

Status: Point in time view as at 14/09/2016.

Changes to legislation: Transport Act 2000, SCHEDULE 26 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 26

Section 250.

TRANSFERS: TAX

PART I

INTERPRETATION

1 (1) In this Schedule—

“the 1988 Act” means the ^{M1}Income and Corporation Taxes Act 1988,
^{F1}

“the 1992 Act” means the ^{M2}Taxation of Chargeable Gains Act 1992,

[^{F2}“the Capital Allowances Act” means the Capital Allowances Act 2001 and includes, where the context admits, enactments which under the 1988 Act are to be treated as contained in the Capital Allowances Act 2001,]

“fixture” has the same meaning as in [^{F3}Chapter 14 of Part 2 of the Capital Allowances Act],

“franchise company” means any body corporate which is, or is to be, the franchisee or the franchise operator under a franchise agreement, and

“qualifying transfer” means a transfer which is a relevant transfer for the purposes of any of Parts II to VI of this Schedule.

(2) So far as it relates to corporation tax, this Schedule is to be construed as one with the Corporation Tax Acts.

(3) So far as it relates to capital allowances, this Schedule is to be construed as one with [^{F4}the Capital Allowances Act].

Textual Amendments

- F1** Sch. 26 para. 1(1): Definition of “the 1990 Act” repealed (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, ss. 578, 580, Sch. 2 para. 109(1)(a), **Sch. 4**
- F2** Sch. 26 para. 1(1): Definition of “the Capital Allowances Act” substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(1)(b)**
- F3** Sch. 26 para. 1(1): Words in the definition of “fixture” substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(1)(c)**
- F4** Words in Sch. 26 para. 1(3) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(2)**

Marginal Citations

- M1** 1988 c. 1.
M2 1992 c. 12.

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PART II

TRANSFERS TO SRA FROM FRANCHISING DIRECTOR, SECRETARY OF STATE AND ^{F5}THE OFFICE OF RAIL AND ROAD]

Textual Amendments

- F5** Words in Sch. 26 Pt. 2 heading substituted (E.W.S) (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), reg. 1(2), **Sch. para. 4(p)(vi)**

Interpretation

- 2 In this Part of this Schedule—
- “relevant transfer” means a transfer of property, rights or liabilities by virtue of—
- (a) section 215,
 - (b) a scheme under paragraph 1 of Schedule 15, or
 - (c) a scheme under paragraph 31 of Schedule 17,
- “transferee”, in relation to a relevant transfer, means the Authority, and
- “transferor”, in relation to a relevant transfer, means the person from whom the property, rights or liabilities are transferred.

Chargeable gains: no gain no loss

- 3 For the purposes of the 1992 Act a disposal by virtue of provision made under paragraph 34(a) of Schedule 17 is to be taken to be for a consideration such that no gain or loss accrues to the person making the disposal.

Chargeable gains: disposal of debts

- 4 (1) Sub-paragraph (2) applies if in the case of a relevant transfer—
- (a) a debt owed to the transferor is transferred to the transferee, and
 - (b) the transferor would, apart from this paragraph, be the original creditor in relation to that debt for the purposes of section 251 of the 1992 Act (disposal of debts).
- (2) The 1992 Act is to have effect as if the transferee (and not the transferor) were the original creditor for those purposes.

Capital allowances for plant and machinery

- 5 (1) This paragraph applies in relation to property if—
- (a) the property is plant or machinery to which a relevant transfer relates,
 - (b) the property would have been treated for the purposes of ^{F6}the Capital Allowances Act] (had the transferor incurred expenditure qualifying for allowances under ^{F6}Part 2 of that Act]on the provision of the property) as disposed of by the transferor to the transferee on the transfer taking effect, and
 - (c) the relevant order or scheme contains provision for the transferee to be taken for the purposes of ^{F7}that Act] to have incurred capital expenditure of an

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amount specified in or determined in accordance with the order or scheme on the provision of the property.

- (2) For the purposes of [^{F8}the Capital Allowances Act]—
- (a) the transferee is to be taken to have incurred capital expenditure of that amount on the provision of the property for the purposes for which it is used by the transferee on and after the taking effect of the transfer,
 - (b) the property is to be taken as belonging to the transferee in consequence of the transferee having incurred that expenditure, and
 - (c) in the case of a fixture, the expenditure which falls to be treated as incurred by the transferee is to be taken for the purposes of [^{F9}sections 181(1) and 182(1) of that Act] to be incurred by the giving of a consideration consisting in a capital sum of that amount.
- (3) In sub-paragraph (1)(c) “the relevant order or scheme” means—
- (a) in the case of a transfer by virtue of section 215, an order made by the Secretary of State by statutory instrument, or
 - (b) in the case of a transfer by virtue of a scheme under paragraph 1 of Schedule 15 or paragraph 31 of Schedule 17, the scheme concerned.
- (4) A provision mentioned in sub-paragraph (1)(c) for the determination of an amount may include provision—
- (a) for a determination to be made by the Secretary of State in a manner described in the order or scheme,
 - (b) for a determination to be made by reference to factors so described or to the opinion of a person so described, and
 - (c) for a determination to be capable of being modified (on one or more occasions) in a manner and in circumstances so described.
- (5) The Treasury’s consent is required for the making or modification of a determination under a provision mentioned in sub-paragraph (1)(c).
- (6) The transferee’s consent is also required for such a modification after the relevant transfer takes effect.
- (7) If there is a determination or a modification of a determination under a provision mentioned in sub-paragraph (1)(c) all necessary adjustments—
- (a) must be made by making assessments or by repayment or discharge of tax, and
 - (b) must be made despite any limitation on the time within which assessments may be made.

Textual Amendments

- F6** Words in Sch. 26 para. 5(1)(b) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(3)**
- F7** Words in Sch. 26 para. 5(1)(c) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(4)**
- F8** Words in Sch. 26 para. 5(2) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(5)(a)**
- F9** Words in Sch. 26 para. 5(2)(c) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(5)(b)**

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Capital allowances for plant and machinery: connected persons

- 6 For the purposes of [F10Part 2 of the Capital Allowances Act] references in that Part to a transaction (however described) between connected persons [F11(see section 575 of that Act)] are not to include references to a relevant transfer.

