

SCHEDULES

SCHEDULE 7

Sections 51(5), 65(5)

TRANSFER SCHEMES: TAX

Overview

- 1 This Schedule makes provision about the fiscal effect of transfers under schemes made under sections 51 and 65.

Key concepts

- 2 (1) In this Schedule—
- (a) “transfer scheme” means a scheme under section 51 or 65, and
 - (b) “transfer” means a transfer under a transfer scheme.
- (2) In this Schedule “transfer between bodies” means a transfer—
- (a) from the Urban Regeneration Agency, the Commission for the New Towns or the Housing Corporation, and
 - (b) to the HCA or the Regulator of Social Housing.
- (3) In this Schedule “transfer to government” means a transfer to—
- (a) a Minister of the Crown, or
 - (b) the Welsh Ministers.

Other definitions

- 3 (1) In this Schedule—
- (a) ICTA means the Income and Corporation Taxes Act 1988 (c. 1),
 - (b) TCGA means the Taxation of Chargeable Gains Act 1992 (c. 12),
 - (c) FA 1996 means the Finance Act 1996 (c. 8),
 - (d) FA 2002 means the Finance Act 2002 (c. 23), and
 - (e) HMRC means the Commissioners for Her Majesty’s Revenue and Customs.
- (2) In this Schedule a reference to a trade includes a reference to part of a trade.

Corporation tax: continuity of trade

- 4 (1) This paragraph applies if as the result of a transfer scheme—
- (a) a transferor ceases a trade, and
 - (b) a transferee commences it.
- (2) In connection with the computation of profits and losses for the purpose of corporation tax in respect of periods wholly or partly after the commencement of the transfer scheme—
- (a) the transferee shall be treated as having always carried on the trade, and

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- (b) the trade shall be considered separately from any other trade of the transferee (with any necessary apportionment being made).

Corporation tax: capital allowances

- 5 (1) This paragraph applies in respect of property transferred under a transfer scheme from—
 - (a) the Urban Regeneration Agency, or
 - (b) the Commission for the New Towns.
- (2) Where the property was used by the transferor, and is to be used by the transferee, in connection with a trade, section 343(2) of ICTA (company reconstructions: capital allowances) shall apply.
- 6 The following transfers shall be treated as giving rise to neither allowance nor charge for the purposes of capital allowances in respect of a trade (and allowances shall be calculated as if the transferee had always carried on the trade)—
 - (a) a transfer from the Housing Corporation, and
 - (b) a transfer to government.

Corporation tax: capital gains

- 7 (1) This paragraph applies in respect of property transferred under a transfer scheme from—
 - (a) the Urban Regeneration Agency,
 - (b) the Commission for the New Towns, or
 - (c) the Housing Corporation.
- (2) Section 17 of TCGA (disposals and acquisitions treated as at market value) shall not apply.
- (3) For the purposes of TCGA the transfer (in relation to the transferor and the transferee) is to be taken as being a disposal for a consideration such that neither gain nor loss accrues.
- 8 A transfer shall be disregarded for the purposes of section 30 of TCGA (value-shifting: tax-free benefits).
- 9 At the end of section 35(3)(d) of TCGA (re-basing to 1982) add—

“(xviii) Schedule 7 to the Housing and Regeneration Act 2008.”

Corporation tax: intangible assets

- 10 (1) This paragraph applies for the purposes of Schedule 29 to FA 2002 (intangible assets).
- (2) Expressions used in this paragraph have the same meaning as in that Schedule.
- (3) A transfer between bodies of a chargeable intangible asset is a tax-neutral transfer.
- (4) An intangible fixed asset which is an existing asset of the transferor at the time of a transfer between bodies is to be treated, on and after the transfer, as an existing asset of the transferee.

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- (5) A transfer to government of a chargeable intangible asset is to be treated as not involving a realisation of the asset by the transferor.

Corporation tax: loan relationships

- 11 (1) If as a result of a transfer the transferee replaces the transferor as a party to a loan relationship, paragraph 12(2) of Schedule 9 to FA 1996 (transfer within group: continuity of treatment) shall apply (whether or not the transferor and transferee are bodies corporate).
- (2) Expressions used in this paragraph have the same meaning as in that Schedule.

Stamp duty

- 12 (1) Stamp duty shall not be chargeable on a transfer scheme.
- (2) Stamp duty shall not be chargeable on a document certified by HMRC as connected with a transfer scheme.
- (3) A document which is not chargeable by virtue of this paragraph must be stamped in accordance with section 12 of the Stamp Act 1891 (c. 39) with a stamp denoting that it is not chargeable.