

Status: Point in time view as at 16/10/2015.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, SCHEDULE 10. (See end of Document for details)

SCHEDULES

SCHEDULE 10

Section 53

TAXATION PROVISIONS RELATING TO TRANSFER SCHEMES

PART 1

TRANSFERS TO A NATIONAL AUTHORITY UNDER SECTION 1(2) SCHEMES

Meaning of “relevant transfer” in Part 1 of Schedule

- 1 In this Part of this Schedule, “relevant transfer” means a transfer in accordance with a scheme made under section 1(2) to a national authority.

Commencement Information

- II** Sch. 10 para. 1 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Capital allowances: determination of disposal value of plant or machinery

- 2 (1) This paragraph applies to a relevant transfer of plant or machinery which is a disposal event for the purposes of Part 2 of the 2001 Act (capital allowances for plant and machinery).
- (2) For the purposes of the application of section 61 of that Act in relation to the transferor, the disposal value of the plant or machinery is to be treated—
- (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum; or
 - (b) if no such sum is received, as nil.
- (3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.
- (4) Section 88 of the 2001 Act (sales at an undervalue) is to be disregarded.
- (5) This paragraph is subject to sections 63(5) and 68 of the 2001 Act.

Commencement Information

- I2** Sch. 10 para. 2 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Capital allowances: determination of disposal value of fixtures

- 3 (1) This paragraph applies to a relevant transfer if—
- (a) it is a disposal event for the purposes of Part 2 of the 2001 Act; and

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- (b) by virtue of the transfer a person is treated by section 188 of that Act as ceasing to own a fixture.
- (2) For the purposes of the application of section 196 of that Act in relation to the transferor, the disposal value of the fixture is to be treated—
 - (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that portion of that sum which, if the person to whom the disposal is made were entitled to an allowance, would fall to be treated for the purposes of Part 2 of that Act as expenditure incurred by that person on the provision of the fixture; or
 - (b) if no such sum is received, as nil.
- (3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.
- (4) This paragraph is subject to section 63(5) of the 2001 Act.

Commencement Information

I3 Sch. 10 para. 3 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Capital allowances: determination of capital value of industrial buildings etc.

- 4 (1) This paragraph applies for the purposes of Part 3 of the 2001 Act, and the other provisions of that Act which are relevant to that Part, in relation to a relevant transfer of the relevant interest in an industrial building or structure.
- (2) The transfer is to be treated as a sale of that relevant interest.
- (3) The net proceeds of that sale are to be treated—
 - (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum; or
 - (b) if no such sum is received, as nil.
- (4) Sections 567 to 570 of the 2001 Act (sales treated as being for alternative amount) are not to have effect in relation to that sale.
- (5) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.

Commencement Information

I4 Sch. 10 para. 4 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Chargeable gains: assets to be treated as disposed without a gain or a loss

- 5 For the purposes of the 1992 Act, a relevant transfer of an asset is to be treated as a disposal of that asset to the transferee for a consideration of such amount as would secure that, on the disposal, neither a gain nor a loss accrues to the transferor.

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Commencement Information

I5 Sch. 10 para. 5 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Continuity in relation to transfer of intangible assets

- 6 (1) For the purposes of Schedule 29 to the Finance Act 2002 (c. 23), a relevant transfer of a chargeable intangible asset of the transferor is to be treated as a tax-neutral transfer.
- (2) Expressions used in this paragraph and in that Schedule have the same meanings in this paragraph as in that Schedule.

Commencement Information

I6 Sch. 10 para. 6 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Neutral effect of transfer for loan relationships and derivative contracts

- 7 No credit or debit shall be required or allowed, in respect of a relevant transfer, to be brought into account in the transferor's case—
- (a) for the purposes of [^{F1}Part 5 of the Corporation Tax Act 2009] (loan relationships); or
- (b) for the purposes of [^{F2}Part 7 of the Corporation Tax Act 2009 (derivative contracts)].

