
STATUTORY INSTRUMENTS

2015 No. 1540

CORPORATION TAX

The Housing and Regeneration Transfer
Schemes (Tax Consequences) Regulations 2015

<i>Made</i>	- - - -	<i>16th July 2015</i>
<i>Laid before the House of Commons</i>	- - - -	<i>17th July 2015</i>
<i>Coming into force</i>	- -	<i>7th August 2015</i>

The Treasury make the following Regulations in exercise of the powers conferred by section 333DC of the Greater London Authority Act 1999(1) and section 53B of the Housing and Regeneration Act 2008(2).

Citation and commencement

1. These Regulations may be cited as the Housing and Regeneration Transfer Schemes (Tax Consequences) Regulations 2015 and come into force on 7th August 2015.

Interpretation

2.—(1) In these Regulations—

“CAA 2001” means the Capital Allowances Act 2001(3);

“public body” means a person which is a public body for the purposes of section 66 of the Finance Act 2003(4);

“TCGA 1992” means the Taxation of Chargeable Gains Act 1992(5);

“taxable public body” means a public body which is within the charge to corporation tax;

“transfer scheme” means a transfer scheme made under—

(a) section 333DA of the Greater London Authority Act 1999, or

(1) 1999 c. 29. Sections 333DA to 333DC were inserted by section 31(5) and (6) of the Infrastructure Act 2015 (c. 7).
(2) 2008 c. 17. Sections 53A and 53B were inserted by section 31(1) and (2) of the Infrastructure Act 2015.
(3) 2001 c. 2.
(4) 2003 c. 14. Section 66 was amended by paragraph 18 of Schedule 10 to the Finance (No. 2) Act 2005 (c. 22); paragraph 64 of Schedule 10 to the Government of Wales Act 2006 (c. 32); paragraph 234 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c. 43); article 3(5)(a) of the Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890) and paragraph 87 of Schedule 14 to the Health and Social Care Act 2012 (c. 7).
(5) 1992 c. 12.

- (b) section 53A of the Housing and Regeneration Act 2008;
- “trading stock” has the meaning given by section 163 of the Corporation Tax Act 2009⁽⁶⁾;
- “transferee”, in relation to a transfer scheme, means the person to whom the transfer is made;
- “transferor”, in relation to a transfer scheme, means the person from whom the transfer is made.

(2) Expressions used in regulations 7 and 8 and in Part 2 of CAA 2001 have the same meanings in those regulations as in that Part.

Application of Regulations to transfers between taxable public bodies

3. These Regulations apply to any transfer, in accordance with a transfer scheme, from a taxable public body to another taxable public body.

Corporation tax: transfers of trading stock

- 4.—(1) This regulation applies if there is a transfer of trading stock of the transferor.
- (2) Paragraphs (3) and (4) have effect in calculating for any corporation tax purpose both—
 - (a) the profits of the transferor’s trade in relation to which the stock is trading stock immediately before the transfer takes effect, and
 - (b) the consideration given, or the expenditure incurred, by the transferee for the acquisition of the stock (whether acquired as trading stock or not).
- (3) The stock is to be treated as having been—
 - (a) disposed of by the transferor in the course of the transferor’s trade, and
 - (b) disposed of and acquired when the transfer takes effect.

(4) The stock is to be valued as if the disposal and acquisition had been for a consideration which in relation to the transferor would have resulted in neither a profit nor a loss being brought into account in respect of the disposal in the accounting period of the transferor which ends with, or is current at, the time when the transfer takes effect.

Corporation tax: transfers of assets that will be trading stock of the transferee

- 5.—(1) This regulation applies if—
 - (a) a transfer constitutes a disposal of an asset for the purposes of TCGA 1992,
 - (b) at the time of the disposal, the asset is not trading stock of the transferor, and
 - (c) immediately after the disposal, the asset will be trading stock of the transferee.
- (2) For any corporation tax purpose, the trading stock—
 - (a) is to be treated as having been acquired by the transferee in the course of the transferee’s trade, and
 - (b) is to be valued as if it had been acquired by the transferee for a consideration such that no gain or loss would accrue to the transferor for the purposes of TCGA 1992.

Chargeable gains: disposal on transfer to be treated as no gain/no loss disposal

6.—(1) For the purposes of TCGA 1992, a disposal constituted by a transfer is to be taken in relation to the transferor and transferee to be for a consideration such that no gain or loss accrues to the transferor.

(6) 2009 c. 4.

(2) For the purposes of any provision about a relevant tax, paragraph (1) is to be treated as one of the no gain/no loss provisions in section 288(3A) of that Act (meaning of “the no gain/no loss provisions”)(7).

Capital allowances: determination of disposal value of plant or machinery

7.—(1) This regulation applies if—

- (a) there is a transfer of plant or machinery, and
- (b) the plant or machinery would be treated for the purposes of CAA 2001 as disposed of by the transferor to the transferee on the transfer taking effect.

