
Status: Point in time view as at 01/10/2010.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2004, Paragraph 17. (See end of Document for details)

SCHEDULES

SCHEDULE 39

STAMP DUTY LAND TAX AND STAMP DUTY

PART 2

RE-ENACTMENT, WITH CHANGES, OF AMENDMENTS MADE BY SECTION 109 REGULATIONS

Relief for certain acquisitions of residential property

- 17 (1) For sections 58 and 59 (relief for certain exchanges of residential property and relocation relief) substitute—

“58A Relief for certain acquisitions of residential property

Schedule 6A provides for relief in the case of certain acquisitions of residential property.”.

- (2) After Schedule 6 insert—

“SCHEDULE
6A

Section 58A

RELIEF FOR CERTAIN ACQUISITIONS OF RESIDENTIAL PROPERTY

Acquisition by house-building company from individual acquiring new dwelling

- 1 (1) Where a dwelling (“the old dwelling”) is acquired by a house-building company from an individual (whether alone or with other individuals), the acquisition is exempt from charge if the following conditions are met.
- (2) The conditions are—
- (a) that the individual (whether alone or with other individuals) acquires from the house-building company a new dwelling,
 - (b) that the individual—
 - (i) occupied the old dwelling as his only or main residence at some time in the period of two years ending with the date of its acquisition, and
 - (ii) intends to occupy the new dwelling as his only or main residence,
 - (c) that each acquisition is entered into in consideration of the other, and
 - (d) that the area of land acquired by the house-building company does not exceed the permitted area.

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- (3) Where the conditions in sub-paragraph (2)(a) to (c) are met but the area of land acquired by the house-building company exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.
- (4) A “house-building company” means a company that carries on the business of constructing or adapting buildings or parts of buildings for use as dwellings.

References in this paragraph to such a company include any company connected with it.

- (5) In this paragraph—
- (a) references to the acquisition of the new dwelling are to the acquisition, by way of grant or transfer, of a major interest in the dwelling;
 - (b) references to the acquisition of the old dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling; and
 - (c) references to the market value of the old dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area.

Acquisition by property trader from individual acquiring new dwelling

- 2 (1) Where a dwelling (“the old dwelling”) is acquired by a property trader from an individual (whether alone or with other individuals), the acquisition is exempt from charge if the following conditions are met.
- (2) The conditions are—
- (a) that the acquisition is made in the course of a business that consists of or includes acquiring dwellings from individuals who acquire new dwellings from house-building companies,
 - (b) that the individual (whether alone or with other individuals) acquires a new dwelling from a house-building company,
 - (c) that the individual—
 - (i) occupied the old dwelling as his only or main residence at some time in the period of two years ending with the date of its acquisition, and
 - (ii) intends to occupy the new dwelling as his only or main residence,
 - (d) that the property trader does not intend—
 - (i) to spend more than the permitted amount on refurbishment of the old dwelling, or
 - (ii) to grant a lease or licence of the old dwelling, or
 - (iii) to permit any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling, and

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- (e) that the area of land acquired by the property trader does not exceed the permitted area.

Paragraph (d)(ii) does not apply to the grant of lease or licence to the individual for a period of no more than six months.

- (3) Where the conditions in sub-paragraph (2)(a) to (d) are met, but the area of land acquired by the property trader exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.
- (4) The provisions of paragraph 1(4) (meaning of “house-building company” etc) also have effect for the purposes of this paragraph.
- (5) In this paragraph—
 - (a) references to the acquisition of a new dwelling are to the acquisition, by way of grant or transfer, of a major interest in the dwelling;
 - (b) references to the acquisition of the old dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling; and
 - (c) references to the market value of the old dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area.

