

**1 Relief from higher rate**

Schedule 1 contains provisions about relief from the higher rate of stamp duty land tax.

## SCHEDULES

### SCHEDULE 1

Section 1

#### STAMP DUTY LAND TAX: RELIEF FROM 15% RATE

#### PART 1

#### AMENDMENTS OF FINANCE ACT 2003

- 1 Part 4 of FA 2003 (stamp duty land tax) is amended as follows.
- 2 (1) Schedule 4A (higher rate for certain transactions) is amended as follows.
  - (2) In paragraph 2(6) (treatment of certain transactions as two separate chargeable transactions) for “and 5” substitute “to 5K and 6A to 6H”.
  - (3) For paragraph 5 (property developers) and the cross-heading preceding it substitute –

*“Businesses of letting, trading in or redeveloping properties*

- 5 (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest that is acquired exclusively for one or more of the following purposes –
  - (a) exploitation as a source of rents or other receipts (other than excluded rents) in the course of a qualifying property rental business;
  - (b) development or redevelopment and resale in the course of a property development trade;
  - (c) resale in the course of a property development trade (in a case where the chargeable transaction is part of a qualifying exchange);
  - (d) resale (as stock of the business) in the course of a property trading business.
- (2) A chargeable interest does not count as being acquired exclusively for one or more of those purposes if –
  - (a) it is intended that a non-qualifying individual will be permitted to occupy the dwelling, or
  - (b) it is intended that the dwelling will (or will if certain circumstances arise) be made available for occupation by a non-qualifying individual.
- (3) In this paragraph –
  - “excluded rents” has the same meaning as in section 38 of FA 2013;
  - “property development trade” means a trade that –

- (a) consists of or includes buying and developing or redeveloping for resale residential or non-residential property, and
  - (b) is run on a commercial basis and with a view to profit;
- “property trading business” means a business that—
- (a) consists of or includes activities in the nature of a trade of buying and selling dwellings, and
  - (b) is run on a commercial basis and with a view to profit;
- “qualifying exchange” is to be construed in accordance with section 44 of FA 2013;
- “qualifying property rental business” has the same meaning as in section 38 of FA 2013.”

(4) After paragraph 5 insert—

*“Meaning of “non-qualifying individual”*

- 5A (1) In paragraph 5 “non-qualifying individual”, in relation to a chargeable transaction, means any of the following—
- (a) the purchaser;
  - (b) an individual (a “connected person”) who is connected with the purchaser;
  - (c) a relevant settlor;
  - (d) the spouse or civil partner of a connected person or of a relevant settlor;
  - (e) a relative of a connected person or of a relevant settlor, or the spouse or civil partner of a relative of a connected person or of a relevant settlor;
  - (f) a relative of the spouse or civil partner of a connected person or of a relevant settlor;
  - (g) the spouse or civil partner of a person falling within paragraph (f);
  - (h) an individual who is a major participant in a relevant collective investment scheme or is connected with a major participant in a relevant collective investment scheme.
- (2) Where the purchaser under a chargeable transaction acquires the subject-matter of the transaction for the purposes of a collective investment scheme, that scheme is a “relevant collective investment scheme” for the purposes of sub-paragraph (1)(h).
- (3) A person who participates in a collective investment scheme is a “major participant” in the scheme if the individual—
- (a) is entitled to a share of at least 50% either of all the profits or income arising from the scheme or of any profits or income arising from the scheme that may be distributed to participants, or
  - (b) would in the event of the winding up of the scheme be entitled to 50% or more of the assets of the scheme that would then be available for distribution among the participants.
- (4) The reference in sub-paragraph (3)(a) to profits or income arising from a collective investment scheme is to profits or income arising

from the acquisition, holding, management or disposal of the property subject to the scheme.

- (5) In this paragraph—
- “participant”, in relation to a collective investment scheme, is to be read in accordance with section 235 of the Financial Services and Markets Act 2000;
  - “relative” means brother, sister, ancestor or lineal descendant;
  - “relevant settlor”, in relation to a chargeable transaction, means an individual who is a settlor in relation to a relevant settlement (as defined in sub-paragraph (6));
  - “settlement” has the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act).
- (6) Where a person, in the capacity of trustee of a settlement, is connected with a person who is the purchaser under a chargeable transaction, that settlement is a “relevant settlement” in relation to the chargeable transaction.
- (7) In sub-paragraph (6) “trustee” is to be read in accordance with section 1123(3) of CTA 2010 (“connected persons”: supplementary).
- (8) In this paragraph “the purchaser”, in relation to a chargeable transaction, is to be read as a reference to any of the purchasers (if there are more than one).
- (9) Subsections (2) to (7) of section 68 of the Finance Act 2013 apply for the purposes of this paragraph as for the purposes of Part 1 of that Act.

*Trades involving making a dwelling available to the public*

- 5B (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in relation to which the conditions in sub-paragraph (2) are met.
- (2) The conditions are that—
- (a) the higher threshold interest is acquired with the intention that it will be exploited as a source of income in the course of a qualifying trade, and
  - (b) reasonable commercial plans have been formulated to carry out that intention without delay (except so far as delay may be justified by commercial considerations or cannot be avoided).
- (3) “Qualifying trade”, in relation to a higher threshold interest, means a trade that—
- (a) is carried on on a commercial basis and with a view to profit, and
  - (b) involves, in its normal course, offering the public the opportunity to make use of, stay in or otherwise enjoy the dwelling as customers of the trade on at least 28 days in any calendar year.

- (4) For the purposes of sub-paragraph (3), persons are not considered to have the opportunity to make use of, stay in or otherwise enjoy a dwelling unless the areas that they have the opportunity to make use of, stay in or otherwise enjoy include a significant part of the interior of the dwelling.
- (5) The size (relative to the size of the whole dwelling), nature and function of any relevant area or areas in a dwelling are taken into account in determining whether they form a significant part of the interior of the dwelling.

*Financial institutions acquiring dwellings in the course of lending*

- 5C
- (1) Sub-paragraph (2) applies to a chargeable transaction if the purchaser is a financial institution carrying on a business that involves the lending of money.
  - (2) Paragraph 3 does not apply to the chargeable transaction so far as its subject-matter consists of a higher threshold interest that is acquired in the course of that business –
    - (a) for the purpose of resale in the course of the business and,
    - (b) in connection with those lending activities.

*Dwellings for occupation by certain employees etc*

- 5D
- (1) Paragraph 3 does not apply to a chargeable transaction so far as its subject-matter consists of a higher threshold interest in relation to which the conditions in sub-paragraph (2) are met.  
Those conditions can only be met if the purchaser, or a relevant group member, carries on or is to carry on a qualifying trade.
  - (2) The conditions are that –
    - (a) the interest is acquired for the purpose of making the dwelling available to one or more qualifying individuals for use as living accommodation, and
    - (b) the dwelling is to be made available as mentioned in paragraph (a) for purposes that are solely or mainly purposes of the qualifying trade.
  - (3) For the purposes of the relief under this paragraph it does not matter whether or not the individuals mentioned in sub-paragraph (2)(a) are identified at the time of the chargeable transaction.
  - (4) “Qualifying trade” means a trade that is carried on on a commercial basis and with a view to profit.
  - (5) In this paragraph references to making a dwelling available to a qualifying individual include making it available to persons who are to share the accommodation with a qualifying individual as that individual’s family.
  - (6) Where the purchaser is a company, “relevant group member” means a company which is a member of the same group of companies as the purchaser for the purposes mentioned in paragraph 1(2) of Schedule 7 (group relief).

