



Finance Act 1997

1997 CHAPTER 16

PART VII

STAMP DUTY AND STAMP DUTY RESERVE TAX

Stamp duty reserve tax

103 Repurchases and stock lending.

- (1) After section 89A of the ^{M1}Finance Act 1986 there shall be inserted the following section—

“89AA Section 87: exception for repurchases and stock lending.

- (1) This section applies where a person (P) has entered into an arrangement with another person (Q) under which—
- (a) Q is to transfer chargeable securities of a particular kind to P or his nominee, and
 - (b) chargeable securities of the same kind and amount are to be transferred by P or his nominee to Q or his nominee,
- and the conditions set out in subsection (3) below are fulfilled.
- (2) Section 87 above shall not apply as regards an agreement to transfer chargeable securities to P or his nominee or Q or his nominee in accordance with the arrangement.
- (3) The conditions are—
- (a) that the agreement is effected on an EEA exchange or a recognised foreign exchange;
 - (b) that securities of the kind concerned are regularly traded on that exchange; and
 - (c) that chargeable securities are transferred to P or his nominee and Q or his nominee in pursuance of the arrangement.

Changes to legislation: *Finance Act 1997, Section 103 is up to date with all changes known to be in force on or before 25 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (4) An arrangement does not fall within subsection (1) above if—
- (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 Q or his nominee takes place, in the market value of the chargeable securities accrues to, or falls on, P.
- (5) An agreement 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.
- (6) In this section—
- “EEA exchange” has the meaning given in section 88B(2) above;
- “recognised foreign exchange” has the meaning given in section 80B(3) above.
- (7) The Treasury may by regulations provide that if section 87 would apply as regards an agreement but for subsection (2) above, section 87 shall apply as regards the agreement but with the substitution of a rate of tax not exceeding 0.1 per cent. for the rate specified in subsection (6) of that section.
- (8) 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 tax under this section; or
 - (b) to provide that this section does not apply in relation to kinds of arrangement specified in the regulations.
- (9) The power to make regulations under subsection (7) or (8) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.”
- (2) Section 89B of that Act (exceptions for stock lending and collateral security arrangements) shall be omitted.
- (3) In consequence of subsections (1) and (2) above, for section 88(1B)(b)(iia) of that Act (which is inserted by section 106(5)(c) below and which prevents repayment or cancellation of stamp duty reserve tax on certain agreements to transfer property consisting of chargeable securities which were acquired in pursuance of an agreement on which tax was not chargeable by virtue of section 89B(1)(a)) there shall be substituted—
- “(iia) in pursuance of an agreement to transfer securities which was made for the purpose of performing the obligation to transfer chargeable securities described in section 89AA(1)(a) below and as regards which section 87 above did not apply by virtue of section 89AA(2) below; or”.
- (4) After section 88(1B) of that Act there shall be inserted the following subsections—
- “(1C) Where—
- (a) there is an arrangement falling within subsection (1) of section 80C above (stamp duty relief for transfers in accordance with certain

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arrangements for B to transfer stock to A or his nominee and for A or his nominee to transfer stock of the same kind and amount back to B or his nominee), and

- (b) under the arrangement stock is transferred to A or his nominee by an instrument on which stamp duty is not chargeable by virtue only of section 80C(2) above, but
- (c) it becomes apparent that stock of the same kind or amount will not be transferred to B or his nominee by A or his nominee in accordance with the arrangement,

the instrument shall be disregarded in construing section 92(1A) and (1B) below.

(1D) Where—

- (a) an instrument transferring stock in accordance with an arrangement is stamped under section 80C(5) above, but
- (b) the instrument should not have been so stamped because the arrangement fell within section 80C(4)(a) or (b) above, and
- (c) apart from section 80C above stamp duty would have been chargeable on the instrument,

the instrument shall be deemed to be duly stamped under section 80C(5) above, but shall be disregarded in construing section 92(1A) and (1B) below.”

(5) Subsections (1) and (2) above apply to an agreement to transfer securities—

- (a) in the case of an agreement which is not conditional, if the agreement is made on or after the commencement day; and
- (b) in the case of a conditional agreement, if the condition is satisfied on or after the commencement day.

(6) Subsection (3) above applies in relation to property consisting of chargeable securities if the securities were acquired in pursuance of an agreement to which subsections (1) and (2) above apply (by virtue of subsection (5) above).

(7) Subsection (4) above applies to instruments executed on or after the commencement day.

(8) For the purposes of this section the commencement day is such day as the Treasury may by order made by statutory instrument appoint.

Subordinate Legislation Made

P1 [S. 103\(8\)](#) power fully exercised (8.10.1997): 20.10.1997 appointed by [S.I. 1997/2428](#), [art. 2](#)

Marginal Citations

M1 [1986 c. 41](#).

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Changes and effects yet to be applied to :

- s. 97-106 repealed (pt.prosp. for s.097-99) (pt.prosp.) by [1997 c. 16 s. 113Sch. 18 Pt. 7](#) Notes 1 6

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 51(A1) inserted by [2007 c. 15 Sch. 13 para. 126\(2\)](#)
- s. 51(A1) omitted by [2008 c. 9 Sch. 43 para. 6](#)