

## Explanatory Note

### Clause 51: SDLT higher rate: properties occupied by certain employees etc

#### Summary

1. This measure introduces new reliefs from the 15% higher rate of stamp duty land tax (SDLT) where a property is purchased for the purpose of providing living accommodation either to an employee of a qualifying property rental business, or to a caretaker of a building who is employed by a tenant-run management company.

#### Details of the clause

2. Subsection (1) amends Schedule 4A to Finance Act 2003.
3. Subsection (2) amends paragraph 5D of Schedule 4A of Finance Act 2003 so that relief from the higher rate of stamp duty land tax (SDLT) is not only available where a property is acquired for the purposes of providing living accommodation to an employee of a trade, but also where it is acquired for the purposes of providing living accommodation to an employee of a property rental business.
4. Subsection (3) amends the heading before paragraph 5D.
5. Subsection (4) inserts new paragraph 5EA into Schedule 4A of Finance Act 2003 to provide relief in relation to the acquisition by a tenants' management company, of a flat for occupation by caretaker.
6. New paragraph 5EA(1) provides that relief is available from the higher rate of SDLT in relation to the acquisition of a higher threshold interest in a flat where two conditions are met. These are:
  - the flat is one of at least 3 flats contained in the same premises, and
  - it is acquired by the tenants' management company for the purpose of making it available for use as caretaker accommodation.
7. New paragraph 5EA(2) provides that a tenants' management company makes a flat available for use as caretaker accommodation if it makes it available to an individual for use as living accommodation in connection with that individual's employment by the company as caretaker of the premises.
8. New paragraph 5EA(3) provides that a company is a 'tenants' management company' where:
  - the tenants of at least two of the other flats in the premises are members of the

management company,

- the company owns, or intends to acquire, the freehold of the premises, and
  - the company does not carry on a relievable business.
9. New paragraph 5EA (4) defines the term 'premises' as the whole or part of the building which contains the flat.
  10. Subsection (5) inserts new paragraph 5JA into schedule 4A of Finance Act 2003.
  11. New paragraph 5JA(1) and (2) provides that relief claimed under new paragraph 5EA above will be withdrawn if, at any time within 3 years of the effective date of transaction, the flat is held for any purpose other than to provide caretaker living accommodation.
  12. New paragraph 5JA(3) provides that a tenant's management company makes a flat available for use 'as caretaker accommodation' if it makes it available to an individual for use as living accommodation in connection with that individual's employment by the company as caretaker of the premises.
  13. Subsections (6) to (9) make consequential amendments to paragraphs 5E, 5J, 6G and 9 as a consequence of new paragraphs 5EA and 5JA.
  14. Subsection (10) provides that these changes have effect in relation to any land transaction on or after 1 April 2016.

## Background note

15. Schedule 4A Finance Act 2003 provides for the 15 per cent higher rate charge to SDLT. This charge applies to the acquisition of a 'higher threshold interest' by a 'non-natural person' – that is, a company, a partnership with a corporate member, or a collective investment scheme. A 'higher threshold interest' is defined as an interest in a single dwelling (together with appurtenant rights) to which chargeable consideration of more than £500,000 is attributable. There are a number of reliefs available aimed at genuine business acquisitions which can reduce the charge to the standard rate of SDLT. Relief is withdrawn if, at any time within a period of 3 years from the date of transaction, the property is held for any purpose other than those for which relief was given.
16. This clause makes amendments to Schedule 4A FA 2003 (SDLT: higher rate for certain transactions) to align the available reliefs and withdrawal provisions under the SDLT legislation with similar new reliefs being introduced by clause 54 for the annual tax on enveloped dwellings.
17. A new relief from the higher rate of SDLT will be available where a property is purchased for the purposes of providing living accommodation to an employee of a qualifying property rental business, that is, one run on a commercial basis and with a view to profit.
18. In addition, relief will also be available from the higher rate where a tenant run management company purchases a flat for a caretaker who will be employed to manage and maintain the building (e.g. a block of flats).
19. If you have any questions about this change, or comments on the legislation, please contact

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