



# Finance Act 2016

## 2016 CHAPTER 24

### PART 8

#### SDLT AND ATED

##### *Annual tax on enveloped dwellings*

#### **134 ATED: regulated home reversion plans**

- (1) Part 3 of FA 2013 (annual tax on enveloped dwellings) is amended as follows.
- (2) After section 144 insert—

##### **“144A Regulated home reversion plans**

- (1) A day in a chargeable period is relieviable in relation to a single dwelling interest held by a person (“P”) who is an authorised plan provider if—
  - (a) P has, as plan provider, entered into a regulated home reversion plan relating to the single dwelling interest, and
  - (b) the occupation condition is met on that day.
- (2) If no qualifying termination event has occurred, the “occupation condition” is that a person who was originally entitled to occupy the dwelling (or any part of it) under the regulated home reversion plan is still entitled to do so.
- (3) If a qualifying termination event has occurred, the “occupation condition” is that—
  - (a) the single dwelling interest is being held with the intention that it will be sold without delay (except so far as delay is justified by commercial considerations or cannot be avoided), and
  - (b) no non-qualifying individual is permitted to occupy the dwelling (or any part of it).
- (4) In this section—

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“authorised plan provider” means a person authorised under the Financial Services and Markets Act 2000 to carry on in the United Kingdom the regulated activity specified in article 63B(1) of the Regulated Activities Order (entering into regulated home reversion plan as plan provider);

“qualifying termination event” is to be interpreted in accordance with article 63B of the Regulated Activities Order;

“the Regulated Activities Order” means the Financial Services and Markets (Regulated Activities) Order 2001 (S.I. 2001/544);

“regulated home reversion plan” means an arrangement which is a regulated home reversion plan for the purposes of Chapter 15A of Part 2 of the Regulated Activities Order (but see also subsection (6)).

(5) In this section references to entering into a regulated home reversion plan “as plan provider” are to be interpreted as if the references were in the Regulated Activities Order (but see also subsection (6)).

(6) For the purposes of this section—

(a) an arrangement which P entered into before 6 April 2007 is treated for the purposes of this section as a regulated home reversion plan entered into by P as plan provider if that arrangement would have been so treated for the purposes of article 63B(1) of the Regulated Activities Order had P entered into that arrangement on the day mentioned in subsection (1);

(b) an arrangement in relation to which P acquired rights or obligations before 6 April 2007 is treated for the purposes of this section as a regulated home reversion plan entered into by P as plan provider if that arrangement would have been so treated for the purposes of article 63B(1) of the Regulated Activities Order had P acquired those rights or obligations on the day mentioned in subsection (1).

(7) Section 136 (meaning of “non-qualifying individual”) applies in relation to this section as in relation to sections 133 and 135.”

(3) In section 116 (dwelling in grounds of another dwelling), in the list in subsection (6), at the appropriate place insert—

“section 144A (regulated home reversion plans);”.

(4) In section 117 (dwellings in the same building), in the list in subsection (5), at the appropriate place insert—

“section 144A (regulated home reversion plans);”.

(5) In section 132 (effect of reliefs under sections 133 to 150), in the list in subsection (3), at the appropriate place insert—

“section 144A (regulated home reversion plans);”.

(6) In section 159A (relief declaration returns), in the table in subsection (9), at the appropriate place insert—

“144A (regulated home reversion plans) | 5A”.

(7) The amendments made by this section have effect for chargeable periods beginning on or after 1 April 2016.

### **135 ATED: properties occupied by certain employees etc**

- (1) Part 3 of FA 2013 (annual tax on enveloped dwellings) is amended as follows.
- (2) Section 145 (occupation by certain employees or partners) is amended in accordance with subsections (3) to (5).
- (3) In subsection (1)—
  - (a) in paragraph (b), after “qualifying trade” insert “or qualifying property rental business”;
  - (b) in paragraph (d) for “trade” substitute “qualifying trade or qualifying property rental business”.
- (4) After subsection (4) insert—

“(5) For the meaning of “qualifying property rental business” see section 133(3).”
- (5) The heading of that section becomes “**Occupation by employees or partners of a qualifying trade or property rental business**”.
- (6) In section 146 (meaning of “qualifying employee” and “qualifying partner” in section 145)—
  - (a) in subsection (1), after “trade” insert “or property rental business”;
  - (b) in subsection (2)—
    - (i) in the words before paragraph (a), after “qualifying trade” insert “or qualifying property rental business”, and
    - (ii) in paragraph (a)(i), after “trade” insert “or (as the case may be) property rental business”.
- (7) After section 147 insert—

#### **“147A Caretaker flat owned by management company**

- (1) A day in a chargeable period is relievably in relation to a single-dwelling interest if the dwelling in question is a flat in relation to which the conditions in subsection (2) are met.
- (2) The conditions are that on that day—
  - (a) a company (“the management company”) holds the single-dwelling interest for the purpose of making the flat available as caretaker accommodation,
  - (b) the flat is contained in premises which also contain two or more other flats,
  - (c) the tenants of at least two of the other flats in the premises are members of the management company,
  - (d) the management company owns the freehold of the premises, and
  - (e) the management company is not carrying on a trade or property rental business.
- (3) For the purposes of subsection (2), the management company makes a flat available “as caretaker accommodation” if it makes it available to an individual for use as living accommodation in connection with the individual’s employment as caretaker of the premises.

