



# Land and Buildings Transaction Tax (Scotland) Act 2013

2013 asp 11

## PART 4

### RETURNS AND PAYMENT

#### CHAPTER 2

##### PAYMENT OF TAX

#### **40**      **Payment of tax**

- (1) Tax payable in respect of a land transaction must be paid to the Tax Authority.
- (2) Where a return is to be made under any of the following provisions, the tax or additional tax payable must be paid at the same time as the return is made—
  - (a) section 29 (land transaction return),
  - (b) section 31 (return where contingency ceases or consideration ascertained),
  - (c) section 33 (further return where relief withdrawn),
  - (d) section 34 (return or further return in consequence of later linked transaction),  
or
  - (e) in schedule 19 (leases)—
    - (i) paragraph 10 (return on 3-yearly review),
    - (ii) paragraph 11 (return on assignation or termination of lease),
    - (iii) paragraph 20 (return where lease for fixed term continues after end of term),
    - (iv) paragraph 22 (return in relation to lease for indefinite term),
    - (v) paragraph 30 (transactions which become notifiable on variation of rent or term).
- (3) Tax payable as a result of the amendment of a return must be paid at the same time as the amendment is made.

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*Status: This is the original version (as it was originally enacted).*

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- (4) For the purposes of subsections (2) and (3), tax is treated as paid if arrangements satisfactory to the Tax Authority are made for payment of the tax.
- (5) This section is subject to section 41 (application to defer payment of tax in case of contingent or uncertain consideration).

#### **41 Application to defer payment in case of contingent or uncertain consideration**

- (1) The buyer may apply to the Tax Authority to defer payment of tax in a case where—
  - (a) the amount of tax payable depends on the amount or value of chargeable consideration that, at the effective date of the transaction, is contingent or uncertain, and
  - (b) the chargeable consideration falls to be paid or provided on one or more future dates of which at least one falls, or may fall, more than 6 months after the effective date of the transaction.
- (2) An application under this section must—
  - (a) be in the form specified by the Tax Authority, and
  - (b) contain the information specified by the Tax Authority.
- (3) An application under this section does not affect the buyer's obligations as regards payment of tax in respect of chargeable consideration that—
  - (a) has already been paid or provided at the time the application is made, or
  - (b) is not contingent and whose amount is ascertained or ascertainable at the time the application is made.
- (4) Subsection (3) applies as regards both the time of payment and the calculation of the amount payable.
- (5) Unless the Scottish Ministers provide otherwise by order, this section does not apply to consideration so far as it consists of rent.

#### **42 Regulations about applications under section 41**

- (1) The Scottish Ministers may, by regulations, make further provision about applications under section 41.
- (2) The regulations may in particular—
  - (a) specify when an application is to be made,
  - (b) require the buyer to provide such information as the Tax Authority may reasonably require for the purposes of determining whether to accept an application,
  - (c) specify the grounds on which an application may be refused,
  - (d) specify the procedure for reaching a decision on the application,
  - (e) make provision for postponing payment of tax when an application has been made,
  - (f) provide for the effect of accepting an application,
  - (g) require the buyer to make a return or further return, and to make such payments or further payments of tax as may be specified, in such circumstances as may be specified.

- (3) Regulations under this section may also provide that where the circumstances in subsection (4) arise—
- (a) sections 31 and 32 (adjustment where contingency ceases or consideration is ascertained) do not apply in relation to the payment, and
  - (b) instead, any necessary adjustment is to be made in accordance with the regulations.
- (4) The circumstances are—
- (a) a payment is made as mentioned in section 41(3), and
  - (b) an application under this section is accepted in respect of other chargeable consideration taken into account in calculating the amount of that payment.