

Finance Act, 2008

Section 95 - Charge where consideration includes rent: 0% band

1) Schedule 5 to FA 2003 (amount of SDLT chargeable: rent) is amended as follows. (2) In paragraph 9 (SDLT chargeable in respect of consideration other than rent)- (a) in sub-paragraph (1), insert at the end "(but see paragraph 9A)", and (b) omit sub-paragraphs (2), (2A) and (3), and, accordingly, in the heading before that paragraph, insert at the end ": general". (3) After that paragraph insert- "Tax chargeable in respect of consideration other than rent: 0% band 9A (1) This paragraph applies in the case of a transaction to which this Schedule applies where there is chargeable consideration other than rent. (2) If- (a) the relevant land consists entirely of land that is nonresidential property, and (b) the relevant rent is at least 1,000, the 0% band in Table B in section 55(2) does not apply in relation to the consideration other than rent and any case that would have fallen within that band is treated as falling within the 1% band. (3) Sub-paragraphs (4) and (5) apply if- (a) the relevant land is partly residential property and partly non-residential property, and (b) the relevant rent attributable, on a just and reasonable apportionment, to the land that is non-residential property is at least 1,000. (4) For the purpose of determining the amount of tax chargeable under section 55 in relation to the consideration other than rent, the transaction (or, where it is one of a number of linked transactions, that set of transactions) is treated as if it were two separate transactions (or sets of linked transactions), namely- (a) one whose subject-matter consists of all of the interests in land that is residential property, and (b) one whose subject-matter consists of all of the interests in land that is non-residential property. (5) For that purpose, the chargeable consideration attributable to each of those separate transactions (or sets of linked transactions) is the chargeable consideration so attributable on a just and reasonable apportionment. (6) In this paragraph "the relevant rent" means- (a) the annual rent in relation to the transaction in question, or (b) if that transaction is one of a number of linked transactions for which the chargeable consideration consists of or includes rent, the total of the annual rents in relation to all of those transactions. (7) In sub-paragraph (6) the "annual rent" means the average annual rent over the term of the lease or, if- (a) different amounts of rent are payable for different parts of the term, and (b) those amounts (or any of them) are ascertainable at the effective date of the transaction, the average annual rent over the period for which the highest ascertainable rent is payable. (8) In this paragraph "relevant land" has the meaning given in section 55(3) and (4)." (4) Each of the following provisions of Schedule 6 to that Act (SDLT: disadvantaged areas relief) is amended in accordance with subsection (5)- (a) paragraph 5(4) (residential land wholly situated in disadvantaged area), (b) paragraph 6(6) (mixed land wholly situated in disadvantaged area), (c) paragraph 9(4) (residential land partly situated in disadvantaged area), and (d) paragraph 10(6) (mixed land wholly partly situated in disadvantaged area). (5) In those provisions- (a) in paragraph (a), omit sub-paragraph (i) (and the "and" after it), and (b) omit paragraph (b). (6) In paragraph 12 of that Schedule (rent and annual rent), for "9(2)" substitute "9A". (7) In Schedule 8 to that Act (SDLT: charities relief), in paragraph 3- (a) in sub-paragraph (3)(b), for "does not exceed 600" substitute "is less than 1,000", and (b) in sub-paragraph (5), for "9(2)" substitute "9A". (8) In Schedule 9 to that Act (SDLT: right to buy etc), after paragraph 4A insert- "Shared ownership lease: grant not linked with staircasing transactions etc 4B (1) For the purpose of determining the rate of tax chargeable on the grant of a shared ownership lease of a dwelling, the grant shall be treated as if it were not linked to- (a) any acquisition of an interest in the dwelling to which paragraph 4A applies, or (b) a transfer of the reversion to the lessee or lessees under the terms of the lease. (2) In this paragraph "shared ownership lease" has the same meaning as in paragraph 4A." (9) In that Schedule, in paragraphs 10(1) and (2) and 11(b) (shared ownership trusts), omit "additional". (10) In that Schedule, insert at the end- "Shared ownership trust: declaration not linked with staircasing transactions etc 12 For the purpose of determining the rate of tax chargeable on the declaration of a shared ownership trust, the declaration shall be treated as if it were not linked to- (a) any equity-acquisition payment under the trust or any consequent increase in the purchaser's beneficial interest in the trust property, or (b) a transfer to the purchaser of an interest in the trust property upon the termination of the trust." (11) In Schedule 15 to that Act (SDLT: partnerships)- (a) in

paragraph 11(2B)(a), for "9(2A)" substitute "9A(6)", (b) in paragraph 19(2B), for "9(2A)" substitute "9A(6)", and (c) in paragraph 23(3)(c), for "9(2)" substitute "9A". (12) In Schedule 17A to that Act (SDLT: further provisions relating to leases), in paragraph 18A(5)(a)- (a) for "9(2)" substitute "9A", (b) for "the Tables" substitute "Table B", and (c) for "the relevant rental figure exceeds 600" substitute "the relevant rent attributable to non-residential property is not less than 1,000". (13) The amendments made by this section have effect in relation to transactions with an effective date on or after 12 March 2008.

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