

2017 No. 233

LAND AND BUILDINGS TRANSACTION TAX

**The Land and Buildings Transaction Tax (Additional Amount-
Second Homes Main Residence Relief) (Scotland) Order 2017**

Made - - - - 29th June 2017

Coming into force - - 30th June 2017

The Scottish Ministers make the following Order in exercise of the powers conferred by paragraph 19(3)(a) of schedule 2A of the Land and Buildings Transaction Tax (Scotland) Act 2013^(a) and all other powers enabling them to do so.

In accordance with section 68(2)(ja)^(b) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Land and Buildings Transaction Tax (Additional Amount-Second Homes Main Residence Relief) (Scotland) Order 2017 and comes into force on 30th June 2017.

Amendment of schedule 2A

2. Part 5 of schedule 2A of the Land and Buildings Transaction Tax (Scotland) Act 2013 (repayment of and relief from the additional amount) is amended in accordance with articles 3 and 4.

Repayment of additional amount: spouses, civil partners and cohabitants replacing main residence

3. After paragraph 8, insert—

“Repayment of additional amount: spouses, civil partners and cohabitants replacing main residence

8A.—(1) Sub-paragraph (2) applies in relation to a chargeable transaction to which this schedule applies by virtue of paragraph 2 if—

(a) there are only two buyers, and

(a) 2013 asp 11. Schedule 2A was inserted by section 1(3) of the Land and Buildings Transaction Tax (Amendment) (Scotland) Act 2016 (asp 11) (“the 2016 Act”).

(b) Section 68 was relevantly amended by section 2(1)(c)(i) of the 2016 Act.

- (b) the buyers—
 - (i) are (in relation to each other) spouses, civil partners or cohabitants, and
 - (ii) are or will be jointly entitled to ownership of the dwelling that is or forms part of the subject-matter of the transaction.
- (2) Paragraph 8 has effect in relation to the transaction as if—
 - (a) the reference in sub-paragraph (1)(a) of that paragraph to the buyer were a reference to either or both of the buyers, and
 - (b) the references in sub-paragraph (1)(b) and (c) of that paragraph to the buyer were references to both of the buyers together.
- (3) For the purposes of sub-paragraph (1)(b)(i), two buyers are cohabitants if they live together as though married to one another.”.

Relief for replacement of main residence: spouses, civil partners and cohabitants

4. After paragraph 9, insert—

“Relief for spouses, civil partners and cohabitants replacing main residence

9A.—(1) A chargeable transaction to which this schedule applies by virtue of paragraph 2 is exempt from the additional amount if—

- (a) there are only two buyers,
 - (b) the buyers—
 - (i) are (in relation to each other) spouses, civil partners or cohabitants, and
 - (ii) are or will be jointly entitled to ownership of the dwelling that is or forms part of the subject-matter of the transaction, and
 - (c) paragraph 2(2) would apply if—
 - (i) the reference in paragraph (a) of that paragraph to the buyer were a reference to either of the buyers, and
 - (ii) the references in paragraphs (b) and (c) of that paragraph to the buyer were references to both of the buyers together.
- (2) For the purposes of sub-paragraph (1)(b)(i), two buyers are cohabitants if they live together as though married to one another.”.

Transitional provision

5. The amendments made by articles 3 and 4 apply only in relation to a chargeable transaction in respect of which—

- (a) the contract is entered into on or after 20th May 2017; and
- (b) the effective date is on or after 30th June 2017.

St Andrew’s House,
Edinburgh
29th June 2017

DEREK MACKAY
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Land and Buildings Transaction Tax (Scotland) Act 2013 to provide relief from additional second homes tax where spouses, civil partners or co-habitants jointly buy a dwelling house but the dwelling house being replaced is owned by only one of them. In terms of the provision inserted by article 3, a repayment may also be claimed if, within 18 months of a chargeable transaction under which spouses, civil partners or cohabitants acquire a dwelling house as joint owners to be used as a main residence (and pay additional dwelling supplement on the transaction), one or other of the joint buyers disposes of a dwelling house that has been used by both of them as their main residence. Article 5 is a transitional provision clarifying that the relief applies only to transactions the effective date of which is on or after 30th June 2017 and the contract for which is entered into on or after 20th May 2017.

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