



Finance Act 1986

1986 CHAPTER 41

PART IV

STAMP DUTY RESERVE TAX

Other charges

93 **Depository receipts**

- (1) Subject to subsection (7) below and section 95 below, there shall be a charge to stamp duty reserve tax under this section where in pursuance of an arrangement—
 - (a) a person falling within subsection (2) below has issued or is to issue a depository receipt for chargeable securities, and
 - (b) chargeable securities of the same kind and amount are transferred or issued to a person falling within subsection (3) below, or are appropriated by such a person towards the eventual satisfaction of the entitlement of the receipt's holder to receive chargeable securities.
- (2) A person falls within this subsection if his business is or includes issuing depository receipts for chargeable securities.
- (3) A person falls within this subsection if his business is or includes holding chargeable securities as nominee or agent for the person who has issued or is to issue the depository receipt.
- (4) Subject to subsections (5) to (7) below, tax under this section shall be charged at the rate of £1.50 for every £100 or part of £100 of the following—
 - (a) in a case where the securities are issued, their price when issued;
 - (b) in a case where the securities are transferred for consideration in money or money's worth, the amount or value of the consideration;
 - (c) in any other case, the value of the securities.
- (5) In a case where the securities are transferred and—

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- (a) the transfer is effected by an instrument on which stamp duty under the heading "Conveyance or Transfer of any kind not hereinbefore described" in Schedule 1 to the Stamp Act 1891 is chargeable,
- (b) at the time of the transfer the transferor is a qualified dealer in securities of the kind concerned or a nominee of such a qualified dealer,
- (c) the transfer is made for the purposes of the dealer's business,
- (d) at the time of the transfer the dealer is not a market maker in securities of the kind concerned, and
- (e) the instrument contains a statement that paragraphs (b) to (d) above are fulfilled,

subsection (4) above shall have effect as if "£1.50" read "50p" (in a case where the securities are transferred before the day of The Stock Exchange reforms) or "£1" (in any other case).

- (6) In a case where—
- (a) securities are issued, or securities sold are transferred, and (in either case) they are to be paid for in instalments,
 - (b) the person to whom they are issued or transferred holds them and transfers them to another person when the last instalment is paid,
 - (c) subsection (4)(c) above applies in the case of the transfer to the other person,
 - (d) before the making of the transfer to the other person an instrument is received by a person falling within subsection (3) above,
 - (e) the instrument so received evidences all the rights which (by virtue of the terms under which the securities are issued or sold as mentioned in paragraph (a) above) subsist in respect of them at the time of the receipt, and
 - (f) the transfer to the other person is effected by an instrument containing a statement that paragraphs (a), (b) and (e) above are fulfilled,

subsection (4)(c) above shall have effect as if the reference to the value there mentioned were to an amount (if any) equal to the total of the instalments payable, less those paid before the transfer to the other person is effected.

- (7) Where tax is (or would apart from this subsection be) charged under this section in respect of a transfer of securities, and ad valorem stamp duty is chargeable on any instrument effecting the transfer, then—
- (a) if the amount of the duty is less than the amount of tax found by virtue of subsections (4) to (6) above, the tax charged under this section shall be the amount so found less the amount of the duty;
 - (b) in any other case, there shall be no charge to tax under this section in respect of the transfer.
- (8) Where tax is charged under the preceding provisions of this section, the person liable for the tax shall (subject to subsection (9) below) be the person who has issued or is to issue the depositary receipt.
- (9) Where tax is charged under the preceding provisions of this section in a case where securities are transferred, and at the time of the transfer the person who has issued or is to issue the depositary receipt is not resident in the United Kingdom and has no branch or agency in the United Kingdom, the person liable for the tax shall be the person to whom the securities are transferred.
- (10) Where chargeable securities are issued or transferred on sale under terms providing for payment in instalments and for an issue of other chargeable securities, and (apart

from this subsection) tax would be charged under this section in respect of that issue, tax shall not be so charged but—

- (a) if any of the instalments becomes payable by a person falling within subsection (2) or (3) above, there shall be a charge to stamp duty reserve tax under this section when the instalment becomes payable;
 - (b) the charge shall be at the rate of £1.50 for every £100 or part of £100 of the instalment payable;
 - (c) the person liable to pay the instalment shall be liable for the tax.
- (11) Subject to subsection (12) below, this section applies where securities are transferred, issued or appropriated after 18th March 1986 (whenever the arrangement was made).
- (12) This section does not apply, in the case of securities which are transferred, if the Board are satisfied that they were acquired or appropriated by the transferor on or before 18th March 1986 for or towards the eventual satisfaction of the entitlement of a person to receive securities of the same kind under a depositary receipt (whether issued on or before that date or to be issued after that date).

