



Finance Act 1986

1986 CHAPTER 41

PART IV

STAMP DUTY RESERVE TAX

The principal charge

90 Section 87: other exceptions

- (1) Section 87 above shall not apply as regards an agreement to transfer a unit under a unit trust scheme [^{F1}to or from the managers] under the scheme.
- [^{F2}(1A) Section 87 above shall not apply as regards an agreement to transfer a unit under a unit trust scheme if an instrument executed at the same time as the agreement and giving effect to the agreement would be exempt from stamp duty (if stamp duty were otherwise chargeable) by virtue of—
- (a) section 42 of the Finance Act 1930 or section 11 of the Finance Act (Northern Ireland) 1954 (transfers between associated companies), or
 - (b) regulations under section 87(2) of the Finance Act 1985 (power to exempt instruments from stamp duty of fixed amount)] [^{F3}, or
 - (c) section 96 of the Finance Act 1997 (demutualisation of insurance companies).]
- [^{F4}(1B) Section 87 above shall not apply as regards an agreement to transfer trust property to the unit holder on the surrender to the managers of a unit under a unit trust scheme [^{F5}if the unit holder is to receive only such part of each description of asset in the trust property as is proportionate to, or as nearly as practicable proportionate to, the unit holder's share.]
- [^{F6}For these purposes there is a surrender of a unit where—
- (a) a person (“P”) authorises or requires the trustees or managers of a unit trust scheme to treat P as no longer interested in a unit under the scheme, or
 - (b) a unit under the unit trust scheme is transferred to the managers of the scheme,

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and the unit is a chargeable security.]]

- (2) ^{F7}
- (3) Section 87 above shall not apply as regards an agreement to transfer securities constituted by or transferable by means of —
- ^{F8}(a) a non-UK bearer instrument;
- ^{F9}(b)
- ^{F10}(3A) Section 87 above shall not apply as regards an agreement to transfer chargeable securities constituted by or transferable by means of [^{F11}a UK bearer instrument] unless subsection (3B), (3C) or (3E) below applies to the instrument.
- (3B) This subsection applies to any instrument which falls within [^{F12}the exemption conferred by paragraph 16 of Schedule 15 to the Finance Act 1999 (renounceable letters of allotment etc.)].
- (3C) This subsection applies to an instrument if—
- (a) the instrument was issued by a body corporate incorporated in the United Kingdom [^{F13}(other than an SE which has its registered office outside the United Kingdom following a transfer in accordance with Article 8 of Council Regulation (EC) 2157/2001 on the Statute for a European Company (Societas Europaea))]; [^{F14}and]
- ^{F15}(b)
- (c) the instrument is not exempt.
- (3D) An instrument is exempt for the purposes of subsection (3C) above if—
- (a) the chargeable securities in question are, or a depositary receipt for them is, listed on a recognised stock exchange; and
- (b) the agreement to transfer those securities is not made in contemplation of, or as part of an arrangement for, a takeover of the body corporate which issued the instrument.
- (3E) This subsection applies to an instrument if—
- (a) the instrument was issued by a body corporate incorporated in the United Kingdom [^{F16}(other than an SE which has its registered office outside the United Kingdom following a transfer in accordance with Article 8 of Council Regulation (EC) 2157/2001 on the Statute for a European Company (Societas Europaea))];
- ^{F17}(b)
- (c) by virtue of section 79(5) (convertible loan capital) or 79(6) (loan capital carrying special rights) above, stamp duty would be chargeable on an instrument transferring the loan capital to which the instrument relates; and
- (d) the instrument is not exempt.
- (3F) An instrument is exempt for the purposes of subsection (3E) above if—
- (a) the chargeable securities in question are, or a depositary receipt for them is, listed on a recognised stock exchange;
- (b) the agreement to transfer those securities is not made in contemplation of, or as part of an arrangement for, a takeover of the body corporate which issued the instrument; and
- (c) those securities do not carry any right of the kind described in section 79(5) above (right of conversion into, or acquisition of, shares or other securities)

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by the exercise of which [^{F18}chargeable securities which are not listed] on a recognised stock exchange may be obtained.]

(4) Section 87 above shall not apply as regards an agreement which forms part of an arrangement.

- [^{F19}(a)] falling within section 93(1) or 96(1) below [^{F20}, or
- (b) which would fall within section 93(1) or section 96(1) if the references in section 93 or section 96 (as the case may be) to the transfer of chargeable securities included the issue of chargeable securities.]

