



# Finance Act 2010

## 2010 CHAPTER 13

### PART 2

#### ANTI-AVOIDANCE AND REVENUE PROTECTION

##### *Stamp taxes*

#### **54 SDRT: depositary receipt systems and clearance services systems**

- (1) Part 4 of FA 1986 (stamp duty reserve tax) is amended as follows.
- (2) In section 95(1) (depositary receipts: exceptions), before “there shall be” insert “subject to section 97C, ”.
- (3) In section 97(1) (clearance services: exceptions), before “there shall be” insert “subject to section 97C, ”.
- (4) In section 97B (transfer between depositary receipt system and clearance system), after subsection (1) insert—

“(1A) Subsection (1) is subject to section 97C.”
- (5) After that section insert—

#### **“97C Transfers to non-EU depositary receipt and clearance services systems**

- (1) This section applies where arrangements are made in accordance with which chargeable securities are—
  - (a) issued to an EU system, and
  - (b) subsequently transferred from an EU system to a non-EU system.
- (2) Nothing in section 95(1), 97(1) or 97B(1) disapplies a charge to tax under section 93 or 96 in respect of that transfer if—
  - (a) the chargeable securities have not previously been transferred, or

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2010, Cross Heading: Stamp taxes. (See end of Document for details)*

- (b) where they have previously been transferred, the transfer (or, if more than one, each of them) was an exempt transfer.
- (3) For the purposes of subsection (1)(a) chargeable securities are issued to an EU system if—
- (a) pursuant to an arrangement of the kind mentioned in section 93(1), they are issued to a nominee in respect of an EU depositary receipt issuer, or
- (b) pursuant to an arrangement of the kind mentioned in section 96(1), they are issued to a nominee in respect of an EU clearance service operator.
- (4) For the purposes of subsection (1)(b)—
- (a) a transfer is from an EU system if it is from a company which is incorporated under the law of a member State and at the time of the transfer falls within section 67(6) or 70(6), and
- (b) a transfer is to a non-EU system if it is to a company which is not incorporated under the law of a member State and at the time of the transfer falls within section 67(6) or 70(6).
- (5) In this section—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
- “EU clearance service operator” means a person—
- (a) whose business is or includes the provision of clearance services for the purchase and sale of chargeable securities, and
- (b) who—
- (i) if it is a company, is incorporated under the law of a member State, and
- (ii) in any other case, is resident in a member State;
- “EU depositary receipt issuer” means a person—
- (a) whose business is or includes issuing depositary receipts for chargeable securities, and
- (b) who—
- (i) if it is a company, is incorporated under the law of a member State, and
- (ii) in any other case, is resident in a member State;
- “exempt transfer” means a transfer in respect of which, by reason of section 90(5), 95(1), 97(1) or 97B(1), no charge to stamp duty reserve tax arises;
- “nominee”—
- (a) in respect of an EU clearance service operator, means a person whose business is or includes holding chargeable securities as nominee for the EU clearance service operator, and
- (b) in respect of an EU depositary receipt issuer, means a person whose business is or includes holding chargeable securities as nominee or agent for the EU depositary receipt issuer.”
- (6) The amendments made by this section have effect in relation to transfers of chargeable securities on or after 1 October 2009.

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## **55 SDLT: partnerships**

- (1) In section 75C of FA 2003 (SDLT anti-avoidance: supplemental)—
  - (a) in subsection (8), omit paragraph (b) (and the “and” before it), and
  - (b) after that subsection insert—

“(8A) Nothing in Part 3 of Schedule 15 applies to the notional transaction under section 75A.”
- (2) The amendments made by subsection (1) have effect in relation to any notional transaction of which the effective date is on or after 24 March 2010.
- (3) But those amendments do not have effect in relation to a notional transaction if any scheme transaction is—
  - (a) completed before that date,
  - (b) effected in pursuance of a contract entered into and substantially performed before that date, or
  - (c) effected in pursuance of a contract entered into before that date and not excluded by subsection (4).
- (4) A scheme transaction effected in pursuance of a contract entered into before 24 March 2010 is excluded by this subsection if—
  - (a) there is any variation of the contract, or assignment (or assignation) of rights under the contract, on or after 24 March 2010,
  - (b) the transaction is effected in consequence of the exercise on or after that date of any option, right of pre-emption or similar right, or
  - (c) it is a land transaction and on or after that date there is an assignment (or assignation), subsale or other transaction relating to the whole or part of the subject-matter of the contract as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance.

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