

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 2 – Consequential amendments

81. Section 2 of the 2016 Act makes amendments to the 2013 Act and the 2014 Act in consequence of the provisions of new schedule 2A described.
82. Subsection (1)(d) makes consequential amendments to multiple dwellings relief (MDR) in schedule 5 to the 2013 Act for cases to which schedule 2A applies. The existing rules for MDR are based on working out the average amount of tax due for each dwelling bought together in one transaction and multiplying this by the number of dwellings to get the tax due. This concept will not work for cases where multiple dwellings are bought in one transaction, and the supplement is payable on some but not all of the dwellings. For example if one of the dwellings bought is a replacement main residence but the others are not, the supplement will be part of the calculation of tax due in the MDR calculation for all but one of the dwellings which will mean there is no average amount of tax due that can be multiplied by the number of dwellings. Instead, the amendments made by subsection (1)(d) require the amount of tax due for each of the dwellings to be separately calculated then added together, rather than multiplying an average figure by the number of dwellings.
83. In the majority of cases this will produce the same result as using the existing formula in schedule 5 of the 2013 Act but the existing formula will not work when the supplement would be payable on some but not all dwellings purchased together.
84. A further change brought in by subsection (1)(d) ensures that when relief has been claimed under paragraph 9 of schedule 2A, the supplement is not included as part of the calculation when working out tax due when MDR has been claimed. ,
85. Another of the more significant amendments is in sub-section (2) which amends section 108(3) of the 2014 Act to provide for the legal consequences if an order increases liability to additional tax but that order is not approved by the Scottish Parliament.