

1 SDLT: Higher rates for additional dwellings etc

- (1) FA 2003 is amended in accordance with subsections (2) to (4).
- (2) In section 55 (amount of tax chargeable: general) after subsection (4) insert—
 - “(4A) Schedule 4ZA (higher rates for additional dwellings and dwellings purchased by companies) modifies this section as it applies for the purpose of determining the amount of tax chargeable in respect of certain transactions involving major interests in dwellings.”
- (3) After Schedule 4 insert—

“SCHEDULE 4ZA

STAMP DUTY LAND TAX: HIGHER RATES FOR ADDITIONAL DWELLINGS AND DWELLINGS PURCHASED BY COMPANIES

PART 1

HIGHER RATES

- 1 (1) In its application for the purpose of determining the amount of tax chargeable in respect of a chargeable transaction which is a higher rates transaction, section 55 (amount of tax chargeable: general) has effect with the modification in sub-paragraph (2).
- (2) In subsection (1B) of section 55, for Table A substitute—

“**Table A: Residential**

<i>Relevant consideration</i>	<i>Percentage</i>
So much as does not exceed £125,000	3%
So much as exceeds £125,000 but does not exceed £250,000	5%
So much as exceeds £250,000 but does not exceed £925,000	8%
So much as exceeds £925,000 but does not exceed £1,500,000	13%
The remainder (if any)	15%”

PART 2

MEANING OF “HIGHER RATES TRANSACTION”

Meaning of “higher rates transaction” etc

- 2 (1) This paragraph explains how to determine whether a chargeable transaction is a “higher rates transaction” for the purposes of paragraph 1.
- (2) In the case of a transaction where there is only one purchaser, determine whether the transaction falls within any of paragraphs 3 to 7; if it does fall within any of those paragraphs it is a “higher rates transaction” (otherwise it is not).
- (3) In the case of a transaction where there are two or more purchasers—
- (a) take one of the purchasers and determine, having regard to that purchaser only, whether the transaction falls within any of paragraphs 3 to 7, and
 - (b) do the same with each of the other purchasers.
- If the transaction falls within any of those paragraphs when having regard to any one of the purchasers it is a “higher rates transaction” (otherwise it is not).
- (4) For the purposes of this Schedule any term of years absolute or leasehold estate is not a “major interest” if its term does not exceed 7 years on the date of its grant.

Single dwelling transactions

- 3 (1) A chargeable transaction falls within this paragraph if—
- (a) the purchaser is an individual,
 - (b) the main subject-matter of the transaction consists of a major interest in a single dwelling (“the purchased dwelling”), and
 - (c) Conditions A to D are met.
- (2) Condition A is that the chargeable consideration for the transaction is £40,000 or more.
- (3) Condition B is that on the effective date of the transaction the purchased dwelling—
- (a) is not subject to a lease upon which the main subject-matter of the transaction is reversionary, or
 - (b) is subject to such a lease but the lease has an unexpired term of no more than 21 years.
- (4) Condition C is that at the end of the day that is the effective date of the transaction—
- (a) the purchaser has a major interest in a dwelling other than the purchased dwelling,
 - (b) that interest has a market value of £40,000 or more, and
 - (c) that interest is not reversionary on a lease which has an unexpired term of more than 21 years.
- (5) Condition D is that the purchased dwelling is not a replacement for the purchaser’s only or main residence.

