

SCHEDULES

SCHEDULE 4

Section 50

STAMP DUTY LAND TAX: CHARGEABLE CONSIDERATION

Money or money's worth

- 1 (1) The chargeable consideration for a transaction is, except as otherwise expressly provided, any consideration in money or money's worth given for the subject-matter of the transaction, directly or indirectly, by the purchaser or a person connected with him.
- (2) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of sub-paragraph (1).

Value added tax

- 2 The chargeable consideration for a transaction shall be taken to include any value added tax chargeable in respect of the transaction, other than value added tax chargeable by virtue of an election under paragraph 2 of Schedule 10 to the Value Added Tax Act 1994 (c. 23) made after the effective date of the transaction.

Postponed consideration

- 3 The amount or value of the chargeable consideration for a transaction shall be determined without any discount for postponement of the right to receive it or any part of it.

Just and reasonable apportionment

- 4 (1) For the purposes of this Part consideration attributable—
 - (a) to two or more land transactions, or
 - (b) in part to a land transaction and in part to another matter, or
 - (c) in part to matters making it chargeable consideration and in part to other matters,shall be apportioned on a just and reasonable basis.
- (2) If the consideration is not so apportioned, this Part has effect as if it had been so apportioned.
- (3) For the purposes of this paragraph any consideration given for what is in substance one bargain shall be treated as attributable to all the elements of the bargain, even though—
 - (a) separate consideration is, or purports to be, given for different elements of the bargain, or
 - (b) there are, or purport to be, separate transactions in respect of different elements of the bargain.

Status: This is the original version (as it was originally enacted).

Exchanges

- 5 (1) This paragraph applies to determine the chargeable consideration where one or more land transactions are entered into by a person as purchaser (alone or jointly) wholly or partly in consideration of one or more other land transactions being entered into by him (alone or jointly) as vendor.
- (2) In this paragraph—
- (a) “relevant transaction” means any of those transactions, and
 - (b) “relevant acquisition” means a relevant transaction entered into as purchaser and “relevant disposal” means a relevant transaction entered into as vendor.
- (3) The following rules apply if the subject-matter of any of the relevant transactions is a major interest in land—
- (a) where a single relevant acquisition is made, the chargeable consideration for the acquisition is—
 - (i) the market value of the subject-matter of the acquisition, and
 - (ii) if the acquisition is the grant of a lease at a rent, that rent;
 - (b) where two or more relevant acquisitions are made, the chargeable consideration for each relevant acquisition is—
 - (i) the market value of the subject-matter of that acquisition, and
 - (ii) if the acquisition is the grant of a lease at a rent, that rent.
- (4) The following rules apply if the subject-matter of none of the relevant transactions is a major interest in land—
- (a) where a single relevant acquisition is made in consideration of one or more relevant disposals, the chargeable consideration for the acquisition is the amount or value of any chargeable consideration other than the disposal or disposals that is given for the acquisition;
 - (b) where two or more relevant acquisitions are made in consideration of one or more relevant disposals, the chargeable consideration for each relevant acquisition is the appropriate proportion of the amount or value of any chargeable consideration other than the disposal or disposals that is given for the acquisitions.
- (5) For the purposes of sub-paragraph (4)(b) the appropriate proportion is—
- $$\frac{MV}{TMV}$$
- where—
- MV is the market value of the subject-matter of the acquisition for which the chargeable consideration is being determined, and
 - TMV is the total market value of the subject-matter of all the relevant acquisitions.
- (6) This paragraph has effect subject to—
- paragraph 6 of this Schedule (partition etc: disregard of existing interest), and
 - section 58 (relief for certain exchanges of residential property).

Partition etc: disregard of existing interest

- 6 In the case of a land transaction giving effect to a partition or division of a chargeable interest to which persons are jointly entitled, the share of the interest held by the purchaser immediately before the partition or division does not count as chargeable consideration.

Valuation of non-monetary consideration

- 7 Except as otherwise expressly provided, the value of any chargeable consideration for a land transaction, other than—
- (a) money (whether in sterling or another currency), or
 - (b) debt as defined for the purposes of paragraph 8 (debt as consideration),
- shall be taken to be its market value at the effective date of the transaction.

Debt as consideration

- 8 (1) Where the chargeable consideration for a land transaction consists in whole or in part of—
- (a) the satisfaction or release of debt due to the purchaser or owed by the vendor, or
 - (b) the assumption of existing debt by the purchaser,
- the amount of debt satisfied, released or assumed shall be taken to be the whole or, as the case may be, part of the chargeable consideration for the transaction.
- (2) If the effect of sub-paragraph (1) would be that the amount of the chargeable consideration for the transaction exceeded the market value of the subject-matter of the transaction, the amount of the chargeable consideration is treated as limited to that value.
- (3) In this paragraph—
- (a) “debt” means an obligation, whether certain or contingent, to pay a sum of money either immediately or at a future date,
 - (b) “existing debt”, in relation to a transaction, means debt created or arising before the effective date of, and otherwise than in connection with, the transaction, and
 - (c) references to the amount of a debt are to the principal amount payable or, as the case may be, the total of the principal amounts payable, together with the amount of any interest that has accrued due on or before the effective date of the transaction.

