



Finance Act 2001

2001 CHAPTER 9

PART 4

OTHER TAXES

Stamp duty and stamp duty reserve tax

92 Stamp duty: exemption for land in disadvantaged areas

- (1) [^{F1}Noad *valorem* stamp duty shall be chargeable on —]
 - (a) a conveyance or transfer of an estate or interest in land, or
 - (b) a lease of land,if the land is situated in a disadvantaged area.
- (2) Where stamp duty would be chargeable on an instrument but for subsection (1), that subsection shall have effect in relation to the instrument only if the instrument is certified to the Commissioners as being an instrument on which stamp duty is by virtue of that subsection not chargeable.
- (3) No instrument which is certified as mentioned in subsection (2) shall be taken to be duly stamped unless—
 - (a) it is stamped in accordance with section 12 of the Stamp Act 1891 (c. 39) with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped, or
 - (b) it is stamped with the duty to which it would have been liable but for this section.
- (4) For the purposes of this section and Schedule 30 to this Act, a disadvantaged area is an area designated as such by regulations made by the Treasury; and any such regulations may—
 - (a) designate specified areas as disadvantaged areas, or
 - (b) provide for areas of a description specified in the regulations to be designated as disadvantaged areas.

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(5) If regulations under subsection (4) so provide, the designation of an area as a disadvantaged area shall have effect for such period as may be specified by or determined in accordance with the regulations.

(6) Schedule 30 to this Act (which makes further provision about land in disadvantaged areas) shall have effect.

[^{F2}(6A) This section and Schedule 30 to this Act have effect subject to section 92A.]

(7) This section and Schedule 30 to this Act shall be construed as one with the Stamp Act 1891.

(8) The provisions of this section and Schedule 30 to this Act shall have effect in relation to instruments executed on or after such date as may be specified by order made by the Treasury.

(9) Regulations under subsection (4)—

(a) may make different provision for different cases, and

(b) may contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

(10) The power to make regulations under subsection (4) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(11) The power to make an order under subsection (8) shall be exercisable by statutory instrument.

Subordinate Legislation Made

P1 S. 92(8) power fully exercised: 30.11.2001 is the date specified by S.I. 2001/3748, art. 2

Textual Amendments

F1 Words in S. 92(1) substituted (24.7.2002) by 2002 c. 23, s. 110(1)

F2 S. 92(6A) inserted (24.7.2002) by 2002 c. 23, s. 110(2)

Modifications etc. (not altering text)

C1 S. 92(1) excluded (28.11.2001) by S.I. 2001/3746, reg. 4(1)(a)

S. 92(1) restricted (28.11.2001) by S.I. 2001/3746, reg. 5

[^{F3}92A Restriction of exemption in the case of residential property etc

(1) Regulations may provide for an exemption conferred by section 92 or by Schedule 30 to this Act not to apply in cases specified by reference to either or both of the following—

(a) whether the land in question is residential property;

(b) the amount or value of the consideration.

(2) Regulations may contain provision corresponding to or modifying that made by Schedule 30 to this Act in the case of—

(a) a building or land only part of which falls within subsection (1)(a) or (b) of section 92B (meaning of “residential property”), or

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- (b) an interest in or right over land that subsists only partly as mentioned in subsection (1)(c) of that section.
- (3) Where by virtue of regulations under this section the availability of an exemption depends on the land in question not being, or not being entirely, residential property, the certification under section 92(2) must include a statement that the land is not residential property or, as the case may be, that it is not residential property to the extent stated.
- (4) Where by virtue of regulations under this section the availability of an exemption depends on the amount or value of the consideration not exceeding a specified amount, the instrument in question must be certified at that amount (or at a lower amount).

The reference here to an instrument being certified at an amount shall be construed in accordance with paragraph 6 of Schedule 13 to the Finance Act 1999 (as if the reference were contained in paragraph 4 of that Schedule).

- (5) The power to make regulations under this section is exercisable by the Treasury.
- (6) Regulations under this section—
 - (a) may make different provision for different cases, and
 - (b) may contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (7) Regulations under this section must be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.]

