

Status: Point in time view as at 15/03/2018.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, SCHEDULE 11. (See end of Document for details)

SCHEDULES

SCHEDULE 11

Section 40

STAMP DUTY LAND TAX: HIGHER RATES FOR ADDITIONAL DWELLINGS

- 1 Schedule 4ZA to FA 2003 (stamp duty land tax: higher rates for additional dwellings and dwellings purchased by companies) is amended as follows.

Previous residence required to be disposed of entirely

- 2 (1) Paragraph 3 (single dwelling transactions: purchaser is an individual) is amended as follows.
- (2) In sub-paragraph (6)—
- (a) after paragraph (b) insert—
- “(ba) immediately after the effective date of the previous transaction, neither the purchaser nor the purchaser's spouse or civil partner had a major interest in the sold dwelling,”
- and
- (b) in paragraph (c) for “that period of three years” substitute “ the period of three years referred to in paragraph (b) ”.
- (3) After sub-paragraph (6) insert—
- “(6A) Sub-paragraph (6)(ba) does not apply in relation to a spouse or civil partner of the purchaser if the two of them were not living together (see paragraph 9(3)) on the effective date of the transaction concerned.”
- (4) In sub-paragraph (7) after paragraph (b) (but before “and”) insert—
- “(ba) immediately after the effective date of that other land transaction, neither the purchaser nor the purchaser's spouse or civil partner has a major interest in the sold dwelling,”.
- (5) After sub-paragraph (7) insert—
- “(8) Sub-paragraph (7)(ba) does not apply in relation to a spouse or civil partner of the purchaser if the two of them are not living together (see paragraph 9(3)) on the effective date of that other land transaction.”

Exception where purchaser has prior interest in purchased dwelling

- 3 After paragraph 7 insert—

“Exception where purchaser has prior interest in purchased dwelling

- 7A (1) A chargeable transaction which would (but for this paragraph) fall within paragraph 3 or paragraph 6 does not fall within that paragraph if—

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- (a) the purchaser had a major interest (“the prior interest”) in the relevant purchased dwelling immediately before the effective date of the transaction, and
 - (b) the relevant purchased dwelling had been the purchaser's only or main residence throughout the period of three years ending with the effective date of the transaction.
- (2) Sub-paragraph (1) does not apply if—
- (a) the prior interest is a term of years absolute or a leasehold estate, and
 - (b) immediately before the effective date of the transaction, the remaining term of the prior interest is less than 21 years.
- (3) Sub-paragraph (1) does not apply if immediately before the effective date of the transaction—
- (a) the purchaser is beneficially entitled as a joint tenant to the prior interest, and
 - (b) there are more than three other joint tenants.
- (4) Sub-paragraph (1) does not apply if immediately before the effective date of the transaction the purchaser is beneficially entitled as a tenant in common or coparcener to less than a quarter of the prior interest.
- (5) In this paragraph “relevant purchased dwelling” means—
- (a) the purchased dwelling mentioned in paragraph 3(1)(b), or (as the case may be)
 - (b) the purchased dwelling which meets the conditions mentioned in paragraph 6(1)(c).”

Exception where spouses and civil partners purchasing from one another

4 After paragraph 9 insert—

“Spouses and civil partners purchasing from one another

- 9A (1) A chargeable transaction is not a higher rates transaction for the purposes of paragraph 1 if—
- (a) there is only one purchaser,
 - (b) there is only one vendor, and
 - (c) on the effective date of the transaction the two of them are—
 - (i) married to, or civil partners of, each other, and
 - (ii) living together (see paragraph 9(3)).
- (2) Where—
- (a) there are two purchasers in relation to a chargeable transaction, and
 - (b) one of them (“P”) is also the vendor in relation to the transaction,
- P is to be treated for the purposes of sub-paragraph (1) as not being a purchaser.
- (3) Where—
- (a) there are two vendors in relation to a chargeable transaction, and
 - (b) one of them (“V”) is also the purchaser in relation to the transaction,

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V is to be treated for the purposes of sub-paragraph (1) as not being a vendor.”

Property adjustment on divorce, dissolution of civil partnership etc

5 After paragraph 9A (as inserted by paragraph 4 of this Schedule) insert—

“Property adjustment on divorce, dissolution of civil partnership etc

9B (1) This paragraph applies where—

- (a) a person (“A”) has a major interest in a dwelling,
- (b) a property adjustment order has been made in respect of the interest for the benefit of another person (“B”), and
- (c) the dwelling—
 - (i) is B's only or main residence, and
 - (ii) is not A's only or main residence.

(2) A is to be treated for the purposes of this Schedule as not having the interest in the dwelling.

(3) “Property adjustment order” means—

- (a) an order under section 24(1)(b) of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
- (b) an order under section 17(1)(a)(ii) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce) corresponding to such an order as is mentioned in paragraph (a),
- (c) an order under Article 26(1)(b) of the Matrimonial Causes (Northern Ireland) Order 1978 (property adjustment orders in connection with divorce proceedings etc),
- (d) an order under Article 21(a)(ii) of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (property adjustment orders after overseas divorce) corresponding to such an order as is mentioned in paragraph (c),
- (e) an order under paragraph 7(1)(b) of Schedule 5 or paragraph 7(1)(b) of Schedule 15 to the Civil Partnership Act 2004 (property adjustment orders in connection with dissolution etc of civil partnership), or
- (f) an order under paragraph 9 of Schedule 7 or paragraph 9 of Schedule 17 to the Civil Partnership Act 2004 (property adjustment orders in connection with overseas dissolution etc of civil partnership) corresponding to such an order as is mentioned in paragraph (e).”

