

FINANCE ACT 2009

EXPLANATORY NOTES

INTRODUCTION

Section 80: Stamp Duty Land Tax: Exercise of Collective Rights by Tenants of Flats

Summary

1. [Section 80](#) provides for the stamp duty land tax relief at section 74 of the Finance Act (FA) 2003 to be amended to remove the references to a statutory right to enfranchise (RTE) company.

Details of the Section

2. Subsection (2) substitutes a new subsection (1) of section 74 of FA 2003, so that the section applies where a chargeable transaction is entered into by a nominee or appointee of qualifying tenants of flats in exercise of rights under Part 1 Landlord and Tenant Act 1987 or Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993.
3. Subsection (3) amends subsection (2) of section 74 of FA 2003, to provide that the rate of tax is determined by dividing the consideration for the transaction by the number of qualifying flats.
4. Subsection (4) substitutes a new subsection (4) into section 74 of FA 2003, to define “flat”, “qualifying tenant” and “qualifying flat”.
5. Subsection (6) amends a reference to section 74 in section 55 of FA 2003 (which determines the amount of tax chargeable) to reflect the amended heading.

Background Note

6. Leaseholders in blocks of flats have certain statutory rights to acquire the freehold of the block. These are a right of first refusal if the landlord wishes to sell (under Part 1 of the Landlord and Tenant Act 1987) and a right to require the landlord to sell the freehold if a majority of the leaseholders request it (under Chapter 1 of Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993). These acquisitions are undertaken by nominees or appointees (either an individual or a company) on behalf of the participating leaseholders.
7. Stamp duty land tax (SDLT) is charged at higher rates for higher levels of consideration. This means that individual leaseholders may pay a higher rate of SDLT in respect of their contribution to the purchase than would be the case if they were able to purchase the freehold of their individual flat.
8. SDLT legislation therefore includes a relief which sets the rate of tax charged according to the consideration given for the freehold divided by the number of flats in respect of which the right is being exercised.

*These notes refer to the Finance Act 2009 (c.10)
which received Royal Assent on 21 July 2009*

9. When SDLT was introduced, legislation was being enacted to provide that the right under the 1993 Act must be exercised by a statutory Right to Enfranchise (RTE) company. The relief therefore refers to purchases by a RTE company. However, the RTE company provisions have never been commenced, so the SDLT relief could not be claimed.
10. This section removes the references to RTE companies and allows the relief to be claimed.