Textual Amendments

F1 Words in Sch. 10 para. 7(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 667(2)(a) (with Sch. 2 Pts. 1, 2)

F2 Words in Sch. 10 para. 7(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 667(2)(b) (with Sch. 2 Pts. 1, 2)

Commencement Information

I7 Sch. 10 para. 7 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Leased assets

- 8 (1) This paragraph applies for the purposes of section 781 of the Taxes Act (assets leased to traders and others) where—
- (a) the interest of the lessor or the lessee under a lease, or any other interest in an asset, is transferred under a relevant transfer; or
- (b) a lease, or any other interest in a lease, is granted to a national authority in accordance with provision contained by virtue of paragraph 3 or 4 of Schedule 2 in a scheme made under section 1(2).
- (2) Section 783(4) of that Act is to be disregarded and the transfer or grant is to be treated as made without any capital sum having been obtained in respect of the interest or lease by the transferor or grantor.

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- (3) Expressions used in this paragraph and in sections 781 to 785 of that Act have the same meanings in this paragraph as in those sections.

Commencement Information

18 Sch. 10 para. 8 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

PART 2

OTHER TRANSFERS UNDER SECTION 1(2) SCHEMES

Meaning of “relevant transfer” in Part 2 of Schedule

- 9 In this Part of this Schedule, “relevant transfer” means a transfer in accordance with a scheme made under section 1(2) to a person other than a national authority.

Commencement Information

19 Sch. 10 para. 9 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Computation of profits and losses in respect of transfer of trade

- 10 (1) This paragraph applies where a person (“the predecessor”) is carrying on a trade or a part of a trade and, in consequence of a scheme made under section 1(2)—
- (a) the predecessor ceases to carry on that trade or that part of that trade; and
 - (b) a person who is not a national authority (“the successor”) begins to carry on that trade or that part of it.
- (2) For the purpose of computing, in relation to the time when the scheme comes into force and subsequent times, the relevant trading profits or losses of the predecessor and the successor—
- (a) the trade or part is to be treated as having been a separate trade at the time of its commencement and as having been carried on by the successor at all times since its commencement as a separate trade; and
 - (b) the trade carried on by the successor after the time when the scheme comes into force is to be treated as the same trade as that which it is treated, by virtue of paragraph (a), as having carried on as a separate trade before that time.
- (3) Where a trade or a part of a trade falls to be treated under this paragraph as a separate trade, such apportionments of receipts, expenses, assets and liabilities shall be made for the purpose of computing relevant trading profits and losses as may be just and reasonable.
- (4) This paragraph is subject to paragraphs 12 and 18.
- (5) In this paragraph, “relevant trading profits and losses” means profits or losses [^{F3}under Part 3 of the Corporation Tax Act 2009 in respect of the trade or part of a trade in question for periods in which the trade was carried on wholly or partly in the United Kingdom.]

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Textual Amendments

- F3** Words in Sch. 10 para. 10(5) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 667(3) (with Sch. 2 Pts. 1, 2)

Commencement Information

- I10** Sch. 10 para. 10 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Trading losses: change in ownership

- 11 (1) This paragraph applies to a relevant transfer of all the issued share capital of a company (the “transferred company”).
- (2) For the purposes of [^{F4}the provisions of the Corporation Tax Act 2010 specified in sub-paragraph (3)], the transfer is not to be taken to result in a change in the ownership of—
- (a) the transferred company; or
 - (b) a company which is a wholly-owned subsidiary of the transferred company when the transfer takes effect.
- [^{F5}(3) Those provisions are—
- (a) Chapter 2 of Part 14 (but not section 674(1)),
 - (b) section 683,
 - (c) section 684,
 - (d) section 700,
 - (e) section 701,
 - (f) section 704, and
 - (g) section 705.]

Textual Amendments

- F4** Words in Sch. 10 para. 11(2) 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. 478(2)(a) (with Sch. 2)
- F5** Sch. 10 para. 11(3) inserted (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. 478(2)(b) (with Sch. 2)

Commencement Information

- I11** Sch. 10 para. 11 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Capital allowances: transfer of whole trade

- 12 (1) This paragraph applies where a person (“the predecessor”) is carrying on a trade and, in consequence of a scheme made under section 1(2)—
- (a) the predecessor ceases to carry on that trade; and
 - (b) a person who is not a national authority (“the successor”) begins to carry on that trade.
- (2) For the purposes of the allowances and charges provided for by the 2001 Act, the trade is not to be treated as permanently discontinued, nor a new trade as set up; but sub-paragraphs (3) and (4) of this paragraph are to apply.

