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SCHEDULES

SCHEDULE 4

Section 50

STAMP DUTY LAND TAX: CHARGEABLE CONSIDERATION

Money or money's worth

1 (1) The chargeable consideration for a transaction is, except as otherwise expressly provided, any consideration in money or money's worth given for the subject-matter of the transaction, directly or indirectly, by the purchaser or a person connected with him.

(2) **[**[F1]Section 1122 of the Corporation Tax Act 2010**]** (connected persons) applies for the purposes of sub-paragraph (1).

Textual Amendments

F1 Words in Sch. 4 para. 1(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 414** (with Sch. 2)

Value added tax

2 The chargeable consideration for a transaction shall be taken to include any value added tax chargeable in respect of the transaction, other than value added tax chargeable by virtue of an **[**[F2]option to tax any land under Part 1 of Schedule 10**]** to the Value Added Tax Act 1994 (c. 23) made after the effective date of the transaction.

Textual Amendments

F2 Words in Sch. 4 para. 2 substituted (with effect in accordance with art. 1(2) of the amending S.I.) by The Value Added Tax (Buildings and Land) Order 2008 (S.I. 2008/1146), art. 1(1), **Sch. 1 para. 11** (with Sch. 2)

Postponed consideration

3 The amount or value of the chargeable consideration for a transaction shall be determined without any discount for postponement of the right to receive it or any part of it.

Just and reasonable apportionment

4 (1) For the purposes of this Part consideration attributable—

(a) to two or more land transactions, or

(b) in part to a land transaction and in part to another matter, or

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(c) in part to matters making it chargeable consideration and in part to other matters,

shall be apportioned on a just and reasonable basis.

(2) If the consideration is not so apportioned, this Part has effect as if it had been so apportioned.

(3) For the purposes of this paragraph any consideration given for what is in substance one bargain shall be treated as attributable to all the elements of the bargain, even though—

(a) separate consideration is, or purports to be, given for different elements of the bargain, or

(b) there are, or purport to be, separate transactions in respect of different elements of the bargain.

Exchanges

5 (1) This paragraph applies to determine the chargeable consideration where one or more land transactions are entered into by a person as purchaser (alone or jointly) wholly or partly in consideration of one or more other land transactions being entered into by him (alone or jointly) as vendor.

(2) In this paragraph—

(a) "relevant transaction" means any of those transactions, and

(b) "relevant acquisition" means a relevant transaction entered into as purchaser and "relevant disposal" means a relevant transaction entered into as vendor.

(3) The following rules apply if the subject-matter of any of the relevant transactions is a major interest in land—

(a) where a single relevant acquisition is made, the chargeable consideration for the acquisition is—

[[F3](i) the amount determined under sub-paragraph (3A) in respect of the acquisition, or

(ii) if greater, the amount which would be the chargeable consideration for the acquisition ignoring paragraph 5;**]**

(b) where two or more relevant acquisitions are made, the chargeable consideration for each relevant acquisition is—

[[F4](i) the amount determined under sub-paragraph (3A) in respect of that acquisition, or

(ii) if greater, the amount which would be the chargeable consideration for that acquisition ignoring paragraph 5;**]**

[[F5](3A) The amount mentioned in sub-paragraph (3)(a)(i) and (b)(i) is—

(a) the market value of the subject-matter of the acquisition, and

(b) if the acquisition is the grant of a lease at a rent, that rent.**]**

(4) The following rules apply if the subject-matter of none of the relevant transactions is a major interest in land—

(a) where a single relevant acquisition is made in consideration of one or more relevant disposals, the chargeable consideration for the acquisition is the amount or value of any chargeable consideration other than the disposal or disposals that is given for the acquisition;

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(b) where two or more relevant acquisitions are made in consideration of one or more relevant disposals, the chargeable consideration for each relevant acquisition is the appropriate proportion of the amount or value of any chargeable consideration other than the disposal or disposals that is given for the acquisitions.

(5) For the purposes of sub-paragraph (4)(b) the appropriate proportion is—

$$\frac{MV}{TMV}$$

where—

MV is the market value of the subject-matter of the acquisition for which the chargeable consideration is being determined, and

TMV is the total market value of the subject-matter of all the relevant acquisitions.

(6) This paragraph has effect subject to—

paragraph 6 of this Schedule (partition etc: disregard of existing interest), [F6]...

[F7]...

[F6]...

