
STATUTORY INSTRUMENTS

2005 No. 1868

The Stamp Duty Land Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2005

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Stamp Duty Land Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2005 and shall come into force on 1st August 2005.

(2) In these Regulations—

“chargeable interests” has the meaning given by section 48 of the Finance Act 2003⁽¹⁾;

“residential” and “non-residential property” have the meanings given in section 116 of the Finance Act 2003; and

a reference (without more) to a numbered section is a reference to the section of the Finance Act 2004 which is so numbered.

(3) For the purposes of these Regulations, section 839 of the Income and Corporation Taxes Act 1988⁽²⁾ applies to determine whether persons are connected.

Prescribed description of arrangements in relation to stamp duty land tax

2.—(1) For the purposes of Part 7 (disclosure of tax avoidance schemes) the arrangements specified in paragraph (3) are prescribed in relation to stamp duty land tax.

(2) In this regulation—

“the applicable value” means the aggregate market value of all of the chargeable interests in non-residential property subject to the arrangements;

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs (see section 1 of the Commissioners for Revenue and Customs Act 2005); and

“market value” shall be construed in accordance with section 118 of the Finance Act 2003, and for the purposes of ascertaining that value, all chargeable interests held by the same person or connected persons shall be taken into account.

(3) The arrangements are those—

(a) whose subject matter does not consist wholly of residential property;

(b) in respect of which the applicable value is at least £5,000,000 at the time any requirement to notify would (but for this sub-paragraph) arise under section 308, 309 or 310 (as the case may be), and

(c) are not excluded by virtue of the provisions of the Schedule to these Regulations.

(4) If a promoter does not know whether proposals will result in arrangements, the subject matter of which will consist at least in part of non-residential property, it shall be assumed, for the purposes of these Regulations, that the subject matter of any resulting arrangements will so consist.

(1) 2003 c. 14. Section 48(7) was inserted by section 297(3) and paragraph 4(2) of Part 1 of Schedule 39 to the Finance Act 2004.
(2) 1988 c. 1. Section 839 was amended by paragraph 20 of Schedule 17 to the Finance Act 1995 (c. 4).

(5) If a promoter makes a notifiable proposal available generally, it shall be assumed that the applicable value is £5,000,000 or more.

(6) In any case where—

- (a) a promoter makes available a proposal for arrangements in circumstances where he knows the identity of at least one of the persons who it is proposed should be a party to the arrangements;
- (b) a promoter becomes aware of a transaction entered into in pursuance of arrangements of the kind described in sub-paragraph (a); or
- (c) a person becomes a party to any transaction forming part of notifiable arrangements; and liable to comply with—

(i) section 309 (duty of person dealing with promoter outside the United Kingdom); or

(ii) section 310 (duty of parties to notifiable arrangements not involving promoter);

if the person under a duty to provide the Commissioners with prescribed information does not know the applicable value, it shall be assumed to be at least £5,000,000.

11th July 2005

Tom Watson
Vernon Coaker
Two of the Lords Commissioners of Her
Majesty's Treasury