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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Part 2. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 10

#### STAMP DUTY LAND TAX: MISCELLANEOUS AMENDMENTS

##### PART 2

###### AMENDMENTS COMING INTO FORCE IN ACCORDANCE WITH PARAGRAPH 22

###### *Introduction*

- 17 Part 4 of FA 2003 (stamp duty land tax) is amended in accordance with this Part of this Schedule.

###### *Transfers involving public bodies*

- 18 In section 66 of FA 2003 (transfers involving public bodies) after subsection (5) insert—

“(6) In this section “company” means a company as defined by section 735(1) of the Companies Act 1985 or Article 3(1) of the Companies (Northern Ireland) Order 1986.”

###### *Group relief: avoidance arrangements*

- 19 In paragraph 2 of Schedule 7 (restrictions on availability of group relief) after sub-paragraph (4) insert—

“(4A) Group relief is not available if the transaction—

- (a) is not effected for bona fide commercial reasons, or
- (b) forms part of arrangements of which the main purpose, or one of the main purposes, is the avoidance of liability to tax.

“Tax” here means stamp duty, income tax, corporation tax, capital gains tax or tax under this Part.”

###### *Acquisition relief: avoidance arrangements*

- 20 In paragraph 8 of Schedule 7 (acquisition relief)—  
(a) for sub-paragraph (5) substitute—

“(5) For this purpose companies are associated if one has control of the other or both are controlled by the same person or persons.

The reference to control shall be construed in accordance with section 416 of the Taxes Act 1988.”, and

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- (b) after sub-paragraph (5A) (inserted by paragraph 8 of this Schedule) insert—

“(5B) The fourth condition is that the acquisition is effected for bona fide commercial reasons and does not form part of arrangements of which the main purpose, or one of the main purposes, is the avoidance of liability to tax.

“Tax” here means stamp duty, income tax, corporation tax, capital gains tax or tax under this Part.

(5C) In this paragraph “arrangements” include any scheme, agreement or understanding, whether or not legally enforceable.”

*Stamp duty on transfers of partnership interests*

- 21 (1) In Schedule 15 (stamp duty land tax: partnerships), paragraph 33 (which relates to stamp duty on transfers of partnership interests) is amended as follows.

- (2) For sub-paragraphs (1) and (2) substitute—

“(1) This paragraph applies where stamp duty under Part 1 of Schedule 13 to the Finance Act 1999 (transfer on sale) is, apart from this paragraph, chargeable on an instrument effecting a transfer of an interest in a partnership.

(1A) If the relevant partnership property does not include any stock or marketable securities, no stamp duty shall (subject to sub-paragraph (8)) be chargeable on the instrument.”

- (3) In sub-paragraph (3)—

(a) at the beginning insert “ If the relevant partnership property includes stock or marketable securities, ”,

(b) in paragraph (a), for the words from “the stock” to “property” substitute “ that stock and those securities ”, and

- (c) for paragraph (b) substitute—

“(b) the consideration for the transfer were equal to the appropriate proportion of the net market value of that stock and those securities immediately after the transfer.”

- (4) After sub-paragraph (3) insert—

“(3A) The “relevant partnership property”, in relation to a transfer of an interest in a partnership, is the partnership property immediately after the transfer, other than any partnership property that was transferred to the partnership in connection with the transfer.”

- (5) Omit sub-paragraph (4).

- (6) In sub-paragraph (5), for “That” substitute “ The appropriate ”.

*Commencement*

- 22 (1) Subject to sub-paragraph (2), paragraphs 18 to 20 have effect in relation to any transaction of which the effective date is on or after the day on which this Act is passed.

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- (2) Paragraphs 19 and 20 do not have effect—
  - (a) in relation to any transaction which is effected in pursuance of a contract entered into and substantially performed on or before 16th March 2005, or
  - (b) (subject to sub-paragraph (3)) in relation to any other transaction which is effected in pursuance of a contract entered into on or before that date.
- (3) The exclusion by sub-paragraph (2)(b) of transactions effected in pursuance of contracts entered into on or before 16th March 2005 does not apply—
  - (a) if there is any variation of the contract or assignment of rights under the contract after that date,
  - (b) if the transaction is effected in consequence of the exercise after that date of any option, right of pre-emption or similar right, or
  - (c) if after that date there is an assignment, 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 to him.
- (4) Paragraph 21 has effect in relation to any instrument executed on or after the day on which this Act is passed.
- (5) In this paragraph “assignment”, “effective date” and “substantially performed” have the same meaning as in Part 4 of FA 2003.

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