



# Finance Act 1997

## 1997 CHAPTER 16

### PART VII

#### STAMP DUTY AND STAMP DUTY RESERVE TAX

##### *Stamp duty*

#### **95 Mergers of authorised unit trusts**

- (1) Stamp duty shall not be chargeable on an instrument transferring any property which is subject to the trusts of an authorised unit trust (“the target trust”) to the trustees of another authorised unit trust (“the acquiring trust”) if the conditions set out in subsection (2) below are fulfilled.
- (2) Those conditions are that—
  - (a) the transfer forms part of an arrangement under which the whole of the available property of the target trust is transferred to the trustees of the acquiring trust;
  - (b) under the arrangement all the units in the target trust are extinguished;
  - (c) the consideration under the arrangement consists of or includes the issue of units (“the consideration units”) in the acquiring trust to the persons who held the extinguished units;
  - (d) the consideration units are issued to those persons in proportion to their holdings of the extinguished units; and
  - (e) the consideration under the arrangement does not include anything else, other than the assumption or discharge by the trustees of the acquiring trust of liabilities of the trustees of the target trust.
- (3) An instrument on which stamp duty is not chargeable by virtue only of this section shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for this section or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.

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(4) In this section—

“authorised unit trust” means a unit trust scheme in the case of which an order under section 78 of the Financial Services Act 1986 is in force;

“the whole of the available property of the target trust” means the whole of the property subject to the trusts of the target trust, other than any property which is retained for the purpose of discharging liabilities of the trustees of the target trust;

“unit” and “unit trust scheme” have the same meanings as in Part VII of the Finance Act 1946.

(5) Each of the parts of an umbrella scheme (and not the scheme as a whole) shall be regarded for the purposes of this section as an authorised unit trust; and in this section “umbrella scheme” has the same meaning as in section 468 of the Taxes Act 1988 and references to parts of an umbrella scheme shall be construed in accordance with that section.

(6) This section applies to any instrument which is executed—

- (a) on or after the day on which this Act is passed; but
- (b) before 1st July 1999.

## **96 Demutualisation of insurance companies**

(1) This section applies where there is a relevant transfer, under a scheme, of the whole or any part of the business carried on by a mutual insurance company (“the mutual”) to a company which has share capital (“the acquiring company”).

(2) Stamp duty shall not be chargeable on an instrument executed for the purposes of or in connection with the transfer if the requirements of subsections (3) and (4) below are satisfied in relation to the shares of a company (“the issuing company”) which is either—

- (a) the acquiring company; or
- (b) a company of which the acquiring company is a wholly-owned subsidiary.

(3) Shares in the issuing company must be offered, under the scheme, to at least 90 per cent. of the persons who immediately before the transfer are members of the mutual.

(4) Under the scheme, all the shares in the issuing company which will be in issue immediately after the transfer has been made, other than shares which are to be or have been issued pursuant to an offer to the public, must be offered to the persons who (at the time of the offer) are—

- (a) members of the mutual;
- (b) persons who are entitled to become members of the mutual; or
- (c) employees, former employees or pensioners of the mutual or of a company which is a wholly-owned subsidiary of the mutual.

(5) An instrument on which stamp duty is not chargeable by virtue only of subsection (2) above shall not be taken to be duly stamped unless it is stamped with the duty to which it would be liable but for that subsection or it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.

(6) For the purposes of this section, a company is a wholly-owned subsidiary of another person (“the parent”) if it has no members except the parent and the parent’s wholly-

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owned subsidiaries or persons acting on behalf of the parent or its wholly-owned subsidiaries.

- (7) In this section “relevant transfer” means—
- (a) a transfer to which Schedule 2C to the Insurance Companies Act 1982 (transfers of insurance business) applies; or
  - (b) a transfer to which that Schedule would apply but for section 15(1A) of that Act (provisions of Part II of that Act which do not apply to EC companies in certain circumstances).
- (8) In this section—
- “employee”, in relation to a mutual insurance company or its wholly-owned subsidiary, includes any officer or director of the company or subsidiary and any other person taking part in the management of the affairs of the company or subsidiary;
  - “insurance company” has the meaning given in section 96 of the Insurance Companies Act 1982;
  - “mutual insurance company” means an insurance company carrying on business without having any share capital;
  - “pensioner”, in relation to a mutual insurance company or its wholly-owned subsidiary, means a person entitled (whether presently or prospectively) to a pension, lump sum, gratuity or other like benefit referable to the service of any person as an employee of the company or subsidiary.
- (9) The Treasury may by regulations amend subsection (3) above by substituting a lower percentage for the percentage there mentioned.
- (10) The Treasury may by regulations provide that any or all of the references in subsections (3) and (4) above to members shall be construed as references to members of a class specified in the regulations; and different provision may be made for different cases.
- (11) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (12) This section applies in relation to instruments executed on or after the day on which this Act is passed.

