
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, Paragraph 8. (See end of Document for details)

SCHEDULES

SCHEDULE 23

RELIEF FROM STAMP DUTY LAND TAX FOR FREEPORT TAX SITES

8 After Schedule 6B insert—

“SCHEDULE
6C

Section 61A

STAMP DUTY LAND TAX: RELIEF FOR FREEPORT TAX SITES

PART 1

QUALIFYING FREEPORT LAND

Transaction land

- 1 In this Schedule, “transaction land”, in relation to a land transaction, means land a chargeable interest in which is the subject matter of the transaction.

Qualifying freeport land

- 2 For the purposes of this Schedule, transaction land is “qualifying freeport land” if, on the effective date of the transaction—
- (a) it is situated in a freeport tax site, and
 - (b) the purchaser intends it to be used exclusively in a qualifying manner.

Use of land in a qualifying manner

- 3 (1) For the purposes of this Schedule, transaction land is used in a qualifying manner if—
- (a) it is used by the purchaser or a connected person in the course of a commercial trade or profession,
 - (b) it is developed or redeveloped by the purchaser or a connected person for use (by any person) in the course of a commercial trade or profession,
 - (c) it is exploited by the purchaser or a connected person, in the course of a commercial trade or profession, as a source of rents or other receipts (other than excluded rents), or
 - (d) it is used in two or more of the ways described in paragraphs (a) to (c).
- (2) But land is not used in a qualifying manner to the extent that it is—

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- (a) used as a dwelling or as the garden or grounds of a dwelling,
 - (b) developed or redeveloped to become residential property,
 - (c) exploited as a source of rents or other receipts payable by a person using the land as a dwelling or as the garden or grounds of a dwelling, or
 - (d) held (as stock of the business) for resale without development or redevelopment.
- (3) For the purposes of this paragraph, use of land in the course of a commercial trade or profession includes use of land for a purpose that is ancillary to the use of other land which—
- (a) is situated in a freeport tax site, and
 - (b) is being used, or developed or redeveloped, in the course of a commercial trade or profession.
- (4) The references in sub-paragraph (2) to land used as the garden or grounds of a dwelling include a building or structure on the land.
- (5) The references in this paragraph to doing something in the course of a commercial trade or profession include doing something in the course of a property rental business.
- (6) In this paragraph—
- “commercial”, in relation to a trade or profession, means carried on—
 - (a) on a commercial basis, and
 - (b) with a view to profit;
 - “excluded rents” has the same meaning as in section 133 of the Finance Act 2013;
 - “property rental business” means a property business as defined in Chapter 2 of Part 3 of the Income Tax (Trading and Other Income) Act 2005.

Connected persons

- 4 (1) In this Schedule, “connected person” means a person who is connected with the purchaser.
- (2) Section 1122 of the Corporation Tax Act 2010 (connected persons) has effect for the purposes of this paragraph.

PART 2

THE RELIEF

Exemption

- 5 (1) This paragraph applies to a land transaction if at least 90% of the chargeable consideration for the transaction is attributable to qualifying freeport land.
- (2) The transaction is exempt from charge.

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Other relief

- 6 (1) This paragraph applies to a land transaction if the proportion of the chargeable consideration for the transaction that is attributable to qualifying freeport land (“the relevant proportion”) is less than 90% but at least 10%.
- (2) The tax chargeable in respect of the transaction is reduced by the relevant proportion.

Attributing chargeable consideration to land

- 7 (1) For the purposes of this Schedule, the consideration attributable to qualifying freeport land must be determined on a just and reasonable basis.
- (2) Sub-paragraphs (3) and (4) apply if less than 100% of the chargeable consideration attributable to transaction land situated in a freeport tax site (“the freeport consideration”) is attributable to land that satisfies the condition in paragraph 2(b).
- (3) If at least 90% of the freeport consideration is attributable to land that satisfies the condition in paragraph 2(b) then, for the purposes of this Schedule, all of the freeport consideration is to be treated as being attributable to qualifying freeport land.
- (4) If less than 10% of the freeport consideration is attributable to land that satisfies the condition in paragraph 2(b) then, for the purposes of this Schedule, all of the freeport consideration is to be treated as not being attributable to qualifying freeport land.

PART 3

WITHDRAWAL OF RELIEF

Withdrawal of relief

- 8 (1) This paragraph applies where relief under Part 2 of this Schedule has been allowed in respect of a land transaction.
- (2) The relief is withdrawn if, at any time during the control period, the qualifying freeport land is not used exclusively in a qualifying manner.
- (3) But the relief is not withdrawn where, because of a change in circumstances that is unforeseen and beyond the purchaser's control, it is not reasonable to expect the qualifying freeport land to be used exclusively in a qualifying manner at that time.
- (4) Where, at a time during the control period, the use of all or part of the qualifying freeport land in a qualifying manner has not yet begun, that land, or that part of the land, is to be treated as being used exclusively in a qualifying manner if reasonable steps are being taken to ensure that it is used in that manner.