*More about the condition in paragraph 5D(2)(a)*

- 5E (1) In a case where the person carrying on the qualifying trade mentioned in paragraph 5D(1) carries it on in partnership with one or more other persons, “qualifying partner” means any individual who is a member of the partnership.
- (2) “Qualifying employee” means an individual employed for the purposes of the qualifying trade.
- (3) In a case falling within sub-paragraph (1), the condition in paragraph 5D(2)(a) is taken not to be met if the individuals, or a class of individuals, to whom it is proposed to make the dwelling available for use as living accommodation include, or are likely to include, a member of the partnership who is (or will at the relevant time be) entitled to a 5% or greater share –
- (a) in the income profits of the partnership, or
  - (b) in any company beneficially entitled to the higher threshold interest mentioned in paragraph 5D(1), or
  - (c) in that higher threshold interest.
- (4) In addition, the condition in paragraph 5D(2)(a) is taken not to be met if the individuals, or a class of individuals, to whom it is proposed to make the dwelling available for use as living accommodation include, or are likely to include, an individual employed for the purposes of the trade in question who is (or will at the relevant time be) –
- (a) entitled to a 5% or greater share –
    - (i) in the income profits of the trade, or
    - (ii) in any company that is beneficially entitled to the higher threshold interest, or
    - (iii) in that higher threshold interest, or
  - (b) employed to provide excluded domestic services.
- (5) The reference in sub-paragraph (4)(b) to an individual employed to provide excluded domestic services is to an individual the duties of whose employment include the provision of services in connection with the (actual or intended) occupation, by an individual to whom sub-paragraph (6) applies, of the dwelling mentioned in paragraph 5D(2)(a) (“the relevant dwelling”), or a linked dwelling.
- (6) This sub-paragraph applies to any individual who is connected with a person who is or is to be beneficially entitled to the higher threshold interest.
- (7) The following are “linked” dwellings for the purposes of sub-paragraph (5) –
- (a) if the conditions in section 20(2) of FA 2013 are met in relation to the relevant dwelling and another dwelling, that other dwelling;
  - (b) a dwelling that is linked to the relevant dwelling, as described in section 21(1) of FA 2013.
- (8) For the purposes of sub-paragraphs (3)(c) and (4)(a) persons who are entitled to a chargeable interest as beneficial joint tenants (or,

in Scotland, as joint owners) are taken to be entitled to the chargeable interest as beneficial tenants in common (or, in Scotland, as owners in common) in equal shares.

- (9) Section 52 of FA 2013 (meaning of “5% or greater share in a company”) applies for the purposes of this paragraph as for the purposes of section 51 of that Act.
- (10) In this paragraph references to employment include the holding of an office.

### *Farmhouses*

- 5F (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 dwelling—
- (a) that is, or is to be, a farmhouse, and
  - (b) in relation to which the conditions in sub-paragraph (3) are met.
- (2) The reference in sub-paragraph (1) to a dwelling that “is or is to be a farmhouse” is to a dwelling that—
- (a) forms part of land that is to be occupied, or to continue to be occupied, for the purposes of a qualifying trade of farming, and
  - (b) is of a character appropriate to a dwelling occupied in connection with the farming of the land concerned, having regard to the size of the (proposed or actual) farm and to the nature and scale of the trade mentioned in paragraph (a).
- (3) The conditions are that—
- (a) the dwelling is to be occupied for the purposes of that trade by a qualifying farm worker,
  - (b) reasonable commercial plans have been formulated under which such occupation is either to continue from the effective date of the chargeable transaction or to begin without delay (except so far as delay may be justified by commercial considerations or cannot be avoided), and
  - (c) occupation of the farmhouse by a qualifying farm worker is then expected to continue as part of the normal way in which the trade is, or is to be, carried on.
- (4) In sub-paragraph (3) “qualifying farm worker” means an individual who—
- (a) occupies the dwelling for the purposes of the trade mentioned in that sub-paragraph, and
  - (b) has a substantial involvement (as a manager or otherwise) in the day-to-day work of the trade.
- (5) “Qualifying trade of farming” means a trade of farming that is carried on—
- (a) on a commercial basis, and
  - (b) with a view to the realisation of profits.

- (6) A person occupying part of a dwelling is regarded as occupying the dwelling for the purposes of this paragraph.
- (7) In this paragraph—
  - (a) “farming” has the same meaning as in the Corporation Tax Acts (see section 1125 of CTA 2010), except that in this paragraph “farming” includes market gardening;
  - (b) “market gardening” has the same meaning as in the Corporation Tax Acts (see section 1125(5) of CTA 2010).

*Withdrawal of relief*

- 5G (1) Sub-paragraph (2) applies where relief under paragraph 5 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 control period”) a requirement in sub-paragraph (3) is not met.
  - (3) The requirements are that—
    - (a) the higher threshold interest (if still held by the purchaser), is held exclusively for one or more of the purposes mentioned in paragraph 5(1),
    - (b) any chargeable interest derived from the higher threshold interest that may be held by the purchaser is held exclusively for one or more of those purposes, and
    - (c) (if the higher threshold interest or a chargeable interest derived from it is held by the purchaser) no non-qualifying individual is permitted to occupy the dwelling.
  - (4) The requirements in sub-paragraph (3)(a) and (b) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser’s control, it is not reasonable to expect the purposes for which the higher threshold interest was acquired to be carried out.
  - (5) Sub-paragraph (6) applies if a higher threshold interest was acquired for a purpose mentioned in paragraph 5(1) but at some time in the control period the activity in question (for instance, exploitation of the interest as mentioned in paragraph 5(1)(a))—
    - (a) has not yet begun, or
    - (b) has ceased.
  - (6) For the purposes of sub-paragraph (3), the interest is taken to be held for the purpose in question only if reasonable steps are being taken to ensure that the purpose in question is carried out.
  - (7) In this paragraph “non-qualifying individual” (in relation to the chargeable transaction mentioned in sub-paragraph (1)) has the meaning given by paragraph 5A.
- 5H (1) This paragraph applies where relief under paragraph 5B (trades involving making a dwelling open to the public) 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 control period”) a requirement in sub-paragraph (3) is not met.
  - (3) The requirements are that—
    - (a) the higher threshold interest (if still held by the purchaser), is being exploited as a source of income in the course of a qualifying trade, and
    - (b) any chargeable interest derived from that interest that may be held by the purchaser is being exploited as mentioned in paragraph (a).
  - (4) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser’s control, it is not reasonable to expect the chargeable interest concerned to be exploited in the manner specified.
  - (5) Sub-paragraph (6) applies if at some time in the control period the higher threshold interest, or a chargeable interest derived from it—
    - (a) has not begun to be exploited as mentioned in sub-paragraph (3), or
    - (b) has ceased to be so exploited.
  - (6) The requirements in sub-paragraph (3) are treated as being met if reasonable steps are being taken to ensure that the chargeable interest in question begins to be exploited as mentioned in that sub-paragraph, or that such exploitation of the interest is resumed.
- 5I
- (1) This paragraph applies where relief under paragraph 5C (financial institutions acquiring dwellings in the course of lending) 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 any requirement in sub-paragraph (3) is not met at any time in the period of three years beginning with the effective date of the chargeable transaction (“the control period”) (but see sub-paragraph (4)).
  - (3) The requirements are that—
    - (a) the purchaser continues to be a financial institution carrying on a business that involves the lending of money, and
    - (b) that the interest is held for the purpose of resale in the course of the business.
  - (4) The requirements in sub-paragraph (3) apply only to times in the control period when the purchaser holds—
    - (a) the higher threshold interest, or
    - (b) a chargeable interest that is derived from the higher threshold interest.
  - (5) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is

unforeseen and beyond the purchaser's control, it is not reasonable to expect those requirements to be met.

