

SCHEDULES

SCHEDULE 13

TRANSFER SCHEMES: TAX PROVISIONS

PART 5

OTHER PROVISIONS CONCERNING TRANSFERS BETWEEN PUBLIC BODIES

Meaning of “relevant transfer” in Part 5 of Schedule

- 29 In this Part of this Schedule “relevant transfer” means a transfer, in accordance with a transfer scheme, from a public body to another public body.

Trading losses: change in ownership

- 30 (1) This paragraph applies to a relevant transfer of all the issued share capital of a company (the “transferred company”).
- (2) For the purposes of sections 768 to 768E of ICTA, the transfer is not to be taken to result in a change in the ownership of—
- (a) the transferred company, or
 - (b) a company which is a wholly-owned subsidiary of the transferred company when the transfer takes effect.

Chargeable gains: degrouping charges

- 31 (1) This paragraph applies if a company (“the degrouped company”)—
- (a) acquired an asset from another company at a time when both were members of the same group of companies (“the old group”),
 - (b) ceases by virtue of a relevant transfer to be a member of the old group, and
 - (c) becomes by virtue of the transfer a member of the same group of companies as the transferee (“the new group”).
- (2) Section 179 of TCGA 1992 (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) Where sub-paragraph (2) has applied to an asset, section 179 of TCGA 1992 is to have effect on and after the first subsequent occasion on which the degrouped company ceases to be a member of the new group otherwise than by virtue of a relevant transfer as if—
- (a) the degrouped company, and
 - (b) the company from which it acquired the asset,
- had been members of the new group at the time of acquisition.

Status: This is the original version (as it was originally enacted).

- (4) If, disregarding any preparatory transactions, a company would be regarded by virtue of a relevant transfer—
- (a) as ceasing to be a member of a group of companies for the purposes of section 179 of TCGA 1992 (and, accordingly, of this paragraph), or
 - (b) as becoming a member of a group of companies for the purposes of this paragraph,
- 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.
- (5) In this paragraph “preparatory transactions” means anything done under or by virtue of this Act for the purpose of initiating, advancing or facilitating the relevant transfer in question.
- (6) Expressions used in this paragraph and in section 179 of TCGA 1992 have the same meanings in this paragraph as in that section.

Stamp duty

- 32 (1) Stamp duty is not to be chargeable—
- (a) on a transfer scheme in the case of which the transferor and each transferee is a public body, or
 - (b) on an instrument certified by the Secretary of State to the Commissioners for Her Majesty’s Revenue and Customs as made for the purposes of such a transfer scheme, or as made for purposes connected with such a transfer scheme.
- (2) But where, by virtue of sub-paragraph (1), stamp duty is not chargeable on a scheme or instrument, the scheme or instrument is to be treated as duly stamped only if—
- (a) in accordance with section 12 of the Stamp Act 1891 (c. 39) it has been stamped with a stamp denoting either that it is not chargeable to duty or that it has been duly stamped, or
 - (b) it is stamped with the duty to which it would be chargeable apart from sub-paragraph (1).
- (3) In this paragraph “instrument” has the same meaning as in the Stamp Act 1891.