Acquisition by property trader from personal representatives

- 3 (1) Where a dwelling is acquired by a property trader from the personal representatives of a deceased individual, the acquisition is exempt from charge if the following conditions are met.
- (2) The conditions are—
 - (a) that the acquisition is made in the course of a business that consists of or includes acquiring dwellings from personal representatives of deceased individuals,
 - (b) that the deceased individual occupied the dwelling as his only or main residence at some time in the period of two years ending with the date of his death,
 - (c) that the property trader does not intend—
 - (i) to spend more than the permitted amount on refurbishment of the dwelling, or
 - (ii) to grant a lease or licence of the dwelling, or
 - (iii) to permit any of its principals or employees (or any person connected with any of its principals or employees) to occupy the dwelling, and
 - (d) that the area of land acquired does not exceed the permitted area.
- (3) Where the conditions in sub-paragraph (2)(a) to (c) are met, but the area of land acquired exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the dwelling.

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(4) In this paragraph—

- (a) references to the acquisition of the dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling; and
- (b) references to the market value of the dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area.

Acquisition by property trader from individual where chain of transactions breaks down

4 (1) Where a dwelling (“the old dwelling”) is acquired by a property trader from an individual (whether alone or with other individuals), the acquisition is exempt from charge if—

- (a) the individual has made arrangements to sell a dwelling (“the old dwelling”) and acquire another dwelling (“the second dwelling”),
- (b) the arrangements to sell the old dwelling fail, and
- (c) the acquisition of the old dwelling is made for the purpose of enabling the individual’s acquisition of the second dwelling to proceed,

and the following conditions are met.

(2) The conditions are—

- (a) that the acquisition is made in the course of a business that consists of or includes acquiring dwellings from individuals in those circumstances,
- (b) that the individual—
 - (i) occupied the old dwelling as his only or main residence at some time in the period of two years ending with the date of its acquisition, and
 - (ii) intends to occupy the second dwelling as his only or main residence,
- (c) that the property trader does not intend—
 - (i) to spend more than the permitted amount on refurbishment of the old dwelling, or
 - (ii) to grant a lease or licence of the old dwelling, or
 - (iii) to permit any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling, and
- (d) that the area of land acquired does not exceed the permitted area.

Paragraph (c)(ii) does not apply to the grant of a lease or licence to the individual for a period of no more than six months.

(3) Where the conditions in sub-paragraph (2)(a) to (c) are met, but the area of land acquired exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the old dwelling.

(4) In this paragraph—

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- (a) references to the acquisition of the second dwelling are to the acquisition, by way of grant or transfer, of a major interest in the dwelling;
- (b) references to the acquisition of the old dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling; and
- (c) references to the market value of the old dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area.

Acquisition by employer in case of relocation of employment

- 5 (1) Where a dwelling is acquired from an individual (whether alone or with other individuals) by his employer, the acquisition is exempt from charge if the following conditions are met.
- (2) The conditions are—
- (a) that the individual occupied the dwelling as his only or main residence at some time in the period of two years ending with the date of the acquisition,
 - (b) that the acquisition is made in connection with a change of residence by the individual resulting from relocation of employment,
 - (c) that the consideration for the acquisition does not exceed the market value of the dwelling, and
 - (d) that the area of land acquired does not exceed the permitted area.
- (3) Where the conditions in sub-paragraph (2)(a) to (c) are met but the area of land acquired exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the dwelling.
- (4) In this paragraph “relocation of employment” means a change of the individual’s place of employment due to—
- (a) his becoming an employee of the employer,
 - (b) an alteration of the duties of his employment with the employer, or
 - (c) an alteration of the place where he normally performs those duties.
- (5) For the purposes of this paragraph a change of residence is one “resulting from” relocation of employment if—
- (a) the change is made wholly or mainly to allow the individual to have his residence within a reasonable daily travelling distance of his new place of employment, and
 - (b) his former residence is not within a reasonable daily travelling distance of that place.

The individual’s “new place of employment” means the place where he normally performs, or is normally to perform, the duties of his employment after the relocation.

