

Status: Point in time view as at 01/04/2016.

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, SCHEDULE 4. (See end of Document for details)

SCHEDULE 4

(introduced by section 27)

RELIEF FOR CERTAIN ACQUISITIONS OF RESIDENTIAL PROPERTY

PART 1

INTRODUCTORY

Overview of reliefs

- 1 (1) This schedule provides for relief in the case of certain acquisitions of residential property.
- (2) It is arranged as follows—
- Part 2 provides for relief in the case of an acquisition by a house-building company from an individual acquiring a new dwelling,
 - Part 3 provides for relief in the case of an acquisition by a property trader from an individual acquiring a new dwelling,
 - Part 4 provides for relief in the case of an acquisition by a property trader from an individual where a chain of transactions breaks down,
 - Part 5 provides for the withdrawal of those reliefs in certain circumstances,
 - Part 6 defines expressions used in this schedule.

Commencement Information

I1 Sch. 4 para. 1 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

PART 2

ACQUISITION BY HOUSE-BUILDING COMPANY FROM INDIVIDUAL ACQUIRING NEW DWELLING

Full relief

- 2 Where a dwelling (“the old dwelling”) is acquired by a house-building company from an individual (whether alone or with other individuals), the acquisition is exempt from charge if the qualifying conditions are met.

Commencement Information

I2 Sch. 4 para. 2 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Partial relief

- 3 Where qualifying conditions (a) to (d) but not (e) are met, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.

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Commencement Information

I3 Sch. 4 para. 3 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Qualifying conditions

- 4 In this Part of this schedule, the qualifying conditions are—
- (a) that the individual (whether alone or with other individuals) acquires a new dwelling from the house-building company,
 - (b) that the individual occupied the old dwelling as the individual's only or main residence at some time in the period of 2 years ending with the date of its acquisition,
 - (c) that the individual intends to occupy the new dwelling as the individual's only or main residence,
 - (d) that each acquisition is entered into in consideration of the other, and
 - (e) that the area of land acquired by the house-building company does not exceed the permitted area.

Commencement Information

I4 Sch. 4 para. 4 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

PART 3

ACQUISITION BY PROPERTY TRADER FROM INDIVIDUAL ACQUIRING NEW DWELLING

Full relief

- 5 Where a dwelling (“the old dwelling”) is acquired by a property trader from an individual (whether alone or with other individuals), the acquisition is exempt from charge if the qualifying conditions are met.

Commencement Information

I5 Sch. 4 para. 5 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Partial relief

- 6 Where qualifying conditions (a) to (e) but not (f) are met, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.

Commencement Information

I6 Sch. 4 para. 6 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

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Qualifying conditions

- 7 In this Part of this schedule, the qualifying conditions are—
- (a) that the acquisition is made in the course of a business that consists of or includes acquiring dwellings from individuals who acquire new dwellings from house-building companies,
 - (b) that the individual (whether alone or with other individuals) acquires a new dwelling from a house-building company,
 - (c) that the individual occupied the old dwelling as the individual's only or main residence at some time in the period of 2 years ending with the date of its acquisition,
 - (d) that the individual intends to occupy the new dwelling as the individual's only or main residence,
 - (e) that the property trader does not intend—
 - (i) to spend more than the permitted amount on refurbishment of the old dwelling,
 - (ii) to grant a lease or licence of the old dwelling, or
 - (iii) to permit any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling, and
 - (f) that the area of land acquired by the property trader does not exceed the permitted area.

Commencement Information

I7 Sch. 4 para. 7 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 8 Paragraph 7(e)(ii) does not apply to the grant of a lease or licence to the individual for a period of no more than 6 months.

Commencement Information

I8 Sch. 4 para. 8 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

PART 4

ACQUISITION BY PROPERTY TRADER FROM INDIVIDUAL WHERE CHAIN OF TRANSACTIONS BREAKS DOWN

Full relief

- 9 Where a dwelling (“the old dwelling”) is acquired by a property trader from an individual (whether alone or with other individuals), the acquisition is exempt from charge if the qualifying conditions are met.

Commencement Information

I9 Sch. 4 para. 9 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

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Partial relief

- 10 Where qualifying conditions (a) to (g) but not (h) are met, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.

Commencement Information

I10 Sch. 4 para. 10 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Qualifying conditions

- 11 In this Part of this schedule, the qualifying conditions are—
- (a) that the individual has made arrangements to sell the old dwelling and acquire another dwelling (“the second dwelling”),
 - (b) that the arrangements to sell the old dwelling fail,
 - (c) that the acquisition of the old dwelling is made for the purpose of enabling the individual's acquisition of the second dwelling to proceed,
 - (d) that the acquisition is made in the course of a business that consists of or includes acquiring dwellings from individuals in the circumstances mentioned in conditions (a) to (c),
 - (e) that the individual occupied the old dwelling as the individual's only or main residence at some time in the period of 2 years ending with the date of its acquisition,
 - (f) that the individual intends to occupy the second dwelling as the individual's only or main residence,
 - (g) that the property trader does not intend—
 - (i) to spend more than the permitted amount on refurbishment of the old dwelling,
 - (ii) to grant a lease or licence of the old dwelling, or
 - (iii) to permit any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling, and
 - (h) that the area of land acquired does not exceed the permitted area.

Commencement Information

I11 Sch. 4 para. 11 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 12 Paragraph 11(g)(ii) does not apply to the grant of a lease or licence to the individual for a period of no more than 6 months.