Textual Amendments

- F10** Words in Sch. 26 para. 6 substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(6)**
- F11** Words in Sch. 26 para. 6 substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 322(2)** (with Sch. 2)

Loan relationships

- 7 (1) Sub-paragraph (2) applies if as a result of a relevant transfer the transferee replaces, or (if the transferor had been a company) would have replaced, the transferor as a party to a loan relationship.
- (2) [F12Part 5 of the Corporation Tax Act 2009] is to have effect in relation to the time when the relevant transfer takes effect and any later time as if—
- (a) the transferee had been a party to the loan relationship at the time the transferor became, or (if the transferor had been a company) would have become, a party to the loan relationship and at all times since that time, and
- (b) the loan relationship to which the transferee is a party after the time the transfer takes effect is the same loan relationship as that to which, by virtue of paragraph (a), it is treated as having been a party before that time.
- (3) For the purposes of sub-paragraph (2) the transferor (and accordingly the transferee) is to be taken to have accounted for the loan relationship in accordance with [F13a basis of accounting] corresponding to that in accordance with which the transferee accounts for the loan relationship in the accounting period in which the transfer takes effect.
- (4) Expressions used in this paragraph and in [F14Part 5 of the Corporation Tax Act 2009] have the same meanings in this paragraph as in [F14that Part].

Textual Amendments

- F12** Words in Sch. 26 para. 7(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 473(2)(a)** (with Sch. 2 Pts. 1, 2)
- F13** Words in Sch. 26 para. 7(3) substituted (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 10 para. 46**
- F14** Words in Sch. 26 para. 7(4) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 473(2)(b)** (with Sch. 2 Pts. 1, 2)

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PART III

TRANSFERS FROM BR TO SRA

Interpretation

- 8 In this Part of this Schedule—
- “relevant transfer” means a transfer of property, rights or liabilities by virtue of—
- (a) paragraph 11 of Schedule 18, or
 - (b) a scheme under paragraph 1 of Schedule 19,
- “transferee”, in relation to a relevant transfer, means the Authority, and
- “transferor”, in relation to a relevant transfer, means the Board.

Chargeable gains: general

- 9 For the purposes of the 1992 Act a disposal—
- (a) constituted by a relevant transfer, or
 - (b) by virtue of provision made under paragraph 4 of Schedule 19,
- is to be taken (in relation to the person to whom the disposal is made as well as the person making the disposal) to be for a consideration such that no gain or loss accrues to the person making the disposal.

Chargeable gains: restriction of losses

- 10 (1) If there has been a disposal of an asset—
- (a) constituted by a relevant transfer, or
 - (b) by virtue of provision made under paragraph 4 of Schedule 19,
- subsection (8) of section 41 of the 1992 Act (which applies that section to cases where assets have been acquired without gain or loss) is to have effect as if the asset had been disposed of and acquired in circumstances mentioned in that subsection.
- (2) This paragraph is not to prejudice paragraph 9.

Chargeable gains: groups

- 11 (1) Sub-paragraph (2) applies if a company (“the degrouped company”)—
- (a) acquired an asset from another company at any time when both were members of the same group of companies (“the old group”), and
 - (b) ceases by virtue of a relevant transfer to be a member of the old group.
- (2) Section 179 of the 1992 Act (company ceasing to be member of group) is not to treat the degrouped company as having by virtue of the transfer sold and immediately reacquired the asset.
- (3) If sub-paragraph (2) applies to an asset, that section is to have effect on and after the first subsequent occasion on which the degrouped company ceases to be a member of a group of companies (“the new group”), otherwise than by virtue of a qualifying transfer, as if the degrouped company and the company from which it acquired the asset had been members of the new group at the time of acquisition.

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- (4) If, disregarding any preparatory transactions, a company would be regarded for the purposes of section 179 of the 1992 Act (and, accordingly, of this paragraph) as ceasing to be a member of a group of companies by virtue of a qualifying transfer, it is to be regarded for those purposes as so doing by virtue of the qualifying transfer and not by virtue of any preparatory transactions.
- (5) In this paragraph “preparatory transaction” means anything done under or by virtue of this Part of this Act for the purpose of initiating, advancing or facilitating the qualifying transfer in question.
- (6) Expressions used in this paragraph and in section 179 of the 1992 Act have the same meanings in this paragraph as in that section.

Chargeable gains: disposal of debts

- 12 (1) Sub-paragraph (2) applies if in the case of a relevant transfer—
 - (a) a debt owed to the transferor is transferred to the transferee, and
 - (b) the transferor would, apart from this paragraph, be the original creditor in relation to that debt for the purposes of section 251 of the 1992 Act (disposal of debts).
- (2) The 1992 Act is to have effect as if the transferee (and not the transferor) were the original creditor for those purposes.

Continuity in relation to capital allowances etc. where trade transferred

- 13 ^{F15}(1) Sub-paragraphs (2) to (4) apply if—
 - (a) the transferor ceased to carry on a trade by virtue of a relevant transfer taking effect, and
 - (b) on the taking effect of that transfer, the transferee began to carry on the trade.

This sub-paragraph is to be read with sub-paragraph (8).]

- (2) Subject to sub-paragraphs (3) and (4), in a case falling within sub-paragraph (1)—
 - (a) there are to be made to or on the transferee in accordance with ^{F16}the Capital Allowances Act] all such allowances and charges as would, if the transferor had continued to carry on the trade, have fallen to be made to or on the transferor, and
 - (b) the amount of any such allowance or charge is to be computed as if—
 - (i) the transferee had been carrying on the trade since the transferor began to do so, and
 - (ii) everything done to or by the transferor had been done to or by the transferee (but so that the relevant transfer itself, so far as it relates to any assets in use for the purpose of the trade, shall not be treated as giving rise to any such allowance or charge).
- (3) For the purposes of the Corporation Tax Acts, only such amounts (if any) as may be specified in or determined in accordance with an order made by the Secretary of State by statutory instrument are to be allocated to the transferee in respect of expenditure by reference to which capital allowances may be made by virtue of sub-paragraph (2) in relation to anything to which the transfer relates.