[^{F21}(5) Section 87 above shall not apply as regards an agreement to transfer securities which the Board are satisfied are held, when the agreement is made, by a person within subsection (6) below.

(6) A person is within this subsection if his business is exclusively that of holding shares, stock or other marketable securities —

- (a) as nominee or agent for a person whose business is or includes the provision of clearance services for the purchase and sale of shares, stock or other marketable securities, and
- (b) for the purpose of such part of the business mentioned in paragraph (a) above as consists of the provision of such clearance services (in a case where the business does not consist exclusively of that); and in this subsection, 'marketable securities' shall be construed in accordance with section 122(1) of the Stamp Act 1891 ^{M1}.]

[^{F22}(7) Section 87 above shall not apply as regards an agreement to transfer securities to —

- (a) [^{F23}a charitable company], or
- (b) the trustees of [^{F24}a charitable trust], or
- (c) the Trustees of the National Heritage Memorial Fund, or
- (d) the Historic Buildings and Monuments Commission for England.]^{F25} ...
- ^{F25}(e)

[^{F26}(7A) Section 87 above does not apply as regards an agreement to transfer any shares in a company which are held by the company (whether in accordance with section [^{F27}724] of the Companies Act [^{F27}2006] (treasury shares) or otherwise).]

[^{F28}(7B) Section 87 above does not apply as regards—

- (a) an agreement to transfer chargeable securities—
 - (i) to a depository under an authorised contractual scheme, to be held as part of the property subject to the scheme, in exchange for the issue of units in the scheme (and for no other consideration);
 - (ii) between depositaries under the same authorised contractual scheme;
- (b) an agreement to transfer units in an authorised contractual scheme.

(7C) In subsection 7(B), “authorised contractual scheme” has the meaning given in section 237(3) of the Financial Services and Markets Act 2000 and “depository” and “units” have the meaning given in section 237(2) of that Act.

(7D) Subsection (7B) shall not apply where the agreement forms part of arrangements of which the main purpose, or one of the main purposes, is the avoidance of stamp duty or stamp duty reserve tax.]

[^{F29}(8) For the purposes of subsections (3D) and (3F) above—

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- (a) references to a depositary receipt for chargeable securities shall be construed in accordance with section 94(1) below;
 - [^{F30}(b) references to anything listed on a recognised stock exchange shall be construed in accordance with section 1005 of the Income Tax Act 2007;]
 - (c) there is a takeover of a body corporate if a person, on his own or together with connected persons, loses or acquires control of it.
- (9) For the purposes of subsection (8) above—
- (a) any question whether a person is connected with another shall be determined in accordance with section 286 of the ^{M2}Taxation of Chargeable Gains Act 1992;
 - (b) “control” shall be construed in accordance with [^{F31}sections 450 and 451 of the Corporation Tax Act 2010].]

