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

- (1) Schedule 4A to FA 2003 (SDLT: higher rate for certain transactions) is amended as follows.
- (2) In paragraph 5D (dwellings for occupation by certain employees etc) –
  - (a) in sub-paragraph (1), for “trade” substitute “business”;
  - (b) in sub-paragraph (2)(b) for “trade” substitute “business”;
  - (c) In sub-paragraph (4) for ““Relievable trade” means a trade” substitute ““Relievable business” means a trade or property rental business”.
- (3) The heading before paragraph 5D becomes “*Dwellings for occupation by certain employees etc of a relievable business*”.
- (4) After paragraph 5E insert –

*“Acquisition by management company of flat for occupation by caretaker*

5EA (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in or over a flat which –

- (a) is one of at least three flats contained in the same premises, and
- (b) is acquired by a tenants’ management company for the purpose of making the flat available for use as caretaker accommodation.

(2) For the purposes of this paragraph 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 the individual’s employment by the company as caretaker of the premises.

(3) In relation to the acquisition of a flat, a company is a “tenants’ management company” if –

- (a) the tenants of two or more other flats contained in the premises are members of the company, and
- (b) the company owns, or it is intended that the company will acquire, the freehold of the premises;

but a company which carries on a relievable business is not a tenants’ management company.

(4) In this paragraph “premises” means premises constituting the whole or part of a building.”

- (5) After paragraph 5J insert –

“5JA(1) This paragraph applies where relief under paragraph 5EA (acquisition by management company of flat for occupation by caretaker) has been allowed in respect of a higher threshold interest forming the whole or part of the subject-matter of a chargeable transaction.

(2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the chargeable transaction the purchaser holds the higher threshold interest otherwise than for the

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purpose of making the flat available for use as caretaker accommodation.

- (3) For the purposes of this paragraph 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 the individual's employment by the company as caretaker of the premises."
- (6) In paragraph 5E (meaning of "qualifying partner", "qualifying employee" etc) –
- (a) in sub-paragraph (1) for "trade" substitute "business";
  - (b) in sub-paragraph (2) for "qualifying trade" substitute "relievable business";
  - (c) in sub-paragraph (4) –
    - (i) in the words before paragraph (a), for "trade" substitute "relievable business";
    - (ii) in paragraph (a)(i), for "trade" substitute "relievable business".
- (7) In paragraph 5J (withdrawal of relief under paragraph 5D), in sub-paragraph (3) –
- (a) in paragraph (a), after "trade" insert "or property rental business";
  - (b) in paragraph (c), after "trade" insert "or property rental business".
- (8) In paragraph 6G (withdrawal of relief under paragraph 5D in cases involving alternative finance arrangements), in sub-paragraph (4) –
- (a) in paragraph (a), for "qualifying trade" substitute "relievable business";
  - (b) in paragraph (c) for "trade" substitute "relievable business".
- (9) In paragraph 9 (interpretation), at the appropriate place insert –
- "“relievable business” has the meaning given by paragraph 5D(4).”
- (10) The amendments made by this section have effect in relation to any land transaction of which the effective date is on or after 1 April 2016.