- 5J (1) This paragraph applies where relief under paragraph 5D (dwellings for occupation by certain employees etc) 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 any requirement in sub-paragraph (3) is not met at any time in the period of three years beginning with the effective date of the chargeable transaction ("the control period") (but see sub-paragraph (4)).
- (3) The requirements are that—
- (a) the purchaser, or a relevant group member (as defined in paragraph 5D(6)), carries on a qualifying trade,
  - (b) the dwelling is made available as mentioned in paragraph 5D(2)(a), and
  - (c) the dwelling is made so available for purposes that are solely or mainly purposes of the trade mentioned in paragraph (a) of this sub-paragraph.
- (4) The requirements in sub-paragraph (3) apply only to times in the control period when the purchaser holds—
- (a) the higher threshold interest, or
  - (b) a chargeable interest that is derived from the higher threshold interest.
- (5) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect those requirements to be met.
- (6) Sub-paragraph (7) applies if at some time in the control period the dwelling—
- (a) has not begun to be made available as mentioned in sub-paragraph (3)(b) and (c), or
  - (b) has ceased to be so made available.
- (7) The requirements in paragraphs (b) and (c) of sub-paragraph (3) are treated as being met if reasonable steps are being taken to ensure that the dwelling will begin to be, or will return to being, available as mentioned in those paragraphs.
- 5K (1) This paragraph applies where relief under paragraph 5F (farmhouses) 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 control period") the requirements in sub-paragraph (3) are not met (but see sub-paragraph (4)).
- (3) The requirements are that—
- (a) the land mentioned in paragraph 5F(2)(a) is occupied for the purposes of a qualifying trade of farming, and

- (b) the dwelling is occupied for the purposes of that trade by a qualifying farm worker.
  - (4) The requirements in sub-paragraph (3) apply only to times in the control period when the purchaser holds –
    - (a) the higher threshold interest, or
    - (b) a chargeable interest that is derived from the higher threshold interest.
  - (5) The requirements in sub-paragraph (3) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the purchaser’s control, it is not reasonable to expect those requirements to be met.
  - (6) Sub-paragraph (7) applies if at some time in the control period a requirement in sub-paragraph (3) –
    - (a) has not begun to be met, or
    - (b) has ceased to be met.
  - (7) The requirement is treated as being met if reasonable steps are being taken to ensure that the requirement begins to be met, or is again met.”
- (5) After paragraph 6 insert –

*“Modifications for cases involving alternative finance arrangements*

- 6A (1) This paragraph applies where –
- (a) section 71A (land sold to financial institution and leased to person), section 72 (land sold in Scotland sold to financial institution and leased to person) or section 73 (land sold to financial institution and re-sold to person) applies, and
  - (b) the major interest in land purchased under the first transaction consists of or includes a higher threshold interest.
- (2) In this paragraph “the first transaction” means –
- (a) where section 71A applies, the transaction mentioned in section 71A(1)(a);
  - (b) where section 72 applies, the transaction mentioned in section 72(1)(a);
  - (c) where section 73 applies, the transaction mentioned in section 73(1)(a)(i).
- (3) The condition in paragraph 3(3) is treated as being met with respect to the first transaction only if that condition is met with respect to the second transaction.
- (4) If the second transaction would qualify for relief under any of paragraphs 5(1), 5B(1), 5D(1) and 5F(1) (disregarding the exemptions in sections 71A(3), 72(3) and 73(3) and assuming, for this purpose, that the subject-matter of the second transaction is a higher threshold interest), the first transaction is taken to qualify for relief under the same provision (and accordingly paragraph 3 does not apply in relation to the first transaction).

- (5) The first transaction does not qualify for relief under any of paragraphs 5(1), 5B(1), 5D(1) or 5F(1) except in accordance with sub-paragraph (4).
  - (6) In this paragraph “the second transaction” has the same meaning as in section 71A, 72 or 73 (as the case requires).
- 6B
- (1) This paragraph applies where section 72A (land in Scotland sold to financial institution and person in common) applies and the major interest in land purchased under the transaction mentioned in section 72A(1)(a) (“the first transaction”) consists of or includes a higher threshold interest.
  - (2) In determining whether or not the first transaction meets the condition in paragraph 3(3) it is to be assumed that the financial institution referred to in section 72A(1) is not one of the persons acquiring the major interest in land under that transaction.
  - (3) Paragraphs 5 to 5F have effect in relation to the first transaction as they would have effect if the financial institution were not a purchaser under that transaction.

*Paragraphs 6A and 6B: application where transaction is split under paragraph 2(3)*

- 6C
- (1) Where paragraph 6A or 6B (“the modifying paragraph”) applies and the first transaction (within the meaning of that paragraph) is treated under paragraph 2(3) as two separate chargeable transactions, references in the modifying paragraph to the first transaction include those separate transactions.
  - (2) If the subject-matter of the second transaction (within the meaning of paragraph 6A) includes a chargeable interest other than a higher threshold interest, that fact is ignored in determining for the purposes of paragraph 6A –
    - (a) whether that transaction meets the condition in paragraph 3(3), or
    - (b) whether it would qualify for relief under any of paragraphs 5(1), 5B(1), 5D(1) and 5F(1).

*Alternative finance arrangements: withdrawal of relief*

- 6D
- (1) This paragraph applies where relief under paragraph 5 (businesses of letting, trading in or developing properties) has been allowed, in accordance with paragraph 6A(4) or 6B(3), with respect to the purchase of a major interest in land.
  - (2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the first transaction (“the control period”) a relevant requirement is not met.
  - (3) The relevant requirements are that –
    - (a) any relevant interest (see sub-paragraphs (5) and (6)) held by the relevant person is held by that person exclusively for one or more of the purposes mentioned in paragraph 5(1), and

- (b) (if a relevant interest is held by the relevant person) no non-qualifying individual is permitted to occupy the dwelling.
  - (4) For the purposes of sub-paragraph (3)(a) and (b) it does not matter whether the relevant interest is held by the relevant person –
    - (a) jointly or (in Scotland) in common, or
    - (b) otherwise.
  - (5) In relation to relief allowed in accordance with sub-paragraph 6A(4), “relevant interest” means any of the following –
    - (a) the interest acquired under the second transaction (within the meaning of paragraph 6A);
    - (b) any interest transferred to the relevant person as a result of the exercise of the right mentioned in section 71A(1)(d) or 72(1)(c);
    - (c) any chargeable interest derived from an interest such as is mentioned in paragraph (a) or (b).
  - (6) In relation to relief allowed in accordance with paragraph 6B(3), “relevant interest” means any of the following –
    - (a) the interest purchased under the first transaction (within the meaning of paragraph 6B);
    - (b) any interest transferred to the relevant person as a result of the exercise of the right mentioned in section 72A(1)(c);
    - (c) any chargeable interest derived from an interest such as is mentioned in paragraph (a) or (b).
  - (7) In this paragraph –
    - “non-qualifying individual” (in relation to the chargeable transaction mentioned in sub-paragraph (1)) has the meaning given by paragraph 5A;
    - “the relevant person” means the person (other than the financial institution) who entered into the arrangements in question as mentioned in section 71A(1), 72(1), 72A(1) or 73(1).
- 6E (1) The requirement in paragraph 6D(3)(a) does not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the relevant person’s control, it is not reasonable to expect the interest in question to be held for the purpose for which the relevant person acquired that person’s initial interest.
- (2) Sub-paragraph (3) applies if the relevant person’s initial interest was acquired by the relevant person for a purpose mentioned in paragraph 5(1), but at some time in the control period the activity in question (for instance, exploitation as mentioned in paragraph 5(1)(a)) –
    - (a) has not begun in the case of a relevant interest, or
    - (b) has ceased in the case of a relevant interest.
  - (3) For the purposes of paragraph 6D(3)(a) the relevant interest is taken to be held for the purpose in question only if reasonable

steps are being taken to ensure that the purpose in question is carried out.

