



Regional Development Agencies Act 1998

1998 CHAPTER 45

PART III

GENERAL

38 Corporation tax.

- (1) The following provisions apply for the purposes of the Corporation Tax Acts.
- (2) Any trade or part of a trade transferred under a transfer scheme is to be treated as having been, at the time of its commencement and at all times since that time, a separate trade carried on by the transferee.
- (3) Where any trade, or part of a trade, is transferred under a transfer scheme, the trade carried on by the transferee after the date of the transfer is to be treated as the same trade as that which, by virtue of subsection (2), it is treated as having carried on before that date.
- (4) All property, rights and liabilities transferred under a transfer scheme are to be treated as having been, at the time when they became vested in the transferor, and at all times since that time, property, rights and liabilities of the transferee.
- (5) Anything done, in relation to property, rights and liabilities transferred under a transfer scheme, by the transferor is to be deemed to have been done by the transferee.
- (6) Where any property, rights and liabilities transferred under a transfer scheme became vested in the transferor by virtue of a transfer made by a company in which, at the time of the transfer, the transferor held an interest, that interest is to be deemed to have been held at that time by the transferee.
- (7) Where any property, rights and liabilities transferred under a transfer scheme became vested in the transferor by virtue of a qualifying transfer, or two or more successive qualifying transfers—
 - (a) subsection (4) has effect as if the reference to the time when the property, rights and liabilities became vested in the transferor were a reference to the time when they became vested in the original transferor (that is to say, the

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- transferor under the qualifying transfer or, as the case may be, the first of the qualifying transfers), and
- (b) if the property, rights and liabilities became vested in the original transferor by virtue of a transfer made by a company in which, at the time of the transfer, the original transferor held an interest, that interest is to be deemed to have been held at that time by the transferee under the transfer scheme.
- (8) The previous provisions of this section are subject to such apportionments of unallowed tax losses and of expenditure by reference to which capital allowances may be made as may be specified in the transfer scheme concerned.
- (9) This section has effect in relation to accounting periods beginning after the final accounting period.
- (10) In this section—
- “capital allowance” has the same meaning as in the Tax Acts;
- “final accounting period” means the last complete accounting period of the transferor under the transfer scheme concerned;
- “qualifying transfer” means a transfer made to one of the following bodies by another such body—
- (a) the Development Commission,
- (b) ^{F1}...
- (c) a regional development agency;
- “transfer scheme” means—
- (a) an order under section 25 which includes provision for the transfer of property, rights or liabilities, and
- (b) a scheme under [^{F2}section 34 or 35] for the transfer of property, rights or liabilities;
- “unallowed tax losses” means any losses, allowances or amounts which, as at the end of the final accounting period, are [^{F3}carry-forward losses within the meaning given by section 95 of the Corporation Tax Act 2010].

Textual Amendments

- F1** Words in s. 38(10) repealed (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 69\(a\)](#), [Sch. 16](#); S.I. 2008/3068, arts. 2(1)(w)(3), 5, [Sch.](#) (with arts. 6-13)
- F2** Words in s. 38(10) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 69\(b\)](#); S.I. 2008/3068, arts. 2(1)(w)(3) (with arts. 6-13)
- F3** Words in s. 38(10) 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. 299](#) (with [Sch. 2](#))

Modifications etc. (not altering text)

- C1** S. 38 applied (*prosp.*) by 1999 c. 29, ss. 408(6), 425 (with [Sch. 12 para. 9\(1\)](#))
- S. 38 applied (12.1.2000) by 1999 c. 29, [s. 409\(5\)](#) (with [Sch. 12 para. 9\(1\)](#)); S.I. 1999/3434, [art. 2](#)

Commencement Information

- I1** S. 38 wholly in force at 3.7.2000; s. 38 not in force at Royal Assent see s. 43; s. 38 in force for certain purposes at 25.11.1998 by S.I. 1998/2952, [art. 2\(2\)](#); s. 38 in force at 3.7.2000 in so far as not already in force by S.I. 2000/1173, [art. 2\(2\)\(c\)](#)

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39 Stamp duty.

