



# Finance Act 1986

## 1986 CHAPTER 41

### PART IV

#### STAMP DUTY RESERVE TAX

##### *Other charges*

### 93 Depository receipts

- (1) Subject to subsection (7) below and section 95 below, there shall be a charge to stamp duty reserve tax under this section where in pursuance of an arrangement —
  - (a) a person falling within subsection (2) below has issued or is to issue a depository receipt for chargeable securities, and
  - (b) chargeable securities of the same kind and amount are transferred or issued to [<sup>F1</sup>the person mentioned in paragraph (a) above or] a person falling within subsection (3) below, or are appropriated by [<sup>F2</sup>the person mentioned in paragraph (a) above or a person falling within subsection (3) below] towards the eventual satisfaction of the entitlement of the receipt's holder to receive chargeable securities.
- (2) A person falls within this subsection if his business is or includes issuing depository receipts for chargeable securities.
- (3) A person falls within this subsection if his business is or includes holding chargeable securities as nominee or agent for the person who has issued or is to issue the depository receipt.
- (4) Subject to subsections [<sup>F3</sup>(6) and](7) below, tax under this section shall be charged at the rate of [<sup>F4</sup>1.5 per cent.] of the following—
  - (a) in a case where the securities are issued, their price when issued;
  - (b) in a case where the securities are transferred for consideration in money or money's [<sup>F5</sup>worth—
    - (i) the amount or value of the consideration, or

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1986, Section 93. (See end of Document for details)*

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- (ii) where subsection (4A) applies, the amount or value of the consideration or, if higher, the value of the securities;]
  - (c) in any other case, the value of the securities.
- [<sup>F6</sup>(4A) This subsection applies where the transfer of the securities is pursuant to—
- (a) the exercise of an option to buy or to sell the securities, and
  - (b) either—
    - (i) a term of the option which provides for the securities to be transferred to the person falling within subsection (2) or (3), or
    - (ii) a direction, given by or on behalf of the person entitled or bound to acquire the securities pursuant to the exercise of the option, for the securities to be so transferred.]
- (5) <sup>F7</sup> .....
- (6) In a case where—
- (a) securities are issued, or securities sold are transferred, and (in either case) they are to be paid for in instalments,
  - (b) the person to whom they are issued or transferred holds them and transfers them to another person when the last instalment is paid,
  - (c) subsection (4)(c) above applies in the case of the transfer to the other person,
  - (d) before the making of the transfer to the other person an instrument is received by a person falling within [<sup>F8</sup>subsection (2) or (3)] above,
  - (e) the instrument so received evidences all the rights which (by virtue of the terms under which the securities are issued or sold as mentioned in paragraph (a) above) subsist in respect of them at the time of the receipt, and
  - (f) the transfer to the other person is effected by an instrument containing a statement that paragraphs (a), (b) and (e) above are fulfilled,
- subsection (4)(c) above shall have effect as if the reference to the value there mentioned were to an amount (if any) equal to the total of the instalments payable, less those paid before the transfer to the other person is effected.
- (7) Where tax is (or would apart from this subsection be) charged under this section in respect of a transfer of securities, and ad valorem stamp duty is chargeable on any instrument effecting the transfer, then —
- (a) if the amount of the duty is less than the amount of tax found by virtue of [<sup>F9</sup>subsections (4) and] (6) above, the tax charged under this section shall be the amount so found less the amount of the duty;
  - (b) in any other case, there shall be no charge to tax under this section in respect of the transfer.
- (8) Where tax is charged under the preceding provisions of this section, the person liable for the tax shall (subject to subsection (9) below) be the person who has issued or is to issue the depositary receipt.
- (9) Where tax is charged under the preceding provisions of this section in a case where securities are transferred, and at the time of the transfer the person who has issued or is to issue the depositary receipt is not resident in the United Kingdom and has no branch or agency in the United Kingdom, the person liable for the tax shall be the person to whom the securities are transferred.
- (10) Where chargeable securities are issued or transferred on sale under terms providing for payment in instalments and for an issue of other chargeable securities, and (apart

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from this subsection) tax would be charged under this section in respect of that issue, tax shall not be so charged but —

- (a) if any of the instalments becomes payable by a person falling within subsection (2) or (3) above, there shall be a charge to stamp duty reserve tax under this section when the instalment becomes payable;
  - (b) the charge shall be at the rate of [<sup>F10</sup>1.5 per cent. of the amount] of the instalment payable;
  - (c) the person liable to pay the instalment shall be liable for the tax.
- (11) Subject to subsection (12) below, this section applies where securities are transferred, issued or appropriated after 18th March 1986 (whenever the arrangement was made).
- (12) This section does not apply, in the case of securities which are transferred, if the Board are satisfied that they were acquired or appropriated by the transferor on or before 18th March 1986 for or towards the eventual satisfaction of the entitlement of a person to receive securities of the same kind under a depositary receipt (whether issued on or before that date or to be issued after that date).

#### Textual Amendments

- F1** Words in s. 93(1)(b) inserted (with effect as mentioned in s. 193(4) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 193\(2\)\(a\)](#)
- F2** Words in s. 93(1)(b) substituted (with effect as mentioned in s. 193(4) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 193\(2\)\(b\)](#)
- F3** Words in s. 93(4) substituted (with application as mentioned in s. 104(5) of the amending Act) by [Finance Act 1997 \(c. 16\), s. 104\(2\)\(a\)](#)
- F4** Words in s. 93(4) substituted (with effect as mentioned in s. 194(7) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 194\(2\)\(a\)](#)
- F5** Words in s. 93(4)(b) substituted (with effect in accordance with s. 139(5) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 139\(2\)\(a\)](#)
- F6** [S. 93\(4A\)](#) inserted (with effect in accordance with s. 139(5) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 139\(2\)\(b\)](#)
- F7** [S. 93\(5\)](#) repealed (with effect as mentioned in s. 104(5) of the amending Act) by [Finance Act 1997 \(c. 16\), ss. 104\(1\), 113, Sch. 18 Pt. VII](#)
- F8** Words in s. 93(6)(d) substituted (with effect as mentioned in s. 193(4) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 193\(3\)](#)
- F9** Words in s. 93(7)(a) substituted (with application as mentioned in s. 104(5) of the amending Act) by [Finance Act 1997 \(c. 16\), s. 104\(2\)\(b\)](#)
- F10** Words in s. 93(10)(b) substituted (with effect as mentioned in s. 194(7) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 194\(2\)\(c\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1986, Section 93.