

Amendment	Page	Line
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Mr Chancellor of the Exchequer

Amendment 80

Mr Chancellor of the Exchequer

Page 75, line 20 [*Clause 125*], leave out subsections (5) and (6) and insert—

‘(5) This section and that Schedule have effect—

(a) in relation to an instrument effecting a land transaction, if the transaction—

(i) is an SDLT transaction within the meaning of Schedule 19 to this Act (stamp duty land tax: commencement and transitional provisions), or

(ii) would be such a transaction but for an exemption or relief from stamp duty land tax;

(b) in relation to an instrument effecting a transaction other than a land transaction, if the instrument is executed on or after the implementation date for the purposes of stamp duty land tax (see paragraph 2(2) of that Schedule).

For this purpose an instrument effecting both a land transaction and a transaction other than a land transaction is treated as if it were two instruments to which paragraph (a) and paragraph (b) above respectively applied.

(5A) Where in the case of an instrument effecting both a land transaction and a transaction other than a land transaction the result of applying subsection (5) is that stamp duty is chargeable on either or both of the deemed instruments, the enactments relating to stamp duty have effect as if—

(a) there were two instruments as mentioned in the closing words of that subsection,

(b) the consideration had been apportioned between them in a just and reasonable manner, and

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(c) the amount found on that apportionment to be attributable to the chargeable instrument, or (as the case may be) to each of them, had been set forth distinctly in that instrument.’

(6) In subsections (5) and (5A) “land transaction” has the same meaning as in Part 4 of this Act.’

EXPLANATORY NOTE

SUMMARY

1. This Amendment clarifies which transactions are subject to the current stamp duty regime and which are subject to Stamp Duty Land Tax (‘SDLT’)

DETAILS

2. *Subsection (5)* sets out which transactions are subject to stamp duty and which to SDLT. It ensures in particular (a) that land transactions which are chargeable to SDLT are not also chargeable to stamp duty and (b) that transactions after ‘implementation date’ (as defined in Schedule 19 paragraph 2) in property other than land, stock and marketable securities are not chargeable to stamp duty.
3. The subsection does not apply to land transactions after implementation date which are not SDLT transactions, for example by virtue of Schedule 19 paragraph 3. Such transactions will continue to be chargeable to stamp duty.
4. *Subsection (5A)* provides for any necessary apportionments.
5. *Subsection (6)* applies the SDLT definition of ‘land transaction’.