
Changes to legislation: Revenue Scotland and Tax Powers Act 2014, Cross Heading: Land and Buildings Transaction Tax (Scotland) Act 2013 is up to date with all changes known to be in force on or before 06 May 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 4 MINOR AND CONSEQUENTIAL MODIFICATIONS

Land and Buildings Transaction Tax (Scotland) Act 2013

- 9 (1) The LBTT(S) Act 2013 is amended as follows.
- (2) In section 10 (substantial performance without completion), after subsection (5) insert—
- “(5A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.
- (3) In section 11 (contract providing for conveyance to third party), after subsection (6) insert—
- “(6A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.
- (4) In section 27 (reliefs), after subsection (2) insert—
- “(2A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.
- (5) In section 32 (contingency ceases or consideration ascertained: less tax payable)—
- (a) in subsection (2)(b), after “Authority” insert “ under section 107 of the Revenue Scotland and Tax Powers Act 2014 (asp 16) ”,
- (b) after subsection (2) insert—
- “(2A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.
- (6) In section 35 (form and content of returns), in subsection (1)—
- (a) the word “and” after paragraph (a) is repealed,
- (b) after paragraph (b) insert “, and
- (c) be made in such manner as specified by the Tax Authority.”.
- (7) Section 37 (amendment of returns) is repealed.
- (8) After section 37 insert—

“37A Communications from taxpayers to the Tax Authority

- (1) Any notice, application or other thing that a person is required or permitted by provision made in or under this Act to give to the Tax Authority must comply with the requirements set out in subsection (2).
- (2) The requirements are that the thing—
- (a) must be in the form specified by the Tax Authority,
- (b) must contain the information specified by the Tax Authority, and
- (c) must be given in the manner specified by the Tax Authority.
- (3) Subsections (1) and (2) are subject to any different provision made in or under this Act.”.

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- (9) In section 41(2) (application to defer payment in case of contingent or uncertain consideration), subsection (2) is repealed.
- (10) In section 48 (joint buyers), after subsection (3) insert—
- “(3A) See also section 247 of the Revenue Scotland and Tax Powers Act 2014 (asp 16) (reviews, appeals etc. where joint buyers).”.
- (11) In section 50 (trusts), after subsection (2) insert—
- “(3) See also section 248 of the Revenue Scotland and Tax Powers Act 2014 (asp 16) (reviews, appeals etc.: trustees).”.
- (12) In section 54 (the Tax Authority)—
- (a) in subsection (1), for “the Scottish Ministers” substitute “ Revenue Scotland ”,
- (b) subsection (2) is repealed.
- (13) Section 55 (delegation of functions to Keeper) is repealed.
- (14) Section 56 (review and appeal) is repealed.
- (15) In section 63(2)(a) (meaning of “effective date” of transaction), for “settlement” substitute “ completion ”.
- (16) In section 68 (subordinate legislation)—
- (a) in subsection (2), paragraph (h) is repealed,
- (b) in subsection (3), paragraph (c) is repealed,
- (c) after subsection (6) insert—
- “(6A) Subsection (4)(b) is without prejudice to—
- (a) anything previously done by reference to an order mentioned in subsection (5), or
- (b) the making of a new order.”.
- (17) In section 70(1) (commencement), “55,” is repealed.
- (18) In schedule 2 (chargeable consideration), in paragraph 16(1)(a)(ii), for “1982” substitute “ 1992 ”.
- (19) In schedule 5 (multiple dwellings relief), in paragraph 18(b), for “effect” substitute “ effective ”.
- (20) In schedule 10 (group relief)—
- (a) in paragraph 1(2), after “withdrawn” insert— “ Part 3A provides for recovery of tax where relief is withdrawn, ”,
- (b) after paragraph 42 insert—

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“PART 3A

RECOVERY OF RELIEF

42A Recovery of relief

This Part applies where—

- (a) relief under this schedule is withdrawn or partially withdrawn and tax is chargeable,
- (b) the amount so chargeable has been finally determined, and
- (c) the whole or part of the amount so chargeable is unpaid 6 months after the date on which it became payable.

42B The following persons may, by notice under paragraph 42E, be required to pay the unpaid tax—

- (a) the seller,
- (b) any company that at any relevant time was a member of the same group as the buyer and was above it in the group structure,
- (c) any person who at any relevant time was a controlling director of the buyer or a company having control of the buyer.

42C For the purposes of paragraph 42B(b)—

- (a) a “relevant time” means any time between the effective date of the transaction which was exempt from charge by virtue of this schedule and the buyer ceasing to be a member of the same group as the seller, and
- (b) a company (“company A”) is “above” another company (“company B”) in a group structure if company B, or another company that is above company B in the group structure, is a 75% subsidiary of company A.

42D In paragraph 42B(c)—

“director”, in relation to a company, has the meaning given by section 67(1) of the Income Tax (Earnings and Pensions) Act 2003 (c.1) (read with subsection (2) of that section) and includes a person falling within section 452(1) of the Corporation Tax Act 2010 (c.4),

“controlling director”, in relation to a company, means a director of the company who has control of it (construing control in accordance with sections 450 and 451 of the Corporation Tax Act 2010 (c.4)).

42E Recovery of relief: supplementary

The Tax Authority may give notice to a person within paragraph 42B requiring that person within 30 days of receipt of the notice to pay the amount that remains unpaid.

