



Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017

2017 anaw 1

PART 3

CALCULATION OF TAX AND RELIEFS

Calculation of tax

24 Regulations specifying tax bands and tax rates

- (1) The Welsh Ministers must by regulations specify the tax bands and percentage tax rates for each band applicable in the case of the following types of chargeable transactions—
 - (a) residential property transactions,
 - (b) higher rates residential property transactions, and
 - (c) non-residential property transactions.
- (2) In this Act, “tax band” means a lower and, if specified, upper amount of money from or, as the case may be, between which a specified percentage tax rate applies.
- (3) Regulations under subsection (1)(a) and (c) must specify, in the case of each type of transaction—
 - (a) a tax band for which the applicable tax rate is 0% (“the zero rate band”),
 - (b) two or more tax bands above the zero rate band,
 - (c) the tax rate for each band above the zero rate band so that the rate for each band is higher than the rate for the band below it, and
 - (d) a date on which the tax bands and tax rates apply in relation to transactions with an effective date on or after that date.
- (4) Regulations under subsection (1)(b) must specify—
 - (a) three or more tax bands,
 - (b) an applicable tax rate for each band which—

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- (i) must, in respect of any higher rates residential property transaction, be higher than the highest rate that would be applicable to any amount within that band were that transaction a residential property transaction, and
 - (ii) except in the case of the lowest band, is higher than the rate applicable to the band below it, and
 - (c) a date on which the tax bands and tax rates apply in relation to transactions with an effective date on or after that date.
- (5) Regulations under subsection (1) may specify—
- (a) different tax bands and tax rates in respect of different categories of each type of chargeable transaction (including by reference to different descriptions of buyer);
 - (b) different dates under subsection (3)(d) or (4)(c) in respect of each specified tax band or tax rate.
- (6) A chargeable transaction is a residential property transaction if—
- (a) the main subject-matter of the transaction consists entirely of an interest in land that is residential property, or
 - (b) where the transaction is one of a number of linked transactions, the main subject-matter of each transaction consists entirely of such an interest.
- (7) But if Schedule 5 applies to a chargeable transaction it is a higher rates residential property transaction.
- (8) A chargeable transaction is a non-residential property transaction if—
- (a) the main subject-matter of the transaction consists of or includes an interest in land that is not residential property, or
 - (b) where the transaction is one of a number of linked transactions, the main subject-matter of any of the transactions consists of or includes such an interest.
- (9) Tax bands and tax rates specified in regulations under subsection (1) do not apply in relation to a chargeable transaction in so far as the chargeable consideration for the transaction is rent (for provision about the tax bands and tax rates applicable to chargeable consideration which is rent see paragraphs 27 and 28 of Schedule 6).
- (10) Schedule 5 makes provision about higher rates residential property transactions.
- (11) The Welsh Ministers may by regulations amend Schedule 5.

Commencement Information

- I1** S. 24(1)(11) in force at 18.10.2017 for specified purposes by S.I. 2017/953, **art. 2(b)**
- I2** S. 24(1)(11) in force at 1.4.2018 in so far as not already in force by S.I. 2018/34, **art. 3**
- I3** S. 24(2)-(10) in force at 1.4.2018 by S.I. 2018/34, **art. 3**

25 Procedure for regulations specifying tax bands and tax rates

- (1) A statutory instrument containing—
 - (a) the first regulations made under section 24(1),

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- (b) the first regulations made under paragraph 27(4) of Schedule 6 (tax bands and rates: rent element of residential leases), or
- (c) the first regulations made under paragraph 28(1) of that Schedule (tax bands and rates: rent element of non-residential and mixed leases),

may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.

(2) A statutory instrument containing—

- (a) the second or subsequent regulations made under section 24(1),
- (b) the second or subsequent regulations made under paragraph 27(4) of Schedule 6, or
- (c) the second or subsequent regulations made under paragraph 28(1) of that Schedule,

must be laid before the National Assembly for Wales and ceases to have effect on the expiry of 28 days beginning with the day it is made unless, before the expiry of that period, it is approved by a resolution of the National Assembly.

(3) But if—

- (a) the National Assembly votes on a motion for a resolution to approve a statutory instrument laid under subsection (2) before the expiry of the period of 28 days mentioned in that subsection, and
- (b) the motion is not passed,

the instrument ceases to have effect at the end of the day on which the vote takes place.

