

LAND AND BUILDINGS TRANSACTION TAX (SCOTLAND) ACT 2013

EXPLANATORY NOTES

THE ACT

Part 4 – Returns and Payment

Chapter 1 of Part 4 - Returns

Adjustments and further returns

Section 34 – Return or further return in consequence of later linked transaction

94. Section 34 provides for a requirement to make a return, or a further return, where a transaction becomes notifiable, or tax or additional tax becomes payable, as a result of a later linked transaction. The buyer under the earlier transaction must deliver a return, or a further return, in respect of the earlier transaction, and pay any tax or additional tax due, within 30 days of the effective date of the later transaction (see section 40(2)(d)). See also paragraphs 23(3), 25(4) and (5), 26(2) and (4) and 28(2)(b) of schedule 19 in the case of leases.
95. Defined terms used in this section:

“effective date”	section 63
“make a return”	section 38
“notifiable”	section 30

Example: effect of later linked transaction

Mrs Macdonald is granted an option by Mr Brown to buy his house, Mrs Macdonald pays Mr Brown £150,000 for the option and, for the house, she pays £300,000. Using scenario 1 outlined in paragraphs 287 to 289 of the Financial Memorandum accompanying the Land and Buildings Transaction Tax (Scotland) Bill at introduction, the LBTT due at the stage Mrs Macdonald acquires the option would be nil, as the consideration for the option falls below the nil rate tax band threshold (£180,000). Mrs Macdonald subsequently exercises the option on 1 December 2016. The exercise of the option by Mrs Macdonald constitutes a separate land transaction and she must make a land transaction return in relation to the purchase of the house to the Tax Authority.

A return is also then required in respect of the option, which is linked to the purchase since the buyer and the seller in relation to both the option and the purchase are the same (see section 57).

The LBTT payable by Mrs Macdonald will be determined by the total consideration given by her for both the grant of the option and the purchase of the house (£450,000).

*These notes relate to the Land and Buildings Transaction Tax (Scotland)
Act 2013 (asp 11) which received Royal Assent on 31 July 2013*

Taking scenario 1 as outlined in the Financial Memorandum, the tax due in relation to the option and the house purchase would be calculated as follows:
Applying the calculations in Steps 1 and 2 of section 26(1), the total tax chargeable for both transactions would be—

$$(\text{£}180,000 \times 0\%) + (\text{£}270,000 \times 7.5\%) + (\text{£}0 \times 10\%) = \text{£}20,250$$

The tax chargeable in relation to the option (applying Steps 3 and 4) would now be—

$$\text{£}20,250 \times \text{£}150,000/\text{£}450,000 = \text{£}6,750$$

And the tax chargeable in relation to the purchase would be—

$$\text{£}20,250 \times \text{£}300,000/\text{£}450,000 = \text{£}13,500$$