Finance Act 1986

1986 CHAPTER 41

PART III

STAMP DUTY

Reconstructions and acquisitions

73 Reconstructions etc: amendments

(1) In section 55 of the Finance Act 1927 and in section 4 of the Finance Act (Northern Ireland) 1928 (reconstructions and amalgamations) in paragraph (B) of subsection (1) for the words "not be chargeable" there shall be substituted the words "be chargeable at the rate mentioned in subsection (9) of this section" and for the words "nor shall any such duty be chargeable" there shall be substituted the word "or".

(2) In consequence, each of those sections shall be further amended as follows—

(a) at the beginning of paragraph (B) of subsection (1) there shall be inserted the words "If a claim is made under this section";

(b) in paragraph (a) of the proviso to subsection (1) the words from "either it" to "liable or" and from "either that" to "duty or" shall be omitted, and in paragraph (c) of that proviso the words "for exemption" shall be omitted;

(c) in subsection (2) for the words "for exemption under paragraph (B) of subsection (1) of there shall be substituted the word "under";

(d) in subsection (5) the words "for exemption" shall be omitted;

(e) in subsection (6), in paragraph (a) the words " for exemption from duty" shall be omitted, in paragraph (c) for the word "exemption" there shall be substituted the word "claim", and in the words following paragraph (c) for the word "exemption" there shall be substituted the word "claim", for the word "remitted" (in the first place where it occurs) there shall be substituted the word "unpaid" and the words from "in the case of duty remitted under paragraph (A)" to "the said subsection" shall be omitted;

(f) in subsection (7) for the words "for exemption from duty under subsection (1) of there shall be substituted the word "under", for the words "such exemption" there shall be substituted the words "such a claim to be allowed" and for the words "have been remitted" there shall be substituted the words "not have been chargeable".

(3) At the end of each of those sections there shall be inserted—

"(9) The rate is the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect."

(4) In paragraph 12 of Schedule 18 to the Finance Act 1980 (demergers) for sub-paragraph (1) there shall be substituted—

"(1) If a document executed solely for the purpose of effecting an exempt distribution is chargeable with stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the document gives effect.

(1A) If a document executed solely for the purpose of effecting an exempt distribution is chargeable with stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, it shall not be treated as duly stamped unless it is stamped in accordance with section 12 of the Stamp Act 1891 with a particular stamp denoting that it is duly stamped."

(5) In paragraph 12(3) of Schedule 18 to the Finance Act 1980 for the words "this paragraph" there shall be substituted the words "sub-paragraph (2) above".

(6) In section 78 of the Finance Act 1985 (takeovers) the following shall be substituted for subsection (2)—

"(2) If the instrument transferring the shares in company B by way of the exchange is chargeable with stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect."

(7) In section 79 of the Finance Act 1985 (voluntary winding-up: transfer of shares) the following shall be substituted for subsection (2)—

"(2) If the instrument transferring the shares in company B to company A is chargeable with stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, the rate at which the duty is charged under that heading shall be the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect."

(8) In section 78 and in section 79 of the Finance Act 1985—

(a) in subsection (3) for the word "ignored" there shall be substituted the words "treated as reduced by 50 per cent.";
(b) subsection (9) shall be omitted;
(c) in subsection (10) for "(3)" there shall be substituted "(2) or (3)".

(9) This section applies to any instrument which is executed after 24th March 1986 unless—

(a) it is executed in pursuance of an unconditional contract made on or before 18th March 1986, or

(b) it transfers stock or marketable securities and is executed in pursuance of a general offer (for the stock or securities) which became unconditional as to acceptances on or before 18th March 1986.

(10) This section shall be deemed to have come into force on 25th March 1986.

74 Reconstructions etc: repeals

(1) The following provisions shall cease to have effect—

(a) section 55 of the Finance Act 1927 and section 4 of the Finance Act (Northern Ireland) 1928 (reconstructions and amalgamations);

(b) paragraph 12(1) and (1A) of Schedule 18 to the Finance Act 1980 (demergers);

(c) sections 78, 79 and 80 of the Finance Act 1985 (takeovers and winding-up).

(2) In paragraph 12(3) of Schedule 18 to the Finance Act 1980 for the words "sub-paragraph (2) above" there shall be substituted the words "this paragraph".

