

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 4. (See end of Document for details)

SCHEDULE 11 RECONSTRUCTION RELIEF AND ACQUISITION RELIEF

PART 4

WITHDRAWAL OF RELIEF

Overview

- 11 This Part of this schedule is arranged as follows—
- paragraphs 12 to 14 provide for circumstances in which relief under Part 2 or Part 3 of this schedule is withdrawn or partially withdrawn,
 - paragraphs 15 to 21 provide for circumstances in which, despite paragraphs 12 to 14, relief is not withdrawn,
 - paragraphs 22 to 28 provide for the withdrawal of relief, which would otherwise not be withdrawn by virtue of paragraph 17 or 19, on the occurrence of certain subsequent events,
 - paragraphs 29 to 32 provide for how the tax chargeable is determined where relief is withdrawn or partially withdrawn.

Commencement Information

- I1** Sch. 11 para. 11 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

Withdrawal of relief

- 12 Relief under Part 2 or Part 3 of this schedule is withdrawn or partially withdrawn where paragraphs 13 and 14 apply.

Commencement Information

- I2** Sch. 11 para. 12 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

- 13 This paragraph applies where control of the acquiring company changes—
- (a) before the end of the period of 3 years beginning with the effective date of the transaction which is exempt from charge by virtue of Part 2, or is subject to a reduced amount of tax by virtue of Part 3, of this schedule (“the relevant transaction”), or
 - (b) in pursuance of, or in connection with, arrangements made before the end of that period.

Commencement Information

- I3** Sch. 11 para. 13 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

- 14 This paragraph applies where, at the time the control of the acquiring company changes (“the relevant time”), it or a relevant associated company holds a chargeable interest—

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- (a) that was acquired by the acquiring company under the relevant transaction, or
 - (b) that is derived from a chargeable interest so acquired,
- and that has not subsequently been acquired at market value under a chargeable transaction in relation to which relief under this schedule was available but was not claimed.

Commencement Information

I4 Sch. 11 para. 14 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

Case where relief not withdrawn: change of control of acquiring company as result of transaction connected to divorce etc.

- 15 Relief under Part 2 or Part 3 of this schedule is not withdrawn where control of the acquiring company changes as a result of a share transaction that is effected as mentioned in—
- (a) any of paragraphs (a) to (d) of paragraph 4 of schedule 1 (transactions connected with divorce etc.), or
 - (b) any of paragraphs (a) to (d) of paragraph 5 of schedule 1 (transactions connected with dissolution of civil partnership etc.).

Commencement Information

I5 Sch. 11 para. 15 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

- 16 Relief under Part 2 or Part 3 of this schedule is not withdrawn where control of the acquiring company changes as a result of a share transaction that—
- (a) is effected as mentioned in paragraph 7(1) of schedule 1, and
 - (b) meets the conditions in paragraph 7(2) of that schedule (variation of testamentary dispositions etc.).

Commencement Information

I6 Sch. 11 para. 16 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

Case where relief not withdrawn: exempt intra-group transfer

- 17 Relief under Part 2 or Part 3 of this schedule is not withdrawn where control of the acquiring company changes as a result of an exempt intra-group transfer.

Commencement Information

I7 Sch. 11 para. 17 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

- 18 But see paragraphs 22 to 24 for the effect of a subsequent non-exempt transfer.

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Commencement Information

I8 Sch. 11 para. 18 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

Case where relief not withdrawn: share acquisition relief

- 19 Relief under Part 2 or Part 3 of this schedule is not withdrawn where control of the acquiring company changes as a result of a transfer of shares to another company in relation to which share acquisition relief applies.

Commencement Information

I9 Sch. 11 para. 19 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

- 20 But see paragraphs 25 to 28 for the effect of a change in the control of that other company.

Commencement Information

I10 Sch. 11 para. 20 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

Case where relief not withdrawn: controlling loan creditor

- 21 Relief under Part 2 or Part 3 of this schedule is not withdrawn where—
- (a) control of the acquiring company changes as a result of a loan creditor (within the meaning of section 453 of the Corporation Tax Act 2010 (c.4)) becoming, or ceasing to be, treated as having control of the company, and
 - (b) the other persons who were previously treated as controlling the company continue to be so treated.

Commencement Information

I11 Sch. 11 para. 21 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

Withdrawal of relief on subsequent non-exempt transfer

- 22 Relief under Part 2 or Part 3 of this schedule is withdrawn or partially withdrawn if—
- (a) control of the acquiring company changes as a result of an exempt intra-group transfer, and
 - (b) paragraphs 23 and 24 apply.