(4) In calculating any period of 28 days for the purposes of subsection (2), no account is to be taken of any period during which the National Assembly is—

- (a) dissolved, or
- (b) in recess for more than 4 days.

Commencement Information

I4 S. 25 in force at 18.10.2017 by S.I. 2017/953, art. 2(c)

26 Tax bands and tax rates applicable when regulations cease to have effect

(1) In this section—

- (a) ““rejected regulations”” means regulations which cease to have effect by virtue of subsection (2) or (3) of section 25;
- (b) ““the interim period”” means the period—
 - (i) beginning with the date specified by rejected regulations as the date on which specified tax bands and tax rates apply in relation to a chargeable transaction, and
 - (ii) ending when those regulations cease to have effect by virtue of subsection (2) or (3) of section 25.

(2) Subject to subsection (3), if the effective date of a chargeable transaction falls within the interim period the tax bands and tax rates applicable to the transaction are the bands and rates specified by the rejected regulations as applying to the transaction.

(3) If—

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- (a) the effective date of a chargeable transaction falls within the interim period, and
 - (b) subsection (4), (5) or (6) applies,
- the tax bands and tax rates applicable to the transaction are the bands and rates which would have been applicable had the rejected regulations not been made.
- (4) This subsection applies where the buyer—
- (a) is required by virtue of section 44 to make a return relating to the transaction on or before the filing date and fails to do so, and
 - (b) also fails to make the return on or before the date on which the interim period ends.
- (5) This subsection applies where the first return required in relation to the chargeable transaction is required under one of the following provisions—
- (a) section 47 (duty to make return where contingency ceases or consideration is ascertained);
 - (b) section 51 (return as a result of later linked transaction);
 - (c) paragraph 3(4) or 5(5) of Schedule 6 (return as a result of lease continuing);
 - (d) paragraph 13(1) of that Schedule (return where tax underpaid where rent determined on reconsideration).
- (6) This subsection applies where—
- (a) the buyer in the transaction makes a claim under section 63A of TCMA,
 - (b) by virtue of subsection (5) of that section, the assessment of tax chargeable contained in a tax return made in relation to the transaction is treated as having been amended, and
 - (c) a further return is required in relation to the transaction under—
 - (i) a provision mentioned in subsection (5) of this section,
 - (ii) section 49 (further return where relief is withdrawn), or
 - (iii) paragraph 24 of Schedule 5 (return where transaction treated as higher rates residential property transaction).
- (7) But subsection (6) does not affect a return made before the claim is made under section 63A TCMA.
- (8) Section 63A of TCMA makes provision for relief to be claimed in cases where subsection (2) applies if the amount of tax chargeable is greater than the amount which would have been chargeable had the rejected regulations not been made.

Commencement Information

I5 S. 26 in force at 1.4.2018 by S.I. 2018/34, art. 3

27 Amount of tax chargeable: transactions which are not linked

- (1) The amount of tax chargeable in respect of a chargeable transaction which is not one of a number of linked transactions (for which see section 28) is to be calculated as follows.

Step 1 For each tax band applicable to the transaction, multiply so much of the chargeable consideration for the transaction as falls within the band by the percentage tax rate for that band.

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Step 2 Calculate the sum of the amounts reached under Step 1. The result is the amount of tax chargeable.

- (2) But this section does not apply for the purposes of calculating the amount of any tax chargeable in respect of rent where the whole or part of the chargeable consideration for a chargeable transaction is rent; instead see—
- (a) in the case of a residential property transaction, paragraph 27 of Schedule 6 and any regulations made under that paragraph which make provision about the tax chargeable in respect of rent in the case of residential leases;
 - (b) in the case of a non-residential property transaction, paragraph 29 of that Schedule which provides for the calculation of tax chargeable in respect of rent in the case of non-residential and mixed leases.

Commencement Information

I6 S. 27 in force at 1.4.2018 by S.I. 2018/34, art. 3

28 Amount of tax chargeable: linked transactions

- (1) Where a chargeable transaction is one of a number of linked transactions, the amount of tax chargeable in respect of the transaction is to be determined as follows.