(3) This section applies to any instrument executed in pursuance of a contract made on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

75 Acquisitions: reliefs

(1) This section applies where a company (the acquiring company) acquires the whole or part of an undertaking of another company (the target company) in pursuance of a scheme for the reconstruction of the target company.

(2) If the first and second conditions (as defined below) are fulfilled, stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument executed for the purposes of or in connection with the transfer of the undertaking or part.

(3) An instrument on which stamp duty is not chargeable by virtue only of subsection (2) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.

(4) The first condition is that the registered office of the acquiring company is in the United Kingdom and that the consideration for the acquisition—

(a) consists of or includes the issue of shares in the acquiring company to all the shareholders of the target company;

(b) includes nothing else (if anything) but the assumption or discharge by the acquiring company of liabilities of the target company.

(5) The second condition is that—

(a) the acquisition is effected for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to stamp duty, income tax, corporation tax or capital gains tax,

(b) after the acquisition has been made, each shareholder of each of the companies is a shareholder of the other, and

(c) after the acquisition has been made, the proportion of shares of one of the companies held by any shareholder is the same as the proportion of shares of the other company held by that shareholder.

(6) This section applies to any instrument which is executed after 24th March 1986 unless it is executed in pursuance of an unconditional contract made on or before 18th March 1986.

(7) This section shall be deemed to have come into force on 25th March 1986.

76 Acquisitions: further provisions about reliefs

(1) This section applies where a company (the acquiring company) acquires the whole or part of an undertaking of another company (the target company).

(2) If the condition mentioned in subsection (3) below is fulfilled, and stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891 is chargeable on an instrument executed for the purposes of or in connection with—

(a) the transfer of the undertaking or part, or

(b) the assignment to the acquiring company by a creditor of the target company of any relevant debts (secured or unsecured) owed by the target company,

the rate at which the duty is charged under that heading shall not exceed that mentioned in subsection (4) below.

(3) The condition is that the registered office of the acquiring company is in the United Kingdom and that the consideration for the acquisition—

(a) consists of or includes the issue of shares in the acquiring company to the target company or to all or any of its shareholders;

(b) includes nothing else (if anything) but cash not exceeding 10 per cent, of the nominal value of those shares, or the assumption or discharge by the acquiring company of liabilities of the target company, or both.

(4) The rate is the rate of 50p for every £100 or part of £100 of the amount or value of the consideration for the sale to which the instrument gives effect.

(5) An instrument on which, by virtue only of subsection (2) above, the rate at which stamp duty is charged is not to exceed that mentioned in subsection (4) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for subsection (2) above or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is duly stamped.

(6) In subsection (2)(b) above "relevant debts" means—

(a) any debt in the case of which the assignor is a bank or trade creditor, and

(b) any other debt incurred not less than two years before the date on which the instrument is executed.

(7) This section applies to any instrument executed on or after the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished.

77 Acquisition of target company's share capital

(1) Stamp duty under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument transferring shares in one company (the target company) to another company (the acquiring company) if the conditions mentioned in subsection (3) below are fulfilled.

(2) An instrument on which stamp duty is not chargeable by virtue only of subsection (1) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.

(3) The conditions are that—

(a) the registered office of the acquiring company is in the United Kingdom,

(b) the transfer forms part of an arrangement by which the acquiring company acquires the whole of the issued share capital of the target company,

(c) the acquisition is effected for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to stamp duty, stamp duty reserve tax, income tax, corporation tax or capital gains tax,

(d) the consideration for the acquisition consists only of the issue of shares in the acquiring company to the shareholders of the target company,

(e) after the acquisition has been made, each person who immediately before it was made was a shareholder of the target company is a shareholder of the acquiring company,

(f) after the acquisition has been made, the shares in the acquiring company are of the same classes as were the shares in the target company immediately before the acquisition was made,

(g) after the acquisition has been made, the number of shares of any particular class in the acquiring company bears to all the shares in that company the same proportion as the number of shares of that class in the target company bore to all the shares in that company immediately before the acquisition was made, and

(h) after the acquisition has been made, the proportion of shares of any particular class in the acquiring company held by any particular shareholder is the same as the proportion of shares of that class in the target company held by him immediately before the acquisition was made.

(4) In this section references to shares and to share capital include references to stock.

(5) This section applies to any instrument executed on or after 1st August 1986.