



Finance Act 2016

2016 CHAPTER 24

PART 8

SDLT AND ATED

Annual tax on enveloped dwellings

136 ATED: alternative property finance - land in Scotland

- (1) Part 3 of FA 2013 (annual tax on enveloped dwellings) is amended as follows.
- (2) Section 157 (land sold to financial institution and leased to person) is amended in accordance with subsections (3) to (6).
- (3) In subsection (1)—
 - (a) in paragraph (a), omit “or section 72 of that Act (land in Scotland sold to financial institution and leased to person)”;
 - (b) in paragraph (b), after “transaction” insert “is in England, Wales or Northern Ireland and”.
- (4) In subsection (7)—
 - (a) in the definition of “the first transaction” omit “or (as the case requires) 72”;
 - (b) in the definition of “the second transaction” omit “or (as the case requires) 72”.
- (5) Omit subsection (10).
- (6) The heading of that section becomes “**Land in England, Wales or Northern Ireland sold to financial institution and leased to person**”.
- (7) After section 157 insert—

“157A Land in Scotland sold to financial institution and leased to person

- (1) This section applies where Conditions A and B are met.

Changes to legislation: Finance Act 2016, Section 136 is up to date with all changes known to be in force on or before 01 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (2) Condition A is that arrangements are entered into between a person (“the lessee”) and a financial institution under which the institution—
 - (a) purchases a major interest in land (“the first transaction”),
 - (b) grants to the lessee out of that interest a lease (if the interest acquired is the interest of the owner) or a sub-lease (if the interest acquired is the tenant's right over or interest in a property subject to a lease) (“the second transaction”), and
 - (c) enters into an agreement under which the lessee has a right to require the institution to transfer the major interest purchased by the institution under the first transaction.
- (3) Condition B is that the land in which the institution purchases a major interest under the first transaction is in Scotland and consists of or includes one or more dwellings or parts of a dwelling.
- (4) If the lessee is a company, this Part has effect in relation to times when the arrangements are in operation (see subsection (5)) as if—
 - (a) the interest held by the financial institution as mentioned in subsection (5)(b) were held by the lessee (and not by the financial institution), and
 - (b) the lease or sub-lease granted under the second transaction had not been granted.
- (5) The reference in subsection (4) to times when the arrangements are in operation is to times when—
 - (a) the lessee holds the interest granted to it under the second transaction, and
 - (b) the interest purchased under the first transaction is held by a financial institution.
- (6) A company treated under subsection (4)(a) as holding an interest at a particular time is treated as holding it as a member of a partnership if at the time in question the company holds the interest granted to it under the second transaction as a member of the partnership (and this Part has effect accordingly in relation to the other members of the partnership).
- (7) In relation to times when the arrangements operate for the benefit of a collective investment scheme (see subsection (8)), this Part has effect as if—
 - (a) the interest held by the financial institution as mentioned in subsection (8)(b) were held by the lessee for the purposes of a collective investment scheme (and were not held by the financial institution), and
 - (b) the lease or sub-lease granted under the second transaction had not been granted.
- (8) The reference in subsection (7) to times when the arrangements operate for the benefit of a collective investment scheme is to times when—
 - (a) the lessee holds the interest granted to it under the second transaction for the purposes of a collective investment scheme, and
 - (b) the interest purchased under the first transaction is held by a financial institution.

Changes to legislation: Finance Act 2016, Section 136 is up to date with all changes known to be in force on or before 01 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (9) In this section “financial institution” has the same meaning as in section 71A of FA 2003 (see section 73BA of that Act).
 - (10) References in this section to a “major interest” in land are to—
 - (a) ownership of land, or
 - (b) the tenant's right over or interest in land subject to a lease.
 - (11) Where the lessee is an individual, references in subsections (7) and (8) to the lessee are to be read, in relation to times after the death of the lessee, as references to the lessee's personal representatives.”
- (8) The amendments made by this section have effect for chargeable periods beginning on or after 1 April 2016.

Changes to legislation:

Finance Act 2016, Section 136 is up to date with all changes known to be in force on or before 01 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)