- (6) For the purposes of sub-paragraph (5) the purchased dwelling is a replacement for the purchaser's only or main residence if –
- (a) on the effective date of the transaction (“the transaction concerned”) the purchaser intends the purchased dwelling to be the purchaser's only or main residence,
 - (b) in another land transaction (“the previous transaction”) whose effective date was during the period of three years ending with the effective date of the transaction concerned, the purchaser or the purchaser's spouse or civil partner at the time disposed of a major interest in another dwelling (“the sold dwelling”),
 - (c) at any time during that period of three years the sold dwelling was the purchaser's only or main residence, and
 - (d) at no time during the period beginning with the effective date of the previous transaction and ending with the effective date of the transaction concerned has the purchaser or the purchaser's spouse or civil partner acquired a major interest in any other dwelling with the intention of it being the purchaser's only or main residence.
- (7) For the purposes of sub-paragraph (5) the purchased dwelling may become a replacement for the purchaser's only or main residence if –
- (a) on the effective date of the transaction (“the transaction concerned”) the purchaser intended the purchased dwelling to be the purchaser's only or main residence,
 - (b) in another land transaction whose effective date is during the period of three years beginning with the day after the effective date of the transaction concerned, the purchaser or the purchaser's spouse or civil partner disposes of a major interest in another dwelling (“the sold dwelling”), and
 - (c) at any time during the period of three years ending with the effective date of the transaction concerned the sold dwelling was the purchaser's only or main residence.
- 4 A chargeable transaction falls within this paragraph if –
- (a) the purchaser is not an individual,
 - (b) the main subject-matter of the transaction consists of a major interest in a single dwelling, and
 - (c) Conditions A and B in paragraph 3 are met.

Multiple dwelling transactions

- 5 (1) A chargeable transaction falls within this paragraph if –
- (a) the purchaser is an individual,
 - (b) the main subject-matter of the transaction consists of a major interest in two or more dwellings (“the purchased dwellings”), and
 - (c) Conditions A and B are met in respect of at least two of the purchased dwellings.
- (2) Condition A is that the portion of the chargeable consideration for the transaction which is attributable on a just and reasonable basis to the purchased dwelling is £40,000 or more.

- (3) Condition B is that on the effective date of the transaction the purchased dwelling—
- (a) is not subject to a lease upon which the main subject-matter of the transaction is reversionary, or
 - (b) is subject to such a lease but the lease has an unexpired term of no more than 21 years.
- 6 (1) A chargeable transaction falls within this paragraph if—
- (a) the purchaser is an individual,
 - (b) the main subject-matter of the transaction consists of a major interest in two or more dwellings (“the purchased dwellings”),
 - (c) Conditions A and B in paragraph 5 are met in respect of one of the purchased dwellings,
 - (d) the purchased dwelling in respect of which those conditions are met is not a replacement for the purchaser’s only or main residence, and
 - (e) at the end of the day that is the effective date of the transaction—
 - (i) the purchaser has a major interest in a dwelling other than one of the purchased dwellings,
 - (ii) that interest has a market value of £40,000 or more, and
 - (iii) that interest is not reversionary on a lease which has an unexpired term of more than 21 years.
- (2) Sub-paragraphs (6) and (7) of paragraph 3 apply for the purposes of sub-paragraph (1)(d) of this paragraph as they apply for the purposes of sub-paragraph (5) of that paragraph.
- 7 A chargeable transaction falls within this paragraph if—
- (a) the purchaser is not an individual,
 - (b) the main subject-matter of the transaction consists of a major interest in two or more dwellings (“the purchased dwellings”), and
 - (c) Conditions A and B in paragraph 5 are met in respect of at least one of the purchased dwellings.

PART 3

SUPPLEMENTARY PROVISIONS

Further provision in connection with paragraph 3(6) and (7)

- 8 (1) This paragraph applies where by reason of paragraph 3(7) a chargeable transaction (“the transaction concerned”) ceases to be a higher rates transaction for the purposes of paragraph 1.
- (2) The land transaction (“the subsequent transaction”) by reference to which the condition in paragraph 3(7)(b) was met may not be taken into account for the purposes of paragraph 3(6)(b) in determining whether any other chargeable transaction is a higher rates transaction.

