

## SCHEDULES

### SCHEDULE 39

Section 195

#### STAMP DUTY LAND TAX: TRANSACTIONS ENTERED INTO BEFORE COMPLETION OF CONTRACT

- 1 Part 4 of FA 2003 (stamp duty land tax) is amended as follows.
- 2 For section 45 (contract and conveyance: effect of transfer of rights) substitute—

**“45 Transactions entered into before completion of contract**

Schedule 2A contains—

- (a) provision about the application of section 44 (contract and conveyance) in certain cases where an assignment of rights, subsale or other transaction is entered into without the contract having been completed, and
- (b) other provision about such cases.”

- 3 After Schedule 2 insert—

“SCHEDULE  
2A

#### TRANSACTIONS ENTERED INTO BEFORE COMPLETION OF CONTRACT

*Pre-completion transactions*

- 1 (1) This Schedule applies where—
- (a) a person (“the original purchaser”) enters into a contract (“the original contract”) for the acquisition by that person of a chargeable interest under which the acquisition is to be completed by a conveyance, and
- (b) there is a pre-completion transaction.
- (2) A transaction is a “pre-completion transaction” for the purposes of subparagraph (1) if—
- (a) as a result of the transaction a person other than the original purchaser (“the transferee”) becomes entitled to call for a conveyance to that person of the whole or part of the subject-matter of the original contract, and
- (b) immediately before the transaction took place a person was entitled under the original contract to call for a conveyance of the whole or part of that subject-matter.
- (3) A transaction that effects a person's acquisition of the whole or part of the subject-matter of the original contract is not a pre-completion transaction.
- (4) The grant or assignment of an option is not a pre-completion transaction.

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- (5) The fact that a transaction has the effect of discharging the original contract does not prevent that transaction from being a pre-completion transaction.
- (6) The reference in sub-paragraph (1)(a) to a contract does not include a contract that is an assignment of rights in relation to another contract.
- (7) In this Schedule references to “part of the subject-matter of the original contract”—
  - (a) are to a chargeable interest that is the same as the chargeable interest referred to in sub-paragraph (1)(a) except that it relates to part only of the land concerned, and
  - (b) also include, so far as is appropriate, interests or rights appurtenant or pertaining to the chargeable interest.
- (8) This Schedule does not apply where paragraph 12B of Schedule 17A (assignment of agreement for lease) applies.

*Other key expressions*

- 2 (1) A pre-completion transaction is an “assignment of rights” if the entitlement of the transferee referred to in paragraph 1(2)(a) is an entitlement to exercise rights under the original contract.
- (2) A pre-completion transaction other than an assignment of rights is referred to in this Schedule as a “free-standing transfer”.
- (3) In this Schedule “the transferor”, in relation to a pre-completion transaction, means a party to the pre-completion transaction who immediately before the pre-completion transaction took place was entitled to call for a conveyance of (what became) the subject-matter of the pre-completion transaction.
- (4) References in this Schedule to the “subject-matter” of a pre-completion transaction—
  - (a) are to the chargeable interest the conveyance of which the transferee is entitled to call for as a result of the pre-completion transaction, and
  - (b) include, so far as appropriate, any interest or right appurtenant or pertaining to the chargeable interest.

*Tax not charged on transferee by reason of the pre-completion transaction*

- 3 The transferee is not regarded as entering into a land transaction by reason of the pre-completion transaction.

*Assignments of rights: application of rules about completion and consideration*

- 4 (1) This paragraph applies if the pre-completion transaction is an assignment of rights.
- (2) If the subject-matter of the original contract is conveyed to the transferee, the conveyance is taken to effect the completion of the original contract (despite section 44(10)).
- (3) Sub-paragraphs (4) to (6) apply if—