(2) If the plant or machinery will be used by the transferee for the purposes of a qualifying activity, the disposal value of the plant or machinery is to be treated for the purposes of CAA 2001 as such amount as is determined by the Secretary of State.

(3) The consent of the Treasury is required for the making of a determination under paragraph (2).

(4) If an amount is determined under paragraph (2) then for the purposes of CAA 2001—

- (a) the transferee is to be treated as having incurred capital expenditure of that amount on the provision of the plant or machinery for the purposes for which it is used by the transferee on and after the taking effect of the transfer, and
- (b) the property is to be treated as belonging to the transferee as a result of the transferee having incurred that expenditure.

(5) The expenditure treated as incurred under paragraph (4)(a) is to be treated as not being AIA qualifying expenditure for the purposes of CAA 2001.

(6) If the plant or machinery will not be used by the transferee for the purposes of a qualifying activity, the disposal value of the plant or machinery is to be treated for the purposes of CAA 2001—

- (a) if a capital sum is received by the transferor by way of consideration or compensation in respect of the transfer, as an amount equal to that sum, or
- (b) if no such sum is received, as nil.

(7) For the purposes of paragraph (5) a sum received by a person connected with the transferor is to be treated as received by the transferor.

(8) Section 88 of CAA 2001 (sales at an undervalue)(8) is to be disregarded.

(9) This regulation is subject to sections 63(5) and 68 of CAA 2001 (cases in which disposal value is nil and disposal value on cessation of notional ownership).

Capital allowances: determination of disposal value of fixtures

8.—(1) This regulation applies if—

- (a) there is a transfer of a fixture, and
- (b) by virtue of the transfer a person is treated by section 188 of CAA 2001 (cessation of ownership when person ceases to have qualifying interest)(9) as ceasing to own the fixture.

(2) For the purposes of the application of section 196 of CAA 2001 (disposal values in relation to fixtures)(10) in relation to the transferor, the disposal value of the fixture is to be treated as such amount as is determined by the Secretary of State.

(7) Section 288(3A) was inserted by paragraph 63 of Schedule 2 to the Finance Act 2008 (c. 9).

(8) Section 88 was amended by paragraph 252 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1).

(9) Section 188 was amended by paragraph 7 of Schedule 18 to the Finance Act 2001 (c. 9).

(10) Section 196 was amended by paragraph 10 of Schedule 18 to the Finance Act 2001.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (3) An amount determined under paragraph (2) must not exceed the qualifying expenditure brought into account by the transferor for the purposes of CAA 2001 on its acquisition of the fixture.
- (4) If an amount is determined under paragraph (2) then—
 - (a) the transferee is to be treated for the purposes of CAA 2001 as having incurred capital expenditure of that amount on acquiring an interest in the relevant land, and
 - (b) the expenditure which falls to be treated as incurred by the transferee is to be treated for the purposes of sections 181(1) and 182(1) of CAA 2001 (purchaser of land giving consideration for fixture or discharging obligations of equipment lessee) as being incurred by the giving of a consideration consisting in a capital sum of that amount.
- (5) The expenditure treated as incurred under paragraph (4)(a) is to be treated as not being AIA qualifying expenditure for the purposes of CAA 2001.
- (6) This regulation is subject to section 63(5) of CAA 2001 (cases in which disposal value is nil).

Mel Stride
George Hollingbery
Two of the Lords Commissioners of Her
Majesty's Treasury

16th July 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the tax consequences of certain transfers in accordance with transfer schemes under section 333DA of the Greater London Authority Act 1999 (c. 29) and under section 53A of the Housing and Regeneration Act 2008 (c. 17). The schemes permit the transfer of designated property, rights or liabilities of specified public bodies respectively to the Greater London Authority (or a company or a body through which it exercises functions in relation to housing or regeneration) and to the Homes and Communities Agency.

Regulation 1 provides for citation and commencement and regulation 2 for interpretation.

Regulation 3 provides that the Regulations apply to transfers from one taxable public body to another.

Regulation 4 provides for the tax consequences of transfers of trading stock. The regulation ensures that the transfer is treated as made for a consideration which in relation to the transferor would have resulted in neither a profit nor a loss being brought into account.

Regulation 5 provides for the tax treatment of transferred assets which are not trading stock of the transferor but will be trading stock of the transferee. The regulation ensures that the trading stock is treated for corporation tax purposes, as acquired by the transferee for such a consideration such that no gain or loss accrues to the transferor.

Regulation 6 provides that, for the purposes of the Taxation of Chargeable Gains Act 1992 (c. 2), a disposal constituted by a transfer is treated as made for a consideration such that no gain or loss accrues to the transferor.

Regulation 7 provides for the determination of the disposal value of plant or machinery for the purposes of capital allowances.

Regulation 8 provides for the determination of the disposal value of fixtures for the purposes of capital allowances.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.