

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1)

EXPLANATORY NOTES

LAND TRANSACTION TAX AND ANTI-AVOIDANCE OF DEVOLVED TAXES (WALES) ACT 2017

INTRODUCTION

BACKGROUND TO THE ACT

APPLICATION OF THE ACT

GENERAL OVERVIEW OF THE ACT

COMMENTARY ON SECTIONS

PART 1 – OVERVIEW

PART 2 – THE TAX AND KEY CONCEPTS

Section 2 - Land transaction tax

Sections 3–5 - Land transaction, chargeable interest and exempt interest

Section 6 - Acquisition and disposal of chargeable interest

Section 7 - Buyer and seller

Section 8 - Linked transactions

Section 9 - Land partly in Wales and partly in England

Section 10 - Contract and transfer

Section 11 - Contract providing for transfer to third party

Section 12 - Contract providing for transfer to third party: effect of transfer of rights

Section 13 - Pre-completion transactions

Section 14 - Meaning of substantial performance

Section 15 - Options and rights of pre-emption

Section 16 - Exchanges

Sections 17-18 - Chargeable transaction and chargeable consideration

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1)

Sections 19-20 - Contingent, uncertain or unascertained consideration

Section 21 - Annuities

Sections 22–23 - Deemed market value and Exceptions

PART 3 – CALCULATION OF TAX AND RELIEFS

Sections 24–29 - Calculation of tax

Sections 30–31 - Reliefs

PART 4 – LEASES

Section 32 - Leases

PART 5 – APPLICATION OF ACT AND TCMA TO CERTAIN PERSONS AND BODIES

Section 33 - Companies

Section 34 - Unit trust schemes

Section 35 - Open-ended investment companies

Section 36 - Co-ownership authorised contractual schemes

Section 37 – 40 - Joint buyers

Sections 41-42 - Partnerships and Trusts

Section 43 - Persons acting in a representative capacity

PART 6 – RETURNS AND PAYMENTS

Section 44 - Duty to make a return

Sections 45-46 - Notifiable transactions

Sections 47 - 52 - Adjustments

Sections 53–55 - Declarations

Sections 56-57 - Liability for tax and payment of tax

Section 58 - Deferral requests in cases of contingent or uncertain consideration

Section 59 - Calculation of deferrable amount

Section 60 - Deferral requests: notices of WRA decisions

Section 61 - Deferral requests: effect of WRA's decision

Section 62 - Variation of deferral requests

Section 63 - Failure to comply with WRA's agreement to defer

Section 64 - Regulations about deferral of LTT

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1)

Section 65 - Registration of land transactions

PART 7 – GENERAL ANTI-AVOIDANCE RULE

Section 66 - General anti-avoidance rule

Section 81A TCMA - Meaning of “general anti-avoidance rule” and overview

Section 81B TCMA - Tax avoidance arrangements

Section 81C TCMA - Artificial tax avoidance arrangements

Section 81D TCMA - Meaning of “tax” and “tax advantage”

Section 81E TCMA - Adjustments to counteract tax advantages

Section 81F TCMA - Notice of proposed counteraction

Section 81G TCMA - Final counteraction notice

Section 81H TCMA - Proceedings in connection with the anti-avoidance rule

Section 81I TCMA - General anti-avoidance rule: commencement and transitional provision

PART 8 – INTERPRETATION AND FINAL PROVISIONS

Sections 67–75 - Interpretation

Section 76 - Amendments to TCMA

Section 77 - Independent review of land transaction tax

Sections 78–82 - Final provisions

Schedule 1 - Overview of Schedules

Schedule 2 - Pre-completion transactions

PART 1 – INTRODUCTION AND KEY CONCEPTS

Application of the Schedule

Meaning of pre-completion transaction

Tax not charged on transferee by reason of the pre-completion transaction

PART 2 - PRE-COMPLETION TRANSACTIONS WHICH ARE ASSIGNMENTS OF RIGHTS

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1)

Pre-completion transactions which are assignment of rights

Assignment of rights: application of rules about completion and consideration

Assignment of rights: transferor treated as making separate acquisition

Notional land transaction: effect of rescission etc. following substantial performance

Assignment of rights relating to part only of original contract

Assignment of rights: references to “the seller”

PART 3 - PRE-COMPLETION TRANSACTIONS WHICH ARE FREE-STANDING TRANSFERS

Free-standing transfers: consideration and substantial performance

References to “the seller” in cases involving free-standing transfers

PART 4 - THE MINIMUM CONSIDERATION RULE

The minimum consideration rule

The first minimum amount

The second minimum amount

PART 5 - RELIEFS

Relief for transferor: assignment of rights

Relief for original buyer: qualifying subsales

Schedule 3 - Transactions exempt from charge

No chargeable consideration

Acquisitions by the Crown

Transactions in connection with divorce or the dissolution of civil partnership etc.

