



# Land and Buildings Transaction Tax (Scotland) Act 2013

2013 asp 11

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 25th June 2013 and received Royal Assent on 31st July 2013**

An Act of the Scottish Parliament to make provision about the taxation of land transactions.

VALID FROM 01/04/2015

## PART 1

### LAND AND BUILDINGS TRANSACTION TAX

#### **1 The tax**

- (1) A tax (to be known as land and buildings transaction tax) is to be charged on land transactions.
- (2) The tax is chargeable—
  - (a) whether or not there is an instrument effecting the transaction,
  - (b) if there is such an instrument, whether or not it is executed in Scotland, and
  - (c) whether or not any party to the transaction is present, or resident, in Scotland.
- (3) The Tax Authority is to be responsible for the collection and management of the tax.

#### **2 Overview**

This Act is arranged as follows—

Part 2 makes provision for the key concepts underlying the tax including—

- (a) which transactions are land transactions,
- (b) which interests are, and which are not, chargeable interests in land,

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- (c) when a chargeable interest is acquired and the treatment of transactions involving contracts which require to be completed by conveyance as well as other kinds of transaction,
- (d) which land transactions are, and which are not, chargeable transactions,
- (e) what is, and what is not, chargeable consideration in relation to a chargeable transaction,

Part 3 makes provision for—

- (a) the amount of tax payable,
- (b) relief from the tax, and
- (c) who is liable to pay the tax,

Part 4 provides for returns relating to land transactions and for the payment of the tax,

Part 5 contains provision about the application of the Act in relation to certain types of buyer, including companies, partnerships and trusts,

Part 6 contains provision about the application of the Act to leases and non-residential licences,

Part 7 contains general provision, including provisions about the Tax Authority and definitions of expressions used in the Act,

Part 8 contains provisions on subordinate legislation powers and commencement as well as other final provisions.

VALID FROM 01/04/2015

## PART 2

### KEY CONCEPTS

#### CHAPTER 1

##### LAND TRANSACTIONS AND CHARGEABLE INTERESTS

###### *Land transaction*

### 3 Land transaction

A land transaction is the acquisition of a chargeable interest.

###### *Chargeable interest*

### 4 Chargeable interest

(1) A chargeable interest is an interest of a kind mentioned in subsection (2) which is not an exempt interest.

(2) The interests are—

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- (a) a real right or other interest in or over land in Scotland, or
- (b) the benefit of an obligation, restriction or condition affecting the value of any such right or interest.

(3) In subsection (2), “land in Scotland” does not include land below mean low water mark.

## **5 Exempt interest**

(1) An interest is exempt if it is a security interest.

(2) In subsection (1) a “security interest” means a real right or other interest in or over land held for the purpose of securing the payment of money or the performance of any other obligation.

(3) See also paragraphs 21 to 24 of schedule 7 (which make additional provision about exempt interests in relation to alternative property finance arrangements).

(4) The Scottish Ministers may, by regulations, modify this section so as to—

- (a) provide that a description of a real right or other interest in or over land is an exempt interest,
- (b) provide that a description of a real right or other interest in or over land is no longer to be an exempt interest,
- (c) vary a description of an exempt interest.

### *Acquisition and disposal of chargeable interest*

## **6 Acquisition and disposal of chargeable interest**

(1) Each of the following is an acquisition and a disposal of a chargeable interest—

- (a) the creation of the interest,
- (b) the renunciation or release of the interest,
- (c) the variation of the interest (but not the variation of a lease).

(2) The variation of a lease is treated as an acquisition and a disposal of a chargeable interest only where paragraph 29 of schedule 19 (reduction of rent or term or other variation of lease) applies.

(3) A person acquires a chargeable interest where—

- (a) the person becomes entitled to the interest on its creation,
- (b) the person's interest or right is benefitted or enlarged by the renunciation or release of the interest, or
- (c) the person benefits from the variation of the interest.

(4) A person disposes of a chargeable interest where—

- (a) the person's interest or right becomes subject to the interest on its creation,
- (b) the person ceases to be entitled to the interest on its being renounced or released, or
- (c) the person's interest or right is subject to or limited by the variation of the interest.

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- (5) Except as otherwise provided, this Act applies however the acquisition is effected, whether by act of the parties, by order of a court or other authority, by or under any enactment or by operation of law.

## **7 Buyer and seller**

- (1) The buyer, in relation to a land transaction, is the person who acquires the subject-matter of the transaction.
- (2) But a person is treated as the buyer only where that person has given consideration for, or is a party to, the transaction.
- (3) The seller, in relation to a land transaction, is the person who disposes of the subject-matter of the transaction.

## **CHAPTER 2**

### **PROVISION ABOUT PARTICULAR TRANSACTIONS**

#### *General rules for contracts requiring conveyance*

## **8 Contract and conveyance**

- (1) This section applies where a contract for a land transaction is entered into under which the transaction is to be completed by a conveyance.
- (2) A person is not regarded as entering into a land transaction by reason of entering into the contract.
- (3) But see sections 9 and 10.

## **9 Completion without substantial performance**

- (1) If the transaction is completed without previously having been substantially performed, the contract and the transaction effected on completion are treated as parts of a single land transaction.
- (2) In this case the effective date of the transaction is the date of completion.

## **10 Substantial performance without completion**

- (1) If the contract is substantially performed without having been completed, the contract is treated as if it were itself the transaction provided for in the contract.
- (2) In this case the effective date of the transaction is when the contract is substantially performed.
- (3) Where subsection (1) applies and the contract is subsequently completed by a conveyance—
- (a) both the contract and the transaction effected on completion are notifiable transactions, and

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- (b) tax is chargeable on the latter transaction to the extent (if any) that the amount of tax chargeable on it is greater than the amount of tax chargeable on the contract.
- (4) Where subsection (1) applies and the contract 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 subsection is to be (to that extent) repaid by the Tax Authority.
- (5) That repayment must be claimed by amendment of the land transaction return made in respect of the contract.
- (6) Where paragraph 25 of schedule 19 (leases) applies, it applies in place of this section.

*Contract providing for conveyance to third party*

## **11 Contract providing for conveyance to third party**

- (1) This section applies where a contract is entered into under which a chargeable interest is to be conveyed by one party to the contract (A) at the direction or request of the other (B)—
  - (a) to a person (C) who is not a party to the contract, or
  - (b) either to C or to B.
- (2) B is not regarded as entering into a land transaction by reason of entering into the contract, but the following provisions have effect.
- (3) If the contract is substantially performed, B is treated for the purposes of this Act as acquiring a chargeable interest, and accordingly as entering into a land transaction.
- (4) In such a case, the effective date of the transaction is when the contract is substantially performed.
- (5) Where the contract is (to any extent) afterwards rescinded or annulled, or is for any other reason not carried into effect, the tax paid by virtue of subsection (3) is to be (to that extent) repaid by the Tax Authority.
- (6) Repayment must be claimed by amendment of the land transaction return made in respect of the contract.
- (7) Subject to subsection (8), sections 8 to 10 do not apply in relation to the contract.
- (8) Where—
  - (a) this section applies by virtue of subsection (1)(b), and
  - (b) by reason of B's direction or request, A becomes obliged to convey a chargeable interest to B,
 sections 8 to 10 apply to that obligation as they apply to a contract for a land transaction that is to be completed by a conveyance.
- (9) Sections 8 to 10 apply in relation to any contract between B and C, in respect of the chargeable interest referred to in subsection (1), that is to be completed by a conveyance.
- (10) References to completion in sections 8 to 10, as they apply by virtue of subsection (9), include references to conveyance by A to C of the subject-matter of the contract between B and C.