94 Depositary receipts: supplementary

- (1) For the purposes of section 93 above a depositary receipt for chargeable securities is an instrument acknowledging—
- (a) that a person holds chargeable securities or evidence of the right to receive them, and
 - (b) that another person is entitled to rights, whether expressed as units or otherwise, in or in relation to chargeable securities of the same kind, including the right to receive such securities (or evidence of the right to receive them) from the person mentioned in paragraph (a) above,
- except that for those purposes a depositary receipt for chargeable securities does not include an instrument acknowledging rights in or in relation to securities if they are issued or sold under terms providing for payment in instalments and for the issue of the instrument as evidence that an instalment has been paid.
- (2) The Treasury may by regulations provide that for subsection (1) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a depositary receipt for the purposes of section 93 above.
- (3) For the purposes of section 93(4)(b) above the value of any consideration not consisting of money shall be taken to be the price it might reasonably be expected to fetch on a sale in the open market at the time the securities are transferred.
- (4) For the purposes of section 93(4)(c) above the value of the securities shall be taken to be the price they might reasonably be expected to fetch on a sale in the open market at the time they are transferred or appropriated (as the case may be).
- (5) For the purposes of section 93(5) above a person is a qualified dealer in securities of a particular kind if he deals in securities of that kind and—
- (a) is a member of a recognised stock exchange (within the meaning given by section 535 of the Taxes Act), or
 - (b) is designated a qualified dealer by order made by the Treasury.
- (6) For the purposes of section 93(5) above a person is a market maker in securities of a particular kind if he—

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- (a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities of that kind at a price specified by him, and
 - (b) is recognised as doing so by the Council of The Stock Exchange.
- (7) The Treasury may by regulations provide that for subsection (6) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a market maker for the purposes of section 93(5) above.
- (8) In section 93(5) above "the day of The Stock Exchange reforms" means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.
- (9) The power to make regulations or an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

95 Depositary receipts: exceptions

- (1) Where securities are transferred—
- (a) to a company which at the time of the transfer falls within subsection (6) of section 67 above and is resident in the United Kingdom, and
 - (b) from a company which at that time falls within that subsection and is so resident,
- there shall be no charge to tax under section 93 above in respect of the transfer.
- (2) There shall be no charge to tax under section 93 above in respect of a transfer, issue or appropriation of an inland bearer instrument, within the meaning of the heading "Bearer Instrument" in Schedule 1 to the Stamp Act 1891, which does not fall within exemption 3 in that heading (renounceable letter of allotment etc. where rights are renounceable not later than six months after issue).
- (3) There shall be no charge to tax under section 93 above in respect of an issue by a company (company X) of securities in exchange for shares in another company (company Y) where company X—
- (a) has control of company Y, or
 - (b) will have such control in consequence of the exchange or of an offer as a result of which the exchange is made.
- (4) For the purposes of subsection (3) above company X has control of company Y if company X has power to control company Y's affairs by virtue of holding shares in, or possessing voting power in relation to, company Y or any other body corporate.

96 Clearance services

- (1) Subject to subsection (5) below and section 97 below, there shall be a charge to stamp duty reserve tax under this section where—
- (a) a person (A) whose business is or includes the provision of clearance services for the purchase and sale of chargeable securities has entered into an arrangement to provide such clearance services for another person, and
 - (b) in pursuance of the arrangement, chargeable securities are transferred or issued to A or to a person whose business is or includes holding chargeable securities as nominee for A.

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(2) Subject to subsections (3) to (5) below, tax under this section shall be charged at the rate of £1.50 for every £100 or part of £100 of the following—

- (a) in a case where the securities are issued, their price when issued;
- (b) in a case where the securities are transferred for consideration in money or money's worth, the amount or value of the consideration;
- (c) in any other case, the value of the securities.

(3) In a case where the securities are transferred and—

- (a) the transfer is effected by an instrument on which stamp duty under the heading "Conveyance or Transfer of any kind not hereinbefore described" in Schedule 1 to the Stamp Act 1891 is chargeable,
- (b) at the time of the transfer the transferor is a qualified dealer in securities of the kind concerned or a nominee of such a qualified dealer,
- (c) the transfer is made for the purposes of the dealer's business,
- (d) at the time of the transfer the dealer is not a market maker in securities of the kind concerned, and
- (e) the instrument contains a statement that paragraphs (b) to (d) above are fulfilled,

subsection (2) above shall have effect as if "£1.50" read "50p" (in a case where the securities are transferred before the day of The Stock Exchange reforms) or "£1" (in any other case).