- (4) In this paragraph—
- (a) “control period”, “relevant interest” and “the relevant person” have the same meaning as in paragraph 6D;
  - (b) references to the relevant person’s “initial interest” are to the interest mentioned in sub-paragraph (5)(a) or (6)(a) of paragraph 6D (as the case requires).
- 6F (1) This paragraph applies where relief under paragraph 5B (trades involving making a dwelling open to the public) has been allowed, in accordance with paragraph 6A(4) or 6B(3), with respect to the purchase of a major interest in land.
- (2) The relief is withdrawn if at any time in the period of three years beginning with the effective date of the first transaction (“the control period”) the requirement in sub-paragraph (3) is not met.
- (3) The requirement is that any relevant interest held by the relevant person is being exploited by that person (whether jointly, or in common, or otherwise) as a source of income in the course of a qualifying trade.
- (4) The requirement in sub-paragraph (3) does not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the relevant person’s control, it is not reasonable to expect the interest in question to be exploited as mentioned in that sub-paragraph.
- (5) Sub-paragraph (6) applies if at some time in the control period that person—
- (a) has not begun to exploit the interest as a source of income in the course of a relevant trade, or
  - (b) has ceased so to exploit it.
- (6) The requirement in sub-paragraph (3) is treated as being met if reasonable steps are being taken to ensure that the relevant interest begins to be exploited as mentioned in that sub-paragraph, or that such exploitation of the interest is resumed.
- (7) In this paragraph—
- (a) “relevant interest” has the same meaning as in paragraph 6D;
  - (b) “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);
  - (c) references to a major interest in land include an undivided share in a major interest in land.
- 6G (1) This paragraph applies where relief under paragraph 5D (dwellings for occupation by certain employees etc) has been allowed, in accordance with paragraph 6A(4) or 6B(3), with respect to the purchase of a major interest in land.
- (2) The relief is withdrawn if at any time in the control period when the relevant person holds a relevant interest (whether jointly, or in

- common, or otherwise) any requirement in sub-paragraph (4) is not met.
- (3) In sub-paragraph (2) “the control period” means the three years beginning with the effective date of the first transaction.
- (4) The requirements are that—
- (a) the relevant person, or a relevant group member, carries on a qualifying trade,
  - (b) the dwelling is made available as mentioned in paragraph 5D(2)(a), and
  - (c) the dwelling is made so available for purposes that are solely or mainly purposes of the trade mentioned in sub-paragraph (a).
- (5) The requirements in sub-paragraph (4) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the relevant person’s control, it is not reasonable to expect those requirements to be met.
- (6) Sub-paragraph (7) applies if at some time in the control period the relevant interest—
- (a) has not begun to be made available as mentioned in sub-paragraph (4)(b) and (c), or
  - (b) has ceased to be so made available.
- (7) The requirements in paragraphs (b) and (c) of sub-paragraph (4) are treated as being met if reasonable steps are being taken to ensure that the dwelling will begin to be, or will return to being, made available as mentioned in those paragraphs.
- (8) Where the relevant person is a company, “relevant group member” means a company which is a member of the same group of companies as the relevant person for the purposes mentioned in paragraph 1(2) of Schedule 7.
- (9) In this paragraph—
- (a) “relevant interest” has the same meaning as in paragraph 6D;
  - (b) “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);
  - (c) references to a major interest in land include an undivided share in a major interest in land.
- 6H (1) This paragraph applies where relief under paragraph 5F (farmhouses) has been allowed, in accordance with paragraph 6A(4) or 6B(3), in relation to the purchase of a major interest in land.
- (2) The relief is withdrawn if at any time in the control period when the relevant person holds a relevant interest (whether jointly, or in common, or otherwise) any requirement in sub-paragraph (4) is not met.
- (3) In sub-paragraph (2) “the control period” means the three years beginning with the effective date of the first transaction.

- 
- (4) The requirements are that –
- (a) the land mentioned in paragraph 5F(2)(a) is occupied for the purposes of a qualifying trade of farming, and
  - (b) the dwelling is occupied for the purposes of that trade by a qualifying farm worker.
- (5) The requirements in sub-paragraph (4) do not apply in relation to times when, because of a change of circumstances that is unforeseen and beyond the relevant person’s control, it is not reasonable to expect those requirements to be met.
- (6) Sub-paragraph (7) applies if at some time in the control period a requirement in sub-paragraph (4) –
- (a) has not begun to be met, or
  - (b) has ceased to be met.
- (7) The requirement is treated as being met if reasonable steps are being taken to ensure that the requirement begins to be met, or is again met.
- (8) In this paragraph –
- (a) “the relevant interest” has the same meaning as in paragraph 6D;
  - (b) “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);
  - (c) references to a major interest in land include an undivided share in a major interest in land.
- (6) In paragraph 9 (interpretation), at the appropriate places insert –
- ““financial institution” has the same meaning as in sections 71A to 73B (see section 73BA);”
- ““property development trade” has the meaning given by paragraph 5(3);”
- ““property rental business” has the meaning given by section 38(5) of FA 2013;”
- ““property trading business” has the meaning given by paragraph 5(3);”
- ““qualifying farm worker” has the meaning given by paragraph 5F(4);”
- ““qualifying trade” has the meaning given by paragraph 5B(3);”
- ““qualifying trade of farming” has the meaning given by paragraph 5F(5);”.
- 3 (1) Section 81 (further return where relief withdrawn) is amended as follows.
- (2) After subsection (1) insert –
- “(1A) Where relief is withdrawn to any extent under any of paragraphs 5G to 5K of Schedule 4A (higher rate for certain transactions) the purchaser must deliver a further return before the end of the period of 30 days after the relevant date.
- (1B) In subsection (1A) “the relevant date” means –
- (a) in the case of relief under paragraph 5 of Schedule 4A (businesses of letting, trading in or redeveloping properties),



- the first day in the period mentioned in paragraph 5G(2) on which a requirement under paragraph 5G(3) was not met in the case of the chargeable interest in question;
- (b) in the case of relief under paragraph 5B of that Schedule (trades involving making a dwelling available to the public), the first day in the period mentioned in paragraph 5H(2) on which a requirement under paragraph 5H(3) was not met in the case of the chargeable interest in question;
  - (c) in the case of relief under paragraph 5C of that Schedule (financial institutions acquiring dwellings in the course of lending), the first day in the period mentioned in paragraph 5I(2) on which a requirement under paragraph 5I(3) was not met in the case of the chargeable interest in question;
  - (d) in the case of relief under paragraph 5D of that Schedule (dwellings for occupation by certain employees etc), the first day in the period mentioned in paragraph 5J(2) on which a requirement under paragraph 5J(3) was not met in the case of the chargeable interest in question;
  - (e) in the case of relief under paragraph 5F of that Schedule (farmhouses), the first day in the period mentioned in paragraph 5K(2) on which a requirement under paragraph 5K(3) was not met in the case of the chargeable interest in question.”
- (3) In subsection (2A), at the beginning insert “Where subsection (1) applies any”.
- (4) In subsection (3) for “this section” substitute “subsection (1)”.
- (5) After subsection (4) insert –
- “(5) The provisions of Schedule 10 apply to a return under subsection (1A) as they apply to a return under section 76, but with the adaptation that references to the effective date of the transaction are to be read as references to the relevant date (as defined in subsection (1B)).”

4 After section 81 insert –

**“81ZA Alternative finance arrangements: return where relief withdrawn**

- (1) Where relief given in respect of a transaction entered into under alternative finance arrangements is withdrawn to any extent under any of paragraphs 6D, 6F, 6G or 6H of Schedule 4A (higher rate of tax: alternative finance arrangements) –
  - (a) the relevant person must deliver a return to HMRC before the end of the period of 30 days after the date of the disqualifying event;
  - (b) the return must contain a self-assessment of the additional tax chargeable as a result of the withdrawal of the relief;
  - (c) the tax so chargeable is calculated by reference to the rates in force at the effective date of the transaction in respect of which the relief was allowed.
- (2) The provisions of Schedule 10 (returns, enquiries, assessments and other matters) apply to a return under this section as they apply to a

return under section 76 (general requirement to make land transaction return), but with the following adaptations—

- (a) references to the effective date of the transaction are to be read as references to the date of the disqualifying event;
  - (b) references to the purchaser are to be read as references to the relevant person so far as that is necessary as a result of subsection (1) of this section or section 85(3) (payment of additional tax by relevant person where relief withdrawn).
- (3) In this section “the date of the disqualifying event” means the first day in the control period on which a relevant requirement was not met.
- (4) In subsection (3) “relevant requirement” means—
- (a) where the relief was given under paragraph 5 of Schedule 4A (businesses of letting, trading in or redeveloping properties), a requirement under paragraph 5G(3) of that Schedule;
  - (b) where the relief was given under paragraph 5B of that Schedule (trades involving making a dwelling available to the public), a requirement under paragraph 5H(3) of that Schedule;
  - (c) where the relief was given under paragraph 5C of that Schedule (financial institutions acquiring dwellings in the course of lending), a requirement under paragraph 5I(3) of that Schedule;
  - (d) where the relief was given under paragraph 5D of that Schedule (dwellings for occupation by certain employees etc), a requirement under paragraph 5J(3) of that Schedule;
  - (e) where the relief was given under paragraph 5F of that Schedule (farmhouses), a requirement under paragraph 5K(3) of that Schedule.
- (5) In subsection (3) “the control period” has the same meaning as in paragraph 5G, 5H, 5I, 5J or 5K (as the case requires) of Schedule 4A.
- (6) In this section—
- “alternative finance arrangements” means any arrangements such as are mentioned in section 71A, 72, 72A or 73;
  - “the relevant person” means the person (other than the financial institution) who entered into the arrangements in question.”