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### *Options etc.*

#### **12 Options and rights of pre-emption**

- (1) The acquisition of—
  - (a) an option binding the grantor to enter into a land transaction, or
  - (b) a right of pre-emption preventing the grantor from entering into, or restricting the right of the grantor to enter into, a land transaction,
 is a land transaction distinct from any land transaction resulting from the exercise of the option or right.
- (2) They may be linked transactions (see section 57).
- (3) The reference in subsection (1)(a) to an option binding the grantor to enter into a land transaction includes an option requiring the grantor either to enter into a land transaction or to discharge the grantor's obligations under the option in some other way.
- (4) The effective date of the transaction in the case of the acquisition of an option or right such as is mentioned in subsection (1) is when the option or right is acquired (as opposed to when it becomes exercisable).
- (5) Nothing in this section applies to so much of an option or right of pre-emption as constitutes or forms part of a land transaction apart from this section.

### *Exchanges*

#### **13 Exchanges**

- (1) Where a land transaction is entered into by a person as buyer (alone or jointly) wholly or partly in consideration of another land transaction being entered into by that person (alone or jointly) as seller, this Act applies in relation to each transaction as if each were distinct and separate from the other (and they are not linked transactions within the meaning of section 57).
- (2) A transaction is treated for the purposes of this Act as entered into by a person as buyer wholly or partly in consideration of another land transaction being entered into by that person as seller in any case where an obligation to give consideration for a land transaction that a person enters into as buyer is met wholly or partly by way of that person entering into another transaction as seller.
- (3) As to the amount of the chargeable consideration in the case of exchanges and similar transactions, see—
  - (a) paragraphs 5 and 6 of schedule 2,
  - (b) paragraph 17 of that schedule.

### *Interpretation*

#### **14 Meaning of “substantial performance”**

- (1) A contract is substantially performed when—

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- (a) the buyer, or a person connected with the buyer, takes possession of the whole, or substantially the whole, of the subject-matter of the contract,
  - (b) a substantial amount of the consideration is paid or provided, or
  - (c) there is an assignation, 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 original buyer becomes entitled to call for a conveyance to that person.
- (2) For the purpose of subsection (1)(a)—
- (a) possession includes receipt of rent or the right to receive it, and
  - (b) it is immaterial whether possession is taken under the contract or under a licence.
- (3) For the purposes of subsection (1)(b), a substantial amount of the consideration is paid or provided—
- (a) if none of the consideration is rent, where the whole or substantially the whole of the consideration is paid or provided,
  - (b) if the only consideration is rent, when the first payment of rent is made,
  - (c) if the consideration includes both rent and other consideration, when—
    - (i) the whole or substantially the whole of the consideration other than rent is paid or provided, or
    - (ii) the first payment of rent is made.
- (4) For the purposes of subsection (1)(c) the reference to an assignation, subsale or other transaction includes the grant or assignation of an option.

## CHAPTER 3

### CHARGEABLE TRANSACTIONS AND CHARGEABLE CONSIDERATION

#### *Chargeable transaction*

#### **15 Chargeable transaction**

A land transaction is a chargeable transaction unless it is—

- (a) an exempt transaction, or
- (b) otherwise exempt from charge.

#### **16 Exempt transaction**

A transaction is exempt if schedule 1 provides that it is so exempt.

#### *Chargeable consideration*

#### **17 Chargeable consideration**

- (1) Schedule 2 makes provision as to the chargeable consideration for a transaction.
- (2) The Scottish Ministers may, by regulations, modify this Act relating to chargeable consideration and make such other provision as they consider appropriate about—

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- (a) what is to be treated as chargeable consideration,
- (b) the determination of the amount or value of chargeable consideration.

*Contingent, uncertain or unascertained consideration*

### **18 Contingent consideration**

- (1) Subsection (2) applies where the whole or part of the chargeable consideration for a transaction is contingent.
- (2) The amount or value of the consideration is to be determined on the assumption that the outcome of the contingency will be such that the consideration is payable or, as the case may be, does not cease to be payable.
- (3) In this Act, “contingent”, in relation to consideration, means—
  - (a) that it is to be paid or provided only if some uncertain future event occurs, or
  - (b) that it is to cease to be paid or provided if some uncertain future event occurs.

### **19 Uncertain or unascertained consideration**

- (1) Subsection (2) applies where the whole or part of the chargeable consideration for a transaction is uncertain or unascertained.
- (2) The amount or value of the consideration is to be determined on the basis of a reasonable estimate.
- (3) In this section, “uncertain”, in relation to consideration, means its amount or value depends on uncertain future events.

### **20 Contingent, uncertain or unascertained consideration: further provision**

Sections 18 and 19 have effect subject to—

- (a) section 31 (return where contingency ceases or consideration ascertained),
- (b) section 32 (contingency ceases or consideration is ascertained: less tax payable), and
- (c) section 41 (application to defer payment in case of contingent or uncertain consideration).

*Annuities etc.*

### **21 Annuities etc.: chargeable consideration limited to 12 years' payments**

- (1) This section applies to so much of the chargeable consideration for a land transaction as consists of an annuity payable—
  - (a) for life,
  - (b) in perpetuity,
  - (c) for an indefinite period, or
  - (d) for a definite period exceeding 12 years.
- (2) The consideration to be taken into account is limited to 12 years' annual payments.



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- (3) Where the amount payable varies, or may vary, from year to year, the 12 highest annual payments are to be taken into account.
- (4) No account is to be taken of any provision for adjustment of the amount payable in line with the retail prices index, the consumer prices index or any other similar index.
- (5) References in this section to annual payments are to payments in respect of each successive period of 12 months beginning with the effective date of the transaction.
- (6) For the purposes of this section the amount or value of any payment is to be determined (if necessary) in accordance with section 18 (contingent consideration) or 19 (uncertain or unascertained consideration).
- (7) References in this section to an annuity include any consideration (other than rent) that falls to be paid or provided periodically.
- (8) References to payment are to be read accordingly.
- (9) Where this section applies—
  - (a) sections 31 and 32 (adjustment where contingency ceases or consideration is ascertained) do not apply, and
  - (b) no application may be made under section 41 (application to defer payment in case of contingent or uncertain consideration).

#### *Deemed market value*

### **22 Deemed market value where transaction involves connected company**

- (1) This section applies where the buyer is a company and—
  - (a) the seller is connected with the buyer, or
  - (b) some or all of the consideration for the transaction consists of the issue or transfer of shares in a company with which the seller is connected.
- (2) The chargeable consideration for the transaction is to be taken to be not less than—
  - (a) the market value of the subject-matter of the transaction as at the effective date of the transaction, and
  - (b) if the acquisition is the grant of a lease, the rent.
- (3) In this section—

“company” means a body corporate,  
“shares” includes stock and the reference to shares in a company includes reference to securities issued by a company.
- (4) Where this section applies, paragraph 1 of schedule 1 (exemption of transactions for which there is no chargeable consideration) does not apply.
- (5) But this section has effect subject to any other provision affording exemption or relief from the tax.
- (6) This section is subject to the exceptions provided for in section 23.

