

Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 8. (See end of Document for details)

SCHEDULE 17 PARTNERSHIPS

PART 8

APPLICATION OF PROVISIONS ON EXEMPTIONS, RELIEFS AND NOTIFICATION

Overview of Part

- 36 This Part of this schedule is arranged as follows—
- paragraph 37 makes general provision about the application of exemptions and reliefs to transactions mentioned in Parts 4 to 7 of this schedule,
 - paragraphs 38 and 39 makes provision about the application of group relief to certain transactions mentioned in Part 4 of this schedule,
 - paragraph 40 makes provision about the application of charities relief to certain transfers of interest in a partnership,
 - paragraph 41 makes provision about the notification of certain transfers of interest in a partnership.

Commencement Information

- II** Sch. 17 para. 36 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

Application of exemptions and reliefs: general

- 37 (1) Paragraph 1 of schedule 1 (exemption of transactions for which there is no chargeable consideration) does not apply to—
- (a) a transaction to which Part 4 applies,
 - (b) a transaction to which Part 5 applies, or
 - (c) a transfer of interest in a partnership which is treated as a land transaction by virtue of paragraph 17 or 32.
- (2) But subject to paragraphs 38 and 40 this schedule has effect subject to any other provision affording exemption or relief from the tax.

Commencement Information

- I2** Sch. 17 para. 37 in force at 1.4.2015 by [S.S.I. 2015/108](#), **art. 2**

Application of group relief

- 38 (1) Schedule 10 (group relief) applies with the following modifications to—
- (a) a transaction to which Part 4 applies, and
 - (b) a transfer of interest in a partnership which is treated as a land transaction by virtue of paragraph 17.
- (2) For paragraphs 14 and 15 substitute—
- “14 This paragraph applies where a partner who was a partner at the effective date of the transaction which is exempt from charge by virtue of this schedule

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(“the relevant partner” and “the relevant transaction” respectively) ceases to be a member of the same group as the seller—

- (a) before the end of the period of 3 years beginning with the effective date of the transaction, or
- (b) in pursuance of, or in connection with, arrangements made before the end of that period.

15 This paragraph applies where, at the time the relevant partner ceases to be a member of the same group as the seller (“the relevant time”), a chargeable interest is held by or on behalf of the members of the partnership and that chargeable interest—

- (a) was acquired by or on behalf of the partnership under the relevant transaction, or
- (b) is derived from a chargeable interest so acquired,

and has not subsequently been acquired at market value under a chargeable transaction for which group relief was available but was not claimed.”.

(3) For paragraph 19(b), substitute—

- “(b) what is held at the relevant time by or on behalf of the partnership and to the proportion in which the relevant partner is entitled at the relevant time to share in the income profits of the partnership.”.

(4) In paragraphs 20 to [F142K], for “the buyer” (wherever appearing) substitute “the relevant partner”.

Textual Amendments

F1 Word in Sch. 17 para. 38(4) substituted (1.4.2015) by [Revenue Scotland and Tax Powers Act 2014 \(asp 16\)](#), s. 260(2), [Sch. 4 para. 9\(22\)\(b\)](#) (with ss. 257-259); S.S.I. 2015/110, art. 2(1)

Commencement Information

I3 Sch. 17 para. 38 in force at 1.4.2015 by [S.S.I. 2015/108](#), art. 2

39 (1) This paragraph applies where in calculating the sum of the lower proportions in relation to a transaction (in accordance with paragraph 14)—

- (a) a company (“the connected company”) would have been a corresponding partner of a relevant owner (“the original owner”) but for the fact that paragraph 16 includes connected persons only if they are individuals, and
- (b) the connected company and the original owner are members of the same group.

(2) The charge in respect of the transaction is to be reduced to the amount that would have been payable had the connected company been a corresponding partner of the original owner for the purposes of calculating the sum of the lower proportions.

