

LOCALISM ACT 2011

EXPLANATORY NOTES

COMMENTARY

Part 10: General

Section 233: Tax

464. [Section 233](#) introduces Schedule 24 - Transfers and transfer schemes: tax provisions
465. [Schedule 24](#) makes tax provision in relation to the transfer of property, rights and liabilities from the Office for Tenants and Social Landlords (the Office), the Homes and Communities Agency and the London Development Agency and enables the Treasury to make tax regulations in relation to transfers to permitted authorities under section 17 and transfers to or from a mayoral development corporation.
466. [Paragraph 1](#) of Schedule 24 ensures that the transfer from the Office to the Homes and Communities Agency is tax neutral for income tax and corporation tax purposes.
467. [Paragraph 2](#) defines terms used in Part 2 of the Schedule. In particular it defines a public body and includes a power enabling the Treasury to prescribe a person as a public body for the purposes of Part 2.
468. [Paragraph 3](#) provides continuity of treatment for corporation tax purposes for the computation of profits and losses of a trade on the transfer under a transfer scheme of a trade, or part trade, from the Homes and Communities Agency or the London Development Agency to a public body within the charge to corporation tax
469. [Paragraph 4](#) applies where trading stock of the Homes and Communities Agency or the London Development Agency is transferred to a public body within the charge to corporation tax under a transfer scheme where the transferee does not succeed to the transferor's trade, or part of it. For corporation tax purposes the stock is treated as being disposed of for an amount that would result in no profit or loss being brought into account for the transferor.
470. [Paragraph 5\(1\)](#) provides continuity, for corporation tax purposes, for the transfer under a transfer scheme of a trade loan relationship from the Homes and Communities Agency or the London Development Agency to a public body within the charge to corporation tax. [Paragraph 5\(2\)](#) provides continuity, for corporation tax purposes, for the transfer under a transfer scheme of a non-trade loan relationship from the Homes and Communities Agency or the London Development Agency to a public body.
471. [Paragraph 6](#) ensures that a transfer to a public body under a transfer scheme, that constitutes a capital gains disposal for the Homes and Communities Agency or the London Development Agency, is treated as a disposal giving rise to no gain or loss, and adds the provision to the "no gain/no loss" provisions in section 288(3A) of the Taxation of Chargeable Gains Act 1992.
472. [Paragraph 7](#) prevents stamp duty arising on a transfer scheme under section 191 where the transferee is a public body.

*These notes refer to the Localism Act 2011 (c.20)
which received Royal Assent on 15 November 2011*

473. [Paragraph 8](#) provides for situations where a transfer scheme is modified subsequent to the delivery of a company return causing the company's return to be incorrect. It enables the company to amend its return to correct the error, notwithstanding the normal time limits for doing so, within 12 months of the end of the accounting period in which the modification occurred. Where the company does not do so HM Revenue and Customs may make a discovery assessment or determination within 24 months of the end of the accounting period in which the modification occurred.
474. [Paragraph 9](#) enables the Treasury to make tax regulations in relation to transfer schemes effecting transfers to permitted authorities under Chapter 4 of Part 1 and to or from a mayoral development corporation.

Sections 234 to 241: General

475. The remainder of Part 10 of the Act makes general provisions about pre-commencement consultation and about orders and regulations under the Act and for the Parliamentary or Assembly procedures that apply in relation to such instruments. Schedule 25, introduced by section 237, makes various repeals and revocations consequential to the provisions of the Act, and the Secretary of State and, in relation to Wales, Welsh Ministers are given powers to make further consequential amendments as appropriate. This Part also provides for the extent, commencement and short title of the Act.