

SCHEDULE 2

PRE-COMPLETION TRANSACTIONS

PART 5

RELIEFS

Relief for transferor: assignment of rights

- 18 (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 8(1) or an additional notional land transaction deemed to take place under paragraph 8(3), and
 - (b) the original contract had not been substantially performed when the assignment of rights mentioned in paragraph 7(1) was entered into.
- (2) If the buyer in respect of the notional land transaction, or additional notional land transaction, claims relief under this paragraph, the buyer is relieved from tax in respect of that transaction.
- (3) But no relief is available under this paragraph if the land transaction mentioned in paragraph 7(4) is relieved from tax by virtue of Schedule 10 (alternative property finance reliefs).

Relief for original buyer: qualifying subsales

- 19 (1) This paragraph applies if—
- (a) the pre-completion transaction is a qualifying subsale (see sub-paragraph (6)),
 - (b) the original buyer would, in the absence of this paragraph, be liable to pay tax in respect of the land transaction given effect by the completion of the original contract or treated as having been given effect 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, the original buyer is relieved from tax in respect of the land transaction mentioned in sub-paragraph (1)(b).
- (3) If the subject-matter of the qualifying subsale is part of the subject-matter of the original contract, the amount of consideration for the land transaction mentioned in sub-paragraph (1)(b) is taken to be—

$OC - OS$

Figure 2

where—

Status: This is the original version (as it was originally enacted).

OC is the amount that the consideration would be apart from this sub-paragraph, and

QS is so much of OC as is referable to the subject-matter of the qualifying subsale,

and OC may be reduced more than once if there is more than one qualifying subsale.

- (4) But no relief is available under this paragraph if—
- (a) the original contract had been substantially performed when the qualifying subsale was entered into, or
 - (b) the transaction effected, or treated as effected, by the performance of the qualifying subsale is relieved from tax by virtue of Schedule 10 (alternative property finance reliefs).
- (5) 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).
- (6) A pre-completion transaction is a “qualifying subsale” if it is a contract under which the original buyer contracts to sell the whole or part of the subject-matter of the original contract to the transferee.
- (7) If a transaction is a qualifying subsale in relation to more than one contract such as is mentioned in paragraph 2(1)(a), this paragraph applies 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.