

2003 No. 3293

TAXES

The Stamp Duty Land Tax (Amendment of Schedule 4 to the Finance Act 2003) Regulations 2003

Made - - - - - *18th December 2003*
Laid before the House of Commons *18th December 2003*
Coming into force - - - *19th December 2003*

The Treasury, in exercise of the powers conferred upon them by section 50(2) and (3) of the Finance Act 2003(a), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Stamp Duty Land Tax (Amendment of Schedule 4 to the Finance Act 2003) Regulations 2003 and shall come into force on 19th December 2003.

Amendment of Schedule 4 to the Finance Act 2003

2.—(1) Schedule 4 to the Finance Act 2003 (chargeable consideration for the purposes of stamp duty land tax) is amended as follows.

(2) In paragraph 5(6) (exceptions to the rule on the treatment of exchanges)—

(a) at the end of the entry relating to paragraph 6 omit “and”; and

(b) after that entry insert—

“paragraph 17 of this Schedule (arrangements involving public or educational bodies), and”.

(3) In paragraph 10 (carrying out of works) at the end add —

“(5) This paragraph is subject to paragraph 17 (arrangements involving public or educational bodies).”.

(4) Renumber paragraph 11 (provision of services) as sub-paragraph (1) of that paragraph and after it insert—

“(2) This paragraph is subject to paragraph 17 (arrangements involving public or educational bodies).”.

(5) At the end of the Schedule add—

“Arrangements involving public or educational bodies

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^(a),
- (c) further education corporations within the meaning of section 17 of that Act^(b),
- (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^(c), and
- (f) in Scotland, institutions funded by the Scottish Further Education Funding Council or the Scottish Higher Education Funding Council.

(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”.

^(a) 1992 c. 13.

^(b) Section 17 was amended by paragraph 7 of Schedule 3 to the Teaching and Higher Education Act 1998 (c. 30).

^(c) 1996 c. 56. Section 482 was substituted by section 65(1) of the Education Act 2002.

Until the appointed day for the purposes of the Abolition of Feudal Tenure etc. (Scotland) Act 2000(a) (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.”.

18th December 2003

Jim Murphy
John Heppell
Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 2000 asp 5.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 55(1) of the Finance Act 2003 (c. 14) provides that the amount of stamp duty land tax chargeable is by reference to the chargeable consideration for a land transaction. Section 50(2) confers power on the Treasury to amend Part 4 of that Act relating to chargeable consideration. Schedule 4 to the Act provides for the determination of chargeable consideration. These Regulations amend Schedule 4 in its application to arrangements involving public or educational bodies.

Regulation 1 provides for the citation and commencement of this instrument.

Regulation 2 amends Schedule 4 by adding a new paragraph 17 dealing with the calculation of chargeable consideration in relation to arrangements involving public or educational bodies. That paragraph applies where arrangements are made between a qualifying body (as described in paragraph 17(2)) and a non-qualifying body.

Regulation 2 also makes consequential amendments.

These Regulations do not impose any new costs on business.

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