

Status: Point in time view as at 01/04/2021.

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 3. (See end of Document for details)

SCHEDULE 5

HIGHER RATES RESIDENTIAL PROPERTY TRANSACTIONS

Modifications etc. (not altering text)

- C1** Sch. 5 applied (with modifications) (1.4.2018) by [The Land Transaction Tax \(Transitional Provisions\) \(Wales\) Regulations 2018 \(S.I. 2018/126\)](#), regs. 1(2), **12**

PART 3

BUYER IS AN INDIVIDUAL: MULTIPLE DWELLING TRANSACTIONS

Introductory

- 10 This Part sets out when a chargeable transaction is a “higher rates residential property transaction” for the purpose of regulations under section 24(1)(b) in the case of a transaction involving multiple dwellings where the buyer is an individual.

Commencement Information

- 11** [Sch. 5 para. 10](#) in force at 1.4.2018 by [S.I. 2018/34](#), **art. 3**

Higher rates residential property transaction

- 11 (1) A chargeable transaction is a higher rates residential property transaction if—
- (a) it falls within sub-paragraph (2), and
 - (b) paragraph 13 or 15 applies.
- (2) A transaction falls within this sub-paragraph if—
- (a) the buyer is an individual, and
 - (b) the main subject-matter of the transaction consists of a major interest in two or more dwellings (“the purchased dwellings”).
- (3) In this Part of this Schedule, “purchased dwellings” has the meaning given by sub-paragraph (2)(b).
- (4) Where paragraph 18 applies, an intermediate transaction (within the meaning given by that paragraph) is to be treated as a higher rates residential property transaction.
- (5) A transaction within section 72(9) is not a higher rates residential property transaction save where Schedule 13 applies (see in particular paragraph 6(6) of that Schedule).

Commencement Information

- 12** [Sch. 5 para. 11](#) in force at 1.4.2018 by [S.I. 2018/34](#), **art. 3**

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Two or more buyers

- 12 Where there are two or more buyers who are individuals in a transaction—
- (a) the transaction is a higher rates residential property transaction if paragraph 11 applies in relation to any one of the buyers;
 - (b) an intermediate transaction (within the meaning given by paragraph 18(2)) is to be treated as a higher rates residential property transaction if paragraph 18 applies in relation to any one of the buyers.

Commencement Information

I3 Sch. 5 para. 12 in force at 1.4.2018 by S.I. 2018/34, art. 3

Two or more qualifying dwellings

- 13 (1) This paragraph applies if at least two of the purchased dwellings are qualifying dwellings.
- (2) A purchased dwelling is a qualifying dwelling for the purposes of this Part of this Schedule if the amount of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to the purchased dwelling is £40,000 or more.
- (3) But a purchased dwelling is not a qualifying dwelling if at the end of the day that is the effective date of the transaction—
- (a) the purchased dwelling is subject to a lease,
 - (b) the main subject-matter of the transaction is reversionary on that lease, and
 - (c) the lease meets the conditions set out in sub-paragraph (4).
- (4) The conditions are that—
- (a) the lease is not held by a person connected with the buyer, and
 - (b) the lease has an unexpired term of more than 21 years.
- (5) A purchased dwelling is not a qualifying dwelling if the exception provided for in paragraph 14 applies (subsidiary dwelling exception).

Commencement Information

I4 Sch. 5 para. 13 in force at 1.4.2018 by S.I. 2018/34, art. 3

Subsidiary dwelling exception

- 14 (1) A purchased dwelling is not a qualifying dwelling if it is subsidiary to any of the other purchased dwellings.
- (2) For the purposes of this paragraph, one of the purchased dwellings (“dwelling A”) is subsidiary to another of the purchased dwellings (“dwelling B”) if—
- (a) dwelling A is situated within the grounds of, or within the same building as, dwelling B, and
 - (b) the amount of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to dwelling B is equal to, or greater than, two thirds of the amount of the chargeable consideration for

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the transaction which is attributable on a just and reasonable basis to the following combined—

- (i) dwelling A,
- (ii) dwelling B, and
- (iii) each of the other purchased dwellings (if any) which are situated within the grounds of, or within the same building as, dwelling B.

