

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 5. (See end of Document for details)

SCHEDULE 17 PARTNERSHIPS

PART 5

TRANSACTIONS INVOLVING TRANSFER FROM A PARTNERSHIP

Overview of Part

- 19 This Part of this schedule is arranged as follows—
- paragraphs 20 to 26 make provision about certain land transactions involving the transfer of a chargeable interest from a partnership,
 - paragraph 27 makes special provision where the transaction involves a transfer from a partnership to a partnership,
 - paragraph 28 makes special provision where the partnership consists entirely of bodies corporate.

Commencement Information

- II** Sch. 17 para. 19 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

Circumstances in which Part applies

- 20 (1) This Part of this schedule applies where a chargeable interest is transferred—
- (a) from a partnership to a person who is or has been one of the partners, or
 - (b) from a partnership to a person connected with a person who is or has been one of the partners.
- (2) For the purposes of this paragraph property that was partnership property before the partnership was dissolved or otherwise ceased to exist is to be treated as remaining partnership property until it is distributed.
- (3) In this Part of this schedule—
- “the land transfer” means the transaction mentioned in sub-paragraph (1), and
 - “the partnership” means the partnership from which the chargeable interest is transferred.
- (4) This paragraph has effect subject to any election under paragraph 35.

Commencement Information

- I2** Sch. 17 para. 20 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

Calculation of chargeable consideration

- 21 (1) The chargeable consideration for the land transfer is (subject to paragraph 28) taken to be equal to—

$$MV \times (100 - SLP)\%$$

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where—

MV is the market value of the interest transferred, and

SLP is the sum of the lower proportions determined in accordance with paragraph 22.

- (2) This paragraph does not apply if the whole or part of the chargeable consideration for the transaction is rent (see paragraph 29 (application of Parts 3 to 5 to leases)).

Commencement Information

I3 Sch. 17 para. 21 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Sum of the lower proportions

- 22 The sum of the lower proportions in relation to the land transfer is determined as follows.

Step 1 Identify the relevant owner or owners.

Step 2 For each relevant owner, identify the corresponding partner or partners. If there is no relevant owner with a corresponding partner, the sum of the lower proportions is nil.

Step 3 For each relevant owner, find the proportion of the chargeable interest to which the owner is entitled immediately after the land transfer. Apportion that proportion between any one or more of the relevant owner's corresponding partners.

Step 4 Find the lower of the following proportions (“the lower proportion”) for each corresponding partner—

- (a) the sum of the proportions (if any) of the chargeable interest apportioned to the partner (at Step 3) in respect of each relevant owner,
- (b) the partnership share attributable to the partner.

Step 5 Add together the lower proportions of each corresponding partner. The result is the sum of the lower proportions.

Commencement Information

I4 Sch. 17 para. 22 in force at 1.4.2015 by [S.S.I. 2015/108](#), [art. 2](#)

Relevant owner

- 23 (1) For the purposes of paragraph 22 (see Step 1), a person is a relevant owner if—
- (a) immediately after the land transfer, the person is entitled to a proportion of the chargeable interest, and
 - (b) immediately before the land transfer, the person was a partner or connected with a partner.
- (2) For the purposes of this paragraph and paragraph 22, persons who are entitled to a chargeable interest as joint owners are taken to be entitled to the chargeable interest as common owners in equal shares.

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I5 Sch. 17 para. 23 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Corresponding partner

- 24 (1) For the purposes of paragraph 22 (see Step 2), a person is a corresponding partner in relation to a relevant owner if, immediately before the land transfer—
- (a) the person was a partner, and
 - (b) the person was the relevant owner or was an individual connected with the relevant owner.
- (2) For the purposes of sub-paragraph (1)(b), a company is to be treated as an individual connected with the relevant owner in so far as it—
- (a) holds property as trustee, and
 - (b) is connected with the relevant owner only because of section 1122(6) of the Corporation Tax Act 2010 (c.4).