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- (3) There are to be made to or on the successor, in accordance with the 2001 Act, all such allowances and charges as would, if the predecessor had continued to carry on the trade, have fallen to be made to or on the predecessor.
- (4) The amounts of those allowances and charges are to be computed as if—
- (a) the successor had been carrying on the trade since the predecessor began to do so; and
 - (b) everything done to or by the predecessor had been done to or by the successor;
- but so that transfers in accordance with the scheme, so far as they relate to assets in use for the purposes of the trade, shall not be treated as giving rise to an allowance or charge.

Commencement Information

I12 Sch. 10 para. 12 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Capital allowances: transfer of part of a trade

- 13 (1) Where a person (“the predecessor”) is carrying on a trade and, in consequence of a scheme made under section 1(2)—
- (a) the predecessor ceases to carry on a trade, and
 - (b) a person who is not a national authority (“the successor”) begins to carry on activities of that trade as part of a trade carried on by the successor,
- then that part of the trade carried on by the successor shall be treated for the purposes of paragraph 12 as a separate trade.
- (2) Where a person (“the predecessor”) is carrying on a trade and, in consequence of a scheme made under section 1(2)—
- (a) the predecessor ceases to carry on a part of a trade, and
 - (b) a person who is not a national authority begins to carry on activities of that part of that trade,
- then the predecessor shall be treated for the purposes of paragraph 12 and subparagraph (1) of this paragraph as having carried on that part of its trade as a separate trade.
- (3) Where activities fall to be treated for the purposes of this paragraph as a separate trade, such apportionments of receipts, expenses, assets and liabilities shall be made for the purposes of the 2001 Act as may be just and reasonable.

Commencement Information

I13 Sch. 10 para. 13 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Capital allowances: transfer of plant or machinery

- 14 (1) This paragraph applies where—
- (a) there is a relevant transfer of plant or machinery;
 - (b) paragraph 12 does not apply in relation to that transfer;

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- (c) the plant or machinery would be treated for the purposes of the 2001 Act as disposed of by the transferor to the transferee on the transfer taking effect; and
 - (d) the scheme in accordance with which the transfer is made contains provision for the disposal value of the plant or machinery to be treated for the purposes of that Act as an amount specified in or determined in accordance with the scheme.
- (2) For the purposes of the 2001 Act—
- (a) the provision mentioned in sub-paragraph (1)(d) is to have effect (instead of section 61(2) to (4), 72(3) to (5), 88, 171, 196 or 423 of that Act) for determining an amount as the disposal value of the plant or machinery or the price at which a fixture is to be treated as sold;
 - (b) the transferee is to be treated as having incurred capital expenditure of that amount on the provision of the plant or machinery for the purposes for which it is used by the transferee on and after the taking effect of the transfer;
 - (c) the property is to be treated as belonging to the transferee in consequence of the transferee having incurred that expenditure; and
 - (d) in the case of a fixture, the expenditure which falls to be treated as incurred by the transferee is to be treated for the purposes of sections 181(1) and 182(1) of that Act to be incurred by the giving of a consideration consisting in a capital sum of that amount.
- (3) The provision mentioned in sub-paragraph (1)(d) for the determination of an amount may include provision for a determination—
- (a) to be made by the Secretary of State in a manner described in the scheme;
 - (b) to be made by reference to factors so described or to the opinion of a person so described; and
 - (c) to be capable of being modified (on one or more occasions) in a manner and in circumstances so described.
- (4) The consent of the Treasury is required for the making or modification of a determination under the provision mentioned in sub-paragraph (1)(d).
- (5) The consent of the transferee is required for the modification of a determination under the provision mentioned in sub-paragraph (1)(d).
- (6) If there is a determination or a modification of a determination under the provision mentioned in sub-paragraph (1)(d), all necessary adjustments—
- (a) must be made by making assessments or by repayment or discharge of tax; and
 - (b) must be made despite any limitation on the time within which assessments may be made.
- (7) Expressions used in this paragraph and in Part 2 of the 2001 Act have the same meanings in this paragraph as in that Part.

Commencement Information

I14 Sch. 10 para. 14 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

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Capital allowances: determination of capital value of industrial buildings etc.

