

*Status: Point in time view as at 01/01/2004.*

*Changes to legislation: Finance Act 2003, SCHEDULE 4 is up to date with all changes known to be in force on or before 18 September 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)*

## SCHEDULES

### SCHEDULE 4

Section 50

#### STAMP DUTY LAND TAX: CHARGEABLE CONSIDERATION

##### *Money or money's worth*

- 1 (1) The chargeable consideration for a transaction is, except as otherwise expressly provided, any consideration in money or money's worth given for the subject-matter of the transaction, directly or indirectly, by the purchaser or a person connected with him.
- (2) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of sub-paragraph (1).

##### *Value added tax*

- 2 The chargeable consideration for a transaction shall be taken to include any value added tax chargeable in respect of the transaction, other than value added tax chargeable by virtue of an election under paragraph 2 of Schedule 10 to the Value Added Tax Act 1994 (c. 23) made after the effective date of the transaction.

##### *Postponed consideration*

- 3 The amount or value of the chargeable consideration for a transaction shall be determined without any discount for postponement of the right to receive it or any part of it.

##### *Just and reasonable apportionment*

- 4 (1) For the purposes of this Part consideration attributable—
- (a) to two or more land transactions, or
  - (b) in part to a land transaction and in part to another matter, or
  - (c) in part to matters making it chargeable consideration and in part to other matters,
- shall be apportioned on a just and reasonable basis.
- (2) If the consideration is not so apportioned, this Part has effect as if it had been so apportioned.
- (3) For the purposes of this paragraph any consideration given for what is in substance one bargain shall be treated as attributable to all the elements of the bargain, even though—
- (a) separate consideration is, or purports to be, given for different elements of the bargain, or
  - (b) there are, or purport to be, separate transactions in respect of different elements of the bargain.

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### Exchanges

- 5 (1) This paragraph applies to determine the chargeable consideration where one or more land transactions are entered into by a person as purchaser (alone or jointly) wholly or partly in consideration of one or more other land transactions being entered into by him (alone or jointly) as vendor.
- (2) In this paragraph—
- (a) “relevant transaction” means any of those transactions, and
  - (b) “relevant acquisition” means a relevant transaction entered into as purchaser and “relevant disposal” means a relevant transaction entered into as vendor.
- (3) The following rules apply if the subject-matter of any of the relevant transactions is a major interest in land—
- (a) where a single relevant acquisition is made, the chargeable consideration for the acquisition is—
    - (i) the market value of the subject-matter of the acquisition, and
    - (ii) if the acquisition is the grant of a lease at a rent, that rent;
  - (b) where two or more relevant acquisitions are made, the chargeable consideration for each relevant acquisition is—
    - (i) the market value of the subject-matter of that acquisition, and
    - (ii) if the acquisition is the grant of a lease at a rent, that rent.
- (4) The following rules apply if the subject-matter of none of the relevant transactions is a major interest in land—
- (a) where a single relevant acquisition is made in consideration of one or more relevant disposals, the chargeable consideration for the acquisition is the amount or value of any chargeable consideration other than the disposal or disposals that is given for the acquisition;
  - (b) where two or more relevant acquisitions are made in consideration of one or more relevant disposals, the chargeable consideration for each relevant acquisition is the appropriate proportion of the amount or value of any chargeable consideration other than the disposal or disposals that is given for the acquisitions.
- (5) For the purposes of sub-paragraph (4)(b) the appropriate proportion is—

$$\frac{MV}{TMV}$$

where—

MV is the market value of the subject-matter of the acquisition for which the chargeable consideration is being determined, and

TMV is the total market value of the subject-matter of all the relevant acquisitions.

- (6) This paragraph has effect subject to—
- paragraph 6 of this Schedule (partition etc: disregard of existing interest), <sup>F1</sup>...
  - [<sup>F2</sup>paragraph 17 of this Schedule (arrangements involving public or educational bodies), and]
  - <sup>F1</sup>...

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### Textual Amendments

- F1** Words in Sch. 4 para. 5(6) omitted (1.12.2003) by virtue of [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, [Sch. para. 3\(5\)](#)
- F2** Words in Sch. 4 para. 5(6) inserted (19.12.2003) by [The Stamp Duty Land Tax \(Amendment of Schedule 4 to the Finance Act 2003\) Regulations 2003 \(S.I. 2003/3293\)](#), regs. 1, [2\(2\)\(b\)](#)

### *Partition etc: disregard of existing interest*

- 6 In the case of a land transaction giving effect to a partition or division of a chargeable interest to which persons are jointly entitled, the share of the interest held by the purchaser immediately before the partition or division does not count as chargeable consideration.

