

New dwellinghouses and apartments with no floor area certificate. F(No. 2)A1998 s14; FA1997 s123 and s124
92.—(1) (a) Where, in relation to an instrument to which this subsection applies—

(i) the instrument is one to which section 29 applies, that section shall apply to that instrument as if—

(I) the following subsection were substituted for subsection (2) of that section:

“(2) Notwithstanding section 43, where, in connection with, or as part of any arrangement involving, a sale of any land, a dwellinghouse or apartment has been built, or is in the course of being built, or is to be built, on that land, any instrument whereby such sale is effected shall be chargeable to stamp duty under the heading “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance” in Schedule 1, as if the property concerned were residential property on an amount which is the greater of—

(a) any consideration paid in respect of the sale of that land, and

(b) 25 per cent of the aggregate of the consideration at paragraph (a) and the consideration paid, or to be paid, in respect of the building of the dwellinghouse or apartment on that land.”;

(II) the following paragraphs were inserted into subsection (3) of that section:

“(b) This subsection does not apply where the dwellinghouse or apartment concerned was occupied by any person, other than in connection with the building of that dwellinghouse or apartment, at any time prior to the agreement for sale of the land.

(c) The amount on which stamp duty is chargeable by virtue of this section shall be deemed to be the amount or value of the consideration for the sale in respect of which that duty is chargeable.”;

and

(III) “such aggregate consideration” were substituted for “the aggregate consideration which is chargeable under subsection (2)” in paragraph (a) of subsection (4) of that section;

(ii) the instrument is one to which section 53 applies, that section shall apply to that instrument as if—

(I) the following subsection were substituted for subsection (2) of that section:

“(2) Notwithstanding subsection (2) of section 52, where, in connection with, or as part of any arrangement involving, a lease of any land, a dwellinghouse or apartment has been built, or is in the course of being built, or is to be built, on that land, any instrument whereby such lease is effected shall be chargeable to stamp duty under subparagraph (a) of paragraph (3) of the heading “LEASE” in Schedule 1, as if

the property concerned were residential property on an amount which is the greater of—

(a) any consideration (other than rent) paid in respect of the lease of that land, and

(b) 25 per cent of the aggregate of the consideration at paragraph (a) and the consideration paid, or to be paid, in respect of the building of the dwellinghouse or apartment on that land.”;

(II) the following paragraphs were inserted into subsection (3) of that section:

“(b) This subsection does not apply where the dwellinghouse or apartment concerned was occupied by any person, other than in connection with the building of that dwellinghouse or apartment, at any time prior to the agreement for lease of the land.

(c) The amount on which stamp duty is chargeable by virtue of this section shall be deemed to be the amount or value of the consideration for the lease in respect of which that duty is chargeable.”;

and

(III) “such aggregate consideration” were substituted for “the aggregate consideration which is chargeable under subsection (2)” in paragraph (a) of subsection (4) of that section;

and

(iii) the instrument gives effect to the purchase of a dwellinghouse or apartment on the erection of that dwellinghouse or apartment and sections 29 , 53 and 91 do not apply, the consideration (other than rent) for the sale shall for the purposes of ad valorem duty be treated as being reduced by 75 per cent.

(b) This subsection applies to an instrument which contains a statement, in such form as the Commissioners may specify, certifying that—

(i) the instrument—

(I) is one to which section 29 or 53, applies, or

(II) gives effect to the purchase of a dwellinghouse or apartment on the erection of that dwellinghouse or apartment and that sections 29 , 53 and 91 do not apply,

and

(ii) until the expiration of the period of 5 years commencing on the date of the execution of the instrument or the subsequent sale , be charged with full ad valorem duty or a sale to a company under the control of the vendor or of any person entitled to a beneficial interest in the dwellinghouse or apartment immediately prior to the sale or to a company which would, in relation to a notional gift of shares in that company taken, immediately prior to the sale, by any person so entitled, be under the control of the donee or successor within the meaning of section 16 of the Capital Acquisitions Tax Act, 1976 , irrespective of the

shares the subject matter of the notional gift) of the dwellinghouse or apartment concerned, whichever event first occurs, that dwellinghouse or apartment will be occupied as the only or principal place of residence of the purchaser, or if there be more than one purchaser, of any one or more of the purchasers or of some other person in right of the purchaser or, if there be more than one purchaser, of some other person in right of any one or more of the purchasers and that no person, other than by virtue of a title prior to that of the purchaser, will derive any rent or payment in the nature of rent for the use of that dwellinghouse or apartment, or of any part of it, during that period.

(2) Where subsection (1) applies to an instrument and at any time during the period referred to in paragraph (b)(ii) of that subsection, some person, other than by virtue of a title prior to that of the purchaser, derives any rent or payment in the nature of rent for the use of the dwellinghouse or apartment concerned, or of any part of it, the purchaser, or where there be more than one purchaser, each such purchaser, shall—

(a) jointly and severally become liable to pay to the Commissioners a penalty equal to the difference between the amount of the duty which would have been charged in the first instance if the dwellinghouse or apartment had been conveyed or transferred or leased by an instrument to which subsection (1) had not applied and the amount of duty which was actually charged together with interest on that amount charged at a rate of 1 per cent per month or part of a month from the date when the rent or payment is first received to the date the penalty is remitted, and

(b) the person who receives the rent or payment shall, within 6 months after the date of the payment, notify the payment to the Commissioners on a form provided, or approved of, by them for the purposes of this section, unless that person is already aware that the Commissioners have already received such a notification from another source.