- (3) A land transaction return in respect of the transaction concerned may be amended, to take account of its ceasing to be a higher rates transaction, at any time within whichever of the following periods expires later –
 - (a) the period of 3 months beginning within the effective date of the subsequent transaction, and
 - (b) the period of 12 months beginning with the filing date for the return.
- (4) Where a land transaction return in respect of the transaction concerned is amended to take account of its ceasing to be a higher rates transaction (and not for any other reason), paragraph 6(2A) of Schedule 10 (notice of amendment of return to be accompanied by the contract for the transaction etc) does not apply in relation to the amendment.

Spouses and civil partners purchasing alone

- 9 (1) Sub-paragraph (2) applies in relation to a chargeable transaction if –
 - (a) the purchaser (or one of them) is married or in a civil partnership on the effective date,
 - (b) the purchaser and the purchaser's spouse or civil partner are living together on that date, and
 - (c) the purchaser's spouse or civil partner is not a purchaser in relation to the transaction.
- (2) The transaction is to be treated as being a higher rates transaction for the purposes of paragraph 1 if it would have been a higher rates transaction had the purchaser's spouse or civil partner been a purchaser.
- (3) Persons who are married to, or are civil partners of, each other are treated as living together for the purposes of this paragraph if they are so treated for the purposes of the Income Tax Acts (see section 1011 of the Income Tax Act 2007).

Settlements and bare trusts

- 10 (1) Sub-paragraph (3) applies in relation to a land transaction if –
 - (a) the main subject-matter of the transaction consists of a major interest in one or more dwellings,
 - (b) the purchaser (or one of them) is acting as trustee of a settlement, and
 - (c) under the terms of the settlement a beneficiary will be entitled to –
 - (i) occupy the dwelling or dwellings for life, or
 - (ii) income earned in respect of the dwelling or dwellings.
- (2) Sub-paragraph (3) also applies in relation to a land transaction if –
 - (a) the main subject-matter of the transaction consists of a term of years absolute in a dwelling, and
 - (b) the purchaser (or one of them) is acting as a trustee of a bare trust.

- (3) Where this sub-paragraph applies in relation to a land transaction the beneficiary of the settlement or bare trust (rather than the trustee) is to be treated for the purposes of this Schedule as the purchaser (or as one of them).
 - (4) Paragraphs 3(3) and 4 of Schedule 16 (trustees to be treated as the purchaser) have effect subject to sub-paragraph (3).
- 11
 - (1) Sub-paragraph (3) applies where –
 - (a) a person is a beneficiary under a settlement,
 - (b) a major interest in a dwelling forms part of the trust property, and
 - (c) under the terms of the settlement, the beneficiary is entitled to –
 - (i) occupy the dwelling for life, or
 - (ii) income earned in respect of the dwelling.
 - (2) Sub-paragraph (3) also applies where –
 - (a) a person is a beneficiary under a bare trust, and
 - (b) a term of years absolute in a dwelling forms part of the trust property.
 - (3) Where this sub-paragraph applies –
 - (a) the beneficiary is to be treated for the purposes of this Schedule as holding the interest in the dwelling, and
 - (b) if the trustee of the settlement or bare trust disposes of the interest, the beneficiary is to be treated for the purposes of this Schedule as having disposed of it.
- 12
 - (1) This paragraph applies where, by reason of paragraph 10 or 11 or paragraph 3(1) of Schedule 16, the child of a person (“P”) would (but for this paragraph) be treated for the purposes of this Schedule as –
 - (a) being the purchaser in relation to a land transaction,
 - (b) holding an interest in a dwelling, or
 - (c) having disposed of an interest in a dwelling.
 - (2) Where this paragraph applies –
 - (a) P and any spouse or civil partner of P are to be treated for the purposes of this Schedule as being the purchaser, holding the interest or (as the case may be) having disposed of the interest, and
 - (b) the child is not to be so treated.
 - (3) But sub-paragraph (2)(a) does not apply in relation to a spouse or civil partner of P if the two of them are not living together.
 - (4) Sub-paragraph (3) of paragraph 9 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.
 - (5) “Child” means a person under the age of 18.
- 13
 - (1) This paragraph applies in relation to a land transaction if –
 - (a) the main subject-matter of the transaction consists of a major interest in one or more dwellings,
 - (b) the purchaser (or one of them) is acting as trustee of a settlement,

