
Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, Cross Heading: Agreement for lease substantially performed etc.. (See end of Document for details)

SCHEDULE 19 **S** LEASES

PART 6 **S**

OTHER PROVISION ABOUT LEASES

Agreement for lease substantially performed etc.

- 25 (1) Where—
- (a) there is an agreement (including missives not constituting a lease) under which a lease is to be executed, and
 - (b) the agreement is substantially performed without a lease having been executed,
- the agreement is treated as if it were the grant of a lease in accordance with the agreement (“the notional lease”), beginning with the date of the substantial performance.
- (2) The effective date of the transaction is when the agreement is substantially performed.
- (3) Where sub-paragraph (1) applies and at some later time a lease (“the actual lease”) is executed, this Act applies as if the notional lease were a lease granted—
- (a) on the date the agreement was substantially performed,
 - (b) for a term which begins with that date and ends at the end of the term of the actual lease, and
 - (c) in consideration of the total rent payable over that term and any other consideration given for the agreement or the actual lease.
- (4) Where sub-paragraph (3) applies the grant of the actual lease is disregarded for the purposes of this Act except section 34 (return or further return in consequence of later linked transaction).
- (5) For the purposes of section 34—
- (a) the grant of the notional lease and the grant of the actual lease are linked (whether or not they would be linked by virtue of section 57),
 - (b) the tenant under the actual lease (rather than the tenant under the notional lease) is liable for any tax or additional tax payable in respect of the notional lease as a result of sub-paragraph (3), and
 - (c) the reference in section 34(2) to the “buyer in the earlier transaction” is to be read, in relation to the notional lease, as a reference to the tenant under the actual lease.
- (6) Where sub-paragraph (1) applies and the agreement is (to any extent) afterwards rescinded or annulled, or is for any other reason not carried into effect, the tax paid by virtue of that sub-paragraph is to be (to that extent) repaid by the Tax Authority.
- (7) That repayment must be claimed by amendment of the return made in respect of the agreement.

[^{F1}(7A) For the period allowed for amendment of returns, see section 83 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).]

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- (8) In this paragraph, references to the execution of a lease are to the execution of a lease that either is in conformity with, or relates to substantially the same premises and term as, the agreement.

Textual Amendments

- F1** Sch. 19 para. 25(7A) inserted (1.4.2015) by [Revenue Scotland and Tax Powers Act 2014 \(asp 16\)](#), s. 260(2), **Sch. 4 para. 9(23)** (with ss. 257-259); S.S.I. 2015/110, art. 2(1)

Commencement Information

- II** Sch. 19 para. 25 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

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