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

SCHEDULES

SCHEDULE 8

STAMP DUTY LAND TAX: ALTERNATIVE PROPERTY FINANCE

Alternative property finance: England and Wales and Northern Ireland

2 After section 71 insert—

“71A Alternative property finance: land sold to financial institution and leased to individual

- (1) This section applies where arrangements are entered into between an individual and a financial institution under which—
 - (a) the institution purchases a major interest in land or an undivided share of a major interest in land (“the first transaction”),
 - (b) where the interest purchased is an undivided share, the major interest is held on trust for the institution and the individual as beneficial tenants in common,
 - (c) the institution (or the person holding the land on trust as mentioned in paragraph (b)) grants to the individual out of the major interest a lease (if the major interest is freehold) or a sub-lease (if the major interest is leasehold) (“the second transaction”), and
 - (d) the institution and the individual enter into an agreement under which the individual has a right to require the institution or its successor in title to transfer to the individual (in one transaction or a series of transactions) the whole interest purchased by the institution under the first transaction.
- (2) The first transaction is exempt from charge if the vendor is—
 - (a) the individual, or
 - (b) another financial institution by whom the interest was acquired under arrangements of the kind mentioned in subsection (1) entered into between it and the individual.
- (3) The second transaction is exempt from charge if the provisions of this Part relating to the first transaction are complied with (including the payment of any tax chargeable).
- (4) Any transfer to the individual that results from the exercise of the right mentioned in subsection (1)(d) (“a further transaction”) is exempt from charge if—
 - (a) the provisions of this Part relating to the first and second transactions are complied with, and
 - (b) at all times between the second transaction and the further transaction—

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- (i) the interest purchased under the first transaction is held by a financial institution so far as not transferred by a previous further transaction, and
 - (ii) the lease or sub-lease granted under the second transaction is held by the individual.
- (5) The agreement mentioned in subsection (1)(d) 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 44(5) does not apply), or
 - (b) as a distinct land transaction by virtue of section 46 (options and rights of pre-emption).
- (6) The requirements of subsection (1), or (4)(b)(ii), are not met if—
- (a) the individual enters into the arrangement, or holds the lease or sub-lease, as trustee and any beneficiary of the trust is not an individual, or
 - (b) the individual enters into the arrangements, or holds the lease or sub-lease, as partner and any of the other partners is not an individual.
- (7) A further transaction that is exempt from charge by virtue of subsection (4) is not a notifiable transaction unless the transaction involves the transfer to the individual of the whole interest purchased by the institution under the first transaction, so far as not transferred by a previous further transaction.
- (8) In this section “financial institution” means—
- (a) a bank within the meaning of section 840A of the Taxes Act 1988,
 - (b) a building society within the meaning of the Building Societies Act 1986, or
 - (c) a wholly-owned subsidiary of a bank within paragraph (a) or a building society within paragraph (b).
- For the purposes of paragraph (c) a company is a wholly-owned subsidiary of a bank or building society if it has no members except the parent and the parent's wholly-owned subsidiaries or persons acting on behalf of the parent or the parent's wholly-owned subsidiaries.
- (9) References in this section to an individual shall be read, in relation to times after the death of the individual concerned, as references to his personal representatives.
- (10) This section does not apply in relation to land in Scotland.”

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