HMRC - STSM022120 - Stamp Duty: Company Reconstructions

The relief available under FA86/S75 applies when a company acquires the whole or part of an undertaking of another company (the target) in pursuance of a scheme for the reconstruction of the target company.

The conditions for relief

the consideration for the acquisition consists of or includes the issue of non-redeemable shares to all the shareholders of the target company

includes nothing else other than the assumption or discharge of target company liabilities by the acquiring company

the acquisition is for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is the avoidance of stamp duty, income tax, corporation tax or capital gains tax

after the transaction, all the shareholders of either company are shareholders of the other

after the transaction the proportion of a shares held in one company by a shareholder is the same, or as nearly as possible the same, as the proportion of shares held by that shareholder in the other company

If a company holds any of its own shares these are treated as having been cancelled before the transaction, so that, for the purposes of applying the tests, the company is not regarded as being a shareholder of itself.

The effect of these conditions is that there is a requirement for a “mirror image” in terms of proportions between the shareholder structure of both the target company immediately before, and the acquiring company immediately after, the transaction. There will be cases when achieving complete equality is impossible, e.g. because to do so would require the existence of fractional shares. In those circumstances the legislation does enable relief to be granted, but each such case will be considered on its individual merits.

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How to claim the relief

The documents for stamping, certified copies of each of the documents and a letter of claim should be sent to Birmingham Stamp Office. Further information on the content and required exhibits can be found at http://www.hmrc.gov.uk/so/forms/s75.pdf

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