



Finance Act 1946

1946 CHAPTER 64

PART VII

STAMP DUTY.

52 Exemption from stamp duty of documents connected with nationalisation schemes.

Where, by any Act passed after the beginning of the present Session which embodies any scheme for the carrying on of any industry or part of an industry, or of any undertaking, under national ownership or control, provision is made for the transfer of any property, as part of the initial putting into force of the scheme, to the Crown or to a body corporate constituted for the purposes of that scheme or any previous scheme for such national ownership or control as aforesaid—

- (a) in considering whether any and if so what duty is payable under section twelve of the Finance Act, 1895 (which requires Acts to be stamped as conveyances on sale in certain cases) the consideration for the transfer shall be left out of account ;
- (b) section eight of the Finance Act, 1899 (which imposes stamp duty where loan capital is issued) shall not apply in relation to so much of any loan capital of any such body corporate as aforesaid as is issued as, or as part of, Or to raise any money required to be paid as or as part of, the consideration for the transfer ;
- (c) stamp duty shall not be payable on any conveyance, agreement or assignment made or instrument executed -solely for the purpose of giving effect to the transfer.

53 Stamp duty on trust instruments under unit trust schemes.

- (1) Stamp duty shall be chargeable under the heading " Settlement " on the trust instrument of a unit trust scheme whatever the nature of the trust property, as if, in the heading " Settlement " in the First Schedule to the Stamp Act, 1891, for the words " whereby any definite and certain principal sum of money (whether charged or chargeable on lands

Status: This is the original version (as it was originally enacted).

or other hereditaments or heritable subjects, or not, or to be laid out in the purchase of lands or other hereditaments or heritable subjects or not) or any definite and certain amount of stock, or any security, is settled or agreed to be settled in any manner whatsoever " there were substituted the words " whereby any property whatsoever is settled or agreed to be settled in any manner whatsoever " .

- (2) Upon every occasion after the execution of the trust instrument of a unit trust scheme on which any property becomes trust property represented by units under the scheme, the trustees shall, not later than one month after the property so becomes trust property, furnish to the Commissioners a statement of the property, and produce therewith to the Commissioners the trust instrument duly stamped with ad valorem duty or additional ad valorem duty as if it were a new and separate instrument whereby that property was made trust property, bearing date on the day on which the property was made trust property :

Provided that this subsection shall not apply where the property is, or results from the investment of, proceeds of the sale, exchange or redemption of, or is bonus capital distributed in respect of, other trust property represented by units under the scheme.

- (3) If the trustees under a unit trust scheme fail to comply with the requirements of the last preceding subsection, the duty with interest thereon at the rate of five per cent. per annum from the date when the property in question is made trust property shall be a debt duo to His Majesty from the trustees.

54 Units under unit trust schemes to be treated as stock.

- (1) Any reference in the enactments relating to stamp duty to stock shall be deemed to include a reference to a unit under a unit trust scheme, and any reference in any such enactment to a stock certificate to bearer shall be deemed to include a reference to a certificate to, bearer in relation to a unit under a unit trust scheme and, subject to the provisions of this Part of this Act, the said enactments shall have effect accordingly.
- (2) Any reference in the enactments relating to stamp duty to the nominal amount or nominal value of stock shall, in relation to units under a unit trust scheme, be construed as a reference to the value of the units in question computed as if each unit were worth, and worth only, the price at which similar units are first or were first obtainable under the scheme from the trustees or managers thereof.
- (3) Nothing in this Part of this Act shall render any duty exceeding ten shillings payable in respect of an instrument of transfer whereby the managers transfer any unit under a unit trust scheme if their power to transfer the unit arises from the transfer to them of that or some other unit within the immediately preceding two months.
- (4) Where a unit under a unit trust scheme is transferred to the managers by an instrument of transfer duly stamped and, before the expiration of two months from the date of the transfer the managers and trustees jointly certify—
- (a) that the certificate, if any, in respect of the unit has been cancelled ; and
 - (b) that, as a consequence of the transfer, a proportionate part of the trust property has been realised, and the trust property diminished accordingly ; and
 - (c) that the unit is extinguished and that the managers have no power to transfer any other unit in lieu thereof,

the Commissioners shall, on the application of the person by or on behalf of whom the duty was paid and on production to them of the instrument of transfer and of the joint certificate of the managers and trustees, refund the duty.