### **23 Exceptions from deemed market value**

- (1) Section 22 does not apply in the following cases.

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- (2) In the following provisions “the company” means the company that is the buyer in relation to the transaction in question.
- (3) Case 1 is where immediately after the transaction the company holds the property as trustee in the course of a business carried on by it that consists of or includes the management of trusts.
- (4) Case 2 is where—
- (a) immediately after the transaction the company holds the property as trustee, and
  - (b) the seller is connected with the company only because of section 1122(6) of the Corporation Tax Act 2010 (c.4).
- (5) Case 3 is where—
- (a) the seller is a company and the transaction is, or is part of, a distribution of the assets of that company (whether or not in connection with its winding up), and
  - (b) it is not the case that—
    - (i) the subject-matter of the transaction, or
    - (ii) an interest from which that interest is derived,
 has, within the period of 3 years immediately preceding the effective date of the transaction, been the subject of a transaction in respect of which group relief was claimed by the seller.

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## PART 3

### CALCULATION OF TAX AND RELIEFS

#### *Amount of tax chargeable*

#### **24 Tax rates and tax bands**

- (1) The Scottish Ministers must, by order, specify the tax bands and the percentage tax rates for each band—
- (a) for residential property transactions, and
  - (b) for non-residential property transactions.
- (2) An order under subsection (1) must specify, in the case of each type of transaction—
- (a) a nil rate tax band and at least two other tax bands,
  - (b) the tax rate for the nil rate tax band, which must be 0%, and
  - (c) the tax rate for each tax band above the nil rate tax band so that the rate for each band is higher than the rate for the band below it.
- (3) A transaction is a residential property transaction if—
- (a) the main subject-matter of the transaction consists entirely of an interest in land that is residential property, or

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- (b) where the transaction is one of a number of linked transactions, the main subject-matter of each transaction consists entirely of such an interest.
- (4) A transaction is a non-residential property transaction if—
- (a) the main subject-matter of the transaction consists of or includes an interest in land that is not residential property, or
  - (b) where the transaction is one of a number of linked transactions, the main subject-matter of any transaction consists of or includes such an interest.
- (5) In the case of a transaction for which the whole or part of the chargeable consideration is rent, see paragraph 3 of schedule 19 (leases) for the tax rates and tax bands applicable to such consideration.

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## 25 Amount of tax chargeable

- (1) The amount of tax chargeable in respect of a chargeable transaction is to be determined as follows.
- Step 1* For each tax band applicable to the type of transaction, multiply so much of the chargeable consideration for the transaction as falls within the band by the tax rate for that band.
- Step 2* Calculate the sum of the amounts reached under Step 1. The result is the amount of tax chargeable.
- (2) In the case of a transaction for which the whole or part of the chargeable consideration is rent this section has effect subject to schedule 19 (leases).
- (3) This section is subject to—
- (a) schedule 5 (multiple dwellings relief),
  - (b) schedule 9 (crofting community right to buy relief),
  - (c) Part 3 of schedule 11 (acquisition relief).

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## 26 Amount of tax chargeable: linked transactions

- (1) Where a chargeable transaction is one of a number of linked transactions, the amount of tax chargeable in respect of the transaction is to be determined as follows.
- Step 1* For each tax band applicable to the type of transaction, multiply so much of the relevant consideration as falls within the band by the tax rate for that band.
- Step 2* Calculate the sum of the amounts reached under Step 1. The result is the total tax chargeable.
- Step 3* Divide the chargeable consideration for the transaction by the relevant consideration.
- Step 4* Multiply the total tax chargeable by the fraction reached under Step 3. The result is the amount of tax chargeable.

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- (2) The relevant consideration is the total of the chargeable consideration for all the linked transactions.
- (3) In the case of a transaction for which the whole or part of the chargeable consideration is rent this section has effect subject to schedule 19 (leases).
- (4) This section is subject to—
  - (a) schedule 5 (multiple dwellings relief),
  - (b) schedule 9 (crofting community right to buy relief),
  - (c) Part 3 of schedule 11 (acquisition relief).

### *Reliefs*

#### **27 Reliefs**

- (1) The following schedules provide for reliefs from the tax in relation to certain land transactions—
  - schedule 3 (sale and leaseback relief),
  - schedule 4 (relief for certain acquisitions of residential property),
  - schedule 5 (multiple dwellings relief),
  - schedule 6 (relief for certain acquisitions by registered social landlords),
  - schedule 7 (alternative property finance relief),
  - schedule 8 (relief for alternative finance investment bonds),
  - schedule 9 (crofting community right to buy relief),
  - schedule 10 (group relief),
  - schedule 11 (reconstruction relief and acquisition relief),
  - schedule 12 (relief for incorporation of limited liability partnership),
  - schedule 13 (charities relief),
  - schedule 14 (relief for certain compulsory purchases),
  - schedule 15 (relief for compliance with planning obligations),
  - schedule 16 (public bodies relief).
- (2) Any relief under any of those schedules must be claimed in the first return made in relation to the transaction or in an amendment of that return.
- (3) The Scottish Ministers may, by order, modify this Act so as to—
  - (a) add a relief,
  - (b) modify an existing relief, or
  - (c) remove a relief.
- (4) An order under subsection (3) may also modify any other enactment that the Scottish Ministers consider appropriate.

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*Liability for tax***28 Liability for tax**

- (1) The buyer is liable to pay the tax in respect of a chargeable transaction.
- (2) As to the liability of buyers acting jointly, see—
  - (a) section 48(2)(c) (joint buyers),
  - (b) paragraph 3 of schedule 17 (partnerships), and
  - (c) paragraphs 15 to 18 of schedule 18 (trusts).

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**PART 4**

## RETURNS AND PAYMENT

**CHAPTER 1**

## RETURNS

VALID FROM 01/04/2015

*Duty to make return***29 Duty to make return**

- (1) The buyer in a notifiable transaction must make a return to the Tax Authority.
- (2) If the transaction is a chargeable transaction, the return must include an assessment of the tax that, on the basis of the information contained in the return, is chargeable in respect of the transaction.
- (3) The return must be made before the end of the period of 30 days beginning with the day after the effective date of the transaction.

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### *Notifiable transactions*

#### **30 Notifiable transactions**

- (1) A land transaction is notifiable unless it is—
- (a) an exempt transaction,
  - (b) an acquisition of the ownership of land where the chargeable consideration for the acquisition is less than £40,000,
  - (c) an acquisition of a chargeable interest other than a major interest in land where the chargeable consideration does not exceed the nil rate tax band applicable to the transaction, or
  - (d) an acquisition specified in subsection (2).
- (2) The following transactions in relation to leases are also not notifiable—
- (a) the grant of a lease for a period of 7 years or more where—
    - (i) any chargeable consideration other than rent is less than £40,000, and
    - (ii) the relevant rent is less than £1,000,
  - (b) the assignation or renunciation of a lease where—
    - (i) the lease was originally granted for a period of 7 years or more, and
    - (ii) the chargeable consideration for the assignation or renunciation is less than £40,000,
  - (c) the grant of a lease for a period of less than 7 years where the chargeable consideration does not exceed the nil rate tax band applicable to the transaction, and
  - (d) the assignation or renunciation of a lease where—
    - (i) the lease was originally granted for a period of less than 7 years, and
    - (ii) the chargeable consideration for the assignation or renunciation does not exceed the nil rate tax band applicable to the transaction.
- (3) In subsections (1) and (2), “chargeable consideration”—
- (a) where the transaction is one of a number of linked transactions, means the total of the chargeable consideration for all the linked transactions,
  - (b) includes any amount in respect of which tax would be chargeable but for a relief.
- (4) In subsection (2)(a)(ii), “relevant rent” means—
- (a) the annual rent (as defined in paragraph 9(7) of schedule 19), or
  - (b) in the case of the grant of a lease to which paragraph 29 of schedule 17 applies, the relevant chargeable proportion of the annual rent (as calculated in accordance with that paragraph).
- (5) The exceptions in subsections (1)(a) to (d) and (2) do not apply where the transaction is a transaction that a person is treated as entering into by virtue of section 11(3).
- (6) This section has effect subject to—

