

SCHEDULES

SCHEDULE 13

TRANSFER SCHEMES: TAX PROVISIONS

PART 3

TRANSFERS ETC FROM TAXABLE PUBLIC BODIES TO EXEMPT PUBLIC BODIES

Meaning of “relevant transfer” in Part 3 of Schedule

- 17 In this Part of this Schedule “relevant transfer” means a transfer, in accordance with a transfer scheme, from a taxable public body to an exempt public body.

Transfers of trading stock

- 18 (1) This paragraph applies if under a relevant transfer trading stock of the transferor is transferred to the transferee.
- (2) Sub-paragraphs (3) and (4) have effect in computing for any corporation tax purpose the profits of the trade in relation to which the stock is trading stock immediately before the transfer takes effect (“the transferor’s trade”).
- (3) The stock must be taken to have been—
- (a) disposed of by the transferor in the course of the transferor’s trade, and
 - (b) subject to that, disposed of when the transfer takes effect.
- (4) The value of the stock is to be taken to be—
- (a) if consideration is given to the transferor in respect of the transfer, an amount equal to the value of the consideration, or
 - (b) if no such consideration is given, nil.
- (5) For the purposes of this paragraph consideration given to a person connected with the transferor is to be treated as given to the transferor.
- (6) In this paragraph “trading stock” has the same meaning as in section 100 of ICTA.
- (7) For the purposes of this paragraph whether a person is connected with another person is determined in accordance with section 839 of ICTA (connected persons).

Capital allowances: determination of disposal value of plant or machinery

- 19 (1) This paragraph applies to a relevant transfer of plant or machinery which is a disposal event for the purposes of Part 2 of CAA 2001 (capital allowances for plant and machinery).

Status: This is the original version (as it was originally enacted).

- (2) For the purposes of the application of section 61 of that Act in relation to the transferor, the disposal value of the plant or machinery is to be treated—
 - (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum, or
 - (b) if no such sum is received, as nil.
- (3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.
- (4) Section 88 of CAA 2001 (sales at an undervalue) is to be disregarded.
- (5) This paragraph is subject to sections 63(5) and 68 of CAA 2001.

Capital allowances: determination of disposal value of fixtures

- 20 (1) This paragraph applies to a relevant transfer if—
 - (a) it is a disposal event for the purposes of Part 2 of CAA 2001, and
 - (b) by virtue of the transfer a person is treated by section 188 of that Act as ceasing to own a fixture.
- (2) For the purposes of the application of section 196 of that Act in relation to the transferor, the disposal value of the fixture is to be treated—
 - (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that portion of that sum which, if the person to whom the disposal is made were entitled to an allowance, would fall to be treated for the purposes of Part 2 of that Act as expenditure incurred by that person on the provision of the fixture, or
 - (b) if no such sum is received, as nil.
- (3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.
- (4) This paragraph is subject to section 63(5) of CAA 2001.

Capital allowances: determination of capital value of industrial buildings etc.

- 21 (1) This paragraph applies for the purposes of Part 3 of CAA 2001, and the other provisions of that Act which are relevant to that Part, in relation to a relevant transfer of the relevant interest in an industrial building or structure.
- (2) This paragraph is subject to section 36 of FA 2007 (which makes provision about balancing adjustments etc under Part 3 of CAA 2001).
- (3) The transfer is to be treated as a sale of that relevant interest.
- (4) The net proceeds of that sale are to be treated—
 - (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum, or
 - (b) if no such sum is received, as nil.
- (5) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.

Status: This is the original version (as it was originally enacted).

- (6) Sections 567 to 570 of CAA 2001 (sales treated as being for alternative amount) are not to have effect in relation to that sale.

Chargeable gains: assets to be treated as disposed of without a gain or a loss

- 22 (1) For the purposes of TCGA 1992 a disposal—
- (a) constituted by a relevant transfer, or
 - (b) to which sub-paragraph (2) applies,
- is to be taken to be for a consideration such that no gain or loss accrues to the person making the disposal.
- (2) This sub-paragraph applies to a disposal if—
- (a) it is made in accordance with provision contained in a transfer scheme by virtue of paragraph 4, 6 or 12 of Schedule 12 to this Act,
 - (b) the person making the disposal is a taxable public body,
 - (c) the person to whom the disposal is made is an exempt public body, and
 - (d) each of those persons is either the transferor or a transferee under the scheme.

Neutral effect of transfer of intangible assets

- 23 (1) For the purposes of Schedule 29 to FA 2002, a relevant transfer of a chargeable intangible asset of the transferor is to be treated as not involving any realisation of the asset by the transferor.
- (2) Expressions used in this paragraph and in that Schedule have the same meanings in this paragraph as in that Schedule.

Neutral effect of transfer for loan relationships and derivative contracts

- 24 No credit or debit shall be required or allowed, in respect of a relevant transfer, to be brought into account in the transferor's case—
- (a) for the purposes of Chapter 2 of Part 4 of FA 1996 (loan relationships), or
 - (b) for the purposes of Schedule 26 to FA 2002 (derivative contracts).

Leased assets

- 25 (1) This paragraph applies for the purposes of section 781 of ICTA (assets leased to traders and others) where—
- (a) the interest of the lessor or the lessee under a lease, or any other interest in an asset, is transferred under a relevant transfer, or
 - (b) a lease, or any other interest in a lease, is granted by a taxable public body to an exempt public body in accordance with provision contained by virtue of paragraph 4, 6 or 12 of Schedule 12 to this Act in a transfer scheme.
- (2) Section 783(4) of ICTA is to be disregarded and the transfer or grant is to be treated as made without any capital sum having been obtained in respect of the interest or lease by the transferor or grantor.
- (3) Expressions used in this paragraph and in sections 781 to 785 of ICTA have the same meanings in this paragraph as in those sections.