

Status: Point in time view as at 01/04/2012.

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Cross Heading: Exclusions from effect of option to tax. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 10

BUILDINGS AND LAND

Textual Amendments

- F1** Sch. 10 substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Buildings and Land\) Order 2008 \(S.I. 2008/1146\)](#), arts. 1(1), 2 (with Sch. 2)

PART 1

THE OPTION TO TAX LAND

Exclusions from effect of option to tax

Dwellings designed or adapted, and intended for use, as dwelling etc

5. (1) An option to tax has no effect in relation to any grant in relation to a building or part of a building if the building or part of the building is designed or adapted, and is intended, for use—
- (a) as a dwelling or number of dwellings, or
 - (b) solely for a relevant residential purpose.
- (2) In relation to the expression “relevant residential purpose”, see the certification requirement imposed as a result of the application of Note (12) of Group 5 of Schedule 8 by paragraph 33 of this Schedule.

Conversion of buildings for use as dwelling etc

6. (1) An option to tax has no effect in relation to any grant made to a person (“the recipient”) in relation to a building or part of a building if the recipient certifies that the building or part of the building is intended for use—
- (a) as a dwelling or number of dwellings, or
 - (b) solely for a relevant residential purpose.
- (2) The recipient must give the certificate to the person making the grant (“the seller”)—
- (a) within the period specified in a public notice, or
 - (b) if the seller agrees, at any later time before the seller makes a supply to which the grant gives rise.
- (3) The recipient may give the certificate to the seller only if the recipient—
- (a) intends to use the building or part of the building as mentioned above,
 - (b) has the relevant conversion intention, or

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- (c) is a relevant intermediary.
- (4) The recipient is a relevant intermediary if—
- (a) the recipient intends to dispose of the relevant interest to another person, and
 - (b) that other person gives the recipient a certificate stating that the other person has the relevant conversion intention or the relevant disposal intention.
- (5) For this purpose a person has the relevant disposal intention if—
- (a) the person intends to dispose of the relevant interest to a third person, and
 - (b) the third person gives a qualifying certificate to the person.
- (6) A person (P) gives a qualifying certificate to another if P gives a certificate to that other person stating that P has the relevant conversion intention or intends to dispose of the relevant interest to another person (Q) who has given a certificate to P stating—
- (a) that Q has the relevant conversion intention, or
 - (b) that Q intends to dispose of the relevant interest to another person who has given a qualifying certificate to Q,
- and so on (in the case of further disposals of the relevant interest).
- (7) In this paragraph—
- “the relevant conversion intention”, in relation to a person, means an intention of the person to convert the building or part of the building with a view to its being used as mentioned above, and
- “the relevant interest”, in relation to any interest in the building or part of the building to which the grant gives rise, means the whole of that interest.
- (8) For the purposes of this paragraph a building or part of a building is not to be regarded as intended for use as a dwelling or number of dwellings at any time if there is intended to be a period before that time during which it will not be so used (but disregarding use for incidental or other minor purposes).
- (9) For the purposes of this paragraph the reference to use solely for a relevant residential purpose is to be read without regard to Note (12) of Group 5 of Schedule 8 (which would otherwise apply as a result of paragraph 33 of this Schedule).
- (10) The Commissioners may publish a notice for the purposes of this paragraph—
- (a) preventing a person from giving any certificate under this paragraph unless the person meets conditions specified in the notice,
 - (b) specifying the form in which any certificate under this paragraph must be made, and
 - (c) specifying any information which any certificate under this paragraph must contain.

Charities

7. (1) An option to tax has no effect in relation to any grant made to a person in relation to a building or part of a building intended by the person for use—
- (a) solely for a relevant charitable purpose, but
 - (b) not as an office.
- (2) In relation to the expression “relevant charitable purpose”, see the certification requirement imposed as a result of the application of Note (12) of Group 5 of Schedule 8 by paragraph 33 of this Schedule.

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Residential caravans

8. (1) An option to tax has no effect in relation to any grant made in relation to a pitch for a residential caravan.
- (2) A caravan is not a residential caravan if residence in it throughout the year is prevented by the terms of a covenant, statutory planning consent or similar permission.

Residential houseboats

9. (1) An option to tax has no effect in relation to any grant made in relation to facilities for the mooring of a residential houseboat.
- “Mooring” includes anchoring or berthing.
- (2) In this paragraph—
- (a) “houseboat” means a houseboat within the meaning of Group 9 of Schedule 8, and
- (b) a houseboat is not a residential houseboat if residence in it throughout the year is prevented by the terms of a covenant, statutory planning consent or similar permission.

Relevant housing associations

10. (1) An option to tax has no effect in relation to any grant made to a relevant housing association in relation to any land if the association certifies that the land is to be used (after any necessary demolition work) for the construction of a building or buildings intended for use—
- (a) as a dwelling or number of dwellings, or
- (b) solely for a relevant residential purpose.
- (2) The association must give the certificate to the person making the grant (“the seller”)—
- (a) within the period specified in a public notice, or
- (b) if the seller agrees, at any later time before the seller makes a supply to which the grant gives rise.
- (3) In this paragraph “relevant housing association” means—
- [^{F2}(za) a private registered provider of social housing,]
- (a) a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (^{F3}... Welsh registered social landlords),
- [^{F4}(b) a registered social landlord within the meaning of the [Housing \(Scotland\) Act 2010 \(asp 17\)](#) which is either—
- (i) a society registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 (c.12), or
- (ii) a company within the meaning of the Companies Act 2006 (c.46), or]
- (c) a registered housing association within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992 (Northern Irish registered housing associations).

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- (4) For the purposes of this paragraph the reference to use solely for a relevant residential purpose is to be read without regard to Note (12) of Group 5 of Schedule 8 (which would otherwise apply as a result of paragraph 33 of this Schedule).
- (5) The Commissioners may publish a notice for the purposes of this paragraph—
- (a) specifying the form in which any certificate under this paragraph must be made, and
 - (b) specifying any information which any certificate under this paragraph must contain.

Textual Amendments

- F2** Sch. 10 para. 10(3)(za) inserted (1.4.2010) by [The Value Added Tax \(Buildings and Land\) Order 2010 \(S.I. 2010/485\)](#), arts. 1, **4(1)(a)**
- F3** Words in Sch. 10 para. 10(3)(a) omitted (1.4.2010) by virtue of [The Value Added Tax \(Buildings and Land\) Order 2010 \(S.I. 2010/485\)](#), arts. 1, **4(1)(b)**
- F4** Sch. 10 para. 10(3)(b) substituted (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), **Sch. para. 5(3)**

Modifications etc. (not altering text)

- C1** Sch. 10 para. 10(3) modified (temp.) (1.4.2010) by [The Value Added Tax \(Buildings and Land\) Order 2010 \(S.I. 2010/485\)](#), arts. 1, **4(2)**

Grant to individual for construction of dwelling

11. An option to tax has no effect in relation to any grant made to an individual if—
- (a) the land is to be used for the construction of a building intended for use by the individual as a dwelling, and
 - (b) the construction is not carried out in the course or furtherance of a business carried on by the individual.]

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