



Finance Act 2003

2003 CHAPTER 14

PART 4

STAMP DUTY LAND TAX

Application of provisions

100 Companies

- (1) In this Part “company”, except as otherwise expressly provided, means any body corporate or unincorporated association, but does not include a partnership.
- (2) Everything to be done by a company under this Part shall be done by the company acting through—
 - (a) the proper officer of the company, or
 - (b) another person having for the time being having the express, implied or apparent authority of the company to act on its behalf for the purpose.Paragraph (b) does not apply where a liquidator has been appointed for the company.
- (3) Service on a company of any document under or in pursuance of this Part may be effected by serving it on the proper officer.
- (4) Tax due from a company that—
 - (a) is not a body corporate, or
 - (b) is incorporated under the law of a country or territory outside the United Kingdom,may, without prejudice to any other method of recovery, be recovered from the proper officer of the company.
- (5) The proper officer may retain out of any money coming into his hands on behalf of the company sufficient sums to pay that tax and, so far as he is not so reimbursed, he is entitled to be indemnified by the company in respect of the liability imposed on him.
- (6) For the purposes of this Part—

Status: Point in time view as at 10/07/2003.

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- (a) the proper officer of a body corporate is the secretary, or person acting as secretary, of the company, and
- (b) the proper officer of an unincorporated association, or of a body corporate that does not have a proper officer within paragraph (a), is the treasurer, or person acting as treasurer, of the company.

This subsection does not apply if a liquidator or administrator has been appointed for the company.

- (7) If a liquidator or administrator has been appointed for the company, then, for the purposes of this Part—
- (a) the liquidator or, as the case may be, the administrator is the proper officer, and
 - (b) if two or more persons are appointed to act jointly or concurrently as the administrator of the company, the proper officer is—
 - (i) such one of them as is specified in a notice given to the Inland Revenue by those persons for the purposes of this section, or
 - (ii) where the Inland Revenue is not so notified, such one or more of those persons as the Inland Revenue may designate as the proper officer for those purposes.

Commencement Information

II Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

101 Unit trust schemes

- (1) This Part (with the exception of the provisions mentioned in subsection (7) below) applies in relation to a unit trust scheme as if—
- (a) the trustees were a company, and
 - (b) the rights of the unit holders were shares in the company.
- (2) Each of the parts of an umbrella scheme is regarded for the purposes of this Part as a separate unit trust scheme and the scheme as a whole is not so regarded.
- (3) An “umbrella scheme” means a unit trust scheme—
- (a) that provides arrangements for separate pooling of the contributions of participants and the profits or income out of which payments are to be made for them, and
 - (b) under which the participants are entitled to exchange rights in one pool for rights in another.
- A “part” of an umbrella scheme means such of the arrangements as relate to a separate pool.
- (4) In this Part, subject to any regulations under subsection (5)—
- “unit trust scheme” has the same meaning as in the Financial Services and Markets Act 2000 (c. 8), and
 - “unit holder” means a person entitled to a share of the investments subject to the trusts of a unit trust scheme.
- (5) The Treasury may by regulations provide that a scheme of a description specified in the regulations is to be treated as not being a unit trust scheme for the purposes of this Part.

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Any such regulations may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient.

- (6) Section 469A of the Taxes Act 1988 (court common investment funds treated as authorised unit trusts) applies for the purposes of this Part as it applies for the purposes of that Act, with the substitution for references to an authorised unit trust of references to a unit trust scheme.
- (7) An unit trust scheme is not to be treated as a company for the purposes of—
section 53 (deemed market value rule for transactions with connected companies),
or
Schedule 7 (group relief, reconstruction relief or acquisition relief).

Commencement Information

I2 Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

102 Open-ended investment companies

- (1) The Treasury may by regulations make such provision as they consider appropriate for securing that the provisions of this Part have effect in relation to—
- (a) open-ended investment companies of such description as may be prescribed in the regulations, and
 - (b) transactions involving such companies,
- in a manner corresponding, subject to such modifications as the Treasury consider appropriate, to the manner in which they have effect in relation to unit trust schemes and transactions involving such trusts.
- (2) The regulations may, in particular, make provision—
- (a) modifying the operation of any prescribed provision in relation to open-ended investment companies so as to secure that arrangements for treating the assets of such a company as assets comprised in separate pools are given an effect corresponding to that of equivalent arrangements constituting the separate parts of an umbrella scheme;
 - (b) treating the separate parts of the undertaking of an open-ended investment company in relation to which such provision is made as distinct companies for the purposes of this Part.
- (3) Regulations under this section may—
- (a) make different provision for different cases, and
 - (b) contain such incidental, supplementary, consequential and transitional provision as the Treasury think fit.
- (4) In this section—
- “open-ended investment company” has the meaning given by section 236 of the Financial Services and Markets Act 2000 (c. 8);
 - “prescribed” means prescribed by regulations under this section; and
 - “unit trust scheme” and “umbrella scheme” have the same meaning as in section 101.

