Land and Buildings Transaction Tax (Scotland) Act 2013

2013 asp 11

PART 2 S

KEY CONCEPTS

CHAPTER 3 S

CHARGEABLE TRANSACTIONS AND CHARGEABLE CONSIDERATION

Chargeable transaction

15 Chargeable transaction S

A land transaction is a chargeable transaction unless it is—

(a) an exempt transaction, or

(b) otherwise exempt from charge.

Commencement Information

I1 S. 15 in force at 1.4.2015 by S.S.I. 2015/108, **art. 2**

16 Exempt transaction S

A transaction is exempt if schedule 1 provides that it is so exempt.

Commencement Information

I2 S. 16 in force at 1.4.2015 by S.S.I. 2015/108, **art. 2**

Chargeable consideration

17 Chargeable consideration S

(1) Schedule 2 makes provision as to the chargeable consideration for a transaction.

(2) The Scottish Ministers may, by regulations, modify this Act relating to chargeable consideration and make such other provision as they consider appropriate about—

(a) what is to be treated as chargeable consideration,

(b) the determination of the amount or value of chargeable consideration.

Commencement Information

I3 S. 17 in force at 1.4.2015 by S.S.I. 2015/108, **art. 2**

Contingent, uncertain or unascertained consideration

18 Contingent consideration S

(1) Subsection (2) applies where the whole or part of the chargeable consideration for a transaction is contingent.

(2) The amount or value of the consideration is to be determined on the assumption that the outcome of the contingency will be such that the consideration is payable or, as the case may be, does not cease to be payable.

(3) In this Act, "contingent", in relation to consideration, means—

(a) that it is to be paid or provided only if some uncertain future event occurs, or

(b) that it is to cease to be paid or provided if some uncertain future event occurs.

Commencement Information

I4 S. 18 in force at 1.4.2015 by S.S.I. 2015/108, **art. 2**

19 Uncertain or unascertained consideration S

(1) Subsection (2) applies where the whole or part of the chargeable consideration for a transaction is uncertain or unascertained.

(2) The amount or value of the consideration is to be determined on the basis of a reasonable estimate.

(3) In this section, "uncertain", in relation to consideration, means its amount or value depends on uncertain future events.

Commencement Information

I5 S. 19 in force at 1.4.2015 by S.S.I. 2015/108, **art. 2**

20 Contingent, uncertain or unascertained consideration: further provision S

Sections 18 and 19 have effect subject to—

(a) section 31 (return where contingency ceases or consideration ascertained),

(b) section 32 (contingency ceases or consideration is ascertained: less tax payable), and

(c) section 41 (application to defer payment in case of contingent or uncertain consideration).

Commencement Information

I6 S. 20 in force at 1.4.2015 by S.S.I. 2015/108, **art. 2**

Annuities etc.

21 Annuities etc.: chargeable consideration limited to 12 years' payments S

(1) This section applies to so much of the chargeable consideration for a land transaction as consists of an annuity payable—

(a) for life,

(b) in perpetuity,

(c) for an indefinite period, or

(d) for a definite period exceeding 12 years.

(2) The consideration to be taken into account is limited to 12 years' annual payments.

(3) Where the amount payable varies, or may vary, from year to year, the 12 highest annual payments are to be taken into account.

(4) No account is to be taken of any provision for adjustment of the amount payable in line with the retail prices index, the consumer prices index or any other similar index.

(5) References in this section to annual payments are to payments in respect of each successive period of 12 months beginning with the effective date of the transaction.

(6) For the purposes of this section the amount or value of any payment is to be determined (if necessary) in accordance with section 18 (contingent consideration) or 19 (uncertain or unascertained consideration).

(7) References in this section to an annuity include any consideration (other than rent) that falls to be paid or provided periodically.

(8) References to payment are to be read accordingly.

(9) Where this section applies—

(a) sections 31 and 32 (adjustment where contingency ceases or consideration is ascertained) do not apply, and

(b) no application may be made under section 41 (application to defer payment in case of contingent or uncertain consideration).

Commencement Information
I7 S. 21 in force at 1.4.2015 by S.S.I. 2015/108, **art. 2**

Deemed market value

22 Deemed market value where transaction involves connected company S

(1) This section applies where the buyer is a company and—
(a) the seller is connected with the buyer, or
(b) some or all of the consideration for the transaction consists of the issue or transfer of shares in a company with which the seller is connected.

(2) The chargeable consideration for the transaction is to be taken to be not less than—
(a) the market value of the subject-matter of the transaction as at the effective date of the transaction, and
(b) if the acquisition is the grant of a lease, the rent.

(3) In this section—
"company" means a body corporate,
"shares" includes stock and the reference to shares in a company includes reference to securities issued by a company.

(4) Where this section applies, paragraph 1 of schedule 1 (exemption of transactions for which there is no chargeable consideration) does not apply.

(5) But this section has effect subject to any other provision affording exemption or relief from the tax.

(6) This section is subject to the exceptions provided for in section 23.

Commencement Information
I8 S. 22 in force at 1.4.2015 by S.S.I. 2015/108, **art. 2**

23 Exceptions from deemed market value S

(1) Section 22 does not apply in the following cases.

(2) In the following provisions "the company" means the company that is the buyer in relation to the transaction in question.

(3) Case 1 is where immediately after the transaction the company holds the property as trustee in the course of a business carried on by it that consists of or includes the management of trusts.

(4) Case 2 is where—
(a) immediately after the transaction the company holds the property as trustee, and
(b) the seller is connected with the company only because of section 1122(6) of the Corporation Tax Act 2010 (c.4).

(5) Case 3 is where—

(a) the seller is a company and the transaction is, or is part of, a distribution of the assets of that company (whether or not in connection with its winding up), and

(b) it is not the case that—

(i) the subject-matter of the transaction, or

(ii) an interest from which that interest is derived,

has, within the period of 3 years immediately preceding the effective date of the transaction, been the subject of a transaction in respect of which group relief was claimed by the seller.

Commencement Information

I9 S. 23 in force at 1.4.2015 by S.S.I. 2015/108, **art. 2**

Changes to legislation:
There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, CHAPTER 3.