

Clause 2: SDRT: listed securities and connected persons

Summary

1. This clause introduces a new Stamp Duty Reserve tax (SDRT) market value rule for listed securities transferred to connected companies. The clause will apply where money is paid or there is nil consideration or where the consideration is other than money. The tax has effect in relation to transfers and agreements to transfer securities on or after 29 October 2018. A related change is made in respect of Stamp Duty by clause 1.

Details of the clause

2. Subsection (1) provides that this section will apply if a person is connected with a company and the person or the person's nominee agrees to transfer listed securities to the company or the company's nominee (whether or not for consideration), or the person or the person's nominee transfers such securities to the company or the company's nominee for consideration in money or money's worth.
3. Subsection (2) defines the meaning of 'listed securities' as chargeable securities which are regularly traded on a regulated market, or a multilateral trading facility, or a recognised foreign exchange. Regulated market, multilateral trading facility and recognised foreign exchange have the same meaning as in section 88B of Finance Act 1986 (intermediaries: supplementary).
4. Subsection (3) provides, for the purposes of a charge to SDRT under section 87 of FA 1986, and where new subsection (1) applies, that any agreement to transfer listed securities is to be charged by reference to the following.
 - Where the agreement is one to transfer listed securities for consideration in money or money's worth, the amount or value of the consideration is to be treated as being equal to the amount or value of the consideration for the transfer, or if higher, the value of the listed securities at the time the agreement is made.
 - In any other case, the agreement to transfer listed securities is to be treated as being one for an amount of consideration in money equal to the value of the listed securities at the time the agreement is made.
5. Subsection (4) provides that new subsection (5) applies for the purposes of a charge to SDRT under section 93 (depository receipts) or 96 (clearance services) of FA 1986 on a transfer of listed securities where new subsection (1) applies.

6. Subsection (5) provides for the purposes of a charge to SDRT under section 93 or 96 of FA 1986 that if the amount or value of the consideration for any transfer of listed securities is less than the value of those securities at the time they are transferred, the transfer is to be treated as being for an amount of consideration in money equal to that value.
7. Subsection (6) provides that, for the purposes of this section, the value of listed securities at any time is the price which they may reasonably be expected to fetch on a sale in the open market at that time.
8. Subsection (7) defines connected persons for this section by the meaning in section 1122 of CTA 2010.
9. Subsection (8) provides that the Treasury may by regulations made by statutory instrument provide for this section not to apply in relation to particular cases.
10. Subsection (9) provides that a statutory instrument made under new subsection (8) may make provision which has retrospective effect.
11. Subsection (10) provides that a statutory instrument made under new subsection (8) is to be made under a negative procedure.
12. Subsection (11) provides that this section is to be construed as one with Part 4 of FA 1986.
13. Subsection (12) sets out the commencement provision. This section has effect in relation to a charge to SDRT at the rate of 0.5% under section 87 FA 1986 where the agreement to transfer is conditional and the condition is satisfied on or after 29 October 2018, or in any other case, the agreement is made on or after that date. In relation to a charge to SDRT at the rate of 1.5% under section 93 or 96 of FA 1986, this section has effect where the transfer is on or after 29 October 2018 (whenever the arrangement was made).

Background note

14. Where shares in UK companies are transferred, the transaction is subject to stamp tax. This is either Stamp Duty on paper instruments or documents or SDRT on electronic transfers. The rate is 0.5% in both cases. A higher Stamp Duty or SDRT 1.5% rate applies where shares in UK companies are transferred to a person who provides clearance services or issues depositary receipts.
15. HM Revenue & Customs has become aware of contrived arrangements involving the transfer of listed securities to connected companies for low consideration to minimise stamp taxes on shares liability.
16. This clause inserts a market value rule to ensure where listed securities are transferred to a connected company, SDRT is charged based on the higher of the amount or value of the consideration (if any) for the transfer or the market value of the securities.