



# Finance Act 1997

## 1997 CHAPTER 16

### PART VII

#### STAMP DUTY AND STAMP DUTY RESERVE TAX

##### *Stamp duty reserve tax*

#### **106 Repayment or cancellation of tax.**

- (1) Section 87 of the <sup>M1</sup>Finance Act 1986 (the principal charge) shall be amended in accordance with subsections (2) and (3) below.
- (2) For subsection (7A) (deemed separate agreements where there would be no charge to tax etc had there been such agreements) there shall be substituted—

“(7A) Where—

  - (a) there would be no charge to tax under this section, or
  - (b) there would, under section 92 below, be a repayment or cancellation of tax,

in relation to some of the chargeable securities to which the agreement between A and B relates if separate agreements had been made between them for the transfer of those securities and for the transfer of the remainder, this section and sections 88(5) and 92 below shall have effect as if such separate agreements had been made.”
- (3) Subsection (7B) (which, in consequence of the repeals made by section 188(1) of the <sup>M2</sup>Finance Act 1996, is of no further utility in relation to the charge to tax but whose effect is reproduced by subsection (8) below for the purposes of repayment or cancellation of tax) shall cease to have effect.
- (4) Section 88 of the Finance Act 1986 (special cases) shall be amended in accordance with subsections (5) to (7) below.

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: Finance Act 1997, Section 106 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) In subsection (1B) (certain instruments on which stamp duty is not chargeable to be disregarded in construing the conditions in section 92(1A) and (1B) for repayment or cancellation of tax)—
- (a) in paragraph (a) (the property transferred by the instrument consists of chargeable securities) after “consists of” there shall be inserted “or includes”;
  - (b) in paragraph (b) (which relates to the acquisition of the chargeable securities so transferred) for “the chargeable securities” there shall be substituted “any of those chargeable securities”; and
  - (c) the word “or” at the end of sub-paragraph (ii) of that paragraph shall be omitted and after that sub-paragraph there shall be inserted—
    - “(ii) in pursuance of an agreement to transfer securities which was made for the purpose of performing the obligation to transfer chargeable securities described in paragraph (a) of subsection (1) of section 89B below and as regards which section 87 above did not apply by virtue of that subsection; or”.
- (6) For subsections (4) and (5) (identification of the securities in question and reduction of the charge in certain cases) there shall be substituted—
- “(4) If chargeable securities cannot (apart from this subsection) be identified for the purposes of subsection (1B) above, securities shall be taken as follows, that is to say, securities of the same kind acquired later in the period of two years there mentioned (and not taken for the purposes of that subsection in relation to an earlier instrument) shall be taken before securities acquired earlier in that period.
  - (5) If, in the case of an agreement (or of two or more agreements between the same parties) to transfer chargeable securities—
    - (a) the conditions in section 92(1A) and (1B) below are not satisfied by virtue only of the application of subsection (1B) above in relation to the instrument (or any one or more of the two or more instruments) in question, but
    - (b) not all of the chargeable securities falling to be regarded for the purposes of that subsection as transferred by the instrument (or by the two or more instruments between them) were acquired as mentioned in paragraphs (a) and (b) of that subsection,
 stamp duty reserve tax shall be repaid or cancelled under section 92 below in accordance with subsection (5A) below.
  - (5A) Any repayment or cancellation of tax falling to be made by virtue of subsection (5) above shall be determined as if (without prejudice to section 87(7A) above) there had, instead of the agreement (or the two or more agreements) in question been—
    - (a) a separate agreement (or two or more separate agreements) relating to such of the securities as were acquired as mentioned in paragraphs (a) and (b) of subsection (1B) above, and
    - (b) a single separate agreement relating to such of the securities as do not fall within those paragraphs,
 and as if the instrument in question (or the two or more instruments in question between them) had related only to such of the securities as do not fall within those paragraphs.”

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- (7) For the sidenote, there shall be substituted “ Special cases. ”
- (8) In section 92 of the <sup>M3</sup>Finance Act 1986 (repayment or cancellation of tax), after subsection (6) there shall be inserted—
- “(7) This section shall have effect in relation to a person to whom the chargeable securities are transferred by way of security for a loan to B as it has effect in relation to a nominee of B.”
- (9) The amendments made by subsections (2), (3) and (8) above have effect in relation to an agreement to transfer securities if—
- (a) the agreement is conditional and the condition is satisfied on or after 4th January 1997; or
- (b) the agreement is not conditional and is made on or after that date.
- (10) The amendments made by subsections (5) and (6) above have effect where the instrument on which stamp duty is not chargeable by virtue of section 42 of the <sup>M4</sup>Finance Act 1930 or section 11 of the <sup>M5</sup>Finance Act (Northern Ireland) 1954 is executed on or after 4th January 1997 in pursuance of an agreement to transfer securities made on or after that date.

#### **Marginal Citations**

- M1** 1986 c. 41.  
**M2** 1996 c. 8.  
**M3** 1986 c. 41.  
**M4** 1930 c. 28.  
**M5** 1954 c. 23 (N.I.).

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Point in time view as at 16/11/2017.

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