

Status: Point in time view as at 21/07/2008.

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SCHEDULES

SCHEDULE 5

Section 56

STAMP DUTY LAND TAX: AMOUNT OF TAX CHARGEABLE: RENT

Introduction

- 1 This Schedule provides for calculating the tax chargeable—
- (a) in respect of a chargeable transaction for which the chargeable consideration consists of or includes rent, or
 - (b) where such a transaction is to be taken into account as a linked transaction.

[^{F1}Amounts payable in respect of periods before grant of lease

Textual Amendments

- F1** Sch. 5 para. 1A and cross-heading inserted (with effect in accordance with Sch. 39 para. 13(3)-(6) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 39 para. 10](#)

- 1A For the purposes of this Part “rent” does not include any chargeable consideration for the grant of a lease that is payable in respect of a period before the grant of the lease.]

Calculation of tax chargeable in respect of rent

- 2 (1) Tax is chargeable under this Schedule in respect of so much of the chargeable consideration as consists of rent.
- ^{F2}(2) The tax chargeable is the total of the amounts produced by taking the relevant percentage of so much of the relevant rental value as falls within each rate band.
- (3) The relevant percentages and rate bands are determined by reference to whether the relevant land—
- (a) consists entirely of residential property (in which case Table A below applies), or
 - (b) consists of or includes land that is not residential property (in which case Table B below applies).

TABLE A: RESIDENTIAL

<i>Rate bands</i>	<i>Percentage</i>
£0 to [^{F3} £125,000]	0%
Over [^{F3} £125,000]	1%

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TABLE B: NON-RESIDENTIAL OR MIXED

<i>Rate bands</i>	<i>Percentage</i>
£0 to £150,000	0%
Over £150,000	1%

- (4) For the purposes of sub-paragraphs (2) and (3)—
- (a) the relevant rental value is the net present value of the rent payable over the term of the lease, and
 - (b) the relevant land is the land that is the subject of the lease.

- (5) If the lease in question is one of a number of linked transactions for which the chargeable consideration consists of or includes rent, the above provisions are modified.

- (6) In that case the tax chargeable is determined as follows.

First, calculate the amount of the tax that would be chargeable if the linked transactions were a single transaction, so that—

- (a) the relevant rental value is the total of the net present values of the rent payable over the terms of all the leases, and
- (b) the relevant land is all land that is the subject of any of those leases.

Then, multiply that amount by the fraction:

$$\frac{NPV}{TNPV}$$

where—

NPV is the net present value of the rent payable over the term of the lease in question, and

TNPV is the total of the net present values of the rent payable over the terms of the all the leases.]

Textual Amendments

- F2** Sch. 5 para. 2(2)-(6) substituted for Sch. 5 para. 2(2)-(5) (1.12.2003) by The Stamp Duty Land Tax (Amendment of Schedule 5 to the Finance Act 2003) Regulations 2003 (SI 2003/2914), reg. 2 Sch. para. 1
- F3** Sum in Sch. 5 para. 2(3) substituted (with effect in accordance with s. 162(4) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 162\(2\)](#)

Net present value of rent payable over term of lease

- 3 The net present value (v) of the rent payable over the term of a lease is calculated by applying the formula:

where—

r is the rent payable ^{F4}... [^{F5}in respect of year *i*],

i is the first, second, third, etc year of the term,

n is the term of the lease ^{F4}..., and

T is the temporal discount rate (see paragraph 8).

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Textual Amendments

- F4** Words in Sch. 5 para. 3 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)
- F5** Words in Sch. 5 para. 3 substituted (with effect in accordance with s. 164(4) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [s. 164\(2\)](#)

Rent payable

F64

Textual Amendments

- F6** Sch. 5 paras. 4-7 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

Effect of provision for rent review

F65

Textual Amendments

- F6** Sch. 5 paras. 4-7 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

Term of lease

F66

Textual Amendments

- F6** Sch. 5 paras. 4-7 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

Treatment of lease for indefinite term

F67

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Textual Amendments

- F6** Sch. 5 paras. 4-7 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 4(2)** (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked **Stamp Duty and Stamp Duty Land Tax (Variation of the Finance Act 2003) (No. 2) Regulations 2003 (S.I. 2003/2816)**, see Sch. 39 para. 14)

Temporal discount rate

- 8 (1) For the purposes of this Schedule the “temporal discount rate” is 3.5% or such other rate as may be specified by regulations made by the Treasury.
- (2) Regulations under this paragraph may make any such provision as is mentioned in subsection (3)(b) to (f) of section 178 of the Finance Act 1989 (c. 26) (power of Treasury to set rates of interest).
- (3) Subsection (5) of that section (power of Inland Revenue to specify rate by order in certain circumstances) applies in relation to regulations under this paragraph as it applies in relation to regulations under that section.

