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Mr Chancellor of the Exchequer

Amendment 54

Page 32, line 1 [*Clause 45*], leave out ‘Where this section applies,’ and insert ‘The transferee is not regarded as entering into a land transaction by reason of the transfer of rights, but’.

Amendment 55

Page 32, line 3 [*Clause 45*], leave out subsections (3) and (4) and insert—

‘(3) That section applies as if there were a contract for a land transaction (a “secondary contract”) under which—

(a) the transferee is the purchaser, and

(b) the consideration for the transaction is—

(i) so much of the consideration under the original contract as is referable to the subject-matter of the transfer of rights and is to be given (directly or indirectly) by the transferee or a person connected with him, and

(ii) the consideration given for the transfer of rights.

The substantial performance or completion of the original contract at the same time as, and in connection with, the substantial performance or completion of the secondary contract shall be disregarded.

(4) Where there are successive transfers of rights, subsection (3) has effect in relation to each of them.

The substantial performance or completion of the secondary contract arising from an earlier transfer of rights at the same time as, and in connection with, the substantial performance or

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completion of the secondary contract arising from a subsequent transfer of rights shall be disregarded.’.

Amendment 56

Page 32, line 23 [*Clause 45*], at end insert—

‘() Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of subsection (3)(a)(i).’.

EXPLANATORY NOTE

SUMMARY

1. These amendments (a) clarify the charge on a person who takes a transfer of rights under a contract for a land transaction and (b) give relief in certain circumstances to intermediate contracting purchasers where there is such a transfer of rights.

DETAILS

2. Clause 45 deals with the situation where there is a contract for a land transaction and the contracting purchaser transfers his rights under the contract, whether by sub-sale or assignment, without himself completing. Under the Clause as originally drafted there was always a charge on the contracting purchaser, at the latest when the transferee completed.
3. These amendments provide that there is no charge on the contracting purchaser unless he himself completes or the contract between him and the vendor is substantially performed within the meaning of Clause 44(4). For this purpose an act of completion or substantial performance which takes place in connection with, and at the same time as, completion or substantial performance by the transferee is ignored.
4. If there is more than one intermediate contracting purchaser the same relief from charge applies to each of them.

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5. The amendments also clarify the charge on the ultimate purchaser. He is deemed to have entered into a contract for a land transaction under which the consideration is (in effect) the total consideration given by him, whether to the vendor or to the intermediate contracting purchaser. The transfer of rights is not itself a land transaction so he is chargeable only when the transaction is completed or, if earlier, when there is substantial performance of the deemed contract.

BACKGROUND NOTE

6. These amendments fulfil assurances given by the Chief Secretary in Standing Committee.