

SCHEDULES

SCHEDULE 19

Section 124

STAMP DUTY LAND TAX: COMMENCEMENT AND TRANSITIONAL PROVISIONS

Introduction

- 1 (1) Subject to the provisions of this Schedule, the provisions of this Part come into force on the passing of this Act.
- (2) The following provisions have effect as regards what transactions are SDLT transactions, that is, are chargeable or notifiable or are transactions in relation to which section 79 (registration etc) applies.
- (3) Nothing in this Schedule shall be read as meaning that other transactions, whether effected before or after the passing of this Act, are to be disregarded in applying the provisions of this Part.

The implementation date

- 2 (1) A transaction is not an SDLT transaction unless the effective date of the transaction is on or after the implementation date.
- (2) In this Part “the implementation date” means the date appointed by Treasury order as the implementation date for the purposes of stamp duty land tax.

Contract entered into before first relevant date

- 3 (1) Subject to the following provisions of this paragraph, a transaction is not an SDLT transaction if it is effected in pursuance of a contract entered into before the first relevant date.
- (2) The “first relevant date” is the day after the passing of this Act.
- (3) The exclusion of transactions effected in pursuance of contracts entered into before the first relevant date does not apply—
 - (a) if there is any variation of the contract or assignment of rights under the contract on or after that date;
 - (b) if the transaction is effected in consequence of the exercise after that date of any option, right of pre-emption or similar right;
 - (c) where the purchaser under the transaction is a person other than the purchaser under the contract because of a further contract made on or after that date.

Contract substantially performed before implementation date

- 4 (1) This paragraph applies where a transaction—
 - (a) is completed on or after the implementation date,

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- (b) is effected in pursuance of a contract entered into and substantially performed before that date, and
 - (c) is not excluded from being an SDLT transaction by paragraph 3.
- (2) The transaction is not an SDLT transaction if the contract was substantially performed before the first relevant date.
- (3) In any other case, the fact that the contract was substantially performed before the implementation date does not affect the matter.

Accordingly, the effective date of the transaction is the date of completion.

Credit for ad valorem stamp duty paid

- 5 (1) Where a transaction chargeable to stamp duty land tax is effected in pursuance of a contract entered into before the implementation date, any *ad valorem* stamp duty paid on the contract shall go to reduce the amount of tax payable (but not so as to give rise to any repayment).
- (2) Where the application or operation of any exemption or relief from stamp duty land tax turns on whether tax was paid or payable in respect of an earlier transaction, that requirement is treated as met if *ad valorem* stamp duty was paid or (as the case may be) payable in respect of the instrument by which that transaction was effected.

Effect for stamp duty purposes of stamp duty land tax being paid or chargeable

- 6 (1) Where in the case of a contract that, apart from paragraph 7 of Schedule 13 to the Finance Act 1999 (c. 16) (contracts chargeable as conveyances on sale), would not be chargeable with stamp duty—
- (a) a conveyance made in conformity with the contract is effected after the implementation date, and
 - (b) stamp duty land tax is duly paid in respect of that transaction or no tax is chargeable because of an exemption or relief,
- the contract shall be deemed to be duly stamped.
- (2) The references in section 111(1)(c) of, and paragraph 4(3) of Schedule 34 to, the Finance Act 2002 (c. 23) (which relate to the circumstances in which stamp duty group relief is withdrawn) to a transfer at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which group relief was not claimed shall be read, on or after the implementation date, as including a reference to a transfer at market value by a chargeable transaction in respect of which relief under Part 1 of Schedule 7 to this Act was available but was not claimed.
- (3) The references in section 113(1)(c) of, and in paragraph 3(3) or 4(3) of Schedule 35 to, the Finance Act 2002 (which relate to the circumstances in which stamp duty company acquisitions relief is withdrawn) to a transfer at market value by a duly stamped instrument on which *ad valorem* duty was paid and in respect of which section 76 relief was not claimed shall be read, on or after the implementation date, as including a reference to a transfer at market value by a chargeable transaction on which stamp duty land tax was chargeable and in respect of which relief under Part 2 of Schedule 7 to this Act was available but was not claimed.