## **97 Relief for intermediaries**

- (1) Before section 81 of the Finance Act 1986 there shall be inserted the following sections—

### **“80A Sales to intermediaries**

- (1) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or his nominee if—
- (a) the person is a member of an EEA exchange, or a recognised foreign exchange, on which stock of that kind is regularly traded;
  - (b) the person is an intermediary and is recognised as an intermediary by the exchange in accordance with arrangements approved by the Commissioners; and
  - (c) the sale is effected on the exchange.

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- (2) Stamp duty shall not be chargeable on an instrument transferring stock of a particular kind on sale to a person or his nominee if—
- (a) the person is a member of an EEA exchange or a recognised foreign options exchange;
  - (b) options to buy or sell stock of that kind are regularly traded on that exchange and are listed by or quoted on that exchange;
  - (c) the person is an options intermediary and is recognised as an options intermediary by that exchange in accordance with arrangements approved by the Commissioners; and
  - (d) the sale is effected on an EEA exchange, or a recognised foreign exchange, on which stock of that kind is regularly traded or subsection (3) below applies.
- (3) This subsection applies if—
- (a) the sale is effected on an EEA exchange, or a recognised foreign options exchange, pursuant to the exercise of a relevant option; and
  - (b) options to buy or sell stock of the kind concerned are regularly traded on that exchange and are listed by or quoted on that exchange.
- (4) For the purposes of this section—
- (a) an intermediary is a person who carries on a bona fide business of dealing in stock and does not carry on an excluded business; and
  - (b) an options intermediary is a person who carries on a bona fide business of dealing in quoted or listed options to buy or sell stock and does not carry on an excluded business.
- (5) The excluded businesses are the following—
- (a) any business which consists wholly or mainly in the making or managing of investments;
  - (b) any business which consists wholly or mainly in, or is carried on wholly or mainly for the purpose of, providing services to persons who are connected with the person carrying on the business;
  - (c) any business which consists in insurance business;
  - (d) any business which consists in managing or acting as trustee in relation to a pension scheme or which is carried on by the manager or trustee of such a scheme in connection with or for the purposes of the scheme;
  - (e) any business which consists in operating or acting as trustee in relation to a collective investment scheme or is carried on by the operator or trustee of such a scheme in connection with or for the purposes of the scheme.
- (6) A sale is effected on an exchange for the purposes of subsection (1) or (2) above if (and only if)—
- (a) it is subject to the rules of the exchange; and
  - (b) it is reported to the exchange in accordance with the rules of the exchange.
- (7) An instrument on which stamp duty is not chargeable by virtue only of this section shall not be deemed to be duly stamped unless it has been stamped with a stamp denoting that it is not chargeable with any duty; and notwithstanding

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anything in section 122(1) of the Stamp Act 1891, the stamp may be a stamp of such kind as the Commissioners may prescribe.

### **80B Intermediaries: supplementary**

- (1) For the purposes of section 80A above the question whether a person is connected with another shall be determined in accordance with the provisions of section 839 of the Income and Corporation Taxes Act 1988.
- (2) In section 80A above and this section—
  - “collective investment scheme” has the meaning given in section 75 of the Financial Services Act 1986;
  - “EEA exchange” means a market which appears on the list drawn up by an EEA State pursuant to Article 16 of European Communities Council Directive No. [93/22/EEC](#) on investment services in the securities field;
  - “EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May 1992 as adjusted by the Protocol signed at Brussels on the 17th March 1993;
  - “insurance business” means long term business or general business as defined in section 1 of the Insurance Companies Act 1982;
  - “quoted or listed options” means options which are quoted on or listed by an EEA exchange or a recognised foreign options exchange;
  - “stock” includes any marketable security;
  - “trustee” and “the operator” shall, in relation to a collective investment scheme, be construed in accordance with section 75(8) of the Financial Services Act 1986.
- (3) In section 80A above “recognised foreign exchange” means a market which—
  - (a) is not in an EEA State; and
  - (b) is specified in regulations made by the Treasury under this subsection.
- (4) In section 80A above and this section “recognised foreign options exchange” means a market which—
  - (a) is not in an EEA State; and
  - (b) is specified in regulations made by the Treasury under this subsection.
- (5) In section 80A above “the exercise of a relevant option” means—
  - (a) the exercise by the options intermediary concerned of an option to buy stock; or
  - (b) the exercise of an option binding the options intermediary concerned to buy stock.
- (6) The Treasury may by regulations provide that section 80A above shall not have effect in relation to instruments executed in pursuance of kinds of agreement specified in the regulations.
- (7) The Treasury may by regulations provide that if—
  - (a) an instrument falls within subsection (1) or (2) of section 80A above, and