Step 1 Calculate the tax which would be chargeable in accordance with section 27(1), if the chargeable consideration for the transaction were the total consideration.

Step 2 Divide the chargeable consideration for the transaction by the total consideration.

Step 3 Multiply the amount arrived at under Step 1 by the fraction arrived at under Step 2. The result is the amount of tax chargeable.

- (2) In subsection (1), the “total consideration” is the total of the chargeable consideration for all the linked transactions (not including any chargeable consideration which is rent).
- (3) Where the whole or part of the chargeable consideration for a linked transaction is rent this section does not apply for the purposes of calculating the amount of any tax chargeable in respect of the rent; instead see—
- (a) in the case of a residential property transaction, paragraph 27 of Schedule 6 and any regulations made under that paragraph, and
 - (b) in the case of a non-residential property transaction, paragraph 30 of that Schedule (calculation of tax chargeable in respect of rent: linked transactions).

Commencement Information

I7 S. 28 in force at 1.4.2018 by S.I. 2018/34, art. 3

29 Calculation provisions subject to certain provisions about reliefs

Sections 27 and 28 are subject to—

- (a) Schedule 13 (relief for acquisitions involving multiple dwellings);

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- (b) paragraph 10 of Schedule 14 (relief for transactions entered into by persons exercising collective rights);
- (c) Part 3 of Schedule 17 (acquisition relief);
- (d) paragraphs 6 and 8 of Schedule 18 (partial charities relief in certain circumstances).

Commencement Information

18 S. 29 in force at 1.4.2018 by S.I. 2018/34, art. 3

Reliefs

30 Reliefs

- (1) The following Schedules make provision about reliefs and other provision connected to those reliefs—

- Schedule 9 (sale and leaseback relief);
- Schedule 10 (alternative property finance relief);
- Schedule 11 (relief for alternative finance investment bonds);
- Schedule 12 (relief for incorporation of limited liability partnership);
- Schedule 13 (relief for acquisitions involving multiple dwellings);
- Schedule 14 (relief for certain acquisitions of dwellings);
- Schedule 15 (relief for certain transactions relating to social housing);
- Schedule 16 (group relief);
- Schedule 17 (reconstruction and acquisition reliefs);
- Schedule 18 (charities relief);
- Schedule 19 (open-ended investment company reliefs);
- Schedule 20 (relief for acquisitions by public bodies and health bodies);
- Schedule 21 (compulsory purchase relief and planning obligation relief);
- Schedule 22 (miscellaneous reliefs).

- (2) The following provisions of this Act provide relief from tax for certain land transactions (and accordingly if relief is claimed such transactions are not chargeable transactions)—

- paragraphs 18(2) and 19(2) of Schedule 2 (relief for notional transactions associated with assignments of rights and relief for certain subsales);
- paragraph 1 of Schedule 9 (sale and leaseback relief);
- paragraphs 2 and 3 of Schedule 10 (relief for certain alternative property finance transactions);
- paragraphs 13(1) and 15(1) of Schedule 11 (relief for certain transactions relating to alternative finance investment bonds);
- paragraph 1 of Schedule 12 (relief for incorporation of limited liability partnership);
- paragraphs 2(1), 3(1), 4(1), 5(1), 6(1) and 7(1) of Schedule 14 (relief for certain acquisitions of dwellings);
- paragraph 4 of Schedule 15 (shared ownership leases: relief for certain reversions);