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- (a) section 10(3) (substantial performance without completion),
  - (b) paragraph 17(6) of schedule 2 (arrangements involving public or educational bodies),
  - (c) paragraph 12 of schedule 7 (alternative property finance), and
  - (d) paragraph 41 of schedule 17 (transfer of partnership interests).
- (7) The Scottish Ministers may, by order, amend subsection (1)(b), (2)(a)(i) or (b)(ii) so as to substitute, for the figure for the time being specified there, a different figure.

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### *Adjustments and further returns*

#### **31 Return where contingency ceases or consideration ascertained**

- (1) The buyer in a land transaction must make a return to the Tax Authority if—
- (a) section 18(2) or 19(2) (contingent, uncertain or unascertained consideration) applies in relation to the transaction (or to any transaction in relation to which it is a linked transaction),
  - (b) an event mentioned in subsection (2) occurs, and
  - (c) the effect of the event is that—
    - (i) the transaction becomes notifiable,
    - (ii) additional tax is payable in respect of the transaction, or
    - (iii) tax is payable where none was payable before.
- (2) The events are—
- (a) in the case of contingent consideration, the contingency occurs or it becomes clear that it will not occur, or
  - (b) in the case of uncertain or unascertained consideration, an amount relevant to the calculation of the consideration, or any instalment of consideration, becomes ascertained.
- (3) The return must be made before the end of the period of 30 days beginning with the day after the date on which the event occurred.
- (4) The return must include an assessment of the tax that, on the basis of the information contained in the return, is chargeable in respect of the transaction.
- (5) The tax so chargeable is to be calculated by reference to the tax rates and tax bands in force at the effective date of the transaction.
- (6) This section does not apply so far as the consideration consists of rent (see schedule 19 (leases)) unless the effect of the event mentioned in subsection (2) is that the transaction becomes notifiable.

#### **32 Contingency ceases or consideration ascertained: less tax payable**

- (1) The buyer in a land transaction may take one of the steps mentioned in subsection (2) to obtain a repayment of tax if—

**Status:** Point in time view as at 31/07/2013. This version of this Act contains provisions that are not valid for this point in time.

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

- (a) section 18(2) or 19(2) (contingent, uncertain and unascertained consideration) applies in relation to the transaction (or to any transaction in relation to which it is a linked transaction),
  - (b) an event mentioned in section 31(2) occurs, and
  - (c) the effect of the event is that less tax is payable in respect of the transaction than has already been paid.
- (2) The steps are—
- (a) within the period allowed for amendment of the land transaction return, amend the return accordingly,
  - (b) after the end of that period (if the land transaction return is not so amended), make a claim to the Tax Authority for repayment of the amount overpaid.
- (3) This section does not apply so far as the consideration consists of rent (see schedule 19 (leases)).

### **33 Further return where relief withdrawn**

- (1) The buyer in a land transaction must make a further return to the Tax Authority if relief is withdrawn to any extent under—
- (a) Part 5 of schedule 4 (relief for certain acquisitions of residential property),
  - (b) Part 5 of schedule 5 (transfer of multiple dwellings),
  - (c) Part 4 of schedule 8 (relief for alternative finance investment bonds),
  - (d) Part 3 of schedule 10 (group relief),
  - (e) Part 4 of schedule 11 (reconstruction relief and acquisition relief), or
  - (f) paragraph 4 of schedule 13 (charities relief).
- (2) The return must include an assessment of the amount of tax that, on the basis of the information contained in the return, is chargeable.
- (3) The return must be made before the end of the period of 30 days beginning with the day after the date on which the relevant event occurred.
- (4) The relevant event is—
- (a) in relation to the withdrawal of relief under schedule 4, an event mentioned in paragraph 14(a), (b) or (c) or 16(a), (b) or (c) of that schedule,
  - (b) in relation to the withdrawal of relief under schedule 5, an event mentioned in paragraph 16(a) or 18(a) of that schedule,
  - (c) in relation to the withdrawal of relief under schedule 8, an event mentioned in paragraph 16 of that schedule,
  - (d) in relation to the withdrawal of group relief, the buyer ceasing to be a member of the same group as the seller within the meaning of schedule 10,
  - (e) in relation to the withdrawal of reconstruction relief or acquisition relief, the change of control of the acquiring company mentioned in paragraph 13 of schedule 11,
  - (f) in relation to the withdrawal of charities relief, a disqualifying event as defined in paragraphs 5 and 6 of schedule 13.



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

### 34 Return or further return in consequence of later linked transaction

- (1) This section applies where the effect of a transaction (“the later transaction”) that is linked to an earlier transaction is that—
  - (a) the earlier transaction becomes notifiable,
  - (b) additional tax is payable in respect of the earlier transaction, or
  - (c) tax is payable in respect of the earlier transaction where none was payable before.
- (2) The buyer in the earlier transaction must make a return (or further return) in respect of that transaction.
- (3) The return must be made before the end of the period of 30 days beginning with the day after the effective date of the later transaction.
- (4) The return must include an assessment of the amount of tax that, on the basis of the information contained in the return, is chargeable as a result of the later transaction.
- (5) The tax so chargeable is to be calculated by reference to the tax rates and tax bands in force at the effective date of the earlier transaction.
- (6) This section does not affect any requirement to make a land transaction return in respect of the later transaction.

*Returns: form and content etc.*

VALID FROM 01/04/2015

### 35 Form and content

- (1) A return under this Act must—
  - (a) be in the form specified by the Tax Authority, <sup>F1</sup>...
  - (b) contain the information specified by the Tax Authority [<sup>F2</sup>and
  - (c) be made in such manner as specified by the Tax Authority.]
- (2) The Tax Authority may specify different forms and information for—
  - (a) different kinds of return, and
  - (b) different kinds of transaction.
- (3) The return is treated as containing any information provided by the buyer for the purpose of completing the return.

#### Textual Amendments

**F1** Word in s. 35(1) repealed (7.11.2014) by [Revenue Scotland and Tax Powers Act 2014 \(asp 16\)](#), s. 260(2), [Sch. 4 para. 9\(6\)\(a\)](#) (with ss. 257-259); S.S.I. 2014/278, art. 2, Sch.

**F2** S. 35(1)(c) and word inserted (7.11.2014) by [Revenue Scotland and Tax Powers Act 2014 \(asp 16\)](#), s. 260(2), [Sch. 4 para. 9\(6\)\(b\)](#) (with ss. 257-259); S.S.I. 2014/278, art. 2, Sch.