- (5) In section one hundred and fifteen of, and the First Part of the Second Schedule to, the Stamp Act, 1891 (which relate to composition for stamp duty in respect of stock) the references to a county council or corporation or company and to stock thereof shall, in relation to a unit trust scheme, have effect as if they were respectively references to the trustees or managers under the scheme and to units under the scheme, so, however, that "any reference to the stock existing on any date shall, in relation to a unit trust scheme, be construed as including a reference to any units which could at that date be created without any corresponding addition being made to the trust property.
- (6) For the purposes of sections seventy-seven to seventy-nine of the Finance (1909-10) Act, 1910 (which relate to contract notes in respect of the sale or purchase of any stock or marketable security), the managers under a unit trust scheme shall, in relation to units under that scheme, be treated as a person who by way of business deals, or holds himself out as dealing, as a principal in stock :

Provided that the expression " contract note " shall not include—

- (a) a note sent by the managers to-a vendor or purchaser of units where that vendor or purchaser is acting as a broker or agent for a principal and is himself either a member of a stock exchange in the United Kingdom or a stockbroker registered as such in the list kept by the Commissioners under subsection (3) of section seventy-seven of the said Act ; or
- (b) a note sent by the managers notifying the sale of units where the sale is to be implemented by a document which, under the provisions of this Part of this Act, is not to be treated as effecting a transfer.

55 Special provisions as to certificates to bearer under unit trust schemes.

- (1) For the purposes of sections four and live of the Finance Act, 1899 (which relate, inter alia, to stock certificates to bearer issued by companies), a unit under a unit trust scheme, not governed by the law of any part of the United Kingdom shall be treated as if it were stock of a company formed out of the United Kingdom, and a certificate to bearer in respect of a unit under a unit trust scheme governed by the law of any part of the United Kingdom shall be treated as an instrument to bearer issued by or on behalf of a company formed in the United Kingdom
- (2) Where a certificate to bearer in respect of a unit under a unit trust scheme governed by the law of any part of the United Kingdom which has been issued before the passing of this Act is after the passing of this Act assigned, transferred or in any manner negotiated in Great Britain, there shall be charged thereon the like stamp duty as would be charged thereon if it had been issued after the passing of this Act, and every person who, in Great Britain, assigns, transfers or in any manner negotiates, or is concerned as broker or agent in assigning, transferring, or in any manner negotiating, any instrument which is chargeable with duty under this subsection, and is not duly stamped, or any unit under a unit trust scheme by means of such an instrument, shall incur a fine of twenty pounds and the amount of the duty .shall, be a debt due from him to His Majesty.
- (3) Where stamp duty has been paid on a certificate to bearer in respect of a unit under a unit trust scheme in accordance with the provisions of the last preceding subsection on the occasion of a transfer or assignment to the managers and, before the expiration .of two months from the date of the transfer or assignment, the managers and trustees jointly certify—

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

- (a) that, as a consequence of the transfer or assignment, a proportionate part of the trust property has been realised, and the trust property diminished accordingly ; and
- (b) that the unit is extinguished, and that the managers have no power to transfer any other unit in lieu thereof,

the Commissioners shall, on the application of the person by or on behalf of whom the duty was paid, and on production to them of the certificate to bearer duly cancelled, of the joint certificate of the managers and trustees, and of such evidence as they may require that the certificate to bearer has not been assigned, transferred or in any manner negotiated in Great Britain between the date of the passing of this Act and the date of the transfer or assignment to the managers, refund the duty.

- (4) For the purposes of this section, the delivery of any instrument used for the purpose of assigning, transferring, or in any manner negotiating the right to any unit, shall, if, by the usage of any market on which there are dealings in such units, it is treated as sufficient for the purpose of a sale of such a unit on the market, be deemed to be an assignment, transfer, or negotiation, whether it constitutes a legal assignment, transfer, or negotiation or not.

