



Finance Act 2010

2010 CHAPTER 13

PART 2

ANTI-AVOIDANCE AND REVENUE PROTECTION

Stamp taxes

54 SDRT: depositary receipt systems and clearance services systems

- (1) Part 4 of FA 1986 (stamp duty reserve tax) is amended as follows.
- (2) In section 95(1) (depositary receipts: exceptions), before “there shall be” insert “subject to section 97C, ”.
- (3) In section 97(1) (clearance services: exceptions), before “there shall be” insert “subject to section 97C, ”.
- (4) In section 97B (transfer between depositary receipt system and clearance system), after subsection (1) insert—

“(1A) Subsection (1) is subject to section 97C.”
- (5) After that section insert—

“97C Transfers to non-EU depositary receipt and clearance services systems

- (1) This section applies where arrangements are made in accordance with which chargeable securities are—
 - (a) issued to an EU system, and
 - (b) subsequently transferred from an EU system to a non-EU system.
- (2) Nothing in section 95(1), 97(1) or 97B(1) disapplies a charge to tax under section 93 or 96 in respect of that transfer if—
 - (a) the chargeable securities have not previously been transferred, or

*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 2010, Section 54. (See end of Document for details)*

- (b) where they have previously been transferred, the transfer (or, if more than one, each of them) was an exempt transfer.
- (3) For the purposes of subsection (1)(a) chargeable securities are issued to an EU system if—
 - (a) pursuant to an arrangement of the kind mentioned in section 93(1), they are issued to a nominee in respect of an EU depositary receipt issuer, or
 - (b) pursuant to an arrangement of the kind mentioned in section 96(1), they are issued to a nominee in respect of an EU clearance service operator.
- (4) For the purposes of subsection (1)(b)—
 - (a) a transfer is from an EU system if it is from a company which is incorporated under the law of a member State and at the time of the transfer falls within section 67(6) or 70(6), and
 - (b) a transfer is to a non-EU system if it is to a company which is not incorporated under the law of a member State and at the time of the transfer falls within section 67(6) or 70(6).
- (5) In this section—
 - “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
 - “EU clearance service operator” means a person—
 - (a) whose business is or includes the provision of clearance services for the purchase and sale of chargeable securities, and
 - (b) who—
 - (i) if it is a company, is incorporated under the law of a member State, and
 - (ii) in any other case, is resident in a member State;
 - “EU depositary receipt issuer” means a person—
 - (a) whose business is or includes issuing depositary receipts for chargeable securities, and
 - (b) who—
 - (i) if it is a company, is incorporated under the law of a member State, and
 - (ii) in any other case, is resident in a member State;
 - “exempt transfer” means a transfer in respect of which, by reason of section 90(5), 95(1), 97(1) or 97B(1), no charge to stamp duty reserve tax arises;
 - “nominee”—
 - (a) in respect of an EU clearance service operator, means a person whose business is or includes holding chargeable securities as nominee for the EU clearance service operator, and
 - (b) in respect of an EU depositary receipt issuer, means a person whose business is or includes holding chargeable securities as nominee or agent for the EU depositary receipt issuer.”
- (6) The amendments made by this section have effect in relation to transfers of chargeable securities on or after 1 October 2009.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2010, Section 54.