



Finance Act 1986

1986 CHAPTER 41

PART IV

STAMP DUTY RESERVE TAX

Other charges

95 Depository receipts: exceptions

(1) Where securities are transferred —

- (a) to a company which at the time of the transfer falls within subsection (6) of section 67 above ^{F1}. . . , and
- (b) from a company which at that time falls within that subsection ^{F1}. . . ,

[^{F2}subject to section 97C,] there shall be no charge to tax under section 93 above in respect of the transfer.

[^{F3}(2) There shall be no charge to tax under section 93 above in respect of a transfer, issue or appropriation of a UK bearer instrument, except in the case of—

- (a) an instrument within the exemption conferred by paragraph 16 of Schedule 15 to the Finance Act 1999 (renounceable letters of allotment etc. where rights are renounceable not later than six months after issue), or
- (b) an instrument within the exemption conferred by paragraph 17 of that Schedule (non-sterling instruments) which—
 - (i) does not raise new capital, and
 - (ii) is not issued in exchange for an instrument raising new capital.]

[^{F4}(2A) For the purpose of subsection (2)(b)—

- (a) an instrument is regarded as raising new capital only if the condition in subsection (2B) is met, and
- (b) an instrument is regarded as issued in exchange for an instrument raising new capital only if the conditions in subsection (2C) are met.

(2B) The condition mentioned in subsection (2A)(a) is that the instrument—

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- (a) is issued in conjunction with—
 - (i) the issue of relevant securities for which only cash is subscribed, or
 - (ii) the granting of rights to subscribe for relevant securities which are granted for a cash consideration only and exercisable only by means of a cash subscription; or
 - (b) is issued to give effect to the exercise of such rights as are mentioned in paragraph (a)(ii).
- (2C) The conditions mentioned in subsection (2A)(b) are that—
- (a) the instrument is issued in conjunction with the issue of relevant securities by a company in exchange for relevant securities issued by another company, and
 - (b) immediately before the exchange an instrument relating to those other securities—
 - (i) was regarded for the purposes of subsection (2)(b) as raising new capital or as issued in exchange for an instrument raising new capital, or
 - (ii) would have been so regarded if the amendments made to this section by section 117 of the Finance Act 1999 had been in force at the time of its issue,
 and accordingly was or would have been within the exception conferred by subsection (2).
- (2D) For the purposes of subsections (2B) and (2C) “relevant securities” means chargeable securities which are either—
- (a) shares the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the company, or
 - (b) loan capital within the meaning of section 78 above,
- and which, in either case, do not carry any rights (of conversion or otherwise) by the exercise of which chargeable securities other than relevant securities may be obtained.]
- (3) There shall be no charge to tax under section 93 above in respect of an issue by a company (company X) of securities in exchange for shares in another company (company Y) where company X —
- (a) has control of company Y, or
 - (b) will have such control in consequence of the exchange or of an offer as a result of which the exchange is made.
- [^{F5}and the shares in company Y are held under a depositary receipt scheme.]
- (4) For the purposes of subsection (3) above company X has control of company Y if company X has power to control company Y's affairs by virtue of holding shares in, or possessing voting power in relation to, company Y or any other body corporate.
- [^{F6}(5) For the purposes of subsection (3) above, the cases where shares are held under a depositary receipt scheme are those cases where, in pursuance of an arrangement,—
- (a) a depositary receipt for chargeable securities has been, or is to be, issued by a person falling within section 93(2) above in respect of the shares in question or shares of the same kind and amount; and
 - (b) the shares in question are held by that person, or by a person whose business is or includes holding chargeable securities as nominee or agent for that person, towards the eventual satisfaction of the entitlement of the receipt's holder to receive chargeable securities.

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- [^{F7}(6) Where an arrangement is entered into under which—
- (a) a company issues securities to persons in respect of their holdings of securities issued by another company, and
 - (b) the securities issued by the other company are cancelled,
- the issue shall be treated for the purposes of this section as an issue of securities in exchange for securities issued by the other company.]
- (7) In this section “depository receipt for chargeable securities” has the same meaning as in section 93 above (see section 94 above).]

Textual Amendments

- F1** Words in s. 95(1) repealed (with effect in as mentioned in s. 134(5) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), ss. 134(3), 156, [Sch. 40 Pt. III](#)
- F2** Words in s. 95(1) inserted (with effect in accordance with s. 54(6) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [s. 54\(2\)](#)
- F3** S. 95(2) substituted (with application as mentioned in s. 113(4) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), s. 113(3), [Sch. 16 para. 7](#) (with s. 123(4))
- F4** S. 95(2A)-(2D) inserted (with application as mentioned in s. 117(7) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [s. 117\(2\)](#) (with s. 123(4))
- F5** Words in s. 95(3) inserted (with application as mentioned in s. 151(6) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 151\(1\)](#)
- F6** S. 95(5)-(7) added (with application as mentioned in s. 151(6) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [s. 151\(2\)](#)
- F7** S. 95(6) substituted (with application as mentioned in s. 117(7) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [s. 117\(3\)](#) (with s. 123(4))

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