

SCHEDULES

SCHEDULE 31

Section 97

STAMP DUTY LAND TAX: SPECIAL PROVISIONS FOR PROPERTY-INVESTMENT PARTNERSHIPS

PART 1

TRANSFER OF INTEREST IN PARTNERSHIP: “RELEVANT PARTNERSHIP PROPERTY”

Paragraph 14 of Schedule 15 to FA 2003

1 (1) Paragraph 14 of Schedule 15 to FA 2003 (transfer of interest in property-investment partnership) is amended as follows.

(2) After sub-paragraph (3) insert—

“(3A) A transfer to which this paragraph applies is a Type A transfer if it takes the form of arrangements entered into under which—

- (a) the whole or part of a partner’s interest as partner is acquired by another person (who may be an existing partner), and
- (b) consideration in money or money’s worth is given by or on behalf of the person acquiring the interest.

(3B) A transfer to which this paragraph applies is also a Type A transfer if it takes the form of arrangements entered into under which—

- (a) a person becomes a partner,
- (b) the interest of an existing partner in the partnership is reduced or an existing partner ceases to be a partner, and
- (c) there is a withdrawal of money or money’s worth from the partnership by the existing partner mentioned in paragraph (b) (other than money or money’s worth paid from the resources available to the partnership prior to the transfer).

(3C) Any other transfer to which this paragraph applies is a Type B transfer.”

(3) In sub-paragraph (5)—

- (a) for “a transfer” substitute “a Type A transfer”,
- (b) in paragraph (a), after “any” insert “chargeable”, and
- (c) at the end insert “, and
 - (c) any chargeable interest that is not attributable economically to the interest in the partnership that is transferred.”

(4) After that sub-paragraph insert—

“(5A) The “relevant partnership property”, in relation to a Type B transfer of an interest in a partnership, is every chargeable interest held as partnership property immediately after the transfer, other than—

Status: This is the original version (as it was originally enacted).

- (a) any chargeable interest that was transferred to the partnership in connection with the transfer,
- (b) a lease to which paragraph 15 (exclusion of market rent leases) applies,
- (c) any chargeable interest that is not attributable economically to the interest in the partnership that is transferred,
- (d) any chargeable interest that was transferred to the partnership on or before 22 July 2004,
- (e) any chargeable interest in respect of whose transfer to the partnership an election has been made under paragraph 12A, and
- (f) any other chargeable interest whose transfer to the partnership did not fall within paragraph 10(1)(a), (b) or (c).”

Consequential provision

- 2 In paragraph 15(1) of that Schedule (exclusion of market rent leases), after “14(5)” insert “or (5A)”.
- 3 In paragraph 16(2) of that Schedule (application of provisions about exchanges etc), after “14(5)” insert “or (5A) (as appropriate)”.
- 4 In paragraph 26(9) of that Schedule (application of disadvantaged areas relief), in the definition of “the relevant partnership property” in the sub-paragraph (1A) inserted by that sub-paragraph, after “14(5)” insert “or (5A) (as appropriate)”.

PART 2

ELECTIONS IN RESPECT OF INTEREST TRANSFERRED TO PARTNERSHIP

Election when interest transferred to partnership

- 5 In paragraph 10 of Schedule 15 to FA 2003 (transfer of chargeable interest to partnership: general) insert at the end—
“ (8) This paragraph has effect subject to any election under paragraph 12A.”
- 6 After paragraph 12 insert—

“Election by property-investment partnership to disapply paragraph 10

- 12A (1) Paragraph 10 does not apply to a transfer of a chargeable interest to a property-investment partnership if the purchaser in relation to the transaction elects for that paragraph not to apply.
- (2) Where an election under this paragraph is made in respect of a transaction—
- (a) paragraph 18 (if relevant) is also disapplied,
 - (b) the chargeable consideration for the transaction shall be taken to be the market value of the chargeable interest transferred, and
 - (c) the transaction falls within Part 2 of this Schedule.

- (3) An election under this paragraph must be included in the land transaction return made in respect of the transaction or in an amendment of that return.
- (4) Such an election is irrevocable and a land transaction return may not be amended so as to withdraw the election.
- (5) Where an election under this paragraph in respect of a transaction (the “main transaction”) is made in an amendment of a land transaction return—
- (a) the election has effect as if it had been made on the date on which the land transaction return was made, and
 - (b) any land transaction return in respect of an affected transaction may be amended (within the period allowed for amendment of that return) to take account of that election.
- (6) In sub-paragraph (5) “affected transaction”, in relation to the main transaction, means a transaction—
- (a) to which paragraph 14 applied, and
 - (b) with an effective date on or after the effective date of the main transaction.
- (7) In this paragraph “property-investment partnership” has the meaning given in paragraph 14(8).”

7 In paragraph 18 of that Schedule (transfer of chargeable interest from a partnership) insert at the end—

“(8) This paragraph has effect subject to any election under paragraph 12A.”

Consequential provision

8 In paragraph 17A(1) of that Schedule (withdrawal of money etc from partnership after transfer of chargeable interest), after paragraph (c) insert—

“(d) at the time of the qualifying event, an election has not been made in respect of the land transfer under paragraph 12A.”

9 In paragraph 26(8) of that Schedule (application of disadvantaged areas relief), in the substituted paragraph (10)—

- (a) in sub-paragraph (2), insert at the end “(subject to any election under paragraph 12A)”, and
- (b) in sub-paragraph (4), insert at the end “(subject to any election under paragraph 12A)”.

PART 3

TRANSITIONAL PROVISION

10 Omit section 72(14) of FA 2007 (saving relating to changes to Part 3 of Schedule 15 to FA 2003).

11 (1) This paragraph applies in the case of a transfer of a chargeable interest to a partnership falling within paragraph 10(1)(a), (b) or (c) of Schedule 15 to FA 2003 where the effective date of the transaction is before the day on which this Act is passed.

Status: This is the original version (as it was originally enacted).

- (2) The purchaser in relation to the transaction may at any time before the end of the period of 12 months beginning with that day amend the land transaction return in respect of that transaction so as to make an election under paragraph 12A of Schedule 15 to FA 2003 (inserted by this Schedule).
- (3) An election made in reliance on sub-paragraph (2) has effect as if it had been made on the date on which the land transaction return was made, even though paragraph 12A of Schedule 15 to FA 2003 was not in force at that time.
- (4) Where an election is made in reliance on sub-paragraph (2), the power under paragraph 12A(5)(b) of Schedule 15 to FA 2003 to amend a land transaction return in respect of an affected transaction to take account of that election may be exercised at any time before the end of the period of 12 months beginning with the day on which this Act is passed.