Textual Amendments

F3 S. 92A inserted (24.7.2002) by 2002 c. 23, s. 110(3)

[^{F4}92B Meaning of “residential property”

- (1) In section 92A “residential property” means—
 - (a) a building that is used or suitable for use as a dwelling, or is in the process of being constructed or adapted for such use;
 - (b) land that is or forms part of the garden or grounds of a building within paragraph (a) (including any building or structure on such land);
 - (c) an interest in or right over land that subsists for the benefit of a building within paragraph (a) or of land within paragraph (b).
- (2) For the purposes of subsection (1) use of a building as—
 - (a) residential accommodation for school pupils,
 - (b) residential accommodation for students, other than accommodation falling within subsection (3)(b),
 - (c) residential accommodation for members of any of the armed forces, or
 - (d) an institution that is the sole or main residence of at least 90% of its residents and does not fall within any of paragraphs (a) to (f) of subsection (3),is use of a building as a dwelling.
- (3) For the purposes of subsection (1) use of a building as—
 - (a) a home or other institution providing residential accommodation for children,

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- (b) a hall of residence for students in further or higher education,
 - (c) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,
 - (d) a hospital or hospice,
 - (e) a prison or similar establishment, or
 - (f) a hotel or inn or similar establishment,
- is not use of a building as a dwelling.
- (4) Where a building is used in a manner specified in subsection (3), no account shall be taken for the purposes of subsection (1)(a) of its suitability for any other use.
- (5) Where a building that is not in use is suitable for at least one of the uses specified in subsection (2) and at least one of those specified in subsection (3)—
- (a) if there is one such use for which it is most suitable, or if the uses for which it is most suitable are all specified in the same subsection, no account shall be taken for the purposes of subsection (1)(a) of its suitability for any other use;
 - (b) otherwise, the building shall be treated for those purposes as suitable for use as a dwelling.
- (6) Regulations under section 92A may provide that, where there is a single contract for the conveyance, transfer or lease of land comprising or including six or more separate dwellings, none of that land counts as residential property for the purposes of the regulations.
- (7) The Treasury may by order amend this section so as to change or clarify the cases where use of a building is, or is not, use of a building as a dwelling for the purposes of subsection (1).
- (8) An order under subsection (7) may contain such incidental, supplementary, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (9) An order under subsection (7) must be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (10) In this section “building” includes part of a building.]

Textual Amendments

F4 S. 92B inserted (24.7.2002) by 2002 c. 23, s. 110(3)

93 SDRT: unit trust schemes and individual pension accounts

- (1) Schedule 19 to the Finance Act 1999 (c. 16) (which abolishes charges to stamp duty, and introduces a charge to stamp duty reserve tax, in relation to units under a unit trust scheme) is amended as follows.
- (2) In paragraph 2(4) (charge to be subject to exclusions provided in paragraphs 6 and 7) after “6” insert “, 6A ”.

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(3) In paragraph 4 (proportionate reduction of tax by reference to units issued) at the end insert—

“(6) If a certificate is given in accordance with paragraph 6A(1)(c) in respect of a period which includes the relevant two-week period in the case of the unit in question in sub-paragraph (1), there shall be left out of account in applying this paragraph in relation to that unit—

- (a) any issue of a unit which is to be held within an individual pension account, and
- (b) any surrender of a unit which, immediately before the surrender, was held within an individual pension account.

(7) “Individual pension account” has the same meaning in sub-paragraph (6) as it has in paragraph 6A.”

(4) After paragraph 6 insert—

6A “Exclusion of charge in case of individual pension accounts

(1) There is no charge to tax under this Part of this Schedule on the surrender of the unit if—

- (a) immediately before the surrender, the unit is held within an individual pension account,
- (b) not all the units under the unit trust scheme are so held at that time, and
- (c) a certificate pursuant to sub-paragraph (2) is contained in, or provided with, the relevant monthly tax return.

(2) The certificate must be given by the persons making the relevant monthly tax return and must state—

- (a) that at all times in the period to which the return relates the trustees or managers were able to identify which of the units under the scheme were held within individual pension accounts, and
- (b) that at no time in that period have the trustees or managers imposed any charge on, or recovered any amount from, an IPA unit holder which included an amount directly or indirectly attributable to tax payable by the trustees under this Part of this Schedule.