- 15 (1) This paragraph applies for the purposes of Part 3 of the 2001 Act, and the other provisions of that Act which are relevant to that Part, to a relevant transfer of the relevant interest in an industrial building or structure.
- (2) Section 573 of that Act is not to have effect in relation to that transfer.

Commencement Information

I15 Sch. 10 para. 15 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Chargeable gains: assets to be treated as disposed of without a gain or a loss

- 16 For the purposes of the 1992 Act, a relevant transfer of an asset is to be treated as a disposal of that asset to the transferee for a consideration of such amount as would secure that, on the disposal, neither a gain nor a loss accrues to the transferor.

Commencement Information

I16 Sch. 10 para. 16 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Continuity in relation to transfer of intangible assets

- 17 (1) For the purposes of [^{F6}Part 8 of the Corporation Tax Act 2009]—
- (a) a relevant transfer of a chargeable intangible asset of the transferor is to be treated as a tax-neutral transfer; and
- (b) an intangible fixed asset which is [^{F6}a pre-FA 2002 asset] of the transferor at the time of the transfer is to be treated, on and after the transfer, as [^{F6}a pre-FA 2002 asset] in the hands of the transferee.
- (2) Expressions used in this paragraph and in [^{F7}that Part] have the same meanings in this paragraph as in [^{F7}that Part].

Textual Amendments

F6 Words in Sch. 10 para. 17(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 667(4)(a) (with Sch. 2 Pts. 1, 2)

F7 Words in Sch. 10 para. 17(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 667(4)(b) (with Sch. 2 Pts. 1, 2)

Commencement Information

I17 Sch. 10 para. 17 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Continuity in relation to loan relationships

- 18 (1) For the purposes of the application of [^{F8}Part 5 of the Corporation Tax Act 2009] (loan relationships) in relation to a relevant transfer, the transferee and the transferor are to be treated as if, at the time of the transfer, they were members of the same group.

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- (2) In sub-paragraph (1), the reference to being members of the same group must be construed in accordance with [F9 section 335(6) of] that Act.

Textual Amendments

- F8** Words in Sch. 10 para. 18(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 667(5)(a) (with Sch. 2 Pts. 1, 2)
- F9** Words in Sch. 10 para. 18(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 667(5)(b) (with Sch. 2 Pts. 1, 2)

Commencement Information

- I18** Sch. 10 para. 18 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Continuity in relation to derivative contracts

- 19 (1) For the purposes of the application of [F10 Part 7 of the Corporation Tax Act 2009 (derivative contracts)] in relation to a relevant transfer, the transferee and the transferor are to be treated as if, at the time of the transfer, they were members of the same group.
- (2) In sub-paragraph (1), the reference to being members of the same group must be construed in accordance with [F11 section 624(3) of that Act].

Textual Amendments

- F10** Words in Sch. 10 para. 19(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 667(6)(a) (with Sch. 2 Pts. 1, 2)
- F11** Words in Sch. 10 para. 19(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 667(6)(b) (with Sch. 2 Pts. 1, 2)

Commencement Information

- I19** Sch. 10 para. 19 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

Leased assets

- 20 (1) This paragraph applies for the purposes of section 781 of the Taxes Act (assets leased to traders and others) where—
- (a) the interest of the lessor or the lessee under a lease, or any other interest in an asset, is transferred under a relevant transfer; or
 - (b) a lease, or any other interest in a lease, is granted to a person who is not a national authority in accordance with provision contained by virtue of paragraph 3 or 4 of Schedule 2 in a scheme made under section 1(2).
- (2) Section 783(4) of that Act is to be disregarded and the transfer or grant is to be treated as made without any capital sum having been obtained in respect of the interest or lease by the transferor or grantor.
- (3) In the case of the transfer of an interest under a lease, payments made by the transferor under the lease before the transfer takes effect are to be treated as if they had been made under that lease by the transferee.

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- (4) Expressions used in this paragraph and in sections 781 to 785 of that Act have the same meanings in this paragraph as in those sections.

Commencement Information

I20 Sch. 10 para. 20 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

PART 3

TRANSFERS UNDER SECTION 12 SCHEMES

Meaning of “relevant transfer” in Part 3 of Schedule

- 21 In this Part of this Schedule, “relevant transfer” means a transfer in accordance with a scheme made under section 12.

