



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

2017 anaw 1

PART 5

APPLICATION OF ACT AND TCMA TO CERTAIN PERSONS AND BODIES

36 Co-ownership authorised contractual schemes

- (1) This Act (with the exception of the provisions mentioned in subsection (9)), and TCMA as it applies in relation to land transaction tax, apply in relation to a co-ownership authorised contractual scheme as if—
 - (a) the scheme were a company, and
 - (b) the rights of the participants were shares in the company.
- (2) An “umbrella COACS” means a co-ownership authorised contractual scheme—
 - (a) whose arrangements provide for separate pooling of the contributions of the participants and the profits or income out of which payments are made to them (“pooling arrangements”), and
 - (b) under which the participants are entitled to exchange rights in one pool for rights in another.
- (3) A “sub-scheme”, in relation to an umbrella COACS, means such of the pooling arrangements as relate to a separate pool.
- (4) Each of the sub-schemes of an umbrella COACS is to be regarded as a separate co-ownership authorised contractual scheme, and the umbrella COACS as a whole is not so regarded.
- (5) In relation to a sub-scheme of an umbrella COACS—
 - (a) references to chargeable interests are references to such of the chargeable interests as, under the pooling arrangements, form part of the separate pool to which the sub-scheme relates, and

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- (b) references to the scheme documents are references to such parts of the documents as apply to the sub-scheme.
- (6) References to a co-ownership authorised contractual scheme are treated as including a collective investment scheme which—
- (a) is constituted under the law of an EEA State other than the United Kingdom by a contract,
 - (b) is managed by a body corporate incorporated under the law of an EEA State, and
 - (c) is authorised under the law of the EEA State mentioned in paragraph (a) in a way which makes it, under that law, the equivalent of a co-ownership authorised contractual scheme as defined in subsection (7),
- provided that, apart from this section, no charge to tax is capable of arising to the scheme under this Act.
- (7) Subject to any regulations under subsection (8)—
- “co-ownership authorised contractual scheme” (“*cynllun contractiol awdurdodedig cyfberchnogaeth*”) means a co-ownership scheme which is authorised for the purposes of the [Financial Services and Markets Act 2000 \(c. 8\)](#) by an authorisation order in force under section 261D(1) of that Act;
- “co-ownership scheme” (“*cynllun cyfberchnogaeth*”) has the same meaning as in the [Financial Services and Markets Act 2000 \(c. 8\)](#) (see section 235A of that Act).
- (8) The Welsh Ministers may by regulations provide that a scheme of a description specified in the regulations is to be treated as not being a co-ownership authorised contractual scheme for the purposes of this Act, and TCMA as it applies in relation to land transaction tax.
- (9) A co-ownership authorised contractual scheme is not to be treated as a company for the purposes of Schedules 16 (group relief) and 17 (reconstruction relief or acquisition relief).
- (10) Anything required or authorised to be done under this Act or TCMA by or in relation to the buyer in a land transaction is to be done by or in relation to the operator of a co-ownership authorised contractual scheme; and accordingly section 33(2) to (6) does not apply in relation to a scheme to which this section applies.
- (11) But where the operator of the scheme is a body corporate, section 33(2) to (6) applies in relation to the operator, with the references to a company in those subsections having effect as though they were references to the operator.
- (12) In this section—
- “collective investment scheme” (“*cynllun buddsoddi torfol*”) has the meaning given by section 235 of the [Financial Services and Markets Act 2000 \(c. 8\)](#);
- “operator” (“*gweithredwr*”)—
- (a) in relation to a co-ownership authorised contractual scheme constituted under the law of the United Kingdom, has the meaning given by section 237(2) of the [Financial Services and Markets Act 2000 \(c. 8\)](#), and
 - (b) in relation to a collective investment scheme treated as a co-ownership authorised contractual scheme by virtue of subsection (6)

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(equivalent EEA schemes), means the corporate body responsible for the management of the scheme (however described);
“participant” (“*cyfranogwr*”) is to be read in accordance with section 235 of the [Financial Services and Markets Act 2000 \(c. 8\)](#).