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ACQ Finance Magazine

Stamp Duty Measures

Stamp Duty Measures in Finance Bill 2010

ANTI-AVOIDANCE

Finance Bill 2010 has extended the provisions of Section 41 Stamp Duties Consolidation Act (SDCA) 1999 in an important respect. Section 41 SDCA 1999 provides that where any property is transferred in consideration, wholly or partly, of the assumption or discharge of debts or liabilities that the property is chargeable with stamp duty on the amount of the debt or liability assumed or discharged.

The amendment introduced by Finance Bill 2010 focuses on share transactions where the transferee, directly or indirectly, discharges or procures to discharge of a debt of the target company (or certain related companies). Where in such situations the avoidance or mitigation of stamp duty is the main object or one of the main objects of the transaction, the transfer of the shares will be chargeable with stamp duty in respect of amount of the debt discharged by the transferee in addition to the stamp duty payable on the price paid for the shares. This new provision is broadly drafted and seems capable of imposing a stamp duty charge in cases beyond those which it was presumably intended to counteract.

RENT A ROOM SCHEME

Finance Bill 2010 amends the income tax provisions relating to the rent a room relief to provide that the relief does not apply in certain circumstances, including where the person in receipt of the income is an office holder, or employee, of the person making the payment. As the receipt of rents pursuant to the rent a room scheme does not give rise to a claw back of certain stamp duty reliefs claimed by owner/occupiers, this restriction in the operation of the rent a room relief may have an impact for certain owner/occupiers who are in receipt of rental income from such parties.

EXCHANGE OF INFORMATION

Finance Bill 2010 contains provisions facilitating the exchange of information between the Revenue Commissioners and the Property Registration Authority. Whilst these provisions are necessary for the efficient operation of the new e-stamping system the provisions would appear broadly drafted enough to allow the information to be used by the Revenue Commissioners in an enforcement capacity. Finance Bill 2010 also contains powers enabling the Revenue Commissioners to require NAMA to provide information to it in relation to eligible bank assets and also in relation to named relevant persons.

FUND REORGANISATIONS

Finance Bill 2010 also extends the scope of existing stamp duty exemptions in connection with the reconstruction or amalgamation of funds and the transfer of assets within certain unit trusts.



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ISLAMIC FINANCE

The Finance Bill 2010 introduces provisions dealing with the taxation of certain Shari'a law compliant financing arrangements by treating the return on any product defined as a "specified finance transaction" as interest for the purposes of the Taxes Acts. In Tax Briefing Issue 78 (October 2009) the Revenue Commissioners issued guidance on the tax treatment (including stamp duty) of certain Shari'a Law compliant financing arrangements.

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About LK Shields Solicitors

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