

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 4. (See end of Document for details)

SCHEDULE 17 PARTNERSHIPS

PART 4

TRANSACTIONS INVOLVING TRANSFER TO A PARTNERSHIP

Overview of Part

- 11 This Part of this schedule is arranged as follows—
paragraphs 12 to 16 make provision about the treatment of certain land transactions involving the transfer of a chargeable interest to a partnership, paragraphs 17 and 18 provide for certain events following such transactions to be treated as land transactions.

Commencement Information

- II** Sch. 17 para. 11 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

Circumstances in which this Part applies

- 12 (1) This Part of this schedule applies where—
(a) a partner transfers a chargeable interest to the partnership,
(b) a person transfers a chargeable interest to a partnership in return for an interest in the partnership, or
(c) a person connected with—
(i) a partner, or
(ii) a person who becomes a partner as a result of or in connection with the transfer,
transfers a chargeable interest to the partnership.
- (2) This Part of this schedule applies whether the transfer is in connection with the formation of the partnership or is a transfer to an existing partnership.
- (3) In this Part of this schedule—
“the land transfer” means the transaction mentioned in sub-paragraph (1), and
“the partnership” means the partnership to which the chargeable interest is transferred.
- (4) This paragraph has effect subject to any election under paragraph 35.

Commencement Information

- II** Sch. 17 para. 12 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

Calculation of chargeable consideration etc.

- 13 (1) The chargeable consideration for the land transfer is taken to be equal to—

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$$MV \times (100 - SLP)\%$$

where—

MV is the market value of the interest transferred, and

SLP is the sum of the lower proportions determined in accordance with paragraph 14.

- (2) Paragraphs 8 to 10 (responsibility of partners) have effect in relation to the land transfer, but the responsible partners are—
- (a) those who were partners immediately before the transfer and who remain partners after the transfer, and
 - (b) any person becoming a partner as a result of, or in connection with, the transfer.
- (3) This paragraph does not apply if the whole or part of the chargeable consideration for the land transfer is rent (see paragraph 29 (application of Parts 3 to 5 to leases)).

Commencement Information

I3 Sch. 17 para. 13 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Sum of the lower proportions

- 14 The sum of the lower proportions in relation to the land transfer is determined as follows.

Step 1 Identify the relevant owner or owners.

Step 2 For each relevant owner, identify the corresponding partner or partners. If there is no relevant owner with a corresponding partner, the sum of the lower proportions is nil.

Step 3 For each relevant owner, find the proportion of the chargeable interest to which the owner was entitled immediately before the land transfer. Apportion that proportion between any one or more of the relevant owner's corresponding partners.

Step 4 Find the lower of the following proportions (“the lower proportion”) for each corresponding partner—

- (a) the sum of the proportions (if any) of the chargeable interest apportioned to the partner (at Step 3) in respect of each relevant owner,
- (b) the partner's partnership share immediately after the land transfer.

Step 5 Add together the lower proportions for each corresponding partner. The result is the sum of the lower proportions.

Commencement Information

I4 Sch. 17 para. 14 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

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Relevant owner

- 15 (1) For the purposes of paragraph 14 (see Step 1), a person is a relevant owner if—
- (a) immediately before the land transfer, the person was entitled to a proportion of the chargeable interest, and
 - (b) immediately after the land transfer, the person is a partner or connected with a partner.
- (2) For the purposes of this paragraph and paragraph 14, persons who are entitled to a chargeable interest as joint owners are to be taken to be entitled to the chargeable interest as common owners in equal shares.

Commencement Information

I5 Sch. 17 para. 15 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Corresponding partner

- 16 (1) For the purposes of paragraph 14 (see Step 2), a person is a corresponding partner in relation to a relevant owner if, immediately after the land transfer—
- (a) the person is a partner, and
 - (b) the person is the relevant owner or is an individual connected with the relevant owner.
- (2) For the purposes of sub-paragraph (1)(b) a company is to be treated as an individual connected with the relevant owner in so far as it—
- (a) holds property as trustee, and
 - (b) is connected with the relevant owner only because of section 1122(6) of the Corporation Tax Act 2010 (c.4).