### *Valuation of non-monetary consideration*

- 7 Except as otherwise expressly provided, the value of any chargeable consideration for a land transaction, other than—
- (a) money (whether in sterling or another currency), or
  - (b) debt as defined for the purposes of paragraph 8 (debt as consideration),
- shall be taken to be its market value at the effective date of the transaction.

### *Debt as consideration*

- 8 (1) Where the chargeable consideration for a land transaction consists in whole or in part of—
- (a) the satisfaction or release of debt due to the purchaser or owed by the vendor, or
  - (b) the assumption of existing debt by the purchaser,
- the amount of debt satisfied, released or assumed shall be taken to be the whole or, as the case may be, part of the chargeable consideration for the transaction.
- (2) If the effect of sub-paragraph (1) would be that the amount of the chargeable consideration for the transaction exceeded the market value of the subject-matter of the transaction, the amount of the chargeable consideration is treated as limited to that value.
- (3) In this paragraph—
- (a) “debt” means an obligation, whether certain or contingent, to pay a sum of money either immediately or at a future date,
  - (b) “existing debt”, in relation to a transaction, means debt created or arising before the effective date of, and otherwise than in connection with, the transaction, and
  - (c) references to the amount of a debt are to the principal amount payable or, as the case may be, the total of the principal amounts payable, together with the amount of any interest that has accrued due on or before the effective date of the transaction.

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*Conversion of amounts in foreign currency*

- 9 (1) References in this Part to the amount or value of the consideration for a transaction are to its amount or value in sterling.
- (2) For the purposes of this Part the sterling equivalent of an amount expressed in another currency shall be ascertained by reference to the London closing exchange rate on the effective date of the transaction (unless the parties have used a different rate for the purposes of the transaction).

*Carrying out of works*

- 10 (1) Where the whole or part of the consideration for a land transaction consists of the carrying out of works of construction, improvement or repair of a building or other works to enhance the value of land, then—
- (a) to the extent that the conditions specified in sub-paragraph (2) are met, the value of the works does not count as chargeable consideration, and
- (b) to the extent that those conditions are not met, the value of the works shall be taken into account as chargeable consideration.
- (2) The conditions referred to in sub-paragraph (1) are—
- (a) that the works are carried out after the effective date of the transaction,
- (b) that the works are carried out on land acquired or to be acquired under the transaction or on other land held by the purchaser or a person connected with him, and
- (c) that it is not a condition of the transaction that the works are carried out by the vendor or a person connected with him.
- (3) In this paragraph—
- (a) references to the acquisition of land are to the acquisition of a major interest in it;
- (b) the value of the works shall be taken to be the amount that would have to be paid in the open market for the carrying out of the works in question.
- (4) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this paragraph.
- [<sup>F3</sup>(5) This paragraph is subject to paragraph 17 (arrangements involving public or educational bodies).]

**Textual Amendments**

**F3** Sch. 4 para. 10(5) added (19.12.2003) by [The Stamp Duty Land Tax \(Amendment of Schedule 4 to the Finance Act 2003\) Regulations 2003 \(S.I. 2003/3293\)](#), regs. 1, **2(3)**

*Provision of services*

- 11 [<sup>F4</sup>(1)] Where the whole or part of the consideration for a land transaction consists of the provision of services (other than the carrying out of works to which paragraph 10 applies), the value of that consideration shall be taken to be the amount that would have to be paid in the open market to obtain those services.

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[<sup>F5</sup>(2) This paragraph is subject to paragraph 17 (arrangements involving public or educational bodies).]

**Textual Amendments**

- F4** Sch. 4 para. 11 renumbered as Sch. 4 para. 11(1) (19.12.2003) by [The Stamp Duty Land Tax \(Amendment of Schedule 4 to the Finance Act 2003\) Regulations 2003 \(S.I. 2003/3293\)](#), regs. 1, **2(4)**
- F5** Sch. 4 para. 11(2) inserted (19.12.2003) by [The Stamp Duty Land Tax \(Amendment of Schedule 4 to the Finance Act 2003\) Regulations 2003 \(S.I. 2003/3293\)](#), regs. 1, **2(4)**

*Land transaction entered into by reason of employment*

- 12 (1) Where a land transaction is entered into by reason of the purchaser's employment, or that of a person connected with him, then—
- (a) if the transaction gives rise to a charge to tax under Chapter 5 of Part 3 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (taxable benefits: living accommodation) and—
    - (i) no rent is payable by the purchaser, or
    - (ii) the rent payable by the purchaser is less than the cash equivalent of the benefit calculated under section 105 or 106 of that Act,there shall be taken to be payable by the purchaser as rent an amount equal to the cash equivalent chargeable under those sections;
  - (b) if the transaction would give rise to a charge under that Chapter but for section 99 of that Act (accommodation provided for performance of duties), the consideration for the transaction is the actual consideration (if any);
  - (c) if neither paragraph (a) nor paragraph (b) applies, the consideration for the transaction shall be taken to be not less than the market value of the subject-matter of the transaction as at the effective date of the transaction.
- (2) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this paragraph.

