

SCHEDULES

SCHEDULE 37

Section 83

STOCK LENDING: STAMP TAXES IN THE EVENT OF INSOLVENCY

PART 1

STAMP DUTY

- 1 FA 1986 is amended as follows.
- 2 In Part 3 (stamp duty), after section 80C insert—

“80D Repurchases and stock lending: replacement stock on insolvency

- (1) This section applies where—
 - (a) A and B have entered into an arrangement falling within section 80C(1),
 - (b) the conditions in subsection (2A) or (3) of that section are met,
 - (c) stock is transferred to A or A’s nominee, and
 - (d) the conditions in subsection (2) below are met.
- (2) The conditions in this subsection are that—
 - (a) A and B are not connected persons within the meaning of section 839 of the Taxes Act 1988,
 - (b) after B has transferred stock under the arrangement, A or B becomes insolvent,
 - (c) it becomes apparent (whether before or after the insolvency occurs) that, as a result of the insolvency, stock will not be transferred to B or B’s nominee in accordance with the arrangement,
 - (d) the party who does not become insolvent (“the solvent party”) or the solvent party’s nominee acquires replacement stock, and
 - (e) the replacement stock is acquired before the end of the period of 30 days beginning with the day on which the insolvency occurs (“the insolvency date”).
- (3) Where collateral is provided under the arrangement (or under arrangements of which that arrangement forms part), stamp duty is not chargeable on any instrument transferring to the solvent party or the solvent party’s nominee—
 - (a) replacement stock acquired using the collateral (whether directly or indirectly), or
 - (b) where the solvent party uses the whole of the value of the collateral to acquire replacement stock, any further replacement stock.

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- (4) Where no collateral is provided as mentioned in subsection (3), stamp duty is not chargeable on any instrument transferring replacement stock to the solvent party or the solvent party's nominee.
- (5) Subsections (3) and (4) may apply as regards more than one instrument (and where those subsections apply as regards more than one instrument, the instruments may be executed by different persons).
- (6) But those subsections apply only as regards replacement stock up to the amount of stock which will not be transferred as a result of the insolvency.
- (7) An instrument on which stamp duty is not chargeable by virtue only of subsection (3) or (4) is not to be deemed to be duly stamped unless it has been stamped with a stamp denoting that it is not chargeable with any duty.
- (8) Despite section 122(1) of the Stamp Act 1891, the stamp mentioned in subsection (7) may be a stamp of such kind as the Commissioners for Her Majesty's Revenue and Customs may prescribe.
- (9) For the purposes of this section a person becomes insolvent—
- (a) if a company voluntary arrangement takes effect under Part 1 of the Insolvency Act 1986,
 - (b) if an administration application (within the meaning of Schedule B1 to that Act) is made or a receiver or manager, or an administrative receiver, is appointed,
 - (c) on the commencement of a creditor's voluntary winding up (within the meaning of Part 4 of that Act) or a winding up by the court under Chapter 6 of that Part,
 - (d) if an individual voluntary arrangement takes effect under Part 8 of that Act,
 - (e) on the presentation of a bankruptcy petition (within the meaning of Part 9 of that Act),
 - (f) if a compromise or arrangement takes effect under Part 26 of the Companies Act 2006,
 - (g) if a bank insolvency order takes effect under Part 2 of the Banking Act 2009,
 - (h) if a bank administration order takes effect under Part 3 of that Act, or
 - (i) on the occurrence of any corresponding event which has effect under or as a result of the law of Scotland or Northern Ireland or a country or territory outside the United Kingdom.
- (10) In this section—
- “collateral” means an amount of money or other property which is payable to, or made available for the benefit of, a party to an arrangement or that party's nominee for the purpose of securing the discharge of the requirement to transfer stock to that party or the nominee;
- “replacement stock”, in the event of a party to an arrangement becoming insolvent, is stock of the same kind as the stock which will not be transferred to the other party or that party's nominee as a result of the insolvency.”