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- (4) Sub-paragraph (2) is to affect the amounts falling to be taken into account in relation to the transferor as expenditure by reference to which capital allowances may be made only so far as necessary to give effect to a reduction of any such amount by a sum equal to so much of that amount as is allocated to the transferee as mentioned in sub-paragraph (3).
- (5) An order under sub-paragraph (3) may include provision—
 - (a) for a determination to be made by the Secretary of State in a manner described in the order,
 - (b) for a determination to be made by reference to factors so described or to the opinion of a person so described, and
 - (c) for a determination to be capable of being modified (on one or more occasions) in a manner and in circumstances so described.
- (6) The Treasury’s consent is required for the making or modification of a determination of any such amount as is mentioned in sub-paragraph (3).
- (7) The transferee’s consent is also required for such a modification after the relevant transfer takes effect.
- (8) In determining whether sub-paragraph (1) has effect in relation to a relevant transfer in a case where—
 - (a) the transferor continues to carry on any trade or part of a trade after the transfer takes effect, or
 - (b) the transferee was carrying on any trade before the transfer takes effect,the trade or part of a trade which is continued, or was being carried on, shall for the purposes of that sub-paragraph be treated in relation to any trade or part of a trade which is transferred by virtue of the transfer as a separate trade and shall accordingly be disregarded.
- (9) If there is a determination or a modification of a determination for any purposes of this paragraph, all necessary adjustments—
 - (a) must be made by making assessments or by repayment or discharge of tax, and
 - (b) must be made despite any limitation on the time within which assessments may be made.

Textual Amendments

- F15** Sch. 26 para. 13(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 473\(3\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F16** Words in Sch. 26 para. 13(1)(2)(a) substituted (22.3.2001, with effect as mentioned in [2001 c. 2, s. 579\(1\)](#)) by [2001 c. 2, s. 578, Sch. 2 para. 109\(7\)](#)

Capital allowances for plant and machinery

- 14 (1) This paragraph applies in relation to property if—
 - (a) the property is plant or machinery to which a relevant transfer relates,
 - (b) paragraph 13 does not apply in relation to the transfer of the property to the transferee,

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- (c) the property would be treated for the purposes of [^{F17}the Capital Allowances Act] as disposed of by the transferor to the transferee on the transfer taking effect, and
 - (d) the scheme concerned contains provision for the disposal value of the property to be taken for the purposes of [^{F18}that Act] to be of an amount specified in or determined in accordance with the scheme.
- (2) For the purposes of [^{F19}the Capital Allowances Act]—
- (a) the provision mentioned in sub-paragraph (1)(d) is to have effect (instead of [^{F20}section 61(2) to (4), 72(3) to (5), 171, 196 or 423 of that Act]) for determining an amount as the disposal value of the property or the price at which a fixture is to be treated as sold,
 - (b) the transferee is to be taken to have incurred capital expenditure of that amount on the provision of the property for the purposes for which it is used by the transferee on and after the taking effect of the transfer,
 - (c) the property is to be taken as belonging to the transferee in consequence of the transferee having incurred that expenditure, and
 - (d) in the case of a fixture, the expenditure which falls to be treated as incurred by the transferee is to be taken for the purposes of [^{F21}sections 181(1) and 182(1) of that Act] to be incurred by the giving of a consideration consisting in a capital sum of that amount.
- (3) A provision mentioned in sub-paragraph (1)(d) for the determination of an amount may include provision—
- (a) for a determination to be made by the Secretary of State in a manner described in the scheme,
 - (b) for a determination to be made by reference to factors so described or to the opinion of a person so described, and
 - (c) for a determination to be capable of being modified (on one or more occasions) in a manner and in circumstances so described.
- (4) The Treasury’s consent is required for the making or modification of a determination under a provision mentioned in sub-paragraph (1)(d).
- (5) The transferee’s consent is also required for such a modification after the relevant transfer takes effect.
- (6) If there is a determination or a modification of a determination under a provision mentioned in sub-paragraph (1)(d) all necessary adjustments—
- (a) must be made by making assessments or by repayment or discharge of tax, and
 - (b) must be made despite any limitation on the time within which assessments may be made.

Textual Amendments

- F17** Words in Sch. 26 para. 14(1)(c) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(8)**
- F18** Words in Sch. 26 para. 14(1)(d) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(9)**
- F19** Words in Sch. 26 para. 14(2) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(10)(a)**

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- F20** Words in Sch. 26 para. 14(2)(a) substituted (22.3.2001, with effect as mentioned by 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(10)(b)**
- F21** Words in Sch. 26 para. 14(2)(d) substituted (22.3.2001, with effect as mentioned by 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(10)(c)**

Capital allowances for plant and machinery: connected persons

- 15 For the purposes of [^{F22}Part 2 of the Capital Allowances Act]references in that Part to a transaction (however described) between connected persons [^{F23}(see section 575 of that Act)] are not to include references to a relevant transfer.

Textual Amendments

- F22** Words in Sch. 26 para. 15 substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(11)**
- F23** Words in Sch. 26 para. 15 substituted (with effect in accordance with s. 1184(1) of the amending Act) by **Corporation Tax Act 2010 (c. 4)**, s. 1184(1), **Sch. 1 para. 322(3)** (with Sch. 2)

Leased assets

- 16 (1) Sub-paragraphs (2) and (3) apply for the purposes of section 781 of the 1988 Act (assets leased to traders and others) if the interest of the lessor or the lessee under a lease, or any other interest in an asset, is transferred to a person under a relevant transfer.
- (2) The transfer is to be treated as made without any capital sum having been obtained in respect of the interest by the transferor; and this is so despite section 783(4) of that Act.
- (3) If the interest is an interest under a lease, payments made by the transferor under the lease before the transfer takes effect are to be treated as if they had been made under that lease by the transferee.
- (4) Sub-paragraph (5) applies for the purposes of section 781 of the 1988 Act if a lease, or any other interest in an asset, is granted by virtue of provision made under paragraph 4 of Schedule 19.
- (5) The grant is to be treated as made without any capital sum having been obtained in respect of the lease, or interest, by the grantor; and this is so despite section 783(4) of that Act.
- (6) No charge is to arise under section 781(1) of the 1988 Act by virtue of section 783(2) of that Act in a case where the capital sum mentioned in section 781(1)(b)(i) or (ii) of that Act is or forms part of the consideration obtained (or treated by section 783(4) of that Act as obtained) by the transferor on a disposal by virtue of a relevant transfer of securities of a subsidiary of the transferor.
- (7) Expressions used in this paragraph and in sections 781 to 785 of the 1988 Act have the same meanings in this paragraph as in those sections.

