

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 3A. (See end of Document for details)

SCHEDULE 10 GROUP RELIEF

[^{F1}PART 3A

RECOVERY OF RELIEF

Textual Amendments

- F1** Sch. 10 Pt. 3A inserted (1.4.2015) by Revenue Scotland and Tax Powers Act 2014 (asp 16) , s. 260(2) , Sch. 4 para. 9(20)(b) (with ss. 257-259) ; S.S.I. 2015/110 , art. 2(1)

Recovery of relief

- 42A This Part applies where—
- relief under this schedule is withdrawn or partially withdrawn and tax is chargeable,
 - the amount so chargeable has been finally determined, and
 - the whole or part of the amount so chargeable is unpaid 6 months after the date on which it became payable.
- 42B The following persons may, by notice under paragraph 42E, be required to pay the unpaid tax—
- the seller,
 - any company that at any relevant time was a member of the same group as the buyer and was above it in the group structure,
 - any person who at any relevant time was a controlling director of the buyer or a company having control of the buyer.
- 42C For the purposes of paragraph 42B(b)—
- a “ relevant time ” means any time between the effective date of the transaction which was exempt from charge by virtue of this schedule and the buyer ceasing to be a member of the same group as the seller, and
 - a company (“company A”) is “above” another company (“company B”) in a group structure if company B, or another company that is above company B in the group structure, is a 75% subsidiary of company A.
- 42D In paragraph 42B(c)—
- “ director ”, in relation to a company, has the meaning given by section 67(1) of the Income Tax (Earnings and Pensions) Act 2003 (c.1) (read with subsection (2) of that section) and includes a person falling within section 452(1) of the Corporation Tax Act 2010 (c.4),
- “ controlling director ”, in relation to a company, means a director of the company who has control of it (construing control in accordance with sections 450 and 451 of the Corporation Tax Act 2010 (c.4)).

Recovery of relief: supplementary

- 42E The Tax Authority may give notice to a person within paragraph 42B requiring that person within 30 days of receipt of the notice to pay the amount that remains unpaid.

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- 42F Any such notice must be given before the end of the period of 3 years beginning with the date of the final determination mentioned in paragraph 42A(b).
- 42G The notice must state the amount required to be paid by the person to whom the notice is given.
- 42H The notice has effect—
- (a) for the purposes of the recovery from that person of the amount required to be paid and of interest on that amount, and
 - (b) for the purpose of appeals,
- as if it were a notice of a Revenue Scotland assessment and that amount were an amount of tax due from that person.
- 42I A person who has paid an amount in pursuance of a notice under paragraph 42E may recover that amount from the buyer.
- 42J A payment in pursuance of a notice under paragraph 42E is not allowed as a deduction in computing any income, profits or losses for any tax purpose.
- 42K In paragraph 42H, “ Revenue Scotland assessment ” has the same meaning as in section 100 of the Revenue Scotland and Tax Powers Act 2014 (asp 16).]

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