

Changes to legislation: There are currently no known outstanding effects for the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, SCHEDULE 18. (See end of Document for details)

SCHEDULE 18

(as introduced by section 30(1))

CHARITIES RELIEF

Overview

- 1 This Schedule is arranged as follows—
- (a) paragraph 2 defines key terms,
 - [^{F1}(aa) paragraphs 2A to 2D make provision about the meaning of “charity”,]
 - (b) paragraph 3 describes the relief available to a charity that is a buyer in a land transaction and the circumstances in which it is available,
 - (c) paragraph 4 describes the circumstances where that relief is withdrawn,
 - (d) paragraph 5 describes the relief available where a charity does not qualify for relief under paragraph 3 but meets other criteria, and makes provision about the circumstances where such relief is withdrawn,
 - (e) paragraph 6 describes the relief available where at least one charity and at least one person who is not a charity are buyers under a land transaction,
 - (f) paragraph 7 describes the circumstances where that relief is withdrawn,
 - (g) paragraph 8 describes the relief available where a charity does not qualify for relief under paragraph 6 but meets other criteria, and makes provision about the circumstances where such relief is withdrawn, and
 - (h) paragraph 9 makes provision about reliefs available for charitable trusts.

Textual Amendments

- F1** Sch. 18 para. 1(aa) inserted (31.12.2020) by [The Welsh Tax Acts \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/833\)](#), regs. 1(2), **3(2)** (with reg. 3(5)); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- II** Sch. 18 para. 1 in force at 1.4.2018 by [S.I. 2018/34](#), **art. 3**

Key terms

- 2 (1) In this Schedule, a charity (““C””) which is a buyer in a land transaction is a ““qualifying charity””—
- (a) for the purposes of paragraphs 3, 4 and 5, if C intends to hold the whole of the subject-matter of the transaction for qualifying charitable purposes;
 - (b) for the purposes of paragraphs 6, 7 and 8, if C intends to hold the whole of its undivided share of the subject-matter of the transaction for qualifying charitable purposes.
- (2) For the purposes of this Schedule, C holds the subject-matter of the transaction for ““qualifying charitable purposes”” if C holds it—
- (a) for use in furtherance of the charitable purposes of C or another charity, or
 - (b) as an investment from which the profits are applied to the charitable purposes of C.
- (3) In this Schedule—
- (a) ““charity”” has the meaning given by [^{F2}paragraph 2A], and

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- (b) “charitable purpose” has the meaning given by section 2 of the Charities Act 2011 (c. 25).
- (4) In this Schedule, in relation to C which is a buyer in a land transaction, a “disqualifying event” occurs when—
- (a) C ceases to be established for charitable purposes only, or
 - (b) the whole or any part of the subject-matter of the transaction relieved from tax under this Schedule, or any interest or right derived from it, is used or held by C otherwise than for qualifying charitable purposes.

Textual Amendments

- F2** Words in Sch. 18 para. 2(3)(a) substituted (31.12.2020) by [The Welsh Tax Acts \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/833\)](#), regs. 1(2), **3(3)** (with reg. 3(5)); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I2** Sch. 18 para. 2 in force at 1.4.2018 by [S.I. 2018/34](#), art. 3

^{F3}Meaning of “charity”

Textual Amendments

- F3** Sch. 18 paras. 2A-2D and cross-headings inserted (31.12.2020) by [The Welsh Tax Acts \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/833\)](#), regs. 1(2), **3(4)** (with reg. 3(5)); 2020 c. 1, Sch. 5 para. 1(1)

- 2A. For the purpose of this Schedule, “charity” means a body of persons or trust that—
- (a) is established for charitable purposes only,
 - (b) meets the jurisdiction condition (see paragraph 2B),
 - (c) meets the registration condition (see paragraph 2C), and
 - (d) meets the management condition (see paragraph 2D).

