

SCHEDULE 7

(introduced by section 27)

ALTERNATIVE PROPERTY FINANCE RELIEF

PART 1

INTRODUCTORY

Overview

- 1 (1) This schedule makes provision for relief in the case of certain land transactions connected to alternative property finance arrangements.
- (2) It is arranged as follows—
 - Part 2 identifies the alternative property finance arrangements that are relieved,
 - Part 3 makes provision limiting the arrangements that can be relieved,
 - Part 4 provides for the circumstances in which the chargeable interest acquired by a financial institution under the arrangements is an exempt interest, and
 - Part 5 defines expressions used in this schedule.

PART 2

ALTERNATIVE PROPERTY FINANCE: ARRANGEMENTS RELIEVED

Land sold to financial institution and leased to person

- 2 Paragraphs 3 to 6 apply where arrangements are entered into between a person and a financial institution under which the institution—
 - (a) purchases a major interest in land (“the first transaction”),
 - (b) grants to the person out of that interest a lease (if the interest acquired is the interest of the owner) or a sub-lease (if the interest acquired is the tenant’s right over or interest in a property subject to a lease) (“the second transaction”), and
 - (c) enters into an agreement under which the person has a right to require the institution to transfer the major interest purchased by the institution under the first transaction.
- 3 The first transaction is exempt from charge if the seller is—
 - (a) the person, or
 - (b) another financial institution by whom the interest was acquired under arrangements of the kind mentioned in paragraph 2 entered into between it and the person.
- 4 The second transaction is exempt from charge if the provisions of this Act relating to the first transaction are complied with (including payment of any tax chargeable).
- 5 A transfer to the person that results from the exercise of the right mentioned in paragraph 2(c) (“the third transaction”) is exempt from charge if—
 - (a) the provisions of this Act relating to the first and second transactions are complied with, and

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- (b) at all times between the second and third transactions—
 - (i) the interest purchased under the first transaction is held by a financial institution, and
 - (ii) the lease or sub-lease granted under the second transaction is held by the person.

- 6 The agreement mentioned in paragraph 2(c) is not to be treated—
- (a) as substantially performed unless and until the third transaction is entered into (and accordingly section 14 does not apply), or
 - (b) as a distinct land transaction by virtue of section 12 (options and rights of pre-emption).

Land sold to financial institution and person in common

- 7 Paragraphs 8 to 12 apply where arrangements are entered into between a person and a financial institution under which—
- (a) the institution and the person purchase a major interest in land as common owners (“the first transaction”),
 - (b) the institution and the person enter into an agreement under which the person has a right to occupy the land exclusively (“the second transaction”), and
 - (c) the institution and the person enter into an agreement under which the person has a right to require the institution to transfer to the person (in one transaction or a series of transactions) the whole interest purchased under the first transaction.
- 8 The first transaction is exempt from charge if the seller is—
- (a) the person, or
 - (b) another financial institution by whom the interest was acquired under arrangements of the kind mentioned in paragraph 7 entered into between it and the person.
- 9 The second transaction is exempt from charge if the provisions of this Act relating to the first transaction are complied with (including payment of any tax chargeable).
- 10 Any transfer to the person that results from the exercise of the right mentioned in paragraph 7(c) (“a further transaction”) is exempt from charge if—
- (a) the provisions of this Act relating to the first transaction are complied with, and
 - (b) at all times between the first and the further transaction—
 - (i) the interest purchased under the first transaction is held by a financial institution and the person as common owners, and
 - (ii) the land is occupied by the person under the agreement mentioned in paragraph 7(b).
- 11 The agreement mentioned in paragraph 7(c) is not to be treated—
- (a) as substantially performed unless and until the whole interest purchased by the institution under the first transaction has been transferred (and accordingly section 14 does not apply), or
 - (b) as a distinct land transaction by virtue of section 12 (options and rights of pre-emption).
- 12 A further transaction that is exempt from charge by virtue of paragraph 10 is not a notifiable transaction unless the transaction involves the transfer to the person of the

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whole interest purchased by the institution under the first transaction, so far as not transferred by a previous further transaction.

Land sold to financial institution and re-sold to person

- 13 Paragraphs 14 and 15 apply where arrangements are entered into between a person and a financial institution under which—
- (a) the institution—
 - (i) purchases a major interest in land (“the first transaction”), and
 - (ii) sells that interest to the person (“the second transaction”), and
 - (b) the person grants the institution a standard security over that interest.
- 14 The first transaction is exempt from charge if the seller is—
- (a) the person, or
 - (b) another financial institution by whom the interest was acquired under other arrangements of the kind mentioned in paragraph 2 or 7 entered into between it and the person.
- 15 The second transaction is exempt from charge if the financial institution complies with the provisions of this Act relating to the first transaction (including the payment of any tax chargeable on a chargeable consideration that is not less than the market value of the interest and, in the case of the grant of a lease, the rent).

PART 3

ALTERNATIVE PROPERTY FINANCE: ARRANGEMENTS NOT RELIEVED

No relief where first transaction already relieved

- 16 Paragraphs 2 to 12 do not apply to arrangements in relation to which group relief, reconstruction relief or acquisition relief—
- (a) is available for the first transaction, or
 - (b) has been withdrawn from that transaction.

No relief where arrangements to transfer control of financial institution

- 17 Paragraphs 2 to 12 do not apply to alternative finance arrangements if those arrangements, or any connected arrangements, include arrangements for a person to acquire control of the relevant financial institution.
- 18 That includes arrangements for a person to acquire control of the relevant financial institution only if one or more conditions are met (such as the happening of an event or doing of an act).
- 19 In paragraphs 17 and 18—
- “alternative finance arrangements” means the arrangements referred to in paragraphs 2 and 7,
 - “connected arrangements” means any arrangements entered into in connection with the making of the alternative finance arrangements (including arrangements involving one or more persons who are parties to the alternative finance arrangements),

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“relevant financial institution” means the financial institution which enters into the alternative finance arrangements.

- 20 Section 1124 of the Corporation Tax Act 2010 (c.4) applies for determining who has control of the relevant financial institution.

PART 4

EXEMPT INTEREST

Interest held by financial institution an exempt interest

- 21 An interest held by a financial institution as a result of the first transaction within the meaning of paragraph 2(a) or 7(a) is an exempt interest for the purposes of the tax.
- 22 That interest ceases to be an exempt interest if—
- (a) the lease or agreement mentioned in paragraph 2(b) or 7(b) ceases to have effect, or
 - (b) the right under paragraph 2(c) or 7(c) ceases to have effect or becomes subject to a restriction.
- 23 Paragraph 21 does not apply if the first transaction is exempt from charge by virtue of schedule 10 (group relief) or 11 (reconstruction and acquisition reliefs).
- 24 Paragraph 21 does not make an interest exempt in respect of—
- (a) the first transaction itself, or
 - (b) a third transaction or a further transaction within the meaning of paragraph 5 or 10.

PART 5

INTERPRETATION

Interpretation

- 25 (1) In this schedule “financial institution” has the meaning given by section 564B of the Income Tax Act 2007 (c.3).
- (2) For this purpose section 564B(1) applies as if paragraph (d) were omitted.
- 26 In this schedule—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
- references to a person are to be read, in relation to times after the death of the person concerned, as references to the person’s personal representatives.