
53 SDLT higher rate: dwelling converted to use for trade purposes etc

(1) Schedule 4A to FA 2003 (SDLT: higher rate for certain transactions) is amended in accordance with subsections (2) to (6).

(2) After paragraph 5A insert –

“Conversion or demolition and use for trade purposes

5AA(1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest which is acquired exclusively for the purposes of –

- (a) conversion of the building for use, otherwise than as a dwelling, for the purposes of a relievable trade, or
- (b) permanent demolition of the dwelling in preparation for using the land for the purposes of a relievable trade.

(2) For the purposes of this paragraph a trade is a “relievable trade” if at the effective date of the chargeable transaction the purchaser is carrying it on on a commercial basis and with a view to profit.

(3) In this paragraph –

“the building” means the building or part of a building which counts as a dwelling by virtue of paragraph 7;

“permanent demolition” means demolition where the dwelling is not replaced by another dwelling.”

(3) After paragraph 5G insert –

“5GA(1) Relief allowed under paragraph 5AA (conversion or demolition and use for trade purposes) in respect of a chargeable transaction is withdrawn if sub-paragraph (2) or (4) applies.

(2) This sub-paragraph applies if the building is used as a dwelling at any time in the period of three years beginning with the effective date of the chargeable transaction.

(3) But the times referred to in sub-paragraph (2) do not include times when the purchaser no longer has a chargeable interest in or over the dwelling.

(4) This sub-paragraph applies if at the end of the period of three years beginning with the effective date of the chargeable transaction –

- (a) the purchaser has a chargeable interest in or over the land concerned, and
- (b) the conversion mentioned in paragraph 5AA(1)(a) or (as the case requires) the demolition mentioned in paragraph 5AA(1)(b) has not started.

(5) In this paragraph “the building” is to be interpreted in accordance with paragraph 5AA(3).”

(4) In paragraph 6A –

(a) in sub-paragraph (4), after “5(1),” insert “5AA(1),”;

(b) in sub-paragraph (5), after “5(1),” insert “5AA(1)”.

(5) In paragraph 6C, in sub-paragraph (2)(b), after “5(1),” insert “5AA(1),”.

(6) After paragraph 6E insert—

“6EA(1) This paragraph applies where relief under paragraph 5AA (conversion or demolition and use for trade purposes) has been allowed, in accordance with paragraph 6A(4), with respect to the purchase of a major interest in land.

(2) Paragraph 5GA applies in relation to that relief as if in subparagraphs (3) and (4) of that paragraph the references to “the purchaser” were to the purchaser under the second transaction.

(3) In this paragraph “the second transaction” has the same meaning as in section 71A, or 73 (as the case requires).”

(7) The amendments made by subsections (1) to (6) have effect in relation to any land transaction of which the effective date is on or after 1 April 2016.

(8) If any such a land transaction is a land transaction in relation to which section 29 of the Scotland Act 2012 does not have effect, Schedule 4A to FA 2003 has effect in relation to that land transaction as if paragraph 6EA of that Schedule were modified as follows—

“6EA(1) This paragraph applies where relief under paragraph 5AA (conversion or demolition and use for trade purposes) has been allowed, in accordance with paragraph 6A(4) or 6B(3), with respect to the purchase of a major interest in land.

(2) Paragraph 5GA applies in relation to that relief as if in subparagraphs (3) and (4) of that paragraph the references to “the purchaser” were to the relevant person.

In this sub-paragraph “the relevant person” means the person (other than the financial institution) who enters into the arrangements mentioned in section 71A(1), 72(1), 72A(1) or 73(1).”