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- (a) the subject-matter of the original contract is conveyed to the transferee, or
  - (b) the original contract is substantially performed by the transferee.
- (4) The transferee is taken to be the purchaser under the land transaction effected as mentioned in section 44(3), or treated as effected under section 44(4).
- (5) For the purpose of determining the chargeable consideration for that land transaction, the land transaction is taken to give effect to a contract the consideration under which is—
  - (a) the consideration under the original contract, and
  - (b) the consideration for the assignment of rights.Paragraph 1 of Schedule 4 has effect accordingly (but this sub-paragraph does not allow any amount of consideration given by a person to be counted twice in determining the chargeable consideration).
- (6) In any case in which there is a relevant connection between parties as mentioned in paragraph 12(2) (minimum consideration rule), the chargeable consideration for the land transaction mentioned in sub-paragraph (4) of this paragraph is calculated (regardless of whether the consideration is taken to be the amount in paragraph (a), (b) or (c) of sub-paragraph 12(2)), as if in paragraph 1(1) of Schedule 4 the words, “or a person connected with him” were omitted.
- (7) The original contract is said to be “substantially performed by the transferee” where a land transaction is treated under section 44(4) as effected by reason of—
  - (a) the transferee under the assignment of rights, or a person connected with the transferee, taking possession of the whole, or substantially the whole, of the subject-matter of the original contract, or
  - (b) a substantial amount of the consideration being paid or provided by the transferee or a person connected with the transferee, or
  - (c) consideration paid or provided by a person within paragraph (b) amounting, when taken together with consideration paid or provided by another person, to a substantial amount of the consideration.
- (8) References in sub-paragraph (7) to possession and to the payment or provision of a substantial amount of the consideration are to be read in accordance with section 44(6) and (7).
- (9) In sub-paragraph (5) “the consideration” —
  - (a) in relation to the land transaction, means (what is to be taken to be) the consideration for the acquisition of the subject-matter of the land transaction;
  - (b) in relation to the original contract, means the consideration for the acquisition of the subject-matter of that contract;
  - (c) in relation to the assignment of rights, means the consideration for the transferee's acquisition of the rights to which that contract relates.

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*Assignment of rights: transferor treated as making separate acquisition*

- 5 (1) Where paragraph 4(4) to (6) applies (assignment of rights: original contract completed or substantially performed) this Part of this Act has effect as if—
- (a) the effective date of the land transaction mentioned in paragraph 4(4) (“the transferee’s land transaction”) were also the effective date of another land transaction (a “notional land transaction”), and
  - (b) the original purchaser were the purchaser under that notional land transaction.

The notional land transaction is referred to below as “associated with” the assignment of rights under which the original purchaser is the transferor.

- (2) Where sub-paragraph (1) applies and the assignment of rights mentioned in paragraph 4(1) (“the implemented assignment of rights”) was preceded by one or more related assignments of rights, then for the purposes of this Part of this Act there is taken to be, for each assignment of rights (other than the first) in the chain formed by the implemented assignment of rights and those preceding assignments of rights, an additional land transaction in the case of which—
- (a) the effective date is the effective date of the transferee’s land transaction, and
  - (b) the purchaser is the transferor under that assignment of rights.

The additional land transaction is referred to below as “associated with” the assignment of rights.

- (3) For the purpose of determining the chargeable consideration for the notional land transaction, Schedule 4 has effect as if paragraph 1(1) of that Schedule provided that the chargeable consideration is (except as otherwise expressly provided) the total of amounts A and B.
- (4) For the purpose of determining the chargeable consideration for any additional land transaction, Schedule 4 has effect as if paragraph 1(1) of that Schedule provided that the chargeable consideration is (except as otherwise expressly provided) the total of amounts A, B and C.

- (5) For the purposes of sub-paragraphs (3) and (4)—
- A is the total amount of any consideration in money or money’s worth given (whether directly or indirectly) by any of the following as consideration under the original contract—
- (a) the transferee under the assignment of rights with which the notional land transaction or (as the case requires) the additional land transaction is associated;
  - (b) where that assignment of rights is one in a chain of successive transactions that are pre-completion transactions in relation to the original contract (all having at least part of their subject-matter in common), the transferee under any subsequent pre-completion transaction in that chain;
  - (c) a person connected with a person falling within paragraph (a) or (b);

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B is the total amount of any other consideration in money or money's worth given as consideration under the original contract (directly or indirectly) by—

- (a) the purchaser (under the notional land transaction or, as the case requires, the additional land transaction), or
- (b) a person connected with the purchaser;

C is the amount of any consideration in money or money's worth given for the preceding assignment of rights by—

- (a) the purchaser (under the additional land transaction), or
- (b) a person connected with the purchaser.