*Status: Point in time view as at 31/07/2013. This version of this Act contains provisions that are not valid for this point in time.*

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

VALID FROM 01/04/2015

### 36 Declaration

- (1) A return under this Act must also include a declaration by the buyer that the return is, to the best of the buyer's knowledge, correct and complete.
- (2) However, where the buyer authorises an agent to complete the return—
  - (a) the agent must certify in the return that the buyer has declared that the information provided in the return, with the exception of the relevant date, is to the best of the buyer's knowledge, correct and complete, and
  - (b) the return must include a declaration by the agent that the relevant date provided in the return is, to the best of the agent's knowledge, correct.
- (3) The relevant date is—
  - (a) in relation to a return under section 29, the effective date of the transaction,
  - (b) in relation to a return under section 31, the date of the event as a result of which the return is required,
  - (c) in relation to a return under section 33, the date on which the relevant event occurred,
  - (d) in relation to a return under section 34, the effective date of the later transaction,
  - (e) in relation to a return under paragraph 10 of schedule 19 (leases), the review date (see paragraph 10(7)),
  - (f) in relation to a return under paragraph 11 of that schedule, the day on which the lease is assigned or terminated,
  - (g) in relation to a return under paragraph 20 of that schedule, the date on which the 1 year period mentioned in paragraph 20(3) ended,
  - (h) in relation to a return under paragraph 22 of that schedule, the date on which the deemed fixed term mentioned in paragraph 22(2) ended,
  - (i) in relation to a return under paragraph 30 of that schedule, the date from which the variation mentioned in that paragraph takes effect.

VALID FROM 01/04/2015

### 37 Amendment

- (1) The buyer in a land transaction may amend a return relating to the transaction by notice to the Tax Authority.
- (2) The notice must—
  - (a) be in the form specified by the Tax Authority, and
  - (b) contain the information specified by the Tax Authority.
- (3) An amendment may not be made more than 12 months after the last day of the period within which the return must be made.

**Status:** Point in time view as at 31/07/2013. This version of this Act contains provisions that are not valid for this point in time.

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

VALID FROM 01/04/2015

*Miscellaneous***38 Interpretation**

References in this Act to the making of a return are to the making of a return that—

- (a) complies with the requirements of sections 35 and 36, and
- (b) contains an assessment of the tax chargeable in respect of the transaction (if one is required).

**39 Power to amend period in which returns must be made**

(1) The Scottish Ministers may, by order, amend a provision listed in subsection (2) so as to substitute, for the period for the time being specified there, a different period.

(2) The provisions are—

- (a) section 29(3),
- (b) section 31(3),
- (c) section 33(3),
- (d) in schedule 19 (leases)—
  - (i) paragraph 10(3),
  - (ii) paragraph 11(3),
  - (iii) paragraph 20(3)(a),
  - (iv) paragraph 22(2)(a),
  - (v) paragraph 30(2)(a).

**CHAPTER 2**

## PAYMENT OF TAX

VALID FROM 01/04/2015

**40 Payment of tax**

(1) Tax payable in respect of a land transaction must be paid to the Tax Authority.

(2) Where a return is to be made under any of the following provisions, the tax or additional tax payable must be paid at the same time as the return is made—

- (a) section 29 (land transaction return),
- (b) section 31 (return where contingency ceases or consideration ascertained),
- (c) section 33 (further return where relief withdrawn),
- (d) section 34 (return or further return in consequence of later linked transaction), or
- (e) in schedule 19 (leases)—

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

- (i) paragraph 10 (return on 3-yearly review),
  - (ii) paragraph 11 (return on assignation or termination of lease),
  - (iii) paragraph 20 (return where lease for fixed term continues after end of term),
  - (iv) paragraph 22 (return in relation to lease for indefinite term),
  - (v) paragraph 30 (transactions which become notifiable on variation of rent or term).
- (3) Tax payable as a result of the amendment of a return must be paid at the same time as the amendment is made.
- (4) For the purposes of subsections (2) and (3), tax is treated as paid if arrangements satisfactory to the Tax Authority are made for payment of the tax.
- (5) This section is subject to section 41 (application to defer payment of tax in case of contingent or uncertain consideration).

VALID FROM 01/04/2015

#### **41 Application to defer payment in case of contingent or uncertain consideration**

- (1) The buyer may apply to the Tax Authority to defer payment of tax in a case where—
- (a) the amount of tax payable depends on the amount or value of chargeable consideration that, at the effective date of the transaction, is contingent or uncertain, and
  - (b) the chargeable consideration falls to be paid or provided on one or more future dates of which at least one falls, or may fall, more than 6 months after the effective date of the transaction.

<sup>F3</sup>(2) .....

- (3) An application under this section does not affect the buyer's obligations as regards payment of tax in respect of chargeable consideration that—
- (a) has already been paid or provided at the time the application is made, or
  - (b) is not contingent and whose amount is ascertained or ascertainable at the time the application is made.
- (4) Subsection (3) applies as regards both the time of payment and the calculation of the amount payable.
- (5) Unless the Scottish Ministers provide otherwise by order, this section does not apply to consideration so far as it consists of rent.

#### **Textual Amendments**

- F3** S. 41(2) repealed (7.11.2014) by Revenue Scotland and Tax Powers Act 2014 (asp 16), s. 260(2), Sch. 4 para. 9(9) (with ss. 257-259); S.S.I. 2014/278, art. 2, Sch.

**Status:** Point in time view as at 31/07/2013. This version of this Act contains provisions that are not valid for this point in time.

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

## **42 Regulations about applications under section 41**

- (1) The Scottish Ministers may, by regulations, make further provision about applications under section 41.
- (2) The regulations may in particular—
  - (a) specify when an application is to be made,
  - (b) require the buyer to provide such information as the Tax Authority may reasonably require for the purposes of determining whether to accept an application,
  - (c) specify the grounds on which an application may be refused,
  - (d) specify the procedure for reaching a decision on the application,
  - (e) make provision for postponing payment of tax when an application has been made,
  - (f) provide for the effect of accepting an application,
  - (g) require the buyer to make a return or further return, and to make such payments or further payments of tax as may be specified, in such circumstances as may be specified.
- (3) Regulations under this section may also provide that where the circumstances in subsection (4) arise—
  - (a) sections 31 and 32 (adjustment where contingency ceases or consideration is ascertained) do not apply in relation to the payment, and
  - (b) instead, any necessary adjustment is to be made in accordance with the regulations.
- (4) The circumstances are—
  - (a) a payment is made as mentioned in section 41(3), and
  - (b) an application under this section is accepted in respect of other chargeable consideration taken into account in calculating the amount of that payment.

VALID FROM 01/04/2015

## **CHAPTER 3**

### **REGISTRATION OF LAND TRANSACTIONS ETC.**

## **43 Return to be made and tax paid before application for registration**

- (1) The Keeper of the Registers of Scotland (“the Keeper”) may not accept an application for registration of a document effecting or evidencing a notifiable transaction unless—
  - (a) a land transaction return has been made in relation to the transaction, and
  - (b) any tax payable in respect of the transaction has been paid.
- (2) The Tax Authority must provide the Keeper with such information as the Keeper reasonably requires to comply with subsection (1).
- (3) In this section, “registration” means registration or recording in any register under the management and control of the Keeper.

**Status:** Point in time view as at 31/07/2013. This version of this Act contains provisions that are not valid for this point in time.