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Loan relationships

- 17 (1) Sub-paragraph (2) applies if, as a result of a relevant transfer, the transferee replaces the transferor as a party to a loan relationship.
- (2) [^{F24}Part 5 of the Corporation Tax Act 2009] is to have effect in relation to the time when the relevant transfer takes effect and any later time as if—
- (a) the transferee had been a party to the loan relationship at the time the transferor became a party to the loan relationship and at all times since that time, and
 - (b) the loan relationship to which the transferee is a party after the time the transfer takes effect is the same loan relationship as that to which, by virtue of paragraph (a), it is treated as having been a party before that time.
- (3) Expressions used in this paragraph and in [^{F25}Part 5 of the Corporation Tax Act 2009] have the same meanings in this paragraph as in [^{F25}that Part].

Textual Amendments

- F24** Words in Sch. 26 para. 17(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by *Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 473(4)(a)* (with Sch. 2 Pts. 1, 2)
- F25** Words in Sch. 26 para. 17(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by *Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 473(4)(b)* (with Sch. 2 Pts. 1, 2)

Charge to tax under Case I of Schedule D

- 18 (1) This paragraph applies for the purpose of computing the profits or losses of the transferor and the transferee under Case I of Schedule D in respect of any trade or part of a trade transferred by a relevant transfer in relation to the time when the transfer takes effect and any later time.
- (2) The trade or part of a trade transferred is to be treated as having been, at the time of its commencement and at all times since that time, a separate trade carried on by the transferee.
- (3) The trade carried on by the transferee after the time the transfer takes effect is to be treated as the same trade as that which, by virtue of sub-paragraph (2), it is treated as having carried on before that time.
- (4) This paragraph is subject to paragraphs 13 and 17.

PART IV

TRANSFERS TO SECRETARY OF STATE FROM SRA AND BR

Interpretation

- 19 In this Part of this Schedule—
- “relevant transfer” means a transfer of property, rights or liabilities by virtue of—
- (a) a scheme under paragraph 1 of Schedule 21 under which the property, rights or liabilities are transferred to the Secretary of State, or

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- (b) a scheme under paragraph 1 of Schedule 25,
“transferee”, in relation to a relevant transfer, means the Secretary of State, and
“transferor”, in relation to a relevant transfer, means the person from whom the property, rights or liabilities are transferred.

Chargeable gains: groups

- 20 (1) Sub-paragraph (2) applies if a company (“the degrouped company”)—
- (a) acquired an asset from another company at any time when both were members of the same group of companies (“the old group”), and
 - (b) ceases by virtue of a relevant transfer to be a member of the old group.
- (2) Section 179 of the 1992 Act (company ceasing to be member of group) is not to treat the degrouped company as having by virtue of the transfer sold and immediately reacquired the asset.
- (3) If, disregarding any preparatory transactions, a company would be regarded for the purposes of section 179 of the 1992 Act (and, accordingly, of this paragraph) as ceasing to be a member of a group of companies by virtue of a relevant transfer, it is to be regarded for those purposes as so doing by virtue of the relevant transfer and not by virtue of any preparatory transactions.
- (4) In this paragraph “preparatory transaction” means anything done under or by virtue of this Part of this Act for the purpose of initiating, advancing or facilitating the relevant transfer in question.
- (5) Expressions used in this paragraph and in section 179 of the 1992 Act have the same meanings in this paragraph as in that section.

Capital allowances: actual consideration to be the disposal value

- 21 (1) Sub-paragraphs (2) to (4) apply for the purposes of [^{F26}Part 3 of the Capital Allowances Act], and the other provisions of that Act which are relevant to that Part, if there is a disposal by virtue of a relevant transfer of the relevant interest in—
- (a) an industrial building or structure, or
 - (b) a qualifying hotel or a commercial building or structure.
- (2) The disposal is to be treated as a sale of that relevant interest.
- (3) The sale moneys in respect of that sale are to be taken—
- (a) if a capital sum is received by the transferor or a person connected with the transferor by way of consideration or compensation in respect of the disposal, to be an amount equal to that capital sum, or
 - (b) if no such capital sum is received, to be nil.
- (4) [^{F27}Sections 567 to 570 of that Act (sales treated as being for alternative amount)] (sales between connected persons or without change of control) are not to have effect in relation to that sale.
- (5) Sub-paragraph (6) applies for determining, in the case of [^{F28}plant or machinery] which is treated for the purposes of [^{F29}the Capital Allowances Act] as disposed of by virtue of a relevant transfer, the amount which (in consequence of that disposal)

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is to be brought into account as the disposal value of that [^{F28}plant or machinery] for the purposes of [^{F30}section 60 of that Act (meaning of “disposal value” and “disposal event”)] (balancing adjustments).

- (6) The amount is, subject to [^{F31}section 62 of that Act (general limit on amount of disposal value)] to be taken—
- (a) if a capital sum is received by the transferor or a person connected with the transferor by way of consideration or compensation in respect of the disposal, to be an amount equal to that capital sum, or
 - (b) if no such capital sum is received, to be nil.
- (7) Sub-paragraph (8) applies if, in consequence of a disposal by virtue of a relevant transfer, [^{F32}a person is treated by section 188 of the Capital Allowances Act as ceasing to own a fixture]at any time.
- (8) The amount which, in consequence of that disposal, is to be brought into account as the disposal value of the fixture for the purposes of [^{F33}section 60 of the Capital Allowances Act is, subject to section 62 of that Act], to be taken—
- (a) if a capital sum is received by the transferor or a person connected with the transferor by way of consideration or compensation in respect of the disposal, to be an amount equal to that portion of that capital sum which falls (or, if the person to whom the disposal is made were entitled to an allowance, would fall) to be treated for the purposes of [^{F34}Part 2 of that Act]as expenditure incurred by that person on the provision of the fixture, or
 - (b) if no such capital sum is received, to be nil.
- (9) Sub-paragraphs (3), (6) and (8) have effect despite any other provision of [^{F35}the Capital Allowances Act].