- (6) In the definition of amount C, “the preceding assignment of rights” means the assignment of rights as a result of which the purchaser became entitled to call for a conveyance of (what became) the subject-matter of the assignment of rights associated with the additional land transaction.
- (7) In sub-paragraph (2) “related assignment of rights” means a transaction that is an assignment of rights in relation to the original contract and has some subject-matter in common with the implemented assignment of rights.

*Paragraph 5: effect of rescission etc following substantial performance*

- 6 (1) This paragraph applies where paragraph 5(1) (transferor treated as making separate acquisition) applies by virtue of the substantial performance by the transferee of the original contract.
- (2) If the original contract is (to any extent) subsequently rescinded or annulled, or is for any other reason not carried into effect, the tax paid by virtue of paragraph 5(1), and any tax paid by virtue of paragraph 5(2), must (to that extent) be repaid by HMRC.
- (3) Repayment under sub-paragraph (2) must be claimed by amendment of the land transaction return made in respect of the notional or additional land transaction.

*Assignment of rights relating to part only of subject-matter of original contract*

- 7 Where the transferee under the assignment of rights referred to in paragraph 4(1) is entitled to call for the conveyance of part, but not the whole, of the subject-matter of the original contract—
  - (a) paragraph 4 applies as if the original contract, so far as relating to that part of its subject-matter, were a separate contract, and
  - (b) the references in paragraph 5 to the original contract are to be read accordingly.

*Assignment of rights: references to “the vendor”*

- 8 (1) This paragraph applies where—
  - (a) the pre-completion transaction is an assignment of rights, and
  - (b) either the subject-matter of the original contract is conveyed to the transferee or the original contract is substantially performed by the transferee.

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- (2) This paragraph does not apply if the original contract is itself a free-standing transfer. See paragraphs 10 and 11 for the treatment of such cases.
- (3) In relation to a relevant land transaction, the general rule is that references in this Part of this Act to the vendor are to be read as references to the vendor under the original contract (but see sub-paragraphs (4) and (5)).
- (4) In cases where the original contract was substantially performed before the transferee became entitled to call for a conveyance of the whole or part of the subject-matter of the original contract, references in this Part of this Act to the vendor are to be read as references to the person who was the purchaser under the original contract when it was substantially performed.
- (5) In relation to a relevant land transaction, references to the vendor in the specified provisions (see sub-paragraph (6)) are to be read as including—
  - (a) the vendor under the original contract, and
  - (b) the transferor under any relevant assignment of rights.
- (6) The specified provisions are—
  - (a) section 61(1)(a) (compliance with planning obligations: conditions for exemption);
  - (b) section 66(1) and (2) (transfers involving public bodies);
  - (c) paragraph 8(1)(a) of Schedule 4 (debt as consideration);
  - (d) paragraph 10(2)(c) of Schedule 4 (carrying out of works);
  - (e) paragraph 16 of Schedule 4 (indemnity given by vendor).
- (7) The following are “relevant land transactions”—
  - (a) the land transaction effected by the conveyance mentioned in sub-paragraph (1)(b) or treated as effected by the substantial performance mentioned in that provision;
  - (b) the notional land transaction mentioned in paragraph 5(1)(b) and any additional land transaction under paragraph 5(2).
- (8) In determining under section 108(1) whether or not a relevant land transaction such as is mentioned in sub-paragraph (7)(a) is linked to another transaction, it may be assumed that any of the following is the vendor under the relevant land transaction—
  - (a) the vendor (determined in accordance with sub-paragraph (3)), or
  - (b) the transferor under any relevant assignment of rights.
- (9) The following are “relevant assignments of rights” in relation to a relevant land transaction—
  - (a) the assignment of rights mentioned in sub-paragraph (1)(a);
  - (b) any other transaction that is an assignment of rights in relation to the original contract and has some subject-matter in common with the assignment of rights mentioned in paragraph (a).

