

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 3. (See end of Document for details)

SCHEDULE 10 GROUP RELIEF

PART 3

WITHDRAWAL OF RELIEF

Overview

- 12 This Part of this schedule is arranged as follows—
- paragraphs 13 to 19 provide for circumstances where relief under this schedule is withdrawn,
 - paragraphs 20 to 31 provide for circumstances in which, despite paragraphs 13 to 19, relief is not withdrawn, and
 - paragraphs 32 to 40 provide for the application of paragraphs 13 to 31 where there are successive transactions.

Commencement Information

- I1** Sch. 10 para. 12 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

Withdrawal of relief

- 13 Relief under this schedule is withdrawn or partially withdrawn where—
- [^{F1}(a) paragraphs 14 and 15 apply, or
 - (b) paragraph 15A applies.]

Textual Amendments

- F1** Sch. 10 para. 13(a)(b) substituted for words in sch. 10 para. 13 (30.6.2018) by [The Land and Buildings Transaction Tax \(Group Relief Modification\) \(Scotland\) Order 2018 \(S.S.I. 2018/222\)](#), arts. 1(1), **2(4)** (with **art. 3**)

Commencement Information

- I2** Sch. 10 para. 13 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

- 14 This paragraph applies where the buyer in the transaction which is exempt from charge by virtue of this schedule (“the relevant transaction”) ceases to be a member of the same group as the seller—
- (a) before the end of the period of 3 years beginning with the effective date of the transaction, or
 - (b) in pursuance of, or in connection with, arrangements made before the end of that period.

Commencement Information

- I3** Sch. 10 para. 14 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 3. (See end of Document for details)

- 15 This paragraph applies where, at the time the buyer ceases to be a member of the same group as the seller (“the relevant time”), it or a relevant associated company holds a chargeable interest—
- (a) that was acquired by the buyer under the relevant transaction, or
 - (b) that is derived from a chargeable interest so acquired,
- and that has not subsequently been acquired at market value under a chargeable transaction for which relief under this schedule was available but not claimed.

Commencement Information

I4 Sch. 10 para. 15 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- [^{F2}15A. This paragraph applies where—
- (a) the relief under this schedule was available solely by virtue of the application of paragraph 10A to arrangements referred to in paragraph 3, and
 - (b) before the end of the period of three years beginning with the effective date, paragraph 10A ceases to apply to the arrangements.]

Textual Amendments

F2 Sch. 10 para. 15A inserted (30.6.2018) by [The Land and Buildings Transaction Tax \(Group Relief Modification\) \(Scotland\) Order 2018 \(S.S.I. 2018/222\)](#), arts. 1(1), **2(5)** (with art. 3)

Amount of tax chargeable where relief withdrawn

- 16 Where relief is withdrawn, the amount of tax chargeable is determined in accordance with paragraph 17.

Commencement Information

I5 Sch. 10 para. 16 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 17 The amount chargeable is the tax that would have been chargeable in respect of the relevant transaction but for the 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, or
 - (b) if the acquisition was the grant of a lease, the rent.

Commencement Information

I6 Sch. 10 para. 17 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Amount of tax chargeable where relief partially withdrawn

- 18 Where relief is partially withdrawn, the amount of tax chargeable is an appropriate proportion of the amount determined in accordance with paragraph 17.

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 3. (See end of Document for details)

Commencement Information

I7 Sch. 10 para. 18 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 19 An “appropriate proportion” means an appropriate proportion having regard to—
- (a) the subject-matter of the relevant transaction, and
 - (b) what is held at the relevant time by the buyer or, as the case may be, by the buyer and its relevant associated companies.

Commencement Information

I8 Sch. 10 para. 19 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Case where relief not withdrawn: winding up

- 20 Relief under this schedule is not withdrawn where the buyer ceases to be a member of the same group as the seller by reason of anything done for the purposes of, or in the course of, winding up the seller or another company that is above the seller in the group structure.

Commencement Information

I9 Sch. 10 para. 20 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Cases where relief not withdrawn: stamp duty reliefs

- 21 Relief under this schedule is not withdrawn where—
- (a) the buyer ceases to be a member of the same group as the seller as a result of an acquisition of shares by another company (“the acquiring company”) in relation to which—
 - (i) section 75 of the Finance Act 1986 (c.41) (stamp duty: acquisition relief) applies, and
 - (ii) the conditions for relief under that section are met, and
 - (b) the buyer is immediately after that acquisition a member of the same group as the acquiring company.

Commencement Information

I10 Sch. 10 para. 21 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 22 Relief under this schedule is not withdrawn where—
- (a) the buyer ceases to be a member of the same group as the seller as a result of the transfer of the whole or part of the seller's business to another company (“the acquiring company”) in relation to which—
 - (i) section 96 of the Finance Act 1997 (c.16) (stamp duty relief: demutualisation of insurance companies) applies, and
 - (ii) the conditions for relief under that section are met, and

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 3. (See end of Document for details)

- (b) the buyer is immediately after that transfer a member of the same group as the acquiring company.

Commencement Information

I11 Sch. 10 para. 22 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 23 But where, in a case to which paragraph 21 or 22 applies—
- (a) the buyer ceases to be a member of the same group as the acquiring company in the circumstances mentioned in paragraph 24, and
- (b) at the time the buyer ceases to be a member of the same group as the acquiring company, it or a relevant associated company holds a chargeable interest to which paragraph 25 applies,
- this schedule applies as if the buyer had then ceased to be a member of the same group as the seller.

Commencement Information

I12 Sch. 10 para. 23 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 24 The circumstances referred to in paragraph 23(a) are that the buyer ceases to be a member of the same group as the acquiring company—
- (a) before the end of the period of 3 years beginning with the effective date of the transaction which is exempt from charge by virtue of this schedule (“the relevant transaction”), or
- (b) in pursuance of, or in connection with, arrangements made before the end of that period.