Commencement Information

I5 Sch. 5 para. 14 in force at 1.4.2018 by S.I. 2018/34, art. 3

Buyer has a major interest in other dwelling

- 15 (1) This paragraph applies if—
- (a) only one of the purchased dwellings is a qualifying dwelling, and
 - (b) at the end of the day that is the effective date of the transaction—
 - (i) the buyer has a major interest in a dwelling other than one of the purchased dwellings, and
 - (ii) that interest has a market value of £40,000 or more.
- (2) But this paragraph does not apply if the interest described in sub-paragraph (1)(b) is reversionary on a lease which—
- (a) is not held by a person connected with the buyer, and
 - (b) has an unexpired term of more than 21 years.
- (3) Where the buyer is jointly entitled with one or more persons to the major interest referred to in sub-paragraph (1)(b)(i), the reference in sub-paragraph (1)(b)(ii) to the market value of the interest is to the market value of the buyer's beneficial share in the interest as determined in accordance with sub-paragraph (4) or (5).
- (4) Where the buyer is beneficially entitled as a tenant in common, the market value of the buyer's beneficial share is equal to—

$$MV \times PI$$

Figure 6 where—

MV is the market value of the major interest, and

PI is—

- (a) the percentage of the interest to which the buyer is entitled, or
- (b) where—
 - (i) the buyer and the buyer's spouse or civil partner are living together on the effective date of the transaction (for the meaning of “living together”, see paragraph 25(3)), and
 - (ii) taken together the buyer and the buyer's spouse or civil partner are entitled as tenants in common,

the percentage of the interest to which the buyer and the buyer's spouse or civil partner are so entitled.

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- (5) Where the buyer is beneficially entitled as a joint tenant, the market value of the buyer's beneficial share is equal to—

$$\frac{MV}{JT}$$

Figure 7 where—

MV is the market value of the major interest, and

JT is the number of joint tenants entitled to the interest.

- (6) For the purpose of sub-paragraph (5), the buyer and the buyer's spouse or civil partner are to be treated as one joint tenant if—
- (a) they are living together on the effective date of the transaction (for the meaning of “living together”, see paragraph 25(3)), and
 - (b) they are beneficially entitled as joint tenants to the interest.
- (7) This paragraph applies subject to the exceptions provided for in—
- (a) paragraph 16 (interest in same main residence exception), and
 - (b) paragraph 17 (replacement of main residence exception).

Commencement Information

I6 Sch. 5 para. 15 in force at 1.4.2018 by S.I. 2018/34, art. 3

Interest in same main residence exception

- 16 Paragraph 15 does not apply if the main subject-matter of the transaction is a major interest in the qualifying dwelling referred to in paragraph 15(1)(a), and that dwelling is one—
- (a) in which, immediately before the effective date of the transaction, the buyer [F1 or the buyer's spouse or civil partner] had another major interest, and
 - (b) which, immediately before and after the effective date of the transaction, is the buyer's only or main residence.

Textual Amendments

F1 Words in Sch. 5 para. 16(a) inserted (1.4.2018) by The Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (Amendment to Schedule 5) Regulations 2018 (S.I. 2018/125), regs. 1(2), 2(b)

Commencement Information

I7 Sch. 5 para. 16 in force at 1.4.2018 by S.I. 2018/34, art. 3

Replacement of main residence exception

- 17 (1) Paragraph 15 does not apply if the qualifying dwelling referred to in paragraph 15(1) (a) is a replacement for the buyer's only or main residence.

