

Amendments 43 to 52 to Clause 111 and Schedule 22: Relief from stamp duty land tax for freeport tax sites

Summary

1. These amendments to Schedule 22 to Finance (No. 2) Bill apply to property acquisitions in freeport tax sites using certain sharia-compliant Alternative Finance (AF) arrangements, and provide for Stamp Duty Land Tax (SDLT) Freeports relief to be available for these acquisitions by looking at the intended use of the land by the “relevant person” rather than the financial institution. This will mean that property acquisitions in freeport tax sites involving AF arrangements are taxed in the same way as those using conventional finance.

Details of the amendments

2. Amendment 43 amends paragraph 2 of Schedule 22 with the effect that new section 61A (relief for Freeport tax sites) is modified to insert a reference to new Part 3A which covers cases involving certain AF arrangements.
3. Amendment 44 amends paragraph 3 of Schedule 22 with the effect that new subsection (1A) of section 81 to the Finance Act 2003 (as substituted by Schedule 17 to the Finance Act 2021) does not apply to cases falling within new paragraph 10A of Schedule 6C.
4. Amendment 45 inserts new paragraphs 3A and 3B into Schedule 22.
5. New paragraph 3A amends section 81ZA Finance Act 2003.
6. New subparagraph 3A(a) amends section 81ZA(1) of the Finance Act 2003 to insert a reference to Part 3 of Schedule 6C for cases involving AF arrangements where relief is subsequently withdrawn.
7. New subparagraph 3A(b) inserts new section 81ZA(3)(c) of the Finance Act 2003 for cases involving AF arrangements where relief is subsequently withdrawn under Part 3 of Schedule 6C, and provides that a further return must be delivered within 30 days of the last day in the control period on which qualifying freeport land is used exclusively in a qualifying manner.
8. New subparagraph 3A(c) insert new subsections (6A) and (6B) into section 81ZA of the Finance Act 2003.
9. New sub-section (6A) provides for the terms used in new section 81ZA(3)(c) to have the same meaning as those in Schedule 6C.
10. New sub-section (6B) provides for the provisions in paragraph 10 of Schedule 6C to

apply to new 81ZA(3)(c) of the Finance Act 2003 as they apply for the purposes of paragraph 8 of Schedule 6C.

11. New subparagraph 3B amends section 85 of Finance Act 2003 so that for cases involving AF arrangements where relief is subsequently withdrawn, liability for tax lies with the “relevant person” rather than the financial institution.
12. Amendments 46 to 49 make provision about when tax must be paid in cases involving AF arrangements where relief is subsequently withdrawn under Part 3 of Schedule 6C.
13. Amendment 46 amends paragraph 4 of Schedule 22 to change the reference to “section 86(2)” to “section 86” (Finance Act 2003).
14. Amendment 47 amends paragraph 4 of Schedule 22 to insert “(a) in subsection (2),” after “(payment of tax)”.
15. Amendment 48 amends paragraph 4 of Schedule 22 with the effect that new section 86(2)(zb) Finance Act 2003 does not apply to cases involving AF arrangements where relief is subsequently withdrawn under Part 3 of Schedule 6C.
16. Amendment 49 amends paragraph 4 of Schedule 22 with the effect that section 86(2A) of Finance Act 2003 (providing for the payment date for tax where relief is withdrawn) applies to cases involving AF arrangements where relief is subsequently withdrawn under Part 3 of Schedule 6C.
17. Amendment 50 amends paragraph 5 of Schedule 22 with the effect that new section 87(3)(azaa) of Finance Act 2003 does not apply to cases involving AF arrangements where relief is subsequently withdrawn under Part 3 of Schedule 6C.
18. Amendment 51 amends paragraph 5 of Schedule 22 with the effect that new section 87(3) (azab) is inserted into Finance Act 2003 to provide that in cases involving AF arrangements where relief is subsequently withdrawn under Part 3 of Schedule 6C then, when tax is paid late, interest is charged from 30 days after the last day in the control period on which qualifying freeport land is used exclusively in a qualifying manner.
19. Amendment 52 amends paragraph 6 of Schedule 22 with the effect that new Part 3A (paragraph 10A) is inserted into Schedule 6C.
20. New paragraph 10A(1) provides that paragraph 10A applies where either section 71A Finance Act 2003 (land sold to financial institution and leased to person) or section 73 Finance Act 2003 (land sold to financial institution and re-sold to person) applies.
21. New paragraph 10A(2) provides that paragraph 10A applies for the purposes of determining eligibility for relief for the “first transaction” and withdrawal of relief for the “first transaction”.
22. New paragraph 10A(3)(a) provides that for cases involving AF arrangements references to the purchaser in Schedule 6C are to be treated as references to the “relevant person” in determining whether relief is available, or relief is withdrawn, under Schedule 6C.
23. New paragraph 10A(3)(b) provides that for cases involving AF arrangements

paragraph 3(2)(d) of Schedule 6C applies as if land held by the “financial institution” were held by the “relevant person”. This means that land will only be regarded as being held for resale as stock of the financial institution’s business without development or redevelopment if it would be were it held by the “relevant person” (the person other than the financial institution who entered into the AF arrangement).

24. The overall effect of new paragraphs 10A(3)(a) and (b) is that eligibility for relief and whether relief is withdrawn is determined by the circumstances of the “relevant person” rather than the “financial institution”. Similarly, liability for tax when relief is withdrawn lies with the “relevant person”.
25. New paragraph 10A(4) prevents the “first transaction” qualifying for relief under Schedule 6C other than under new paragraph 10A.
26. New paragraph 10A(5) provides for “first transaction” and “relevant person” to have the meanings given to them by sections 71A and 73.

Background note

27. On 10 February 2020 the government published a consultation on Freeport policy seeking views on its plans to introduce at least ten Freeports across the United Kingdom. Freeports are intended to support the policy of levelling up the towns, cities and regions of the United Kingdom.
28. The government published its response to the consultation on 7 October 2020. This was followed by a Freeport bidding prospectus on 16 November 2020, which included plans for the introduction of the tax reliefs to be offered, including for SDLT.
29. Clause 111 and Schedule 22 introduce SDLT relief for purchases of land and buildings within a Freeport tax site, subject to a ‘control period’ of up to 3 years and the land being acquired and used in a ‘qualifying manner’.
30. Relief from SDLT will apply to qualifying transactions with an effective date from the date the Freeport tax sites are designated until 30 September 2026.
31. These amendments are required to provide certainty that property acquisitions in freeport tax sites using sharia-compliant AF arrangements can benefit from SDLT Freeports relief in the same way as property acquisitions using conventional finance.