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- 3 (1) In consequence of the amendment made by paragraph 2, section 88(1C) (disregard of certain instruments falling within section 80C(1)) is amended as follows.
- (2) At the beginning of the words after paragraph (c) insert “then, if section 80D does not apply,”.

PART 2

STAMP DUTY RESERVE TAX

- 4 Part 4 of FA 1986 (stamp duty reserve tax) is amended as follows.
- 5 After section 89AA insert—

“89AB Section 87: exception for repurchases and stock lending in case of insolvency

- (1) This section applies where—
- (a) P and Q have entered into an arrangement falling within section 89AA(1),
 - (b) the only reason that the conditions in subsection (2A) or (3) of that section are not met is that chargeable securities of the same kind and amount as those transferred to P or P’s nominee are not transferred to Q or Q’s nominee, and
 - (c) the conditions in subsection (2) below are met.
- (2) The conditions in this subsection are that—
- (a) P and Q are not connected persons within the meaning of section 839 of the Taxes Act 1988,
 - (b) after Q has transferred securities under the arrangement, either P or Q becomes insolvent,
 - (c) it becomes apparent (whether before or after the insolvency occurs) that, as a result of the insolvency, securities will not be transferred to Q or Q’s nominee in accordance with the arrangement.
- (3) Section 87 does not apply as regards an agreement to transfer chargeable securities to P or P’s nominee, or Q or Q’s nominee, in accordance with the arrangement.
- (4) Subsections (5) and (6) apply if—
- (a) the party who does not become insolvent (“the solvent party”) or the solvent party’s nominee acquires replacement securities, and
 - (b) the replacement securities are acquired before the end of the period of 30 days beginning with the day on which the insolvency occurs (“the insolvency date”).
- (5) Where collateral is provided under the arrangement (or under arrangements of which that arrangement forms part), section 87 does not apply as regards any agreement to transfer to the solvent party or the solvent party’s nominee—
- (a) replacement securities acquired using the collateral (whether directly or indirectly), or

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- (b) where the solvent party uses the whole of the value of the collateral to acquire replacement securities, any further replacement securities.
- (6) Where no collateral is provided as mentioned in subsection (5), section 87 does not apply as regards any agreement to transfer replacement securities to the solvent party or the solvent party's nominee.
- (7) Subsections (5) and (6) may apply as regards more than one agreement (and where those subsections apply as regards more than one agreement, the agreements may be with different persons).
- (8) But those subsections apply only as regards replacement securities up to the amount of securities which will not be transferred as a result of the insolvency.
- (9) For the purposes of this section a person becomes insolvent—
- (a) if a company voluntary arrangement takes effect under Part 1 of the Insolvency Act 1986,
 - (b) if an administration application (within the meaning of Schedule B1 to that Act) is made or a receiver or manager, or an administrative receiver, is appointed,
 - (c) on the commencement of a creditor's voluntary winding up (within the meaning of Part 4 of that Act) or a winding up by the court under Chapter 6 of that Part,
 - (d) if an individual voluntary arrangement takes effect under Part 8 of that Act,
 - (e) on the presentation of a bankruptcy petition (within the meaning of Part 9 of that Act),
 - (f) if a compromise or arrangement takes effect under Part 26 of the Companies Act 2006,
 - (g) if a bank insolvency order takes effect under Part 2 of the Banking Act 2009,
 - (h) if a bank administration order takes effect under Part 3 of that Act, or
 - (i) on the occurrence of any corresponding event which has effect under or as a result of the law of Scotland or Northern Ireland or a country or territory outside the United Kingdom.
- (10) In this section—
- “collateral” means an amount of money or other property which is payable to, or made available for the benefit of, a party to an arrangement or that party's nominee for the purpose of securing the discharge of the requirement to transfer securities to that party or the nominee;
- “replacement securities”, in the event of a party to an arrangement becoming insolvent, are chargeable securities of the same kind as the securities which will not be transferred to the other party or that party's nominee as a result of the insolvency.”