



Finance Act 1991

1991 CHAPTER 31

PART IV

STAMP DUTY AND STAMP DUTY RESERVE TAX

110 Stamp duty abolished in certain cases

- (1) This section applies where—
 - (a) apart from this section stamp duty under any of the headings mentioned in subsection (3) below would be chargeable on an instrument to which this section applies, and
 - (b) the condition mentioned in subsection (4) below is fulfilled.
- (2) In such a case stamp duty under the heading concerned shall not be chargeable on the instrument.
- (3) The headings are the following headings in Schedule 1 to the Stamp Act 1891—
 - (a) the heading “conveyance or transfer on sale”;
 - (b) the heading “conveyance or transfer of any kind not hereinbefore described”;
 - (c) the heading beginning “declaration of any use or trust”;
 - (d) the heading beginning “disposition in Scotland of any property”;
 - (e) the heading “exchange or excambion”;
 - (f) the heading “partition or division”;
 - (g) the heading “release or renunciation of any property, or of any right or interest in any property”;
 - (h) the heading “surrender”.
- (4) The condition is that the property concerned consists entirely of exempt property; and as regards the heading “exchange or excambion” the reference here to the property concerned is to all property subject to any part of the exchange.
- (5) For the purposes of this section exempt property is property other than—
 - (a) land,

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- (b) an interest in the proceeds of the sale of land held on trust for sale, or
 - (c) a licence to occupy land.
- (6) This section applies to—
- (a) an instrument executed in pursuance of a contract made on or after the abolition day;
 - (b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.
- (7) For the purposes of this section the abolition day is such day as may be appointed under section 111(1) of the Finance Act 1990 (abolition of stamp duty for securities etc).

111 Stamp duty reduced in certain cases

- (1) This section applies where—
- (a) stamp duty under the heading “conveyance or transfer on sale” in Schedule 1 to the Stamp Act 1891 is chargeable on an instrument to which this section applies, and
 - (b) part of the property concerned consists of exempt property.
- (2) In such a case—
- (a) the consideration in respect of which duty would be charged (apart from this section) shall be apportioned, on such basis as is just and reasonable, as between the part of the property which consists of exempt property and the part which does not, and
 - (b) the instrument shall be charged only in respect of the consideration attributed to such of the property as is not exempt property.
- (3) In this section “exempt property” has the same meaning as in section 110 above.
- (4) This section applies to—
- (a) an instrument executed in pursuance of a contract made on or after the abolition day;
 - (b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.
- (5) In this section “the abolition day” has the same meaning as in section 110 above.

112 Apportionment of consideration for stamp duty purposes

- (1) Subsection (2) below applies where part of the property referred to in section 58(1) of the Stamp Act 1891 (consideration to be apportioned between different instruments as parties think fit) consists of exempt property.
- (2) Section 58(1) shall have effect as if “the parties think fit” read “is just and reasonable”.
- (3) Subsection (4) below applies where—
- (a) part of the property referred to in section 58(2) of the Stamp Act 1891 (property contracted to be purchased by two or more persons etc.) consists of exempt property, and
 - (b) both or (as the case may be) all the relevant persons are connected with one another.

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- (4) Section 58(2) shall have effect as if the words from “for distinct parts of the consideration” to the end of the subsection read “, the consideration is to be apportioned in such manner as is just and reasonable, so that a distinct consideration for each separate part or parcel is set forth in the conveyance relating thereto, and such conveyance is to be charged with *ad valorem* duty in respect of such distinct consideration.”
- (5) In a case where subsection (2) or (4) above applies and the consideration is apportioned in a manner that is not just and reasonable, the enactments relating to stamp duty shall have effect as if—
- (a) the consideration had been apportioned in a manner that is just and reasonable, and
 - (b) the amount of any distinct consideration set forth in any conveyance relating to a separate part or parcel of property were such amount as is found by a just and reasonable apportionment (and not the amount actually set forth).
- (6) In this section “exempt property” has the same meaning as in section 110 above.
- (7) For the purposes of subsection (3) above—
- (a) a person is a relevant person if he is a person by or for whom the property is contracted to be purchased;
 - (b) the question whether persons are connected with one another shall be determined in accordance with section 839 of the Taxes Act 1988.
- (8) This section applies where the contract concerned is made on or after the abolition day.
- (9) In this section “the abolition day” has the same meaning as in section 110 above.