- (c) that purchaser is an individual, and
 - (d) under the terms of the settlement a beneficiary is not entitled to—
 - (i) occupy the dwelling or dwellings for life, or
 - (ii) income earned in respect of the dwelling or dwellings.
- (2) In determining whether the transaction falls within paragraph 4 or paragraph 7—
- (a) if the purchaser mentioned in sub-paragraph (1) is the only purchaser, ignore paragraph (a) of those paragraphs, and
 - (b) if that purchaser is not the only purchaser, ignore paragraph (a) of those paragraphs when having regard to that purchaser.

Partnerships

- 14 (1) Sub-paragraph (2) applies in relation to a chargeable transaction whose subject-matter consists of a major interest in one or more dwellings if—
- (a) the purchaser (or one of them) is a partner in a partnership, but
 - (b) the purchaser does not enter into the transaction for the purposes of the partnership.
- (2) For the purposes of determining whether the transaction falls within paragraph 3 or 6 any major interest in any other dwelling that is held by or on behalf of the partnership for the purposes of a trade carried on by the partnership is not to be treated as held by or on behalf of the purchaser.
- (3) Paragraph 2(1)(a) of Schedule 15 (chargeable interests held by partnerships treated as held by the partners) has effect subject to sub-paragraph (2).

Major interests in dwellings inherited jointly

- 15 (1) This paragraph applies where by virtue of an inheritance—
- (a) a person (“P”) becomes jointly entitled with one or more other persons to a major interest in a dwelling, and
 - (b) P’s beneficial share in the interest does not exceed 50% (see sub-paragraph (4)).
- (2) P is not to be treated for the purposes of paragraph 3(4)(a) or 6(1)(e) as having the major interest at any time during the period of three years beginning with the date of the inheritance.
- (3) But if at any time during that period of three years P becomes the only person beneficially entitled to the whole of the interest or P’s beneficial share in the interest exceeds 50% P is, from that time, to be treated as having the major interest for the purposes of paragraph 3(4)(a) and 6(1)(e) (subject to any disposal by P).
- (4) P’s share in the interest exceeds 50% if—

- (a) P is beneficially entitled as a tenant in common or coparcener to more than half the interest,
 - (b) P and P's spouse or civil partner taken together are beneficially entitled as tenants in common or coparceners to more than half the interest, or
 - (c) P and P's spouse or civil partner are beneficially entitled as joint tenants to the interest and there is no more than one other joint tenant who is so entitled.
- (5) In this section "inheritance" means the acquisition of an interest in or towards satisfaction of an entitlement under or in relation to the will of a deceased person, or on the intestacy of a deceased person.

Dwellings outside England, Wales and Northern Ireland

- 16 (1) In the provisions of this Schedule specified in sub-paragraph (3), references to a "dwelling" include references to a dwelling situated in a country or territory outside England, Wales and Northern Ireland.
- (2) In the application of those provision in relation to a dwelling situated in a country or territory outside England, Wales and Northern Ireland –
- (a) references to a "major interest" in the dwelling are to an equivalent interest in the dwelling under the law of that country or territory,
 - (b) references to persons being beneficially entitled as joint tenants, tenants in common or coparceners to an interest in the dwelling are to persons having an equivalent entitlement to the interest in the dwelling under the law of that country or territory,
 - (c) references to a "land transaction" in relation to the dwelling are to the acquisition of an interest in the dwelling under the law of that country or territory,
 - (d) references to the "effective date" of a land transaction in relation to the dwelling are to the date on which the interest in the dwelling is acquired under the law of that country or territory,
 - (e) references to "inheritance" are to the acquisition of an interest from a deceased person's estate in accordance with the laws of that country or territory concerning the inheritance of property.
- (3) The provisions of this Schedule referred to in sub-paragraphs (1) and (2) are –
- (a) paragraph 3(4), (6)(b), (c) and (d) and (7)(b) and (c),
 - (b) paragraph 6(1)(e),
 - (c) paragraph 11,
 - (d) paragraph 14(2), and
 - (e) paragraph 15.
- (4) Where the child of a person ("P") has an interest in a dwelling which is situated in a country or territory outside England, Wales and

Northern Ireland, P and any spouse or civil partner of P are to be treated for the purposes of this Schedule as having that interest.

