

Status: Point in time view as at 29/01/2007.

Changes to legislation: There are currently no known outstanding effects for the Railways Act 2005, Part 1. (See end of Document for details)

SCHEDULES

SCHEDULE 10

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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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 Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) (loan relationships); or
- (b) for the purposes of Schedule 26 to the Finance Act 2002 (derivative contracts).

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.
- (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

I8 Sch. 10 para. 8 in force at 8.6.2005 by S.I. 2005/1444, art. 2(1), Sch. 1

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