

2003 No. 1056

TAXES

The Stamp Duty (Disadvantaged Areas) (Application of Exemptions) Regulations 2003

<i>Made</i> - - - -	<i>9th April 2003</i>
<i>Laid before the House of Commons</i>	<i>9th April 2003</i>
<i>Coming into force</i> - -	<i>10th April 2003</i>

The Treasury, in exercise of the powers conferred upon them by sections 92A and 92B(6) of the Finance Act 2001(a) and section 110(6) of the Finance Act 2002, hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Stamp Duty (Disadvantaged Areas) (Application of Exemptions) Regulations 2003 and shall come into force on 10th April 2003.

(2) These Regulations have effect in relation to instruments executed on or after 10th April 2003.

Interpretation

2.—(1) In these Regulations—

“conveyance on sale” has the same meaning as in Part 1 of Schedule 13 to the Finance Act 1999(b) (see paragraph 1(2) of that Schedule);

“instrument” and “executed” have the meanings given by section 122(1) of the Stamp Act 1891(c);

“lease of land” has the same meaning as in Part 2 of Schedule 13 to the Finance Act 1999;

“the rate or average rate of rent” means the rate of rent by reference to which stamp duty is determined under paragraph 12(3) of Schedule 13 to the Finance Act 1999;

“relevant consideration” means—

- (a) in the case of a conveyance or transfer on sale, the consideration for the sale;
- (b) in the case of a lease of land, the consideration in respect of which, under paragraph 12(2) of Schedule 13 to the Finance Act 1999, the stamp duty is the same as that on a conveyance on a sale for the same consideration;

“residential property” has the meaning given by section 92B read together with regulation 7.

(2) In these Regulations—

(a) 2001 c. 9. Sections 92A and 92B were inserted by section 110(3) of the Finance Act 2002 (c. 23).

(b) 1999 c. 16.

(c) 1891 c. 39. Section 122 was relevantly amended by section 239(1)(a) of the Finance Act 1994 (c. 9).

- (a) unless the context otherwise requires, any reference to a numbered section is a reference to the section of the Finance Act 2001 bearing that number; and
- (b) any reference to “Schedule 30” is a reference to Schedule 30 to that Act(a).

Application of exemptions conferred by section 92 or by Schedule 30 where all the land is residential property

3.—(1) Subject to paragraph (3), an exemption conferred by section 92(b) or by Schedule 30 shall not apply in the cases specified by paragraph (2) below.

(2) The cases specified by this paragraph are cases where—

- (a) all the land in question is residential property, and
- (b) subject to regulation 6, the amount or value of relevant consideration is more than £150,000.

(3) Where the instrument in question is a lease of land, nothing in this regulation affects the application of an exemption conferred by section 92 or by Schedule 30 in relation to stamp duty chargeable in respect of the rate or average rate of rent.

Leases of land: further provision as to the application of exemptions conferred by section 92 or by Schedule 30

4.—(1) This regulation applies where the instrument in question is a lease of land.

(2) Subject to paragraph (4), an exemption conferred by section 92 or by Schedule 30 shall not apply in the cases specified by paragraph (3) below.

(3) The cases specified by this paragraph are cases where—

- (a) all the land in question is residential property, and
- (b) subject to regulation 6, the rate or average rate of rent is more than £15,000.

(4) Nothing in this regulation affects the application of an exemption conferred by section 92 or by Schedule 30 in relation to stamp duty chargeable in respect of the amount or value of relevant consideration.

Application of exemptions conferred by section 92 or by Schedule 30 where land only partly residential property

5.—(1) This regulation (which includes provisions corresponding to those contained in Schedule 30) applies where the land in question is—

- (a) a building or land part of which falls within subsection (1)(a) or (b) of section 92B (meaning of “residential property”), or
- (b) an interest in or right over land that subsists only partly as mentioned in subsection (1)(c) of that section.

(2) Where the land in question falls wholly or partly within a disadvantaged area, liability to stamp duty under Part 1 or 2 of Schedule 13 to the Finance Act 1999 on—

- (a) a conveyance or transfer on sale of an estate or interest in land, or
- (b) a lease of land,

shall be determined in accordance with the following paragraphs of this regulation.