Assents and appropriations by personal representatives and variation of testamentary dispositions etc.

Power to add, remove or vary exemptions

Schedule 4 – Chargeable consideration

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1)

Money or money's worth

Value added tax

Postponed consideration

Just and reasonable apportionment

Exchanges

Partition etc.: disregard of existing interest

Valuation of non-monetary consideration

Debt as consideration

Cases where conditions for exemption not fully met

Conversion of amounts in foreign currency

Carrying out of works

Provision of services

Land transaction entered into by reason of employment

Indemnity given by employer

Buyer bearing inheritance tax liability capital gains tax liability

Buyer bearing capital gains tax liability

Costs of enfranchisement

Arrangements involving public or educational bodies

Schedule 5 - Higher rates residential property transactions

PART 2: BUYER IS AN INDIVIDUAL: SINGLE DWELLING TRANSACTIONS

Higher rates residential property transactions

Buyer has a major interest in other dwelling

Two or more buyers

Interest in same main residence exception

Replacement of main residence exception

Replacement of main residence: transactions during interim period

PART 3: BUYER IS AN INDIVIDUAL: MULTIPLE DWELLING TRANSACTIONS

PART 4 - BUYER IS NOT AN INDIVIDUAL

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1)

PART 5 - SUPPLEMENTARY PROVISIONS

Further provision in connection with replacement of main residence exception

Spouses and civil partners purchasing alone

Property adjustment on divorce, dissolution of civil partnership etc.

Settlements and bare trusts

Partnerships

Alternative finance arrangements

Major interests in dwellings inherited jointly

PART 6 - INTERPRETATION

Schedule 6 - Leases

PART 2 - DURATION OF LEASE AND TREATMENT OF OVERLAPPING LEASES

Leases for a fixed term

Leases that continue after a fixed period

Leases that continue after a fixed term: grant of a new lease

Leases for an indefinite term

Successive linked leases

Rent for overlap period in case of grant of further lease

Tenant holding over: new lease backdated to previous year

PART 3 - RENT AND OTHER CONSIDERATION

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1)

Rent

Variable or uncertain rent

First rent review in final quarter of fifth year

Adjustment of tax where rent determined on reconsideration date

Underpayment of tax where rent determined on reconsideration date

Overpayment of tax where rent determined on reconsideration date

Reverse premiums

Tenant's obligations etc. that do not count as chargeable consideration

Surrender of existing lease in return for new lease

Assignment of lease: assumption of obligation by assignee

Loan or deposit in connection with grant or assignment of lease

PART 4 - AGREEMENTS FOR LEASE, ASSIGNMENTS AND VARIATIONS

Agreement to lease

Assignment of agreement for lease

Cases where assignment of lease treated as grant of lease

Assignment of lease

Reduction of rent or term or other variation of lease

Increase of rent treated as grant of new lease: variation of lease in first 5 years

PART 5 - CALCULATION OF TAX CHARGEABLE

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1)

Residential leases, non-residential leases and mixed leases

No tax chargeable in respect of rent: residential leases

Tax rates and bands: rent element of non-residential and mixed leases

Calculation of tax chargeable in respect of rent: non-residential and mixed leases

Calculation of tax chargeable in respect of rent: linked transactions

Net present value

Temporal discount rate

Tax chargeable in respect of consideration other than rent: general

Tax chargeable in respect of consideration other than rent: mixed leases

Relevant rent

Schedule 7– Partnerships

PART 2 - GENERAL PROVISIONS

PART 3 – ORDINARY PARTNERSHIP TRANSACTIONS

PART 4 - TRANSACTIONS INVOLVING TRANSFERS TO A PARTNERSHIP

PART 5 - TRANSACTIONS INVOLVING TRANSFERS FROM A PARTNERSHIP

PART 6 - OTHER PARTNERSHIP TRANSACTIONS

PART 7 - APPLICATION OF PARTS 5 AND 6 IN RELATION TO LEASES

PART 8 - TRANSFERS INVOLVING PROPERTY-INVESTMENT PARTNERSHIPS

PART 9 - APPLICATION OF EXEMPTIONS, RELIEFS, PROVISIONS OF TCMA AND NOTIFICATION PROVISIONS

Schedule 8 - Trusts

Schedule 9 - Sale and Leaseback Relief

Schedule 10 - Alternative Property Finance Reliefs

PART 2 - THE RELIEFS

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1)