Commencement Information

I13 Sch. 10 para. 24 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 25 This paragraph applies to a chargeable interest—
- (a) that was acquired by the buyer under the relevant transaction, or
- (b) that is derived from a chargeable interest so acquired,
- and that has not subsequently been acquired at market value under a chargeable transaction for which relief under this schedule was available but not claimed.

Commencement Information

I14 Sch. 10 para. 25 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Case where relief not withdrawn: seller leaves group

- 26 Relief under this schedule is not withdrawn where the buyer ceases to be a member of the same group as the seller because the seller leaves the group.

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 3. (See end of Document for details)

Commencement Information

I15 Sch. 10 para. 26 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 27 The seller is regarded as leaving the group if the companies cease to be members of the same group by reason of a transaction relating to shares in—
- (a) the seller, or
 - (b) another company that is above the seller in the group structure and as a result of the transaction ceases to be a member of the same group as the buyer.

Commencement Information

I16 Sch. 10 para. 27 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 28 But if there is a change in the control of the buyer after the seller leaves the group, paragraphs 13 to 19 and 22 to 25 have effect as if the buyer had then ceased to be a member of the same group as the seller.

Commencement Information

I17 Sch. 10 para. 28 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 29 Paragraph 28 does not apply where—
- (a) there is a change in the control of the buyer because a loan creditor (within the meaning given by section 453 of the Corporation Tax Act 2010 (c.4)) obtains control of, or ceases to control, the buyer, and
 - (b) the other persons who controlled the buyer before the change continue to do so.

Commencement Information

I18 Sch. 10 para. 29 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 30 There is a change in the control of the buyer if—
- (a) a person who controls the buyer (alone or with others) ceases to do so,
 - (b) a person obtains control of the buyer (alone or with others), or
 - (c) the buyer is wound up.

Commencement Information

I19 Sch. 10 para. 30 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 31 For the purposes of paragraph 30 a person does not control, or obtain control of, the buyer if that person is under the control of another person or other persons.

Commencement Information

I20 Sch. 10 para. 31 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 3. (See end of Document for details)

Withdrawal of relief in certain cases involving successive transactions

- 32 Where the following conditions are met, paragraphs 13 to 31 have effect in relation to the relevant transaction as if the seller in relation to the earliest previous transaction falling within paragraph 37 were the seller in relation to the relevant transaction.

Commencement Information

I21 Sch. 10 para. 32 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 33 The first condition is that there is a change in control of the buyer.

Commencement Information

I22 Sch. 10 para. 33 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 34 The second condition is that the change occurs—
- (a) before the end of the period of 3 years beginning with the effective date of the transaction which is exempt from charge by virtue of this schedule (“the relevant transaction”), or
 - (b) in pursuance of, or in connection with, arrangements made before the end of that period.

Commencement Information

I23 Sch. 10 para. 34 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 35 The third condition is that, apart from paragraph 32, relief under this schedule in relation to the relevant transaction would not be withdrawn under paragraph 13.

Commencement Information

I24 Sch. 10 para. 35 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 36 The fourth condition is that any previous transaction falls within paragraph 37.

Commencement Information

I25 Sch. 10 para. 36 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 37 A previous transaction falls within this paragraph if—
- (a) the previous transaction is exempt from charge by virtue of this schedule or schedule 11 (reconstruction relief and acquisition relief),
 - (b) the effective date of the previous transaction is less than 3 years before the date of the change mentioned in the first condition,
 - (c) the chargeable interest acquired under the relevant transaction by the buyer in relation to that transaction is the same as, comprises, forms part of, or is derived from, the chargeable interest acquired under the previous transaction by the buyer in relation to the previous transaction, and

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- (d) since the previous transaction, the chargeable interest acquired under that transaction has not been acquired by any person under a transaction that is not exempt from charge by virtue of this schedule or schedule 11 (reconstruction relief and acquisition relief).

Commencement Information

I26 Sch. 10 para. 37 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 38 Paragraph 33 does not apply where—
- (a) there is a change in the control of the buyer because a loan creditor (within the meaning given by section 453 of the Corporation Tax Act 2010 (c.4)) obtains control of, or ceases to control, the buyer, and
 - (b) the other persons who controlled the buyer before the change continue to do so.

Commencement Information

I27 Sch. 10 para. 38 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 39 If two or more transactions effected at the same time are the earliest previous transactions falling within paragraph 37, the reference in paragraph 32 to the seller in relation to the earliest previous transaction is a reference to the persons who are the sellers in relation to the earliest previous transactions.

Commencement Information

I28 Sch. 10 para. 39 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 40 There is a change in the control of a company if—
- (a) a person who controls the company (alone or with others) ceases to do so,
 - (b) a person obtains control of the company (alone or with others), or
 - (c) the company is wound up.

Commencement Information

I29 Sch. 10 para. 40 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Interpretation

- 41 For the purposes of paragraphs 20 and 27 a company is “above” the seller in the group structure if the seller, or another company that is above the seller in the group structure, is a 75% subsidiary of the company.

Commencement Information

I30 Sch. 10 para. 41 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 42 In this Part of this schedule—

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 3. (See end of Document for details)

“control” is to be interpreted in accordance with sections 450 and 451 of the Corporation Tax Act 2010 (c.4) (but see paragraph 31),

“relevant associated company”, in relation to the buyer, means a company that—

- (a) is a member of the same group as the buyer immediately before the buyer ceases to be a member of the same group as the seller, and
- (b) ceases to be a member of the same group as the seller in consequence of the buyer so ceasing.

Commencement Information

I31 Sch. 10 para. 42 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

Changes to legislation:

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