[[F8](7) This paragraph does not apply in a case to which paragraph 17 applies.**]**

Textual Amendments

F3 Sch. 4 para. 5(3)(a)(i)(ii) substituted (with effect in accordance with Sch. 21 para. 5 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 21 para. 4(2)(a)**

F4 Sch. 4 para. 5(3)(b)(i)(ii) substituted (with effect in accordance with Sch. 21 para. 5 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 21 para. 4(2)(b)**

F5 Sch. 4 para. 5(3A) inserted (with effect in accordance with Sch. 21 para. 5 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 21 para. 4(3)**

F6 Words in Sch. 4 para. 5(6) repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 4(2)** (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked Stamp Duty and Stamp Duty Land Tax (Variation of the Finance Act 2003) (No. 2) Regulations 2003 (S.I. 2003/2816), see Sch. 39 para. 14)

F7 Sch. 4 para. 5(6) entry omitted (7.4.2004) by virtue of The Stamp Duty Land Tax (Amendment of Part 4 of the Finance Act 2003) Regulations 2004 (S.I. 2004/1069), regs. 1, **4(2)(a)**

F8 Sch. 4 para. 5(7) added (7.4.2004) by The Stamp Duty Land Tax (Amendment of Part 4 of the Finance Act 2003) Regulations 2004 (S.I. 2004/1069), regs. 1, **4(2)(b)**

Partition etc: disregard of existing interest

6 In the case of a land transaction giving effect to a partition or division of a chargeable interest to which persons are jointly entitled, the share of the interest held by the purchaser immediately before the partition or division does not count as chargeable consideration.

Valuation of non-monetary consideration

7 Except as otherwise expressly provided, the value of any chargeable consideration for a land transaction, other than—

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(a) money (whether in sterling or another currency), or

(b) debt as defined for the purposes of paragraph 8 (debt as consideration),

shall be taken to be its market value at the effective date of the transaction.

Debt as consideration

8 (1) Where the chargeable consideration for a land transaction consists in whole or in part of—

(a) the satisfaction or release of debt due to the purchaser or owed by the vendor, or

(b) the assumption of existing debt by the purchaser,

the amount of debt satisfied, released or assumed shall be taken to be the whole or, as the case may be, part of the chargeable consideration for the transaction.

[[F9](1A) Where—

(a) debt is secured on the subject-matter of a land transaction immediately before and immediately after the transaction, and

(b) the rights or liabilities in relation to that debt of any party to the transaction are changed as a result of or in connection with the transaction,

then for the purposes of this paragraph there is an assumption of that debt by the purchaser, and that assumption of debt constitutes chargeable consideration for the transaction.

(1B) Where in a case in which sub-paragraph (1)(b) applies—

(a) the debt assumed is or includes debt secured on the property forming the subject-matter of the transaction, and

(b) immediately before the transaction there were two or more persons each holding an undivided share of that property, or there are two or more such persons immediately afterwards,

the amount of secured debt assumed shall be determined as if the amount of that debt owed by each of those persons at a given time were the proportion of it corresponding to his undivided share of the property at that time.

(1C) For the purposes of sub-paragraph (1B), in England and Wales and Northern Ireland each joint tenant of property is treated as holding an equal undivided share of it.**]**

(2) If the effect of **[**[F10]this paragraph**]** would be that the amount of the chargeable consideration for the transaction exceeded the market value of the subject-matter of the transaction, the amount of the chargeable consideration is treated as limited to that value.

(3) In this paragraph—

(a) "debt" means an obligation, whether certain or contingent, to pay a sum of money either immediately or at a future date,

(b) "existing debt", in relation to a transaction, means debt created or arising before the effective date of, and otherwise than in connection with, the transaction, and

(c) references to the amount of a debt are to the principal amount payable or, as the case may be, the total of the principal amounts payable, together with the amount of any interest that has accrued due on or before the effective date of the transaction.

