

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 2. (See end of Document for details)

SCHEDULE 10 GROUP RELIEF

PART 2

THE RELIEF

The relief

- 2 A land transaction is exempt from charge if the seller and buyer are companies that at the effective date of the transaction are members of the same group.

Commencement Information

- I1** Sch. 10 para. 2 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Restrictions on availability of relief

- 3 Relief under this schedule is not available if at the effective date of the transaction there are arrangements in existence by virtue of which, at that or some later time, a person has or could obtain, or any persons together have or could obtain, control of the buyer but not of the seller.

Commencement Information

- I2** Sch. 10 para. 3 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 4 Paragraph 3 does not apply to arrangements to which paragraph ^{F1}9, 10 or 10A applies.

Textual Amendments

- F1** Words in sch. 10 para. 4 substituted (30.6.2018) by [The Land and Buildings Transaction Tax \(Group Relief Modification\) \(Scotland\) Order 2018 \(S.S.I. 2018/222\)](#), arts. 1(1), [2\(2\)](#) (with art. 3)

Commencement Information

- I3** Sch. 10 para. 4 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 5 Relief under this schedule is not available if the transaction is effected in pursuance of, or in connection with, arrangements under which—
- (a) the consideration, or any part of the consideration, for the transaction is to be provided or received (directly or indirectly) by a person other than a group company, or
 - (b) the seller and the buyer are to cease to be members of the same group by reason of the buyer ceasing to be a 75% subsidiary of the seller or a third company.

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Commencement Information

I4 Sch. 10 para. 5 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 6 Arrangements are within paragraph 5(a) if under them the seller or the buyer, or another group company, is to be enabled to provide any of the consideration, or is to part with any of it, by or in consequence of the carrying out of a transaction or transactions involving, or any of them involving, a payment or other disposition by a person other than a group company.

Commencement Information

I5 Sch. 10 para. 6 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 7 Paragraph 5(b) does not apply to arrangements to which paragraph 10 applies.

Commencement Information

I6 Sch. 10 para. 7 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 8 Relief under this schedule is not available if the transaction—
- (a) is not effected for bona fide commercial reasons, or
 - (b) forms part of arrangements the main purpose, or one of the main purposes, of which is the avoidance of liability to the tax.

Commencement Information

I7 Sch. 10 para. 8 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Arrangements that do not restrict availability of relief

- 9 This paragraph applies to arrangements entered into with a view to an acquisition of shares by a company (“the acquiring company”)—
- (a) in relation to which section 75 of the Finance Act 1986 (c.41) (stamp duty: acquisition relief) will apply,
 - (b) in relation to which the conditions for relief under that section will be met, and
 - (c) as a result of which the buyer will be a member of the same group as the acquiring company.

Commencement Information

I8 Sch. 10 para. 9 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 10 This paragraph applies to arrangements in so far as they are for the purpose of facilitating a transfer of the whole or part of the business of a company to another company in relation to which—
- (a) section 96 of the Finance Act 1997 (c.16) (stamp duty relief: demutualisation of insurance companies) is intended to apply, and

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- (b) the conditions for relief under that section are intended to be met.

Commencement Information

I9 Sch. 10 para. 10 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

[^{F2}10A(1) This paragraph applies to arrangements if and for so long as—

- (a) they are—
- (i) a mortgage under the law of England and Wales or Northern Ireland secured by way of shares or securities in a company which, on default or the happening of any other event, allows the mortgagee to exercise its rights against the mortgagor;
 - (ii) an arrangement under the law of Scotland by which shares or securities in a company are transferred to a person (the “transferee”) subject to an obligation on the transferee to retransfer the shares or securities back to the transferor if certain conditions are met by the transferor but under which, on default by the transferor in meeting the conditions or the happening of any other event, the transferee is relieved of the obligation to retransfer the shares or securities back to the transferor, and
- (b) the relevant circumstance described in sub-paragraph (2) applies.

(2) The relevant circumstance is that—

- (a) in the case of arrangements described in sub-paragraph (1)(a)(i), the mortgagee has not exercised its rights against the mortgagor; or
- (b) in the case of arrangements described in sub-paragraph (1)(a)(ii), the transferee has not exercised its right in terms of the arrangement to retain the shares or securities and refuse to transfer them back to the transferor on the conditions mentioned in that sub-paragraph not having been met.

(3) This paragraph does not apply to arrangements if the mortgagee or, as the case may be, transferee—

- (a) possesses greater rights in respect of the shares or securities which are the subject of the arrangements than it requires to protect its interest as mortgagee or transferee; or
- (b) could alone or together with connected persons dictate the terms or timing of the default or the happening of any event which allows it to exercise its rights against the mortgagor or to relieve it of the obligation to retransfer the shares or securities.

(4) For the purposes of sub-paragraph (3)(b) a mortgagee is not, by reason only of the mortgage, connected with a company whose shares or securities are the subject of the mortgage.

(5) In this paragraph—

“connected” has the same meaning as in section 1122 of the Corporation Tax Act 2010;

“mortgage” means any legal or equitable charge under the law of England and Wales or Northern Ireland.

(6) This paragraph applies to an arrangement under the law of a country or territory outside the United Kingdom that is analogous to either of the arrangements described

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in sub-paragraph (1) as it applies to the arrangement to which it is analogous and, in relation to such an arrangement, references to the mortgagor, mortgagee, transferor and transferee are to be read accordingly.]

Textual Amendments

- F2** Sch. 10 para. 10A inserted (30.6.2018) by [The Land and Buildings Transaction Tax \(Group Relief Modification\) \(Scotland\) Order 2018 \(S.S.I. 2018/222\)](#), arts. 1(1), **2(3)** (with art. 3)

Interpretation

- 11 In this Part of this schedule—
“control” has the meaning given by section 1124 of the Corporation Tax Act 2010 (c.4),
“group company” means a company that at the effective date of the transaction is a member of the same group as the seller and the buyer.

Commencement Information

- I10** Sch. 10 para. 11 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

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