

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, SCHEDULE 5. (See end of Document for details)

SCHEDULE 5
(introduced by section 27)

MULTIPLE DWELLINGS RELIEF

PART 1

INTRODUCTORY

Overview of relief

- 1
- (1) This schedule provides for relief in the case of certain land transactions involving multiple dwellings.

(2) It is arranged as follows—

Part 2 identifies the transactions to which this schedule applies,
Part 3 defines key terms,
Part 4 describes the relief available if a claim is made,
Part 5 provides for withdrawal of the relief,
Part 6 contains rules to determine what counts as a dwelling.

Commencement Information

I1 Sch. 5 para. 1 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

PART 2

TRANSACTIONS TO WHICH THIS SCHEDULE APPLIES

The rule

- 2
- This schedule applies to relevant transactions.

Commencement Information

I2 Sch. 5 para. 2 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 3
- A relevant transaction is a transaction (other than a transaction to which schedule 19 (leases) applies) that is—

(a) within paragraph 4 or paragraph 5, and

(b) not excluded by paragraph 6.

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I3 Sch. 5 para. 3 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

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Single transaction relating to multiple dwellings

- 4 A transaction is within this paragraph if its main subject-matter consists of—
- (a) an interest in at least two dwellings, or
 - (b) an interest in at least two dwellings and other property.

Commencement Information

I4 Sch. 5 para. 4 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Linked transactions relating to multiple dwellings

- 5 A transaction is within this paragraph if—
- (a) its main subject-matter consists of—
 - (i) an interest in a single dwelling, or
 - (ii) an interest in a single dwelling and other property,
 - (b) it is one of a number of linked transactions, and
 - (c) the main subject-matter of at least one of the other linked transactions consists of—
 - (i) an interest in some other dwelling or dwellings, or
 - (ii) an interest in some other dwelling or dwellings and other property.

Commencement Information

I5 Sch. 5 para. 5 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Excluded transactions

- 6 A transaction is excluded by this paragraph if—
- (a) relief under schedule 9 (crofting community right to buy) is available for it, or
 - (b) relief under schedule 10 (group relief), 11 (reconstruction relief and acquisition relief) or 13 (charities relief)—
 - (i) is available for it, or
 - (ii) has been withdrawn from it.

Commencement Information

I6 Sch. 5 para. 6 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

PART 3

KEY TERMS

Consideration attributable to dwellings and remaining property

- 7 In relation to a relevant transaction—

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- (a) the consideration attributable to dwellings is so much of the chargeable consideration for the transaction as is attributable to the dwellings,
- (b) the consideration attributable to remaining property is the chargeable consideration for the transaction less the consideration attributable to dwellings.

Commencement Information

I7 Sch. 5 para. 7 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Dwellings

- 8 “The dwellings” are, in relation to a relevant transaction, the dwelling or dwellings that are, or are part of, the main subject-matter of the transaction.

Commencement Information

I8 Sch. 5 para. 8 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Interest in a dwelling

- 9 A reference in this schedule to an interest in a dwelling is to any chargeable interest in or over a dwelling.

Commencement Information

I9 Sch. 5 para. 9 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

PART 4

THE RELIEF

Calculation of relief

- 10 The amount of tax chargeable in relation to a relevant transaction [^{F1}other than one to which schedule 2A applies] is—

Textual Amendments

F1 Words in sch. 5 para. 10 inserted (1.4.2016) by [Land and Buildings Transaction Tax \(Amendment\) \(Scotland\) Act 2016 \(asp 11\)](#) , [ss. 2\(1\)\(d\)\(i\)](#), [5\(2\)](#) (with [s. 3](#))

Commencement Information

I10 Sch. 5 para. 10 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- ^{F2}10A The amount of tax chargeable in relation to a relevant transaction to which schedule 2A applies is—

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Textual Amendments

- F2** Sch. 5 para. 10A inserted (1.4.2016) by [Land and Buildings Transaction Tax \(Amendment\) \(Scotland\) Act 2016 \(asp 11\)](#), **ss. 2(1)(d)(ii)**, 5(2) (with s. 3)

[^{F3} 11. But where $DT \times ND$ [^{F4}or, as the case may be, ΣDT] is less than the minimum prescribed amount, the amount of tax chargeable in relation to the relevant transaction is—

MPA + RT

$MPA + RT$

where—

MPA is the minimum prescribed amount, and
 RT is the tax due in relation to remaining property.

