

## New Clause 24: Exceptional circumstances preventing disposal of interest in three year period

### Summary

1. This clause amends the Stamp Duty Land Tax (SDLT) higher rates on additional dwellings provisions. It introduces an extension to the 3-year time limit in which to dispose of a previous main residence, and so qualify for a refund of the 3% higher rate, where exceptional circumstances prevent the sale of a previous main residence within that period. It applies only where the 3-year time limit to sell the previous main residence ended on or after 1 January 2020. It follows the government's Written Ministerial Statement published on 3 June 2020.

### Details of the clause

2. Subsection 1 introduces the amendment to Schedule 4ZA to the Finance Act 2003 (stamp duty land tax: higher rates for additional dwellings etc).
3. Subsection 2 amends sub-paragraph (3)(7)(b) of Schedule 4ZA by substituting the existing 3-year time limit with a 'permitted period'. It inserts new sub-paragraphs (7A), (7B) and (7C) into paragraph 3 of Schedule 4ZA.
4. New sub-paragraph (7A) defines the permitted period as either:
  - 3 years from the date the previous main residence was sold; or
  - such longer period as HMRC may allow if satisfied in response to an application that the sold property would have been disposed of within the 3-year period if the disposal had not been prevented by exceptional circumstances that could not reasonably have been foreseen.
5. New sub-paragraph (7B) provides that an application for an extension of the 3-year time limit, under new sub-paragraph (7A), must be made within 12 months of the disposal of the previous main residence and in such form and manner, and containing such information, as may be specified by HMRC.
6. New sub-paragraph (7C) provides that Schedule 11A to the Finance Act 2003 is to be disapplied in relation to applications made in accordance with new sub-paragraph (7B).
7. Subsection 3 inserts new subparagraph 5 into paragraph 8 of Schedule 4ZA so that where HMRC approve an application made under new paragraph 3(7B), the land

transaction return is treated as having been amended (and so resulting in a refund of the tax) requiring HMRC to notify the purchaser accordingly. It inserts the words “by virtue of paragraph 3(7A)(a)” into paragraph 8(3)(6) & (7) which has the effect of preserving the rules and the time limits which apply to amending a return where exceptional circumstances do not apply.

8. Subsection 4 provides that these changes come into force where the effective date of the transaction concerned (i.e. the date the replacement main residence was purchased) is on or after 1 January 2017, this being the earliest date where the 3-year time limit to sell the previous main residence ended on or after 1 January 2020.

## Background note

9. SDLT is a tax on purchases of land in England and Northern Ireland. SDLT was devolved to Wales with effect from 1 April 2018 and to Scotland in April 2015.
10. Purchasers are charged at a percentage of the consideration they pay for an interest in land (e.g. the price paid for the property).
11. The standard rates of SDLT for residential property transactions are as follows:

Relevant Consideration	Standard Rates
Up to £125,000	0%
More than £125,000 and up to £250,000	2%
More than £250,000 and up to £925,000	5%
More than £925,000 and up to £1.5 million	10%
The remainder	12%

12. An additional rate of 3% applies on top of the above standard rates for purchases by an individual who already owns another residential property, or on purchases by companies.
13. Where an individual still owns their previous main residence after they have purchased their replacement main residence, they have to pay the 3% surcharge. However, a refund of the 3% surcharge can be claimed if the previous main residence is sold within three years of buying the new one. A refund can be claimed within 12 months of the sale of the previous main residence, or within 12 months the filing date of the land transaction return, whichever comes later.
14. In the vast majority of cases 3 years is ample time, taking account of the sorts of events that ordinarily might delay matters, in which to complete the sale of the previous main residence and receive a refund. However, as highlighted by the COVID-19 situation, there will be circumstances (not limited to COVID-19) in which individuals are prevented by some exceptional impediment to completing the sale of the previous main residence within the 3-year deadline. Where this is the case, HMRC will be able to grant a refund if the previous residence is sold as soon as is reasonably practical when the exceptional circumstances ceased to apply and where

they are satisfied that the exceptional circumstance was the reason that prevented the sale.

15. Exceptional circumstances are by their nature difficult to anticipate, but would include, for example:
  - prevention of the sale as a result of a restriction imposed by a public authority (e.g. the government restrictions placed on the housing market as a result of the COVID-19 pandemic).
16. Exceptional circumstances do not include, for example:
  - fluctuations in the housing market which deter owners from selling within the 3-year time limit at market values applying at that time, or
  - the ordinary and 'everyday' events that occur in the buying and selling of property, such as prospective purchasers changing their mind and dropping out of the transaction.
17. HMRC has published more detailed guidance on [Gov.UK](https://www.gov.uk).