



# Finance Act 1986

## 1986 CHAPTER 41

### PART IV

#### STAMP DUTY RESERVE TAX

#### *Other charges <sup>[F1]</sup>: depositary receipts*

#### Textual Amendments

- F1** Words in s. 93 cross-heading inserted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 7\(1\)](#) (with [Sch. 11 para. 26](#))

#### **93** **Depositary receipts <sup>[F2]</sup>: 1.5% charge**

- (1) <sup>F3</sup>... There shall be a charge to stamp duty reserve tax under this section where in pursuance of an arrangement —
- (a) a person falling within subsection (2) below has issued or is to issue a depositary receipt for chargeable securities, and
  - (b) chargeable securities of the same kind and amount are transferred <sup>F4</sup>... to <sup>F5</sup>the person mentioned in paragraph (a) above or] a person falling within subsection (3) below, or are appropriated by <sup>F6</sup>the person mentioned in paragraph (a) above or a person falling within subsection (3) below] towards the eventual satisfaction of the entitlement of the receipt's holder to receive chargeable securities.

<sup>F7</sup>(1A) The following provisions contain exceptions to the charge to stamp duty reserve tax under this section—

- (a) subsection (7) of this section (exception so far as stamp duty is chargeable);
- (b) section 95 (general exceptions);
- (c) section 95A (replacement securities);
- (d) section 97AB (exempt capital-raising transfers);
- (e) section 97AC (exempt listing transfers);

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- (f) section 97AD (exception for transfers of shares held by issuing company);
- (g) section 97B (transfers between depositary receipt system and clearance system).]

(2) A person falls within this subsection if his business is or includes issuing depositary receipts for chargeable securities.

(3) A person falls within this subsection if his business is or includes holding chargeable securities as nominee or agent for the person who has issued or is to issue the depositary receipt.

(4) Subject to subsections [F8(6) and] (7) below, tax under this section shall be charged at the rate of [F91.5 per cent.] of the following—

- F10(a) .....
- (b) in a case where the securities are transferred for consideration in money or money's [F11worth—
  - (i) the amount or value of the consideration, or
  - (ii) where subsection (4A) applies, the amount or value of the consideration or, if higher, the value of the securities;]
- (c) in any other case, the value of the securities.

[F12(4A) This subsection applies where the transfer of the securities is pursuant to—

- (a) the exercise of an option to buy or to sell the securities, and
- (b) either—
  - (i) a term of the option which provides for the securities to be transferred to the person falling within subsection (2) or (3), or
  - (ii) a direction, given by or on behalf of the person entitled or bound to acquire the securities pursuant to the exercise of the option, for the securities to be so transferred.]

F13(5) .....

- (6) In a case where—
  - (a) securities are issued, or securities sold are transferred, and (in either case) they are to be paid for in instalments,
  - (b) the person to whom they are issued or transferred holds them and transfers them to another person when the last instalment is paid,
  - (c) subsection (4)(c) above applies in the case of the transfer to the other person,
  - (d) before the making of the transfer to the other person an instrument is received by a person falling within [F14subsection (2) or (3)] above,
  - (e) the instrument so received evidences all the rights which (by virtue of the terms under which the securities are issued or sold as mentioned in paragraph (a) above) subsist in respect of them at the time of the receipt, and
  - (f) the transfer to the other person is effected by an instrument containing a statement that paragraphs (a), (b) and (e) above are fulfilled,

subsection (4)(c) above shall have effect as if the reference to the value there mentioned were to an amount (if any) equal to the total of the instalments payable, less those paid before the transfer to the other person is effected.

(7) Where tax is (or would apart from this subsection be) charged under this section in respect of a transfer of securities, and ad valorem stamp duty is chargeable on any instrument effecting the transfer, then —

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- (a) if the amount of the duty is less than the amount of tax found by virtue of [F15 subsections (4) and] (6) above, the tax charged under this section shall be the amount so found less the amount of the duty;
  - (b) in any other case, there shall be no charge to tax under this section in respect of the transfer.
- (8) Where tax is charged under the preceding provisions of this section, the person liable for the tax shall (subject to subsection (9) below) be the person who has issued or is to issue the depositary receipt.
- (9) Where tax is charged under the preceding provisions of this section in a case where securities are transferred, and at the time of the transfer the person who has issued or is to issue the depositary receipt is not resident in the United Kingdom and has no branch or agency in the United Kingdom, the person liable for the tax shall be the person to whom the securities are transferred.
- F16(10) .....
- (11) Subject to subsection (12) below, this section applies where securities are transferred, issued or appropriated after 18th March 1986 (whenever the arrangement was made).
- (12) This section does not apply, in the case of securities which are transferred, if the Board are satisfied that they were acquired or appropriated by the transferor on or before 18th March 1986 for or towards the eventual satisfaction of the entitlement of a person to receive securities of the same kind under a depositary receipt (whether issued on or before that date or to be issued after that date).