- (5) But sub-paragraph (4) does not apply in relation to a spouse or civil partner of P if the two of them are not living together.
- (6) Sub-paragraph (3) of paragraph 9 applies for the purposes of sub-paragraph (5) of this paragraph as it applies for the purposes of that paragraph.

What counts as a dwelling

- 17 (1) This paragraph sets out rules for determining what counts as a dwelling for the purposes of this Schedule.
- (2) A building or part of a building counts as a dwelling if—
 - (a) it is used or suitable for use as a single dwelling, or
 - (b) it is in the process of being constructed or adapted for such use.
- (3) Land that is, or is to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure on that land) is taken to be part of that dwelling.
- (4) Land that subsists, or is to subsist, for the benefit of a dwelling is taken to be part of that dwelling.
- (5) The main subject-matter of a transaction is also taken to consist of or include an interest in a dwelling if—
 - (a) substantial performance of a contract constitutes the effective date of that transaction by virtue of a relevant deeming provision,
 - (b) the main subject-matter of the transaction consists of or includes an interest in a building, or a part of a building, that is to be constructed or adapted under the contract for use as a single dwelling, and
 - (c) construction or adaptation of the building, or part of a building, has not begun by the time the contract is substantially performed.
- (6) In sub-paragraph (5)—
 - “contract” includes any agreement;
 - “relevant deeming provision” means any of sections 44 to 45A or paragraph 5(1) or (2) of Schedule 2A or paragraph 12A of Schedule 17A;
 - “substantially performed” has the same meaning as in section 44.
- (7) A building or part of a building used for a purpose specified in section 116(2) or (3) is not used as a dwelling for the purposes of sub-paragraph (2) or (5).
- (8) Where a building or part of a building is used for a purpose mentioned in sub-paragraph (7), no account is to be taken for the purposes of sub-paragraph (2) of its suitability for any other use.”

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- (4) In paragraph 5 of Schedule 6B (relief for transfers involving multiple dwellings) after sub-paragraph (6) insert—
- “(6A) In the application of sub-paragraph (1), account is to be taken of paragraph 1 of Schedule 4ZA if the relevant transaction is a higher rates transaction for the purposes of that paragraph.”
- (5) The amendments made by this section have effect in relation to any land transaction of which the effective date is, or is after, 1 April 2016.
- (6) But those amendments do not have effect in relation to a transaction—
- (a) effected in pursuance of a contract entered into and substantially performed before 26 November 2015, or
 - (b) effected in pursuance of a contract entered into before that date and not excluded by subsection (7).
- (7) A transaction effected in pursuance of a contract entered into before 26 November 2015 is excluded by this subsection if—
- (a) there is any variation of the contract, or assignment of rights under the contract, on or after 26 November 2015,
 - (b) the transaction is effected in consequence of the exercise on or after that date of any option, right of pre-emption or similar right, or
 - (c) on or after that date there is an assignment, subsale or other transaction relating to the whole or part of the subject-matter of the contract as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance.
- (8) Subsection (9) applies in relation to a land transaction of which the effective date is or is before 26 November 2018.
- (9) In its application for the purpose of determining whether a land transaction to which this subsection applies is a higher rates transaction, paragraph 3(6) of Schedule 4ZA to FA 2003 has effect with the following modifications—
- (a) in paragraph (b) for “during the period of three years ending with” substitute “the same as or before”,
 - (b) in paragraph (c) for “during that period of three years” substitute “before the effective date of the transaction concerned”.