(3) In sub-paragraph (2), “IPA unit holder” means—

- (a) a person acquiring, or who has acquired, a unit under the unit trust scheme, where the unit is to be held within an individual pension account,
- (b) a person holding a unit under the scheme, where the unit is held within an individual pension account, or
- (c) a person surrendering, or who has surrendered, a unit under the scheme, where immediately before the surrender the unit is or was held within an individual pension account.

(4) In this paragraph—

“individual pension account” has the same meaning as in regulations under section 638A of the Taxes Act 1988 (as at 6th April 2001, see regulation 4 of the Personal Pension Schemes (Restriction

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on Discretion to Approve) (Permitted Investments) Regulations 2001 (S.I. 2001/117)) ;

“the relevant monthly tax return”, in the case of any surrender, means the notice required by regulations under section 98 of the Finance Act 1986 (c. 41) to be given by the managers (or, failing that, the trustees) under the unit trust scheme to the Commissioners of Inland Revenue containing among other things details of all surrenders in the relevant two-week period;

“the relevant two-week period” has the meaning given by paragraph 4(2).”

- (5) The amendment made by subsection (3) has effect where the relevant two-week period mentioned in paragraph 4(1) of Schedule 19 to the Finance Act 1999 (c. 16) ends after 6th April 2001.
- (6) The other amendments made by this section have effect in relation to surrenders made or effected on or after 6th April 2001.

94 SDRT: open-ended investment companies and individual pension accounts

- (1) Where there are two or more classes of shares in an open-ended investment company and the company’s instrument of incorporation—
- (a) provides that shares of one or more of those classes (“the IPA classes”) may only be held within an individual pension account, and
 - (b) does not make such provision in relation to shares of at least one other class, there is no charge to stamp duty reserve tax under Part 2 of Schedule 19 to the Finance Act 1999 (c. 16) on the surrender of a share of any of the IPA classes.
- (2) References in this section to provisions of Schedule 19 to the Finance Act 1999 (c. 16) are references to those provisions as they have effect in relation to open-ended investment companies by virtue of regulations from time to time in force under section 152 of the Finance Act 1995 (c. 4)(as at 6th April 2001, see regulations 3 to 4B of the 1997 Regulations as amended by regulations 4 and 5 of the 1999 (No.2) Regulations).
- (3) In this section—
- “individual pension account” has the same meaning as it has in regulations from time to time in force under section 638A of the Taxes Act 1988 (as at 6th April 2001, see regulation 4 of the 2001 Regulations);
- “open-ended investment company” has the meaning given by paragraph 14(2) of Schedule 19 to the Finance Act 1999 (c. 16);
- “surrender”, in relation to a share in an open-ended investment company, has the same meaning as it has in Part 2 of Schedule 19 to the Finance Act 1999.
- (4) For the purposes of subsections (2) and (3)—
- “the 1997 Regulations” are the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) Regulations 1997 (S.I. 1997/ 1156) ;
- “the 1999 (No.2) Regulations” are the Stamp Duty and Stamp Duty Reserve Tax (Open-ended Investment Companies) (Amendment No.2) Regulations 1999 (S.I. 1999/3261);

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“the 2001 Regulations” are the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001 (S.I. 2001/117).

- (5) This section has effect in relation to surrenders made or effected on or after 6th April 2001.

[^{F5}95 Exemptions in relation to approved share incentive plans

- (1) This section forms part of the SIP code (see section 488 of the Income Tax (Earnings and Pensions) Act 2003 (approved share incentive plans)).
- (2) Accordingly, expressions used in this section and contained in the index at the end of Schedule 2 to that Act (approved share incentive plans) have the meaning indicated by that index.
- (3) Where, under an approved share incentive plan, partnership shares or dividend shares are transferred by the trustees to an employee—
- (a) no ad valorem stamp duty is chargeable on any instrument by which the transfer is made, and
 - (b) no stamp duty reserve tax is chargeable on any agreement by the trustees to make the transfer.
- (4) But subsection (3) does not apply to—
- (a) any instrument executed (within the meaning of the Stamp Act 1891) before 6th April 2003, or
 - (b) any agreement to transfer shares made before that date.]

Textual Amendments

- F5** S. 95 substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 6 para. 257](#) (with [Sch. 7](#))

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