5 In section 85 (liability for tax), after subsection (2) insert—

- “(3) Where relief given in respect of a transaction entered into under alternative finance arrangements is withdrawn to any extent under any of paragraphs 6D, 6F, 6G and 6H of Schedule 4A (higher rate: alternative finance arrangements)—
- (a) subsection (1) does not apply in relation to the additional tax payable as a result of the withdrawal of the relief, and
  - (b) the relevant person is liable to pay that additional tax.
- (4) In subsection (3) “the relevant person” means the person (other than the financial institution) who entered into the arrangements in question.”

6 In section 86 (payment of tax), after subsection (2) insert—

- “(2A) Tax payable as a result of a withdrawal of relief under any of paragraphs 6D, 6F, 6G and 6H of Schedule 4A (higher rate: alternative finance arrangements) must be paid not later than the filing date for the return relating to the withdrawal (see section 81ZA(1)).”
- 7 In the table in section 122 (index of defined expressions), in second column of the entry for “settlement”, after “paragraph 1(1)” insert “(except as otherwise expressly provided)”.

**EXPLANATORY NOTE**

**STAMP DUTY LAND TAX RELIEF FROM 15% RATE.**

**SUMMARY**

1. This clause and Schedule provide for a number of reliefs from the higher rate of Stamp Duty Land Tax charged by Schedule 4A Finance Act 2003. This rate is charged on acquisitions of interests in dwellings of value greater than £2 million by certain companies, partnerships with company members and collective investment schemes. The reliefs reduce the rate of tax chargeable to that applying to acquisitions of high value residential properties by others. They exclude from the higher rate dwellings held for a number of commercial purposes.

**Schedule: relief from 15% rate.**

2. Paragraph 1 is introductory
3. Sub-paragraph 2(1) states that Schedule 4A FA 2003 is to be amended. Eleven new paragraphs replace the existing relief for property development trades with relief for a wider range of commercial uses of the dwelling. Eight new paragraphs provide for giving and withdrawing the relief in cases subject to Alternative Finance Arrangements. Three sections of FA 2003 are amended, and one new section added, to deal with the tax return and payment consequences of withdrawal of relief.
4. Sub-paragraph 2(2) inserts new paragraphs 5 to 5K and 6A to 6H to replace the existing paragraph 5 in Schedule 4A FA 2003. This paragraph currently provides relief only for certain property developers.
5. New paragraphs 5 and 5A deal with relief for property rental businesses, property development trades and property trading businesses. New Paragraphs 5B to 5K deal with trades making a dwelling available to the public, financial institutions acquiring dwellings in the course of lending, dwellings for employee occupation and farmhouses.
6. New paragraphs 6A to 6H modify these reliefs where the dwelling is subject to alternative finance arrangements
7. Sub-paragraph 2(3) substitutes a new Paragraph 5 into Schedule 4A

## FINANCE BILL

8. New sub-paragraph 5(1) disapplies Paragraph 3 of Schedule 4A FA 2003, which imposes the 15% rate on certain transactions, if the interest in land is acquired exclusively for one of four purposes:
  - (a) exploitation as a source of rents or other receipts in a property rental business;
  - (b) development, redevelopment and resale in a property development trade;
  - (c) as an exchange property in a property development trade; and
  - (d) resale in a property trading business.
9. New sub-paragraph 5(2) states that the interest is not to be regarded as exclusively acquired for one of these purposes if it is intended that certain types of individual (“non-qualifying individuals”) will be permitted to occupy the dwelling, or if it is intended that the dwelling may be made available for them to do so in the future.
10. New sub-paragraph 5(3) defines terms used in paragraphs 5(1) and 5(2), including requirements that trades be on a commercial basis with a view to profit
11. Sub-paragraph 5(4) inserts new paragraphs 5A to 5K into Schedule 4A
12. New sub-paragraph 5A(1) defines a non-qualifying individual, in a way that is analogous to that for the annual residential property tax, but by reference to the purchaser of the land and, currently, without provision for partnerships.
13. New paragraphs 5B to 5K provide other reliefs for properties as follows:
14. New sub-paragraph 5B(1) disapplies Paragraph 3 of Schedule 4A FA 2003, which imposes the 15% rate on certain transactions, if certain conditions are met, that are set out in new sub-paragraph 5B(2).
15. New sub-paragraph 5B(2) states one set of conditions to be that the interest in the property is acquired with the intention that it is to be used in a qualifying trade, and that reasonable commercial plans have been made to exploit the property without delay, unless delay is justified by commercial considerations or is unavoidable.
16. New sub-paragraph 5B(3) defines a qualifying trade as one which involves offering the public the opportunity to stay in, make use of, or otherwise enjoy the dwelling, provided it is carried on on a

## FINANCE BILL

commercial basis and in the normal course the dwelling is made available to the public for at least 28 days in any year.

17. New sub-paragraphs 5B(4) and (5) require that the public must be permitted to use a significant proportion of the interior of the building for the trade to qualify, taking into account the size, nature and function of the part which they are permitted to use.
18. New sub-paragraphs 5C(1) and (2) disapply Paragraph 3 of Schedule 4A FA 2003, which imposes the 15% rate on certain transactions, to the acquisition of land if the purchaser is a financial institution carrying on a business involving the lending of money, in so far as the land is acquired for resale and in connection with the lending activities. Financial Institution is defined in modified Paragraph 9 of Schedule 4A FA 2003: see sub-paragraph 2(6) of Schedule 1.
19. New sub-paragraph 5D(1) disapplies Paragraph 3 of Schedule 4A FA 2003, which imposes the 15% rate on certain transactions, if conditions set out in new Paragraph 5D(2) are met. It specifies that they can only be met if the purchaser or a relevant group member (defined in sub-paragraph 5D(6)) carries on or is to carry on a qualifying trade.
20. New sub-paragraph 5D(2) sets out that the conditions are that the dwelling is acquired for the purpose of making it available as living accommodation for “qualifying individuals”, for purposes that are solely or mainly purposes of the qualifying trade..
21. New sub-paragraph 5D(3) clarifies that the accommodation can be for individuals generally or for specifically identified individuals.
22. New sub-paragraph 5D(4) defines a qualifying trade as one carried on on a commercial basis with a view to profit.
23. New sub-paragraph 5D(5) specifies that provision for an individual includes provision for the individual’s family living with the employee.
24. New sub-paragraph 5D(6) defines a group of companies as the same as a group for Stamp Duty Land Tax group relief purposes.
25. New sub-paragraph 5E(1) defines a qualifying partner as an individual who is a member of a partnership of which the person carrying on the qualifying trade in new sub-paragraph 5D(1) is also a member..
26. New sub-paragraph 5E(2) defines a qualifying individual as an individual employed for the purposes of the qualifying trade .