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- 42F Any such notice must be given before the end of the period of 3 years beginning with the date of the final determination mentioned in paragraph 42A(b).
- 42G The notice must state the amount required to be paid by the person to whom the notice is given.
- 42H The notice has effect—
- (a) for the purposes of the recovery from that person of the amount required to be paid and of interest on that amount, and
 - (b) for the purpose of appeals,
- as if it were a notice of a Revenue Scotland assessment and that amount were an amount of tax due from that person.
- 42I A person who has paid an amount in pursuance of a notice under paragraph 42E may recover that amount from the buyer.
- 42J A payment in pursuance of a notice under paragraph 42E is not allowed as a deduction in computing any income, profits or losses for any tax purpose.
- 42K In paragraph 42H, “Revenue Scotland assessment” has the same meaning as in section 100 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.
- (21) In schedule 11 (reconstruction relief and acquisition relief)—
- (a) in paragraph 1(2), after “withdrawn” insert— “ Part 4A provides for recovery of tax where relief is withdrawn, ”,
 - (b) in paragraph 5, for “(c) and (d)” substitute “ (b) and (c) ”,
 - (c) in paragraph 9(a), for second “person” substitute “ persons ”,
 - (d) after paragraph 35 insert—

“PART 4A

RECOVERY OF RELIEF

35A **Recovery of relief**

This Part applies where—

- (a) relief under Part 2 or Part 3 of this schedule is withdrawn or partially withdrawn,
 - (b) the amount of tax chargeable has been finally determined, and
 - (c) the whole or part of the amount so chargeable is unpaid 6 months after the date on which it became payable.
- 35B The following persons may, by notice under paragraph 35E, be required to pay the unpaid tax—
- (a) any company that at any relevant time was a member of the same group as the acquiring company and was above it in the group structure,

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- (b) any person who at any relevant time was a controlling director of the acquiring company or a company having control of the acquiring company.
- 35C For the purposes of paragraph 35B—
- (a) “relevant time” means any time between the effective date of the relevant transaction and the change of control by virtue of which tax is chargeable, and
- (b) a company (“company A”) is “above” another company (“company B”) in a group structure if company B, or another company that is above company B in the group structure, is a 75% subsidiary of company A.
- 35D In paragraph 35B(b)—
- “director”, in relation to a company, has the meaning given by section 67(1) of the Income Tax (Earnings and Pensions) Act 2003 (c.1) (read with subsection (2) of that section) and includes a person falling within section 452(1) of the Corporation Tax Act 2010 (c.4),
- “controlling director”, in relation to a company, means a director of the company who has control of it (construing control in accordance with sections 450 and 451 of the Corporation Tax Act 2010 (c.4)).
- 35E **Recovery of relief: supplementary**
- The Tax Authority may give notice to a person within paragraph 35B requiring that person within 30 days of receipt of the notice to pay the amount that remains unpaid.
- 35F Any such notice must be given before the end of the period of 3 years beginning with the date of the final determination mentioned in paragraph 35A(b).
- 35G The notice must state the amount required to be paid by the person to whom the notice is given.
- 35H The notice has effect—
- (a) for the purposes of the recovery from that person of the amount required to be paid and of interest on that amount, and
- (b) for the purpose of appeals,
- as if it were a notice of a Revenue Scotland assessment and that amount were an amount of tax due from that person.
- 35I A person who has paid an amount in pursuance of a notice under paragraph 35E may recover that amount from the acquiring company.
- 35J A payment in pursuance of a notice under paragraph 35E is not allowed as a deduction in computing any income, profits or losses for any tax purpose.
- 35K In paragraph 35H, “Revenue Scotland assessment” has the same meaning as in section 100 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.

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- (22) In schedule 17 (partnerships)—
- (a) in paragraph 35 (election by property-investment partnership)—
 - (i) in sub-paragraph (1), for “paragraph” substitute “ Part ”,
 - (ii) after sub-paragraph (3) insert—

“(3A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”,
 - (b) in paragraph 38 (application of group relief to certain partnership transactions), in sub-paragraph (4), for “42” substitute “ 42K ”.
- (23) In schedule 19 (leases), in paragraph 25 (agreement for lease substantially performed etc.), after sub-paragraph (7) insert—
- “(7A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).”.

Annotations:

Commencement Information

- I1** Sch. 4 para. 9 not in force at Royal Assent; Sch. 4 para. 9(12) in force at 25.9.2014, see s. 260(1)
- I2** Sch. 4 para. 9(1) (6) (8) (9) (15) (16)(a) (16)(c) (18) (19) (22)(a)(i) in force at 7.11.2014 by [S.S.I. 2014/278](#), art. 2, sch.
- I3** Sch. 4 para. 9(2)-(5) (7) (10)(11) (14) (16)(b) in force at 1.4.2015 by [S.S.I. 2015/110](#), art. 2(1)
- I4** Sch. 4 para. 9(13) (17) (21)(b) (21)(c) in force at 1.1.2015 by [S.S.I. 2014/370](#), art. 2, sch.
- I5** Sch. 4 para. 9(20) (21)(a) (21)(d) (22)(a)(ii) (22)(b) (23) in force at 1.4.2015 by [S.S.I. 2015/110](#), art. 2(1)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 141(3A)(3B) inserted by [2017 asp 2 Sch. 2 para. 2\(2\)](#)
- s. 215A-215G and cross-headings inserted by [2017 asp 2 Sch. 2 para. 21](#)
- s. 223(1)(d)(e) inserted by [2017 asp 2 Sch. 2 para. 24](#)
- s. 233(1)(j) inserted by [2017 asp 2 Sch. 2 para. 25\(2\)](#)
- s. 233(3A) inserted by [2017 asp 2 Sch. 2 para. 25\(3\)](#)