Meaning of “charity”: jurisdiction condition

- 2B. (1) A body of persons or trust meets the jurisdiction condition if it falls to be subject to the control of a relevant UK court in the exercise of its jurisdiction with respect to charities.
- (2) A “relevant UK court” means—
- (a) the High Court,
 - (b) the Court of Session, or
 - (c) the High Court in Northern Ireland.

Meaning of “charity”: registration condition

- 2C. (1) A body of persons or trust meets the registration condition if—
- (a) in the case of a body of persons or trust that is a charity within the meaning of section 10 of the Charities Act 2011 (c. 25), condition A is met, and
 - (b) in the case of any other body of persons or trust, condition B is met.

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- (2) Condition A is that the body of persons or trust has complied with any requirement to be registered in the register of charities kept under section 29 of the Charities Act 2011.
- (3) Condition B is that the body of persons or trust has complied with any requirement to be registered in a register corresponding to that mentioned in condition A kept under the law of Scotland or Northern Ireland.

Meaning of “charity”: management condition

- 2D.
- (1) A body of persons or trust meets the management condition if its managers are fit and proper persons to be managers of the body or trust.
 - (2) In this paragraph “managers”, in relation to a body of persons or trust, means the persons having the general control and management of the administration of the body or trust.
 - (3) Sub-paragraph (4) applies in relation to any period throughout which the management condition is not met.
 - (4) The management condition is treated as met if WRA consider that—
 - (a) the failure to meet the condition has not prejudiced the charitable purposes of the body or trust, or
 - (b) it is just and reasonable in all the circumstances for the condition to be treated as met throughout the period.]

The relief

- 3 (1) A land transaction is relieved from tax where the buyer is a qualifying charity.
- (2) But see paragraph 4 (withdrawal of relief).

Commencement Information

I3 Sch. 18 para. 3 in force at 1.4.2018 by [S.I. 2018/34](#), [art. 3](#)

Withdrawal of charities relief

- 4 (1) This paragraph applies where—
 - (a) a land transaction is relieved from tax under paragraph 3 (“the relieved transaction”),
 - (b) a disqualifying event occurs in relation to a charity (“C”) which was the buyer under the relieved transaction, and
 - (c) the disqualifying event occurs in the circumstances required by sub-paragraphs (3) and (4).
- (2) Where this paragraph applies, relief under paragraph 3, or an appropriate proportion of it, is withdrawn and tax is chargeable (see sub-paragraph (5)).
- (3) The disqualifying event must occur—
 - (a) before the end of the period of 3 years beginning with the effective date of the relieved transaction, or

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- (b) in pursuance of, or in connection with, arrangements made before the end of that period.
- (4) At the time of the disqualifying event C must hold a chargeable interest that—
 - (a) was acquired by C under the relieved transaction, or
 - (b) that is derived from an interest so acquired.
- (5) The amount chargeable is the amount of tax that would have been chargeable but for paragraph 3 or, as the case may be, an appropriate proportion of that amount.
- (6) An “appropriate proportion” means an appropriate proportion having regard to—
 - (a) what was acquired by C under the relieved transaction and what is held by C at the time of the disqualifying event, and
 - (b) the extent to which what is held by C at that time is or becomes used or held for purposes other than qualifying charitable purposes.

Commencement Information

I4 Sch. 18 para. 4 in force at 1.4.2018 by [S.I. 2018/34](#), [art. 3](#)