Textual Amendments

- F3** Sch. 5 paras. 11, 12 substituted (1.4.2015) by [S.S.I. 2015/123](#), arts. 1, 8
F4 Words in sch. 5 para. 11 inserted (1.4.2016) by [Land and Buildings Transaction Tax \(Amendment\) \(Scotland\) Act 2016 \(asp 11\)](#), **ss. 2(1)(d)(iii)**, 5(2) (with s. 3)

Commencement Information

- I11** Sch. 5 para. 11 in force at 1.4.2015 by [S.S.I. 2015/108](#), art. 2

12. The minimum prescribed amount is such proportion as may be prescribed by the Scottish Ministers by order of—

$TT - RT$

where—

TT is the amount of tax that would be due in respect of the transaction but for this schedule, and
 RT is the tax due in relation to remaining property.]

Textual Amendments

- F3** Sch. 5 paras. 11, 12 substituted (1.4.2015) by [S.S.I. 2015/123](#), arts. 1, 8

Commencement Information

- I12** Sch. 5 para. 12 in force at 1.4.2015 by [S.S.I. 2015/108](#), art. 2

Tax due in relation to a dwelling

13 The tax due in relation to a dwelling is determined as follows.

Step 1 Find the total consideration attributable to dwellings, that is—

- (a) the consideration attributable to dwellings for the transaction, or
- (b) where the transaction is one of a number of linked transactions, the sum of—
 - (i) the consideration attributable to dwellings for the transaction, and

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- (ii) the consideration attributable to dwellings for all other relevant transactions.

Step 2 Divide the total consideration attributable to dwellings by total dwellings. “Total dwellings” is the total number of dwellings by reference to which the total consideration attributable to dwellings is calculated.

Step 3 Calculate the amount of tax that would be due in relation to the relevant transaction were—

- (a) the chargeable consideration equal to the result obtained in Step 2,
- (b) the transaction a residential property transaction, and
- (c) the transaction not a linked transaction.

The result is the tax due in relation to a dwelling.

[^{F5}Step 4 In the case of a relevant transaction to which schedule 2A applies, carry out Step 3 (taking account of any relief applicable to the transaction under paragraph 9 of that schedule) in relation to each dwelling that is, or is part of, the main subject-matter of the transaction to find the tax due in relation to each dwelling.]

Textual Amendments

- F5** Words in Sch. 5 para. 13 inserted (1.4.2016) by [Land and Buildings Transaction Tax \(Amendment\) \(Scotland\) Act 2016 \(asp 11\)](#), **ss. 2(1)(d)(iv)**, 5(2) (with s. 3)

Commencement Information

- I13** Sch. 5 para. 13 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

Tax due in relation to remaining property

- 14 The tax due in relation to remaining property is determined as follows.

Step 1 Calculate the amount of tax that would be due in respect of the transaction but for this schedule.

Step 2 Divide the consideration attributable to remaining property by the chargeable consideration for the transaction.

Step 3 Multiply the amount calculated in Step 1 by the fraction reached in Step 2. The result is the tax due in relation to remaining property.

Commencement Information

- I14** Sch. 5 para. 14 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

General

- 15 “Attributable” means attributable on a just and reasonable basis.

Commencement Information

- I15** Sch. 5 para. 15 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

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PART 5

WITHDRAWAL OF RELIEF

Full withdrawal of relief

- 16 Relief under this schedule is withdrawn in relation to a relevant transaction if—
- (a) an event occurs in the relevant period, and
 - (b) had the event occurred immediately before the effective date of the transaction, the transaction would not have been a relevant transaction.