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Textual Amendments

F9 Sch. 4 para. 8(1A)-(1C) inserted (with effect in accordance with s. 301(6) of the amending Act) by Finance Act 2004 (c. 12), **s. 301(3)**

F10 Words in Sch. 4 para. 8(2) substituted (with effect in accordance with s. 301(6) of the amending Act) by Finance Act 2004 (c. 12), **s. 301(4)**

Modifications etc. (not altering text)

C1 Sch. 4 para. 8 excluded (6.4.2006) by The Pension Protection Fund (Tax) Regulations 2006 (S.I. 2006/575), regs. 1, **43(1)**

[F11 Cases where conditions for exemption not fully met

Textual Amendments

F11 Sch. 4 para. 8A and cross-heading inserted (with effect in accordance with s. 301(7) of the amending Act) by Finance Act 2004 (c. 12), **s. 301(5)**

8A (1) Where a land transaction would be exempt from charge under paragraph 3A of Schedule 3 (assents and appropriations by personal representatives) but for sub-paragraph (2) of that paragraph (cases where person acquiring property gives consideration for it), the chargeable consideration for the transaction does not include the amount of any secured debt assumed.

"Secured debt" has the same meaning as in that paragraph.

(2) Where a land transaction would be exempt from charge under paragraph 4 of Schedule 3 (variation of testamentary dispositions etc) but for a failure to meet the condition in sub-paragraph (2)(b) of that paragraph (no consideration other than variation of another disposition), the chargeable consideration for the transaction does not include the making of any such variation as is mentioned in that sub-paragraph.**]**

Conversion of amounts in foreign currency

9 (1) References in this Part to the amount or value of the consideration for a transaction are to its amount or value in sterling.

(2) For the purposes of this Part the sterling equivalent of an amount expressed in another currency shall be ascertained by reference to the London closing exchange rate on the effective date of the transaction (unless the parties have used a different rate for the purposes of the transaction).

Carrying out of works

10 (1) Where the whole or part of the consideration for a land transaction consists of the carrying out of works of construction, improvement or repair of a building or other works to enhance the value of land, then—

(a) to the extent that the conditions specified in sub-paragraph (2) are met, the value of the works does not count as chargeable consideration, and

(b) to the extent that those conditions are not met, the value of the works shall be taken into account as chargeable consideration.

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(2) The conditions referred to in sub-paragraph (1) are—

(a) that the works are carried out after the effective date of the transaction,

(b) that the works are carried out on land acquired or to be acquired under the transaction or on other land held by the purchaser or a person connected with him, and

(c) that it is not a condition of the transaction that the works are carried out by the vendor or a person connected with him.

[[F12](2A) **[**[F13]Where by virtue of—

(a) subsection (8) of section 44 (contract and conveyance),

(b) paragraph 12A of Schedule 17A (agreement for lease), or

(c) paragraph 19(3) to (6) of Schedule 17A (missives of let etc in Scotland),

there are two notifiable transactions (the first being the contract or agreement and the second being the transaction effected on completion or, as the case may be, the grant or execution of the lease),**]** the condition in sub-paragraph (2)(a) is treated as met in relation to the second transaction if it is met in relation to the first.**]**

(3) In this paragraph—

(a) references to the acquisition of land are to the acquisition of a major interest in it;

(b) the value of the works shall be taken to be the amount that would have to be paid in the open market for the carrying out of the works in question.

(4) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this paragraph.

[[F14](5) This paragraph is subject to paragraph 17 (arrangements involving public or educational bodies).**]**

Textual Amendments

F12 Sch. 4 para. 10(2A) inserted (with effect in accordance with Sch. 39 para. 13(3)-(6) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 39 para. 9(2)**

F13 Words in Sch. 4 para. 10(2A) substituted (with effect in accordance with s. 297(9) of the amending Act) by Finance Act 2004 (c. 12), **s. 297(8)**

F14 Sch. 4 para. 10(5) added (19.12.2003) by The Stamp Duty Land Tax (Amendment of Schedule 4 to the Finance Act 2003) Regulations 2003 (S.I. 2003/3293), regs. 1, **2(3)**

Provision of services

11 **[**[F15](1)**]** Where the whole or part of the consideration for a land transaction consists of the provision of services (other than the carrying out of works to which paragraph 10 applies), the value of that consideration shall be taken to be the amount that would have to be paid in the open market to obtain those services.