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- (5) Where, at a time during the control period, the use of all or part of the qualifying freeport land in a qualifying manner has ceased, that land, or that part of the land, is to be treated as being used exclusively in a qualifying manner if reasonable steps are being taken—
- (a) to ensure that it is used in that manner, or
 - (b) to dispose of all chargeable interests in that land, or that part of the land, that are held by the purchaser and connected persons in a timely manner.

The control period

- 9 (1) In this Schedule, “the control period”, in relation to a land transaction, means the shorter of—
- (a) the period of three years beginning with the effective date of that transaction, and
 - (b) the period beginning with the effective date of that transaction and ending with the effective date of the final transaction.
- (2) For the purposes of this paragraph, a land transaction is “the final transaction” if, immediately after the effective date of the transaction, neither the purchaser nor a connected person holds a chargeable interest in the qualifying freeport land (whether as a result of that transaction alone or as a result of that transaction and other land transactions).

Disposal of interest in part of qualifying freeport land during control period

- 10 (1) This paragraph applies where the purchaser ceases to hold a chargeable interest in part of the qualifying freeport land during the control period.
- (2) The references in paragraphs 8 and 9 to the qualifying freeport land are to be treated as references only to the part of the qualifying freeport land in relation to which the purchaser still holds a chargeable interest (whether the chargeable interest acquired in the land transaction in respect of which relief was allowed under Part 2 of this Schedule or another chargeable interest).

PART 4

ALTERNATIVE FINANCE ARRANGEMENTS

Cases involving alternative finance arrangements

- 11 (1) This paragraph applies where either of the following applies—
- (a) section 71A (land sold to financial institution and leased to person), or
 - (b) section 73 (land sold to financial institution and re-sold to person).
- (2) This paragraph applies for the purposes of determining—
- (a) whether relief is available under Part 2 of this Schedule for the first transaction, and
 - (b) whether relief allowed for the first transaction is withdrawn under Part 3 of this Schedule.

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- (3) For those purposes this Schedule has effect as if—
- (a) references to the purchaser were references to the relevant person, and
 - (b) the reference in paragraph 3(2)(d) to land held (as stock of the business) for resale without development or redevelopment were a reference to land held in that manner by the relevant person.
- (4) The first transaction does not qualify for relief under Part 2 of this Schedule except where it does so by virtue of this paragraph.
- (5) In this paragraph—
- “the first transaction” has the same meaning as in section 71A or 73 (as appropriate);
 - “the relevant person” means the person, other than the financial institution, who entered into the arrangements mentioned in section 71A(1) or 73(1) (as appropriate).

PART 5

POWER TO CHANGE WHEN RELIEF IS AVAILABLE

Power to change the cases in which relief is available

- 12 (1) The Treasury may by regulations—
- (a) amend the meaning of “qualifying freeport land”,
 - (b) add other conditions that must be met in order for relief to be available under this Schedule, and
 - (c) amend or remove conditions added under paragraph (b).
- (2) Regulations under this paragraph may not remove the requirement for land to be situated in a freeport tax site.
- (3) Regulations under this paragraph may, among other things—
- (a) make provision by reference to the land, the land transaction, the purchaser or connected persons;
 - (b) impose conditions relating to accounts or other records;
 - (c) impose other conditions requiring a person to take steps specified in the regulations.
- (4) Regulations under this paragraph—
- (a) may amend, repeal or otherwise modify provisions of this Schedule, and
 - (b) where made in reliance on section 114(6)(c), may amend, repeal or otherwise modify other provisions of this Act.

Approval of regulations

- 13 (1) An instrument containing regulations under paragraph 12 must be laid before the House of Commons after being made.

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- (2) If the regulations are not approved by the House of Commons before the end of the period of 28 days beginning with the day on which they are made, they cease to have effect at the end of that period (if they have not already ceased to have effect under sub-paragraph (3)).
- (3) If, on any day during that period of 28 days, the House of Commons, in proceedings on a motion that (or to the effect that) the regulations be approved, comes to a decision rejecting the regulations, they shall cease to have effect at the end of that day.
- (4) In reckoning any such period of 28 days, no account is to be taken of any time during which—
 - (a) Parliament is prorogued or dissolved, or
 - (b) the House of Commons is adjourned for more than four days.
- (5) Where regulations cease to have effect under sub-paragraph (3), their ceasing to have effect is without prejudice to anything done in reliance on them.”

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