

SCHEDULE 2

PRE-COMPLETION TRANSACTIONS

PART 4

THE MINIMUM CONSIDERATION RULE

The second minimum amount

17 (1) The “second minimum amount” is the total of the net amounts of consideration given by the relevant parties.

(2) The net amount of consideration given by any relevant party is—

$$CP - CR$$

Figure 1

where—

CP is the total amount of consideration given by the party for the acquisition of the chargeable interest or as consideration for a pre-completion transaction;

CR is the total of any amounts of consideration given to the party by another relevant party (or other relevant parties) as consideration for the acquisition of the chargeable interest or as consideration for the pre-completion transaction,

and if CR is greater than CP then the net amount of consideration given by the relevant party is taken to be zero.

(3) The relevant parties are—

- (a) the original buyer, and
- (b) the transferee,

unless sub-paragraph (4) applies.

(4) If the pre-completion transaction mentioned in paragraph 7(1) or 13(1) (“the implemented transaction”) is one in a chain of successive transactions (all having at least part of their subject-matter in common) that are pre-completion transactions in relation to the original contract, only the following are relevant parties—

- (a) the transferor and the transferee in relation to the implemented transaction;
- (b) a transferor in relation to a preceding transaction, if that transferor is connected with, or is not acting at arm’s length in relation to, the transferee under the implemented transaction;
- (c) the transferee under a pre-completion transaction where the transferor is a relevant party (whether by virtue of this paragraph (c) or otherwise),

and in this sub-paragraph and sub-paragraph (6) “preceding transaction” means a pre-completion transaction that precedes the implemented transaction in the chain.

(5) For the purposes of sub-paragraph (2)—

- (a) amounts given by a person connected with a relevant party are treated as given by the relevant party;

Status: This is the original version (as it was originally enacted).

- (b) amounts given to a person connected with a relevant party are treated as given to the relevant party,
but a person who is a relevant party is not to be treated, for the purposes of this paragraph, as connected with another relevant party (even if, apart from this sub-paragraph, that would be the case).
- (6) If the subject-matter of the implemented transaction is not the whole subject-matter of the original contract—
 - (a) the amounts that are taken for the purposes of sub-paragraph (2) to be given “for the acquisition of the chargeable interest” are to be determined on a just and reasonable basis, and
 - (b) only so much of the consideration for a preceding transaction as is referable, on a just and reasonable basis, to the subject-matter of the implemented transaction is to be taken into account under sub-paragraph (2).