Textual Amendments

- F26** Words in Sch. 26 para. 21(1) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(12)**
- F27** Words in Sch. 26 para. 21(4) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(13)**
- F28** Words in Sch. 26 para. 21(5) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(14)(a)**
- F29** Words in Sch. 26 para. 21(5) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(14)(b)**
- F30** Words in Sch. 26 para. 21(5) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(14)(c)**
- F31** Words in Sch. 26 para. 21(6) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(15)**
- F32** Words in Sch. 26 para. 21(7) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(16)**
- F33** Words in Sch. 26 para. 21(8) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(17)(a)**
- F34** Words in Sch. 26 para. 21(8)(a) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(17)(b)**
- F35** Words in Sch. 26 para. 21(9) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(18)**

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Leased assets

- 22 (1) Sub-paragraphs (2) and (3) apply for the purposes of section 781 of the 1988 Act (assets leased to traders and others) if the interest of the lessor or the lessee under a lease, or any other interest in an asset, is transferred to a person under a relevant transfer.
- (2) The transfer is to be treated as made without any capital sum having been obtained in respect of the interest by the transferor; and this is so despite section 783(4) of that Act.
- (3) If the interest is an interest under a lease, payments made by the transferor under the lease before the transfer takes effect are to be treated as if they had been made under that lease by the transferee.
- (4) Sub-paragraph (5) applies for the purposes of section 781 of the 1988 Act if a lease, or any other interest in an asset, is granted by the transferor by virtue of provision made under paragraph 5 of Schedule 21 or paragraph 4 of Schedule 25.
- (5) The grant is to be treated as made without any capital sum having been obtained in respect of the lease, or interest, by the transferor; and this is so despite section 783(4) of that Act.
- (6) No charge is to arise under section 781(1) of the 1988 Act by virtue of section 783(2) of that Act in a case where the capital sum mentioned in section 781(1)(b)(i) or (ii) of that Act is or forms part of the consideration obtained (or treated by section 783(4) of that Act as obtained) by the transferor on a disposal by virtue of a relevant transfer of securities of a subsidiary of the transferor.
- (7) Expressions used in this paragraph and in sections 781 to 785 of the 1988 Act have the same meanings in this paragraph as in those sections.

PART V

TRANSFERS FROM SRA TO FRANCHISE COMPANY

Interpretation

- 23 In this Part of this Schedule—
- “relevant transfer” means a transfer of property, rights or liabilities by virtue of a scheme under paragraph 1 of Schedule 21 under which the property, rights or liabilities are transferred to a franchise company,
- “transferee”, in relation to a relevant transfer, means the franchise company to whom the property, rights or liabilities are transferred, and
- “transferor”, in relation to a relevant transfer, means the person from whom the property, rights or liabilities are transferred.

Chargeable gains: disposals not to be treated as made at market value

- 24 (1) Section 17 of the 1992 Act (disposals and acquisitions treated as made at market value) is not to have effect in relation to—
- (a) a disposal constituted by a relevant transfer or a disposal by virtue of provision made under paragraph 5 of Schedule 21, or

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- (b) the acquisition made by the person to whom the disposal is made.
- (2) But sub-paragraph (1) does not apply—
 - (a) if the person making the disposal is connected with the person making the acquisition, or
 - (b) in the case of a disposal by virtue of provision made under paragraph 5 of Schedule 21, if the disposal is made by or to a person other than the transferor or the transferee.
- (3) If sub-paragraph (1) applies to the disposal of an asset, the disposal is to be taken (in relation to the person making the acquisition as well as the person making the disposal) to be—
 - (a) in a case where consideration in money or money’s worth is given by the person making the acquisition or on his behalf in respect of the vesting of the asset in him, for a consideration equal to the amount or value of that consideration, or
 - (b) in a case where no such consideration is given, for a consideration of nil.

Chargeable gains: groups

- 25 (1) Sub-paragraph (2) applies if a company (“the degrouped company”)—
 - (a) acquired an asset from another company at any time when both were members of the same group of companies (“the old group”), and
 - (b) ceases by virtue of a relevant transfer to be a member of the old group.
- (2) Section 179 of the 1992 Act (company ceasing to be member of group) is not to treat the degrouped company as having by virtue of the transfer sold and immediately reacquired the asset.
- (3) If sub-paragraph (2) applies to an asset, that section is to have effect on and after the first subsequent occasion on which the degrouped company ceases to be a member of a group of companies (“the new group”), otherwise than by virtue of a qualifying transfer, as if the degrouped company and the company from which it acquired the asset had been members of the new group at the time of acquisition.
- (4) If, disregarding any preparatory transactions, a company would be regarded for the purposes of section 179 of the 1992 Act (and, accordingly, of this paragraph) as ceasing to be a member of a group of companies by virtue of a qualifying transfer, it is to be regarded for those purposes as so doing by virtue of the qualifying transfer and not by virtue of any preparatory transactions.
- (5) In this paragraph “preparatory transaction” means anything done under or by virtue of this Part of this Act for the purpose of initiating, advancing or facilitating the qualifying transfer in question.
- (6) Expressions used in this paragraph and in section 179 of the 1992 Act have the same meanings in this paragraph as in that section.

Chargeable gains: disposal of debts

- 26 (1) Sub-paragraph (2) applies if in the case of a relevant transfer—
 - (a) a debt owed to the transferor is transferred to the transferee, and

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- (b) the transferor would, apart from this paragraph, be the original creditor in relation to that debt for the purposes of section 251 of the 1992 Act (disposal of debts).
- (2) The 1992 Act is to have effect as if the transferee (and not the transferor) were the original creditor for those purposes.