56 Supplemental provisions.

- (1) In section sixteen of the Stamp Act, 1891 (which requires public officers to permit inspection of documents by persons authorised by the Commissioners) the expression " public officer " shall, as respects rolls, books, records, papers, documents or proceedings relating to a unit trust scheme " be deemed to include the trustees and the managers under that Scheme, any agent of the said trustees or the said managers, and any officer of or servant of the said trustees or the said managers or of any such agent.
- (2) In subsection (1) of section one hundred and nine of the said Act (which relates to the cancellation of stock certificates to bearer in certain cases) the reference to the register of the local authority shall, in relation to units under a unit trust scheme, be construed as a reference to any register kept under the scheme.
- (3) The Commissioners may, for the purpose of securing the stamp duties payable by virtue of this Part of this Act, by regulations require the trustees and the managers under unit trust schemes, to keep such records of units thereunder, of the persons entitled to units thereunder, of transfers of units thereunder, and of the issue of certificates to bearer in respect of units thereunder, as may be specified in the regulations in relation to the trustees and the managers respectively, and if the trustees or managers under any such scheme fail to comply with any requirement of any such regulations, they shall incur a fine of ten pounds in respect of each matter which ought to have been but was not recorded.
- (4) Notwithstanding anything in the trust instrument of a unit trust scheme, it shall not be lawful for the trustees or managers under the scheme to register a transfer of units thereunder unless an instrument of transfer has been delivered to them :

Provided that nothing in this subsection shall prejudice any power of the trustees or managers to register as entitled to a unit any person to whom the right to that unit has been transmitted by operation of law.

57 Interpretation of Part VII.

- (1) In this Part of this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—
- " the enactments relating to stamp duty " means the Stamp Act, 1891, and any enactment which amends or is required to be construed together with that Act ;
 - " unit trust scheme " means any arrangements, made for the purpose, or having the effect, of providing, for persons having funds available for investment, facilities for the participation by them, as beneficiaries under a trust, in any profits or income arising from the acquisition holding, management or disposal of any property whatsoever;
 - " trust instrument " means, in relation to a unit trust scheme, the trust deed or other instrument (whether under seal or not) creating or recording the trusts by virtue of which persons are to participate as aforesaid ;
 - " trust property " means, in relation to a unit trust scheme, the property subject to the trusts of the trust instrument;
 - " trust property represented by units " means, in relation to a unit trust scheme, all trust property except, where the trust instrument provides for periodical distributions, any such dividends, interest or other property arising from trust property as is required under the instrument to be distributed at the next such distribution ;
 - " unit " means, in relation to a unit trust scheme, a right or interest (whether described as a unit, as a sub-unit, or otherwise) of a beneficiary under the trust instrument;
 - " certificate to bearer " means, in relation to a unit under a unit trust scheme, a document by the delivery of which the unit can be transferred or the delivery of which, by the usage of any market on which there are dealings in such units, is treated as sufficient for the purpose of a sale of such a unit on the market.
- (2) Where a person authorises or requires the trustees or managers under a unit; trust scheme to treat him as no longer interested in a unit under the scheme and authorises or requires them to treat another person as entitled to that unit, he shall be deemed for the purposes of this Part of this Act to transfer that unit, and any instrument whereby he gives the authority or makes the requirement shall be deemed for the purposes of the enactments relating to stamp duty to be a conveyance or transfer on sale, a conveyance or transfer operating as a voluntary disposition inter vivos within the meaning of section seventy-four of the Finance (1909-10) Act, 1910, or a conveyance or transfer falling within the heading " Conveyance or Transfer of any kind not hereinbefore described " in the First Schedule to the Stamp Act, 1891, according to the nature of the transaction as between him and the person whom he authorises the trustees-or managers to treat as entitled to the unit.
- (3) Where a person authorises or requires the trustees or managers under a unit trust scheme to treat him as no longer interested in a unit under that scheme and does not authorise or require them to treat another person as entitled to that unit, he shall be deemed for the purposes of this Part of this Act to transfer that unit to the managers, and any instrument whereby he gives the authority or makes the requirement shall be deemed for the purposes of the enactments relating to stamp duty to be a conveyance or transfer of the unit on sale.
- (4) Where the managers under a unit trust scheme authorise or require the trustees under the scheme to treat a person as entitled to a unit thereunder and their power so to

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

do arises from a previous transfer to them of that unit or some other unit, they shall be deemed for the purposes of this Part of this Act to transfer the first mentioned unit to that person, and any instrument whereby they give the authority or make the requirement shall be deemed for the purposes of the enactments relating to stamp duty to be a conveyance or transfer of the unit :

Provided that this subsection does not apply to anything done by the managers for the purpose merely of recognising or giving effect to a transmission of a unit by operation of law.