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Status: Point in time view as at 16/11/2010.
Changes to legislation: There are currently no known outstanding effects for the The Stamp Duty
Land Tax (Alternative Finance Investment Bonds) Regulations 2010. (See end of Document for details)
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STATUTORY INSTRUMENTS

2010 No. 814

STAMP DUTY LAND TAX

The Stamp Duty Land Tax (Alternative Finance Investment Bonds) Regulations 2010

Made - - - -	*16th March 2010*
Laid before the House of	
Commons - - - -	*17th March 2010*
Coming into force - -	*7th April 2010*

The Treasury, in exercise of the powers conferred by paragraph 5 of Schedule 3 to the Finance Act 2003(**1**), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Stamp Duty Land Tax (Alternative Finance Investment Bonds) Regulations 2010 and shall come into force on 7th April 2010.

Alternative finance investment bonds

2.—(1) Paragraph 11, Schedule 17A to the Finance Act 2003(**2**) (cases where assignment of lease treated as grant of lease) must be treated as if including the following provisions—

(2) After paragraph 11(2)—

"(2A) Sub-paragraph (2) shall not apply where an assignment of a lease, but for the application of that sub-paragraph, would be exempt by virtue of Schedule 61 to the Finance Act 2009"(**3**).

(3) In paragraph 11(3) after paragraph (e)—

"(f)   Paragraphs 6 and 8 of Part 3 of Schedule 61 to the Finance Act 2009 (alternative finance investment bond relief)".

(**1**)   2003 c. 14
(**2**)   Schedule 17A was inserted by paragraph 22(2) of Schedule 39 to the Finance Act 2004.
(**3**)   2009 c. 10

Tony Cunningham
Frank Roy
Two of the Lords Commissioners of Her
Majesty's Treasury

16th March 2010

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EXPLANATORY NOTE

(This note is not part of the Regulations)

Paragraph 11 of Schedule 17A to the Finance Act 2003 applies on the first assignment of a lease to deny relief on the first assignment, where upon the grant of the lease, relief from stamp duty land tax ("SDLT") has been claimed on the first assignment. The assignment is treated for SDLT purposes as a grant of a lease which brings into charge any rents that were previously exempt: these rents would not normally be chargeable on assignment.

Schedule 61 to the Finance Act 2009 makes provision for relief from SDLT for land transactions undertaken in relation to the issue of alternative finance investment bonds ("AFIBs"). Conditions have to be met before the relief can be claimed. One of these conditions is that there is a transfer of qualifying interests in land between the parties involved in the AFIB transactions, which means either a freehold sale or the assignment of a lease.

Paragraph 11 of Schedule 17A to the Finance Act 2003, in certain circumstances, prevents the AFIB relief from being made available as intended. An example would be where the land transaction undertaken in relation to the AFIB arrangements is the assignment of a lease and that lease was subject to a previous grant on which one of the reliefs specified in paragraph 11, Schedule 17A was claimed. Paragraph 11(2) would treat the assignment as a grant of a lease. In order to comply with the conditions of relief in Schedule 61, there must be a freehold sale or assignment of a lease and not a grant of a lease.

The Regulations treat paragraph 11(3) of Schedule 17A as if including Schedule 61 to the Finance Act 2009 in the list of provisions (reliefs/exemptions) that apply for the purpose of disapplying paragraph 11(2), and allow the AFIB relief to operate as intended, and will bring Schedule 61 in line with other reliefs.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.