
Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2005, Cross
Heading: Loan or deposit in connection with grant or assignment of lease. (See end of Document for details)

SCHEDULES

SCHEDULE 10

STAMP DUTY LAND TAX: MISCELLANEOUS AMENDMENTS

PART 1

AMENDMENTS COMING INTO FORCE IN ACCORDANCE WITH PARAGRAPH 16

Loan or deposit in connection with grant or assignment of lease

14 After paragraph 18 of Schedule 17A insert—

“Loan or deposit in connection with grant or assignment of lease

- 18A (1) Where, under arrangements made in connection with the grant of a lease—
- (a) the lessee, or any person connected with him or acting on his behalf, pays a deposit, or makes a loan, to any person, and
 - (b) the repayment of all or part of the deposit or loan is contingent on anything done or omitted to be done by the lessee or on the death of the lessee,
- the amount of the deposit or loan (disregarding any repayment) is to be taken for the purposes of this Part to be consideration other than rent given for the grant of the lease.
- (2) Where, under arrangements made in connection with the assignment of a lease—
- (a) the assignee, or any person connected with him or acting on his behalf, pays a deposit, or makes a loan, to any person, and
 - (b) the repayment of all or part of the deposit or loan is contingent on anything done or omitted to be done by the assignee or on the death of the assignee,
- the amount of the deposit or loan (disregarding any repayment) is to be taken for the purposes of this Part to be consideration other than rent given for the assignment of the lease.
- (3) Sub-paragraph (1) or (2) does not apply in relation to a deposit if the amount that would otherwise fall within the sub-paragraph in question in relation to the grant or (as the case requires) assignment of the lease is not more than twice the relevant maximum rent.
- (4) The relevant maximum rent is—

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- (a) in relation to the grant of a lease, the highest amount of rent payable in respect of any consecutive twelve month period in the first five years of the term;
- (b) in relation to the assignment of a lease, the highest amount of rent payable in respect of any consecutive twelve month period in the first five years of the term remaining outstanding as at the date of the assignment,

the highest amount of rent being determined (in either case) in the same way as the highest amount of rent mentioned in paragraph 7(3).

- (5) Tax is not chargeable by virtue of this paragraph—
 - (a) merely because of paragraph 9(2) of Schedule 5 (which excludes the 0% band in the Tables in section 55(2) in cases where the relevant rental figure exceeds £600 a year), or
 - (b) merely because of paragraph 5(4)(b), 6(6)(b), 9(4)(b) or 10(6)(b) of Schedule 6 (which make similar provision in relation to land which is wholly or partly residential property and is wholly or partly situated in a disadvantaged area).
- (6) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this paragraph.”

15 In section 80 (adjustment where contingency ceases or consideration is ascertained) after subsection (4) insert—

- “(4A) Where the transaction (“the relevant transaction”) is the grant or assignment of a lease, no claim may be made under subsection (4)—
- (a) in respect of the repayment (in whole or part) of any loan or deposit that is treated by paragraph 18A of Schedule 17A as being consideration given for the relevant transaction, or
 - (b) in respect of the refund of any of the consideration given for the relevant transaction, in a case where the refund—
 - (i) is made under arrangements that were made in connection with the relevant transaction, and
 - (ii) is contingent on the determination or assignment of the lease or on the grant of a chargeable interest out of the lease.”

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