

LAND AND BUILDINGS TRANSACTION TAX (AMENDMENT) (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1 – Land and buildings transaction tax: second homes etc.

Part 5 of schedule 2A – Repayment of and relief from the additional amount

Paragraph 8 of schedule 2A – Repayment of additional amount in certain cases

47. Where additional tax has been paid by virtue of paragraph 2 of schedule 2A but the buyer is able to dispose of their former main residence within 18 months from the effective date, repayment may be claimed under paragraph 8. This may be relevant in cases such as the former residence being in England and, potentially through no fault of the vendor (who will be the buyer in the Scottish transaction), the “chain” has broken down and it proves difficult to sell the former main residence before buying the new Scottish main residence.
48. Paragraph 8 operates similarly to section 32 of the 2013 Act (less tax payable where contingency ceases or consideration ascertained) and repayment is claimed either by amending the land transaction return (within the amendment period which section 83(2) of the 2014 Act sets at 12 months) or by making a claim to Revenue Scotland under section 107 of the 2014 Act (where the amendment period has ended). Schedule 3 to the 2014 Act applies to claims made under section 107 of that Act.
49. Where it has been possible to sell the previous residence between the effective date and the date of submitting the LBTT return it will not be necessary to pay the additional amount of tax at that point.
50. In cases where:
- the chargeable transaction involves the purchase of more than one dwelling, and
 - one of the dwellings bought is a new main residence, and
 - the existing main residence is sold within 18 months of the chargeable transaction

The supplement will have been paid initially on the whole of the consideration paid for the chargeable transaction. A claim can be made for a repayment on the amount of the supplement paid that on a just and reasonable basis was apportioned to the ownership of the new main residence.

51. Interpretative provisions of the 2013 Act relevant to paragraph 8—

“buyer”	section 7
“chargeable transaction”	section 15
“dwelling”	Part 6 of schedule 5

These notes relate to the Land and Buildings Transaction Tax (Amendment) (Scotland) Act 2016 (asp 11) which received Royal Assent on 24 March 2016

“land transaction return”	section 65
“subject-matter”	section 61
what counts as a dwelling owned/disposed of	Part 6 of schedule 2A.