

SCHEDULES

SCHEDULE 37

Section 116(2)

STAMP DUTY: ABOLITION OF DUTY ON INSTRUMENTS RELATING TO GOODWILL: SUPPLEMENTARY PROVISIONS

Reduction of stamp duty where instrument partly relating to goodwill

- 1 (1) This paragraph applies where stamp duty under Part 1 of Schedule 13 to the Finance Act 1999 (c. 16) (conveyance or transfer on sale) is chargeable on an instrument that relates partly to goodwill and partly to property other than goodwill.
- (2) In such a case—
 - (a) the consideration in respect of which duty would otherwise be charged shall be apportioned, on a just and reasonable basis, as between the goodwill and the other property, and
 - (b) the instrument shall be charged only in respect of the consideration attributed to the other property.
- (3) This paragraph applies to instruments executed on or after 23rd April 2002.

Apportionment of consideration for stamp duty purposes

- 2 (1) Where part of the property referred to in section 58(1) of the Stamp Act 1891 (c. 39) (consideration to be apportioned between different instruments as parties think fit) consists of goodwill, that provision shall have effect as if “the parties think fit” read “is just and reasonable”.
- (2) 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 goodwill, and
 - (b) both or (as the case may be) all the relevant persons are connected with one another,that provision shall have effect as if the words from “for distinct parts of the consideration” to the end of the subsection read “, the consideration shall be apportioned in such manner as is just and reasonable, so that a distinct consideration for each separate part or parcel is set forth in the conveyance relating thereto, and such conveyance is to be charged with *ad valorem* duty in respect of such distinct consideration.”.
- (3) In a case where sub-paragraph (1) or (2) 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).
- (4) For the purposes of sub-paragraph (2)—
 - (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 section 839 of the Taxes Act 1988.
- (5) This paragraph applies to instruments executed on or after 23rd April 2002.

Certification of instruments for stamp duty purposes

- 3 (1) Goodwill shall be disregarded for the purposes of paragraph 6 of Schedule 13 to the Finance Act 1999 (c. 19) (certification of instrument as not forming part of transaction or series of transactions exceeding specified amount).
- (2) Any statement as mentioned in paragraph 6(1) of that Schedule shall be construed as leaving out of account any matter which is to be so disregarded.
- (3) This paragraph applies to instruments executed on or after 23rd April 2002.

Acquisition under statute

- 4 (1) Section 12 of the Finance Act 1895 (c. 16) (property vested by Act or purchased under statutory powers) does not require any person who is authorised to purchase any property as mentioned in that section after 23rd April 2002 to include any goodwill in the instrument of conveyance required by that section to be produced to the Commissioners.
- (2) If the property consists wholly of goodwill no instrument of conveyance need be produced to the Commissioners under that section.
- (3) This paragraph applies where the Act mentioned in that section, and by virtue of which property is vested or a person is authorised to purchase property, is passed after 23rd April 2002.

Interpretation

- 5 In this Schedule “the enactments relating to stamp duty” means the Stamp Act 1891 (c. 39) and any enactment amending that Act or that is to be construed as one with that Act.