Earlier related transactions under stamp duty

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- (1) In relation to a transaction that is not an SDLT transaction but which is linked to an SDLT transaction and accordingly falls to be taken into account in determining the rate of stamp duty land tax chargeable on the latter transaction, any reference in this Part to the chargeable consideration for the first-mentioned transaction shall be read as a reference to the consideration by reference to which *ad valorem* stamp duty was payable in respect of the instrument by which that transaction was effected.
 - (2) In paragraph 3 of Schedule 9 (relief for transfer of reversion under shared ownership lease where election made for market value treatment) as it applies in a case where the original lease was granted before the implementation date—
 - (a) the reference to a lease to which paragraph 2 of that Schedule applies shall be read as a reference to a lease to which section 97 of the Finance Act 1980 applied (which made corresponding provision for stamp duty), and
 - (b) the reference to an election having been made for tax to be charged under that paragraph shall be read accordingly as a reference to a corresponding election having been in relation to stamp duty under that section.
 - (3) In section 54 (exceptions from deemed market value rule for transactions with connected company) the reference in subsection (4)(b) to group relief having been claimed in respect of a transaction shall be read in relation to a transaction carried out before the implementation date as a reference to relief having been claimed under section 42 of the Finance Act 1930 (c. 28), section 11 of the Finance Act (Northern Ireland) 1954 (c. 23 (N. I.)) or section 151 of the Finance Act 1995 (c. 4) in respect of stamp duty on the instrument by which the transaction was effected.

Time for stamping agreement for lease: lease subject to stamp duty land tax

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- (1) This paragraph makes provision corresponding to section 240 of the Finance Act 1994 (c. 9) (stamp duty: time for presenting agreement for lease) and applies where—
 - (a) an agreement for a lease is entered into before the implementation date,
 - (b) a lease giving effect to the agreement is executed on or after that date, and
 - (c) the transaction effected on completion is an SDLT transaction or would be but for an exemption or relief from stamp duty land tax.
 - (2) If in those circumstances—
 - (a) the lease is produced when the agreement is presented for stamping, and
 - (b) the duty (if any) chargeable on the agreement is paid,sections 15A and 15B of the Stamp Act 1891 (c. 39) (interest and penalty on late stamping) apply in relation to the agreement as if it had been executed on the date on which the lease was executed.
 - (3) For the purposes of this paragraph a lease gives effect to an agreement if the lease either is in conformity with the agreement or relates to substantially the same property and term as the agreement.
 - (4) References in this paragraph to an agreement for a lease include missives of let in Scotland.

Exercise of option or right of pre-emption acquired before implementation date

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- (1) This paragraph applies where—

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- (a) an option binding the grantor to enter into a land transaction, or
 - (b) a right of pre-emption preventing the grantor from entering into, or restricting the right of the grantor to enter into, a land transaction,
- is acquired before the implementation date and exercised on or after that date.
- (2) Where the option or right was acquired on or after 17th April 2003, any consideration for the acquisition is treated as part of the chargeable consideration for the transaction resulting from the exercise of the option or right.
 - (3) Where the option or right was varied on or after 17th April 2003 and before the implementation date, any consideration for the variation is treated as part of the chargeable consideration for the transaction resulting from the exercise of the option or right.
 - (4) Whether or not sub-paragraph (2) or (3) applies, the acquisition of the option or right and any variation of the option or right is treated as linked with the land transaction resulting from the exercise of the option or right.

But not so as to require the consideration for the acquisition or variation to be counted twice in determining the rate of tax chargeable on the land transaction resulting from the exercise of the option or right.
 - (5) Where this paragraph applies any *ad valorem* stamp duty paid on the acquisition or variation of the option or right shall go to reduce the amount of tax payable on the transaction resulting from the exercise of the option or right (but not so as to give rise to any repayment).

Supplementary

- 10 In this Schedule “contract” includes any agreement.