- (6) In this paragraph—
- (a) references to the acquisition of the dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling;

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- (b) references to the market value of the dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area; and
- (c) references to an individual's employer include a prospective employer.

Acquisition by property trader in case of relocation of employment

- 6 (1) Where a dwelling is acquired by a property trader from an individual (whether alone or with other individuals), the acquisition is exempt from charge if the following conditions are met.
- (2) The conditions are—
- (a) that the acquisition is made in the course of a business that consists of or includes acquiring dwellings from individuals in connection with a change of residence resulting from relocation of employment,
 - (b) that the individual occupied the dwelling as his only or main residence at some time in the period of two years ending with the date of the acquisition,
 - (c) that the acquisition is made in connection with a change of residence by the individual resulting from relocation of employment,
 - (d) that the consideration for the acquisition does not exceed the market value of the dwelling,
 - (e) that the property trader does not intend—
 - (i) to spend more than the permitted amount on refurbishment of the dwelling, or
 - (ii) to grant a lease or licence of the dwelling, or
 - (iii) to permit any of its principals or employees (or any person connected with any of its principals or employees) to occupy the dwelling, and
 - (f) that the area of land acquired does not exceed the permitted area.
- Paragraph (e)(ii) does not apply to the grant of a lease or licence to the individual for a period of no more than six months.
- (3) Where the conditions in sub-paragraph (2)(a) to (e) are met but the area of land acquired exceeds the permitted area, the chargeable consideration for the acquisition is taken to be the amount calculated by deducting the market value of the permitted area from the market value of the dwelling.
- (4) In this paragraph “relocation of employment” means a change of the individual's place of employment due to—
- (a) his becoming employed by a new employer,
 - (b) an alteration of the duties of his employment, or
 - (c) an alteration of the place where he normally performs those duties.
- (5) For the purposes of this paragraph a change of residence is one “resulting from” relocation of employment if—
- (a) the change is made wholly or mainly to allow the individual to have his residence within a reasonable daily travelling distance of his new place of employment, and

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- (b) his former residence is not within a reasonable daily travelling distance of that place.

An individual's "new place of employment" means the place where he normally performs, or is normally to perform, the duties of his employment after the relocation.

- (6) In this paragraph—
 - (a) references to the acquisition of the dwelling are to the acquisition, by way of transfer, of a major interest in the dwelling; and
 - (b) references to the market value of the dwelling and of the permitted area are, respectively, to the market value of that major interest in the dwelling and of that interest so far as it relates to that area.

Meaning of "dwelling", "new dwelling" and "the permitted area"

- 7 (1) "Dwelling" includes land occupied and enjoyed with the dwelling as its garden or grounds.
- (2) A building or part of a building is a "new dwelling" if—
 - (a) it has been constructed for use as a single dwelling and has not previously been occupied, or
 - (b) it has been adapted for use as a single dwelling and has not been occupied since its adaptation.
- (3) "The permitted area", in relation to a dwelling, means land occupied and enjoyed with the dwelling as its garden or grounds that does not exceed—
 - (a) an area (inclusive of the site of the dwelling) of 0.5 of a hectare, or
 - (b) such larger area as is required for the reasonable enjoyment of the dwelling as a dwelling having regard to its size and character.
- (4) Where sub-paragraph (3)(b) applies, the permitted area is taken to consist of that part of the land that would be the most suitable for occupation and enjoyment with the dwelling as its garden or grounds if the rest of the land were separately occupied.

Meaning of "property trader" and "principal"

- 8 (1) A "property trader" means—
 - (a) a company,
 - (b) a limited liability partnership, or
 - (c) a partnership whose members are all either companies or limited liability partnerships,that carries on the business of buying and selling dwellings.
- (2) In relation to a property trader a "principal" means—
 - (a) in the case of a company, a director;
 - (b) in the case of a limited liability partnership, a member;
 - (c) in the case of a partnership whose members are all either companies or limited liability partnerships, a member or a person who is a principal of a member.
- (3) For the purposes of this Schedule—

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- (a) anything done by or in relation to a company connected with a property trader is treated as done by or in relation to that property trader, and
- (b) references to the principals or employees of a property trader include the principals or employees of any such company.