Capital allowances: actual consideration to be the disposal value

- 27
- (1) Sub-paragraphs (2) to (4) apply for the purposes of [F36Part 3 of the Capital Allowances Act], and the other provisions of that Act which are relevant to that Part, if there is a disposal by virtue of a relevant transfer of the relevant interest in—
 - (a) an industrial building or structure, or
 - (b) a qualifying hotel or a commercial building or structure.
 - (2) The disposal is to be treated as a sale of that relevant interest.
 - (3) The sale moneys in respect of that sale are to be taken—
 - (a) if a capital sum is received by the transferor or a person connected with the transferor by way of consideration or compensation in respect of the disposal, to be an amount equal to that capital sum, or
 - (b) if no such capital sum is received, to be nil.
 - (4) [F37Sections 567 to 570 of that Act (sales treated as being for alternative amount)] are not to have effect in relation to that sale.
 - (5) Sub-paragraph (6) applies for determining, in the case of [F38plant or machinery]which is treated for the purposes of [F39the Capital Allowances Act]as disposed of by virtue of a relevant transfer, the amount which (in consequence of that disposal) is to be brought into account as the disposal value of that [F38plant or machinery]for the purposes of [F40section 60 of that Act (meaning of “disposal value” and “disposal event”)].
 - (6) The amount is, subject to [F41section 62 of that Act (general limit on amount of disposal value)] to be taken—
 - (a) if a capital sum is received by the transferor or a person connected with the transferor by way of consideration or compensation in respect of the disposal, to be an amount equal to that capital sum, or
 - (b) if no such capital sum is received, to be nil.
 - (7) Sub-paragraph (8) applies if, in consequence of a disposal by virtue of a relevant transfer, [F42a person is treated by section 188 of the Capital Allowances Act as ceasing to own a fixture] at any time.
 - (8) The amount which, in consequence of that disposal, is to be brought into account as the disposal value of the fixture for the purposes of [F43section 60 of the Capital Allowances Act is, subject to section 62 of that Act], to be taken—
 - (a) if a capital sum is received by the transferor or a person connected with the transferor by way of consideration or compensation in respect of the disposal, to be an amount equal to that portion of that capital sum which falls (or, if the person to whom the disposal is made were entitled to an allowance, would fall) to be treated for the purposes of [F44Part 2 of that Act] as expenditure incurred by that person on the provision of the fixture, or

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(b) if no such capital sum is received, to be nil.

(9) Sub-paragraphs (3), (6) and (8) have effect despite any other provision of [F45 the Capital Allowances Act].

Textual Amendments

- F36** Words in Sch. 26 para. 27(1) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(19)**
- F37** Words in Sch. 26 para. 27(4) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(20)**
- F38** Words in Sch. 26 para. 27(5) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(21)(a)**
- F39** Words in Sch. 26 para. 27(5) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(21)(b)**
- F40** Words in Sch. 26 para. 27(5) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(21)(c)**
- F41** Words in Sch. 26 para. 27(6) substituted (23.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(22)**
- F42** Words in Sch. 26 para. 27(7) substituted (23.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(23)**
- F43** Words in Sch. 26 para. 27(8) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(24)(a)**
- F44** Words in Sch. 26 para. 27(8)(a) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(24)(b)**
- F45** Words in Sch. 26 para. 27(9) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(25)**

Leased assets

- 28 (1) Sub-paragraphs (2) and (3) apply for the purposes of section 781 of the 1988 Act (assets leased to traders and others) if the interest of the lessor or the lessee under a lease, or any other interest in an asset, is transferred to a person under a relevant transfer.
- (2) The transfer is to be treated as made without any capital sum having been obtained in respect of the interest by the transferor; and this is so despite section 783(4) of that Act.
- (3) If the interest is an interest under a lease, payments made by the transferor under the lease before the transfer takes effect are to be treated as if they had been made under that lease by the transferee.
- (4) Sub-paragraph (5) applies for the purposes of section 781 of the 1988 Act if a lease, or any other interest in an asset, is granted by the transferor by virtue of provision made under paragraph 5 of Schedule 21.
- (5) The grant is to be treated as made without any capital sum having been obtained in respect of the lease, or interest, by the transferor; and this is so despite section 783(4) of that Act.
- (6) No charge is to arise under section 781(1) of the 1988 Act by virtue of section 783(2) of that Act in a case where the capital sum mentioned in section 781(1)(b)(i) or (ii) of that Act is or forms part of the consideration obtained (or treated by section 783(4)

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Changes to legislation: Transport Act 2000, SCHEDULE 26 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

of that Act as obtained) by the transferor on a disposal by virtue of a relevant transfer of securities of a subsidiary of the transferor.

- (7) Expressions used in this paragraph and in sections 781 to 785 of the 1988 Act have the same meanings in this paragraph as in those sections.

Loan relationships

- 29 (1) Sub-paragraph (2) applies if, as a result of a relevant transfer, the transferee replaces the transferor as a party to a loan relationship.
- (2) [^{F46}Part 5 of the Corporation Tax Act 2009] is to have effect in relation to the time when the relevant transfer takes effect and any later time as if—
- (a) the transferee had been a party to the loan relationship at the time the transferor became a party to the loan relationship and at all times since that time, and
 - (b) the loan relationship to which the transferee is a party after the time the transfer takes effect is the same loan relationship as that to which, by virtue of paragraph (a), it is treated as having been a party before that time.
- (3) Expressions used in this paragraph and in [^{F47}Part 5 of the Corporation Tax Act 2009] have the same meanings in this paragraph as in [^{F47}that Part].

Textual Amendments

- F46** Words in Sch. 26 para. 29(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 473(5)(a) (with Sch. 2 Pts. 1, 2)
- F47** Words in Sch. 26 para. 29(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 473(5)(b) (with Sch. 2 Pts. 1, 2)

PART VI

TRANSFERS OF FRANCHISE ASSETS

Interpretation

- 30 In this Part of this Schedule—
- “relevant transfer” means a transfer of property, rights or liabilities by virtue of a scheme under paragraph 2 of Schedule 21 under which the property, rights or liabilities are transferred from a person which is, or has been, a franchise company,
 - “transferee”, in relation to a relevant transfer, means the person to whom the property, rights or liabilities are transferred, and
 - “transferor”, in relation to a relevant transfer, means the person from whom the property, rights or liabilities are transferred.