Charity not a qualifying charity

- 5 (1) This paragraph applies where—
- (a) a land transaction is not relieved from tax under paragraph 3 because the buyer is not a qualifying charity, but
 - (b) the buyer is a charity (“C”) which intends to hold the greater part of the subject-matter of the transaction for qualifying charitable purposes.
- (2) In such a case—
- (a) paragraphs 3 and 4 have effect as if C were a qualifying charity, but
 - (b) for the purposes of paragraph 4, “disqualifying event” includes the following if they are made otherwise than in furtherance of C's charitable purpose—
 - (i) any transfer by C of a major interest in the whole or any part of the subject-matter of the relieved transaction;
 - (ii) any grant by C at a premium of a low-rental lease of the whole or any part of that subject-matter.
- (3) In relation to a transfer or grant that, by virtue of sub-paragraph (2)(b), is a disqualifying event for the purposes of paragraph 4—
- (a) the date of the disqualifying event for those purposes is the effective date of the relieved transaction, and
 - (b) paragraph 4 has effect with the modifications in sub-paragraph (4).
- (4) The modifications to paragraph 4 are—
- (a) sub-paragraph (4) is to have effect as if for “At the time of” there were substituted “Immediately before”;
 - (b) sub-paragraph (6)(a) is to have effect as if for “at the time of” there were substituted “immediately before and immediately after”;
 - (c) sub-paragraph (6) is to have effect as if paragraph (b) were omitted.
- (5) For the purposes of this paragraph—

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- (a) a lease is granted ““at a premium”” if there is consideration other than rent, and
 - (b) a lease is a ““low-rental”” lease if the annual rent (if any) is less than £1,000 a year.
- (6) In this paragraph—
- (a) ““annual rent”” has the meaning given by paragraph 36(2) of Schedule 6, and
 - (b) ““rent”” has the same meaning as in that Schedule.

Commencement Information

I5 Sch. 18 para. 5 in force at 1.4.2018 by [S.I. 2018/34](#), [art. 3](#)

Joint purchase by qualifying charity and another person: partial relief

- 6 (1) This paragraph applies where—
- (a) there are two or more buyers under a land transaction,
 - (b) the buyers acquire the subject-matter of the transaction as tenants in common, and
 - (c) at least one of the buyers is a qualifying charity and at least one of the buyers is another person who is not a qualifying charity.
- (2) The tax chargeable in respect of the transaction is reduced by the amount of the relief under sub-paragraph (3) (but see paragraph 7 (withdrawal of partial relief)).
- (3) The relief is equal to the relevant proportion of the tax that would, ignoring paragraph 3, otherwise have been chargeable in respect of the transaction.
- (4) The ““relevant proportion””, in the case of a qualifying charity, is the lower of P1 and P2, where—
- P1 is the proportion of the subject-matter of the transaction that is acquired by all the qualifying charities that are buyers under the transaction (in aggregate);
 - P2 is the proportion of the chargeable consideration for the transaction that is given by all the qualifying charities that are buyers under the transaction (in aggregate).

Commencement Information

I6 Sch. 18 para. 6 in force at 1.4.2018 by [S.I. 2018/34](#), [art. 3](#)

Withdrawal of partial relief

- 7 (1) This paragraph applies where—
- (a) a land transaction is relieved from tax under paragraph 6 (““the relieved transaction””),
 - (b) a disqualifying event occurs in relation to a charity (““C””) which was the buyer under the relieved transaction, and
 - (c) the disqualifying event occurs in the circumstances required by sub-paragraphs (3) and (4).

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- (2) Where this paragraph applies, C's portion of the relief, or an appropriate proportion of C's portion of that relief, is withdrawn and tax is chargeable in accordance with this paragraph (see sub-paragraph (5)).
- (3) The disqualifying event must occur—
- (a) before the end of the period of 3 years beginning with the effective date of the relieved transaction, or
 - (b) in pursuance of, or in connection with, arrangements made before the end of that period.
- (4) At the time of the disqualifying event, C must hold a chargeable interest that—
- (a) was acquired by C under the relieved transaction, or
 - (b) is derived from an interest so acquired.
- (5) The amount chargeable is equal to C's portion of the relief or, as the case may be, the appropriate proportion of C's portion of the relief.
- (6) C's portion of the relief depends on whether P1 or P2 was lower in the calculation under paragraph 6.
- (7) If P1 was lower, C's portion of the relief is equal to—

$$\frac{p1}{P1} \times R$$

Figure 14 where—

p1 is the proportion of the subject-matter of the transaction that was acquired by C under the transaction;

P1 has the same meaning as in paragraph 6(4);

R is the amount of the relief.