*Free-standing transfers: consideration and substantial performance*

- 9 (1) This paragraph applies where the pre-completion transaction is a free-standing transfer.

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- (2) If the transferee acquires the subject-matter of the free-standing transfer, the consideration for the transaction effecting that acquisition is taken to include the consideration given for the free-standing transfer (if that would not otherwise be the case).
- (3) References in sub-paragraph (2) to an acquisition include an acquisition deemed to take place under section 44(4) (and the reference to the transaction effecting that acquisition is read accordingly).
- (4) An action taken by the transferee (or an assignee of the transferee) that would, if taken by the original purchaser, constitute (for the purposes of section 44(5)) the taking of possession of the whole or substantially the whole of the subject-matter of the original contract is treated as effecting the substantial performance of the original contract.
- (5) If a transaction that is a free-standing transfer in relation to a contract is also a free-standing transfer in relation to another contract (in particular, where there have been successive free-standing transfers), each of those contracts may be regarded as “the original contract” for the purposes of separate applications of sub-paragraph (4).
- (6) In sub-paragraph (4)—
  - (a) the reference to the transferee includes a person connected with the transferee, and
  - (b) the reference to an assignee of the transferee includes a person connected with such a person.
- (7) References in this paragraph to an assignee of the transferee are to a person who, as a result of a transaction that is an assignment of rights in relation to the free-standing transfer, is entitled to call for a conveyance of the whole or part of the subject-matter of the free-standing transfer.

*Meaning of “the vendor”: cases involving free-standing transfers*

- 10 (1) This paragraph applies where—
  - (a) a land transaction is effected, or treated as effected, by an acquisition falling within paragraph 9(2) (read with paragraph 9(3)), or
  - (b) paragraph 8(1) (meaning of “vendor” where the transferee is the assignee under an assignment of rights) would apply but for paragraph 8(2) (exclusion of cases where the original contract is itself a free-standing transfer).
- (2) In this paragraph “the relevant land transaction” means the land transaction—
  - (a) mentioned in sub-paragraph (1)(a), or
  - (b) in a case falling within sub-paragraph (1)(b), effected by the conveyance to the transferee of the subject-matter of the original contract or the substantial performance by the transferee of the original contract.
- (3) References in this paragraph to “the specified transaction” are to—
  - (a) the free-standing transfer mentioned in paragraph 9(2), or

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- (b) the original contract the subject-matter of which is conveyed to the transferee or which is substantially performed by the transferee.
- (4) The general rule is that in relation to the relevant land transaction references in this Part of this Act to “the vendor” are to be read as references to the vendor or (as the case may be) transferor under the first appropriate transaction (but see sub-paragraph (5)).
- (5) In relation to the relevant land transaction, references to the vendor in the specified provisions (see sub-paragraph (6)) are to be read as including—
  - (a) the vendor under the first appropriate transaction, and
  - (b) each person who is the transferor in the case of a relevant pre-completion transaction.
- (6) The specified provisions are—
  - (a) section 61(1)(a) (compliance with planning obligations: conditions for exemption);
  - (b) section 66(1) and (2) (transfers involving public bodies);
  - (c) paragraph 8(1)(a) of Schedule 4 (debt as consideration);
  - (d) paragraph 10(2)(c) of Schedule 4 (carrying out of works);
  - (e) paragraph 16 of Schedule 4 (indemnity given by vendor).
- (7) In determining under section 108(1) whether or not the relevant land transaction is linked to another transaction it may be assumed that any of the following is the vendor under the relevant land transaction—
  - (a) the vendor (determined under sub-paragraph (4)), or
  - (b) the transferor under any relevant pre-completion transaction.
- (8) The following are “relevant pre-completion transactions” in relation to the relevant land transaction—
  - (a) the specified transaction;
  - (b) any other transaction that is a pre-completion transaction in relation to the original contract and has some subject-matter in common with the specified transaction.

