

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

SCHEDULE 11 RECONSTRUCTION RELIEF AND ACQUISITION RELIEF

[^{F1}PART 4A

RECOVERY OF RELIEF

Textual Amendments

- F1** Sch. 11 Pt. 4A inserted (1.4.2015) by Revenue Scotland and Tax Powers Act 2014 (asp 16) , s. 260(2) , Sch. 4 para. 9(21)(d) (with ss. 257-259) ; S.S.I. 2015/110 , art. 2(1)

Recovery of relief

- 35A This Part applies where—
- relief under Part 2 or Part 3 of this schedule is withdrawn or partially withdrawn,
 - the amount of tax 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.
- 35B The following persons may, by notice under paragraph 35E, be required to pay the unpaid tax—
- any company that at any relevant time was a member of the same group as the acquiring company and was above it in the group structure,
 - any person who at any relevant time was a controlling director of the acquiring company or a company having control of the acquiring company.
- 35C For the purposes of paragraph 35B—
- “relevant time” means any time between the effective date of the relevant transaction and the change of control by virtue of which tax is chargeable, 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.
- 35D In paragraph 35B(b)—
- “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

- 35E The Tax Authority may give notice to a person within paragraph 35B requiring that person within 30 days of receipt of the notice to pay the amount that remains unpaid.

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- 35F 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 35A(b).
- 35G The notice must state the amount required to be paid by the person to whom the notice is given.
- 35H 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.
- 35I A person who has paid an amount in pursuance of a notice under paragraph 35E may recover that amount from the acquiring company.
- 35J A payment in pursuance of a notice under paragraph 35E is not allowed as a deduction in computing any income, profits or losses for any tax purpose.
- 35K In paragraph 35H, “ 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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