Draft Order laid before the House of Commons under section 160(7) of the Finance Act 2008, for approval by resolution of the House of Commons.

DRAFT STATUTORY INSTRUMENTS

2013 No.

INCOME TAX
CAPITAL GAINS TAX
STAMP DUTY
STAMP DUTY LAND TAX

The Enactment of Extra-Statutory Concessions Order 2013

Made - - - -	***
Coming into force - -	*1st March 2013*

The Treasury make the following Order in exercise of the powers conferred by section 160 of the Finance Act 2008(**1**).

In accordance with section 160(7) of that Act, a draft of this instrument was laid before the House of Commons and approved by resolution of that House.

Citation and commencement

1. This Order may be cited as the Enactment of Extra-Statutory Concessions Order 2013 and comes into force on 1st March 2013.

Relief for chargeable gains on exchanges of joint interests in land

2.—(1) In section 248B of the Taxation of Chargeable Gains Act 1992(**2**) (calculation of relief), for subsections (1) and (2) substitute—

> "(1) If the amount or value of the consideration for the disposal of the relinquished interest is equal to or less than the amount or value of the consideration for the acquired interest, the landowner, on making a claim, is to be treated for the purposes of this Act—
>
> (a) as if the consideration for the disposal of the relinquished interest were of such amount as would secure that on the disposal neither a gain nor a loss accrues to the landowner, and

(**1**) 2008 c. 9.
(**2**) 1992 c. 12. Section 248B was inserted by article 8(1) of S.I. 2010/157.

(b) as if the amount or value of the consideration for the acquired interest were reduced by the excess of the amount or value of the consideration for the disposal of the relinquished interest over the amount of the consideration which the landowner is treated as receiving under paragraph (a).

(2) Where the amount or value of the consideration for the disposal of the relinquished interest exceeds the amount or value of the consideration for the acquired interest, then if the excess ("the unexpended consideration") is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the relinquished interest, the landowner on making a claim is to be treated for the purposes of this Act—

(a) as if the amount of the gain so accruing were reduced to the amount of the unexpended consideration (and, if not all chargeable gain, with a proportionate reduction in the amount of the chargeable gain), and

(b) as if the amount or value of the consideration for the acquired interest were reduced by the amount by which the gain is reduced (or, as the case may be, the amount by which the chargeable gain is proportionately reduced) under paragraph (a)."

(2) The amendment made by paragraph (1) has effect in relation to disposals on or after 1 March 2013.

Certain employee legal costs paid by employer not taxed

3.—(1) In section 413A of the Income Tax (Earnings and Pensions) Act 2003(**3**) (exception for payment of certain legal costs)—

(a) in subsection (3)(b) for "compromise" (in each place where it occurs) substitute "settlement"; and

(b) in subsection (4) omit the definition of "compromise agreement".

(2) The amendments made by this article have effect in relation to payments made on or after 1 March 2013.

Groups of companies arrangements: stamp taxes

4.—(1) After section 42 of the Finance Act 1930(**4**), (relief from transfer stamp duty in case of transfer of property as between associated companies) insert—

"**Certain arrangements not within section 42**

42A.—(1) Arrangements entered into by a joint venture company which, apart from this section, would be arrangements of the kind mentioned in section 42(2) are not to be treated as such arrangements if and so long as—

(a) the arrangements fall within subsection (2), and

(b) none of the contingencies mentioned in subsection (3) to which the arrangements relate has occurred.

(2) Arrangements fall within this subsection if they are—

(**3**) 2003 c. 1. Section 413A was inserted by article 10 of S.I. 2011/1037.
(**4**) 1930 c. 28. Subsection (1) of section 42 was amended by paragraph 3 of Schedule 14 to the Finance Act 1999 (c. 16) and paragraph 3 of Schedule 20 to the Finance Act 2003 (c. 14). Subsections (2A) and (2B) were inserted by section 149(3) and (7) of the Finance Act 1995 (c. 4).

(a) an agreement which provides for the transfer of shares or securities in the joint venture company to one or more members of that company on, or as a result of, one or more contingencies mentioned in subsection (3) occurring, or

(b) a provision in a constitutional document of the joint venture company which provides for the suspension of a member's voting rights on, or as a result of, one or more of those contingencies occurring.

(3) The contingencies referred to in subsection (1)(b) and (2) are—

(a) the voluntary departure of a member,

(b) the commencement of the liquidation, administration, administrative receivership or receivership of, or the entering into of a voluntary arrangement by, a member under the Insolvency Act 1986(**5**) or the Insolvency (Northern Ireland) Order 1989(**6**) or the commencement, or entering into, of equivalent proceedings or arrangements under the law of any country or territory outside the United Kingdom,

(c) a serious deterioration in the financial condition of a member,

(d) a change of control of a member,

(e) a default by a member in performing its obligations under any agreement between the members or with the joint venture company (which, for this purpose, includes any constitutional document of the joint venture company),

(f) an external change in the commercial circumstances in which the joint venture company operates such that its viability is threatened,

(g) an unresolved disagreement between members, and

(h) any contingency of a similar kind to that mentioned in any of paragraphs (a) to (g) which is provided for, but not intended to happen, when the arrangements in question are entered into.

(4) This section does not apply if a member could alone or together with connected persons dictate the terms or timing of—

(a) the transfer of the shares or securities, or

(b) suspension of a member's voting rights,

in advance of one or more of the contingencies occurring.

(5) For the purposes of subsection (4) members are not connected with each other by reason only of their membership of the joint venture company.

(6) In this section—

"connected" has the same meaning as in section 1122 of the Corporation Tax Act 2010(**7**);

"constitutional document" means a memorandum of association, articles of association or any other similar document regulating the affairs of the joint venture company;

"joint venture company" means a company which—

(a) has two or more member companies, and

(b) carries on a commercial activity governed by an agreement regulating the affairs of its members;

"member" means a holder of shares or securities in the joint venture company.

(**5**) 1986 c. 45.
(**6**) S.I. 1989/2405 (NI 19).
(**7**) 2010 c. 4.