



Finance Act 2013

2013 CHAPTER 29

PART 4

EXCISE DUTIES AND OTHER TAXES

Stamp duty land tax

194 Pre-completion transactions: existing cases

- (1) Section 45 of FA 2003 (contract and conveyance: effect of transfer of rights)—
 - (a) has effect subject to the amendment in subsection (2) below in relation to agreements for the grant or assignment of an option that are entered into during the period beginning with 21 March 2012 and ending immediately before the day on which this Act is passed, and
 - (b) has effect subject to the amendments in subsections (3) to (7) below in relation to transfers of rights (see subsection (1) of that section) entered into during that period.
- (2) At the end of subsection (1A) insert “ or an agreement for the future grant or assignment of an option ”.
- (3) In subsection (3), in the second sentence, after “except” insert “ in a case excluded by subsection (3A) or ”.
- (4) After subsection (3) insert—

“(3A) A case is excluded by this subsection from the second sentence of subsection (3) if—

 - (a) the secondary contract is substantially performed at the same time as, and in connection with, the substantial performance or completion of the original contract but is not completed at that time (“the relevant time”),
 - (b) the original purchaser or a person connected with the original purchaser is in possession of the whole, or substantially the whole,

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of the subject-matter of the transfer of rights at any time after the relevant time, and

- (c) having regard to all the circumstances, it would be reasonable to conclude that the obtaining of a tax advantage for the original purchaser was the main purpose, or one of the main purposes, of the original purchaser in entering into the transfer of rights.

(3B) In subsection (3A)—

“possession” has the same meaning as in section 44(5)(a);

“tax advantage” means—

- (a) a relief from tax or increased relief from tax,
- (b) a repayment of tax or increased repayment of tax, or
- (c) the avoidance or reduction of a charge to tax.

(3C) Nothing in subsection (3A) or (3B) affects the breadth of the application of sections 75A to 75C.”

(5) In subsection (4), at the end insert “ except in a case excluded by subsection (4A) ”.

(6) After subsection (4) insert—

“(4A) Subsection (3A) applies for the purposes of subsection (4) as if—

- (a) the reference to subsection (3) were a reference to subsection (4),
- (b) a reference to the original contract were a reference to the secondary contract arising from the earlier transfer of rights,
- (c) a reference to the original purchaser were a reference to the transferee under the earlier transfer of rights, and
- (d) a reference to the transfer of rights were a reference to the subsequent transfer of rights.”

(7) In subsection (5)(b)—

- (a) after “subsection (3) above” insert “ or in subsection (3A) above ”, and
- (b) after “subsection (4)” insert “ or (4A) ”.

(8) Subsections (10) to (12) apply where—

- (a) as a result of subsection (2) of this section, section 45 of FA 2003 does not apply in relation to a contract of the kind mentioned in subsection (1)(a) of that section (“the original contract”),
- (b) the original contract was substantially performed or completed (or, in a case that would have fallen within subsection (5) of that section, substantially performed or completed so far as relating to the relevant part of the subject-matter of the original contract) at the same time as, and in connection with, the substantial performance or completion of an agreement for the grant or assignment of an option, and
- (c) that time fell before the day on which this Act is passed.

(9) Subsections (10) to (12) also apply where—

- (a) section 45 of FA 2003 applies in relation to the contract for a land transaction (“the original contract”),
- (b) as a result of subsections (1) to (7) above, the substantial performance or completion of the original contract (or, in a case within subsection (5) of that section, its substantial performance or completion so far as relating to part of the subject-matter of the original contract) is not disregarded, and

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- (c) the relevant time referred to in subsection (3A)(a) of that section fell before the day on which this Act is passed.
- (10) Section 76 of FA 2003 (duty to deliver land transaction return) is to be regarded as requiring the purchaser under the original contract to deliver a land transaction return relating to the land transaction not later than 30 September 2013.
- (11) Accordingly, 30 September 2013 is for the purposes of Part 4 of FA 2003 the filing date for the land transaction return relating to the transaction.
- (12) If the purchaser under the original contract (“P”) has delivered a land transaction return relating to the land transaction before the day on which this Act is passed, P must not later than 30 September 2013 give notice under paragraph 6 of Schedule 10 to FA 2003 amending the return, but this does not prevent P from making subsequent amendments within the time allowed by sub-paragraph (3) of that paragraph.

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