(3) The provisions of schedule 10 apply to the relief under sub-paragraph (2) as to group relief under paragraph 2 of that schedule, but—

- (a) with the omission of paragraph 5(a),
- (b) with the substitution for paragraphs 14 and 15 of—

“14 This paragraph applies where a partner (“the relevant partner”) who was, at the effective date of the transaction which is exempt from charge by virtue of this schedule (“the relevant transaction”), a

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partner and a member of the same group as the transferor, ceases to be a member of the same group as the seller—

- (a) before the end of the period of 3 years beginning with the effective date of the transaction, or
- (b) in pursuance of, or in connection with, arrangements made before the end of that period.

15 This paragraph applies where, at the time the relevant partner ceases to be a member of the same group as the seller (“ the relevant time ”), a chargeable interest is held by or on behalf of the members of the partnership and that chargeable interest—

- (a) was acquired by or on behalf of the partnership under the relevant transaction, or
- (b) is derived from a chargeable interest so acquired,

and has not subsequently been acquired at market value under a chargeable transaction for which group relief was available but was not claimed.”,

- (c) with the other modifications specified in paragraph 38(3) and (4).

Commencement Information

I4 Sch. 17 para. 39 in force at 1.4.2015 by [S.S.I. 2015/108](#) , [art. 2](#)

Application of charities relief

- 40 (1) Schedule 13 (charities relief) applies to the transfer of interest in a partnership that is a chargeable transaction by virtue of paragraph 17 or 32 with these modifications.
- (2) In paragraph 1, for “A land transaction is exempt from charge if the buyer is a charity” substitute “ A transfer of an interest in a partnership that is a chargeable transaction by virtue of paragraph 17 or 32 of schedule 17 is exempt from charge if the transferee is a charity ” .
- (3) For paragraph 2(a), substitute—
“ (a) that every chargeable interest held as partnership property immediately after the transfer must be held for qualifying charitable purposes, ” .
- (4) In paragraph 2(b), for “the buyer” substitute “ the transferee ” .
- (5) In paragraph 3, for “A buyer holds the subject-matter of a transaction for qualifying charitable purposes if the buyer holds it” substitute “ A chargeable interest is held for qualifying charitable purposes if it is held ” .
- (6) In paragraph 3(a), for “the buyer” substitute “ the transferee ” .
- (7) In paragraph 3(b), for “the buyer” substitute “ the partners ” .
- (8) For paragraph 4(b) substitute—
“ (b) at the time of the disqualifying event the partnership property includes a chargeable interest—
(i) that was held as partnership property immediately after the relevant transaction, or

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(ii) that is derived from an interest held as partnership property at that time.”.

(9) In paragraph 5(a), for “the buyer” substitute “ the transferee ” .

(10) For paragraph 5(b) substitute—

“(b) any chargeable interest held as partnership property immediately after the relevant transaction, or any interest or right derived from it, being used or held otherwise than for qualifying charitable purposes.”.

(11) For paragraph 10 substitute—

“10 An “ appropriate proportion ” means an appropriate proportion having regard to—

- (a) the chargeable interests held as partnership property immediately after the relevant transaction and the chargeable interests held as partnership property at the time of the disqualifying event, and
- (b) the extent to which any chargeable interest held as partnership property at that time becomes used or held for purposes other than qualifying charitable purposes.”.

(12) After paragraph 17 insert—

“18 There is a transfer of an interest in a partnership for the purposes of this schedule if there is such a transfer for the purposes of Part 3 of schedule 17 (see paragraph 48 of that schedule).

19 Paragraph 43 of schedule 17 (meaning of references to partnership property) applies for the purposes of this schedule as it applies for the purposes of that schedule.”.

Commencement Information

I5 Sch. 17 para. 40 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

Notification of transfers of partnership interests

41 (1) A transaction which is a chargeable transaction by virtue of paragraph 17 or 32 (transfer of partnership interest) is a notifiable transaction if (but only if) the consideration for the transaction exceeds the nil rate tax band.

(2) The consideration for a transaction exceeds the nil rate tax band if—

- (a) the chargeable consideration, or
 - (b) where the transaction is one of a number of linked transactions, the total of the chargeable consideration for all the linked transactions,
- exceeds the nil rate tax band applicable to the transaction.

Commencement Information

I6 Sch. 17 para. 41 in force at 1.4.2015 by [S.S.I. 2015/108](#) , **art. 2**

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