

Status: Point in time view as at 06/04/2024.

*Changes to legislation: There are currently no known outstanding effects for
the Finance Act 2021, SCHEDULE 17. (See end of Document for details)*

SCHEDULES

SCHEDULE 17

Section 89

SDLT (RELIEF FROM HIGHER RATE CHARGE FOR CERTAIN HOUSING CO-OPERATIVES ETC): MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 Part 4 of FA 2003 (stamp duty land tax) is amended in accordance with this
Schedule.
- 2 (1) Section 81 (further return where relief withdrawn) is amended as follows.
- (2) For subsection (1A) substitute—
- “(1A) Where relief is withdrawn to any extent under—
- (a) any of paragraphs 5G to 5L of Schedule 4A (relief from higher rate
under Schedule 4A (higher rate for certain transactions)),
 - (b) paragraph 6 of Schedule 7A (PAIF seeding relief), or
 - (c) paragraph 14 or 16 of Schedule 7A (COACS seeding relief),
- the purchaser must deliver a further return before the end of the period of 30
days after the relevant date.”
- (3) In subsection (1B), after paragraph (e) insert—
- “(ea) in the case of relief under paragraph 5FA of that Schedule
(qualifying housing co-operatives), the date determined in
accordance with subsection (1C);”.
- (4) After subsection (1B) insert—
- “(1C) For the purposes of subsection (1B)(ea) (relief under paragraph 5FA of
Schedule 4A withdrawn because the conditions in paragraph 5L(3) of that
Schedule are met), the date is—
- (a) where paragraph 5L(4) of Schedule 4A does not apply, the first day
in the period mentioned in paragraph 5L(3)(a) of that Schedule on
which the purchaser is not a qualifying housing body;
 - (b) where paragraph 5L(4) or (7) of that Schedule applies and relief is
withdrawn because condition A in paragraph 5L(5) of that Schedule
is met, the day of succession of the relevant successor;
 - (c) where paragraph 5L(4) or (7) of that Schedule applies and relief is
withdrawn because condition B in paragraph 5L(6) of that Schedule
is met, the first day in the part of the control period that falls after
the day of succession of the relevant successor on which the relevant
successor is not a qualifying housing body.
- (1D) Where relief is withdrawn to any extent under paragraph 5L of Schedule 4A
in a case to which paragraph 5L(4) or (7) applies, the reference in
subsection (1A) to the purchaser is to be read as a reference to the relevant
successor.”
- (5) For subsection (3) substitute—

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- “(3) The provisions of Schedule 10 (returns, assessments and other matters) apply for the purposes of this section with the following modifications—
- (a) references to a return under section 76 (general requirement to deliver land transaction return) are to be read as references to a return under subsection (1) or (1A);
 - (b) references to the transaction to which a return relates are to be read as references to the withdrawal of relief in respect of which the return is required under subsection (1) or (1A);
 - (c) references to a chargeable transaction to which (as yet) no return relates are to be read as references to the withdrawal of relief under any of the provisions mentioned in subsection (1) or (1A);
 - (d) references to the effective date of a transaction—
 - (i) in relation to the withdrawal of relief under any of the provisions mentioned in subsection (1), are to be read as references to the date on which the disqualifying event occurs, and
 - (ii) in relation to the withdrawal of relief under any of the provisions mentioned in subsection (1A), are to be read as references to the relevant date (see subsections (1B) and (1C));
 - (e) where, by virtue of subsection (1D), a return is to be made by the relevant successor, references to the purchaser are to be read as references to the relevant successor;
 - (f) paragraph 36(5A) is to be read as if it also permitted an appeal under paragraph 35(1)(e) on the ground that no further return is required.”

(6) Omit subsection (5).

(7) At the end insert—

“(6) In subsections (1C), (1D) and (3)(e) (which relate to the withdrawal of relief under paragraph 5L of Schedule 4A) “the relevant successor” means the person who is the most recent successor in the chain of succession at the time relief is withdrawn (and that person could be the first successor, the second successor or a subsequent successor).

(7) Terms used in subsections (1C) and (6) which are defined for the purposes of paragraph 5L of Schedule 4A have the same meaning in those subsections as they have in that paragraph.”