Meaning of “refurbishment” and “the permitted amount”

- 9 (1) “Refurbishment” of a dwelling means the carrying out of works that enhance or are intended to enhance the value of the dwelling, but does not include—
- (a) cleaning the dwelling, or
 - (b) works required solely for the purpose of ensuring that the dwelling meets minimum safety standards.
- (2) The “permitted amount”, in relation to the refurbishment of a dwelling, is—
- (a) 10,000, or
 - (b) 5% of the consideration for the acquisition of the dwelling,
- whichever is the greater, but subject to a maximum of £20,000.

Connected companies etc

- 10 Section 839 of the Taxes Act 1988 (connected persons) has effect for the purposes of this Schedule.

Withdrawal of relief under this Schedule

- 11 (1) Relief under this Schedule is withdrawn in the following circumstances.
- (2) Relief under paragraph 2 (acquisition by property trader from individual acquiring new dwelling) is withdrawn if the property trader—
- (a) spends more than the permitted amount on refurbishment of the old dwelling, or
 - (b) grants a lease or licence of the old dwelling, or
 - (c) permits any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling.

Paragraph (b) does not apply to the grant of lease or licence to the individual for a period of no more than six months.

- (3) Relief under paragraph 3 (acquisition by property trader from personal representatives) is withdrawn if the property trader—
- (a) spends more than the permitted amount on refurbishment of the dwelling, or
 - (b) grants a lease or licence of the dwelling, or
 - (c) permits any of its principals or employees (or any person connected with any of its principals or employees) to occupy the dwelling.
- (4) Relief under paragraph 4 (acquisition by property trader from individual where chain of transactions breaks down) is withdrawn if the property trader—
- (a) spends more than the permitted amount on refurbishment of the old dwelling, or

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- (b) grants a lease or licence of the old dwelling, or
- (c) permits any of its principals or employees (or any person connected with any of its principals or employees) to occupy the old dwelling.

Paragraph (b) does not apply to the grant of lease or licence to the individual for a period of no more than six months.

- (5) Relief under paragraph 6 (acquisition by property trader in case of relocation of employment) is withdrawn if the property trader—
 - (a) spends more than the permitted amount on refurbishment of the dwelling, or
 - (b) grants a lease or licence of the dwelling, or
 - (c) permits any of its principals or employees (or any person connected with any of its principals or employees) to occupy the dwelling.

Paragraph (b) does not apply to the grant of lease or licence to the individual for a period of no more than six months.

- (6) Where relief is withdrawn the amount of tax chargeable is the amount that would have been chargeable in respect of the acquisition but for the relief.”.

- (3) In section 81 (further return where relief withdrawn)—

- (a) in subsection (1) (obligation to deliver a further return), before paragraph (a) insert—
 - “(za) paragraph 11 of Schedule 6A (relief for certain acquisitions of residential property),”; and
- (b) in subsection (4) (meaning of disqualifying event), before paragraph (a) insert—
 - “(za) in relation to the withdrawal of relief under Schedule 6A, an event mentioned in paragraph (a), (b) or (c) of paragraph 11(2), (3), (4) or (5) of that Schedule;”.

- (4) In section 87 (interest on unpaid tax)—

- (a) in subsection (3)(a) (relevant date where relief is withdrawn), before subparagraph (i) insert—
 - “(ia) Schedule 6A (relief for certain acquisitions of residential property),”; and
- (b) in subsection (4) (meaning of disqualifying event), before paragraph (a) insert—
 - “(za) in relation to the withdrawal of relief under Schedule 6A an event mentioned in paragraph (a), (b) or (c) of paragraph 11(2), (3), (4) or (5) of that Schedule;”.

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