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

- (4) For the purposes of subsection (1)(b), tax is treated as paid if arrangements satisfactory to the Tax Authority are made for the payment of the tax.
- (5) This section is subject to section 41 (application to defer payment of tax in case of contingent or uncertain consideration).

VALID FROM 01/04/2015

## PART 5

### APPLICATION OF ACT TO CERTAIN PERSONS AND BODIES

#### 44 Companies and other organisations

- (1) Everything to be done by an organisation under this Act is to be done by the organisation acting through—
- (a) the proper officer of the organisation, or
  - (b) another person having for the time being the express, implied or apparent authority of the organisation to act on its behalf for the purpose.
- (2) Subsection (1)(b) does not apply where a liquidator has been appointed for the organisation.
- (3) For the purposes of this Act—
- (a) the proper officer of a company is the secretary, or person acting as secretary, of the company,
  - (b) the proper officer of an unincorporated association (or of a company that does not have a proper officer within paragraph (a)) is the treasurer, or person acting as treasurer, of the association or, as the case may be, the company.
- (4) But, where a liquidator or administrator has been appointed for the organisation, the liquidator or, as the case may be, the administrator is the proper officer.
- (5) If two or more persons are appointed to act jointly or concurrently as the administrator of the organisation, the reference to the administrator in subsection (4) is to—
- (a) such one of them as is specified in a notice given to the Tax Authority by those persons for the purposes of this section, or
  - (b) where the Tax Authority is not so notified, such one or more of those persons as the Tax Authority may designate as the proper officer for those purposes.
- (6) In this section, “organisation” means—
- (a) a company,
  - (b) an unincorporated association.

#### 45 Unit trust schemes

- (1) This Act (with the exception of the provisions mentioned in subsection (8)) applies in relation to a unit trust scheme as if—

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

- (a) the trustees were a company, and
  - (b) the rights of the unit holders were shares in the company.
- (2) Each of the parts of an umbrella scheme is regarded for the purposes of this Act as a separate unit trust scheme and the umbrella scheme as a whole is not so regarded.
- (3) An “umbrella scheme” means a unit trust scheme—
- (a) that provides arrangements for separate pooling of the contributions of participants and the profits or income out of which payments are to be made for them, and
  - (b) under which the participants are entitled to exchange rights in one pool for rights in another.
- (4) A “part” of an umbrella scheme means such of the arrangements as relate to a separate pool.
- (5) In this Act—
- “unit trust scheme” has the same meaning as in the Financial Services and Markets Act 2000 (c.8), and
  - “unit holder” means a participant in a unit trust scheme.
- (6) The Scottish Ministers may, by regulations, provide that a scheme of a description specified in the regulations is to be treated as not being a unit trust scheme for the purposes of this Act.
- (7) Section 620 of the Corporation Tax Act 2010 (c.4) (court investment funds treated as authorised unit trusts) applies for the purposes of this Act as it applies for the purposes of that Act, with the substitution for references to an authorised unit trust of references to a unit trust scheme.
- (8) A unit trust scheme is not to be treated as a company for the purposes of schedules 10 (group relief) and 11 (reconstruction relief and acquisition relief).

#### **46 Open-ended investment companies**

- (1) The Scottish Ministers may, by regulations, make such provision as they consider appropriate for securing that the provisions of this Act have effect in relation to—
- (a) open-ended investment companies of such description as may be prescribed in the regulations, and
  - (b) transactions involving such companies,
- in a manner corresponding, subject to such modifications as the Scottish Ministers consider appropriate, to the manner in which they have effect in relation to unit trust schemes and transactions involving such trusts.
- (2) The regulations may, in particular, make provision—
- (a) modifying the operation of any provision in relation to open-ended investment companies so as to secure that arrangements for treating the assets of such a company as assets comprised in separate pools are given an effect corresponding to that of equivalent arrangements constituting the separate parts of an umbrella scheme,
  - (b) treating the separate parts of the undertaking of an open-ended investment company in relation to which such provision is made as distinct companies for the purposes of this Act.

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- (3) In this section—  
“open-ended investment company” has the meaning given by section 236 of the Financial Services and Markets Act 2000 (c.8),  
“umbrella scheme” has the same meaning as in section 45.

#### **47 Residential property holding companies**

- (1) The Scottish Ministers may, by regulations, provide for qualifying transfers of interests in residential property holding companies—
- (a) to be treated as land transactions, and
  - (b) to be chargeable transactions.
- (2) A “residential property holding company” means a company—
- (a) whose sole or main activity is holding or investing in chargeable interests in residential property,
  - (b) whose property consists of or includes chargeable interests in residential property, and
  - (c) whose shares are not listed on a recognised stock exchange.
- (3) For the purposes of subsection (2)(a) “chargeable interests” includes any interest which would be a chargeable interest but for the fact that it relates to land outwith Scotland.
- (4) A “qualifying transfer” is a transfer of an interest in such a company that results in the transferee acquiring the right to occupy some or all of the company's residential property.
- (5) Regulations under subsection (1) may in particular make provision, or further provision, about—
- (a) the kinds of interest, transfer of which is a qualifying transfer,
  - (b) the kinds of transfers which are and are not qualifying transfers,
  - (c) the rights which are rights to occupy a company's residential property for the purposes of such transfers,
  - (d) the chargeable consideration in the case of such transfers,
  - (e) the tax bands and tax rates that are to apply to such transfers (including specifying tax bands and tax rates for such transfers),
  - (f) the person who is to be liable to pay the tax,
  - (g) the application or disapplication of any reliefs in relation to such transfers.
- (6) Regulations under subsection (1) may also provide that, for the purposes of this section, “residential property” includes such other kinds of property as may be specified in the regulations.
- (7) Regulations under subsection (1) may modify any enactment (including this Act).

#### **48 Joint buyers**

- (1) This section applies to a land transaction where there are two or more buyers who are or will be jointly entitled to the interest acquired.
- (2) The general rules are that—



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- (a) any obligation of the buyer under this Act in relation to the transaction is an obligation of the buyers jointly but may be discharged by any of them,
  - (b) anything required or authorised by this Act to be done in relation to the buyer must be done by or in relation to all of them, and
  - (c) any liability of the buyer under this Act in relation to the transaction (in particular, any liability arising by virtue of the failure to fulfil an obligation within paragraph (a)), is a joint and several liability of the buyers.
- (3) The general rules are subject to the following provisions—
- (a) if a return is required in relation to the transaction, a single return must be made,
  - (b) the declaration required by section 36(1) or (2)(a) (declaration that return is complete and correct) must be made by all the buyers.
- (4) This section has effect subject to—
- (a) the provisions of schedule 17 (partnerships), and
  - (b) paragraphs 15 to 18 of schedule 18 (trusts).

#### **49 Partnerships**

- (1) Schedule 17 makes provision about the application of this Act in relation to partnerships.
- (2) The Scottish Ministers may, by regulations, modify schedule 17.

#### **50 Trusts**

- (1) Schedule 18 makes provision about the application of this Act in relation to trusts.
- (2) The Scottish Ministers may, by regulations, modify schedule 18.

#### **51 Persons acting in a representative capacity etc.**

- (1) The personal representatives of a person who is the buyer in a land transaction—
  - (a) are responsible for discharging the obligations of the buyer under this Act in relation to the transaction, and
  - (b) may deduct any payment made by them under this Act out of the assets and effects of the deceased person.
- (2) A receiver appointed by a court in the United Kingdom having the direction and control of any property is responsible for discharging any obligations under this Act in relation to a transaction affecting that property as if the property were not under the direction and control of the court.

