

LAND TRANSACTION TAX AND ANTI-AVOIDANCE OF DEVOLVED TAXES (WALES) ACT 2017

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Calculation of Tax and Reliefs

Sections 30–31 - Reliefs

44. **Section 30** introduces Schedules 9 – 22 which make provision about reliefs that can be claimed in respect of certain transactions normally liable to LTT. The section is divided into those reliefs that provide 100% relief from charge to LTT and those where partial relief is provided or where relief is provided by LTT being calculated in a different manner or at a different rate to that which normally applies. Reliefs are not applied automatically but must be claimed through a tax return or amendment to such a return. The Welsh Ministers may by regulations add, modify or remove reliefs and also may amend section 31.
45. **Section 31** provides a targeted anti-avoidance rule that applies to all claims for relief made by a buyer. The rule operates so that a buyer cannot claim relief where the transaction is, or is part of, a “tax avoidance arrangement”. A tax avoidance arrangement is defined as an arrangement where the obtaining of a “tax advantage” by any person was the main or one of the main purposes of the arrangement, and the arrangement lacks a genuine economic or commercial main purpose (other than the obtaining of a tax advantage).
46. “Arrangements” has been defined by subsection (3) to include any transaction, scheme, agreement, understanding, promise or any series of such arrangements. Subsection (3) also defines “tax advantage” to capture (among other things) situations where a person gains a financial advantage through the claim to relief. This is intended to apply to cases where relief is claimed in circumstances where it is not the intention of the National Assembly for Wales that relief should be given. Therefore, in situations where a transaction is structured in a manner that complies with generally prevailing practice and the buyer claims relief as intended then that claim will not fall within the scope of this anti-avoidance rule. However, where additional arrangements or steps are entered into solely to create a situation in which the conditions for claiming a relief are met then the claim will fall within these provisions and should not be made. Whether an arrangement has a genuine economic or commercial main purpose will, ultimately, depend on the facts of the transaction. However, the rule should not prohibit a claim for relief by a charity where it acquires a property for charitable purposes (for example housing people in accordance with the charity’s charitable purposes) as, whilst there may not be a commercial reason to the acquisition, there is an economic purpose as the charity has exchanged cash for a physical asset – the property – with which to further its charitable purposes.

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1) which received Royal Assent on 24 May 2017

47. “Tax” for the purposes this section is wider than just LTT, and includes some taxes imposed at a UK level as well (e.g. corporation tax). This ensures that where a Welsh land transaction is entered into (and for which relief would otherwise be allowable) relief from LTT cannot be claimed if the land transaction forms part of arrangements to avoid that other tax, or taxes. Prohibiting the claim for relief from LTT in these circumstances is without prejudice to any action HMRC might take to recover the non-devolved tax that has been avoided.
48. The Welsh Ministers are provided with the power to amend this section (as part of the powers provided by section 30(6)) so as to change the operation and scope of the anti-avoidance rule.