Commencement Information

I21 Sch. 10 para. 21 in force at 24.7.2005 by S.I. 2005/1909, art. 2, Sch.

Capital allowances: determination of disposal value of plant or machinery

- 22 (1) This paragraph applies to a relevant transfer of plant or machinery which is a disposal event for the purposes of Part 2 of the 2001 Act (capital allowances for plant and machinery).
- (2) For the purposes of the application of section 61 of that Act in relation to the transferor, the disposal value of the plant or machinery is to be treated—
- (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum; or
 - (b) if no such sum is received, as nil.
- (3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.
- (4) Section 88 of the 2001 Act (sales at an undervalue) is to be disregarded.
- (5) This paragraph is subject to sections 63(5) and 68 of the 2001 Act.

Commencement Information

I22 Sch. 10 para. 22 in force at 24.7.2005 by S.I. 2005/1909, art. 2, Sch.

Capital allowances: determination of disposal value of fixtures

- 23 (1) This paragraph applies to a relevant transfer if—
- (a) it is a disposal event for the purposes of Part 2 of the 2001 Act; and
 - (b) by virtue of the transfer a person is treated by section 188 of that Act as ceasing to own a fixture.

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- (2) For the purposes of the application of section 196 of that Act in relation to the transferor, the disposal value of the fixture is to be treated—
- (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that portion of that sum which falls (or, if the person to whom the disposal is made were entitled to an allowance, would fall) to be treated for the purposes of Part 2 of that Act as expenditure incurred by that person on the provision of the fixture; or
 - (b) if no such sum is received, as nil.
- (3) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.
- (4) This paragraph is subject to section 63(5) of the 2001 Act.

Commencement Information

I23 Sch. 10 para. 23 in force at 24.7.2005 by S.I. 2005/1909, art. 2, Sch.

Capital allowances: determination of capital value of industrial buildings etc.

- 24 (1) This paragraph applies for the purposes of Part 3 of the 2001 Act, and the other provisions of that Act which are relevant to that Part, in relation to a relevant transfer of the relevant interest in an industrial building or structure.
- (2) The transfer is to be treated as a sale of that relevant interest.
- (3) The net proceeds of that sale, in relation to the transferor, are to be treated—
- (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum; or
 - (b) if no such sum is received, as nil.
- (4) Sections 567 to 570 of the 2001 Act (sales treated as being for alternative amount) are not to have effect in relation to that sale.
- (5) For the purposes of this paragraph a sum received by a person connected with the transferor is to be treated as received by the transferor.

Commencement Information

I24 Sch. 10 para. 24 in force at 24.7.2005 by S.I. 2005/1909, art. 2, Sch.

Chargeable gains: disposals not be treated as made at market value

- 25 (1) Section 17 of the 1992 Act (disposals and acquisitions treated as made at market value) is not to have effect in relation to—
- (a) a disposal constituted by a relevant transfer or a disposal in accordance with provision contained by virtue of paragraph 3 or 4 of Schedule 2 to this Act in a scheme made under section 12 of this Act; or
 - (b) the acquisition made by the person to whom the disposal is made.
- (2) But sub-paragraph (1) does not apply—

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- (a) if the person making the disposal is connected with the person making the acquisition; or
 - (b) in the case of a disposal in accordance with provision contained in a scheme by virtue of paragraph 3 or 4 of Schedule 2, if the disposal is made by or to a person other than the transferor or transferee.
- (3) If sub-paragraph (1) applies to the disposal of an asset, the disposal is to be taken (in relation to the person making the acquisition as well as the person making the disposal) to be—
- (a) in a case where consideration in money or money's worth is given by the person making the acquisition or on his behalf in respect of the vesting of the asset in him, for a consideration equal to the amount or value of that consideration; or
 - (b) in a case where no such consideration is given, for a consideration of nil.

Commencement Information

I25 Sch. 10 para. 25 in force at 24.7.2005 by S.I. 2005/1909, art. 2, Sch.

