

[<sup>F1</sup>SCHEDULE 2A  
ADDITIONAL AMOUNT: TRANSACTIONS RELATING TO SECOND HOMES ETC.

**Textual Amendments**

- F1** Sch. 2A inserted (1.4.2016) by [Land and Buildings Transaction Tax \(Amendment\) \(Scotland\) Act 2016](#) (asp 11), ss. **1(3)**, **5(2)** (with s. 3)

**PART 6**

OWNERSHIP OF DWELLINGS

*What counts as a dwelling owned by a person?*

- 11 (1) This paragraph applies to determine what counts as a dwelling owned by a person for the purposes of this schedule.
- (2) Dwellings situated outside Scotland (as well as such property in Scotland) are to be counted.
- (3) A dwelling owned by a person is not to be counted for the purposes of paragraph 2(1)(c) if the acquisition of ownership of the dwelling by the person—
- (a) is or was a chargeable transaction to which this schedule applies by virtue of paragraph 3, or
  - (b) would have been such a chargeable transaction but for the fact that the dwelling is situated outside Scotland.
- (4) Ownership of a dwelling (other than one that is or forms part of the subject-matter of the chargeable transaction) is not to be counted if the market value of the ownership interest is less than £40,000.
- (5) In determining the market value of the ownership interest in a dwelling for the purposes of sub-paragraph (4), the market value of any interest or right pertaining to ownership of the dwelling is to be included.
- (6) Where the ownership interest in a dwelling is one of deemed ownership by virtue of paragraph 13 or 16 then, for the purposes of sub-paragraph (4), the market value of the interest is taken to be the market value of the dwelling.
- (7) In determining the market value of a dwelling for the purposes of sub-paragraph (6)
- (a) the market value of any interest or right pertaining to ownership of the dwelling is to be included, and
  - (b) no account is to be taken of the effect of the existence of the interest referred to in sub-paragraph (6).

*Deemed ownership: cases where title is not yet registered etc.*

- 12 (1) This paragraph applies to determine, for the purposes of this schedule, when a person owns any dwelling where ownership of the dwelling is or has been the subject-matter or part of the subject-matter of a land transaction.

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*Changes to legislation: There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 6. (See end of Document for details)*

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- (2) Where the person is the buyer in relation to the transaction, the person is to be treated for the purposes of this schedule as owning the dwelling as from the end of the day that is the effective date of the transaction.
- (3) Where the person is the seller in relation to the transaction, the person is to be treated for the purposes of this schedule as ceasing to own the dwelling as from the end of the day that is the effective date of the transaction.
- (4) In the application of this paragraph to a dwelling situated in England, Wales or Northern Ireland, “land transaction” and “effective date” have the same meanings as they have in Part 4 of the Finance Act 2003 (stamp duty land tax).
- (5) In the application of this paragraph to a dwelling situated outside the United Kingdom—
  - (a) “land transaction” means any transaction for the transfer of ownership of the dwelling, and
  - (b) “effective date” means the date of settlement or completion of the transaction (or of any event that is equivalent to settlement or completion of the transaction).

*Deemed ownership: beneficiaries under certain trusts*

- 13 (1) This paragraph applies where a person is the beneficiary under—
  - (a) a bare trust, or
  - (b) a settlement under the terms of which the beneficiary has a relevant interest in any dwelling that is or forms part of the trust property.
- (2) For the purposes of this schedule, the beneficiary is to be treated as the owner of the dwelling.
- (3) References in this schedule to “ownership” and “acquisition of ownership” are to be read accordingly.

*Dwellings owned by trustees or personal representatives*

- 14 (1) This paragraph applies where a person owns a dwelling as—
  - (a) a trustee, or
  - (b) a personal representative of another.
- (2) For the purposes of this schedule, the person is to be treated as not being the owner of the dwelling.
- (3) Sub-paragraph (2) does not affect the operation of any other provision of this schedule by which the person is to be treated as the owner of the dwelling.

*Deemed ownership: long leases*

- 15 (1) This paragraph applies where a person (“the tenant”) is the tenant under a lease of a dwelling for a term of more than 20 years
- (2) For the purposes of this schedule—
  - (a) the tenant is to be treated as the owner of the dwelling, and
  - (b) the landlord under the lease is to be treated as not being the owner.

- (3) References in this schedule to “ownership” and “acquisition of ownership” are to be read accordingly.

*Deemed ownership: proper liferents*

- 16 (1) This paragraph applies where a person (“the liferenter”) holds a liferent over a dwelling under a proper liferent.
- (2) For the purposes of this schedule—
- (a) the liferenter is to be treated as the owner of the dwelling, and
- (b) the granter of the liferent and the fiar are to be treated as not being the owner.
- (3) References in this schedule to “ownership” and “acquisition of ownership” are to be read accordingly.

*Deemed ownership: joint owners and owners of shares*

- 17 (1) This paragraph applies where two or more persons are jointly entitled to the ownership of a dwelling.
- (2) For the purposes of this schedule, each of the persons is to be treated as the owner of the dwelling.
- (3) In the application of this paragraph to a dwelling situated in England, Wales or Northern Ireland, “jointly entitled” has the meaning given in section 121 of the Finance Act 2003 (minor definitions).
- (4) In the application of this paragraph to a dwelling situated outside the United Kingdom, “jointly entitled” means having an interest equivalent to being jointly entitled within the meaning of this Act or the Finance Act 2003.

*Dwellings outside Scotland: what counts as “ownership”*

- 18 (1) In the case of a dwelling situated outside Scotland, a person owns the dwelling for the purposes of this schedule if the person has an interest in it that is equivalent to ownership in Scotland.
- (2) References in this schedule to “ownership” and “acquisition of ownership” are to be read accordingly.]

**Changes to legislation:**

There are currently no known outstanding effects for the Land and Buildings Transaction Tax (Scotland) Act 2013, PART 6.