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

_____

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – Application of Act and Tcma to Certain Persons and Bodies

Section 33 - Companies

50.   This section defines a "company" as any body corporate or unincorporated association (but not partnerships), states how the Act and TCMA apply to companies. It specifies that a company should act through the "proper officer" (subsection (2)) of the company or the person authorised to act for the company, except in cases of liquidation where the liquidator or administrator (subsection (6)) is the proper officer.

Section 34 - Unit trust schemes

51.   Section 34 provides that a unit trust scheme is treated for the purposes of LTT as if the trustees were a company, and the rights of the unit holders were shares in the company, except in relation to group, reconstruction, or acquisition relief.

52.   A power is conferred on the Welsh Ministers to make, by regulations (subject to the affirmative procedure), further provision which specifies that a scheme of a description specified in the regulations is to be treated as not being a unit trust scheme for the purposes of this Act and TCMA.

Section 35 - Open-ended investment companies

53.   This section confers a regulation making power on the Welsh Ministers, to ensure that the provisions of this Act and TCMA apply to open-ended investment companies in the same way as they apply to unit trust schemes (subject to any modification the Welsh Ministers consider appropriate).

Section 36 - Co-ownership authorised contractual schemes

54.   Section 36 provides that a co-ownership authorised contractual scheme ("CoACS") is treated for the purposes of LTT as if the scheme were a company, and the rights of the participants were shares in the company, except in relation to group, reconstruction, or acquisition relief. A CoACS must be constituted in accordance with the relevant UK financial services legislation, or under the law of an EEA state other than the UK.

55.   A power is conferred on the Welsh Ministers to make, by regulations (subject to the affirmative procedure), further provision which specifies that a scheme of a description specified in the regulations is to be treated as not being a CoACS for the purposes of this Act and TCMA.

Section 37 – 40 - *Joint buyers*

56.   Sections 37 - 40 set out how the provisions of this Act and TCMA apply to joint buyers (other than partners and trustees). Joint buyers are jointly and severally liable to comply with the obligations imposed on the buyer by this Act and TCMA. This includes compliance with making returns, and paying any tax due. However, declarations must be made by all the buyers.

Sections 41-42 - *Partnerships and Trusts*

57.   Section 41 introduces Schedule 7 which provides for the application of this Act and TCMA to partnerships and provides that the Welsh Ministers may by regulations amend this Schedule.

58.   Section 42 introduces Schedule 8 on Trusts which makes provision about the application of this Act and TCMA to trusts, and provides that the Welsh Ministers may by regulations amend this Schedule.

Section 43 - *Persons acting in a representative capacity*

59.   This section deals with how the provisions of this Act and TCMA apply to a person acting in a representative capacity, such as where a person is acting on behalf of someone whose assets are under the direction and control of a court, or the executor of the estate of a deceased person. In this situation, the person acting in a representative capacity is responsible for complying with the requirements of this Act (such as making a return and paying any tax due). This section also makes provision about receivers.