Chargeable gains: degrouping charges

- 26 (1) This paragraph applies if a company (“the degrouped company”)—
- (a) acquired an asset from another company at a time when both were members of the same group of companies (“the old group”); and
 - (b) ceases by virtue of a relevant transfer to be a member of the old group.
- (2) Section 179 of the 1992 Act (company ceasing to be member of group) is not to treat the degrouped company as having by virtue of the transfer sold and immediately reacquired the asset.
- (3) Where sub-paragraph (2) has applied to an asset, section 179 of the 1992 Act is to have effect on and after the first subsequent occasion on which the degrouped company ceases to be a member of a group of companies (“the new group”) otherwise than by virtue of a relevant transfer as if—
- (a) the degrouped company, and
 - (b) the company from which it acquired the asset,
- had been members of the new group at the time of acquisition.
- (4) If, disregarding any preparatory transactions, a company would be regarded for the purposes of section 179 of the 1992 Act (and, accordingly, of this paragraph) as ceasing to be a member of a group of companies by virtue of a relevant transfer, it is to be regarded for those purposes as so doing by virtue of the relevant transfer and not by virtue of any preparatory transactions.
- (5) In this paragraph, “preparatory transactions” means anything done under or by virtue of the 1993 Act or this Act for the purpose of initiating, advancing or facilitating the relevant transfer in question.
- (6) Expressions used in this paragraph and in section 179 of the 1992 Act have the same meanings in this paragraph as in that section.

Status: Point in time view as at 16/10/2015.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, SCHEDULE 10. (See end of Document for details)

Commencement Information

I26 Sch. 10 para. 26 in force at 24.7.2005 by S.I. 2005/1909, art. 2, Sch.

Chargeable gains: disposal of debts

- 27 (1) This paragraph applies to a relevant transfer of a debt owed to the transferor if the transferor would (apart from this paragraph) be the original creditor in relation to that debt for the purposes of section 251 of the 1992 Act (disposal of debts).
- (2) The 1992 Act is to have effect as if the transferee (and not the transferor) were the original creditor for those purposes.

Commencement Information

I27 Sch. 10 para. 27 in force at 24.7.2005 by S.I. 2005/1909, art. 2, Sch.

Loan relationships

- 28 (1) [^{F12}Section 444 of the Corporation Tax Act 2009] is not to have effect where, as a result of a relevant transfer, the transferee replaces the transferor as a party to a loan relationship.
- (2) Expressions used in this paragraph and in [^{F13}Part 5 of the Corporation Tax Act 2009] have the same meanings in this paragraph as in [^{F13}that Part].

Textual Amendments

F12 Words in Sch. 10 para. 28(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 667(7)(a) (with Sch. 2 Pts. 1, 2)

F13 Words in Sch. 10 para. 28(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 667(7)(b) (with Sch. 2 Pts. 1, 2)

Commencement Information

I28 Sch. 10 para. 28 in force at 24.7.2005 by S.I. 2005/1909, art. 2, Sch.

PART 4

OTHER PROVISIONS CONCERNING TRANSFERS

Stamp duty

- 29 (1) Stamp duty is not to be chargeable—
- on a scheme made under section 1(2); or
 - on an instrument certified by the Secretary of State to the Commissioners of Inland Revenue as made for the purposes of such a scheme, or as made for purposes connected with such a scheme.

Status: Point in time view as at 16/10/2015.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, SCHEDULE 10. (See end of Document for details)

- (2) But where, by virtue of sub-paragraph (1), stamp duty is not chargeable on a scheme or instrument, the scheme or instrument is to be treated as duly stamped only if—
- (a) in accordance with section 12 of the Stamp Act 1891 (c. 39) it has been stamped with a stamp denoting either that it is not chargeable to duty or that it has been duly stamped; or
 - (b) it is stamped with the duty to which it would be chargeable apart from sub-paragraph (1).
- (3) In this paragraph, “instrument” has the same meaning as in the Stamp Act 1891.

Commencement Information

- I29** [Sch. 10 para. 29](#) in force at 8.6.2005 for specified purposes by [S.I. 2005/1444](#), art. 2(1), [Sch. 1](#)
I30 [Sch. 10 para. 29](#) in force at 24.7.2005 in so far as not already in force by [S.I. 2005/1909](#), art. 2, [Sch.](#)

Stamp duty land tax

- 30 (1) No transfer in accordance with a scheme made under section 1(2) is to give rise to any liability to stamp duty land tax.
- (2) Relief under this paragraph must be claimed in a land transaction return or in an amendment of a land transaction return.
- (3) In sub-paragraph (2) “land transaction return” has the meaning given by section 76(1) of the Finance Act 2003 (c. 14).