#### Textual Amendments

- F2 Words in s. 93 heading inserted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 7\(2\)\(a\)](#) (with [Sch. 11 para. 26](#))
- F3 Words in s. 93(1) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 7\(2\)\(b\)\(i\)](#) (with [Sch. 11 para. 26](#))
- F4 Words in s. 93(1)(b) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 7\(2\)\(b\)\(ii\)](#) (with [Sch. 11 para. 26](#))
- F5 Words in s. 93(1)(b) inserted (with effect as mentioned in [s. 193\(4\)](#) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [s. 193\(2\)\(a\)](#)
- F6 Words in s. 93(1)(b) substituted (with effect as mentioned in [s. 193\(4\)](#) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [s. 193\(2\)\(b\)](#)
- F7 S. 93(1A) inserted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 7\(2\)\(c\)](#) (with [Sch. 11 para. 26](#))
- F8 Words in s. 93(4) substituted (with application as mentioned in [s. 104\(5\)](#) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [s. 104\(2\)\(a\)](#)
- F9 Words in s. 93(4) substituted (with effect as mentioned in [s. 194\(7\)](#) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [s. 194\(2\)\(a\)](#)
- F10 S. 93(4)(a) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 7\(2\)\(d\)](#) (with [Sch. 11 para. 26](#))
- F11 Words in s. 93(4)(b) substituted (with effect in accordance with [s. 139\(5\)](#) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 139\(2\)\(a\)](#)
- F12 S. 93(4A) inserted (with effect in accordance with [s. 139\(5\)](#) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 139\(2\)\(b\)](#)
- F13 S. 93(5) repealed (with effect as mentioned in [s. 104\(5\)](#) of the amending Act) by [Finance Act 1997 \(c. 16\)](#), [ss. 104\(1\), 113](#), [Sch. 18 Pt. VII](#)

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- F14** Words in s. 93(6)(d) substituted (with effect as mentioned in s. 193(4) of the amending Act) by Finance Act 1996 (c. 8), s. 193(3)
- F15** Words in s. 93(7)(a) substituted (with application as mentioned in s. 104(5) of the amending Act) by Finance Act 1997 (c. 16), s. 104(2)(b)
- F16** S. 93(10) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of Finance Act 2024 (c. 3), Sch. 11 para. 7(2)(e) (with Sch. 11 para. 26)

## 94 Depositary receipts: supplementary

- (1) For the purposes of [<sup>F17</sup>sections 93 and 97AC] a depositary receipt for chargeable securities is an instrument acknowledging —
- (a) that a person holds chargeable securities or evidence of the right to receive them, and
  - (b) that another person is entitled to rights, whether expressed as units or otherwise, in or in relation to chargeable securities of the same kind, including the right to receive such securities (or evidence of the right to receive them) from the person mentioned in paragraph (a) above,
- except that for those purposes a depositary receipt for chargeable securities does not include an instrument acknowledging rights in or in relation to securities if they are issued or sold under terms providing for payment in instalments and for the issue of the instrument as evidence that an instalment has been paid.
- (2) The Treasury may by regulations provide that for subsection (1) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a depositary receipt for the purposes of section 93 above.
- (3) For the purposes of section 93(4)(b) above the value of any consideration not consisting of money shall be taken to be the price it might reasonably be expected to fetch on a sale in the open market at the time the securities are transferred.
- (4) For the purposes of [<sup>F18</sup>section 93(4)(b)(ii) and (c)] above the value of the securities shall be taken to be the price they might reasonably be expected to fetch on a sale in the open market at the time they are transferred or appropriated (as the case may be).
- (5) <sup>F19</sup> .....
- (6) <sup>F19</sup> .....
- (7) <sup>F19</sup> .....
- (8) <sup>F20</sup> .....
- (9) The power to make regulations or an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

### Textual Amendments

- F17** Words in s. 94(1) substituted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by Finance Act 2024 (c. 3), Sch. 11 para. 8
- F18** Words in s. 94(4) substituted (with effect in accordance with s. 139(5) of the amending Act) by Finance Act 2016 (c. 24), s. 139(3)
- F19** S. 94(5)-(7) repealed (with effect as mentioned in s. 104(5) of the amending Act) by Finance Act 1997 (c. 16), ss. 104(2)(c), 113, Sch. 18 Pt. VII

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**F20** S. 94(8) repealed (with effect as mentioned in s. 194(7) of the amending Act) by Finance Act 1996 (c. 8), ss. 194(3), 205, Sch. 41 Pt. VII

## 95 Depositary receipts: exceptions

(1) Where securities are transferred —

(a) to a company which at the time of the transfer falls within subsection (6) of section 67 above <sup>F21</sup> . . . , and

(b) from a company which at that time falls within that subsection <sup>F21</sup> . . . ,

<sup>F22</sup>... there shall be no charge to tax under section 93 above in respect of the transfer.

[<sup>F23</sup>(2) There shall be no charge to tax under section 93 above in respect of a transfer<sup>F24</sup>... or appropriation of a UK bearer instrument, except in the case of—

(a) an instrument within the exemption conferred by paragraph 16 of Schedule 15 to the Finance Act 1999 (renounceable letters of allotment etc. where rights are renounceable not later than six months after issue), or

(b) an instrument within the exemption conferred by paragraph 17 of that Schedule (non-sterling instruments) which—

(i) does not raise new capital, and

(ii) is not issued in exchange for an instrument raising new capital.]