- (8) If P2 was lower, C's portion of the relief is equal to—

$$\frac{p2}{P2} \times R$$

Figure 15 where—

p2 is the proportion of chargeable consideration for the transaction that was given by C;

P2 has the same meaning as in paragraph 6(4);

R is the amount of the relief.

- (9) In this paragraph, ““appropriate proportion”” means an appropriate proportion having regard to—
- (a) what was acquired by C under the relieved transaction and what is held by C at the time of the disqualifying event, and

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- (b) the extent to which what is held by C at that time is or becomes used or held for purposes other than qualifying charitable purposes.

Commencement Information

I7 Sch. 18 para. 7 in force at 1.4.2018 by [S.I. 2018/34](#), [art. 3](#)

Partial relief: charity not a qualifying charity

- 8 (1) This paragraph applies where—
- (a) a charity (“C”) is one of two or more buyers acquiring the subject-matter of a land transaction as tenants in common,
 - (b) C is not a qualifying charity,
 - (c) paragraph 6(2) to (4) would apply if C were a qualifying charity, and
 - (d) C intends to hold the greater part of its undivided share of the subject-matter of the transaction for qualifying charitable purposes.
- (2) In such a case—
- (a) paragraphs 6 and 7 have effect as if C were a qualifying charity, but
 - (b) for the purposes of paragraph 7 “disqualifying event” includes the following if they are made otherwise than in furtherance of C's charitable purposes—
 - (i) any transfer by C of a major interest in the whole or any part of the subject-matter of the relieved transaction;
 - (ii) any grant by C at a premium of a low-rental lease of the whole or any part of that subject-matter.
- (3) In relation to a transfer or a grant that, by virtue of sub-paragraph (2)(b), is a disqualifying event for the purposes of paragraph 7—
- (a) the date of the event for those purposes is the effective date of the relieved transaction, and
 - (b) paragraph 7 has effect with the modifications in sub-paragraph (4).
- (4) The modifications to paragraph 7 are—
- (a) sub-paragraph (4) is to have effect as if for “At the time of” there were substituted “Immediately before”;
 - (b) sub-paragraph (9)(a) is to have effect as if for “at the time of” there were substituted “immediately before and immediately after”;
 - (c) sub-paragraph (9) is to have effect as if paragraph (b) were omitted.
- (5) For the purposes of this paragraph—
- (a) a lease is granted “at a premium” if there is consideration other than rent, and
 - (b) a lease is a “low-rental” lease if the annual rent (if any) is less than £1,000 a year.
- (6) In this paragraph—
- (a) “annual rent” has the meaning given by paragraph 36(2) of Schedule 6, and
 - (b) “rent” has the same meaning as in that Schedule.

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18 Sch. 18 para. 8 in force at 1.4.2018 by [S.I. 2018/34](#), **art. 3**

Application of this Schedule to certain trusts

- 9 (1) This Schedule applies to the following trusts as it applies to a charity but subject to the modifications in sub-paragraph (2)—
- (a) a trust of which all the beneficiaries are charities, or
 - (b) a unit trust scheme in which all the unit holders are charities.
- (2) The modifications to this Schedule are—
- (a) the references in paragraph 2(2) to the charitable purposes of C are to have effect as if they were references to those of the beneficiaries or unit holders, or any of them;
 - (b) the references to C in paragraph 2(4), are to have effect as if they were references to any of the beneficiaries or unit holders;
 - (c) the references in paragraphs 5(2)(b) and 8(2)(b) to the charitable purposes of C are to have effect as if they were references to those of the beneficiaries or unit holders, or any of them.

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Commencement Information

19 Sch. 18 para. 9 in force at 1.4.2018 by [S.I. 2018/34](#), **art. 3**

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