*Paragraph 10: “the first appropriate transaction” and “the original contract”*

- 11 (1) Subject to the following provisions of this paragraph, “the first appropriate transaction” means the original contract.
- (2) If the original contract is not performed at the same time as, and in connection with the performance of, the specified transaction, “the first appropriate transaction” means a transaction that is a pre-completion transaction in relation to the original contract and meets the following conditions.
  - (3) The conditions are that the pre-completion transaction—
    - (a) is performed at the time when the specified transaction is performed and (if it is not itself the specified transaction) is performed in connection with the performance of the specified transaction,
    - (b) is a transaction on which the entitlement of the transferee to call for the conveyance of the subject-matter of the specified transaction depends, and



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- (c) is not preceded by another pre-completion transaction meeting the conditions in paragraphs (a) and (b).
- (4) For the purposes of this paragraph—
- (a) a contract for a land transaction is taken to be “performed” when it is substantially performed or completed (whichever is earlier);
  - (b) a free-standing transfer other than a contract is taken to be “performed” when the transferee under that free-standing transfer (or an assignee of that transferee, as defined in paragraph 9(7)) acquires the subject-matter of that free-standing transfer.
- (5) Where the specified transaction is a pre-completion transaction in relation to each of two or more contracts such as are mentioned in paragraph 1(1) (a) that together form a series of such contracts (each having some subject-matter in common with all the others), references in paragraph 10 and this paragraph to “the original contract” are to be read as references to the first contract in that series.
- (6) In this paragraph “the specified transaction” has the meaning given by paragraph 10(3).

*Minimum consideration rule*

- 12 (1) This paragraph applies where either of the following provisions applies—
- (a) paragraph 4(3) (assignment of rights: chargeable interest acquired or treated as acquired by transferee);
  - (b) paragraph 9(2) (free-standing transfers: chargeable interest acquired or treated as acquired by transferee).
- (2) If there is a relevant connection between parties, then for the purposes of paragraph 1(1) of Schedule 4 the consideration given by the purchaser for the subject-matter of the land transaction referred to in paragraph 4(4) or 9(2) is taken to be—
- (a) the amount that it would be apart from this sub-paragraph, or
  - (b) (if higher) the first minimum amount, or
  - (c) (if higher than both those amounts) the second minimum amount.
- (3) There is a “relevant connection between parties” if—
- (a) the persons who are the transferor and transferee in relation to the pre-completion transaction mentioned in paragraph 4(1) or 9(1) (“the implemented transaction”) are connected with each other, or are not acting at arm's length, or
  - (b) sub-paragraph (4) applies.
- (4) This sub-paragraph applies if—
- (a) the implemented transaction is one in a chain of successive transactions (all having at least part of their subject-matter in common) that are pre-completion transactions in relation to the original contract, and
  - (b) a person who is the transferor in relation to a pre-completion transaction that precedes the implemented transaction in the chain of transactions is connected with, or not acting at arm's length in relation to, the transferee under the implemented transaction.

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- (5) Where the implemented transaction is a pre-completion transaction in relation to—
- (a) a contract for a land transaction that is not itself a free-standing transfer in relation to any other contract, and
  - (b) a contract, or two or more successive contracts, that are themselves free-standing transfers in relation to the contract mentioned in paragraph (a),
- references in this paragraph to “the original contract” are to the contract mentioned in paragraph (a) (and do not include any contract mentioned in paragraph (b)).

*The first minimum amount*

- 13 (1) “The first minimum amount” means—
- (a) if the chargeable interest acquired (or treated as acquired) under the land transaction referred to in paragraph 4(4) or 9(2) is the whole subject-matter of the original contract, the amount of any consideration (in money or money's worth) agreed to be given, under the terms of the original contract, for the acquisition of that subject-matter, or
  - (b) if paragraph (a) does not apply, so much of the amount mentioned in paragraph (a) as is referable, on a just and reasonable apportionment, to the chargeable interest mentioned in that paragraph.

This is subject to sub-paragraph (2).

