



# Land and Buildings Transaction Tax (Scotland) Act 2013

2013 asp 11

## PART 2

### KEY CONCEPTS

#### CHAPTER 1

##### LAND TRANSACTIONS AND CHARGEABLE INTERESTS

###### *Land transaction*

### **3 Land transaction**

A land transaction is the acquisition of a chargeable interest.

###### *Chargeable interest*

### **4 Chargeable interest**

- (1) A chargeable interest is an interest of a kind mentioned in subsection (2) which is not an exempt interest.
- (2) The interests are—
  - (a) a real right or other interest in or over land in Scotland, or
  - (b) the benefit of an obligation, restriction or condition affecting the value of any such right or interest.
- (3) In subsection (2), “land in Scotland” does not include land below mean low water mark.

## 5 Exempt interest

- (1) An interest is exempt if it is a security interest.
- (2) In subsection (1) a “security interest” means a real right or other interest in or over land held for the purpose of securing the payment of money or the performance of any other obligation.
- (3) See also paragraphs 21 to 24 of schedule 7 (which make additional provision about exempt interests in relation to alternative property finance arrangements).
- (4) The Scottish Ministers may, by regulations, modify this section so as to—
  - (a) provide that a description of a real right or other interest in or over land is an exempt interest,
  - (b) provide that a description of a real right or other interest in or over land is no longer to be an exempt interest,
  - (c) vary a description of an exempt interest.

### *Acquisition and disposal of chargeable interest*

## 6 Acquisition and disposal of chargeable interest

- (1) Each of the following is an acquisition and a disposal of a chargeable interest—
  - (a) the creation of the interest,
  - (b) the renunciation or release of the interest,
  - (c) the variation of the interest (but not the variation of a lease).
- (2) The variation of a lease is treated as an acquisition and a disposal of a chargeable interest only where paragraph 29 of schedule 19 (reduction of rent or term or other variation of lease) applies.
- (3) A person acquires a chargeable interest where—
  - (a) the person becomes entitled to the interest on its creation,
  - (b) the person’s interest or right is benefitted or enlarged by the renunciation or release of the interest, or
  - (c) the person benefits from the variation of the interest.
- (4) A person disposes of a chargeable interest where—
  - (a) the person’s interest or right becomes subject to the interest on its creation,
  - (b) the person ceases to be entitled to the interest on its being renounced or released, or
  - (c) the person’s interest or right is subject to or limited by the variation of the interest.
- (5) Except as otherwise provided, this Act applies however the acquisition is effected, whether by act of the parties, by order of a court or other authority, by or under any enactment or by operation of law.

## 7 Buyer and seller

- (1) The buyer, in relation to a land transaction, is the person who acquires the subject-matter of the transaction.

- (2) But a person is treated as the buyer only where that person has given consideration for, or is a party to, the transaction.
- (3) The seller, in relation to a land transaction, is the person who disposes of the subject-matter of the transaction.