

Draft Order laid before the Scottish Parliament under section 68(2)(c) of the Land and Buildings Transaction Tax (Scotland) Act 2013, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2018 No.

LAND AND BUILDINGS TRANSACTION TAX

The Land and Buildings Transaction Tax (First-Time Buyer Relief) (Scotland) Order 2018

Made - - - - 2018
Coming into force - - 30th June 2018

The Scottish Ministers make the following Order in exercise of the powers conferred by section 27(3)(a) of the Land and Buildings Transaction Tax (Scotland) Act 2013⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 68(2)(c) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

PART 1

General

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Land and Buildings Transaction Tax (First-Time Buyer Relief) (Scotland) Order 2018 and comes into force on 30th June 2018.

(2) In this Order “the Act” means the Land and Buildings Transaction Tax (Scotland) Act 2013.

PART 2

First-time buyer relief

Amendment of section 25 of the Act

2. In section 25(3) of the Act (amount of tax chargeable), after paragraph (za)(2) insert—
“(zb) schedule 4A (first-time buyer relief)”.

Amendment of section 27(1) of the Act

3. In section 27(1) of the Act (reliefs), after “schedule 4 (relief for certain acquisitions of residential property),” insert—
“schedule 4A (first-time buyer relief)”.

Amendment of section 65 of and schedule 20 of the Act

- 4.—(1) In section 65 of the Act (general interpretation), after the definition of “employee” insert—

““first-time buyer relief” means relief under schedule 4A.”.

- (2) In schedule 20 of the Act (index of defined expressions), after the entry for “exempt transaction” insert—

“first-time buyer relief	section 65”.
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Insertion of schedule 4A (first-time buyer relief) into the Act

5. After schedule 4 of the Act, insert schedule 4A contained in the schedule of this Order.

Transitional provision

6. The amendments made by articles 2 to 5 apply only in relation to a chargeable transaction in respect of which—
(a) the contract is entered into on or after 9th February 2018; and
(b) the effective date is on or after 30th June 2018.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

(2) Paragraph (za) was inserted by section 2(1)(a) of the Land and Buildings Transaction Tax (Amendment) (Scotland) Act 2016 (asp 11).

SCHEDULE

Article 5

“SCHEDULE 4A

(introduced by section 27)

First-time buyer relief

Eligibility for relief

- 1.—(1) Relief may be claimed in respect of any chargeable transaction if—
- (a) it is an acquisition of a major interest in land (see section 60),
 - (b) the land consists entirely of residential property and includes a dwelling,
 - (c) the buyer, or (if more than one) each of the buyers, is a first-time buyer who intends to occupy the dwelling as the buyer’s only or main residence,
 - (d) the transaction is not one of a number of linked transactions, and
 - (e) the transaction is not one to which schedule 2A (additional amount: transactions relating to second homes etc.) applies.

(2) Sub-paragraph (1)(d) does not apply if the main subject-matter of the other linked transaction is land referred to in paragraphs 26 or 27 of schedule 5 (multiple dwellings relief: what counts as a dwelling) and the dwelling referred to in those paragraphs is the dwelling mentioned in sub-paragraph (1)(b).

(3) Where there is a linked transaction (not subject to the exception in sub-paragraph (2)) following relief being claimed under this paragraph, the relief is withdrawn.

Meaning of first-time buyer

2. In this schedule “first-time buyer” means a person who—
- (a) has not previously been a buyer in relation to an acquisition of a major interest in land which consisted of residential property including a dwelling, and
 - (b) has not previously acquired an interest in a dwelling situated outside Scotland that is equivalent to the interest of a buyer referred to in sub-paragraph (a).

Relief from the tax

3. The relief consists in the tax not being chargeable in respect of the first £175,000 of consideration payable in respect of any chargeable transaction.

Eligibility for relief: alternative finance arrangements

- 4.—(1) This paragraph applies in relation to a land transaction if—
- (a) it is or was an acquisition of a major interest in land,
 - (b) the land consists entirely of residential property and includes a dwelling, and
 - (c) it is or was the first transaction under an alternative finance arrangement entered into between a person and a financial institution.

(2) The person (rather than the institution) is to be treated as the buyer in relation to the transaction for the purposes of paragraphs 1(c) and 2(a) and (b).

- (3) In this paragraph—

“alternative finance arrangement” means an arrangement of a kind mentioned in paragraph 2 or 13 of schedule 7 (alternative property finance relief),

“financial institution” has the meaning it has in those paragraphs (see paragraph 25 of schedule 7), and

“first transaction”, in relation to an alternative finance arrangement, has the meaning given in paragraph 2(a) or (as the case may be) paragraph 13(a)(i) of schedule 7.

Deemed ownership: beneficiaries under certain trusts

5.—(1) This paragraph applies where a person is or was the beneficiary under—

- (a) a bare trust in which the trust property includes or included a major interest in a dwelling, or
- (b) a settlement under the terms of which the beneficiary has or had a relevant interest in any dwelling that is or was part of the trust property.

(2) For the purposes of this schedule, the beneficiary is to be treated as being or having been the buyer or acquirer of the dwelling.

(3) For the purposes of this paragraph, a beneficiary under a settlement has or had a relevant interest in a dwelling that is or was part of the trust property if the beneficiary is or was entitled to—

- (a) occupy the dwelling for life, or
- (b) income (whether net or gross) in respect of the dwelling.

(4) In this paragraph—

“bare trust” has the meaning given in paragraph 19 of schedule 18 (trusts), and

“settlement” has the meaning given in paragraph 21 of schedule 18.

Dwellings owned by trustees or personal representatives

6.—(1) This paragraph applies where a person has or had a major interest in a dwelling as—

- (a) a trustee, or
- (b) a personal representative of another.

(2) For the purposes of this schedule, the person is to be treated as not being or having been the buyer or acquirer of the interest.

Interpretation

7.—(1) In this schedule “major interest” does not include the tenant’s interest in a private residential tenancy regulated by statute under the Rent (Scotland) Act 1984⁽³⁾, the Housing (Scotland) Act 1988⁽⁴⁾ or the Private Housing (Tenancies) (Scotland) Act 2016⁽⁵⁾.

(2) Part 6 of schedule 5 (what counts as a “dwelling”) applies for the purposes of this schedule as it applies for the purposes of schedule 5.”

(3) 1984 c.58.
(4) 1988 c.43.
(5) 2016 asp 19.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Land and Buildings Transaction Tax (Scotland) Act 2013 to insert a new schedule 4A which provides for a targeted relief. The targeted relief is to provide a degree of relief from land and buildings transaction tax for first-time buyers.