[[F16](2) This paragraph is subject to paragraph 17 (arrangements involving public or educational bodies).**]**

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Textual Amendments

F15 Sch. 4 para. 11 renumbered as Sch. 4 para. 11(1) (19.12.2003) by The Stamp Duty Land Tax (Amendment of Schedule 4 to the Finance Act 2003) Regulations 2003 (S.I. 2003/3293), regs. 1, **2(4)**

F16 Sch. 4 para. 11(2) inserted (19.12.2003) by The Stamp Duty Land Tax (Amendment of Schedule 4 to the Finance Act 2003) Regulations 2003 (S.I. 2003/3293), regs. 1, **2(4)**

Land transaction entered into by reason of employment

12 (1) Where a land transaction is entered into by reason of the purchaser's employment, or that of a person connected with him, then—

(a) if the transaction gives rise to a charge to tax under Chapter 5 of Part 3 of the Income Tax (Earnings and Pensions) Act 2003 (c. 1) (taxable benefits: living accommodation) and—

(i) no rent is payable by the purchaser, or

(ii) the rent payable by the purchaser is less than the cash equivalent of the benefit calculated under section 105 or 106 of that Act,

there shall be taken to be payable by the purchaser as rent an amount equal to the cash equivalent chargeable under those sections;

(b) if the transaction would give rise to a charge under that Chapter but for section 99 of that Act (accommodation provided for performance of duties), the consideration for the transaction is the actual consideration (if any);

(c) if neither paragraph (a) nor paragraph (b) applies, the consideration for the transaction shall be taken to be not less than the market value of the subject-matter of the transaction as at the effective date of the transaction.

(2) Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this paragraph.

Obligations under lease

F17 13 . . . . . .

Textual Amendments

F17 Sch. 4 paras. 13-15 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 4(2)** (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked Stamp Duty and Stamp Duty Land Tax (Variation of the Finance Act 2003) (No. 2) Regulations 2003 (S.I. 2003/2816), see Sch. 39 para. 14)

Surrender of existing lease in return for new lease

F17 14 . . . . . .

Textual Amendments

F17 Sch. 4 paras. 13-15 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 4(2)** (which amending provision re-enacts, subject to certain

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changes, a corresponding amendment made by the now revoked Stamp Duty and Stamp Duty Land Tax (Variation of the Finance Act 2003) (No. 2) Regulations 2003 (S.I. 2003/2816), see Sch. 39 para. 14)

Reverse premium

[F17]15 . . . . . .

Textual Amendments

F17 Sch. 4 paras. 13-15 repealed (with effect in accordance with Sch. 39 para. 26 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 4(2)** (which amending provision re-enacts, subject to certain changes, a corresponding amendment made by the now revoked Stamp Duty and Stamp Duty Land Tax (Variation of the Finance Act 2003) (No. 2) Regulations 2003 (S.I. 2003/2816), see Sch. 39 para. 14)

Indemnity given by purchaser

16 Where the purchaser agrees to indemnify the vendor in respect of liability to a third party arising from breach of an obligation owed by the vendor in relation to the land that is the subject of the transaction, neither the agreement nor any payment made in pursuance of it counts as chargeable consideration.

[[F18]Purchaser bearing inheritance tax liability

Textual Amendments

F18 Sch. 4 paras. 16A-16C inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Stamp Duty Land Tax (Amendment to the Finance Act 2003) Regulations 2006 (S.I. 2006/875), regs. 1(1), **3**

16A Where—

(a) there is a land transaction that is—

(i) a transfer of value within section 3 of the Inheritance Tax Act 1984 (transfers of value), or

(ii) a disposition, effected by will or under the law of intestacy, of a chargeable interest comprised in the estate of a person immediately before his death,

and

(b) the purchaser is or becomes liable to pay, agrees to pay or does in fact pay any inheritance tax due in respect of the transfer or disposition,

his liability, agreement or payment does not count as chargeable consideration for the transaction.

Purchaser bearing capital gains tax liability

16B (1) Where—

(a) there is a land transaction under which the chargeable interest in question—

(i) is acquired otherwise than by a bargain made at arm's length, or

(ii) is treated by section 18 of the Taxation of Chargeable Gains Act 1992 (connected persons) as so acquired,

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and

(b) the purchaser is or becomes liable to pay, or does in fact pay, any capital gains tax due in respect of the corresponding disposal of the chargeable interest,

his liability or payment does not count as chargeable consideration for the transaction.

(2) Sub-paragraph (1) does not apply if there is chargeable consideration for the transaction (disregarding the liability or payment referred to in sub-paragraph (1)(b)).

