



Finance Act 1997

1997 CHAPTER 16

PART VII

STAMP DUTY AND STAMP DUTY RESERVE TAX

Stamp duty

97 Relief for intermediaries.

- (1) Before section 81 of the ^{M1}Finance Act 1986 there shall be inserted the following sections—

“80A Sales to intermediaries.

- (1) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or his nominee if—
- (a) the person is a member of an EEA exchange, or a recognised foreign exchange, on which stock of that kind is regularly traded;
 - (b) the person is an intermediary and is recognised as an intermediary by the exchange in accordance with arrangements approved by the Commissioners; and
 - (c) the sale is effected on the exchange.
- (2) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or his nominee if—
- (a) the person is a member of an EEA exchange or a recognised foreign options exchange;
 - (b) options to buy or sell stock of that kind are regularly traded on that exchange and are listed by or quoted on that exchange;
 - (c) the person is an options intermediary and is recognised as an options intermediary by that exchange in accordance with arrangements approved by the Commissioners; and

Status: Point in time view as at 08/05/2012.

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- (d) the sale is effected on an EEA exchange, or a recognised foreign exchange, on which stock of that kind is regularly traded or subsection (3) below applies.
- (3) This subsection applies if—
 - (a) the sale 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 stock 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 stock 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 stock 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) A sale 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.
- (7) An instrument on which stamp duty is not chargeable by virtue only of this section shall not be deemed to be duly stamped unless it has been stamped with a stamp denoting that it is not chargeable with any duty; and notwithstanding anything in section 122(1) of the ^{M2}Stamp Act 1891, the stamp may be a stamp of such kind as the Commissioners may prescribe.

80B Intermediaries: supplementary.

- (1) For the purposes of section 80A above the question whether a person is connected with another shall be determined in accordance with the provisions of section 839 of the ^{M3}Income and Corporation Taxes Act 1988.
- (2) In section 80A above and this section—

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“collective investment scheme” has the meaning given in section 75 of the ^{M4}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 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 ^{M5}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;

“stock” includes any marketable security;

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

- (3) In section 80A above “recognised foreign exchange” means a market which—
- (a) is not in an EEA State; and
 - (b) is specified in regulations made by the Treasury under this subsection.
- (4) In section 80A above and this section “recognised foreign options exchange” means a market which—
- (a) is not in an EEA State; and
 - (b) is specified in regulations made by the Treasury under this subsection.
- (5) In section 80A above “the exercise of a relevant option” means—
- (a) the exercise by the options intermediary concerned of an option to buy stock; or
 - (b) the exercise of an option binding the options intermediary concerned to buy stock.
- (6) The Treasury may by regulations provide that section 80A above shall not have effect in relation to instruments executed in pursuance of kinds of agreement specified in the regulations.
- (7) The Treasury may by regulations provide that if—
- (a) an instrument falls within subsection (1) or (2) of section 80A above, and
 - (b) stamp duty would be chargeable on the instrument apart from that section,
- stamp duty shall be chargeable on the instrument at a rate, specified in the regulations, which shall not exceed 10p for every £100 or part of £100 of the consideration for the sale.
- (8) The Treasury may by regulations change the meaning of “intermediary” or “options intermediary” for the purposes of section 80A above by amending subsection (4) or (5) of that section (as it has effect for the time being).

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- (9) The power to make regulations under subsections (3) to (8) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.”
- (2) Section 81 of that Act (sales to market makers) shall be omitted.
- (3) In section 88(1B)(b)(i) of that Act (which prevents repayment or cancellation of stamp duty reserve tax on certain agreements to transfer chargeable securities which were acquired by means of a transfer on which stamp duty was not chargeable by virtue of section 81) for “81” there shall be substituted “ 80A ”.
- (4) Subsections (1) and (2) above apply to instruments executed on or after the commencement day.
- (5) Subsection (3) above applies in relation to an agreement to transfer chargeable securities if the securities were acquired in a transaction which was given effect to by an instrument of transfer executed on or after the commencement day.
- (6) For the purposes of this section the commencement day is such day as the Treasury may by order made by statutory instrument appoint.

Subordinate Legislation Made

P1 [S. 97\(6\)](#) power fully exercised (8.10.1997): 20.10.1997 appointed by [S.I. 1997/2428](#), [art. 2](#)

Marginal Citations

M1 [1986 c. 41](#).
M2 [1891 c. 39](#).
M3 [1988 c. 1](#).
M4 [1986 c. 60](#).
M5 [1982 c. 50](#).

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