Tax chargeable in respect of consideration other than rent ^[F7]: general]

Textual Amendments

- F7** Word in Sch. 5 para. 9 heading inserted (with effect in accordance with s. 95(13) of the amending Act) by Finance Act 2008 (c. 9), **s. 95(2)**

- 9 (1) Where in the case of a transaction to which this Schedule applies there is chargeable consideration other than rent, the provisions of this Part apply in relation to that consideration as in relation to other chargeable consideration ^[F8](but see paragraph 9A)].

^{F9}(2)

^{F10}(2A)

^{F11}(3)

- (4) Tax chargeable under this Schedule is in addition to any tax chargeable under section 55 in respect of consideration other than rent.
- (5) Where a transaction to which this Schedule applies falls to be taken into account for the purposes of that section as a linked transaction, no account shall be taken of rent in determining the relevant consideration.

Textual Amendments

- F8** Words in Sch. 5 para. 9(1) inserted (with effect in accordance with s. 95(13) of the amending Act) by Finance Act 2008 (c. 9), **s. 95(2)(a)**
- F9** Sch. 5 para. 9(2) omitted (with effect in accordance with s. 95(13) of the amending Act) by virtue of Finance Act 2008 (c. 9), **s. 95(2)(b)**

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- F10** Sch. 5 para. 9(2A) omitted (with effect in accordance with s. 95(13) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 95\(2\)\(b\)](#)
- F11** Sch. 5 para. 9(3) omitted (with effect in accordance with s. 95(13) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\), s. 95\(2\)\(b\)](#)

^{F12}Tax chargeable in respect of consideration other than rent: 0% band

Textual Amendments

- F12** Sch. 5 para. 9A and cross-heading inserted (with effect in accordance with s. 95(13) of the amending Act) by [Finance Act 2008 \(c. 9\), s. 95\(3\)](#)

- 9A (1) This paragraph applies in the case of a transaction to which this Schedule applies where there is chargeable consideration other than rent.
- (2) If—
- (a) the relevant land consists entirely of land that is non-residential property, and
 - (b) the relevant rent is at least £1,000,
- the 0% band in Table B in section 55(2) does not apply in relation to the consideration other than rent and any case that would have fallen within that band is treated as falling within the 1% band.
- (3) Sub-paragraphs (4) and (5) apply if—
- (a) the relevant land is partly residential property and partly non-residential property, and
 - (b) the relevant rent attributable, on a just and reasonable apportionment, to the land that is non-residential property is at least £1,000.
- (4) For the purpose of determining the amount of tax chargeable under section 55 in relation to the consideration other than rent, the transaction (or, where it is one of a number of linked transactions, that set of transactions) is treated as if it were two separate transactions (or sets of linked transactions), namely—
- (a) one whose subject-matter consists of all of the interests in land that is residential property, and
 - (b) one whose subject-matter consists of all of the interests in land that is non-residential property.
- (5) For that purpose, the chargeable consideration attributable to each of those separate transactions (or sets of linked transactions) is the chargeable consideration so attributable on a just and reasonable apportionment.
- (6) In this paragraph “the relevant rent” means—
- (a) the annual rent in relation to the transaction in question, or
 - (b) if that transaction is one of a number of linked transactions for which the chargeable consideration consists of or includes rent, the total of the annual rents in relation to all of those transactions.
- (7) In sub-paragraph (6) the “annual rent” means the average annual rent over the term of the lease or, if—
- (a) different amounts of rent are payable for different parts of the term, and

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(b) those amounts (or any of them) are ascertainable at the effective date of the transaction,

the average annual rent over the period for which the highest ascertainable rent is payable.

(8) In this paragraph “relevant land” has the meaning given in section 55(3) and (4).]

Increase of rent treated as grant of new lease

F13¹⁰

Textual Amendments

F13 Sch. 5 para. 10 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

Interpretation

F14¹¹

Textual Amendments

F14 Sch. 5 para. 11 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 4\(2\)](#) (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked [Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), see Sch. 39 para. 14)

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