*Obligations under lease*

<sup>F6</sup>13 .....

**Textual Amendments**

- F6** Sch. 4 paras. 13-15 repealed (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 8(11)**

*Surrender of existing lease in return for new lease*

<sup>F6</sup>14 .....

**Textual Amendments**

- F6** Sch. 4 paras. 13-15 repealed (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 8(11)**

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### *Reverse premium*

<sup>F6</sup>15 .....

#### **Textual Amendments**

- F6** Sch. 4 paras. 13-15 repealed (1.12.2003) by [The Stamp Duty and Stamp Duty Land Tax \(Variation of the Finance Act 2003\) \(No. 2\) Regulations 2003 \(S.I. 2003/2816\)](#), reg. 1, **Sch. para. 8(11)**

### *Indemnity given by purchaser*

- 16 Where the purchaser agrees to indemnify the vendor in respect of liability to a third party arising from breach of an obligation owed by the vendor in relation to the land that is the subject of the transaction, neither the agreement nor any payment made in pursuance of it counts as chargeable consideration.

### *[<sup>F7</sup>Arrangements involving public or educational bodies*

#### **Textual Amendments**

- F7** Sch. 4 para. 17 added (19.12.2003) by [The Stamp Duty Land Tax \(Amendment of Schedule 4 to the Finance Act 2003\) Regulations 2003 \(S.I. 2003/3293\)](#), regs. 1, **2(5)**

17. (1) This paragraph applies in any case where arrangements are entered into under which—
- (a) a qualifying body (“A”) transfers, or grants or assigns a lease of, any land (“the transferred land”) to a non-qualifying body (“B”),
  - (b) in consideration (whether in whole or in part) for that transfer, grant, or assignment, B grants A a lease or under-lease of the whole, or substantially the whole, of that land (“the leased-back land”),
  - (c) B undertakes to carry out works or provide services to A, and
  - (d) some or all of the consideration given by A to B for the carrying out of those works or the provision of those services is consideration in money,
- whether or not A also transfers, or grants or assigns a lease of, any other land (“surplus land”) to B.
- (2) The following are qualifying bodies—
- (a) public bodies within section 66,
  - (b) institutions within the further education sector or the higher education sector within the meaning of 91 of the Further and Higher Education Act 1992,
  - (c) further education corporations within the meaning of section 17 of that Act,
  - (d) higher education corporations within the meaning section 90 of that Act,
  - (e) persons who undertake to establish and maintain, and carry on, or provide for the carrying on, of an Academy within the meaning of section 482 of the Education Act 1996, and
  - (f) in Scotland, institutions funded by the Scottish Further Education Funding Council or the Scottish Higher Education Funding Council.

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- (3) In determining for the purposes of paragraph 5(3) the chargeable consideration for any of the land transactions mentioned in sub-paragraph (1), the market value of the subject matter of—
- (a) the transfer or lease of the transferred land,
  - (b) the lease or under-lease of the leased-back land, and
  - (c) any transfer or lease of surplus land,
- shall be taken to be nil.
- (4) For the purposes of paragraph 5(3) none of the following shall be regarded as rent—
- (a) the carrying out of the works, or the provision of the services, mentioned in sub-paragraph (1)(c);
  - (b) any consideration in money or money's worth given by A to B for the carrying out of those works or the provision of those services;
- and paragraphs 10 and 11 shall be disregarded.
- (5) This paragraph applies to Scotland as if—
- (a) references to A transferring land to B were references to A transferring the interest of an owner of land to B, and
  - (b) in sub-paragraph (1)(b) for “assignment” there were substituted “assignation”.
- Until the appointed day for the purposes of the [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), the reference in paragraph (a) to the interest of the owner shall be read, in relation to feudal property, as a reference to the estate or interest of the proprietor of the *dominium utile*.
- (6) In this paragraph “under-lease” includes a sub-lease.]

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