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- (2) For the purposes of this paragraph, a qualifying dwelling is a replacement for the buyer's only or main residence if—
- (a) on the effective date of the transaction (“the transaction concerned”) the buyer intends that qualifying dwelling to be the buyer's only or main residence,
 - (b) in another land transaction (“the previous transaction”), the effective date of which was during the period of 3 years ending with the effective date of the transaction concerned, the buyer or the buyer's spouse or civil partner at the time disposed of a major interest in another dwelling (“the sold dwelling”),
 - (c) immediately after the effective date of the previous transaction, neither the buyer nor the buyer's spouse or civil partner had a major interest in the sold dwelling,
 - (d) at any time during the period of 3 years referred to in paragraph (b) the sold dwelling was the buyer's only or main residence, and
 - (e) at no time during the period beginning with the effective date of the previous transaction and ending with the effective date of the transaction concerned has the buyer or the buyer's spouse or civil partner acquired a major interest in any other dwelling with the intention of it being the buyer's only or main residence.
- (3) Sub-paragraph (2)(c) does not apply in relation to a spouse or civil partner of the buyer if the two of them were not living together on the effective date of the transaction concerned (for the meaning of “living together”, see paragraph 25(3)).
- (4) For the purposes of this paragraph, that qualifying dwelling may become a replacement for the buyer's only or main residence if—
- (a) on the effective date of the transaction (“the transaction concerned”) the buyer intended that qualifying dwelling to be the buyer's only or main residence,
 - (b) in another land transaction the effective date of which is during the period of 3 years beginning with the day after the effective date of the transaction concerned, the buyer or the buyer's spouse, former spouse, civil partner or former civil partner disposes of a major interest in another dwelling (“the sold dwelling”),
 - (c) immediately after the effective date of that other land transaction, neither the buyer nor the buyer's spouse or civil partner has a major interest in the sold dwelling, and
 - (d) at any time during the period of 3 years ending with the effective date of the transaction concerned the sold dwelling was the buyer's only or main residence.
- (5) Sub-paragraph (4)(c) does not apply in relation to a spouse or civil partner of the buyer if the two of them are not living together on the effective date of that other land transaction (for the meaning of “living together”, see paragraph 25(3)).
- (6) For further provision in connection with a dwelling becoming a replacement for the buyer's only or main residence, see paragraph 23.

Commencement Information

18 Sch. 5 para. 17 in force at 1.4.2018 by S.I. 2018/34, art. 3

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Replacement of main residence: transactions during interim period

- 18 (1) This paragraph applies where—
- (a) the buyer in an intermediate transaction replaces a main residence in another transaction, and
 - (b) the effective date of the intermediate transaction is during the interim period.
- (2) An intermediate transaction is a transaction—
- (a) that falls within paragraph 11(2),
 - (b) where only one of the purchased dwellings is a qualifying dwelling, and
 - (c) to which paragraph 15 does not apply.
- (3) In determining whether a purchased dwelling is a qualifying dwelling for the purposes of this paragraph, the reference in paragraph 13(3) to the end of the day that is the effective date of the transaction has effect as though it were a reference to the end of either or both of the following—
- (a) the day that is the effective date of the transaction;
 - (b) the day on which the interim period ends.
- (4) For the purposes of this paragraph, a buyer replaces a main residence in another transaction if—
- (a) in relation to a dwelling in Wales, the conditions set out in paragraph 17(2) are met in respect of the transaction,
 - (b) in relation to a dwelling in England or Northern Ireland, the conditions set out in paragraph 3(6) of Schedule 4ZA to the Finance Act 2003 (c. 14) are met in respect of the transaction, or
 - (c) in relation to a dwelling in Scotland, the conditions set out in paragraph 2(2) of Schedule 2A to the Land and Buildings Transaction Tax (Scotland) Act 2013 (asp 11) are met in respect of the transaction.
- (5) In this paragraph, the interim period means—
- (a) where sub-paragraph (4)(a) applies, the period—
 - (i) beginning with the effective date of the previous transaction within the meaning given by paragraph 17(2)(b), and
 - (ii) ending with the effective date of the transaction concerned within the meaning given by paragraph 17(2)(a);
 - (b) where sub-paragraph (4)(b) applies, the period—
 - (i) beginning with the effective date of the previous transaction within the meaning given by paragraph 3(6)(b) of Schedule 4ZA to the Finance Act 2003 (c. 14), and
 - (ii) ending with the effective date of the transaction concerned within the meaning given by paragraph 3(6)(a) of that Schedule;
 - (c) where sub-paragraph (4)(c) applies, the period—
 - (i) beginning with the date on which the buyer disposed of the ownership of a dwelling as provided for in paragraph 2(2)(a) of Schedule 2A to the Land and Buildings Transaction Tax (Scotland) Act 2013 (asp 11), and
 - (ii) ending with the effective date of the transaction referred to in that paragraph.
- (6) For further provision in connection with an intermediate transaction being treated as a higher rates residential property transaction, see paragraph 24.

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19 Sch. 5 para. 18 in force at 1.4.2018 by S.I. 2018/34, art. 3

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