Textual Amendments

- F1** Words in s. 90(1) substituted (6.2.2000) by Finance Act 1999 (c. 16), s. 122(4), **Sch. 19 para. 11(2)**
- F2** S. 90(1A) inserted (6.2.2000) by Finance Act 1999 (c. 16), s. 122(4), **Sch. 19 para. 11(3)**
- F3** S. 90(1A)(c) and word inserted (with application in accordance with s. 97(5) of the amending Act) by Finance Act 2005 (c. 7), **s. 97(2)**
- F4** S. 90(1B) inserted (6.2.2000) by Finance Act 1999 (c. 16), s. 122(4), **Sch. 19 para. 11(4)**
- F5** Words in s. 90(1B) inserted (with effect in accordance with s. 114(4) of the amending Act) by Finance Act 2014 (c. 26), **s. 114(2)(a)**
- F6** Words in s. 90(1B) substituted (with effect in accordance with s. 114(4) of the amending Act) by Finance Act 2014 (c. 26), **s. 114(2)(b)**
- F7** S. 90(2) repealed (with effect as mentioned in Sch. 20 Pt. V(5) Note 1 of the amending Act) by Finance Act 1999 (c. 16), s. 139, **Sch. 20 Pt. V(5)**
- F8** S. 90(3)(a) substituted (with application as mentioned in s. 113(4) of the amending Act) by Finance Act 1999 (c. 16), s. 113(3), **Sch. 16 para. 6(2)**
- F9** S. 90(3)(b) repealed (with application as mentioned in s. 105(4) of the amending Act) by Finance Act 1997 (c. 16), ss. 105(1), 113, **Sch. 18 Pt. VII**
- F10** S. 90(3A)-(3F) inserted (with application as mentioned in s. 105(4) of the amending Act) by Finance Act 1997 (c. 16), **s. 105(2)**
- F11** Words in s. 90(3A) substituted (with application as mentioned in s. 113(4) of the amending Act) by Finance Act 1999 (c. 16), s. 113(3), **Sch. 16 para. 6(3)**
- F12** Words in s. 90(3B) substituted (with application as mentioned in s. 113(4) of the amending Act) by Finance Act 1999 (c. 16), s. 113(3), **Sch. 16 para. 6(4)**
- F13** Words in s. 90(3C)(a) inserted (with effect in accordance with s. 58(4) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **s. 58(1)**
- F14** Word in s. 90(3C)(a) inserted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by Finance Act 2024 (c. 3), **Sch. 11 para. 6(2)(a)** (with Sch. 11 para. 28)
- F15** S. 90(3C)(b) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of Finance Act 2024 (c. 3), **Sch. 11 para. 6(2)(b)** (with Sch. 11 para. 28)
- F16** Words in s. 90(3E)(a) inserted (with effect in accordance with s. 58(4) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), **s. 58(2)**
- F17** S. 90(3E)(b) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of Finance Act 2024 (c. 3), **Sch. 11 para. 6(3)** (with Sch. 11 para. 28)
- F18** Words in s. 90(3F)(c) substituted (with application as mentioned in s. 120(4) of the amending Act) by Finance Act 1999 (c. 16), **ss. 120(2)** (with s. 123(4))
- F19** Words in s. 90(4) renumbered as s. 90(4)(a) (with effect in accordance with Sch. 11 para. 25 of the amending Act) by Finance Act 2024 (c. 3), **Sch. 11 para. 6(4)(a)**

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- F20** S. 90(4)(b) and word inserted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by Finance Act 2024 (c. 3), **Sch. 11 para. 6(4)(b)**
- F21** S. 90(5)(6) substituted for s. 90(5) (retrospectively) by Finance Act 1987 (c. 16), s. 56, **Sch. 7 para. 5**
- F22** S. 90(5)(6) added (retrospectively) by Finance Act 1987 (c. 16), s. 56, **Sch. 7 para. 6**
- F23** Words in s. 90(7)(a) substituted (with effect in accordance with art. 6 of the commencing S.I.) by Finance Act 2010 (c. 13), **Sch. 6 paras. 11(a)**, 34(2); S.I. 2012/736, art. 6
- F24** Words in s. 90(7)(b) substituted (with effect in accordance with art. 6 of the commencing S.I.) by Finance Act 2010 (c. 13), **Sch. 6 paras. 11(b)**, 34(2); S.I. 2012/736, art. 6
- F25** S. 90(7)(e) and word omitted (1.4.2012) by virtue of The Public Bodies (Abolition of the National Endowment for Science, Technology and the Arts) Order 2012 (S.I. 2012/964), arts. 1(2), 3(1), **Sch.**
- F26** S. 90(7A) inserted (with effect in accordance with s. 195(12) of the amending Act and with effect 1.12.2003) by Finance Act 2003 (c. 14), **Sch. 40 para. 3**; S.I. 2003/3077, art. 2
- F27** Word in s. 90(7A) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890), arts. 1(1), **7(d)**
- F28** S. 90(7B)-(7D) inserted (28.6.2013) by The Stamp Duty and Stamp Duty Reserve Tax (Collective Investment Schemes) (Exemptions) Regulations 2013 (S.I. 2013/1401), regs. 1, **3**
- F29** S. 90(8)(9) added (with application as mentioned in s. 105(4) of the amending Act) by Finance Act 1997 (c. 16), **s. 105(3)**
- F30** S. 90(8)(b) substituted (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 26 para. 6**
- F31** Words in s. 90(9)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 201** (with Sch. 2)

Modifications etc. (not altering text)

- C1** S. 90 modified by S.I. 1997/1156, **reg. 4** (as substituted (6.2.2000) by S.I. 1999/3261, **reg. 5**)

Marginal Citations

- M1** 1891 c. 39.
M2 1992 c. 12.

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