- (2) If conditions A to C are met, “the first minimum amount” means the amount of any consideration (in money or money's worth) agreed, under the terms of the transfer to the first T, to be given in respect of the subject-matter of that transaction (including any consideration relating to an obligation of the transferor under the transfer to the first T).
- (3) The conditions mentioned in sub-paragraph (2) are as follows.
- Condition A is that the pre-completion transaction referred to in paragraph 4(4) or 9(2) is one of a chain of successive transactions (all having at least part of their subject-matter in common) that are pre-completion transactions in relation to the original contract.
- Condition B is that a person (“T”) is the transferor under a pre-completion transaction that forms part of that chain and T is connected with, or not acting at arm's length in relation to—
- (a) the transferee under that transaction, or
  - (b) the transferee under a subsequent transaction in the chain.
- Condition C is that having regard to all the circumstances it would not be reasonable to conclude that the obtaining of a tax advantage (for any person) was the main purpose, or one of main purposes, of T in entering into—
- (a) any pre-completion transaction in the chain, or
  - (b) any arrangements of which such a transaction forms part.

- (4) Where conditions A to C are met, “the first T” means—
- (a) if condition B is met in relation to only one pre-completion transaction, T, or

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- (b) if condition B is met in relation to more than one pre-completion transaction in the chain, the transferor in relation to the first of the pre-completion transactions in relation to which condition B is met.
- (5) In this paragraph “the transfer to the first T” means—
- (a) the pre-completion transaction under which the first T is the transferee, or
  - (b) the original contract (if T is the original purchaser).
- (6) In this paragraph—
- (a) references to “the original contract” are to be read in accordance with paragraph 12(5) (and references to the original purchaser are to be read accordingly);
  - (b) “tax advantage” has the same meaning as in paragraph 18.

*The second minimum amount*

- 14 (1) In paragraph 12 “the second minimum amount” means the total of the net amounts of consideration given by the relevant parties.
- (2) The net amount of consideration given by any relevant party is—

$$CP - CR$$

where—

CP is the total amount of consideration given by the party for the acquisition of the chargeable interest or as consideration for a pre-completion transaction;

CR is the total of any amounts of consideration given to the party by another relevant party (or other relevant parties) as consideration for the acquisition of the chargeable interest or as consideration for a pre-completion transaction.

If CR is greater than CP, the net amount of consideration given by the relevant party is taken to be zero.

- (3) Except where sub-paragraph (4) applies, the relevant parties for the purposes of this paragraph are—
- (a) the original purchaser, and
  - (b) the transferee.
- (4) If the pre-completion transaction referred to in paragraph 4(4) or 9(2) (“the implemented transaction”) is one in a chain of successive transactions (having at least part of their subject-matter in common) that are pre-completion transactions in relation to the original contract, only the following are relevant parties—
- (a) the persons who are the transferor and transferee in relation to the implemented transaction;
  - (b) a person who is the transferor in relation to preceding transaction, if that person is connected with, or not acting at arm's length in relation to, the transferee under the implemented transaction,

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- (c) the transferee under a pre-completion transaction, if the transferor is a relevant party (whether by virtue of this paragraph (c) or otherwise).
- (5) For the purposes of sub-paragraph (2)—
- (a) amounts given by a person connected with a relevant party are treated as given by the relevant party;
  - (b) amounts given to a person connected with a relevant party are treated as given to the relevant party.
- References in this paragraph to a person connected with a relevant party do not include a person who is a relevant party.
- (6) If the subject-matter of the implemented transaction is not the whole subject-matter of the original contract—
- (a) the amounts that are taken for the purposes of sub-paragraph (2) to be given “for the acquisition of the chargeable interest” are to be determined on a just and reasonable basis, and
  - (b) only so much of the consideration for a preceding transaction as is referable, on a just and reasonable apportionment, to the subject-matter of the implemented transaction is taken into account under sub-paragraph (2).
- (7) In this paragraph—
- (a) references to “the original contract” are to be read in accordance with paragraph 12(5) (and references to “the original purchaser” are to be read accordingly);
  - (b) “preceding transaction” means a pre-completion transaction that precedes the implemented transaction in a chain of successive pre-completion transactions (all having at least part of their subject-matter in common).