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- paragraph 6(2) of that Schedule (shared ownership leases: relief for certain staircasing transactions);
- paragraph 13 of that Schedule (shared ownership trust relief: transfer upon termination);
- paragraph 14 of that Schedule (shared ownership trusts: relief for certain staircasing transactions);
- paragraph 19(1) of that Schedule (relief for certain acquisitions by social housing providers);
- paragraph 2(1) of Schedule 16 (group relief);
- paragraph 2(1) of Schedule 17 (reconstruction relief);
- paragraphs 3(1) and 5 of Schedule 18 (charities relief);
- paragraphs 1(1) and 2(1) of Schedule 19 (open-ended investment companies relief);
- paragraphs 1(1) and 2 of Schedule 20 (relief for acquisitions by public bodies and health bodies);
- paragraphs 1(1) and 2(1) of Schedule 21 (compulsory purchase relief and planning obligation relief);
- Schedule 22 (miscellaneous reliefs).
- (3) The following provisions of this Act provide relief for certain chargeable transactions in the manner specified in the respective provision—
- paragraph 19(3) of Schedule 2 (partial relief for certain subsales);
- Schedule 13 (relief for acquisitions involving multiple dwellings);
- paragraphs 2(3), 3(4), 4(4), 5(3), 6(4) and 7(3) of Schedule 14 (partial relief for certain acquisitions of dwellings which exceed the permitted area);
- paragraph 10 of that Schedule (relief for transactions entered into by persons exercising collective rights);
- paragraph 2 of Schedule 15 (relief relating to contingent consideration in the case of a [F¹ transaction subject to a public sector discount]);
- paragraph 3 of that Schedule (shared ownership leases: election for consideration to be taken to be market value);
- paragraph 5 of that Schedule (shared ownership leases where staircasing allowed: election for consideration to be based on open market value);
- paragraph 12 of that Schedule (shared ownership trusts: election for consideration to be taken to be market value);
- Part 3 of Schedule 17 (acquisition relief);
- paragraphs 6 and 8 of Schedule 18 (partial charities relief in certain circumstances).
- (4) Any relief under the any of the provisions mentioned in subsections (2) and (3) (other than relief under paragraph 3 of Schedule 22 (visiting forces and international military headquarters reliefs)) must be claimed in the first return made in relation to the land transaction, or in an amendment of that return.
- (5) Relief under paragraph 3 of Schedule 22—
- (a) may be claimed in the return for the land transaction, or in an amendment of that return, or
- (b) if not claimed in the return or amended return and the period allowed for amendment of the return has ended, may be claimed by making a claim for repayment of any amount of tax overpaid (see Chapter 7 of Part 3 of TCMA),

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and section 78 of TCMA (time limit for making claims) does not apply to a claim for relief under paragraph 3 of Schedule 22.

- (6) The Welsh Ministers may by regulations amend this Act so as to—
- (a) add a relief;
 - (b) modify a relief;
 - (c) remove a relief;
 - (d) modify section 31.

Textual Amendments

- F1** Words in s. 30(3) substituted (26.1.2019) by [The Abolition of the Right to Buy and Associated Rights \(Wales\) Act 2018 \(Consequential Amendments and Savings Provisions\) Regulations 2019 \(S.I. 2019/110\)](#), regs. 1, **4(a)**

Commencement Information

- I9** S. 30(1) in force at 18.10.2017 for specified purposes by [S.I. 2017/953](#), **art. 2(d)**
I10 S. 30(1) in force at 1.4.2018 in so far as not already in force by [S.I. 2018/34](#), **art. 3**
I11 S. 30(2)-(6) in force at 1.4.2018 by [S.I. 2018/34](#), **art. 3**

31 Reliefs: anti-avoidance

- (1) Relief is not available under any of the provisions mentioned in subsection (2) or (3) of section 30 in respect of a land transaction—
- (a) which is a tax avoidance arrangement, or
 - (b) which forms part of arrangements which are tax avoidance arrangements.
- (2) An arrangement is a “tax avoidance arrangement” if—
- (a) the obtaining of a tax advantage for any person is the main purpose, or one of the main purposes, of the buyer in the land transaction entering into the arrangement, and
 - (b) the arrangement lacks genuine economic or commercial substance other than the obtaining of a tax advantage.
- (3) In this section—
- “arrangement” (“*trefniant*”) includes any transaction, scheme, agreement, grant, understanding, promise, undertaking or series of any of those things (whether or not legally enforceable);
- “tax” (“*treth*”) means land transaction tax, income tax, corporation tax, capital gains tax, stamp duty land tax, stamp duty reserve tax or stamp duty;
- “tax advantage” (“*mantais drethiannol*”) means—
- (a) relief or increased relief from tax,
 - (b) repayment or increased repayment of tax,
 - (c) avoidance or reduction of a charge to tax, or
 - (d) deferral of a payment of tax or advancement of a repayment of tax.

Commencement Information

- I12** S. 31 in force at 1.4.2018 by [S.I. 2018/34](#), **art. 3**

Changes to legislation:

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