Chargeable gains: disposals not to be treated as made at market value

- 31 (1) Section 17 of the 1992 Act (disposals and acquisitions treated as made at market value) is not to have effect in relation to—

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- (a) a disposal constituted by a relevant transfer or a disposal by virtue of provision made under paragraph 5 of Schedule 21, or
 - (b) the acquisition made by the person to whom the disposal is made.
- (2) But sub-paragraph (1) does not apply—
- (a) if the person making the disposal is connected with the person making the acquisition, or
 - (b) in the case of a disposal by virtue of provision made under paragraph 5 of Schedule 21, if the disposal is made by or to a person other than the transferor or the transferee.
- (3) If sub-paragraph (1) applies to the disposal of an asset, the disposal is to be taken (in relation to the person making the acquisition as well as the person making the disposal) to be—
- (a) in a case where consideration in money or money’s worth is given by the person making the acquisition or on his behalf in respect of the vesting of the asset in him, for a consideration equal to the amount or value of that consideration, or
 - (b) in a case where no such consideration is given, for a consideration of nil.

Chargeable gains: groups

- 32 (1) Sub-paragraph (2) applies if a company (“the degrouped company”)—
- (a) acquired an asset from another company at any time when both were members of the same group of companies (“the old group”), and
 - (b) ceases by virtue of a relevant transfer to be a member of the old group.
- (2) Section 179 of the 1992 Act (company ceasing to be member of group) is not to treat the degrouped company as having by virtue of the transfer sold and immediately reacquired the asset.
- (3) If sub-paragraph (2) applies to an asset, that section is to have effect on and after the first subsequent occasion on which the degrouped company ceases to be a member of a group of companies (“the new group”), otherwise than by virtue of a qualifying transfer, as if the degrouped company and the company from which it acquired the asset had been members of the new group at the time of acquisition.
- (4) If, disregarding any preparatory transactions, a company would be regarded for the purposes of section 179 of the 1992 Act (and, accordingly, of this paragraph) as ceasing to be a member of a group of companies by virtue of a qualifying transfer, it is to be regarded for those purposes as so doing by virtue of the qualifying transfer and not by virtue of any preparatory transactions.
- (5) In this paragraph “preparatory transaction” means anything done under or by virtue of this Part of this Act for the purpose of initiating, advancing or facilitating the qualifying transfer in question.
- (6) Expressions used in this paragraph and in section 179 of the 1992 Act have the same meanings in this paragraph as in that section.

Chargeable gains: disposal of debts

- 33 (1) Sub-paragraph (2) applies if in the case of a relevant transfer—
- (a) a debt owed to the transferor is transferred to the transferee, and

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- (b) the transferor would, apart from this paragraph, be the original creditor in relation to that debt for the purposes of section 251 of the 1992 Act (disposal of debts).
- (2) The 1992 Act is to have effect as if the transferee (and not the transferor) were the original creditor for those purposes.

Capital allowances: actual consideration to be the disposal value

- 34
- (1) Sub-paragraphs (2) to (5) apply for the purposes of [F48Part 3 of the Capital Allowances Act], and the other provisions of that Act which are relevant to that Part, if there is a disposal by virtue of a relevant transfer of the relevant interest in—
 - (a) an industrial building or structure, or
 - (b) a qualifying hotel or a commercial building or structure.
 - (2) The disposal is to be treated as a sale of that relevant interest.
 - (3) The sale moneys in respect of that sale are to be taken—
 - (a) if a capital sum is received by the transferor or a person connected with the transferor by way of consideration or compensation in respect of the disposal, to be an amount equal to that capital sum, or
 - (b) if no such capital sum is received, to be nil.
 - (4) The sale moneys in respect of that sale are to be taken, as respects the transferee only, to include in addition an amount equal to any capital sum received by a person other than the transferor or a person connected with the transferor by way of consideration or compensation in respect of the acquisition of the relevant interest by the transferee.
 - (5) [F49Sections 567 to 570 of that Act (sales treated as being for alternative amount)] are not to have effect in relation to that sale.
 - (6) Sub-paragraph (7) applies for determining, in the case of [F50plant or machinery] which is treated for the purposes of [F51the Capital Allowances Act] as disposed of by virtue of a relevant transfer, the amount which (in consequence of that disposal) is to be brought into account as the disposal value of that [F50plant or machinery] for the purposes of [F52sections 60 of that Act (meaning of “disposal value” and “disposal event”)].
 - (7) The amount is, subject to [F53section 62 of that Act (general limit on amount of disposal value)] to be taken—
 - (a) if a capital sum is received by the transferor or a person connected with the transferor by way of consideration or compensation in respect of the disposal, to be an amount equal to that capital sum, or
 - (b) if no such capital sum is received, to be nil.
 - (8) Sub-paragraph (9) applies if, in consequence of a disposal by virtue of a relevant transfer, [F54a person is treated by section 188 of the Capital Allowances Act as ceasing to own a fixture] at any time.
 - (9) The amount which, in consequence of that disposal, is to be brought into account as the disposal value of the fixture for the purposes of [F55section 60 of the Capital Allowances Act is, subject to section 62 of that Act], to be taken—

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- (a) if a capital sum is received by the transferor or a person connected with the transferor by way of consideration or compensation in respect of the disposal, to be an amount equal to that portion of that capital sum which falls (or, if the person to whom the disposal is made were entitled to an allowance, would fall) to be treated for the purposes of [^{F56}Part 2 of that Act] as expenditure incurred by that person on the provision of the fixture, or
- (b) if no such capital sum is received, to be nil.
- (10) Sub-paragraphs (3), (4), (7) and (9) have effect despite any other provision of [^{F57}the Capital Allowances Act].