## FINANCE BILL

27. New sub-paragraph 5E(3) prevents relief being given if the individuals to whom it is proposed the dwelling is to be made available are likely to include members of the partnership who have a 5% or greater share in the income profits of the partnership, in a company holding the interest in the dwelling or in the interest itself.
28. New sub-paragraph 5E(4) similarly prevents relief if individuals to whom the dwelling is likely to be made available include employees of the relevant trade who have a 5% or greater share of the income profits of the trade, or in any company holding the interest in the dwelling or in the interest itself. Additionally relief is prevented if the individuals include those employed to provide excluded domestic services. These are defined in new sub-paragraph 5E(5).
29. New sub-paragraph 5E(5) defines excluded domestic services as services in connection with actual or intended occupation of the dwelling or a linked dwelling by an individual specified in new sub-paragraph 5E(6).
30. New sub-paragraph 5E(6) specifies the individual referred to in new sub-paragraph 5E(5) as one who is connected with a person beneficially entitled (or who is to be beneficially entitled) to the higher threshold interest in the dwelling.
31. New sub-paragraph 5E(7) defines linked dwellings according to the definitions in the Annual Residential Property Tax legislation.
32. New sub-paragraph 5E(8) treats beneficial joint tenants (in Scotland, joint owners) as having equal shares in the dwelling.
33. New Paragraph 5C(9) applies here the definition of a 5% or more share in a company set out in section 52 of FA 2013 (the annual residential property tax legislation).
34. New sub-paragraph 5F(1) disapplies Paragraph 3 of Schedule 4A FA 2003, which imposes the 15% rate on certain transactions, if the higher threshold interest is in or over a dwelling used, or to be used, as a farmhouse and the conditions set out in new paragraph 5F(3) are met.
35. New sub-paragraph 5F(1) disapplies Paragraph 3 of Schedule 4A FA 2003, which imposes the 15% rate on certain transactions, if the higher threshold interest is in or over a dwelling that is, or is to be, a farmhouse and the conditions set out in new paragraph 5F(3) are met.
36. New sub-paragraph 5F(2) defines a farmhouse for these purposes as a dwelling that forms part of land that is occupied (or to be occupied) for the purposes of a farming trade and which is appropriate in

## FINANCE BILL

character to the size of the farm and the nature and scale of the farming trade to be carried on there.

37. New sub-paragraph 5F(3) states that the conditions are (i) for the dwelling to be occupied for the purposes of the farming trade by a qualifying farm worker, (ii) that reasonable commercial plans have been made for such occupation to start without delay except where justified by commercial considerations or is unavoidable, and (iii) that occupation by a qualifying farm worker is expected to continue as part of the normal way that farming trade is carried on.
38. New sub-paragraph 5F(4) defines a qualifying farm worker as an individual who occupies the farmhouse for the purposes of a farming trade in which he or she has substantial day to day involvement.
39. New sub-paragraph 5F(5) defines a qualifying trade of farming as one carried on on a commercial basis and with a view to profit.
40. New sub-paragraph 5F(6) states that a person who occupies part of a dwelling is treated as occupying the dwelling.
41. New sub-paragraph 5F(7) applies the definition of “farming” from Corporation Tax Act 2010 but with the inclusion of market gardening as defined in Corporation Tax Act 2010.
42. New paragraphs 5G – 5K provide that the reliefs from the higher rate of Stamp Duty Land Tax may, in certain circumstances, be withdrawn if the relevant conditions cease to be met within the three years following the acquisition of the interest.
43. New sub-paragraph 5G(1) provides that reliefs within paragraph 5 (property rental businesses, property development trades and property trading businesses) may be withdrawn under sub-paragraph 5G(2).
44. New sub-paragraph 5G(2) withdraws relief under paragraph 5 if, at any time in the three years following the acquisition, one or more of the requirements in paragraph 5G(3) are not met.
45. New sub-paragraph 5G(3) sets out the requirements that (i) the interest, or any derived interest, in the dwelling, if still held by the purchaser, is held exclusively for the purposes of one or more of a property rental business, a property development trade or property trading business and (ii) no non-qualifying individual (as defined in 5(7)) is permitted to occupy the dwelling.
46. New sub-paragraph 5G(4) provides that, if it is not reasonable to expect the dwelling to be used for the intended purpose because of circumstances beyond the purchaser’s control, the requirement that the interest is held for the purposes of one or more of a property rental



## FINANCE BILL

business, property development trade or property trading business does not apply.

47. New sub-paragraph 5G(5) provides that sub-paragraph 5G(6) will apply if, within the three years following the acquisition, the activity for which the property interest was acquired which qualified it for relief under paragraph 5 either has not begun or has ceased.
48. New sub-paragraph 5G(6) provides that an interest will only be treated as being held for a purpose eligible for relief if reasonable steps are being taken to ensure that that purpose is carried out.
49. New sub-paragraph 5G(7) applies the definition of non-qualifying individual from the property rental business relief from paragraph 5A.
50. New sub-paragraphs 5H(1) and (2) provide that relief from the 15% rate for trades which involve opening a dwelling to the public may be withdrawn if, at any time in the three years following the acquisition, the requirement in paragraph 5H(3) is not met.
51. New sub-paragraph 5H(3) sets out the requirements that the interest (if still held by the purchaser) is being exploited as a source of income in the course of a qualifying trade, as is any interest held by the purchaser derived from that interest.
52. New sub-paragraph 5H(4) provides that relief will not be withdrawn if, due to circumstances beyond the purchaser's control, it is not reasonable to expect the dwelling to be exploited as a source of income in the specified way.
53. New sub-paragraph 5H(5) and (6) provide that if, within the three years following the acquisition, the exploitation of the interest as a source of income in a qualifying trade either has not begun or has ceased, the relevant interest will only be treated as being exploited as a source of income in a qualifying trade if reasonable steps are being taken to ensure that the interest begins to be so exploited or that such exploitation resumes.
54. New sub-paragraphs 5I(1) and (2) provide that relief from the 15% rate for financial institutions acquiring the property interest in the course of lending may be withdrawn if any of the requirements in sub-paragraph 5H(3) are not met in the three years after the acquisition of the interest.
55. New sub-paragraph 5I(3) provides two requirements: that the purchaser continues to be a financial institution carrying on a business of lending money, and the interest is held for the purpose of resale in that business.

## FINANCE BILL

56. New sub-paragraph 5I(4) restricts these requirements to times in the three years when the purchaser holds the interest acquired or any interest derived from it.
57. New sub-paragraph 5I(5) provides that relief will not be withdrawn if, due to circumstances beyond the purchaser's control, it is not reasonable to expect the requirements to be met.
58. New sub-paragraph 5J(1) provides that relief from the 15% rate for dwellings for occupation by certain employees and partners may be withdrawn under sub-paragraph 5G(2).
59. New sub-paragraph 5J(2) withdraws relief if, at any time in the three years following the acquisition, any requirement in paragraph 5J(3) is not met.
60. New sub-paragraph 5J(3) sets out the requirements that:
  - a. the purchaser (or a group member) carries on a qualifying trade;
  - b. the dwelling is made available to one or more qualifying individuals for use as living accommodation; and
  - c. the dwelling is made available solely or mainly for trade purposes.
61. New sub-paragraph 5J(4) provides that these requirements only apply while the purchaser still holds the interest acquired (or an interest derived from that interest).
62. New sub-paragraph 5J(5) provides that relief will not be withdrawn if, due to circumstances beyond the purchaser's control, it is not reasonable to expect these requirements to be met.
63. New sub-paragraph 5J(6) provides that sub-paragraph 5G(7) will apply if, within the three years following the acquisition, the dwelling has not begun to or has ceased to be made available as accommodation within the conditions for the relief.
64. New sub-paragraph 5J(7) provides that a dwelling will only be treated as being made available to one or more qualifying individuals for use as living accommodation if reasonable steps are being taken to ensure that the dwelling will begin to be, or will return to being, so available.
65. New sub-paragraph 5K(1) provides that relief from the 15% rate for farmhouses may be withdrawn under sub-paragraph 5K(2).