3 (1) Section 81ZA (alternative finance arrangements: return where relief withdrawn) is amended as follows.

(2) In subsection (1), for “or 6H” substitute “, 6H or 6I ”.

(3) For subsection (2) substitute—

“(2) The provisions of Schedule 10 (returns, assessments and other matters) apply for the purposes of this section with the following modifications—

- (a) references to a return under section 76 (general requirement to deliver land transaction return) are to be read as references to a return under subsection (1);

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- (b) references to the transaction to which a return relates are to be read as references to the withdrawal of relief in respect of which the return is required under subsection (1);
 - (c) references to a chargeable transaction to which (as yet) no return relates are to be read as references to the withdrawal of relief under any of the provisions mentioned in subsection (1);
 - (d) references to the effective date of a transaction are to be read as references to the date of the disqualifying event;
 - (e) references to the purchaser are to be read as references to the relevant person so far as that is necessary as a result of subsection (1) of this section or section 85(3) (payment of additional tax by relevant person where relief withdrawn);
 - (f) paragraph 36(5A) is to be read as if it also permitted an appeal under paragraph 35(1)(e) on the ground that no further return is required.”
- (4) In subsection (3), for the words from “the first day” to the end substitute “—
- (a) where the relief was given under paragraph 5, 5B, 5C, 5D or 5F of Schedule 4A, the first day in the control period on which a relevant requirement was not met;
 - (b) where the relief was given under paragraph 5FA of Schedule 4A, the date determined in accordance with subsection (5A).”
- (5) In subsections (4) and (5), for “subsection (3)” substitute “ subsection (3)(a) ”.
- (6) After subsection (5) insert—
- “(5A) For the purposes of subsection (3)(b) (relief withdrawn because the conditions in paragraph 6I(2) of Schedule 4A are met), the date is—
- (a) where paragraph 6I(3) of Schedule 4A does not apply, the first day in the period mentioned in paragraph 6I(2)(a) of that Schedule on which the relevant person is not a qualifying housing body;
 - (b) where paragraph 6I(3) or (6) of that Schedule applies and relief is withdrawn because condition A in paragraph 6I(4) of that Schedule is met, the day of succession of the relevant successor;
 - (c) where paragraph 6I(3) or (6) of that Schedule applies and relief is withdrawn because condition B in paragraph 6I(5) of that Schedule is met, the first day in the part of the control period that falls after the day of succession of the relevant successor on which the relevant successor is not a qualifying housing body.”
- (7) In subsection (6), for the definition of “the relevant person” substitute—
- ““the relevant person” means—
- (a) the person (other than the financial institution) who entered into the arrangements in question, or
 - (b) where relief is withdrawn to any extent under paragraph 6I of Schedule 4A in a case to which paragraph 6I(3) or (6) applies, the relevant successor;
- “the relevant successor” means the person who is the most recent successor in the chain of succession at the time relief is withdrawn (and that person could be the first successor, the second successor or a subsequent successor).”

