



# Finance Act 1991

## 1991 CHAPTER 31

### PART IV

#### STAMP DUTY AND STAMP DUTY RESERVE TAX

#### 110 Stamp duty abolished in certain cases.

[<sup>F1</sup>(1) Where apart from this section stamp duty under any of the provisions of Schedule 13 to the Finance Act 1999 would be chargeable on an instrument, stamp duty shall not be so chargeable if the property consists entirely of exempt property.]

(5) For the purposes of this section exempt property is property other than—

- (a) land,
- [<sup>F2</sup>(b) an interest in the proceeds of the sale of land held on trust for sale, or]
- (c) a licence to occupy land.

(6) This section applies to—

- (a) an instrument executed in pursuance of a contract made on or after the abolition day;
- (b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.

(7) For the purposes of this section the abolition day is such day as may be appointed under section 111(1) of the <sup>M1</sup>Finance Act 1990 (abolition of stamp duty for securities etc).

#### Textual Amendments

- F1** S. 110(1) substituted for s. 110(1)-(4) (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, s. 112(4)(6), **Sch. 14 para. 25** (with s. 122)
- F2** S. 110(5)(b) repealed (1.1.1997) (E.W.) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2)(4)(5)); S.I. 1996/2974, **art. 2**

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### Marginal Citations

**M1** 1990 c. 29.

## 111 Stamp duty reduced in certain cases.

- (1) This section applies where—
  - (a) stamp duty under [<sup>F3</sup>Part I of Schedule 13 to the Finance Act 1999 (conveyance or transfer on sale)] is chargeable on an instrument to which this section applies, and
  - (b) part of the property concerned consists of exempt property.
- (2) In such a case—
  - (a) the consideration in respect of which duty would be charged (apart from this section) shall be apportioned, on such basis as is just and reasonable, as between the part of the property which consists of exempt property and the part which does not, and
  - (b) the instrument shall be charged only in respect of the consideration attributed to such of the property as is not exempt property.
- (3) In this section “exempt property has the same meaning as in section 110 above.
- (4) This section applies to—
  - (a) an instrument executed in pursuance of a contract made on or after the abolition day;
  - (b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.
- (5) In this section “the abolition day has the same meaning as in section 110 above.

### Textual Amendments

**F3** Words in s. 111(1) substituted (27.7.1999 with effect with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, s. 112(4)(6), **Sch. 14 para. 26** (with s. 122)

## 112 Apportionment of consideration for stamp duty purposes.

- (1) Subsection (2) below applies where part of the property referred to in section 58(1) of the Stamp Act 1891 (consideration to be apportioned between different instruments as parties think fit) consists of exempt property.
- (2) Section 58(1) shall have effect as if “the parties think fit” read “is just and reasonable”.
- (3) Subsection (4) below applies where—
  - (a) part of the property referred to in section 58(2) of the Stamp Act 1891 (property contracted to be purchased by two or more persons etc.) consists of exempt property, and
  - (b) both or (as the case may be) all the relevant persons are connected with one another.
- (4) Section 58(2) shall have effect as if the words from “for distinct parts of the consideration” to the end of the subsection read “, the consideration is to be apportioned in such manner as is just and reasonable, so that a distinct consideration

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for each separate part or parcel is set forth in the conveyance relating thereto, and such conveyance is to be charged *withad valorem* duty in respect of such distinct consideration.”

- (5) In a case where subsection (2) or (4) above applies and the consideration is apportioned in a manner that is not just and reasonable, the enactments relating to stamp duty shall have effect as if—
- (a) the consideration had been apportioned in a manner that is just and reasonable, and
  - (b) the amount of any distinct consideration set forth in any conveyance relating to a separate part or parcel of property were such amount as is found by a just and reasonable apportionment (and not the amount actually set forth).
- (6) In this section “exempt property has the same meaning as in section 110 above.
- (7) For the purposes of subsection (3) above—
- (a) a person is a relevant person if he is a person by or for whom the property is contracted to be purchased;
  - (b) the question whether persons are connected with one another shall be determined in accordance with [<sup>F4</sup>section 1122 of the Corporation Tax Act 2010].
- (8) This section applies where the contract concerned is made on or after the abolition day.
- (9) In this section “the abolition day has the same meaning as in section 110 above.

