

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8 – Interpretation and Final Provisions

Schedule 2 - Pre-completion transactions

Part 4 - The minimum consideration rule

The minimum consideration rule

144. [Paragraph 15](#) provides for a minimum consideration rule for pre-completion transactions where there is a relevant connection between the parties. The meaning of “relevant connection between the parties” includes where there are a series of pre-completion transactions, and is provided at sub-paragraph (3). In this Part of the Schedule, references to “the implemented transaction” are to be read as references to pre-completion transactions referred to in paragraphs 7(1) or 13(1).
145. Sub-paragraph (2) provides that where there is a relevant connection between the parties in a pre-completion transaction, the amount of consideration for the final acquisition is to comprise the highest of:
- the consideration it would normally be in the absence of this sub-paragraph;
 - the first minimum amount (paragraph 16); or
 - the second minimum amount (paragraph 17).
146. Sub-paragraph (4) provides that references to the “original contract” in this Part of the Schedule, where the implemented transaction forms part of a series of contracts relating to the same subject-matter, shall be read as a reference to the first contract in that series. References to the “original buyer” are also to be read accordingly.

The first minimum amount

147. [Paragraph 16](#) provides the meaning of first minimum amount and sets out how this is calculated for the purposes of paragraph 15.
148. The “first minimum amount” (see paragraph 15(2)(b)) in respect of a chargeable interest acquired under a land transaction referred to in paragraphs 7(4) or 13(2) is:
- the amount of consideration for the subject matter of the original contract (if the whole of the subject matter of that contract is acquired); or

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

- the amount of consideration just and reasonably apportioned (if a part of the subject-matter of the original contract is acquired).
149. Sub-paragraph (3) sets out conditions A – C, which if satisfied provide that the first minimum amount is the total of any consideration required to be given by the transferor (the first T – see sub-paragraph (4)(a)) under the terms of the contract for the first T’s acquisition (see sub-paragraph (4)(b)) of the subject matter of that contract and, if not included, any consideration required to be given by the first T under any pre-completion transaction where the first T is a transferee.
150. For the purposes of paragraph 16, the meaning of “the first T” is provided at sub-paragraph (4) (a) and (4) (b) provides that “the transfer to the first T” is the pre-completion transaction where the first T is a transferee or the original contract (if T (see Condition B in sub-paragraph (3)) is the original buyer).

The second minimum amount

151. [Paragraph 17](#) sets out how the second minimum amount is calculated for the purposes of paragraph 15. The second minimum amount is the total amount of consideration given by relevant parties (see sub-paragraph (3)).
152. The formula for determining the net amount of consideration given by a relevant party is set out at sub-paragraph (2). This and the provisions of sub-paragraph (4) require that the calculation is carried out for each relevant party.
153. The relevant parties (subject to sub-paragraph (4)) for the purposes of the calculation of the second minimum amount are the original buyer and the transferee. Where there are successive pre-completion transactions, this includes all the transferees in the chain of transactions.
154. Sub-paragraph (4) identifies the relevant parties in a pre-completion transaction (an “implemented transaction”) which is part of a chain of pre-completion transactions in respect of an original contract (see paragraph 15(4)). A “preceding transaction” is defined as a pre-completion transaction that precedes the implemented transaction in a chain.
155. Sub-paragraph (5) provides that any amounts given by connected parties are treated as given by the relevant party for the purposes of sub-paragraph (2).
156. Sub-paragraph (6) provides that amounts given in respect of an implemented transaction where that transaction relates to part of the subject-matter of the original contract are to be adjusted and determined on a just and reasonable basis. This includes any transactions involving part of the subject-matter of the original contract, which precede any implemented transaction.