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- (b) stamp duty would be chargeable on the instrument apart from that section,  
stamp duty shall be chargeable on the instrument at a rate, specified in the regulations, which shall not exceed 10p for every £100 or part of £100 of the consideration for the sale.
- (8) The Treasury may by regulations change the meaning of “intermediary” or “options intermediary” for the purposes of section 80A above by amending subsection (4) or (5) of that section (as it has effect for the time being).
- (9) The power to make regulations under subsections (3) to (8) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.”
- (2) Section 81 of that Act (sales to market makers) shall be omitted.
- (3) In section 88(1B)(b)(i) of that Act (which prevents repayment or cancellation of stamp duty reserve tax on certain agreements to transfer chargeable securities which were acquired by means of a transfer on which stamp duty was not chargeable by virtue of section 81) for “81” there shall be substituted “80A”.
- (4) Subsections (1) and (2) above apply to instruments executed on or after the commencement day.
- (5) Subsection (3) above applies in relation to an agreement to transfer chargeable securities if the securities were acquired in a transaction which was given effect to by an instrument of transfer executed on or after the commencement day.
- (6) For the purposes of this section the commencement day is such day as the Treasury may by order made by statutory instrument appoint.

## **98 Repurchases and stock lending**

- (1) After section 80B of the Finance Act 1986 there shall be inserted the following section—

### **“80C Repurchases and stock lending**

- (1) This section applies where a person (A) has entered into an arrangement with another person (B) under which—
- (a) B is to transfer stock of a particular kind to A or his nominee, and
  - (b) stock of the same kind and amount is to be transferred by A or his nominee to B or his nominee,
- and the conditions set out in subsection (3) below are fulfilled.
- (2) Stamp duty shall not be chargeable on an instrument transferring stock to B or his nominee or A or his nominee in accordance with the arrangement.
- (3) The conditions are—
- (a) that the arrangement is effected on an EEA exchange or a recognised foreign exchange; and
  - (b) that stock of the kind concerned is regularly traded on that exchange.
- (4) An arrangement does not fall within subsection (1) above if—

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- (a) the arrangement is not such as would be entered into by persons dealing with each other at arm's length; or
    - (b) under the arrangement any of the benefits or risks arising from fluctuations, before the transfer to B or his nominee takes place, in the market value of the stock accrues to, or falls on, A.
  - (5) An instrument on which stamp duty is not chargeable by virtue only of subsection (2) above shall not be deemed to be duly stamped unless it has been stamped with a stamp denoting that it is not chargeable with any duty; and notwithstanding anything in section 122(1) of the Stamp Act 1891, the stamp may be a stamp of such kind as the Commissioners may prescribe.
  - (6) An arrangement is effected on an exchange for the purposes of subsection (3) above if (and only if)—
    - (a) it is subject to the rules of the exchange; and
    - (b) it is reported to the exchange in accordance with the rules of the exchange.
  - (7) In this section—
    - “EEA exchange” has the meaning given in section 80B(2) above; and
    - “recognised foreign exchange” has the meaning given in section 80B(3) above.
  - (8) The Treasury may by regulations provide that if stamp duty would be chargeable on an instrument but for subsection (2) above, stamp duty shall be chargeable on the instrument at a rate, specified in the regulations, which shall not exceed 10p for every £100 or part of £100 of the consideration for the transfer.
  - (9) The Treasury may by regulations amend this section (as it has effect for the time being) in order—
    - (a) to change the conditions for exemption from duty under this section; or
    - (b) to provide that this section does not apply in relation to kinds of arrangement specified in the regulations.
  - (10) The power to make regulations under subsection (8) or (9) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.”
- (2) Section 82 of that Act (borrowing of stock by market makers) shall be omitted.
  - (3) This section applies to instruments executed on or after the commencement day.
  - (4) For the purposes of this section the commencement day is such day as the Treasury may by order made by statutory instrument appoint.

## **99 Depository receipts and clearance services**

- (1) Subsection (4) of section 67 of the Finance Act 1986 (depository receipts: reduced rate of stamp duty for qualified dealers other than market makers) shall be omitted.
- (2) Accordingly—

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- (a) in subsection (3) of that section for “subsections (4) and” there shall be substituted “subsection”; and
  - (b) subsections (6) to (8) of section 69 of that Act (definition of “qualified dealer” and “market maker” for the purposes of section 67(4) and power to amend definition) shall be omitted.
- (3) Subsection (4) of section 70 of that Act (clearance services: reduced rate of stamp duty for qualified dealers other than market makers) shall be omitted.
- (4) Accordingly—
  - (a) in subsection (3) of that section for “subsections (4) and” there shall be substituted “subsection”; and
  - (b) section 72(4) of that Act (definition of “qualified dealer” and “market maker” for the purposes of section 70(4)) shall be omitted.
- (5) This section applies to any instrument executed on or after the day which is the commencement day for the purposes of section 97 above, except an instrument which transfers relevant securities which were acquired by the transferor before that date.