#### Textual Amendments

- F4** Words in s. 112(7)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 224** (with **Sch. 2**)

### 113 Certification of instruments for stamp duty purposes.

- [<sup>F5</sup>(1) For the purposes of paragraph 6(1) of Schedule 13 to the Finance Act 1999 (meaning of instrument being certified at an amount)—
- (a) a sale or contract or agreement for the sale of exempt property within the meaning of section 110 above shall be disregarded; and
  - (b) any statement as mentioned in that provision shall be construed as leaving out of account any matter which is to be so disregarded.]
- (4) This section applies to—
- (a) an instrument executed in pursuance of a contract made on or after the abolition day;
  - (b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.
- (5) In this section “the abolition day has the same meaning as in section 110 above.

#### Textual Amendments

- F5** S. 113(1) substituted for s. 113(1)-(3) (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, s. 112(4)(6), **Sch. 14 para. 27** (with s. 122)

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#### 114 Acquisition under statute: exempt property.

- (1) Section 36 of the <sup>M2</sup>Finance Act 1949 and section 9 of the <sup>M3</sup>Finance Act (Northern Ireland) 1949 shall be amended as mentioned in subsections (2) and (3) below.
- (2) In subsection (4) of each of those sections (goods not affected by section 12 of the <sup>M4</sup>Finance Act 1895, which relates to duty on property acquired under statute) for the words “goods, wares or merchandise” (in each place where they occur) there shall be substituted the words “exempt property”.
- (3) In each of those sections the following subsection shall be inserted after subsection (4)
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  - “(5) In subsection (4) above “exempt property has the same meaning as in section 110 of the Finance Act 1991.”
- (4) This section applies where the Act mentioned in section 12 of the Finance Act 1895, and by virtue of which property is vested or a person is authorised to purchase property, is passed on or after the abolition day.
- (5) In this section “the abolition day has the same meaning as in section 110 above.

#### Marginal Citations

- M2** 1949 c. 47.  
**M3** 1949 c. 15 (N.I.)  
**M4** 1895 c. 16.

#### <sup>F6</sup>115 .....

#### Textual Amendments

- F6** S. 115 repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. V(2) Notes 1, 2 of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. V(2)** Notes 1, 2

#### 116 [<sup>F7</sup>Investment exchanges, clearing houses and central securities depositories: stamp duty]

- (1) The Treasury may make regulations providing as mentioned in this section with regard to any circumstances which—
  - (a) would (apart from the regulations) give rise to a charge to stamp duty,
  - [<sup>F8</sup>(b) involve a prescribed relevant entity, or a member or nominee (or member or nominee of a prescribed description) of such a relevant entity, or a nominee (or nominee of a prescribed description) of a member of such a relevant entity, and]
  - (c) are such as are prescribed.
- (2) The regulations may provide that the charge to stamp duty shall be treated as not arising or (depending on the terms of the regulations) as reduced.
- (3) Regulations under this section—