Commencement Information

I16 Sch. 5 para. 16 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 17 Where relief is withdrawn, the amount of tax chargeable is the amount that would have been chargeable in respect of the transaction but for the relief.

Commencement Information

I17 Sch. 5 para. 17 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Partial withdrawal of relief

- 18 Relief under this schedule is partially withdrawn in relation to a relevant transaction if—
- (a) an event occurs in the relevant period, and
 - (b) had the event occurred immediately before the [^{F6}effective] date of the transaction—
 - (i) the transaction would have been a relevant transaction, but
 - (ii) more tax would have been payable in respect of the transaction.

Textual Amendments

F6 Word in Sch. 5 para. 18(b) substituted (7.11.2014) by [Revenue Scotland and Tax Powers Act 2014 \(asp 16\)](#) , s. 260(2) , [Sch. 4 para. 9\(19\)](#) (with ss. 257-259) ; [S.S.I. 2014/278](#) , [art. 2](#) , [Sch.](#)

Commencement Information

I18 Sch. 5 para. 18 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 19 Where relief is partially withdrawn, tax is chargeable on the transaction as if the event had occurred immediately before the effective date of the transaction.

Commencement Information

I19 Sch. 5 para. 19 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 20 In that case, the tax so chargeable must be calculated by reference to the tax rates and tax bands in force at the effective date of the transaction.

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Commencement Information

I20 Sch. 5 para. 20 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Relevant period

- 21 “The relevant period” means the shorter of—
- (a) the period of 3 years beginning with the effective date of the transaction, and
 - (b) the period beginning with the effective date of the transaction and ending with the date on which the buyer disposes of the dwelling, or the dwellings, to a person who is not connected with the buyer.

Commencement Information

I21 Sch. 5 para. 21 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 22 In relation to a transaction effected on completion of a contract that was substantially performed before completion, paragraph 21 applies as if references to the effective date of the transaction were to the date on which the contract was substantially performed.

Commencement Information

I22 Sch. 5 para. 22 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Interpretation

- 23 In this Part of this schedule, “event” includes any change of circumstance or change of plan.

Commencement Information

I23 Sch. 5 para. 23 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

PART 6

WHAT COUNTS AS A DWELLING

- 24 This Part of this schedule sets out rules for determining what counts as a dwelling for the purposes of this schedule.

Commencement Information

I24 Sch. 5 para. 24 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 25 A building or part of a building counts as a dwelling if—
- (a) it is used or suitable for use as a single dwelling, or
 - (b) it is in the process of being constructed or adapted for such use.

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Commencement Information

I25 Sch. 5 para. 25 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 26 Land that is, or is to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on such land) is taken to be part of that dwelling.

Commencement Information

I26 Sch. 5 para. 26 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 27 Land that subsists, or is to subsist, for the benefit of a dwelling is taken to be part of that dwelling.

Commencement Information

I27 Sch. 5 para. 27 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 28 The main subject-matter of a transaction is also taken to consist of or include an interest in a dwelling if—
- (a) substantial performance of a contract constitutes the effective date of that transaction by virtue of a relevant deeming provision,
 - (b) the main subject-matter of the transaction consists of or includes an interest in a building, or a part of a building, that is to be constructed or adapted under the contract for use as a single dwelling, and
 - (c) construction or adaptation of the building, or the part of a building, has not begun by the time the contract is substantially performed.

Commencement Information

I28 Sch. 5 para. 28 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 29 In paragraph 28, “relevant deeming provision” means section 10 or 11.

Commencement Information

I29 Sch. 5 para. 29 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 30 Subsections (3) to (6) of section 59 apply for the purposes of this Part of this schedule as they apply for the purposes of subsection (1)(a) of that section.

Commencement Information

I30 Sch. 5 para. 30 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

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