

2024 No. 104

LAND AND BUILDINGS TRANSACTION TAX

**The Land and Buildings Transaction Tax (Miscellaneous
Amendments) (Scotland) Order 2024**

Made - - - - *27th March 2024*

Coming into force - - *1st April 2024*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 27(3) and paragraph 19(3) of schedule 2A of the Land and Buildings Transaction Tax (Scotland) Act 2013(a) and all other powers enabling them to do so.

In accordance with section 68(2)(b) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Land and Buildings Transaction Tax (Miscellaneous Amendments) (Scotland) Order 2024 and comes into force on 1 April 2024.

Relief for certain acquisitions by local authorities

2. In section 27(1) of the Land and Buildings Transaction Tax (Scotland) Act 2013 (reliefs) after “schedule 6 (relief for certain acquisitions by registered social landlords),” insert—

“schedule 6A (relief for certain acquisitions by local authorities),”.

3. After schedule 6 of the Land and Buildings Transaction Tax (Scotland) Act 2013, insert schedule 6A contained in the schedule of this Order.

Amendment of schedule 2A

4. Schedule 2A of the Land and Buildings Transaction Tax (Scotland) Act 2013 (additional amount: transactions relating to second homes etc.)(c) is amended in accordance with articles 5 to 9.

5. In paragraph 2(2)—

(a) in head (a), for “18” substitute “36”,

(b) in head (b), for “18” substitute “36”.

(a) 2013 asp 11. Schedule 2A was inserted by section 1(3) of the Land and Buildings Transaction Tax (Amendment) (Scotland) Act 2016 (asp 11) (“the 2016 Act”). There are amendments to paragraph 19 that are not relevant to this instrument.
(b) Section 68 was relevantly amended by section 2(1)(c)(i) of the 2016 Act.
(c) Schedule 2A was relevantly amended by S.S.I. 2017/233.

6. In paragraph 6—

(a) after sub-paragraph (1), insert—

“(1A) For the purposes of paragraph 8(1), a dwelling which is disposed of by—

- (a) the buyer’s spouse or civil partner,
- (b) the buyer’s cohabitant,
- (c) a person aged under 16 who is a child of—
 - (i) the buyer,
 - (ii) the buyer’s spouse or civil partner, or
 - (iii) the buyer’s cohabitant,

is to be treated as being disposed of by the buyer.”,

(b) in sub-paragraph (2), for “and (1)(c)(ii)” substitute “, (1)(c)(ii), (1A)(a) and (1A)(c)(ii)”,

(c) in sub-paragraph (4), for “and (1)(c)(iii)” substitute “, (1)(c)(iii), (1A)(b) and (1A)(c)(iii)”.

7.—(1) Paragraph 8(1) is amended in accordance with paragraphs (2) to (5).

(2) In head (a)—

- (a) for “18” substitute “36”,
- (b) for “the day after” substitute “or ending with”,
- (c) after “buyer” insert “or, where there are two or more buyers who are or will be jointly entitled to the interest acquired, one of the buyers”.

(3) In head (b)—

- (a) after “buyer’s” insert “or, where there are two or more buyers who are or will be jointly entitled to the interest acquired, one of the buyers”,
- (b) for “18” substitute “36”,
- (c) omit “and”.

(4) In head (c), for “buyer’s only or main residence.” substitute “buyer’s or, where there are two or more buyers who are or will be jointly entitled to the interest acquired, all of the buyers’ only or main residence, and”.

(5) After head (c) insert—

“(d) where there are two or more buyers who are or will be jointly entitled to the interest acquired, each of whom own a dwelling or dwellings other than the subject-matter of the transaction, all of the buyers must meet the conditions specified in this sub-paragraph.”.

8. After paragraph 9A(a) insert—

“Relief for beneficiaries

9B.—(1) A chargeable transaction to which this schedule applies by virtue of paragraph 2 is exempt from the additional amount if—

- (a) at the end of the day that is the effective date of the transaction, the buyer or, where there are two or more buyers who are or will be jointly entitled to the interest acquired, one of the buyers owns two or more dwellings,
- (b) the date of acquisition of ownership of all but the last of those dwellings is after the date on which the buyer entered into the contract for the land transaction relating to the last of those dwellings, but before the effective date, and
- (c) the buyer—

(a) Paragraph 9A was inserted by S.S.I. 2017/233.

- (i) is a beneficiary of the estate of a deceased person and acquired ownership of all but the last of those dwellings by virtue of a conveyance or transfer in their favour by the executors of that person, or
- (ii) otherwise acquires ownership of all but the last of those dwellings as a result of the death of a person.