- (1) Stamp duty shall not be chargeable on—
 - (a) a transfer scheme, or
 - (b) an instrument or agreement which is certified to the Commissioners of Inland Revenue by a Minister of the Crown as made in pursuance of a transfer scheme.
- (2) No instrument or agreement which is certified as mentioned in subsection (1)(b) shall be taken to be duly stamped unless—
 - (a) it is stamped with the duty to which it would, but for that subsection, be liable, or
 - (b) it has, in accordance with section 12 of the ^{M1}Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped.
- (3) Section 12 of the ^{M2}Finance Act 1895 shall not operate to require—
 - (a) the delivery to the Inland Revenue of a copy of this Act, or
 - (b) the payment of stamp duty under that section on any copy of this Act,and shall not apply in relation to any instrument on which, by virtue of subsection (1), stamp duty is not chargeable.
- (4) In subsection (1), “transfer scheme” means—
 - (a) an order under section 25 which includes provision for the transfer of property, rights or liabilities, and
 - (b) a scheme under [^{F4}section 34 or 35 or] paragraph 1 of Schedule 3 for the transfer of property, rights or liabilities.

Textual Amendments

- F4** Words in s. 39(4)(b) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\), Sch. 8 para. 70](#); [S.I. 2008/3068, arts. 2\(1\)\(w\)\(3\)](#) (with arts. 6-13)

Commencement Information

- I2** S. 39 wholly in force at 3.7.2000; s. 39 not in force at Royal Assent see s. 43; s. 39 in force for certain purposes at 25.11.1998 by [S.I. 1998/2952, art. 2\(2\)](#); s. 39 in force at 3.7.2000 in so far as not already in force by [S.I. 2000/1173, art. 2\(2\)\(c\)](#)

Marginal Citations

- M1** 1891 c. 39.
M2 1895 c. 16.

[^{F5}39A. Stamp duty land tax

- (1) For the purposes of stamp duty land tax, a land transaction effected by or in pursuance of a transfer scheme is exempt from charge.
- (2) Relief under this section must be claimed in a land transaction return or an amendment of such a return.
- (3) In this paragraph—

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“land transaction” has the meaning given by section 43(1) of the Finance Act 2003;

“land transaction return” has the meaning given by section 76(1) of that Act;

“transfer scheme” has the meaning given in section 39 above.]

Textual Amendments

F5 S. 39A inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, **Sch. para. 27**

40 Directions: supplementary.

- (1) Any power to give a direction under this Act shall be exercisable only after consultation with the body concerned.
- (2) Any direction under this Act shall be in writing.
- (3) It is the duty of a body to which a direction is given under this Act to comply with the direction.
- (4) Any power to give a direction under this Act includes power to vary or revoke the direction.

Commencement Information

I3 S. 40 wholly in force at 3.7.2000; s. 40 not in force at Royal Assent see s. 43; s. 40 in force for certain purposes at 25.11.1998 by [S.I. 1998/2952](#), **art. 2(2)**; s. 40 in force at 3.7.2000 in so far as not already in force by [S.I. 2000/1173](#), **art. 2(2)(c)**

41 General interpretation.

In this Act—

^{F6} ...

“Minister of the Crown” has the same meaning as in the Ministers of the ^{M3}Crown Act 1975;

“regional development agency” means a development agency established by section 1.

Textual Amendments

F6 Words in s. 41 repealed (31.3.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 25 Pt. 32**; [S.I. 2012/628](#), art. 4(d)

Commencement Information

I4 S. 41 wholly in force at 3.7.2000; s. 41 not in force at Royal Assent see s. 43; s. 41 in force for certain purposes at 25.11.1998 by [S.I. 1998/2952](#), **art. 2(2)**; s. 41 in force at 3.7.2000 in so far as not already in force by [S.I. 2000/1173](#), **art. 2(2)(c)**

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Marginal Citations

M3 1975 c. 26.

42 Expenses.

There shall be paid out of money provided by Parliament any administrative expenses of a Minister of the Crown attributable to this Act.

Commencement Information

I5 S. 42 wholly in force at 3.7.2000; s. 42 not in force at Royal Assent see s. 43; s. 42 in force for certain purposes at 25.11.1998 by [S.I. 1998/2952](#), [art. 2\(2\)](#); s. 42 in force at 3.7.2000 in so far as not already in force by [S.I. 2000/1173](#), [art. 2\(2\)\(c\)](#)

43 Commencement.

The preceding provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be so appointed for different purposes.

Subordinate Legislation Made

P1 S. 43 power partly exercised (24.11.1998): 25.11.1998 appointed for specified provisions for specified purposes by [S.I. 1998/2952](#), [art. 2](#)
S. 43 power partly exercised: different dates appointed for specified provisions by [S.I. 2000/1173](#), [art. 2](#)

44 Extent.

- (1) Subject to subsection (2), this Act extends to England and Wales only.
- (2) The extent of any amendment by this Act is the same as that of the enactment amended.

45 Short title.

This Act may be cited as the Regional Development Agencies Act 1998.

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