



Finance Act 2016

2016 CHAPTER 24

PART 9

OTHER TAXES AND DUTIES

Stamp duty and stamp duty reserve tax

137 Stamp duty: acquisition of target company's share capital

- (1) Section 77 of FA 1986 (acquisition of target company's share capital) is amended as follows.
- (2) In subsection (3), omit the “and” at the end of paragraph (g) and after paragraph (h) insert “, and
 - (i) at the time the instrument mentioned in subsection (1) is executed there are no disqualifying arrangements, within the meaning given by section 77A, in existence.”
- (3) In subsection (3A) for “(3)” substitute “ (3)(b) to (h) ”.
- (4) In subsection (4) after “this section” insert “ and section 77A ”.
- (5) After section 77 of FA 1986 insert—

“77A Disqualifying arrangements

- (1) This section applies for the purposes of section 77(3)(i).
- (2) Arrangements are “disqualifying arrangements” if it is reasonable to assume that the purpose, or one of the purposes, of the arrangements is to secure that—
 - (a) a particular person obtains control of the acquiring company, or
 - (b) particular persons together obtain control of that company.
- (3) But neither of the following are disqualifying arrangements—

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- (a) the arrangements for the issue of shares in the acquiring company which is the consideration for the acquisition mentioned in section 77(3);
 - (b) any relevant merger arrangements.
- (4) In subsection (3) “relevant merger arrangements” means arrangements for the issue of shares in the acquiring company to the shareholders of a company (“company B”) other than the target company (“company A”) in a case where—
- (a) that issue of shares to the shareholders of company B would be the only consideration for the acquisition by the acquiring company of the whole of the issued share capital of company B,
 - (b) the conditions in section 77(3)(c) and (e) would be met in relation to that acquisition (if that acquisition were made in accordance with the arrangements), and
 - (c) the conditions in paragraphs (f) to (h) of section 77(3) would be met in relation to that acquisition if—
 - (i) that acquisition were made in accordance with the arrangements, and
 - (ii) the shares in the acquiring company issued as consideration for the acquisition of the share capital of company A were ignored for the purposes of those paragraphs;
 and in section 77(3)(e) to (h) and (3A) as they apply by virtue of this subsection, references to the target company are to be read as references to company B.
- (5) Where—
- (a) arrangements within any paragraph of subsection (3) are part of a wider scheme or arrangement, and
 - (b) that scheme or arrangement includes other arrangements which—
 - (i) fall within subsection (2), and
 - (ii) do not fall within any paragraph of subsection (3),
 those other arrangements are disqualifying arrangements despite anything in subsection (3).
- (6) In this section—
- “the acquiring company” has the meaning given by section 77(1);
 - “arrangements” includes any agreement, understanding or scheme (whether or not legally enforceable);
 - “control” is to be read in accordance with section 1124 of the Corporation Tax Act 2010;
 - “the target company” has the meaning given by section 77(1).”
- (6) The amendments made by this section have effect in relation to any instrument executed on or after 29 June 2016 (and references to arrangements in any provision inserted by this section include arrangements entered into before that date).

138 Stamp duty: transfers to depositaries or providers of clearance services

- (1) Part 3 of FA 1986 (stamp duty) is amended as follows.

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- (2) In section 67 (depository receipts)—
- (a) in subsection (2), for the words from “1.5% of” to the end substitute “1.5% of—
 - (a) the amount or value of the consideration for the sale to which the instrument gives effect, or
 - (b) where subsection (2A) applies—
 - (i) the amount or value of the consideration for the sale to which the instrument gives effect, or
 - (ii) if higher, the value of the securities at the date the instrument is executed.”,
 - (b) after subsection (2) insert—

“(2A) This subsection applies where the instrument transferring the securities is executed 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 (6), (7) or (8), 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.”, and
 - (c) in subsection (3), for “In any other case” substitute “ If stamp duty is not chargeable on the instrument under Part 1 of Schedule 13 to the Finance Act 1999 (transfer on sale) ”.
- (3) In section 69 (depository receipts: supplementary), in subsection (4), for “section 67(3)” substitute “ section 67(2)(b)(ii) and (3) ”.
- (4) In section 70 (clearance services)—
- (a) in subsection (2), for the words from “1.5% of” to the end substitute “1.5% of—
 - (a) the amount or value of the consideration for the sale to which the instrument gives effect, or
 - (b) where subsection (2A) applies—
 - (i) the amount or value of the consideration for the sale to which the instrument gives effect, or
 - (ii) if higher, the value of the securities at the date the instrument is executed.”,
 - (b) after subsection (2) insert—

“(2A) This subsection applies where the instrument transferring the securities is executed 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 (6), (7) or (8), or

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- (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.”, and
 - (c) in subsection (3), for “In any other case” substitute “ If stamp duty is not chargeable on the instrument under Part 1 of Schedule 13 to the Finance Act 1999 (transfer on sale) ”.
- (5) In section 72 (clearance services: supplementary), in subsection (2), for “section 70(3)” substitute “ section 70(2)(b)(ii) and (3) ”.
- (6) The amendments made by this section have effect in relation to an instrument which transfers securities pursuant to the exercise of an option where—
- (a) the option was granted on or after 25 November 2015, and
 - (b) the option was exercised on or after 23 March 2016.

139 SDRT: transfers to depositaries or providers of clearance services

- (1) Part 4 of FA 1986 (stamp duty reserve tax) is amended as follows.
- (2) In section 93 (depository receipts)—
- (a) in subsection (4)(b), for the words from “worth,” to the end substitute “worth —
 - (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;”, and
 - (b) after subsection (4) insert—

“(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.”
- (3) In section 94 (depository receipts: supplementary), in subsection (4), for “section 93(4)(c)” substitute “ section 93(4)(b)(ii) and (c) ”.
- (4) In section 96 (clearance services)—
- (a) in subsection (2)(b), for the words from “worth,” to the end substitute “worth —
 - (i) the amount or value of the consideration, or
 - (ii) where subsection (2A) applies, the amount or value of the consideration or, if higher, the value of the securities;”,
 - (b) after subsection (2) insert—

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- “(2A) 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 A or (as the case may be) to the person whose business is or includes holding chargeable securities as nominee for A, 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.”, and
 - (c) in subsection (10), for “subsection (2)(c)” substitute “ subsection (2)(b)(ii) and (c) ”.
- (5) The amendments made by this section have effect in relation to a transfer pursuant to the exercise of an option where—
- (a) the option was granted on or after 25 November 2015, and
 - (b) the option was exercised on or after 23 March 2016.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)