Commencement Information

I6 Sch. 17 para. 16 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Transfer of partnership interest pursuant to earlier arrangements

- 17 (1) This paragraph applies where—
- (a) subsequent to the land transfer, there is a transfer of an interest in the partnership (“the partnership transfer”),
 - (b) the partnership transfer is made—
 - (i) if the land transfer falls within paragraph 12(1)(a) or (b), by the person who makes the land transfer,
 - (ii) if the land transfer falls within paragraph 12(1)(c), by the partner concerned,
 - (c) the partnership transfer is made pursuant to arrangements that were in place at the time of the land transfer,
 - (d) the partnership transfer is not (apart from this paragraph) a chargeable transaction.
- (2) The partnership transfer—

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- (a) is to be treated as a land transaction, and
 - (b) is a chargeable transaction.
- (3) The partners are taken to be the buyers under the transaction.
- (4) The chargeable consideration for the transaction is taken to be equal to a proportion of the market value, as at the date of the transaction, of the interest transferred by the land transfer.
- (5) That proportion is—
- (a) if the person making the partnership transfer is not a partner immediately after the transfer, the person's partnership share immediately before the transfer,
 - (b) if that person is a partner immediately after the transfer, the difference between that person's partnership share before and after the transfer.
- (6) The partnership transfer and the land transfer are taken to be linked transactions.
- (7) Paragraphs 8 to 10 (responsibility of partners) have effect in relation to the partnership transfer, but the responsible partners are—
- (a) those who were partners immediately before the transfer and who remain partners after the transfer, and
 - (b) any person becoming a partner as a result of, or in connection with, the transfer.

Modifications etc. (not altering text)

C1 Sch. 17 para. 17 applied (1.4.2015) by [The Land and Buildings Transaction Tax \(Transitional Provisions\) \(Scotland\) Order 2014 \(S.S.I. 2014/377\)](#) , arts. 1 , **7(2)**

Commencement Information

I7 Sch. 17 para. 17 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

Withdrawal of money etc. from partnership after transfer of chargeable interest

- 18 (1) This paragraph applies where, during the period of 3 years beginning with the date of the land transfer, a qualifying event occurs.
- (2) A qualifying event is—
- (a) a withdrawal from the partnership of money or money's worth which does not represent income profit by the relevant person—
 - (i) withdrawing capital from the person's capital account,
 - (ii) reducing the person's interest, or
 - (iii) ceasing to be a partner, or
 - (b) in a case where the relevant person has made a loan to the partnership—
 - (i) the repayment (to any extent) by the partnership of the loan, or
 - (ii) a withdrawal by the relevant person from the partnership of money or money's worth which does not represent income profit.
- (3) For this purpose the relevant person is—
- (a) where land transfer falls within paragraph 12(1)(a) or (b), the person who makes the land transfer,

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- (b) where the land transfer falls within paragraph 12(1)(c), the partner concerned or a person connected with the partner.
- (4) The qualifying event—
 - (a) is treated as a land transaction, and
 - (b) is a chargeable transaction.
- (5) The partners are taken to be the buyers under the transaction.
- (6) Paragraphs 8 to 10 (responsibility of partners) have effect in relation to the transaction.
- (7) The chargeable consideration for the transaction is taken to be—
 - (a) in a case falling within sub-paragraph (2)(a), equal to the value of the money or money's worth withdrawn from the partnership,
 - (b) in a case falling within sub-paragraph (2)(b)(i), equal to the amount repaid,
 - (c) in a case falling within sub-paragraph (2)(b)(ii) equal to so much of the value of the money or money's worth withdrawn from the partnership as does not exceed the amount of the loan.
- (8) But (in any case) the chargeable consideration determined under sub-paragraph (7) is not to exceed the market value, as at the effective date of the land transfer, of the chargeable interest transferred by the land transfer, reduced by any amount previously chargeable to tax.
- (9) The amount of tax payable by virtue of this paragraph in respect of the qualifying event (if any) is to be reduced (but not below nil) by any amount of tax payable by virtue of paragraph 32 (transfer for consideration of interest in property investment partnership) in respect of the event.

Modifications etc. (not altering text)

- C2** Sch. 17 para. 18 applied (1.4.2015) by [The Land and Buildings Transaction Tax \(Transitional Provisions\) \(Scotland\) Order 2014 \(S.S.I. 2014/377\)](#) , arts. 1 , **8(2)(a)**
- C3** Sch. 17 para. 18(2) applied (1.4.2015) by [The Land and Buildings Transaction Tax \(Transitional Provisions\) \(Scotland\) Order 2014 \(S.S.I. 2014/377\)](#) , arts. 1 , **8(2)(b)**

Commencement Information

- I8** Sch. 17 para. 18 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

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