

EXPLANATORY NOTE**CLAUSE 92: CHARGE WHERE CONSIDERATION
INCLUDES RENT: 0% BAND: AMENDMENT 152****SUMMARY**

1. The Amendment applies principally to a shared ownership lease. It prevents the premium paid for the grant of the lease being brought into charge at a higher rate of stamp duty land tax, under the “linked transactions” rules, by a subsequent “staircasing” transaction.
2. The Amendment makes similar provision in respect of an initial payment by a beneficiary of a shared ownership trust and removes three redundant words from Schedule 9 Finance Act 2003.

DETAILS OF THE AMENDMENT

3. The amendment inserts new paragraphs after the existing paragraph 7 of Clause 92.
4. New paragraph [8] of clause 92 inserts new paragraph 4B into Schedule 9 Finance Act 2003, which provides for the stamp duty land tax treatment of shared ownership leases.
5. New paragraph 4B(1) provides that, 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 of Schedule 9 applies (that is, to a “staircasing” transaction under the terms of the lease), or

(b) the transfer of the freehold reversion to the lessee(s).

6. New paragraph 4B(2) provides that, in new paragraph 4B, “shared ownership lease” has the same meaning as in the existing paragraph 4A.

7. New paragraph [9] of clause 92 omits the redundant word “additional” from paragraphs 10(1), 10(2) and 11(b) of Schedule 9 Finance Act 2003 (provisions relating to shared ownership trusts).

8. New paragraph [10] of clause 92 inserts new paragraph 12 in Schedule 9 Finance Act 2003. This provides that, 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.

BACKGROUND NOTE

9. Clause 92 abolishes the stamp duty land tax “£600 rule” for leases of residential property. This rule provides that the premium paid for a lease, which is below the stamp duty land tax threshold, will be charged at a rate of 1% if the annual rent payable under the lease exceeds £600.
10. This rule impacted largely on shared ownership purchasers, who acquire a lease for a premium payment representing a proportion of the market value of the property and pay rent on the remainder. Abolition of the rule means that they will no longer have to pay tax on the premium, unless it exceeds the stamp duty land tax threshold.
11. Many of these leases provide for the purchaser to make capital payments to acquire further shares in the property and commute part of the rent, and ultimately to purchase the freehold (a process known as “staircasing”). There is a stamp duty land tax relief for “staircasing” transactions which do not result in the purchaser holding in excess of an 80% share.
12. It was thought that abolishing the £600 rule for residential property, combined with the existing

special relief for ‘staircasing transactions’, which do not take the purchaser beyond 80% ownership of the property, would mean that SDLT was normally only paid on the final 20% of the property.

13. However, we have realised that the stamp duty land tax “linked transactions” mean this is not the case unless a further amendment is made. These rules provide that, in a series of transactions between the same purchaser and vendor, the rate of tax chargeable on individual transactions will be determined by the total consideration given in all transactions.
14. The effect of this is that the premium paid for a shared ownership lease, which is below the stamp duty land tax threshold, will be brought back into charge at 1% where a “staircasing” transaction takes the total consideration over the threshold. This applies even if no tax is due on the “staircasing” transaction itself, because it benefits from relief.
15. The effect of the amendment is that the premium paid for the grant of a shared ownership lease will no longer be brought back into charge (or into a higher rate of tax) as a result of a subsequent transaction. This means that, provided that the premium does not exceed the threshold, stamp duty land tax will be payable only on “staircasing” payments which take the purchaser beyond 80% ownership in the property.

16. Shared ownership trusts provide analogous shared ownership facilities for commonhold flats, and similar considerations apply. The amendment therefore makes similar provision for these trusts.