Commencement Information

I12 Sch. 11 para. 22 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

- 23 This paragraph applies where a company holding shares in the acquiring company to which the exempt intra-group transfer related, or that are derived from shares to

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which that transfer related, ceases to be a member of the same group as the target company—

- (a) before the end of the period of 3 years beginning with the effective date of the transaction which is exempt from charge by virtue of Part 2, or is subject to a reduced amount of tax by virtue of Part 3, of this schedule (“the relevant transaction”), or
- (b) in pursuance of, or in connection with, arrangements made before the end of that period.

Commencement Information

I13 Sch. 11 para. 23 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

- 24 This paragraph applies where the acquiring company or a relevant associated company, at that time (“the relevant time”), holds a chargeable interest—
- (a) that was transferred to the acquiring company by the relevant transaction, or
 - (b) that is derived from an interest so transferred,
- and that has not subsequently been transferred at market value under a chargeable transaction in relation to which relief under Part 2 or Part 3 of this schedule was available but was not claimed.

Commencement Information

I14 Sch. 11 para. 24 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

*Withdrawal of relief where share acquisition relief
applied but control of company subsequently changes*

- 25 Relief under Part 2 or Part 3 of this schedule is withdrawn or partially withdrawn if—
- (a) control of the acquiring company changes as a result of a transfer of shares to another company in relation to which share acquisition relief applies, and
 - (b) paragraphs 26 to 28 apply.

Commencement Information

I15 Sch. 11 para. 25 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

- 26 This paragraph applies where control of the other company mentioned in paragraph 25(a) changes—
- (a) before the end of the period of 3 years beginning with the effective date of the relevant transaction, or
 - (b) in pursuance of, or in connection with, arrangements made before the end of that period.

Commencement Information

I16 Sch. 11 para. 26 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

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- 27 This paragraph applies where, at the time control of that other company changes, it holds shares transferred to it by the transfer mentioned in paragraph 25(a), or any shares derived from shares so transferred.

Commencement Information

I17 Sch. 11 para. 27 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 28 This paragraph applies where the acquiring company or a relevant associated company, at that time (“the relevant time”), holds a chargeable interest—
- (a) that was transferred to the acquiring company by the relevant transaction, or
 - (b) that is derived from an interest so transferred,
- and that has not subsequently been transferred at market value under a chargeable transaction in relation to which relief under Part 2 or Part 3 of this schedule was available but was not claimed.

Commencement Information

I18 Sch. 11 para. 28 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Amount of tax chargeable where relief withdrawn

- 29 Where relief is withdrawn, the amount of tax chargeable is determined in accordance with paragraph 30.

Commencement Information

I19 Sch. 11 para. 29 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 30 The amount chargeable is the tax that would have been chargeable in respect of the relevant transaction but for the relief if the chargeable consideration for that transaction had been an amount equal to—
- (a) the market value of the subject-matter of the transaction,
 - (b) if the acquisition was the grant of a lease, the rent.

Commencement Information

I20 Sch. 11 para. 30 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Amount of tax chargeable where relief partially withdrawn

- 31 Where relief is partially withdrawn, the tax chargeable is an appropriate proportion of the amount determined in accordance with paragraph 30.

Commencement Information

I21 Sch. 11 para. 31 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

- 32 An “appropriate proportion” means an appropriate proportion having regard to—

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- (a) the subject-matter of the relevant transaction, and
- (b) what is held at the relevant time by the acquiring company or, as the case may be, by that company and any relevant associated companies.

Commencement Information

I22 Sch. 11 para. 32 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Interpretation

- 33 In paragraphs 19 and 25—
- (a) “share acquisition relief” means relief under section 77 of the Finance Act 1986 (c.41), and
 - (b) a transfer is one in relation to which that relief applies if an instrument effecting the transfer is exempt from stamp duty by virtue of that provision.

Commencement Information

I23 Sch. 11 para. 33 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 34 In this Part of this schedule, references to control of a company changing are to the company becoming controlled—
- (a) by a different person,
 - (b) by a different number of persons, or
 - (c) by two or more persons at least one of whom is not the person, or one of the persons, by whom the company was previously controlled.

Commencement Information

I24 Sch. 11 para. 34 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

- 35 In this Part of this schedule—
- “control” is to be construed in accordance with sections 450 and 451 of the Corporation Tax Act 2010 (c.4),
- “exempt intra-group transfer” means a transfer of shares effected by an instrument that is exempt from stamp duty by virtue of section 42 of the Finance Act 1930 (c.28) or section 11 of the Finance Act (Northern Ireland) 1954 (c.23 (NI)) (transfers between associated bodies corporate),
- “relevant associated company”, in relation to the acquiring company, means a company—
- (a) that is controlled by the acquiring company immediately before the control of that company changes, and
 - (b) of which control changes in consequence of the change of control of that company.

Commencement Information

I25 Sch. 11 para. 35 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

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