[<sup>F25</sup>(2A) For the purpose of subsection (2)(b)—

(a) an instrument is regarded as raising new capital only if the condition in subsection (2B) is met, and

(b) an instrument is regarded as issued in exchange for an instrument raising new capital only if the conditions in subsection (2C) are met.

(2B) The condition mentioned in subsection (2A)(a) is that the instrument—

(a) is issued in conjunction with—

(i) the issue of relevant securities for which only cash is subscribed, or

(ii) the granting of rights to subscribe for relevant securities which are granted for a cash consideration only and exercisable only by means of a cash subscription; or

(b) is issued to give effect to the exercise of such rights as are mentioned in paragraph (a)(ii).

(2C) The conditions mentioned in subsection (2A)(b) are that—

(a) the instrument is issued in conjunction with the issue of relevant securities by a company in exchange for relevant securities issued by another company, and

(b) immediately before the exchange an instrument relating to those other securities—

(i) was regarded for the purposes of subsection (2)(b) as raising new capital or as issued in exchange for an instrument raising new capital, or

(ii) would have been so regarded if the amendments made to this section by section 117 of the Finance Act 1999 had been in force at the time of its issue,

and accordingly was or would have been within the exception conferred by subsection (2).

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(2D) For the purposes of subsections (2B) and (2C) “relevant securities” means chargeable securities which are either—

(a) shares the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the company, or

(b) loan capital within the meaning of section 78 above,

and which, in either case, do not carry any rights (of conversion or otherwise) by the exercise of which chargeable securities other than relevant securities may be obtained.]

<sup>F26</sup>(3) .....

<sup>F26</sup>(4) .....

<sup>F26</sup>(5) .....

[<sup>F27</sup>(6) Where an arrangement is entered into under which—

(a) a company issues securities to persons in respect of their holdings of securities issued by another company, and

(b) the securities issued by the other company are cancelled,

the issue shall be treated for the purposes of this section as an issue of securities in exchange for securities issued by the other company.]

<sup>F28</sup>(7) .....

#### Textual Amendments

**F21** Words in s. 95(1) repealed (with effect in as mentioned in s. 134(5) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), ss. 134(3), 156, [Sch. 40 Pt. III](#)

**F22** Words in s. 95(1) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 9\(a\)](#)

**F23** S. 95(2) substituted (with application as mentioned in s. 113(4) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), s. 113(3), [Sch. 16 para. 7](#) (with s. 123(4))

**F24** Word in s. 95(2) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 9\(b\)](#)

**F25** S. 95(2A)-(2D) inserted (with application as mentioned in s. 117(7) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), s. 117(2) (with s. 123(4))

**F26** S. 95(3)-(5) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 9\(c\)](#)

**F27** S. 95(6) substituted (with application as mentioned in s. 117(7) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), s. 117(3) (with s. 123(4))

**F28** S. 95(7) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 9\(d\)](#)

#### [<sup>F29</sup>95A **Depository receipts: exception for replacement securities.**

(1) There shall be no charge to tax under section 93 above in respect of the transfer<sup>F30</sup> ... or appropriation of chargeable securities (“the new securities”) issued by a company in place of existing securities of the same company (“the old securities”) if the following conditions are met.

(2) The first condition is that the old securities are held under a depository receipt scheme.

(3) The second condition is that—

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- (a) there was a charge to tax under section 93 above in respect of the transfer<sup>F31</sup>... or appropriation—
    - (i) of the old securities, or
    - (ii) of earlier securities in relation to which on a previous application of this section those securities were the new securities,or there would have been such a charge if that section had been in force; or
  - (b) there would have been such a charge but for section 95(2)<sup>F32</sup>... above.
- (4) The third condition is that there is an arrangement under which—
- (a) the new securities are transferred<sup>F33</sup>... or appropriated as mentioned in section 93(1)(b), and
  - (b) the old securities are cancelled.
- (5) For the purposes of subsection (2) above the cases in which securities are held under a depositary receipt scheme are those specified (in relation to shares) in section 95(5) above.
- (6) The exception provided by this section applies only to the extent that the value of the new securities immediately after their issue does not exceed the value of the old securities immediately before the issue of the new securities.]

#### Textual Amendments

- F29** S. 95A inserted (with application as mentioned in s. 118(5) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [s. 118\(1\)](#) (with [s. 123\(4\)](#))
- F30** Word in s. 95A(1) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 10\(a\)](#) (with [Sch. 11 para. 26](#))
- F31** Word in s. 95A(3)(a) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 10\(b\)\(i\)](#) (with [Sch. 11 para. 26](#))
- F32** Words in s. 95A(3)(b) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 10\(b\)\(ii\)](#) (with [Sch. 11 para. 26](#))
- F33** Word in s. 95A(4)(a) omitted (with effect in accordance with Sch. 11 para. 25 of the amending Act) by virtue of [Finance Act 2024 \(c. 3\)](#), [Sch. 11 para. 10\(c\)](#) (with [Sch. 11 para. 26](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1986, Cross Heading:  
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