Commencement Information

- I31** [Sch. 10 para. 30](#) in force at 8.6.2005 for specified purposes by [S.I. 2005/1444](#), art. 2(1), [Sch. 1](#)
I32 [Sch. 10 para. 30](#) in force at 24.7.2005 in so far as not already in force by [S.I. 2005/1909](#), art. 2, [Sch.](#)

Chargeable gains: value shifting

- 31 No scheme made under section 1(2) or 12 is to be regarded as a scheme or arrangement for the purposes of section 30 of the 1992 Act.

Commencement Information

- I33** [Sch. 10 para. 31](#) in force at 8.6.2005 for specified purposes by [S.I. 2005/1444](#), art. 2(1), [Sch. 1](#)
I34 [Sch. 10 para. 31](#) in force at 24.7.2005 in so far as not already in force by [S.I. 2005/1909](#), art. 2, [Sch.](#)

Group relief

- 32 Neither the power of the Secretary of State to make a scheme under section 1(2) nor the power of the Secretary of State or the Scottish Ministers to make a scheme under section 12 is to be regarded as constituting—
- (a) arrangements falling within [^{F14}section 154(3) or 155(3) of the Corporation Tax Act 2010] (arrangements for transfer of company to another group or consortium); or
 - (b) option arrangements for the purposes of [^{F15}section 173 of] that Act.

Status: Point in time view as at 16/10/2015.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, SCHEDULE 10. (See end of Document for details)

Textual Amendments

- F14** Words in [Sch. 10 para. 32](#) 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. 478\(3\)\(a\)](#) (with [Sch. 2](#))
- F15** Words in [Sch. 10 para. 32](#) 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. 478\(3\)\(b\)](#) (with [Sch. 2](#))

Commencement Information

- I35** Sch. 10 para. 32 in force at 8.6.2005 for specified purposes by [S.I. 2005/1444](#), art. 2(1), [Sch. 1](#)
- I36** Sch. 10 para. 32 in force at 24.7.2005 in so far as not already in force by [S.I. 2005/1909](#), art. 2, [Sch.](#)

Consequential amendment

^{F16}33

Textual Amendments

- F16** [Sch. 10 para. 33](#) omitted (with effect in accordance with [Sch. 2 para. 71](#) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 2 para. 70\(g\)](#)

PART 5

INTERPRETATION OF SCHEDULE

- 34 (1) In this Schedule—
- “the 1992 Act” means the Taxation of Chargeable Gains Act 1992 (c. 12);
 - “the 2001 Act” means the Capital Allowances Act 2001 (c. 2);
 - “national authority” means—
 - (a) the Secretary of State;
 - (b) the Scottish Ministers;
 - (c) the National Assembly for Wales; or
 - (d) the [^{F17}Office of Rail and Road];
 - “the Taxes Act” means the Income and Corporation Taxes Act 1988 (c. 1);
 - “transferee”, in relation to a transfer in accordance with a scheme made under section 1(2) or 12, means the person to whom the transfer is made;
 - “transferor”, in relation to a transfer in accordance with a scheme made under section 1(2) or 12, means the person from whom the transfer is made.
- (2) So far as it relates to corporation tax this Schedule is to be construed as one with the Corporation Tax Acts.
- (3) So far as it relates to capital allowances this Schedule is to be construed as one with the 2001 Act.

Textual Amendments

- F17** Words in [Sch. 10 para. 34\(1\)](#) substituted (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), reg. 1(2), [Sch. para. 3\(v\)](#)

Status: Point in time view as at 16/10/2015.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, SCHEDULE 10. (See end of Document for details)

Commencement Information

- I37** Sch. 10 para. 34 in force at 8.6.2005 for specified purposes by [S.I. 2005/1444](#), art. 2(1), [Sch. 1](#)
- I38** Sch. 10 para. 34 in force at 24.7.2005 in so far as not already in force by [S.I. 2005/1909](#), art. 2, [Sch.](#)

Status:

Point in time view as at 16/10/2015.

Changes to legislation:

There are currently no known outstanding effects for the Railways Act 2005, SCHEDULE 10.