## FINANCE BILL

66. New sub-paragraph 5K(2) withdraws relief if, at any time in the three years following the acquisition, the requirements in paragraph 5K(3) are not met.
67. Sub-paragraph 2(5) inserts new paragraphs 6A-6H in Schedule 4A FA 2003. These paragraphs modify the application of Schedule 4A for cases which involve alternative finance arrangements.
68. New paragraph 6A deals with alternative finance arrangements which come within section 71A, section 72 or section 73, FA 2003.
69. New sub-paragraph 6A(1) provides that paragraph 6A will apply where any of section 71A, section 72 or section 73 applies and the major interest purchased under the first transaction includes a higher threshold interest.
70. New sub-paragraph 6A(2) defines “the first transaction” for the purposes of this paragraph.
71. New sub-paragraph 6A(3) provides that the condition in paragraph 3(3) (that the purchaser is a company, or that the purchase is made by or on behalf of a partnership with a corporate member or for the purposes of a collective investment scheme) is only treated as being met in respect of the first transaction where that condition is satisfied in respect of the second transaction.
72. New sub-paragraph 6A(4) provides that the first transaction will qualify for a relief under paragraphs 5(1), 5B(1), 5D(2) or 5F(1) where the second transaction qualifies for the relief in question (assuming, for this purpose, that the subject matter of the second transaction is a higher threshold interest and so within the scope of those reliefs even if it is not).
73. New sub-paragraph 6A(5) provides that the first transaction will not qualify for relief under paragraphs 5(1), 5B(1), 5D(2) or 5F(1) except in accordance with sub-paragraph (4) (i.e. only where the second transaction would qualify for relief under any of those provisions).
74. New sub-paragraph 6A(6) provides that “the second transaction” shall have the same meaning in this paragraph as in section 71A, 72 or 73 (as appropriate).
75. New paragraph 6B deals with alternative finance arrangements which come within section 72A.
76. New sub-paragraph 6B(1) provides that paragraph 6B will apply where section 72A applies and the major interest purchased under the first transaction includes a higher threshold interest.

## FINANCE BILL

77. New sub-paragraph 6B(2) provides that whether the condition in paragraph 3(3) is met is to be determined as if the financial institution was not one of the purchasers acquiring a major interest in land under the first transaction.
78. New sub-paragraph 6B(3) provides that paragraphs 5 to 5F also apply as if the financial institution was not one of the purchasers under that transaction.
79. New sub-paragraph 6C(1) provides that, where a first transaction is split into two transactions under paragraph 2(4), paragraph 6A or 6B applies to both transactions.
80. New sub-paragraph 6C(2) provides that, where the second transaction (for the purposes of paragraph 6A) includes a chargeable interest other than a higher threshold interest, that fact is ignored when determining whether the transaction (i) meets the condition in paragraph 3(3) or (ii) qualifies for relief under paragraphs 5(1), 5B(1), 5D(1) and 5F(1).
81. New paragraphs 6D-6H provide for the situation where a transaction within paragraph 6A or 6B has been allowed relief from the higher rate of SDLT, and that relief has subsequently been withdrawn.
82. New sub-paragraph 6D(1) provides that paragraph 6D applies where relief has been allowed under paragraph 5 for a business of letting, trading in or developing properties in respect of an alternative property finance transaction within paragraph 6A(4) or 6B(3).
83. New sub-paragraph 6D(2) states that the relief will be withdrawn where at any time in the following three years (the control period) a relevant requirement ceases to be met.
84. New sub-paragraph 6D(3) specifies that the “relevant requirements” are that: (i) any relevant interest held by the relevant person is held exclusively for a purpose which is relievable under paragraph 5 (that is to say, a business of letting, trading in or developing properties); and (ii) no non-qualifying individual is permitted to occupy the dwelling.
85. New sub-paragraph 6D(4) confirms that it does not matter for the purposes of this paragraph whether the relevant interest is held by the relevant person jointly (or in Scotland, in common) or otherwise.
86. New sub-paragraph 6D(5) defines “relevant interest” in respect of any relief allowed under paragraph 6A(4).
87. New sub-paragraph 6D(6) defines “relevant interest” in respect of any relief allowed under paragraph 6B(3).

## FINANCE BILL

88. New sub-paragraph 6D(7) defines “non-qualifying individual” and “the relevant person” for the purposes of this paragraph.
89. New sub-paragraph 6E(1) provides that the requirement in paragraph 6D(3)(a) - that any relevant interest is held exclusively for a purpose which is relievable under paragraph 5 - does not apply where it is no longer reasonable to expect the interest to be held for that purpose due to an unforeseen change of circumstances that is beyond the relevant person’s control.
90. New sub-paragraph 6E(2) provides that sub-paragraph (3) will apply where an interest is acquired for a relievable purpose but that, at some point during the three year control period, the activity in question has either not begun or has ceased.
91. New sub-paragraph 6E(3) provides that, for the purposes of paragraph 6D(3)(a), the relevant interest will only be treated as held for the purpose in question if reasonable steps are being taken to ensure that that purpose is carried out.
92. New sub-paragraph 6E(4) defines “control period” “relevant interest”, “the relevant person” and references to “initial interest” for the purposes of this paragraph.
93. New sub-paragraph 6F(1) provides that paragraph 6F applies where relief has been allowed under paragraph 5B (for a trade involving making a dwelling open to the public) in respect of an alternative property finance transaction within paragraph 6A or 6B.
94. New sub-paragraph 6F(2) states that the relief will be withdrawn where, at any time in the following three years (the control period), the requirement in sub-paragraph (3) ceases to be met.
95. New sub-paragraph 6F(3) specifies that the relevant interest must be held and exploited by the relevant person (whether jointly, in common, or otherwise) as a source of income in the course of a qualifying trade.
96. New sub-paragraph 6F(4) provides that the requirement in sub-paragraph (3) does not apply where it is no longer reasonable to expect the interest to be exploited in that manner due to an unforeseen change of circumstances that is beyond the relevant person’s control.
97. New sub-paragraph 6F(5) provides that sub-paragraph 6F(6) will apply where an interest is acquired for exploitation as a source of income in the course of a qualifying trade but that, at some point during the three year control period, the relevant person has either not begun or has ceased to exploit the interest in that manner.

## FINANCE BILL

98. New sub-paragraph 6F(6) provides that the requirement for the interest is exploited as set out in subparagraph (3) will be treated as met only if reasonable steps are being taken to ensure that such exploitation begins or is resumed.
99. New sub-paragraph 6F(7) defines “relevant interest” and “the relevant person” for the purposes of this paragraph and provides that a reference to a major interest in land includes an undivided share in such an interest.
100. New sub-paragraph 6G(1) provides that paragraph 6G applies where relief has been allowed under paragraph 5D (dwellings for occupation by certain employees etc) in respect of an alternative property finance transaction within paragraph 6A or 6B.
101. New sub-paragraph 6G(2) states that the relief will be withdrawn where, at any time during the control period when a relevant person holds a relevant interest, any requirement in sub-paragraph (4) ceases to be met.
102. New sub-paragraph 6G(3) defines the “control period” as being the three years from the effective date of the first transaction.
103. New sub-paragraph 6G(4) specifies the requirements as:
- a. the relevant person (or a relevant group member) must be carrying on a qualifying trade;
  - b. the dwelling must be made available as mentioned in paragraph 5D(2)(a) (that is to say, to one or more qualifying individuals for use as living accommodation); and
  - c. the dwelling is made so available for the purposes of that qualifying trade.
104. New sub-paragraph 6G(5) provides that the requirements in subparagraph (4) do not apply where it is no longer reasonable to expect that they will be met due to an unforeseen change of circumstances that is beyond the relevant person’s control.
105. New sub-paragraph 6G(6) provides that subparagraph (7) will apply where the relevant interest has not begun to be made available in accordance with subparagraphs (4)(b) and (c), or has ceased to be made available in that manner during the control period.
106. New sub-paragraph 6G(7) provides that the requirements under subparagraphs (4)(b) and (c) will be treated as being met only if reasonable steps are being taken to ensure that the dwelling will begin

## FINANCE BILL

to be, or will return to being, made available as required by those subparagraphs.

