



# Finance Act 1997

## 1997 CHAPTER 16

### PART VII

#### STAMP DUTY AND STAMP DUTY RESERVE TAX

##### *Stamp duty reserve tax*

#### **102 Relief for intermediaries.**

- (1) After section 88 of the Finance Act 1986 there shall be inserted the following sections—

**“88A Section 87: exceptions for intermediaries.**

- (1) Section 87 above shall not apply as regards an agreement to transfer securities of a particular kind to B or his nominee if—
- (a) B is a member of an EEA exchange, or a recognised foreign exchange, on which securities of that kind are regularly traded;
  - (b) B is an intermediary and is recognised as an intermediary by the exchange in accordance with arrangements approved by the Board; and
  - (c) the agreement is effected on the exchange.
- (2) Section 87 above shall not apply as regards an agreement to transfer securities of a particular kind to B or his nominee if—
- (a) B is a member of an EEA exchange or a recognised foreign options exchange;
  - (b) options to buy or sell securities of that kind are regularly traded on that exchange and are listed by or quoted on that exchange;
  - (c) B is an options intermediary and is recognised as an options intermediary by that exchange in accordance with arrangements approved by the Board; and

*Status: Point in time view as at 19/03/1997.*

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- (d) the agreement is effected on an EEA exchange, or a recognised foreign exchange, on which securities of that kind are regularly traded or subsection (3) below applies.
- (3) This subsection applies if—
  - (a) the agreement is effected on an EEA exchange, or a recognised foreign options exchange, pursuant to the exercise of a relevant option; and
  - (b) options to buy or sell securities of the kind concerned are regularly traded on that exchange and are listed by or quoted on that exchange.
- (4) For the purposes of this section—
  - (a) an intermediary is a person who carries on a bona fide business of dealing in chargeable securities and does not carry on an excluded business; and
  - (b) an options intermediary is a person who carries on a bona fide business of dealing in quoted or listed options to buy or sell chargeable securities and does not carry on an excluded business.
- (5) The excluded businesses are the following—
  - (a) any business which consists wholly or mainly in the making or managing of investments;
  - (b) any business which consists wholly or mainly in, or is carried on wholly or mainly for the purpose of, providing services to persons who are connected with the person carrying on the business;
  - (c) any business which consists in insurance business;
  - (d) any business which consists in managing or acting as trustee in relation to a pension scheme or which is carried on by the manager or trustee of such a scheme in connection with or for the purposes of the scheme;
  - (e) any business which consists in operating or acting as trustee in relation to a collective investment scheme or is carried on by the operator or trustee of such a scheme in connection with or for the purposes of the scheme.
- (6) An agreement is effected on an exchange for the purposes of subsection (1) or (2) above if (and only if)—
  - (a) it is subject to the rules of the exchange; and
  - (b) it is reported to the exchange in accordance with the rules of the exchange.

### **88B Intermediaries: supplementary.**

- (1) For the purposes of section 88A above the question whether a person is connected with another shall be determined in accordance with the provisions of section 839 of the <sup>M1</sup>Income and Corporation Taxes Act 1988.
- (2) In section 88A above and this section—
  - “collective investment scheme” has the meaning given in section 75 of the <sup>M2</sup>Financial Services Act 1986;
  - “EEA exchange” means a market which appears on the list drawn up by an EEA State pursuant to Article 16 of European Communities

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Council Directive No.93/22/EEC on investment services in the securities field;

“EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May 1992 as adjusted by the Protocol signed at Brussels on the 17th March 1993;

“insurance business” means long term business or general business as defined in section 1 of the <sup>M3</sup>Insurance Companies Act 1982;

“quoted or listed options” means options which are quoted on or listed by an EEA exchange or a recognised foreign options exchange;

“recognised foreign exchange” and “recognised foreign options exchange” have the meanings given, respectively, by subsections (3) and (4) of section 80B above;

“trustee” and “the operator” shall, in relation to a collective investment scheme, be construed in accordance with section 75(8) of the <sup>M4</sup>Financial Services Act 1986.

- (3) In section 88A above “the exercise of a relevant option” means—
    - (a) the exercise by B of an option to buy securities; or
    - (b) the exercise of an option binding B to buy securities.
  - (4) The Treasury may by regulations provide that section 88A above shall not have effect in relation to kinds of agreement specified in the regulations.
  - (5) The Treasury may by regulations provide that if—
    - (a) an agreement falls within subsection (1) or (2) of section 88A above, and
    - (b) section 87 above would, apart from section 88A, apply to the agreement,section 87 shall apply to the agreement but with the substitution of a rate of tax not exceeding 0.1 per cent. for the rate specified in subsection (6) of that section.
  - (6) The Treasury may by regulations change the meaning of “intermediary” or “options intermediary” for the purposes of section 88A above by amending subsection (4) or (5) of that section (as it has effect for the time being).
  - (7) The power to make regulations under subsections (4) to (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.”
- (2) Section 89 of that Act (exceptions for market makers etc.) shall be omitted.
  - (3) In section 88(1B)(b)(ii) of that Act (which prevents repayment or cancellation of stamp duty reserve tax on certain agreements to transfer property consisting of chargeable securities which were acquired in pursuance of an agreement on which tax was not chargeable by virtue of section 89) for “89” there shall be substituted “ 88A ”.
  - (4) Subsections (1) and (2) above apply to an agreement to transfer securities—
    - (a) in the case of an agreement which is not conditional, if the agreement is made on or after the commencement day; and
    - (b) in the case of a conditional agreement, if the condition is satisfied on or after the commencement day.

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- (5) Subsection (3) above applies in relation to property consisting of chargeable securities if the securities were acquired in pursuance of an agreement to which subsections (1) and (2) above apply (by virtue of subsection (4) above).
- (6) For the purposes of this section the commencement day is such day as the Treasury may by order made by statutory instrument appoint.

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**Subordinate Legislation Made**

**P1** [S. 102\(6\)](#) power fully exercised (8.10.1997): 20.10.1997 appointed by [S.I. 1997/2428](#), **art. 2**

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**Marginal Citations**

**M1** [1988 c. 1.](#)  
**M2** [1986 c. 60.](#)  
**M3** [1982 c. 50.](#)  
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