportion (if any) of the chargeable interest apportioned to that partner (at Step 3) in respect of that owner;

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- (b) if the partner is a corresponding partner in relation to more than one relevant owner, the sum of the proportions (if any) of the chargeable interest apportioned to that partner (at Step 3) in respect of each of those owners.

*Partnership share attributable to corresponding partner:
effective date of transfer before 20 October 2003*

- 26 (1) This paragraph applies for the purposes of paragraph 22 (see Step 4) where the effective date of the transfer of the relevant chargeable interest to the partnership was before 20 October 2003.

- (2) Where this paragraph applies, the partnership share attributable to a corresponding partner is to be determined, as follows—

Step 1 Find the partner's actual partnership share on the relevant date. The relevant date—

- (a) if the partner was a partner on 19 October 2003, is that date;
(b) if the partner became a partner after that date, is the date on which the partner became a partner.

Step 2 Add to that partnership share any increases in the partner's partnership share which—

- (a) occur in the period beginning with the day after the relevant date and ending immediately before the transaction to which paragraph 22 applies, and
(b) count for this purpose (see sub-paragraph (5)).

The result is the increased partnership share.

Step 3 Deduct from the increased partnership share any decreases in the partner's partnership share which occur in the period beginning with the day after the relevant date and ending immediately before the transaction to which paragraph 22 applies. The result is the partnership share attributable to the partner.

- (3) If the effect of applying Step 3 would be to reduce the partnership share attributable to the partner below zero, the partnership share attributable to the partner is zero.
- (4) If the partner ceased to be a partner before 19 October 2003, the partnership share attributable to the partner is zero.
- (5) An increase counts for the purpose of Step 2 only if the instrument by which the transfer was effected has been stamped with ad valorem stamp duty.
- (6) In this paragraph and paragraph 27, the relevant chargeable interest is—
- (a) the chargeable interest which ceases to be partnership property as a result of the transaction to which paragraph 22 applies, or
- (b) where the transaction to which paragraph 22 applies is the creation of a chargeable interest, the chargeable interest out of which that interest is created.

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*Partnership share attributable to corresponding partner:
effective date of transfer on or after 20 October 2003*

- 27 (1) This paragraph applies for the purposes of paragraph 22 (see Step 4) where the effective date of the transfer of the relevant chargeable interest to the partnership was on or after 20 October 2003.
- (2) Where this paragraph applies and neither of the conditions in sub-paragraph (3) is met, the partnership share attributable to the partner is zero.
- (3) The conditions are—
- (a) the instrument by which the transfer was effected has been stamped with ad valorem stamp duty;
 - (b) any land transaction tax or, as the case may be, stamp duty land tax payable in respect of the transfer has been paid.
- (4) Where this paragraph applies, and one of the conditions in sub-paragraph (3) is met, the partnership share attributable to the partner is determined as follows—
- Step 1* Find the partner's actual partnership share on the relevant date. The relevant date—
- (a) if the partner was a partner on the effective date of the transfer of the relevant chargeable interest to the partnership, is that date;
 - (b) if the partner became a partner after that date, is the date on which the partner became a partner.
- Step 2* Add to that partnership share any increases in the partner's partnership share which—
- (a) occur in the period beginning with the day after the relevant date and ending immediately before the transaction to which paragraph 22 applies, and
 - (b) count for this purpose (see sub-paragraph (7)).
- The result is the increased partnership share.
- Step 3* Deduct from the increased partnership share any decreases in the partner's partnership share which occur in the period starting on the day after the relevant date and ending immediately before the transaction to which paragraph 22 applies. The result is the partnership share attributable to the partner.
- (5) If the effect of applying Step 3 would be to reduce the partnership share attributable to the partner below zero, the partnership share attributable to the partner is zero.
- (6) If the partner ceased to be a partner before the effective date of the transfer of the relevant chargeable interest to the partnership, the partnership share attributable to the partner is zero.
- (7) An increase counts for the purpose of Step 2 only if—
- (a) where the transfer which resulted in the increase took place on or before 22 July 2004, the instrument by which the transfer was effected has been stamped with ad valorem stamp duty;
 - (b) where the transfer which resulted in the increase took place after that date, any land transaction tax or, as the case may be, stamp duty land tax payable in respect of the transfer has been paid.

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