Costs of enfranchisement

16C Costs borne by the purchaser under section 9(4) of the Leasehold Reform Act 1967 or section 33 of the Leasehold Reform, Housing and Urban Development Act 1993 (costs of enfranchisement) do not count as chargeable consideration.**]**

***[F19** Arrangements involving public or educational bodies*

Textual Amendments

F19 Sch. 4 para. 17 added (19.12.2003) by The Stamp Duty Land Tax (Amendment of Schedule 4 to the Finance Act 2003) Regulations 2003 (S.I. 2003/3293), regs. 1, **2(5)**

17. (1) This paragraph applies in any case where arrangements are entered into under which—

[F20(a) there is a transfer, or the grant or assignment of a lease, of land by a qualifying body ("A") to a non-qualifying body ("B") ("the main transfer"),**]**

[F21(b) in consideration (whether in whole or in part) of the main transfer there is a grant by B to A of a lease or under-lease of the whole, or substantially the whole, of that land ("the leaseback"),**]**

(c) B undertakes to carry out works or provide services to A, and

(d) some or all of the consideration given by A to B for the carrying out of those works or the provision of those services is consideration in money,

[F22whether or not there is also a transfer, or the grant or assignment of a lease, of any other land by A to B (a "transfer of surplus land").**]**

(2) The following are qualifying bodies—

(a) public bodies within section 66,

(b) institutions within the further education sector or the higher education sector within the meaning of 91 of the Further and Higher Education Act 1992,

(c) further education corporations within the meaning of section 17 of that Act,

[F23(ca) sixth form college corporations within the meaning of section 90 of that Act,**]**

(d) higher education corporations within the meaning section 90 of that Act,

(e) persons who undertake to establish and maintain, and carry on, or provide for the carrying on, of an Academy within the meaning of section 482 of the Education Act 1996, and

(f) in Scotland, institutions funded by the Scottish Further Education Funding Council or the Scottish Higher Education Funding Council.

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[[F24](3) The following shall not count as chargeable consideration for the main transfer or any transfer of surplus land—

(a) the lease-back;

(b) the carrying out of building works by B for A; or

(c) the provision of services by B to A.

(4) The chargeable consideration for the lease back does not include—

(a) the main transfer;

(b) any transfer of surplus land; or

(c) the consideration in money paid by A to B for the building works or other services referred to in sub-paragraph (3).**]**

[[F25](4A) Sub-paragraphs (3) and (4) shall be disregarded for the purposes of determining whether the land transaction in question is notifiable.**]**

(5) This paragraph applies to Scotland as if—

(a) references to A transferring land to B were references to A transferring the interest of an owner of land to B, and

[[F26](b) references in sub-paragraph (1) to assignment were references to assignation.**]**

Until the appointed day for the purposes of the Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), the reference in paragraph (a) to the interest of the owner shall be read, in relation to feudal property, as a reference to the estate or interest of the proprietor of the *dominium utile.*

(6) In this paragraph "under-lease" includes a sub-lease.**]**

Textual Amendments

F20 Sch. 4 para. 17(1)(a)(b) substituted (7.4.2004) by The Stamp Duty Land Tax (Amendment of Part 4 of the Finance Act 2003) Regulations 2004 (S.I. 2004/1069), regs. 1, **4(3)(a)(i)**

F21 Sch. 4 para. 17(1)(b) substituted (27.4.2004) by The Stamp Duty Land Tax (Amendment of Part 4 of the Finance Act 2003) (No. 2) Regulations 2004 (S.I. 2004/1206), regs. 1, **3**

F22 Words in Sch. 4 para. 17(1) substituted (7.4.2004) by The Stamp Duty Land Tax (Amendment of Part 4 of the Finance Act 2003) Regulations 2004 (S.I. 2004/1069), regs. 1, **4(3)(a)(ii)**

F23 Sch. 4 para. 17(2)(ca) inserted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 103** (with art. 2(3))

F24 Sch. 4 para. 17(3)(4) substituted (7.4.2004) by The Stamp Duty Land Tax (Amendment of Part 4 of the Finance Act 2003) Regulations 2004 (S.I. 2004/1069), regs. 1, **4(3)(b)**

F25 Sch. 4 para. 17(4A) inserted (with effect in accordance with Sch. 39 para. 13(3)-(6) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 39 para. 9(3)**

F26 Sch. 4 para. 17(5)(b) substituted (7.4.2004) by The Stamp Duty Land Tax (Amendment of Part 4 of the Finance Act 2003) Regulations 2004 (S.I. 2004/1069), regs. 1, **4(3)(c)**

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