



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

2017 anaw 1

PART 2

THE TAX AND KEY CONCEPTS

CHAPTER 3

PARTICULAR TRANSACTIONS

Contracts and transfers: particular cases

12 Contract providing for transfer to third party: effect of transfer of rights

- (1) This section applies where—
 - (a) a contract (“the original contract”) is entered into under which a chargeable interest is to be transferred by one party to the contract (“P1”) at the direction or request of the other (“P2”)—
 - (i) to a person (“P3”) who is not a party to the contract, or
 - (ii) either to such a person or to P2, and
 - (b) there is an assignment or other transaction (relating to the whole or part of the subject-matter of the original contract) as a result of which a person (“P4”) becomes entitled to exercise any of P2’s rights under the original contract in place of P2.
- (2) References in the following provisions of this section to a transfer of rights are to any such assignment or other transaction.
- (3) P4 is not regarded as entering into a land transaction by reason of the transfer of rights, but section 11 (contract providing for transfer to third party) has effect in accordance with the following provisions.

Status: This is the original version (as it was originally enacted).

- (4) That section applies as if—
 - (a) P4 had entered into a contract (a “secondary contract”) in the same terms as the original contract except with P4 as a party instead of P2, and
 - (b) the consideration due from P4 under the secondary contract were—
 - (i) so much of the consideration under the original contract as is referable to the subject-matter of the transfer of rights and is to be given (directly or indirectly) by P4 or a person connected with P4, and
 - (ii) the consideration given for the transfer of rights.
- (5) The substantial performance of the original contract is to be disregarded if it occurs—
 - (a) at the same time as, and in connection with, the substantial performance of the secondary contract, or
 - (b) after the transfer of rights.
- (6) Where there are successive transfers of rights, subsection (4) has effect in relation to each of them.
- (7) The substantial performance of the secondary contract arising from an earlier transfer of rights is to be disregarded if it occurs—
 - (a) at the same time as, and in connection with, the substantial performance of the secondary contract arising from a subsequent transfer of rights, or
 - (b) after that subsequent transfer.
- (8) Where a transfer of rights relates to only part of the subject-matter of the original contract, or to only some of the rights under that contract—
 - (a) a reference in subsection (4)(a) or (5) to the original contract, or a reference in subsection (7) to the secondary contract arising from an earlier transfer, is to that contract so far as relating to that part or those rights, and
 - (b) that contract so far as not relating to that part or those rights is to be treated as a separate contract.
- (9) The effective date of a land transaction treated as entered into by virtue of subsection (4) is not earlier than the date of the transfer of rights.
- (10) In relation to a such a transaction—
 - (a) references in Schedule 16 (group relief) to the seller are to be read as references to P1;
 - (b) other references in this Act to the seller are to be read, where the context permits, as referring to either P1 or P2.
- (11) In this section, “contract” includes any agreement.