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- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons;
  - (b) may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient;
  - (c) may make different provision for different circumstances;
  - (d) may make any provision in such way as the Treasury think fit (whether by amending enactments or otherwise).
- (4) In this section—
- <sup>F9</sup>(aa) . . . . .
  - (a) “prescribed means prescribed by the regulations, [<sup>F10</sup>and]
  - [<sup>F11</sup>(b) “relevant entity” means any of the following—
    - (i) [<sup>F12</sup>a UK regulated market (within the meaning given by Article 2.1(13A) of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments);
    - (ia) a UK multilateral trading facility (within the meaning given by Article 2.1(14A) of that Regulation);
    - (ib) an EU regulated market (within the meaning given by Article 2.1(13B) of that Regulation);
    - (ic) an EU multilateral trading facility (within the meaning given by Article 2.1 (14B) of that Regulation);
    - (id) [<sup>F13</sup>a Gibraltar regulated market (within the meaning given by Article 26(11)(b)(i) of that Regulation);
    - (ie) a Gibraltar multilateral trading facility (within the meaning given by Article 26(11)(b)(ii) of that Regulation);]]
    - (ii) a recognised clearing house, [<sup>F14</sup>a recognised CSD <sup>F15</sup>..., a third country CSD,] a recognised investment exchange <sup>F15</sup>... and a third country central counterparty (within the meaning of section 285 of the Financial Services and Markets Act 2000).]
- <sup>F16</sup>(5) . . . . .

**Textual Amendments**

- F7** S. 116 heading substituted (28.11.2017) by [The Central Securities Depositories Regulations 2017 \(S.I. 2017/1064\)](#), reg. 1, **Sch. para. 6(2)(a)** (with regs. 7(4), 9(1))
- F8** S. 116(1)(b) substituted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **20(2)(a)** (with regs. 52-58)
- F9** S. 116(4)(aa) omitted (31.12.2020) by virtue of [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **5(2)(a)(i)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Word in s. 116(4)(a) inserted (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **20(2)(b)** (with regs. 52-58)
- F11** S. 116(4)(b) substituted for s. 116(4)(b)(c) (1.4.2013) by [The Financial Services and Markets Act 2000 \(Over the Counter Derivatives, Central Counterparties and Trade Repositories\) Regulations 2013 \(S.I. 2013/504\)](#), regs. 1(2), **20(2)(c)** (with regs. 52-58)
- F12** S. 116(4)(b)(i)-(ie) substituted for s. 116(4)(b)(i) (31.12.2020) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **5(2)(a)(ii)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

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- F13** S. 116(4)(id)(ie) substituted (31.12.2020) by The Taxes (Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/818), regs. 1(3), **3(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in s. 116(4)(b)(ii) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), reg. 1, **Sch. para. 6(2)(b)** (with regs. 7(4), 9(1))
- F15** Words in s. 116(4)(b)(ii) omitted (31.12.2020) by virtue of The Investment Exchanges, Clearing Houses and Central Securities Depositories (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/662), regs. 1(3), **22** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F16** S. 116(5) inserted (31.12.2020) by The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, **5(2)(b)** (with regs. 39-41) and omitted (31.12.2020 immediately after the coming into force of S.I. 2019/689) by virtue of The Taxes (Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/818), regs. 1(3), **3(2)(b)**; 2020 c. 1, **Sch. 5 para. 1(1)**

**117** [<sup>F17</sup>**Investment exchanges, clearing houses and central securities depositories:  
SDRT**]

- (1) The Treasury may make regulations providing as mentioned in this section with regard to any circumstances which—
- (a) would (apart from the regulations) give rise to a charge to stamp duty reserve tax,
- [<sup>F18</sup>(b) involve a prescribed relevant entity, or a member or nominee (or member or nominee of a prescribed description) of such a relevant entity, or a nominee (or nominee of a prescribed description) of a member of such a relevant entity, and]
- (c) are such as are prescribed.
- (2) The regulations may provide that the charge to stamp duty reserve tax shall be treated as not arising or (depending on the terms of the regulations) as reduced.
- (3) Subsections (3) and (4) of section 116 above shall apply for the purposes of this section as they apply for the purposes of that.

**Textual Amendments**

- F17** S. 117 heading substituted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), reg. 1, **Sch. para. 6(3)** (with regs. 7(4), 9(1))
- F18** S. 117(1)(b) substituted (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **20(3)** (with regs. 52-58)

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