Purchase etc by person appointed under Mental Capacity Act 2005 to make decisions for a child

6 (1) In paragraph 12 (settlements and bare trusts with beneficiaries who are children) after sub-paragraph (1) insert—

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“(1A) But this paragraph does not apply if the trustee (or any of the trustees) of the settlement or bare trust concerned—

- (a) was the purchaser in relation to the land transaction,
- (b) holds the interest in the dwelling, or
- (c) disposed of the interest in the dwelling,

in the exercise of powers conferred on the trustee by reason of a relevant court appointment made in respect of the child concerned.

(1B) In sub-paragraph (1A) “relevant court appointment” means—

- (a) an appointment under section 16 of the Mental Capacity Act 2005,
- (b) an appointment under section 113 of the Mental Capacity Act (Northern Ireland) 2016, or
- (c) an equivalent appointment under the law of a country or territory outside England, Wales and Northern Ireland.”

(2) In paragraph 17 (dwellings outside England, Wales and Northern Ireland) after sub-paragraph (5) insert—

“(5A) Sub-paragraph (4) does not apply if the interest in the dwelling was acquired in the child's name or on the child's behalf by a person acting in exercise of powers conferred on that person by reason of a relevant court appointment made in respect of the child.

(5B) In sub-paragraph (5A) “relevant court appointment” has the meaning given by paragraph 12(1B).”

Minor and consequential amendments

7 In paragraph 2, after sub-paragraph (3) insert—

“(3A) Sub-paragraphs (2) and (3) are subject to paragraph 9A (spouses and civil partners purchasing from one another).”

8 (1) Paragraph 3 is amended as follows.

(2) After sub-paragraph (1) insert—

“(1A) But sub-paragraph (1) is subject to paragraph 7A.”

(3) In sub-paragraph (7), in the opening words, for “may become” substitute “is also”.

9 In paragraph 6—

(a) after sub-paragraph (1) insert—

“(1A) But sub-paragraph (1) is subject to paragraph 7A.”, and

(b) in sub-paragraph (3) for “and (7)” substitute “to (8)”.

10 In paragraph 8—

- (a) in sub-paragraph (1) for “ceases to be” substitute “is not”,
- (b) in sub-paragraph (2) for “was” substitute “is”,
- (c) in sub-paragraph (3) for “its ceasing to be a higher rates transaction” substitute “the application of paragraph 3(7)”, and
- (d) in sub-paragraph (4) for “its ceasing to be a higher rates transaction” substitute “the application of paragraph 3(7)”.

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- 11 In paragraph 9(3) for “paragraph” substitute “ Schedule ”.
- 12 (1) Paragraph 12 is amended as follows.
- (2) In sub-paragraph (2)(a) after “any” insert “ relevant ”.
- (3) For sub-paragraph (3) substitute—
- “(3) For the purposes of sub-paragraph (2) a spouse or civil partner of P is “relevant” if the spouse or civil partner—
- (a) is not a parent of the child, and
- (b) is living together with P (see paragraph 9(3)).”
- (4) Omit sub-paragraph (4).
- 13 In the italic heading before paragraph 17 omit “, Wales”.
- 14 (1) Paragraph 17 is amended as follows.
- (2) In sub-paragraph (1) omit “, Wales”.
- (3) After sub-paragraph (1) insert—
- “(1A) In the application of those provisions in relation to a dwelling situated in Wales—
- (a) references to a “major interest” in the dwelling are to an interest in the dwelling of a kind mentioned in section 117(2),
- (b) references to a “land transaction” in relation to the dwelling are to the acquisition of an interest in the dwelling, and
- (c) references to the “effective date” of a land transaction in relation to the dwelling are to the date on which the interest in the dwelling is acquired.”
- (4) In sub-paragraph (3)—
- (a) in the words before paragraph (a) after “(1)” insert “, (1A) ”,
- (b) in paragraph (a)—
- (i) after “(6)(b)” insert “, (ba) ”, and
- (ii) after “(7)(b)” insert “, (ba) ”, and
- (c) after paragraph (b) insert—
- “(ba) paragraph 9B,”
- (5) In sub-paragraph (4)—
- (a) omit “, Wales”, and
- (b) after “any” insert “ relevant ”.
- (6) For sub-paragraph (5) substitute—
- “(5) For the purposes of sub-paragraph (4) a spouse or civil partner of P is “relevant” if the spouse or civil partner—
- (a) is not a parent of the child, and
- (b) is living together with P (see paragraph 9(3)).”
- (7) Omit sub-paragraph (6).
- 15 In section 128(9)(b) of FA 2016 for “ “during that period of three years”” substitute “the words from “during” to “paragraph (b)””.

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Commencement

- 16 (1) The amendments made by this Schedule (other than those made by paragraphs 13 and 14(2), (3), (4)(a) and (5)(a)) have effect in relation to any land transaction of which the effective date is, or is after, 22 November 2017.
- (2) But the amendments made by paragraph 2 do not have effect in relation to a transaction—
- (a) effected in pursuance of a contract entered into and substantially performed before 22 November 2017, or
 - (b) effected in pursuance of a contract entered into before that date and not excluded by sub-paragraph (3).
- (3) A transaction effected in pursuance of a contract entered into before 22 November 2017 is excluded by this sub-paragraph if—
- (a) there is any variation of the contract, or assignment of rights under the contract, on or after 22 November 2017,
 - (b) the transaction is effected in consequence of the exercise on or after that date of any option, right of pre-emption or similar right, or
 - (c) on or after that date there is an assignment, subsale or other transaction relating to the whole or part of the subject-matter of the contract as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance.
- (4) The amendments made by paragraphs 13 and 14(2), (3), (4)(a) and (5)(a) have effect in relation to any land transaction in relation to which the amendment made by section 16(2) of the Wales Act 2014 (disapplication of UK stamp duty land tax) has effect.

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