Textual Amendments

- F48** Words in Sch. 26 para. 34(1) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(26)**
- F49** Words in Sch. 26 para. 34(5) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(27)**
- F50** Words in Sch. 26 para. 34(6) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(28)(a)**
- F51** Words in Sch. 26 para. 34(6) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(28)(b)**
- F52** Words in Sch. 26 para. 34(6) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(28)(c)**
- F53** Words in Sch. 26 para. 34(7) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(29)**
- F54** Words in Sch. 26 para. 34(8) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(30)**
- F55** Words in Sch. 26 para. 34(9) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(31)(a)**
- F56** Words in Sch. 26 para. 34(9)(a) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(31)(b)**
- F57** Words in Sch. 26 para. 34(10) substituted (22.3.2001, with effect as mentioned in 2001 c. 2, s. 579(1)) by 2001 c. 2, s. 578, **Sch. 2 para. 109(32)**

Loan relationships

- 35 (1) [^{F58}Section 444 of the Corporation Tax Act 2009] is not to have effect in a case where, as a result of a relevant transfer, the transferee replaces the transferor as a party to a loan relationship.
- (2) Expressions used in this paragraph and in [^{F59}Part 5 of the Corporation Tax Act 2009] have the same meanings in this paragraph as in [^{F59}that Part].

Textual Amendments

- F58** Words in Sch. 26 para. 35(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by *Corporation Tax Act 2009* (c. 4), s. 1329(1), **Sch. 1 para. 473(6)(a)** (with Sch. 2 Pts. 1, 2)
- F59** Words in Sch. 26 para. 35(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by *Corporation Tax Act 2009* (c. 4), s. 1329(1), **Sch. 1 para. 473(6)(b)** (with Sch. 2 Pts. 1, 2)

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PART VII

OTHER PROVISIONS CONCERNING TRANSFERS

Chargeable gains: value shifting

- 36 Nothing in this Part of this Act and nothing done under it is to be regarded as a scheme or arrangement for the purposes of section 30 of the 1992 Act (tax-free benefits).

Chargeable gains: consequential amendment

- ^{F60}37

Textual Amendments

- F60** Sch. 26 para. 37 omitted (with effect in accordance with Sch. 2 para. 71 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 70(e)(ii)**

Group relief

- 38 The existence of the powers of the Secretary of State or the Authority under this Part of this Act is not to be regarded (and nothing else in that Part is to be regarded) as—
- (a) constituting arrangements falling within [^{F61}section 154(3) or 155(3) of the Corporation Tax Act 2010] (arrangements for transfer of company to another group or consortium), or
 - (b) constituting option arrangements for the purposes of [^{F62}section 173 of that Act].

Textual Amendments

- F61** Words in Sch. 26 para. 38 substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 322(4)(a)** (with Sch. 2)
- F62** Words in Sch. 26 para. 38 substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 322(4)(b)** (with Sch. 2)

Modifications of transfer schemes

- 39 (1) Sub-paragraph (2) applies if—
- (a) the effect of a scheme under paragraph 1 of Schedule 15, paragraph 31 of Schedule 17, paragraph 1 of Schedule 19 or paragraph 1 of Schedule 25 is modified by an order made by the Secretary of State, or
 - (b) the effect of a scheme under paragraph 1 of Schedule 21 under which the property, rights or liabilities are transferred to the Secretary of State or a franchise company is modified by an agreement made under paragraph 15 of that Schedule.
- (2) The Corporation Tax Acts (including this Schedule) are to have effect as if—
- (a) the scheme had been made as modified, and

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- (b) anything done by or in relation to the preceding holder had (so far as relating to the property, rights or liabilities affected by the modification) been done by or in relation to the subsequent holder.
- (3) For the purposes of sub-paragraph (2) the preceding holder is the person who without the modification—
 - (a) became (under the scheme concerned) entitled or subject to the property, rights or liabilities affected by the modification, or
 - (b) remained (despite the scheme concerned) entitled or subject to the property, rights or liabilities affected by the modification,
 as the case may be.
- (4) For the purposes of sub-paragraph (2) the subsequent holder is the person who (in consequence of the modification) becomes, or resumes being, entitled or subject to the property, rights or liabilities affected by the modification.

Stamp duty and stamp duty reserve tax

- 40 (1) Stamp duty is not to be chargeable on—
- (a) a scheme under paragraph 1 of Schedule 15, paragraph 31 of Schedule 17 or paragraph 1 of Schedule 19, 21 or 25, or
 - (b) an instrument or agreement which is certified to the Commissioners of Inland Revenue by the Secretary of State as made in pursuance of such a scheme.
- (2) No such scheme, and no instrument or agreement which is certified as mentioned in sub-paragraph (1)(b), is to be taken to be duly stamped unless—
- (a) it has, in accordance with section 12 of the ^{M3}Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with that duty or that it is duly stamped, or
 - (b) it is stamped with the duty to which it would be liable, apart from this paragraph.
- (3) Section 12 of the ^{M4}Finance Act 1895 is not to operate to require—
- (a) the delivery to the Inland Revenue of a copy of this Act, or
 - (b) the payment of stamp duty under that section on any copy of this Act,
- and is not to apply in relation to an instrument on which, by virtue of sub-paragraph (1), stamp duty is not chargeable.
- (4) An agreement to transfer chargeable securities, as defined in section 99 of the ^{M5}Finance Act 1986, to a person specified in sub-paragraph (2)(a) to (c) of paragraph 1 of Schedule 21 is not to give rise to a charge to stamp duty reserve tax if the agreement is made for the purposes of, or for purposes connected with, a scheme under that paragraph.

Marginal Citations

- M3** 1891 c. 39.
M4 1895 c. 16.
M5 1986 c. 41.

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[^{F63}Stamp duty land tax

Textual Amendments

F63 Sch. 26 para. 40A and cross-heading inserted (1.12.2003) by the [Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, **Sch. para. 32**

- 40A. (1) For the purposes of stamp duty land tax, a land transaction which is effected by, or in pursuance of a scheme under paragraph 1 of Schedule 15, paragraph 31 of Schedule 17 or paragraph 1 of Schedule 19, 21 or 25 is exempt from charge.
- (2) Relief under this paragraph must be claimed in a land transaction return or an amendment of such a return.
- (3) In this paragraph—
“land transaction” has the meaning given by section 43(1) of the Finance Act 2003;
“land transaction return” has the meaning given by section 76(1) of that Act.]

Status:

Point in time view as at 14/09/2016.

Changes to legislation:

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