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Commencement Information

I3 Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

103 Joint purchasers

- (1) This section applies to a land transaction where there are two or more purchasers who are or will be jointly entitled to the interest acquired.
- (2) The general rules are that—
 - (a) any obligation of the purchaser under this Part in relation to the transaction is an obligation of the purchasers jointly but may be discharged by any of them,
 - (b) anything required or authorised by this Part to be done in relation to the purchaser must be done by or in relation to all of them, and
 - (c) any liability of the purchaser under this Part in relation to the transaction (in particular, any liability arising by virtue of the failure to fulfil an obligation within paragraph (a)), is a joint and several liability of the purchasers.

These rules are subject to the following provisions.
- (3) If the transaction is a notifiable transaction, a single land transaction return is required.
- (4) The declaration required by paragraph 1(1)(c) of Schedule 10 or paragraph 2(1)(c) of Schedule 11 (declaration that return or self-certificate is complete and correct) must be made by all the purchasers.
- (5) If the Inland Revenue give notice of an enquiry into the return or self-certificate—
 - (a) the notice must be given to each of the purchasers,
 - (b) the powers of the Inland Revenue as to the production of documents and provision of information for the purposes of the enquiry are exercisable separately (and differently) in relation to each of the purchasers,
 - (c) any of the purchasers may apply for a direction that a closure notice be given (and all of them are entitled to appear and be heard on the application), and
 - (d) the closure notice must be given to each of the purchasers.
- (6) A Revenue determination or discovery assessment relating to the transaction must be made against all the purchasers and is not effective against any of them unless notice of it is given to each of them whose identity is known to the Inland Revenue.
- (7) In the case of an appeal arising from proceedings under this Part relating to the transaction—
 - (a) the appeal may be brought by any of the purchasers,
 - (b) notice of the appeal must be given to any of them by whom it is not brought,
 - (c) the agreement of all the purchasers is required if the appeal is to be settled by agreement,
 - (d) if it is not settled, any of them are entitled to appear and be heard, and
 - (e) the decision on the appeal binds all of them.
- (8) This section has effect subject to—
 - the provisions of Schedule 15 relating to partnerships, and
 - the provisions of Schedule 16 relating to trustees.

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Commencement Information

I4 Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

104 Partnerships

- (1) Schedule 15 has effect with respect to the application of this Part in relation to partnerships.
- (2) In that Schedule—
 - Part 1 defines “partnership” and contains other general provisions, and
 - Part 2 deals with ordinary partnership transactions, and
 - Part 3 excludes certain transactions from stamp duty land tax.

Commencement Information

I5 Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

105 Trustees

Schedule 16 has effect with respect to the application of this Part in relation to trustees.

Commencement Information

I6 Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

106 Persons acting in a representative capacity etc

- (1) The person having the direction, management or control of the property of an incapacitated person—
 - (a) is responsible for discharging any obligations under this Part, in relation to a transaction affecting that property, to which the incapacitated person would be subject if he were not incapacitated, and
 - (b) may retain out of money coming into his hands on behalf of the incapacitated person sums sufficient to meet any payment he is liable to make under this Part, and, so far as he is not so reimbursed, is entitled to be indemnified in respect of any such payment.
- (2) The parent or guardian of a minor is responsible for discharging any obligations of the minor under this Part that are not discharged by the minor himself.
- (3) The personal representatives of a person who is the purchaser under a land transaction—
 - (a) are responsible for discharging the obligations of the purchaser under this Part in relation to the transaction, and
 - (b) may deduct any payment made by them under this Part out of the assets and effects of the deceased person.
- (4) A receiver appointed by a court in the United Kingdom having the direction and control of any property is responsible for discharging any obligations under this Part

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in relation to a transaction affecting that property as if the property were not under the direction and control of the court.

Commencement Information

I7 Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

107 Crown application

- (1) Subject to the following provisions of this section, this Part applies in relation to public offices and departments of the Crown.

But nothing in this Part shall require the payment by any such office or department of tax that would ultimately be borne by the Crown.

- (2) A land transaction under which the purchaser is any of the following is exempt from charge:

Government

A Minister of the Crown

The Scottish Ministers

A Northern Ireland department

Parliament etc

The Corporate Officer of the House of Lords

The Corporate Officer of the House of Commons

The Scottish Parliamentary Corporate Body

The Northern Ireland Assembly Commission

The National Assembly for Wales

- (3) The powers conferred by Part 7 of Schedule 13 (entry with warrant to obtain information) are not exercisable in relation to premises occupied for the purposes of the Crown.

Commencement Information

I8 Pt. 4 wholly in force at Royal Assent subject to Sch. 19, see s. 124, Sch. 19 para. 1(1)

Status:

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