**Status:** Point in time view as at 31/07/2013. This version of this Act contains provisions that are not valid for this point in time.

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

VALID FROM 07/11/2014

## PART 6

### APPLICATION OF ACT TO LEASES AND LICENCES

#### *Leases*

#### **52 Application of this Act to leases**

- (1) Schedule 19 makes provision about the application of this Act to chargeable transactions involving leases, including provision for the calculation of the tax chargeable in relation to such transactions.
- (2) The Scottish Ministers may, by regulations, modify schedule 19.

#### *Licences*

#### **53 Application of this Act to licences**

- (1) The Scottish Ministers may, by regulations, prescribe descriptions of non-residential licences to occupy property, transactions in relation to which are to be land transactions for the purposes of this Act.
- (2) The regulations may also make provision, among other things—
  - (a) for transactions, which result in the acquisition of interests in licences, to be land transactions,
  - (b) for what the chargeable consideration is to be in relation to a licence,
  - (c) for the determination of the amount or value of that chargeable consideration,
  - (d) for the calculation of the tax chargeable,
  - (e) specifying that certain land transactions relating to a licence are not to be notifiable under section 30.
- (3) Regulations under this section may modify any enactment (including this Act).

## PART 7

### GENERAL AND INTERPRETATION

#### *The Tax Authority*

#### **54 The Tax Authority**

- (1) For the purposes of this Act, the Tax Authority is the Scottish Ministers.
- (2) The Scottish Ministers may, by order, amend subsection (1) to provide that another person is the Tax Authority.

**Status:** Point in time view as at 31/07/2013. This version of this Act contains provisions that are not valid for this point in time.

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

## 55 Delegation of functions to Keeper

- (1) The Tax Authority may delegate the exercise of any of its functions under this Act to the Keeper of the Registers of Scotland.
- (2) But subsection (1) does not apply to any function of making an order or regulations.
- (3) A delegation under this section may be varied or revoked at any time.
- (4) A delegation under this section does not affect the Tax Authority's responsibility for the exercise of any functions delegated or the Authority's ability to carry out such functions.
- (5) The Tax Authority may reimburse the Keeper for any expenditure incurred which is attributable to the exercise by the Keeper of functions delegated under this section.

VALID FROM 01/04/2015

## 56 Review and appeal

- (1) The Scottish Ministers may, by regulations, make provision for—
  - (a) the review by the Tax Authority, on the application of a specified person, of any specified kind of decision by the Tax Authority,
  - (b) the appeal by a specified person to a tribunal or court against any specified kind of decision by the Tax Authority.
- (2) Regulations under this section may modify any provision made by or under this Act.
- (3) In this section, “specified” means specified in the regulations.

VALID FROM 01/04/2015

### *Linked transactions*

## 57 Linked transactions

- (1) Transactions are linked for the purposes of this Act if they form part of a single scheme, arrangement or series of transactions between the same seller and buyer or, in either case, persons connected with them.
- (2) Where there are two or more linked transactions with the same effective date, the buyer, or all of the buyers if there is more than one, may make a single return as if all of those transactions that are notifiable were a single notifiable transaction.
- (3) Where two or more buyers make a single return in respect of linked transactions, section 48 applies as if—
  - (a) the transaction in question were a single transaction, and
  - (b) those buyers were buyers acting jointly.
- (4) This section is subject to section 13(1) (exchanges).

**Status:** Point in time view as at 31/07/2013. This version of this Act contains provisions that are not valid for this point in time.

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

VALID FROM 01/04/2015

### *Connected persons*

#### **58 Connected persons**

Section 1122 of the Corporation Tax Act 2010 (c.4) (connected persons) has effect for the purposes of the following provisions—

- (a) section 14,
- (b) section 22,
- (c) section 23,
- (d) section 57,
- (e) paragraphs 1, 11 and 13 of schedule 2,
- (f) schedule 4,
- (g) Part 5 of schedule 5,
- (h) schedule 8,
- (i) schedule 17 (but see paragraph 49),
- (j) paragraph 17 of schedule 19.

VALID FROM 07/11/2014

### *Interpretation*

#### **59 Meaning of “residential property”**

- (1) In this Act “residential property” means—
  - (a) a building that is used or is suitable for use as a dwelling, or is in the process of being constructed or adapted for such use,
  - (b) land that is or forms part of the garden or grounds of a building within paragraph (a) (including any building or other structure on such land), or
  - (c) an interest in or right over land that subsists for the benefit of a building within paragraph (a) or of land within paragraph (b).
- (2) Accordingly, “non-residential property” means any property that is not residential property.
- (3) For the purposes of subsection (1) a building used for any of the following purposes is used as a dwelling—
  - (a) residential accommodation for school pupils,
  - (b) residential accommodation for students, other than accommodation falling within subsection (4)(b),
  - (c) residential accommodation for members of the armed forces,
  - (d) an institution that is the sole or main residence of at least 90% of its residents and does not fall within any of paragraphs (a) to (f) of subsection (4).
- (4) For the purposes of subsection (1) a building used for any of the following purposes is not used as a dwelling—

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- (a) a home or other institution providing residential accommodation for children,
  - (b) a hall of residence for students in further or higher education,
  - (c) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder,
  - (d) a hospital or hospice,
  - (e) a prison or similar establishment,
  - (f) a hotel or inn or similar establishment.
- (5) Where a building is used for a purpose specified in subsection (4), no account is to be taken for the purposes of subsection (1)(a) of its suitability for any other use.
- (6) Where a building that is not in use is suitable for use for at least one of the purposes specified in subsection (3) and at least one of those specified in subsection (4)—
- (a) if there is one such use for which it is most suitable, or if the uses for which it is most suitable are all specified in the same paragraph, no account is to be taken for the purposes of subsection (1)(a) of its suitability for any other use,
  - (b) otherwise, the building is to be treated for those purposes as suitable for use as a dwelling.
- (7) In this section “building” includes part of a building.
- (8) Where six or more separate dwellings are the subject of a single transaction involving the transfer of a major interest in, or the grant of a lease over, them, then, for the purposes of this Act as it applies in relation to that transaction, those dwellings are treated as not being residential property.
- (9) The Scottish Ministers may, by order—
- (a) amend subsections (3) and (4) so as to change or clarify the cases where use of a building is, or is not to be, use of a building as a dwelling for the purposes of subsection (1),
  - (b) amend or repeal subsection (8).

VALID FROM 01/04/2015

## 60 Meaning of “major interest” in land

References in this Act 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.

VALID FROM 01/04/2015

## 61 Meaning of “subject-matter” and “main subject-matter”

References in this Act to the subject-matter of a land transaction or a contract are to the chargeable interest acquired (the “main subject-matter”) by virtue of

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the transaction or contract, together with any interest or right pertaining to it that is acquired with it.

VALID FROM 01/04/2015

## 62 Meaning of “market value”

For the purpose of this Act “market value” is to be determined as for the purposes of the Taxation of Chargeable Gains Act 1992 (c.12) (see sections 272 to 274 of that Act).