Commencement Information

I12 Sch. 4 para. 12 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

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PART 5

WITHDRAWAL OF RELIEF

Introductory

- 13 (1) Relief under this schedule is withdrawn in the following circumstances.
- (2) Where relief is withdrawn, the amount of tax chargeable is the amount that would have been chargeable in respect of the acquisition but for the relief.

Commencement Information

I13 Sch. 4 para. 13 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Relief under Part 3

- 14 Relief under Part 3 of this schedule (acquisition by property trader from individual acquiring new dwelling) is withdrawn if the property trader—
- (a) spends more than the permitted amount on refurbishment of the old dwelling,
 - (b) grants a lease or licence of the old dwelling, or
 - (c) permits any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling.

Commencement Information

I14 Sch. 4 para. 14 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 15 Paragraph 14(b) does not apply to the grant of a lease or licence to the individual for a period of no more than 6 months.

Commencement Information

I15 Sch. 4 para. 15 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Relief under Part 4

- 16 Relief under Part 4 of this schedule (acquisition by property trader from individual where chain of transactions breaks down) is withdrawn if the property trader—
- (a) spends more than the permitted amount on refurbishment of the old dwelling,
 - (b) grants a lease or licence of the old dwelling, or
 - (c) permits any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling.

Commencement Information

I16 Sch. 4 para. 16 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 17 Paragraph 16(b) does not apply to the grant of a lease or licence to the individual for a period of no more than 6 months.

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Commencement Information

I17 Sch. 4 para. 17 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

PART 6

INTERPRETATION

Meaning of “dwelling” and “new dwelling”

18 “Dwelling” includes land occupied and enjoyed with the dwelling as its garden or grounds.

Commencement Information

I18 Sch. 4 para. 18 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

19 A building or part of a building is a “new dwelling” if—

- (a) it has been constructed for use as a single dwelling and has not previously been occupied, or
- (b) it has been adapted for use as a single dwelling and has not been occupied since its adaptation.

Commencement Information

I19 Sch. 4 para. 19 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Meaning of “permitted area”

20 “The permitted area”, in relation to a dwelling, means land occupied and enjoyed with the dwelling as its garden or grounds that does not exceed—

- (a) an area (inclusive of the site of the dwelling) of 0.5 of a hectare, or
- (b) such larger area as is required for the reasonable enjoyment of the dwelling as a dwelling having regard to its size and character.

Commencement Information

I20 Sch. 4 para. 20 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

21 Where paragraph 20(b) applies, the permitted area is taken to consist of that part of the land that would be the most suitable for occupation and enjoyment with the dwelling as its garden or grounds if the rest of the land were separately occupied.

Commencement Information

I21 Sch. 4 para. 21 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

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Meaning of “acquisition” and “market value” in relation to dwelling and permitted area

- 22 References in this schedule to—
- (a) the acquisition of a dwelling are to the acquisition, by way of grant or transfer, of a major interest in the dwelling,
 - (b) the market value of a dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area.

Commencement Information

I22 Sch. 4 para. 22 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Meaning of “house-building company”

- 23 A “house-building company” means a company that carries on the business of constructing or adapting buildings or parts of buildings for use as dwellings.

Commencement Information

I23 Sch. 4 para. 23 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 24 References in this schedule to such a company include any company connected with it.

Commencement Information

I24 Sch. 4 para. 24 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Meaning of “property trader” and “principal”

- 25 (1) A “property trader” means an entity listed in sub-paragraph (2) that carries on the business of buying and selling dwellings.
- (2) The entities are—
- (a) a company,
 - (b) a limited liability partnership,
 - (c) a partnership whose partners are all either companies or limited liability partnerships.
- (3) A “principal”—
- (a) in relation to a company, means a director,
 - (b) in relation to a limited liability partnership, means a member,
 - (c) in relation to a partnership mentioned in sub-paragraph (2)(c) means a partner or a principal of a partner.

Commencement Information

I25 Sch. 4 para. 25 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

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- 26 For the purposes of this schedule—
- (a) anything done by or in relation to a company connected with a property trader is treated as done by or in relation to that property trader, and
 - (b) references to the principals or employees of a property trader include the principals or employees of any such company.

Commencement Information

I26 Sch. 4 para. 26 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

[^{F1}Additional amount: transactions relating to second homes etc.

Textual Amendments

F1 [S. 26A](#) inserted (1.4.2016) by [Land and Buildings Transaction Tax \(Amendment\) \(Scotland\) Act 2016](#) (asp 11), [ss. 1\(2\), 5\(2\)](#) (with [s. 3](#))

- 26A Schedule 2A makes provision about an additional amount of tax chargeable in respect of certain chargeable transactions.]

Meaning of “refurbishment” and “the permitted amount”

- 27 “Refurbishment” of a dwelling means the carrying out of works that enhance or are intended to enhance the value of the dwelling, but does not include—
- (a) cleaning the dwelling, or
 - (b) works required solely for the purpose of ensuring that the dwelling meets minimum safety standards.

Commencement Information

I27 Sch. 4 para. 27 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 28 The “permitted amount”, in relation to the refurbishment of a dwelling, is set out in the following table—

Consideration for acquisition of the dwelling	Permitted amount
Not more than £200,000	£10,000
More than £200,000 but not more than £400,000	5% of the consideration
More than £400,000	£20,000

Commencement Information

I28 Sch. 4 para. 28 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

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