113 Certification of instruments for stamp duty purposes

- (1) Section 34 of the Finance Act 1958 and section 7 of the Finance Act (Northern Ireland) 1958 shall be amended as mentioned in subsections (2) and (3) below.
- (2) In subsection (4) of each of those sections (certification of instrument at a particular amount) the following paragraph shall be substituted for paragraph (a)—
- “(a) any sale or contract or agreement for the sale of exempt property shall be disregarded; and”.
- (3) In each of those sections the following subsection shall be inserted after subsection (4) —
- “(4A) In subsection (4) above “exempt property” has the same meaning as in section 110 of the Finance Act 1991.”
- (4) This section applies to—
- (a) an instrument executed in pursuance of a contract made on or after the abolition day;
 - (b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.
- (5) In this section “the abolition day” has the same meaning as in section 110 above.

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114 Acquisition under statute: exempt property

- (1) Section 36 of the Finance Act 1949 and section 9 of the Finance Act (Northern Ireland) 1949 shall be amended as mentioned in subsections (2) and (3) below.
- (2) In subsection (4) of each of those sections (goods not affected by section 12 of the Finance Act 1895, which relates to duty on property acquired under statute) for the words “goods, wares or merchandise” (in each place where they occur) there shall be substituted the words “exempt property”.
- (3) In each of those sections the following subsection shall be inserted after subsection (4)
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 - “(5) In subsection (4) above “exempt property” has the same meaning as in section 110 of the Finance Act 1991.”
- (4) This section applies where the Act mentioned in section 12 of the Finance Act 1895, and by virtue of which property is vested or a person is authorised to purchase property, is passed on or after the abolition day.
- (5) In this section “the abolition day” has the same meaning as in section 110 above.

115 Northern Ireland bank notes: duty abolished

- (1) In its application to Northern Ireland, the Stamp Act 1891 shall have effect with the omission from Schedule 1 of the heading “bank note”.
- (2) The licences required to be taken out under the Bankers' Composition (Ireland) Act 1828 (licences for bankers in Northern Ireland issuing certain promissory notes) are hereby abolished.
- (3) This section takes effect on 1st January 1992.

116 Investment exchanges and clearing houses: stamp duty

- (1) The Treasury may make regulations providing as mentioned in this section with regard to any circumstances which—
 - (a) would (apart from the regulations) give rise to a charge to stamp duty,
 - (b) involve a prescribed recognised investment exchange or a prescribed recognised clearing house, or a member or nominee (or member or nominee of a prescribed description) of such an exchange, or a nominee (or nominee of a prescribed description) of such a clearing house, or a nominee (or nominee of a prescribed description) of a member of such an exchange, and
 - (c) are such as are prescribed.
- (2) The regulations may provide that the charge to stamp duty shall be treated as not arising or (depending on the terms of the regulations) as reduced.
- (3) Regulations under this section—
 - (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons;
 - (b) may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient;
 - (c) may make different provision for different circumstances;

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- (d) may make any provision in such way as the Treasury think fit (whether by amending enactments or otherwise).
- (4) In this section—
- (a) “prescribed” means prescribed by the regulations,
 - (b) “recognised investment exchange” means a recognised investment exchange within the meaning of the Financial Services Act 1986, and
 - (c) “recognised clearing house” means a recognised clearing house within the meaning of that Act.

117 Investment exchanges and clearing houses: SDRT

- (1) The Treasury may make regulations providing as mentioned in this section with regard to any circumstances which—
 - (a) would (apart from the regulations) give rise to a charge to stamp duty reserve tax,
 - (b) involve a prescribed recognised investment exchange or a prescribed recognised clearing house, or a member or nominee (or member or nominee of a prescribed description) of such an exchange, or a nominee (or nominee of a prescribed description) of such a clearing house, or a nominee (or nominee of a prescribed description) of a member of such an exchange, and
 - (c) are such as are prescribed.
- (2) The regulations may provide that the charge to stamp duty reserve tax shall be treated as not arising or (depending on the terms of the regulations) as reduced.
- (3) Subsections (3) and (4) of section 116 above shall apply for the purposes of this section as they apply for the purposes of that.