

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8 – Interpretation and Final Provisions

Schedule 5 - Higher rates residential property transactions

Part 5 - Supplementary provisions

Settlements and bare trusts

215. [Paragraphs 27 to 30](#) provide rules about the application of the rules about higher rates residential property transactions in relation to bare trusts and trusts that are settlements for the purposes of the Act (to the extent that they entitle the beneficiary to occupy the dwelling for life or to the income earned). In such situations the beneficiary of the bare trust, or the settlement, is to be treated as the buyer, or the owner of an interest held in the dwelling for the purpose of determining whether the higher rates residential property transaction rules apply to another purchase.
216. [Paragraph 29](#) clarifies that the transfer of beneficial interests (for example undivided shares) arising under a trust in a residential property will be treated in the same way as a transfer of a major interest where the seller of the beneficial interest was, immediately prior to the transaction, deemed to own the major interest in the dwelling and immediately after the transaction the buyer is deemed to own the major interest.
217. [Paragraph 30](#) provides that where a child (i.e. a child under the age of 18) is to be treated as the buyer or holder of an interest, as a result of the trust rules in this Act then the parent (and any spouse or civil partner of the parent unless they are not living together) is to be treated as the buyer or holder of the interest.
218. [Paragraph 30\(4\)](#) dis-applies the effect of paragraph 30(2) in circumstances where an incapacitated child's interest is acquired, held on trust, or disposed of, by a deputy appointed under the Mental Capacity Act 2005 (or a person acting in an equivalent capacity outside Wales and England).
219. [Paragraph 31](#) provides rules in relation to settlements where the beneficiaries of the settlement are not entitled to occupy the dwelling for life or to the income earned in respect of the dwelling or dwellings. In such circumstances the trustee or trustees are to be taxed under the same rules as relate to buyers who are not individuals.