

SCHEDULES

SCHEDULE 21

Section 82

PREVENTION OF SDLT AVOIDANCE

Introduction

- 1 Part 4 of FA 2003 (stamp duty land tax) is amended as follows.

Alternative property finance

- 2 In section 45 (contract and conveyance: effect of transfer of rights), in subsection (3) for the words from “subsection (3)” to the end substitute “any of sections 71A to 73 (which relate to alternative property finance).”
- 3 (1) Omit sections 71A(8), 72(7), 72A(8) and 73(5)(a) (which contain definitions of “financial institution” for the purposes of provisions relating to alternative property finance).
- (2) After section 73B insert—

“73BA Meaning of “financial institution”

- (1) In sections 71A to 73B “financial institution” has the meaning given by section 564B of the Income Tax Act 2007.
- (2) For this purpose section 564B(1) applies as if paragraph (d) were omitted.”

Exchanges

- 4 (1) Paragraph 5 of Schedule 4 (chargeable consideration: exchanges) is amended as follows.
- (2) In sub-paragraph (3)—
- (a) for paragraph (a)(i) and (ii) substitute—
- “(i) the amount determined under sub-paragraph (3A) in respect of the acquisition, or
- (ii) if greater, the amount which would be the chargeable consideration for the acquisition ignoring paragraph 5;”, and
- (b) for paragraph (b)(i) and (ii) substitute—
- “(i) the amount determined under sub-paragraph (3A) in respect of that acquisition, or
- (ii) if greater, the amount which would be the chargeable consideration for that acquisition ignoring paragraph 5;”.
- (3) After that sub-paragraph insert—

Status: This is the original version (as it was originally enacted).

- “(3A) The amount mentioned in sub-paragraph (3)(a)(i) and (b)(i) is—
- (a) the market value of the subject-matter of the acquisition, and
 - (b) if the acquisition is the grant of a lease at a rent, that rent.”

Commencement

- 5 (1) Subject to what follows, the amendments made by paragraphs 2 and 4 have effect in relation to any transaction the effective date of which is on or after 24 March 2011.
- (2) The amendments do not have effect in relation to any transaction (other than a notional transaction under section 75A of FA 2003)—
- (a) which is effected in pursuance of a contract entered into and substantially performed before 24 March 2011, or
 - (b) which is effected in pursuance of a contract entered into before 24 March 2011 and which is not excluded by sub-paragraph (4).
- (3) The amendments do not have effect in relation to any notional transaction under section 75A of FA 2003 if any scheme transaction—
- (a) is completed before 24 March 2011,
 - (b) is effected in pursuance of a contract entered into and substantially performed before 24 March 2011, or
 - (c) is effected in pursuance of a contract entered into before 24 March 2011 and is not excluded by sub-paragraph (4).
- (4) A transaction effected in pursuance of a contract entered into before 24 March 2011 is excluded by this sub-paragraph if—
- (a) there is any variation of the contract, or assignment of rights under the contract, on or after 24 March 2011,
 - (b) the transaction is effected in consequence of the exercise on or after 24 March 2011 of any option, right of pre-emption or similar right, or
 - (c) on or after 24 March 2011, there is an assignment, sub-sale or other transaction relating to the whole or part of the subject-matter of the contract as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance.
- (5) Terms used in this paragraph have the same meaning as in Part 4 of FA 2003.
- 6 (1) The amendments made by paragraph 3 are treated as having come into force on 24 March 2011.
- (2) But those amendments—
- (a) do not have effect for the purposes of any of sections 71A to 73B of FA 2003 (other than those provisions mentioned in paragraph (b) below) if the arrangements referred to in section 71A(1), 72(1), 72A(1) or 73(1) (as the case may be) were entered into before 24 March 2011, and
 - (b) do not have effect for the purposes of section 71A(2)(b), 72(2)(b), 72A(2)(b) or 73(2)(b) of that Act if the arrangements referred to there were entered into before 24 March 2011.