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STATUTORY INSTRUMENTS

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**1997 No. 319**

**The Local Authorities (Capital Finance) Regulations 1997**

**PART IX**

**NOTIONAL CAPITAL RECEIPTS**

*Preliminary provisions*

**Interpretation**

**105.** In this Part—

“the authority”, in relation to any non-monetary consideration, means the local authority by whom the consideration is received;

“non-monetary consideration” means any consideration such as is mentioned in section 61(1) (capital receipts not wholly in money paid to the authority); and

“notional capital receipt”, in relation to any non-monetary consideration, means the amount of the notional capital receipt determined in accordance with section 61(2).

**Notional capital receipts to be treated as reduced**

**106.**—(1) Subject to paragraph (2), where paragraph (3) applies to any consideration, the notional capital receipt in relation to that consideration shall be treated as reduced for the purposes of section 61(4) by an amount equal to the amount by which, if the consideration were in money paid to the authority, the capital receipt would be treated as reduced.

(2) Where—

(a) paragraph (3) applies to any consideration,

(b) at the same time as, or before, that consideration is received, the authority receive a capital receipt in respect of the same disposal or a disposal of another interest in the same asset, and

(c) the capital receipt is treated as reduced,

there shall be deducted from the amount by which, apart from this paragraph, the notional capital receipt would be treated as reduced an amount equal to the amount by which the capital receipt is treated as reduced.

(3) This paragraph applies to non-monetary consideration received by a local authority where—

(a) an amount falls to be set aside under section 61(4) in respect of the consideration; and

(b) if the consideration were in money paid to the authority, it would be a capital receipt falling to be treated as reduced for the purposes of section 59 by virtue of any provision of Part VIII of these Regulations.

*Reserved part of notional capital receipts*

**Disposal of redundant land in exchange for vacant land**

**107.** In the case of non-monetary consideration received in respect of a disposal of an interest in land, the amount falling to be set aside under section 61(4) in respect of the consideration shall be nil where—

- (a) the land has not been used for the purpose for which it was held by the authority at any time during the period beginning two years before the date of the disposal; and
- (b) the consideration consists of an interest in other land on which, immediately before the vesting of that interest in the authority, there are no buildings or other structures.

**Disposal of land to another local authority**

**108.** In the case of non-monetary consideration received in respect of a disposal of an interest in land (“the land”) to another local authority, the amount falling to be set aside under section 61(4) in respect of the consideration shall be nil where—

- (a) the consideration consists of an interest in other land which the authority have decided to use for a purpose specified in any of the categories 2 to 10 of Schedule 1 to these Regulations, or for the purposes of the fire service, or for the purposes of Part II of the Housing Act 1985; and
- (b) at the time of that decision, the land—
  - (i) was in use for a purpose specified in any of the categories 2 to 10 of that Schedule, or for the purposes of the fire service;
  - (ii) was a defective dwelling within the meaning given to that expression in Part XVI of the Housing Act 1985 (assistance for owners of defective housing); or
  - (iii) had not been used for the purpose for which it was held by the authority at any time during the period beginning two years before the date of that decision.

**Disposal of land in exchange for nomination rights**

**109.—(1)** In this regulation, “dwelling” has the extended meaning which it has in regulation 22(1).

(2) In the case of non-monetary consideration received in respect of a disposal of an area of land, the amount falling to be set aside under section 61(4) in respect of the consideration shall be nil where the consideration consists of—

- (a) the grant of a right to nominate a person either to occupy a dwelling situated within that area, or to acquire the freehold of, or a leasehold interest in, such a dwelling; or
- (b) an undertaking to allow only persons of a particular description to occupy a dwelling situated within that area, or acquire the freehold of, or a leasehold interest in, such a dwelling.

**Disposal of interest in land in exchange for works on the land**

**110.** In the case of non-monetary consideration received in respect of a disposal of an interest in land, the amount falling to be set aside under section 61(4) in respect of the consideration shall be nil where—

- (a) the consideration consists of the carrying out of works for the enhancement of the land; and

- (b) the authority make the disposal by granting a leasehold or lesser interest which confers on the person who carries out the works a right to use the land after the completion of the works.

#### **Disposal of land in exchange for right to use the land after enhancement**

**111.** In the case of non-monetary consideration received in respect of a disposal of an interest in land, the amount falling to be set aside under section 61(4) in respect of the consideration shall be nil where—

- (a) the person to whom the disposal is made carries out works for the enhancement of the land; and
- (b) the consideration consists of, or includes, the grant of a leasehold or lesser interest which confers on the authority a right to use the land after the completion of the works.

#### **Disposal of property under a private finance transaction**

**112.—**(1) In this regulation, “relevant arrangement” means a credit arrangement which—

- (a) is a private finance transaction for the purposes of Part IV of these Regulations; and
- (b) is entered into in reliance on a supplementary credit approval which applies for the purposes of the transaction and for no other purposes.

(2) In the case of non-monetary consideration received in respect of a disposal of an interest in any asset, investment or other property, the amount falling to be set aside under section 61(4) in respect of the consideration shall be nil where—

- (a) the consideration is received by the authority under a relevant arrangement; and
- (b) the disposal is made under or in connection with that arrangement.

#### **Disposal of lease in exchange for lessor’s promise to forbear**

**113.** In the case of non-monetary consideration received in respect of an assignment or a surrender of a leasehold interest in land, the amount falling to be set aside under section 61(4) in respect of the consideration shall be nil where the consideration consists of a promise not to sue for the breach of a repairing covenant in the lease.

#### **Disposal of assets in exchange for share or loan capital in a company**

**114.—**(1) Subject to paragraph (3), in the case of non-monetary consideration received in respect of a disposal to a company of an interest in a relevant asset, the amount falling to be set aside under section 61(4) in respect of the consideration shall be nil where the consideration consists of the issue of share capital or loan capital in the company.

(2) For the purposes of paragraph (1), an asset is a relevant asset if it is not a house, dwelling or other property of the authority to which section 74(1) (duty to keep Housing Revenue Account) applied immediately before the disposal, and if, at the time of disposal, expenditure on the acquisition of the asset would be expenditure for capital purposes.

(3) Paragraph (1) shall not apply where the company from which the non-monetary consideration is received is a regulated company within the meaning given to that expression in article 1(4) of the Local Authorities (Companies) Order 1995(1), and the authority and the company are members of the same local authority group.

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(1) [S.I. 1995/849](#). There are amendments which are not relevant to this regulation.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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