VALID FROM 01/04/2015

## 63 Meaning of “effective date” of a transaction

- (1) Except as otherwise provided, the effective date of a land transaction for the purposes of this Act is—
- (a) the date of completion, or
  - (b) such alternative date as the Scottish Ministers may prescribe by regulations.
- (2) Other provision as to the effective date of certain land transactions is made by—
- (a) section 10(2) (substantial performance of contract without [F4 completion]),
  - (b) section 11(4) (substantial performance of contract requiring conveyance to third party),
  - (c) section 12(4) (options and rights of pre-emption), and
  - (d) paragraph 25(2) of schedule 19 (agreement for lease substantially performed etc.).

### Textual Amendments

- F4** Word in s. 63(2)(a) substituted (7.11.2014) by [Revenue Scotland and Tax Powers Act 2014 \(asp 16\)](#), s. 260(2), [Sch. 4 para. 9\(15\)](#) (with ss. 257-259); S.S.I. 2014/278, art. 2, Sch.

VALID FROM 01/04/2015

## 64 Meaning of “completion”

- (1) In this Act, “completion” means—
- (a) in relation to a lease, when it is executed by the parties or constituted by any means,
  - (b) in relation to any other transaction, the settlement of the transaction.
- (2) References to completion are to completion of the land transaction proposed, between the same parties, in substantial conformity with the contract.

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VALID FROM 01/04/2015

## 65 General interpretation

In this Act—

- “acquisition relief” means relief under Part 3 of schedule 11,
- “charities relief” means relief under schedule 13,
- “company” means (except as otherwise expressly provided) a body corporate other than a partnership,
- “contract” includes any agreement,
- “conveyance” includes any instrument,
- “employee” includes an office-holder and related expressions have a corresponding meaning,
- “group relief” means relief under schedule 10,
- “jointly entitled” means entitled as joint owners or common owners,
- “land transaction return” means a return under section 29(1),
- “personal representatives”, in relation to a person, include that person's executors,
- “reconstruction relief” means relief under Part 2 of schedule 11,
- “registered social landlord” means a body registered in the register maintained under section 20(1) of the Housing (Scotland) Act 2010 (asp 17),
- “the tax” means land and buildings transaction tax.

VALID FROM 01/04/2015

## 66 Index of defined expressions

Schedule 20 contains an index of expressions defined or otherwise explained in this Act.

## PART 8

### FINAL PROVISIONS

#### *Ancillary provision*

## 67 Ancillary provision

- (1) The Scottish Ministers may, by order, make such incidental, supplementary, consequential, transitory, transitional or saving provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision made by or under this Act.
- (2) An order under subsection (1) may modify any enactment (including this Act).

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### *Subordinate legislation*

## 68 Subordinate legislation

- (1) Any power conferred by this Act on the Scottish Ministers to make an order or regulations includes the power to make—
  - (a) different provision for different cases or descriptions of case or for different purposes,
  - (b) such incidental, supplementary, consequential, transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient.
- (2) Orders and regulations under the following provisions are subject to the affirmative procedure—
  - (a) section 5(4),
  - (b) section 24(1) (but only the first order),
  - (c) section 27(3),
  - (d) section 49(2),
  - (e) section 50(2),
  - (f) section 52(2),
  - (g) section 53(1),
  - (h) section 54(2),
  - (i) section 59(9),
  - (j) paragraph 8 of schedule 1,
  - (k) paragraph 3 of schedule 19 (but only the first order),
  - (l) paragraph 7(1) of that schedule.
- (3) Orders and regulations under the following provisions which add to, replace or omit the text of any Act (including this Act) are also subject to the affirmative procedure—
  - (a) section 17(2),
  - (b) section 47(1),
  - (c) section 56(1),
  - (d) section 67(1).
- (4) An order mentioned in subsection (5)—
  - (a) must be laid before the Scottish Parliament, and
  - (b) ceases to have effect on the expiry of the period of 28 days beginning with the date on which it is made unless, before the expiry of that period, it is approved by resolution of the Parliament.
- (5) The order is a second or subsequent order under—
  - (a) section 24(1), or
  - (b) paragraph 3 of schedule 19.
- (6) In reckoning any period of 28 days for the purposes of subsection (4)(b), no account is to be taken of any period during which the Scottish Parliament is—
  - (a) dissolved, or
  - (b) in recess for more than 4 days.
- (7) All other orders and regulations under this Act are subject to the negative procedure.
- (8) This section does not apply to an order under section 70(2).



### *Crown application*

#### **69 Crown application**

Nothing in this Act affects Her Majesty in Her private capacity.

### *Commencement and short title*

#### **70 Commencement**

- (1) This section and sections 54, 55, 67, 68, 69 and 71 come into force on the day of Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may, by order, appoint.
- (3) An order under subsection (2) may contain such transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient.

#### **71 Short title**

The short title of this Act is the Land and Buildings Transaction Tax (Scotland) Act 2013.

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VALID FROM 01/04/2015

**SCHEDULE 1**

*(introduced by section 16)*

**EXEMPT TRANSACTIONS**

.....

**SCHEDULE 2**

*(introduced by section 17)*

**CHARGEABLE CONSIDERATION**

.....

**SCHEDULE 3**

*(introduced by section 27)*

**SALE AND LEASEBACK RELIEF**

.....

**SCHEDULE 4**

*(introduced by section 27)*

**RELIEF FOR CERTAIN ACQUISITIONS OF RESIDENTIAL PROPERTY**

.....

**SCHEDULE 5**

*(introduced by section 27)*

**MULTIPLE DWELLINGS RELIEF**

.....

**SCHEDULE 6**

*(introduced by section 27)*

**RELIEF FOR CERTAIN ACQUISITIONS BY REGISTERED SOCIAL LANDLORDS**

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**SCHEDULE 7**

*(introduced by section 27)*

**ALTERNATIVE PROPERTY FINANCE RELIEF**

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**SCHEDULE 8**

*(introduced by section 27)*

**RELIEF FOR ALTERNATIVE FINANCE INVESTMENT BONDS**

.....

**SCHEDULE 9**

*(introduced by section 27)*

**CROFTING COMMUNITY RIGHT TO BUY RELIEF**

.....

**SCHEDULE 10**

*(introduced by section 27)*

**GROUP RELIEF**

.....

VALID FROM 07/11/2014

**SCHEDULE 11**

*(introduced by section 27)*

**RECONSTRUCTION RELIEF AND ACQUISITION RELIEF**

.....

**SCHEDULE 12**

*(introduced by section 27)*

**RELIEF FOR INCORPORATION OF LIMITED LIABILITY PARTNERSHIP**

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VALID FROM 07/11/2014

SCHEDULE 13

*(introduced by section 27)*

CHARITIES RELIEF

.....

SCHEDULE 14

*(introduced by section 27)*

RELIEF FOR CERTAIN COMPULSORY PURCHASES

.....

SCHEDULE 15

*(introduced by section 27)*

RELIEF FOR COMPLIANCE WITH PLANNING OBLIGATIONS

.....

SCHEDULE 16

*(introduced by section 27)*

PUBLIC BODIES RELIEF

.....

SCHEDULE 17

*(introduced by section 49)*

PARTNERSHIPS

.....

SCHEDULE 18

*(introduced by section 50)*

TRUSTS

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SCHEDULE 19

(introduced by section 52)

LEASES

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SCHEDULE 20

(introduced by section 66)

INDEX OF DEFINED EXPRESSIONS

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