Conversion of amounts in foreign currency

- 9 (1) References in this Part to the amount or value of the consideration for a transaction are to its amount or value in sterling.
- (2) For the purposes of this Part the sterling equivalent of an amount expressed in another currency shall be ascertained by reference to the London closing exchange rate on the effective date of the transaction (unless the parties have used a different rate for the purposes of the transaction).

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Carrying out of works

- 10 (1) Where the whole or part of the consideration for a land transaction consists of the carrying out of works of construction, improvement or repair of a building or other works to enhance the value of land, then—
- (a) to the extent that the conditions specified in sub-paragraph (2) are met, the value of the works does not count as chargeable consideration, and
 - (b) to the extent that those conditions are not met, the value of the works shall be taken into account as chargeable consideration.
- (2) The conditions referred to in sub-paragraph (1) are—
- (a) that the works are carried out after the effective date of the transaction,
 - (b) that the works are carried out on land acquired or to be acquired under the transaction or on other land held by the purchaser or a person connected with him, and
 - (c) that it is not a condition of the transaction that the works are carried out by the vendor or a person connected with him.
- (3) In this paragraph—
- (a) references to the acquisition of land are to the acquisition of a major interest in it;
 - (b) the value of the works shall be taken to be the amount that would have to be paid in the open market for the carrying out of the works in question.
- (4) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this paragraph.

Provision of services

- 11 Where the whole or part of the consideration for a land transaction consists of the provision of services (other than the carrying out of works to which paragraph 10 applies), the value of that consideration shall be taken to be the amount that would have to be paid in the open market to obtain those services.

Land transaction entered into by reason of employment

- 12 (1) Where a land transaction is entered into by reason of the purchaser's employment, or that of a person connected with him, then—
- (a) if the transaction gives rise to a charge to tax under Chapter 5 of Part 3 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (taxable benefits: living accommodation) and—
 - (i) no rent is payable by the purchaser, or
 - (ii) the rent payable by the purchaser is less than the cash equivalent of the benefit calculated under section 105 or 106 of that Act,
 there shall be taken to be payable by the purchaser as rent an amount equal to the cash equivalent chargeable under those sections;
 - (b) if the transaction would give rise to a charge under that Chapter but for section 99 of that Act (accommodation provided for performance of duties), the consideration for the transaction is the actual consideration (if any);
 - (c) if neither paragraph (a) nor paragraph (b) applies, the consideration for the transaction shall be taken to be not less than the market value of the subject-matter of the transaction as at the effective date of the transaction.

- (2) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this paragraph.

Obligations under lease

- 13 (1) In the case of the grant of a lease none of the following counts as chargeable consideration—
- (a) any undertaking by the tenant to repair, maintain or insure the demised premises (in Scotland, the leased premises);
 - (b) any undertaking by the tenant to pay any amount in respect of services, repairs, maintenance or insurance or the landlord's costs of management;
 - (c) any other obligation undertaken by the tenant that is not such as to affect the rent that a tenant would be prepared to pay in the open market;
 - (d) any guarantee of the payment of rent or the performance of any other obligation of the tenant under the lease;
 - (e) any penal rent, or increased rent in the nature of a penal rent, payable in respect of the breach of any obligation of the tenant under the lease.
- (2) Where sub-paragraph (1) applies in relation to an obligation, a payment made in discharge of the obligation does not count as chargeable consideration.
- (3) The assumption or (as the case may be) release of any such obligation as is mentioned in sub-paragraph (1) does not count as chargeable consideration in relation to the assignment or surrender of the lease.

Surrender of existing lease in return for new lease

- 14 (1) This paragraph applies where a lease is granted in consideration of the surrender of an existing lease—
- (a) of the same or substantially the same premises,
 - (b) of which the unexpired term is substantially the same as the term of the new lease, and
 - (c) on the same or substantially the same terms.
- (2) Where this paragraph applies—
- (a) the grant of the new lease does not count as chargeable consideration for the surrender, and
 - (b) the surrender does not count as chargeable consideration for the grant of the new lease.

Reverse premium

- 15 (1) In the case of the grant, assignment or surrender of a lease a reverse premium does not count as chargeable consideration.
- (2) A “reverse premium” means—
- (a) in relation to the grant of a lease, a premium moving from the landlord to the tenant;
 - (b) in relation to the assignment of a lease, a premium moving from the assignor to the assignee;

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- (c) in relation to the surrender of a lease, a premium moving from the tenant to the landlord.

Indemnity given by purchaser

- 16 Where the purchaser agrees to indemnify the vendor in respect of liability to a third party arising from breach of an obligation owed by the vendor in relation to the land that is the subject of the transaction, neither the agreement nor any payment made in pursuance of it counts as chargeable consideration.