*Relief for transferor: assignment of rights*

- 15 (1) This paragraph applies where—
- (a) a person would, in the absence of this paragraph, be liable to pay tax in respect of a notional land transaction deemed to take place under paragraph 5(1) or an additional land transaction deemed to take place under paragraph 5(2), and
  - (b) the original contract had not been substantially performed when the assignment of rights mentioned in paragraph 4(1) was entered into.
- (2) If the purchaser claims relief under this paragraph in respect of the notional land transaction or additional land transaction, no liability to tax arises in respect of that transaction.
- (3) Sub-paragraph (2) does not apply if the land transaction mentioned in paragraph 4(4) is exempt from charge by virtue of any of sections 71A to 73 (which relate to alternative property finance).
- (4) Relief under this section must be claimed in a land transaction return or an amendment of such a return.

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*Relief for original purchaser: qualifying subsales*

- 16 (1) This paragraph applies if—
- (a) the pre-completion transaction is a qualifying subsale,
  - (b) the original purchaser would, in the absence of this paragraph, be liable to pay tax in respect of a land transaction effected by the completion of the original contract or deemed to be effected by the substantial performance of the original contract,
  - (c) the performance of the qualifying subsale takes place at the same time as, and in connection with, the performance of the original contract, and
  - (d) relief is claimed in respect of the land transaction mentioned in paragraph (b).
- (2) If the subject-matter of the qualifying subsale is the whole of the subject-matter of the original contract, no liability to tax arises in respect of the land transaction.
- (3) If the subject-matter of the qualifying subsale is part (but not the whole) of the subject-matter of the original contract, the amount of the consideration for the land transaction is taken to be—
- (a) the amount that it would be apart from this subsection, less
  - (b) so much of that amount as is referable to the subject-matter of the qualifying subsale.
- (4) The amount mentioned in sub-paragraph (3)(a) may be reduced more than once under sub-paragraph (3) if there is more than one qualifying subsale.
- (5) Sub-paragraphs (2) to (4) do not apply if—
- (a) the original contract had been substantially performed when the qualifying subsale was entered into, or
  - (b) the transaction effected, or deemed to be effected, by the performance of the qualifying subsale is exempt from charge by virtue of any of sections 71A to 73.
- (6) Relief under this section must be claimed in a land transaction return or an amendment of a land transaction return.
- (7) For the purposes of this paragraph a contract for a land transaction is taken to be “performed” when it is substantially performed or completed (whichever is earlier).
- (8) A pre-completion transaction is a “qualifying subsale” if it is a contract under which the original purchaser contracts to sell the whole or part of the subject-matter of the original contract to the transferee.

*Application of paragraph 16 to successive subsales*

- 17 If a transaction is a qualifying subsale in relation to more than one contract such as is mentioned in paragraph 1(1)(a), paragraph 16 is to be applied separately in relation to each such original contract for the purpose of determining what relief, if any, may be available with respect to the land transaction in question.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, SCHEDULE 39. (See end of Document for details)*

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*Tax avoidance arrangements*

- 18 (1) Relief may not be claimed—
- (a) under paragraph 15 if the assignment of rights referred to in subparagraph (1)(b) of that paragraph forms part of any tax avoidance arrangements, or
  - (b) under paragraph 16 if the qualifying subsale referred to in subparagraph (1)(c) of that paragraph forms part of any tax avoidance arrangements.
- (2) Arrangements are “tax avoidance arrangements” if, having regard to all the circumstances, it would be reasonable to conclude that the obtaining of a tax advantage for the original purchaser or any other person was the main purpose, or one of the main purposes, of the original purchaser in entering into the arrangements.
- (3) In this paragraph “tax advantage” means—
- (a) a relief from tax or increased relief from tax,
  - (b) a repayment of tax or increased repayment of tax,
  - (c) the avoidance or reduction of a charge to tax, or
  - (d) the avoidance of a possible assessment to tax.
- (4) In this paragraph “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (5) Nothing in paragraphs 12 to 14 (minimum consideration rule) or this paragraph affects the breadth of the application of sections 75A to 75C (anti-avoidance).