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- (8) After subsection (6) insert—
- “(7) Terms used in subsection (5A), and in the definition of “the relevant successor” in subsection (6), which are defined for the purposes of paragraph 6I of Schedule 4A have the same meaning in those provisions as they have in that paragraph.”
- 4 (1) Section 85 (liability for tax) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) Where relief is withdrawn to any extent under paragraph 5L of Schedule 4A (qualifying housing co-operatives) in a case to which paragraph 5L(4) or (7) applies—
- (a) subsection (1) does not apply in relation to the additional tax payable as a result of the withdrawal of the relief, and
- (b) the relevant successor is liable to pay that additional tax.
- (2B) In subsection (2A) “the relevant successor” has the same meaning as it has in subsections (1C), (1D) and (3)(e) of section 81 (see subsections (6) and (7) of that section).”
- (3) In subsection (3), for “and 6H” substitute “ , 6H and 6I ”.
- (4) In subsection (4), for the words from “means” to the end substitute “ has the same meaning as in section 81ZA (see subsections (6) and (7) of that section) ”.
- 5 (1) Section 86 (payment of tax) is amended as follows.
- (2) In subsection (2)(za), for “5K” substitute “ 5L ”.
- (3) In subsection (2A), for “and 6H” substitute “ , 6H and 6I ”.
- 6 In section 87(3) (interest on unpaid tax)—
- (a) in paragraph (za), for “5K” substitute “ 5L ”;
- (b) after paragraph (za) insert—
- “(zb) in the case of an amount payable because relief is withdrawn under any of paragraphs 6D, 6F, 6G, 6H and 6I of Schedule 4A, the date which is the date of the disqualifying event for the purposes of section 81ZA (see subsection (3) of that section);”.
- 7 (1) Schedule 4A (stamp duty land tax: higher rate for certain transactions) is amended as follows.
- (2) In paragraph 2(6)(a)—
- (a) for “5K” substitute “ 5L ”;
- (b) for “6H” substitute “ 6I ”.
- (3) In paragraph 6A—
- (a) in sub-paragraph (4), for “and 5F(1)” substitute “ , 5F(1) and 5FA ”;
- (b) in sub-paragraph (5), for “or 5F(1)” substitute “ , 5F(1) or 5FA ”.
- (4) In paragraph 6C(2)(b), for “and 5F(1)” substitute “ , 5F(1) and 5FA ”.
- (5) After paragraph 6H insert—

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- “6I (1) This paragraph applies where relief under paragraph 5FA (qualifying housing co-operatives) has been allowed, in accordance with paragraph 6A(4), in relation to the purchase of a major interest in land.
- (2) The relief is withdrawn (subject to sub-paragraph (3)) if—
- (a) on any day in the period of three years beginning with the effective date of the first transaction (“the control period”), the relevant person is not a qualifying housing body, and
 - (b) immediately before the first day on which that is the case the relevant person holds a relevant interest (whether jointly, or in common, or otherwise).
- (3) If, on any day in the control period, the relevant person is not a qualifying housing body because it ceases to exist (whether by virtue of a conversion into, or amalgamation with, another person or for any other reason), relief is not to be withdrawn under this paragraph unless—
- (a) another person (“the first successor”) has succeeded to the engagements of the relevant person, and
 - (b) condition A or condition B is met (and if condition B is met, subject to sub-paragraph (6)).
- (4) Condition A is that, on the day the first successor succeeds to the engagements of the relevant person (“the day of succession”), the first successor is not a qualifying housing body.
- (5) Condition B is that—
- (a) on any day in the part of the control period that falls after the day of succession, the first successor is not a qualifying housing body, and
 - (b) immediately before the first day on which that is the case the first successor still holds a relevant interest (whether jointly, or in common, or otherwise).
- (6) If condition B is met because the first successor ceases to exist (whether by virtue of a conversion into, or amalgamation with, another person or for any other reason), relief is not to be withdrawn under this paragraph unless it would have been withdrawn by virtue of sub-paragraph (3) if references in sub-paragraphs (3) to (5)—
- (a) to the relevant person were references to the first successor, and
 - (b) to the first successor were references to the person who has succeeded to the engagements of the first successor (“the second successor”).
- (7) Sub-paragraph (6) is to apply to the second successor as it applies to the first successor, and so on, subject to the necessary modifications.
- (8) In this paragraph—
- (a) “qualifying housing body” means—
 - (i) a company that is a qualifying housing co-operative for the purposes of section 150(3A) of the Finance Act 2013 (relief from ATED),
 - (ii) a registered provider of social housing, or
 - (iii) a registered social landlord;

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- (b) “relevant interest” has the same meaning as in paragraph 6D;
 - (c) “the relevant person” means the person (other than the financial institution) who enters into the arrangements mentioned in section 71A(1) or 73(1);
 - (d) references to a major interest include an undivided share in a major interest in land.”
- (6) In paragraph 9, in the definition of “financial institution”, for “6H” substitute “ 6I ”.
- 8 In Schedule 10 (returns, assessments and other matters), in paragraph 12(2A) (notice of enquiry)—
 - (a) in paragraph (b), omit “in respect of the same land transaction”;
 - (b) in the words after paragraph (b), for “land transaction” substitute “ return ”.

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