

*Status: Point in time view as at 26/01/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, PART 1. (See end of Document for details)*

## SCHEDULE 2

### PRE-COMPLETION TRANSACTIONS

#### PART 1

#### INTRODUCTION AND KEY CONCEPTS

##### *Overview*

- 1 (1) This Schedule makes provision about the application of this Act (in particular section 10 (contract and transfer)) to pre-completion transactions (the meaning of which is set out in paragraph 3).
- (2) The Schedule is arranged as follows—
  - (a) this Part makes introductory provisions setting out the circumstances where this Schedule applies (paragraph 2) and explaining the meaning of “pre-completion transaction” and other key terms referred to in the Schedule;
  - (b) Part 2 sets out how this Act applies in cases where the pre-completion transaction is an assignment of rights (the meaning of which is set out in paragraph 6);
  - (c) Part 3 sets out how this Act applies in cases involving free-standing transfers (the meaning of which is set out in paragraph 12);
  - (d) Part 4 provides for a special rule (“the minimum consideration rule”) which applies to determine the consideration given in cases where the parties in relation to a pre-completion transaction are connected or are otherwise not acting at arm's length;
  - (e) Part 5 provides for relief to be available to certain buyers in cases where certain pre-completion transactions are entered into;
  - (f) Part 6 makes some general interpretative provisions.

##### **Commencement Information**

**II** Sch. 2 para. 1 in force at 1.4.2018 by S.I. 2018/34, art. 3

##### *Application of this Schedule*

- 2 (1) This Schedule applies where—
  - (a) a person (“the original buyer”) enters into a contract (“the original contract”) for the acquisition by the original buyer of a chargeable interest under which the acquisition is to be completed by a transfer, and
  - (b) there is a pre-completion transaction.
- (2) The reference in sub-paragraph (1)(a) to a contract does not include a contract that is an assignment of rights in relation to another contract.
- (3) For any one contract for the acquisition of a chargeable interest there is only one original buyer (and for the purposes of this Schedule joint original buyers are to be treated as one original buyer).

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- (4) This Schedule does not apply where paragraph 21 of Schedule 6 (assignment of agreement for lease) applies (and accordingly, despite paragraph 3, the assignment of an agreement for lease is not a pre-completion transaction).

**Commencement Information**

**I2** Sch. 2 para. 2 in force at 1.4.2018 by S.I. 2018/34, art. 3

*Meaning of “pre-completion transaction”*

- 3 (1) A transaction is a pre-completion transaction if—
- (a) as a result of the transaction a person other than the original buyer (“the transferee”) becomes entitled to call for a transfer to the transferee of the whole or part of the subject-matter of the original contract, and
  - (b) immediately before the transaction took place a person (other than the transferee but not necessarily the original buyer) was entitled under the original contract to call for a transfer of the whole or that part of that subject-matter.
- (2) A transaction that gives effect to a person's acquisition of the whole or part of the subject-matter of the original contract is not a pre-completion transaction.
- (3) The grant or assignment of an option is not a pre-completion transaction.
- (4) The fact that a transaction has the effect of discharging the original contract does not prevent that transaction from being a pre-completion transaction.

**Commencement Information**

**I3** Sch. 2 para. 3 in force at 1.4.2018 by S.I. 2018/34, art. 3

*Other key terms*

- 4 (1) In this Schedule, references to part of the subject-matter of the original contract—
- (a) are to a chargeable interest that is the same as the chargeable interest referred to in paragraph 2(1)(a) except that it relates to part only of the land concerned, and
  - (b) also include, so far as is appropriate, interests or rights appurtenant or pertaining to the chargeable interest.
- (2) In this Schedule, “the transferor”, in relation to a pre-completion transaction, means a party to the pre-completion transaction who immediately before the pre-completion transaction took place was entitled to call for a transfer of (what became) the subject-matter of the pre-completion transaction.
- (3) References in this Schedule to the “subject-matter” of a pre-completion transaction—
- (a) are to the chargeable interest the transfer of which the transferee is entitled to call for as a result of the pre-completion transaction, and
  - (b) also include, so far as is appropriate, interests or rights appurtenant or pertaining to the chargeable interest.

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**Commencement Information**

**I4** Sch. 2 para. 4 in force at 1.4.2018 by S.I. 2018/34, art. 3

*Tax not charged on transferee by reason of the pre-completion transaction*

5 The transferee is not regarded as entering into a land transaction only by reason of the pre-completion transaction.

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**Commencement Information**

**I5** Sch. 2 para. 5 in force at 1.4.2018 by S.I. 2018/34, art. 3

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