107. New sub-paragraph 6G(8) provides that, where the relevant person is a company, “relevant group company” means a member of a the same group of companies as the relevant person in accordance with paragraph 1(2) of Schedule 7.
108. New sub-paragraph 6G(9) defines “relevant interest” and “the relevant person” for the purposes of this paragraph and provides that a reference to a major interest in land includes an undivided share in such an interest.
109. New sub-paragraph 6H(1) provides that paragraph 6H applies where relief has been allowed under paragraph 5F (farmhouses) in respect of an alternative property finance transaction within paragraph 6A or 6B.
110. New sub-paragraph 6H(2) states that the relief will be withdrawn where, at any time during the control period when a relevant person holds a relevant interest (whether jointly, or in common, or otherwise), any requirement in sub-paragraph (4) ceases to be met.
111. New sub-paragraph 6H(3) defines the “control period” as being the three years from the effective date of the first transaction.
112. New sub-paragraph 6H(4) specifies the requirements are that:
  - a. the land mentioned in paragraph 5F(2)(a) is occupied for the purposes of a qualifying trade of farming; and
  - b. the dwelling is occupied for the purposes of that trade by a qualifying farm worker.
113. New sub-paragraph 6H(5) provides that the requirements in sub-paragraph (4) do not apply where it is no longer reasonable to expect that they will be met due to an unforeseen change of circumstances that is beyond the relevant person’s control.
114. New sub-paragraph 6H(6) provides that sub-paragraph 6H(7) will apply where, during the control period, a requirement in sub-paragraph (4) has not begun, or has ceased to be met.
115. New sub-paragraph 6H(7) provides that the requirements under sub-paragraph (4) will be treated as being met only if reasonable steps are being taken to ensure that the requirements begin to be, or return to being, satisfied.
116. New sub-paragraph 6H(8) defines “relevant interest” and “the relevant person” for the purposes of this paragraph and provides that a

## FINANCE BILL

reference to a major interest in land includes an undivided share in such an interest.

117. Sub-paragraph 2(6) provides that references to “financial institution”, “property development trade”, “property rental business”, “property trading business”, “qualifying farm worker”, “qualifying trade” and “qualifying trade of farming” should be inserted, at the appropriate places, in paragraph 9 of Schedule 4A.
118. Paragraph 3 amends section 81 FA 2003 which provides that, where relief is withdrawn in certain circumstances, a purchaser is obliged to file a further land transaction return.
119. Sub-paragraph 3(2) inserts two new sub-sections into section 81 FA 2003 to provide for further returns to be filed where the relief from the 15% rate is withdrawn.
120. New sub-section 81(1A) provides that where relief from the 15% rate is withdrawn under new paragraphs 5G-5K (summarised above), the purchaser must deliver a further return within 30 days after the relevant date provided for in new sub-section 81(1B).
121. New sub-section 81(1B) specifies, for each relief, the relevant date from which the 30 day period, in which the further return must be delivered, is calculated.
122. Sub-paragraph 3(3) amends sub-section 81(2A) FA 2003 so that it does not apply to new-subsection 81(1A).
123. Sub-paragraph 3(5) inserts a new sub-section 81(5) which provides that Schedule 10 will apply to a return under new-subsection 81(1A) as it applies to a return under section 76, but that references to the “effective date” of the transaction in that schedule are to be read as references to the appropriate relevant date specified in new subsection 81(1B).
124. Paragraph 4 inserts a new section 81ZA in FA 2003 to provide for further returns to be filed where the relief from the 15% rate is withdrawn in the context of an alternative finance arrangement.
125. New sub-section 81ZA(1) provides that, where relief from the 15% rate is withdrawn under any of new paragraphs 6D, 6F, 6G or 6H (summarised above) the relevant person must deliver a return to HMRC within 30 days of the date of the disqualifying event (as determined under sections 81ZA(3) and (4)). The return must contain a self-assessment of the additional tax which has become chargeable as a result of the relief being withdrawn (which will be calculated by reference to the rates of SDLT which were in force at the effective



## FINANCE BILL

date of the transaction which was relieved and not the rates in force when the relief is withdrawn).

126. New sub-section 81ZA(2) provides that Schedule 10 will apply to a return under section 81ZA as it applies to a return under section 76, but that:
  - a. references to the “effective date” of the transaction in that schedule are to be read as references to the date of the disqualifying event ; and
  - b. references to the purchaser are to be read as references to the relevant person (so far as that is necessary under new section 81ZA(1) or new section 85(3)).
127. New sub-section 81ZA(3) defines “the date of the disqualifying event” as the first day in the control period on which a relevant requirement was not met.
128. New sub-section 81ZA(4) defines what is a “relevant requirement” in respect of each relief.
129. New sub-section 81ZA(5) defines “the control period” for the purposes of this section.
130. New sub-section 81ZA(6) defines “alternative finance arrangements” and “the relevant person” for the purposes of this section.
131. Paragraph 5 inserts two new sub-sections into section 85 FA 2003 to modify the liability to tax where relief from the 15% rate is withdrawn in the context of an alternative finance arrangement.
132. New sub-section 85(3) provides that, where relief is withdrawn in respect of a transaction entered into as part of alternative finance arrangements, sub-section 85(1) (which states that the purchaser is liable to pay any tax in respect of a chargeable transaction) does not apply in relation to the additional tax which becomes payable. Instead, it is the relevant person who must pay that additional tax.
133. New sub-section 85(4) provides that the “relevant person” means the person, apart from the financial institution, who entered into the alternative finance arrangement.
134. Paragraph 6 inserts a new sub-section into section 86 FA 2003 to deal with the payment of tax where relief from the 15% rate is withdrawn in the context of an alternative finance arrangement.

## FINANCE BILL

135. New sub-section 86(2A) provides that the tax payable where relief is withdrawn must be paid by the filing date for the return required under section 81ZA(1) in respect of the withdrawal.
136. Paragraph 7 modifies the entry for “settlement” in the table of definitions in section 122 FA 2003.

### BACKGROUND NOTE

137. Finance Act 2012 introduced a 15 per cent rate of stamp duty land tax on the acquisition by certain non-natural persons of properties costing more than £2 million. The measure formed part of a package designed to ensure that individuals and companies pay a fair share of tax on residential property transactions and to reduce avoidance. Its aim was to dis-incentivise the ownership of high value residential property in structures that would permit the indirect ownership or enjoyment of the property to be transferred in a way that would not be chargeable to SDLT
138. The measure is to have effect for land transactions where the effective date is on or after the date Royal Assent is given to Finance Bill 2013. The effective date is normally the date on which a contract is completed, but may be earlier if the land is occupied or the consideration for the transaction is given before that date.
139. Finance Act 2012 provided only two exclusions from the higher rate charge; for companies acting solely in their capacity as trustees, and for property developers with a 2 year trading history.
140. The scope of the 15 per cent rate was included as part of the consultation on the annual residential property tax that was held over Summer 2012.
141. In response to the consultation a number of reliefs will be introduced to reduce the SDLT rate to that applicable to purchases not within the higher rate of SDLT (currently 7 per cent). The new property developer relief no longer has the 2 year trading history condition. Further reliefs are also to be introduced for property rental businesses, property traders, trades that exploit a dwelling to generate income by providing access to a significant part of the interior, dwellings used to house employees or partners with a limited interest in the company or partnership, and farmhouses.
142. Relief will only apply if the property continues to satisfy the relevant qualifying conditions throughout the three years following purchase. If it does not, additional SDLT will become payable.

## **FINANCE BILL**

143. The intention is to stop or reduce the number of properties that will enter such complex ownership structures other than where the property is used in a genuine business. Taken together with the introduction of the annual residential property tax ('ARPT') from 1 April 2013 on such property owned by non-natural persons, this will result in a reduction in the number of high value properties owned in such structures.
  
144. If you have any questions about this change, or comments on the legislation, please contact Ian Valentine on 0207 147 3428 (email: [ian.valentine@hmrc.gsi.gov.uk](mailto:ian.valentine@hmrc.gsi.gov.uk)).