(2) For the purposes of paragraph (1) the date on which the buyer acquired ownership of a dwelling by virtue of a conveyance or transfer in their favour by the executor of a deceased person is the date on which the conveyance or transfer was delivered by the executor to the buyer.

Relief for separated spouses and civil partners retaining interest in former main residence

9C. A chargeable transaction to which this schedule applies by virtue of paragraph 2 is exempt from the additional amount if—

- (a) at the end of the day that is the effective date of the transaction, the buyer is the owner of two dwellings,
- (b) the first of the two dwellings was at any time before the effective date of the transaction the only or main residence of the buyer and the buyer's spouse, civil partner, former spouse or former civil partner,
- (c) the first of the two dwellings is the only or main residence of the buyer's spouse, civil partner, former spouse or former civil partner,
- (d) the buyer and the buyer's spouse, civil partner, former spouse or former civil partner do not intend to live together again, and
- (e) the buyer retains an ownership interest in the first of the two dwellings in pursuance of an order of a court or agreement of a type referred to in paragraph 4 or 5 of schedule 1.”.

9. In paragraph 17(2) after “dwelling” insert “, but if the market value of the share in the ownership interest of the dwelling of any of the persons is less than £40,000, that share is not to be counted for the purposes of determining whether this schedule applies to a transaction under paragraph 2 of this schedule”.

TOM ARTHUR

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
27th March 2024

“SCHEDULE 6A
RELIEF FOR CERTAIN ACQUISITIONS BY LOCAL
AUTHORITIES

(introduced by section 27)

The relief

1. A land transaction under which the buyer is a local authority is exempt from charge if either of the qualifying conditions are met.

The qualifying conditions

2. The qualifying conditions are—

- (a) that the transaction is entered into in pursuance of powers conferred by section 2 of the Housing (Scotland) Act 1987(a) (powers of local authority to provide housing accommodation), or
- (b) that the transaction is funded with the assistance of a grant or other financial assistance under section 2 of the Housing (Scotland) Act 1988(b) (general functions of Scottish Homes).”

(a) 1987 c. 26. Section 2 was relevantly amended by section 161(2) of the Local Government and Housing Act 1989 (c. 42).
(b) 1988 c. 43. Section 2 was relevantly amended by schedule 10 of the Housing (Scotland) Act 2001 (asp 10).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes various amendments to the Land and Buildings Transaction Tax (Scotland) Act 2013 (“the Act”).

Articles 2 and 3 establish a new targeted relief, in a new schedule 6A of the Act. The targeted relief is to provide relief from land and buildings transaction tax where the buyer is a local authority and the acquisition of land is funded by the Scottish Ministers under section 2 of the Housing (Scotland) Act 1987 or section 2 of the Housing (Scotland) Act 1988.

Article 5 modifies paragraph 2(2) of schedule 2A of the Act so that the period ending with the effective date of a transaction, during which the replacement of an only or main residence gives rise to relief from payment of the additional amount, is extended to 36 months.

Article 6 modifies paragraph 6 of schedule 2A of the Act so that properties owned by the buyer’s spouse, civil partner, cohabitant, or a child of the buyer or any of those persons, which are currently deemed to be owned by the buyer, are also deemed to be disposed of by the buyer, when disposed of.

Article 7 modifies paragraph 8 of schedule 2A of the Act so that relief from the additional amount is extended to transactions by joint buyers where either of the joint buyers disposes of their own former main residence in the relevant period before the effective date of the transaction, or where only one of the joint buyers has an ownership interest in a former main residence which can be disposed of in the relevant period. Further, it extends the relevant period to 36 months before or after the effective date of the transaction.

Article 8 inserts a new paragraph 9B and 9C into schedule 2A of the Act. Paragraph 8B adds a relief from the additional amount where a buyer is replacing their main residence but inherits an ownership interest in a second dwelling in the period after missives have been concluded for the purchase of the new main residence.

Paragraph 9C adds a relief from the additional amount where a buyer is replacing their main residence but is subject to a court order requiring them to retain an ownership interest in a second dwelling which is a former main residence, following divorce, dissolution of a civil partnership or judicial separation.

Article 9 amends paragraph 17 of schedule 2A of the Act to provide that a share worth less than £40,000 in a jointly owned property is to be disregarded for the purposes of determining whether schedule 2A applies to a transaction.

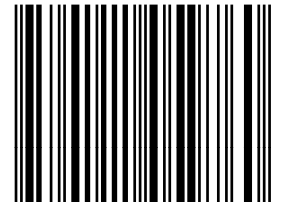
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