*Exclusion of transactions from duty to make returns etc*

- 19 (1) The Treasury may by regulations amend this Schedule, or any provision of this Part of this Act relating to the making of returns, so as to—
- (a) exempt relevant purchasers of any specified description, or in specified circumstances, from the duty to deliver a land transaction return,
  - (b) provide for relief under paragraph 15 or 16 to be available without a claim in the case of any specified class of transactions, or
  - (c) provide that paragraph 5 does not apply in specified cases.
- (2) In this paragraph “relevant purchaser” means a person who is the transferor under a pre-completion transaction.

*Connected persons*

- 20 Section 1122 of CTA 2010 (connected persons) applies for the purposes of this Schedule.

*Interpretation of Schedule*

- 21 (1) In this Schedule—

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“assignment of rights” has the meaning given by paragraph 2(1);  
“contract” includes any agreement;  
“conveyance” includes any instrument;  
“free-standing transfer” has the meaning given by paragraph 2(2);  
“pre-completion transaction” (in relation to a contract such as is mentioned in paragraph 1(1)) has the meaning given by paragraph 1(2);  
“qualifying subsale” has the meaning given by paragraph 16(8);  
“the transferee”, in relation to a pre-completion transaction, has the meaning given by paragraph 1(2)(a);  
“the transferor”, in relation to a pre-completion transaction, has the meaning given by paragraph 2(3).

(2) In this Schedule—

- (a) references to “the original contract” are to be read in accordance with paragraph 1(1)(a);
- (b) references to “the original purchaser” are to be read in accordance with paragraph 1(1)(a) and see also sub-paragraph (3);
- (c) references to “part of the subject-matter of the original contract” are to be read in accordance with paragraph 1(7);
- (d) references to the “subject-matter” of a pre-completion transaction are to be read in accordance with paragraph 2(4);
- (e) references to substantial performance of the original contract “by the transferee” (in cases involving an assignment of rights) are to be read in accordance with paragraph 4(7).

(3) For any one contract for the acquisition of a chargeable interest there is only one original purchaser (disregarding cases involving joint purchasers).”

- 4 In section 57A (sale and leaseback arrangements), in subsection (3)(c)—
  - (a) omit “section 45 (contract and conveyance: effect of transfer of rights) or”, and
  - (b) after the second occurrence of “transfer of rights” insert “ or a pre-completion transaction within the meaning of Schedule 2A (transactions entered into before completion of contract) ”.
- 5 In section 77 (notifiable transactions), in subsection (1)—
  - (a) omit the “or” after paragraph (c), and
  - (b) after paragraph (d) insert, “or
    - (e) a notional or additional land transaction under paragraph 5 of Schedule 2A.”
- 6 In section 79(2) (registration of land transactions etc)—
  - (a) omit paragraph (a)(i) and the “or” after it, and
  - (b) after paragraph (b) insert—
    - “(ba) under paragraph 5 of Schedule 2A (transactions entered into before completion of contract),”.
- 7 In section 119 (meaning of “effective date” of a transaction), in subsection (2), at the appropriate place insert— “ paragraph 5 of Schedule 2A, ”.

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- 8 In section 121 (index of defined expressions), in the entry for “vendor”, in the second column, for “sections 45(5A) and 45A(9)” substitute “ section 45A(9) and paragraphs 8, 10 and 11 of Schedule 2A ”.
- 9 In Schedule 6B (transfers involving multiple dwellings), in paragraph 7(6), in the definition of “relevant deeming provision”, after “45A” insert “ or paragraph 5(1) or (2) of Schedule 2A ”.
- 10 In paragraph 12B of Schedule 17A (assignment of agreement for lease), in subparagraph (1) for “section 45 (contract and conveyance: effect of transfer of rights)” substitute “ Schedule 2A (transactions entered into before completion of contract) ”.
- 11 The amendments made by this Schedule have effect in relation to transfers of rights (see section 45 of FA 2003) and pre-completion transactions (see paragraph 3) entered into on or after the day on which this Act is passed.



**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2013, SCHEDULE 39.