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- (4) In this section “premises” means premises constituting the whole or part of a building.”
- (8) In section 116 (dwelling in grounds of another dwelling), in the list in subsection (6)—
  - (a) in the entry relating to section 145, for “certain employees or partners” substitute “employees or partners of a qualifying trade or property rental business”;
  - (b) at the appropriate place insert—  
 “section 147A (caretaker flat owned by management company);”.
- (9) In section 117 (dwellings in the same building), in the list in subsection (5)—
  - (a) in the entry relating to section 145, for “certain employees or partners” substitute “employees or partners of a qualifying trade or property rental business”;
  - (b) at the appropriate place insert—  
 “section 147A (caretaker flat owned by management company);”.
- (10) In section 132 (effect of reliefs under sections 133 to 150), in the list in subsection (3)—
  - (a) in the entry relating to section 145, for “certain employees or partners” substitute “employees or partners of a qualifying trade or property rental business”;
  - (b) at the appropriate place insert—  
 “section 147A (caretaker flat owned by management company);”.
- (11) In section 159A (relief declaration returns), in the table in subsection (9), in the entry relating to section 145, for “(dwellings used for trade purposes: occupation by certain employees or partners)” substitute “or 147A (occupation by certain employees etc)”.
- (12) The amendments made by this section have effect for chargeable periods beginning on or after 1 April 2016.

### **136 ATED: alternative property finance - land in Scotland**

- (1) Part 3 of FA 2013 (annual tax on enveloped dwellings) is amended as follows.
- (2) Section 157 (land sold to financial institution and leased to person) is amended in accordance with subsections (3) to (6).
- (3) In subsection (1)—
  - (a) in paragraph (a), omit “or section 72 of that Act (land in Scotland sold to financial institution and leased to person)”;
  - (b) in paragraph (b), after “transaction” insert “is in England, Wales or Northern Ireland and”.
- (4) In subsection (7)—
  - (a) in the definition of “the first transaction” omit “or (as the case requires) 72”;
  - (b) in the definition of “the second transaction” omit “or (as the case requires) 72”.
- (5) Omit subsection (10).
- (6) The heading of that section becomes “**Land in England, Wales or Northern Ireland sold to financial institution and leased to person**”.

(7) After section 157 insert—

**“157A Land in Scotland sold to financial institution and leased to person**

- (1) This section applies where Conditions A and B are met.
- (2) Condition A is that arrangements are entered into between a person (“the lessee”) and a financial institution under which the institution—
  - (a) purchases a major interest in land (“the first transaction”),
  - (b) grants to the lessee out of that interest a lease (if the interest acquired is the interest of the owner) or a sub-lease (if the interest acquired is the tenant’s right over or interest in a property subject to a lease) (“the second transaction”), and
  - (c) enters into an agreement under which the lessee has a right to require the institution to transfer the major interest purchased by the institution under the first transaction.
- (3) Condition B is that the land in which the institution purchases a major interest under the first transaction is in Scotland and consists of or includes one or more dwellings or parts of a dwelling.
- (4) If the lessee is a company, this Part has effect in relation to times when the arrangements are in operation (see subsection (5)) as if—
  - (a) the interest held by the financial institution as mentioned in subsection (5)(b) were held by the lessee (and not by the financial institution), and
  - (b) the lease or sub-lease granted under the second transaction had not been granted.
- (5) The reference in subsection (4) to times when the arrangements are in operation is to times when—
  - (a) the lessee holds the interest granted to it under the second transaction, and
  - (b) the interest purchased under the first transaction is held by a financial institution.
- (6) A company treated under subsection (4)(a) as holding an interest at a particular time is treated as holding it as a member of a partnership if at the time in question the company holds the interest granted to it under the second transaction as a member of the partnership (and this Part has effect accordingly in relation to the other members of the partnership).
- (7) In relation to times when the arrangements operate for the benefit of a collective investment scheme (see subsection (8)), this Part has effect as if—
  - (a) the interest held by the financial institution as mentioned in subsection (8)(b) were held by the lessee for the purposes of a collective investment scheme (and were not held by the financial institution), and
  - (b) the lease or sub-lease granted under the second transaction had not been granted.
- (8) The reference in subsection (7) to times when the arrangements operate for the benefit of a collective investment scheme is to times when—

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- (a) the lessee holds the interest granted to it under the second transaction for the purposes of a collective investment scheme, and
  - (b) the interest purchased under the first transaction is held by a financial institution.
- (9) In this section “financial institution” has the same meaning as in section 71A of FA 2003 (see section 73BA of that Act).
- (10) References in this section to a “major interest” in land are to—
  - (a) ownership of land, or
  - (b) the tenant’s right over or interest in land subject to a lease.
- (11) Where the lessee is an individual, references in subsections (7) and (8) to the lessee are to be read, in relation to times after the death of the lessee, as references to the lessee’s personal representatives.”
- (8) The amendments made by this section have effect for chargeable periods beginning on or after 1 April 2016.