Commencement Information

I6 Sch. 17 para. 24 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Partnership share attributable to partner

- 25 (1) This paragraph provides for determining the partnership share attributable to a partner for the purposes of paragraph 22 (see Step 4).
- (2) Where any tax payable in respect of the transfer of the relevant chargeable interest to the partnership has not been paid under this Act, the partnership share attributable to a partner is zero.
- (3) Where the partner ceases to be a partner before the effective date of the transfer of the relevant chargeable interest to the partnership, the partnership share attributable to the partner is zero.
- (4) In any other case, paragraph 26 applies for determining the partnership share attributable to a partner.
- (5) In this paragraph and paragraph 26, the relevant chargeable interest is—
- (a) the chargeable interest which ceases to be partnership property as a result of the land transfer, or
 - (b) where the land transfer is the creation of a chargeable interest, the chargeable interest out of which that interest is created.

Modifications etc. (not altering text)

C1 Sch. 17 para. 25 modified (1.4.2015) by [The Land and Buildings Transaction Tax \(Transitional Provisions\) \(Scotland\) Order 2014 \(S.S.I. 2014/377\)](#) , [arts. 1](#) , [9](#)

Commencement Information

I7 Sch. 17 para. 25 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

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- 26 (1) Where this paragraph applies, the partnership share attributable to the partner is determined as follows.

Step 1 Find the partner's actual partnership share on the relevant date. The relevant date—

- (a) if the partner was a partner on the effective date of the transfer of the relevant chargeable interest to the partnership, is that date,
- (b) if the partner became a partner after that date, is the date on which the partner became a partner.

Step 2 Add to that partnership share any increases in the partner's partnership share which—

- (a) occur in the period starting on the day after the relevant date and ending immediately before the land transfer, and
- (b) count for this purpose.

The result is the increased partnership share. An increase counts for the purpose of paragraph (b) only if any tax payable in respect of the transfer which resulted in the increase has been duly paid under this Act.

Step 3 Deduct from the increased partnership share any decreases in the partner's partnership share which occur in the period starting on the day after the relevant date and ending immediately before the land transfer. The result is the partnership share attributable to the partner.

- (2) If the effect of applying Step 3 would be to reduce the partnership share attributable to the partner below zero, the partnership share attributable to the partner is zero.

Modifications etc. (not altering text)

- C2** Sch. 17 para. 26 modified (1.4.2015) by [The Land and Buildings Transaction Tax \(Transitional Provisions\) \(Scotland\) Order 2014 \(S.S.I. 2014/377\)](#), arts. 1, **9**

Commencement Information

- I8** Sch. 17 para. 26 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

Transfer of chargeable interest from a partnership to a partnership

- 27 (1) This paragraph applies where—
- (a) there is a transfer of a chargeable interest from a partnership to a partnership, and
 - (b) the transfer is both—
 - (i) a transaction to which Part 4 of this schedule applies, and
 - (ii) a transaction to which this Part of this schedule applies.
- (2) Paragraphs 13(1) and 21(1) do not apply.
- (3) The chargeable consideration for the transaction is taken to be what it would have been if paragraph 13(1) had applied or, if greater, what it would have been if paragraph 21(1) had applied.

Commencement Information

- I9** Sch. 17 para. 27 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

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Transfer of chargeable interest from a partnership consisting wholly of bodies corporate

- 28 (1) This paragraph applies where—
- (a) immediately before the land transfer all the partners are bodies corporate, and
 - (b) the sum of the lower proportions is 75 or more.
- (2) Paragraphs 21, 27 and 29 have effect subject to the following modifications.
- (3) For paragraph 21 substitute—
- “21 The chargeable consideration for the land transfer is taken to be equal to the market value of the interest transferred.”.
- (4) In paragraph 27(2) and (3), for “21(1)” substitute “ 21 ” .
- (5) In paragraph 29—
- (a) in sub-paragraph (2), for “sub-paragraphs (3) to (6)” substitute “ sub-paragraph (5) ” ,
 - (b) omit sub-paragraphs (3), (4), (6), (7) and (9).
- (6) Paragraph 22 provides for determining the sum of the lower proportions.

Commencement Information

I10 Sch. 17 para. 28 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

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