(3) Subject to regulation 6, the consideration in respect of which duty would be chargeable, but for the provisions of section 92 or paragraphs 1 and 3 of Schedule 30, shall be apportioned, on such basis as is just and reasonable, as between the land in question to the extent that it is residential property and the land in question to the extent that it is not.

(a) Schedule 30 was amended by section 110(4) and (5) of the Finance Act 2002.
(b) Section 92 was amended by section 110(1) and (2) of the Finance Act 2002.

(4) An exemption conferred by section 92 or by Schedule 30 shall have effect in relation to any duty otherwise chargeable in respect of relevant consideration attributed to the land in question to the extent that it is residential property only where the amount or value of the consideration so attributed is £150,000 or less.

(5) An exemption conferred by section 92 or by Schedule 30 shall have effect in relation to any duty otherwise chargeable in respect of the rate or average rate of rent attributed to the land in question to the extent that it is residential property only where the rate or average rate so attributed is £15,000 or less.

Determination of consideration for the purposes of regulations 3, 4 and 5: land situated partly in a disadvantaged area and partly outside such an area

6.—(1) In determining the amount of any consideration for the purposes of regulation 3, 4 or 5, the provisions of section 92 and paragraphs 1 and 3 of Schedule 30 shall be disregarded save to the extent mentioned in the following paragraphs of this regulation.

(2) Paragraphs (3) and (4) apply where the land in question is situated partly in a disadvantaged area and partly outside such an area.

(3) For the purposes of regulations 3(2)(b) and 4(3)(b), the consideration shall be treated as being the attributed consideration.

(4) For the purposes of regulation 5(3), the consideration to be apportioned shall be treated as being the attributed consideration and the apportionment shall be made as between—

- (a) the land in question to the extent that it is situated in a disadvantaged area and is residential property; and
- (b) the land in question to the extent that it is situated in a disadvantaged area and is not residential property.

(5) “The attributed consideration” means the consideration which would be attributed under paragraph 1(2) of Schedule 30 to such part of the land as is situated in the disadvantaged area.

Land comprising or including six or more separate dwellings

7. Where there is a single contract for the conveyance, transfer or lease of land comprising or including six or more separate dwellings, none of that land counts as residential property for the purposes of these Regulations.

Revocation of the Variation of Stamp Duties Regulations 2001

8. The Variation of Stamp Duties Regulations 2001(a) are hereby revoked.

Jim Fitzpatrick
John Heppell

9th April 2003

Two of the Lords Commissioners of Her Majesty's Treasury

(a) S.I. 2001/3746.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 92A of the Finance Act 2001 (c. 9) which confers upon the Treasury power to provide that the stamp duty exemptions relating to land in disadvantaged areas (contained in section 92 of, and Schedule 30 to, that Act) shall not apply in cases specified by reference to certain matters.

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulation 3 specifies cases in which the exemptions are not to apply. The cases are where all the land in question is residential property (within the meaning given by section 92B of the Finance Act 2001) and the amount or value of certain consideration is more than £150,000. This restriction of the exemptions applies only in relation to the stamp duty chargeable in respect of that consideration.

Regulation 4 provides additionally that, where the instrument in question is a lease of land, the exemptions are not to apply where the rate or average rate of rent is more than £15,000. This restriction of the exemptions applies only in relation to the stamp duty chargeable in respect of the rate or average rate.

Regulation 5 provides for how the exemptions are to apply where the land in question is only partly residential property.

Regulation 6 provides for how the amount of any consideration is to be determined for the purposes of regulations 3, 4 and 5, in particular where land is situated partly in a disadvantaged area and partly outside such an area.

Regulation 7 provides that, where there is a single contract for the conveyance, transfer or lease of land comprising or including six or more separate dwellings, none of that land counts as residential property.

Regulation 8 revokes an earlier set of regulations (the Variation of Stamp Duties Regulations 2001 (S.I. 2001/3746)) which limited the application of the exemptions. This revocation is made by these Regulations in accordance with section 110(6) of the Finance Act 2002 (c. 23).

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