(4) In a case where—

- (a) securities are issued, or securities sold are transferred, and (in either case) they are to be paid for in instalments,
- (b) the person to whom they are issued or transferred holds them and transfers them to another person when the last instalment is paid,
- (c) subsection (2)(c) above applies in the case of the transfer to the other person,
- (d) before the making of the transfer to the other person an instrument is received by A or a person whose business is or includes holding chargeable securities as nominee for A,
- (e) the instrument so received evidences all the rights which (by virtue of the terms under which the securities are issued or sold as mentioned in paragraph (a) above) subsist in respect of them at the time of the receipt, and
- (f) the transfer to the other person is effected by an instrument containing a statement that paragraphs (a), (b) and (e) above are fulfilled,

subsection (2)(c) above shall have effect as if the reference to the value there mentioned were to an amount (if any) equal to the total of the instalments payable, less those paid before the transfer to the other person is effected.

(5) Where tax is (or would apart from this subsection be) charged under this section in respect of a transfer of securities and ad valorem stamp duty is chargeable on any instrument effecting the transfer, then—

- (a) if the amount of the duty is less than the amount of tax found by virtue of subsections (2) to (4) above, the tax charged under this section shall be the amount so found less the amount of the duty;
- (b) in any other case, there shall be no charge to tax under this section in respect of the transfer.

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- (6) Where tax is charged under the preceding provisions of this section, the person liable for the tax shall (subject to subsection (7) below) be A.
- (7) Where tax is charged under the preceding provisions of this section in a case where securities are transferred to a person other than A, and at the time of the transfer A is not resident in the United Kingdom and has no branch or agency in the United Kingdom, the person liable for the tax shall be the person to whom the securities are transferred.
- (8) Where chargeable securities are issued or transferred on sale under terms providing for payment in instalments and for an issue of other chargeable securities, and (apart from this subsection) tax would be charged under this section in respect of that issue, tax shall not be so charged but—
- (a) if any of the instalments becomes payable by A or by a person whose business is or includes holding chargeable securities as nominee for A, there shall be a charge to stamp duty reserve tax under this section when the instalment becomes payable;
 - (b) the charge shall be at the rate of £1.50 for every £100 or part of £100 of the instalment payable;
 - (c) the person liable to pay the instalment shall be liable for the tax.
- (9) For the purposes of subsection (2)(b) above the value of any consideration not consisting of money shall be taken to be the price it might reasonably be expected to fetch on a sale in the open market at the time the securities are transferred.
- (10) For the purposes of subsection (2)(c) above the value of securities shall be taken to be the price they might reasonably be expected to fetch on a sale in the open market at the time they are transferred.
- (11) For the purposes of subsection (3) above "qualified dealer" and "market maker" have at any particular time the same meanings as they have at that time for the purposes of section 93(5) above.
- (12) In subsection (3) above "the day of The Stock Exchange reforms" means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.
- (13) Subject to subsection (14) below, this section applies where securities are transferred or issued after 18th March 1986 (whenever the arrangement was made).
- (14) This section does not apply, in the case of securities which are transferred, if the Board are satisfied—
- (a) that on or before 18th March 1986 the transferor (or, where the transferor transfers as agent, the principal) agreed to sell securities of the same kind and amount to the person (other than A) referred to in subsection (1)(a) above, and
 - (b) that the transfer is effected in pursuance of that agreement.

97 Clearance services: exceptions

- (1) Where securities are transferred—
- (a) to a company which at the time of the transfer falls within subsection (6) of section 70 above and is resident in the United Kingdom, and
 - (b) from a company which at that time falls within that subsection and is so resident,

there shall be no charge to tax under section 96 above in respect of the transfer.

- (2) There shall be no charge to tax under section 96 above in respect of a transfer effected by an instrument on which stamp duty is not chargeable by virtue of—
 - (a) section 127(1) of the Finance Act 1976 (transfer to stock exchange nominee),
or
 - (b) section 84(2) or (3) above.
- (3) There shall be no charge to tax under section 96 above in respect of a transfer or issue of an inland bearer instrument, within the meaning of the heading "Bearer Instrument" in Schedule 1 to the Stamp Act 1891, which does not fall within exemption 3 in that heading (renounceable letter of allotment etc. where rights are renounceable not later than six months after issue).
- (4) There shall be no charge to tax under section 96 above in respect of an issue by a company (company X) of securities in exchange for shares in another company (company Y) where company X—
 - (a) has control of company Y, or
 - (b) will have such control in consequence of the exchange or of an offer as a result of which the exchange is made.
- (5) For the purposes of subsection (4) above company X has control of company Y if company X has power to control company Y's affairs by virtue of holding shares in, or possessing voting power in relation to, company Y or any other body corporate.