



# Finance Act 2007

## 2007 CHAPTER 11

### PART 5 **U.K.**

#### SDLT, STAMP DUTY AND SDRT

##### *Other reliefs etc*

#### 75 **SDLT: alternative finance arrangements** **U.K.**

(1) In FA 2003, after section 73A insert—

##### **“73B Exempt interests**

- (1) An interest held by a financial institution as a result of the first transaction within the meaning of section 71A(1)(a), 72(1)(a) or 72A(1)(a) is an exempt interest for the purposes of stamp duty land tax.
- (2) That interest ceases to be an exempt interest if—
  - (a) the lease or agreement mentioned in section 71A(1)(c), 72(1)(b) or 72A(1)(b) ceases to have effect, or
  - (b) the right under section 71A(1)(d), 72(1)(c) or 72A(1)(c) ceases to have effect or becomes subject to a restriction.
- (3) Subsection (1) does not apply if the first transaction is exempt from charge by virtue of Schedule 7.
- (4) Subsection (1) does not make an interest exempt in respect of—
  - (a) the first transaction itself, or
  - (b) a further transaction or third transaction within the meaning of section 71A(4), 72(4) or 72A(4).”

(2) In section 48 of that Act (stamp duty land tax: exempt interests), after subsection (3) insert—

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“(3A) Section 73B makes additional provision about exempt interests in relation to alternative finance arrangements.”

- (3) For the text of sections 71A(8), 72(7), 72A(8) and 73(5)(a) of that Act (alternative finance arrangements: meaning of “financial institution”), substitute “ In this section “financial institution” has the meaning given by section 46 of the Finance Act 2005 (alternative finance arrangements). ”
- (4) The amendments made by this section—
- (a) have effect in relation to anything that would, but for the exemption provided by new section 73B inserted by subsection (1) above, be a land transaction with an effective date on or after 22nd March 2007, and
  - (b) apply, in accordance with paragraph (a), to interests irrespective of the date of their creation.

## 76 **SDLT: exchanges** **U.K.**

- (1) In section 47(1) of FA 2003 (exchanges), insert at the end “ (and they are not linked transactions within the meaning of section 108) ”.
- (2) In section 108 of that Act (linked transactions), insert at the end—
- “(4) This section is subject to section 47(1).”
- (3) The amendments made by this section have effect in relation to a set of land transactions if the effective date of any of them is on or after the day on which this Act is passed.

## 77 **SDLT: shared ownership trusts** **U.K.**

- (1) In Schedule 9 to FA 2003 (right to buy and shared ownership leases), insert at the end—

### “Shared ownership trust: introduction

- 7 (1) In this Schedule “shared ownership trust” means a trust of land, within the meaning of section 1 of the Trusts of Land and Appointment of Trustees Act 1996, which satisfies the following conditions.
- (2) Condition 1 is that the trust property is—
- (a) a dwelling, and
  - (b) in England or Wales.
- (3) Condition 2 is that one of the beneficiaries (“the social landlord”) is a qualifying body (within the meaning of paragraph 5(2)).
- (4) Condition 3 is that the terms of the trust—
- (a) provide for one or more of the individual beneficiaries (“the purchaser”) to have exclusive use of the trust property as the only or main residence of the purchaser,
  - (b) require the purchaser to make an initial payment to the social landlord (“the initial capital”),

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- (c) require the purchaser to make additional payments to the social landlord by way of compensation under section 13(6)(a) of the Trusts of Land and Appointment of Trustees Act 1996 (“rent-equivalent payments”),
  - (d) enable the purchaser to make other additional payments to the social landlord (“equity-acquisition payments”),
  - (e) determine the initial beneficial interests of the social landlord and of the purchaser by reference to the initial capital,
  - (f) specify a sum, equating or relating to the market value of the dwelling, by reference to which the initial capital was calculated, and
  - (g) provide for the purchaser's beneficial interest in the trust property to increase, and the social landlord's to diminish (or to be extinguished), as equity-acquisition payments are made.
- (5) Section 118 (meaning of “market value”) does not apply to this paragraph.
- (6) In Condition 1 “dwelling” includes—
- (a) a building which is being constructed or adapted for use as a dwelling,
  - (b) land which is to be used for the purpose of the construction of a dwelling, and
  - (c) land which is, or is to become, the garden or grounds of a dwelling.

#### **Shared ownership trust: “purchaser”**

- 8 For the purposes of the application of stamp duty land tax in relation to a shared ownership trust, the person (or persons) identified as the purchaser in accordance with paragraph 7, and not the social landlord or any other beneficiary, is (or are) to be treated as the purchaser of the trust property.

#### **Shared ownership trust: election for market value treatment**

- 9 (1) This paragraph applies where—
- (a) a shared ownership trust is declared, and
  - (b) the purchaser elects for tax to be charged in accordance with this paragraph.
- (2) An election must be included in—
- (a) the land transaction return for the declaration of the shared ownership trust, or
  - (b) an amendment of that return.
- (3) An election may not be revoked.
- (4) Where this paragraph applies—
- (a) the chargeable consideration for the declaration of the shared ownership trust shall be taken to be the amount stated in accordance with paragraph 7(4)(f), and
  - (b) no account shall be taken for the purposes of stamp duty land tax of rent-equivalent payments.

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- (5) The transfer to the purchaser of an interest in the trust property upon the termination of the trust is exempt from charge if—
- (a) an election was made under this paragraph, and
  - (b) any tax chargeable in respect of the declaration of the shared ownership trust has been paid.

#### **Shared ownership trust: treatment of staircasing transaction**

- 10 (1) An equity-acquisition additional payment under a shared ownership trust, and the consequent increase in the purchaser's beneficial interest, shall be exempt from charge if—
- (a) an election was made under paragraph 9, and
  - (b) any tax chargeable in respect of the declaration of trust has been paid.
- (2) An equity-acquisition additional payment under a shared ownership trust, and the consequent increase in the purchaser's beneficial interest, shall also be exempt from charge if following the increase the purchaser's beneficial interest does not exceed 80% of the total beneficial interest in the trust property.

#### **Shared ownership trust: treatment of additional payments where no election made**

- 11 Where no election has been made under paragraph 9 in respect of a shared ownership trust—
- (a) the initial capital shall be treated for the purposes of stamp duty land tax as chargeable consideration other than rent, and
  - (b) any rent-equivalent additional payment by the purchaser shall be treated for the purposes of stamp duty land tax as a payment of rent.”
- (2) The amendment made by subsection (1) has effect in relation to land transactions with an effective date on or after the day on which this Act is passed.

#### **78 SDLT: shared ownership lease U.K.**

In paragraph 2 of Schedule 9 to FA 2003 (stamp duty land tax: shared ownership lease), after sub-paragraph (4) insert—

“(4A) Where this paragraph applies no account shall be taken for the purposes of stamp duty land tax of the rent mentioned in sub-paragraph (2)(d).”

#### **79 Certain transfers of school land U.K.**

- (1) In Chapter 7 of Part 2 of the School Standards and Framework Act 1998 (c. 31) (“the 1998 Act”) (new framework for maintained schools), omit sections 79 and 79A (no stamp duty or SDLT payable in respect of certain transfers).
- (2) The repeal of—
- (a) section 79A of the 1998 Act, and
  - (b) section 79 of that Act as it applies for the purposes of section 79A,

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has effect in relation to any land transaction of which the effective date is on or after the day on which this Act is passed.

- (3) Subject to that, the repeal of section 79 of the 1998 Act has effect in relation to any instrument executed on or after that day.

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