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Mr Stephen Timms MP (Lab- East Ham)

**Amendment 184: Clause 70, page 45, line 20**

Leave out ‘(but subject to subsection (2))’

**Amendment 185: Clause 70, page 45, line 29**

At end insert-

‘(3A) in subsection (3) –

(a) paragraph (a) is subject to subsection (2) (a) to (c)

(b) paragraph (b) is subject to subsection (2) (a) and (c).

(c) paragraph (c) is subject to subsection (2) (a) to (c).’

**Amendment 186: Clause 70, page 45, line 31**

At end insert –

‘(5) In this section a reference to the transfer of a chargeable interest from V to P includes a reference to a disposal of V of an interest acquired by P.’.

**Amendment 187: Clause 70, page 46, line 2**

At end insert-

‘(4A) In the application of section 75A(5) an amount given or received partly in respect of the chargeable interest acquired by P and partly in respect of another chargeable interest shall be subjected to just and reasonable apportionment.’.

**Amendment 188: Clause 70, page 46, line 7**

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After first ‘a’ insert ‘property –investment’.

**Amendment 189: Clause 70, page 46, line 7**

After ‘partnership’ insert ‘(within the meaning of paragraph 14 of schedule 15)’.

**Amendment 190: Clause 70, page 46, line 21**

At end insert ‘and may make provision with retrospective effect’.

**Amendment 191: Clause 70, page 46, line 25**

After (“But” insert –

‘(a)’.

**Amendment 192: Clause 70, page 46, line 28**

At end insert-

‘,and

(b) a provision of new section 75C (inserted by subsection (1) above) shall not have effect where the disposal mentioned in new section 75A(1)(a) took place before the day on which this Act is passed, if or so far as the provision would make a person liable for a higher amount of tax than would have been charged in accordance with those regulations.’.

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## EXPLANATORY NOTE

### SUMMARY

1. These amendments clarify a proposed change to FA2003 being made by Clause 70 which aims to counter avoidance schemes which have been developed to avoid payment of stamp duty land tax (SDLT).

### DETAILS OF THE AMENDMENTS

2. Amendment 184 is consequential on the amendment immediately following.
3. New section 75B makes provision for transactions which are “merely incidental” to the transfer of the chargeable interest from V to P. Subsection (3) of section 75B sets out examples of incidental transactions, but subsection (2)(b) provides that a transaction is not incidental if the transfer of the chargeable interest is conditional on the completion of the transaction. Amendment 185 ensures that subsection (2)(b) does not apply where the transaction is the sale or supply of anything other than land.
4. Amendment 186 adds a new subsection (5) to section 75B (incidental transactions) to provide that a reference in that section to the transfer of a chargeable interest from V to P includes a reference to a disposal by V of an interest acquired by P
5. Amendment 187 adds a new subsection (4A) to section 75C (supplemental) which provides that in the application of section 75A(5) an amount given or received partly in respect of the chargeable interest acquired by P and partly in respect of

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another chargeable interest shall be subjected to just and reasonable apportionment.

6. Subsection (7) provides that for the purposes of section 75A of FA 2003 an interest in a partnership is a chargeable interest in so far as it concerns land owned by the partnership. Amendment 188 clarifies what types of partnerships are affected by this subsection by inserting that they must be a “property investment partnership”.
7. Amendment 189 is consequential on the amendment immediately preceding.
8. Subsection 11(c) of new section 75C provides that an order under subsection (10) of section 75C may include incidental, consequential or transitional provision. Amendment 190 clarifies this by adding that the orders may make provision with retrospective effect.
9. Amendment 191 is consequential on the amendment immediately following.
10. Amendment 192 inserts a new subsection (3)(b) which states that a provision of new section 75C shall not have effect where the disposal mentioned in new section 75A(1)(a) took place before the day on which this Act is passed, if or so far as the provision would make a person liable for a higher amount of tax than would have been charged in accordance with those regulations.

#### BACKGROUND NOTE

11. Clause 70 has been introduced to counter known avoidance schemes which have been developed to avoid payment of

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SDLT. The Government in drafting legislation sought to ensure that legitimate transactions were not caught by this clause. Following representations from representative bodies, the Government was persuaded that there would be value in amending this clause in such a way that would make it clearer that legitimate transactions were not affected by this clause. The proposed amendments merely add clarity and have no effect on the overall intent or purpose of Clause 70.