

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

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 8 – Interpretation and Final Provisions**

#### *Schedule 5 - Higher rates residential property transactions*

#### **Part 3: Buyer is an individual: multiple dwelling transactions**

204. Paragraphs 10 to 18 provide the rules that apply where the buyer acquires a number of residential dwellings in a single transaction. In the main, the buyer will be required to pay the tax rates which apply to higher rates residential property transactions on all of the dwellings acquired even where one is a replacement of a main residence. Where the transaction is structured so that the replacement of the main residence is effected separately from the other acquisition then each transaction, for the purposes of establishing whether the transaction is a higher rates residential property transaction is considered separately although they may still be regarded as linked transactions. Where the transaction is structured as an acquisition of two dwellings, one of which is the replacement of a main residence then the higher rates will apply to both transactions.
205. There is an exception to this basic rule and that is where the second (or further additional) dwelling acquired through the single transactions meet the conditions in paragraph 14; the subsidiary dwelling exception. The rules in paragraph 14 operate so that where two or more dwellings are acquired in a single transaction, for example a house with a cottage within the grounds or a house converted into two flats, then if the second (or all of the additional dwellings) are subsidiary to the main dwelling then the higher rates will not apply to the transaction, unless the buyer already owns a dwelling and is not replacing their only or main residence. The acquisition will not be a higher rates residential property transaction where the consideration given for the main dwelling is equal to, or greater than two thirds of the total consideration given for the transaction. If there is more than one subsidiary dwelling then the total consideration allocated to all subsidiary dwellings must be less than one third of the total consideration for the transaction in order for it to not be a higher rates residential property transaction.
206. Paragraphs 15(3)-(6) set out how the values of the respective beneficial shares of a dwelling already owned by a buyer are to be determined where the property is held jointly and consequently there is more than one person with a beneficial interest. The value of the buyer's interest is based on their individual beneficial interest rather than the value of the whole of the major interest in any residential properties already owned. If the buyer is married or in a civil partnership their beneficial interest will be aggregated with that of their spouse or civil partner unless they are not living together as defined by paragraph 25(3).