Land sold to financial institution and leased to a person

Land sold to financial institution and re-sold to a person

PART 3 - CIRCUMSTANCES WHERE ARRANGEMENTS NOT RELIEVED

No relief where group, acquisition or reconstruction reliefs available

Land sold to financial institution but arrangements in place to transfer control of the institution

PART 4 - EXEMPT INTEREST

Interest held by financial institution an exempt interest

Schedule 11 - Relief for alternative finance investment bonds

PART 2 - ISSUE, TRANSFER AND REDEMPTION OF RIGHTS UNDER BOND NOT TO BE TREATED AS CHARGEABLE CONSIDERATION

PART 3 - CONDITIONS FOR OPERATION OF RELIEFS ETC.

PART 4 - RELIEF FOR CERTAIN TRANSACTIONS

Replacement of asset

Schedule 12 - Relief for incorporation of limited liability partnership

Schedule 13 - Relief for acquisitions involving multiple dwellings

Transactions to which this Schedule applies

Determining the amount of tax chargeable

Certain buildings not yet constructed or adapted to count as dwelling

Schedule 14 – Relief for certain acquisitions of dwellings

PART 2 - RELIEF FOR CERTAIN ACQUISITIONS OF DWELLINGS

PART 3 - RELIEF FOR TRANSACTIONS ENTERED INTO BY PERSONS EXERCISING COLLECTIVE RIGHTS

Schedule 15 - Treatment of certain transactions relating to social housing

PART 2 - RIGHT TO BUY RELIEF

Relief for right to buy transaction

PART 3 - SHARED OWNERSHIP LEASES

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1)

Shared ownership lease relief: election for market value treatment

Rent to shared ownership lease: charge to tax

PART 4 - SHARED OWNERSHIP TRUSTS

Shared ownership trusts: meaning of shared ownership trust and other key terms

Shared ownership trust: the buyer

Shared ownership trust: election for market value treatment

Shared ownership trust transfer upon termination

Shared ownership trust: staircasing transactions

Shared ownership trust: treatment of additional payments where not election made

Shared ownership trust: declaration not linked with staircasing etc.

Rent to shared ownership trust: charge to tax

PART 5 - RENT TO MORTGAGE

Rent to mortgage: chargeable consideration

PART 6 - RELIEF FOR CERTAIN ACQUISITION BY REGISTERED SOCIAL LANDLORDS

Schedule 16 - Group relief

PART 2 - THE RELIEF

PART 3 - RESTRICTIONS ON THE AVAILABILITY OF RELIEF

PART 4 - WITHDRAWAL OF RELIEF

PART 5 - RECOVERY OF RELIEF FROM CERTAIN PERSONS

Schedule 17 - Reconstruction and acquisition reliefs

PART 2 - RECONSTRUCTION RELIEF

PART 3 - ACQUISITION RELIEF

PART 4 - WITHDRAWAL OF RECONSTRUCTION AND ACQUISITION RELIEF

Cases in which reconstruction or acquisition relief not withdrawn

Withdrawal of reconstruction or acquisition relief on subsequent non-exempt transfer

PART 5 - RECOVERY OF RECONSTRUCTION OR ACQUISITION RELIEF

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1)

Schedule 18 - Charities relief

Transactions eligible for relief

Withdrawal of charities relief

Charity not a qualifying charity

Joint purchase by qualifying charity and another person: partial relief

Withdrawal of partial relief

Partial relief: charity not a qualifying charity

Application of this Schedule to certain trusts

Schedule 19 - Open-ended investment company reliefs

Relief from land transaction tax: conversion of an authorised unit trust to an open-ended investment company

Relief from land transaction tax: amalgamation of an authorised unit trust with an open-ended investment company

Schedule 20 – Relief for acquisitions by public bodies and health bodies

Relief for certain acquisitions involving public bodies

Relief for acquisitions by certain health service bodies

Schedule 21 – Compulsory purchase relief and planning obligations relief

Relief for compulsory purchase facilitating development

Relief for compliance with planning obligations

Schedule 22 - Miscellaneous reliefs

Lighthouses reliefs

Visiting forces and international military headquarters reliefs

Relief for property accepted in satisfaction of tax

Trunk roads relief

Relief for bodies established for national purposes

Relief for reorganisation of Parliamentary constituencies

Building societies relief

Friendly societies relief

Co-operative and community benefit society and credit union relief

Schedule 23 –Amendments to the Tax Collection and Management (Wales) Act 2016

These notes refer to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (c.1)

RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES