



Finance Act 2008

2008 CHAPTER 9

PART 5

STAMP TAXES

Stamp duty land tax

93 Zero-carbon homes

- (1) Sections 58B and 58C of FA 2003 (relief from SDLT on first acquisition of zero-carbon homes) are amended as follows.
- (2) In section 58B, for subsection (2) substitute—
 - “(2) For the purposes of this section—
 - (a) a building, or a part of a building, is a dwelling if it is constructed for use as a single dwelling, and
 - (b) “first acquisition”, in relation to a dwelling, means its acquisition when it has not previously been occupied.”
- (3) Section 58C is amended as follows.
- (4) In subsection (1), for “building” substitute “dwelling”.
- (5) In subsection (2), after paragraph (c) insert—
 - “(d) provide for the charging of fees of a reasonable amount in respect of services provided as part of a scheme or process of certification.”
- (6) In subsection (3)—
 - (a) for “a building” substitute “a dwelling”, and
 - (b) for “building itself” substitute “building which, or part of which, constitutes the dwelling”.

Status: Point in time view as at 17/07/2012.

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- (7) The amendments made by subsections (2), (4) and (6) are treated as always having had effect; and provision included in regulations by virtue of those amendments may be made so as to have effect in relation to acquisitions on or after 1 October 2007.

94 Notification and registration of transactions

- (1) Part 4 of FA 2003 (stamp duty land tax) is amended as follows.
- (2) For section 77 substitute—

“77 Notifiable transactions

- (1) A land transaction is notifiable if it is—
- (a) an acquisition of a major interest in land that does not fall within one or more of the exceptions in section 77A,
 - (b) an acquisition of a chargeable interest other than a major interest in land where there is chargeable consideration in respect of which tax is chargeable at a rate of 1% or higher or would be so chargeable but for a relief,
 - (c) a land transaction that a person is treated as entering into by virtue of section 44A(3), or
 - (d) a notional land transaction under section 75A.
- (2) This section has effect subject to—
- (a) sections 71A(7) and 72A(7), and
 - (b) paragraph 30 of Schedule 15.
- (3) In this section “relief” does not include an exemption from charge under Schedule 3.

77A Exceptions for certain acquisitions of major interests in land

- (1) The exceptions referred to in section 77(1)(a) are as follows.
- (1) An acquisition which is exempt from charge under Schedule 3.
 - (2) An acquisition (other than the grant, assignment or surrender of a lease) where the chargeable consideration for that acquisition, together with the chargeable consideration for any linked transactions, is less than £40,000.
 - (3) The grant of a lease for a term of 7 years or more where—
 - (a) any chargeable consideration other than rent is less than £40,000, and
 - (b) the relevant rent is less than £1,000.
 - (4) The assignment or surrender of a lease where—
 - (a) the lease was originally granted for a term of 7 years or more, and
 - (b) the chargeable consideration for the assignment or surrender is less than £40,000.
 - (5) The grant of a lease for a term of less than 7 years where the chargeable consideration does not exceed the zero rate threshold.
 - (6) The assignment or surrender of a lease where—

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- (a) the lease was originally granted for a term of less than 7 years, and
 - (b) the chargeable consideration for the assignment or surrender does not exceed the zero rate threshold.
- (2) Chargeable consideration for an acquisition does not exceed the zero rate threshold if it does not consist of or include—
 - (a) any amount in respect of which tax is chargeable at a rate of 1% or higher, or
 - (b) any amount in respect of which tax would be so chargeable but for a relief.
- (3) In this section—
 - “annual rent” has the meaning given in paragraph 9A of Schedule 5,
 - “relevant rent” means—
 - (a) the annual rent, or
 - (b) in the case of the grant of a lease to which paragraph 11 or 19 of Schedule 15 applies, the relevant chargeable proportion of the annual rent (as calculated in accordance with that paragraph), and
 - “relief” does not include an exemption from charge under Schedule 3.”
- (3) In section 79(2) (registration of land transactions), after “every” insert “notifiable”.
- (4) Schedule 30 contains consequential provision.
- (5) The amendments made by this section and that Schedule have effect in relation to transactions with an effective date on or after 12 March 2008.

95 Charge where consideration includes rent: 0% band

- (1) Schedule 5 to FA 2003 (amount of SDLT chargeable: rent) is amended as follows.
- (2) In paragraph 9 (SDLT chargeable in respect of consideration other than rent)—
 - (a) in sub-paragraph (1), insert at the end “(but see paragraph 9A)”, and
 - (b) omit sub-paragraphs (2), (2A) and (3),and, accordingly, in the heading before that paragraph, insert at the end “: *general*”.
- (3) After that paragraph insert—

9A “Tax chargeable in respect of consideration other than rent: 0% band

- (1) This paragraph applies in the case of a transaction to which this Schedule applies where there is chargeable consideration other than rent.
- (2) If—
 - (a) the relevant land consists entirely of land that is non-residential property, and
 - (b) the relevant rent is at least £1,000,

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the 0% band in Table B in section 55(2) does not apply in relation to the consideration other than rent and any case that would have fallen within that band is treated as falling within the 1% band.

- (3) Sub-paragraphs (4) and (5) apply if—
- (a) the relevant land is partly residential property and partly non-residential property, and
 - (b) the relevant rent attributable, on a just and reasonable apportionment, to the land that is non-residential property is at least £1,000.
- (4) For the purpose of determining the amount of tax chargeable under section 55 in relation to the consideration other than rent, the transaction (or, where it is one of a number of linked transactions, that set of transactions) is treated as if it were two separate transactions (or sets of linked transactions), namely—
- (a) one whose subject-matter consists of all of the interests in land that is residential property, and
 - (b) one whose subject-matter consists of all of the interests in land that is non-residential property.
- (5) For that purpose, the chargeable consideration attributable to each of those separate transactions (or sets of linked transactions) is the chargeable consideration so attributable on a just and reasonable apportionment.
- (6) In this paragraph “the relevant rent” means—
- (a) the annual rent in relation to the transaction in question, or
 - (b) if that transaction is one of a number of linked transactions for which the chargeable consideration consists of or includes rent, the total of the annual rents in relation to all of those transactions.
- (7) In sub-paragraph (6) the “annual rent” means the average annual rent over the term of the lease or, if—
- (a) different amounts of rent are payable for different parts of the term, and
 - (b) those amounts (or any of them) are ascertainable at the effective date of the transaction,
- the average annual rent over the period for which the highest ascertainable rent is payable.
- (8) In this paragraph “relevant land” has the meaning given in section 55(3) and (4).”
- (4) Each of the following provisions of Schedule 6 to that Act (SDLT: disadvantaged areas relief) is amended in accordance with subsection (5)—
- (a) paragraph 5(4) (residential land wholly situated in disadvantaged area),
 - (b) paragraph 6(6) (mixed land wholly situated in disadvantaged area),
 - (c) paragraph 9(4) (residential land partly situated in disadvantaged area), and
 - (d) paragraph 10(6) (mixed land wholly partly situated in disadvantaged area).
- (5) In those provisions—
- (a) in paragraph (a), omit sub-paragraph (i) (and the “and” after it), and
 - (b) omit paragraph (b).

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- (7) In Schedule 8 to that Act (SDLT: charities relief), in paragraph 3—
- (a) in sub-paragraph (3)(b), for “does not exceed £600” substitute “ is less than £1,000 ”, and
 - (b) in sub-paragraph (5), for “9(2)” substitute “ 9A ”.
- (8) In Schedule 9 to that Act (SDLT: right to buy etc), after paragraph 4A insert—

“Shared ownership lease: grant not linked with staircasing transactions etc

- 4B (1) For the purpose of determining the rate of tax chargeable on the grant of a shared ownership lease of a dwelling, the grant shall be treated as if it were not linked to—
- (a) any acquisition of an interest in the dwelling to which paragraph 4A applies, or
 - (b) a transfer of the reversion to the lessee or lessees under the terms of the lease.
- (2) In this paragraph “shared ownership lease” has the same meaning as in paragraph 4A.”

- (9) In that Schedule, in paragraphs 10(1) and (2) and 11(b) (shared ownership trusts), omit “additional”.
- (10) In that Schedule, insert at the end—

“Shared ownership trust: declaration not linked with staircasing transactions etc

- 12 For the purpose of determining the rate of tax chargeable on the declaration of a shared ownership trust, the declaration shall be treated as if it were not linked to—
- (a) any equity-acquisition payment under the trust or any consequent increase in the purchaser's beneficial interest in the trust property, or
 - (b) a transfer to the purchaser of an interest in the trust property upon the termination of the trust.”

- (11) In Schedule 15 to that Act (SDLT: partnerships)—
- (a) in paragraph 11(2B)(a), for “9(2A)” substitute “ 9A(6) ”,
 - (b) in paragraph 19(2B), for “9(2A)” substitute “ 9A(6) ”, and
 - (c) in paragraph 23(3)(c), for “9(2)” substitute “ 9A ”.
- (12) In Schedule 17A to that Act (SDLT: further provisions relating to leases), in paragraph 18A(5)(a)—
- (a) for “9(2)” substitute “ 9A ”,
 - (b) for “the Tables” substitute “ Table B ”, and
 - (c) for “the relevant rental figure exceeds £600” substitute “ the relevant rent attributable to non-residential property is not less than £1,000 ”.
- (13) The amendments made by this section have effect in relation to transactions with an effective date on or after 12 March 2008.

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Textual Amendments

- F1** S. 95(6) omitted (with effect in accordance with Sch. 39 para. 10(4) of the amending Act) by virtue of Finance Act 2012 (c. 14), **Sch. 39 para. 8(2)(e)(i)** (with Sch. 39 paras. 11-13)

96 Withdrawal of group relief

- (1) Part 1 of Schedule 7 to FA 2003 (group relief) is amended as follows.
- (2) In paragraph 3(5), for “paragraph 4” substitute “ paragraphs 4 and 4ZA ”.
- (3) In paragraph 4 (cases in which group relief not withdrawn)—
 - (a) omit sub-paragraphs (2) and (3), and
 - (b) in sub-paragraph (5), for “sub-paragraphs (3) and (4)” substitute “ sub-paragraph (4) ”.
- (4) After that paragraph insert—

4ZA “Group relief not withdrawn where vendor leaves group

- (1) Group relief is not withdrawn under paragraph 3 where the purchaser ceases to be a member of the same group as the vendor because the vendor leaves the group.
- (2) The vendor is regarded as leaving the group if the companies cease to be members of the same group by reason of a transaction relating to shares in—
 - (a) the vendor, or
 - (b) another company that—
 - (i) is above the vendor in the group structure, and
 - (ii) as a result of the transaction ceases to be a member of the same group as the purchaser.
- (3) For the purpose of sub-paragraph (2) a company is “above” the vendor in the group structure if the vendor, or another company that is above the vendor in the group structure, is a 75% subsidiary of the company.
- (4) But if there is a change in the control of the purchaser after the vendor leaves the group, paragraphs 3, 4(6) and (7), 5 and 6 have effect as if the purchaser had then ceased to be a member of the same group as the vendor (but see sub-paragraph (7)).
- (5) For the purposes of this paragraph there is a change in the control of the purchaser if—
 - (a) a person who controls the purchaser (alone or with others) ceases to do so,
 - (b) a person obtains control of the purchaser (alone or with others), or
 - (c) the purchaser is wound up.
- (6) For the purposes of sub-paragraph (5) a person does not control, or obtain control of, the purchaser if that person is under the control of another person or other persons.
- (7) Sub-paragraph (4) does not apply where—

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- (a) there is a change in the control of the purchaser because a loan creditor (within the meaning of section 417(7) to (9) of the Taxes Act 1988) obtains control of, or ceases to control, the purchaser, and
 - (b) the other persons who controlled the purchaser before that change continue to do so.
 - (8) In this paragraph references to “control” shall be interpreted in accordance with section 416 of the Taxes Act 1988 (subject to sub-paragraph (6)).”
- (5) In paragraph 4A (withdrawal of group relief in certain cases involving successive transactions)—
 - (a) in sub-paragraph (1), in the words following paragraph (d), for “and 4” substitute “ , 4 and 4ZA ”,
 - (b) after that sub-paragraph insert—

“(1A) Sub-paragraph (1) has effect subject to sub-paragraph (3A).”
 - (c) in sub-paragraph (3)—
 - (i) for “sub-paragraph (1)(a)” substitute “ this paragraph ”, and
 - (ii) for “this sub-paragraph” substitute “ this paragraph ”, and
 - (d) after sub-paragraph (3) insert—

“(3A) Sub-paragraph (1) does not apply where—

 - (a) there is a change in the control of the purchaser because a loan creditor (within the meaning of section 417(7) to (9) of the Taxes Act 1988) obtains control of, or ceases to control, the purchaser, and
 - (b) the other persons who controlled the purchaser before that change continue to do so.”
- (6) The amendments made by this section have effect in relation to transactions with an effective date on or after 13 March 2008.

97 Transfers of interests in property-investment partnerships

- (1) Schedule 31 contains provision relating to stamp duty land tax chargeable on transfers to, and of interests in, property-investment partnerships.
- (2) Part 1 of that Schedule (transfer of interest in partnership: “relevant partnership property”), and this section so far as relating to that Part—
 - (a) have effect in respect of transfers occurring on or after 19 July 2007 (subject to subsection (3)), and
 - (b) are treated as having come into force on that day.
- (3) Subsections (14) and (17) of section 72 of FA 2007 (partnerships) apply in relation to the amendments made by Part 1 of that Schedule as they apply in relation to the amendments made by subsections (6) and (10) of that section.

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Stamp duty

98 Exemption from ad valorem stamp duty for low value transactions

- (1) Paragraph 1 of Schedule 13 to FA 1999 (charge to stamp duty on conveyance or transfer on sale) is amended as follows.
- (2) In sub-paragraph (3), for “(4)” substitute “ (3A) ”.
- (3) After that sub-paragraph insert—
 - “(3A) Stamp duty is not chargeable under sub-paragraph (1) on a transfer of stock or marketable securities where—
 - (a) the amount or value of the consideration for the sale is £1,000 or under, and
 - (b) the instrument is certified at £1,000.”
- (4) In paragraph 6(1) (meaning of instrument being certified at an amount), for “paragraph” substitute “ paragraphs 1(3A) and ”.
- (5) The amendments made by this section have effect in relation to instruments executed on or after 13 March 2008 and not stamped before 19 March 2008.
- (6) For the purposes of section 14(4) of the Stamp Act 1891 (c. 39) (instruments not to be given in evidence etc unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument—
 - (a) executed on or after 13 March 2008 but before 19 March 2008, and
 - (b) not stamped before 19 March 2008,
 shall be deemed to be the law as varied in accordance with this section.

99 Abolition of fixed stamp duty on certain instruments

- (1) Schedule 32 contains provision abolishing fixed stamp duty on certain instruments.
- (2) The amendments and saving made by that Schedule have effect in relation to instruments executed on or after 13 March 2008 and not stamped before 19 March 2008.
- (3) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument—
 - (a) executed on or after 13 March 2008 but before 19 March 2008, and
 - (b) not stamped before 19 March 2008,
 shall be deemed to be the law as varied in accordance with Schedule 32.

100 Gifts inter vivos

- (1) In FA 1985, omit section 82(5) and (9) (adjudication of certain gifts inter vivos).
- (2) Accordingly, omit paragraph 9 of Schedule 14 to FA 1999.
- (3) The amendments made by this section have effect in relation to instruments executed on or after 13 March 2008, other than instruments effecting a land transaction (within the meaning of paragraph 22 of Schedule 32).

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- (4) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of such an instrument shall be deemed to be the law as varied in accordance with this section.

101 Loan capital

- (1) Section 79 of FA 1986 (stamp duty and loan capital) is amended as follows.
- (2) In subsection (6), for “subsection (7)” substitute “ subsections (7) to (7B) ”.
- (3) After subsection (7A) insert—
- “(7B) Subsection (4) shall not be prevented from applying to a capital market instrument by virtue of subsection (6)(b) by reason only that the capital market investment concerned carries or has carried a right to interest which ceases or reduces if, or to the extent that, the issuer, after meeting or providing for other obligations specified in the capital market arrangement concerned, has insufficient funds available from that capital market arrangement to pay all or part of the interest otherwise due.”
- (4) After subsection (12) insert—
- “(13) In this section—
- “capital market instrument” means an instrument transferring a capital market investment issued as part of a capital market arrangement, and
- “capital market investment” and “capital market arrangement” have the same meaning as in section 72B of the Insolvency Act 1986 (see paragraphs 1 to 3 of Schedule 2A to that Act).”
- (5) The amendments made by this section have effect in relation to any instrument executed on or after the day on which this Act is passed.

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