

## SCHEDULES

### SCHEDULE 17

#### STAMP DUTY: PENALTIES OTHER THAN ON LATE STAMPING

#### PART II

##### DETERMINATION OF PENALTY AND APPEALS

###### *Determination of penalty by officer of Commissioners*

- 10 (1) An officer of the Commissioners authorised by the Commissioners for the purposes of this paragraph may make a determination—
- (a) imposing the penalty, and
  - (b) setting it at such amount as in the officer's opinion is correct or appropriate.
- (2) Notice of the determination must be served on the person liable to the penalty. The notice must also state—
- (a) the date on which the notice is issued, and
  - (b) the time within which an appeal against the determination may be made.
- (3) After notice of the determination has been served, the determination cannot be altered except—
- (a) in accordance with sub-paragraph (4),
  - (b) by agreement in writing, or
  - (c) on appeal.
- (4) If it is discovered by an officer of the Commissioners authorised by the Commissioners for the purposes of this paragraph that the amount of a penalty determined under this paragraph is or has become insufficient, the officer may make a determination in a further amount so that the penalty is set at the amount which in the officer's opinion is correct or appropriate.
- (5) If a person liable to a penalty has died—
- (a) any determination which could have been made in relation to that person may be made in relation to his personal representatives, and
  - (b) any penalty imposed on them is a debt due from and payable out of the person's estate.
- (6) A penalty determined under this paragraph is due and payable at the end of the period of 30 days beginning with the date of the issue of the notice of determination.
- 11 (1) An appeal lies to the Special Commissioners against a determination under paragraph 10.

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*Status: This is the original version (as it was originally enacted).*

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- (2) Notice of appeal must be given in writing to the officer of the Commissioners by whom the determination was made within 30 days of the date of the notice of the determination.
- (3) An appeal may be brought out of time with the consent of the Commissioners or the Special Commissioners.
- The Commissioners—
- (a) shall give that consent if satisfied, on an application for that purpose, that there was a reasonable excuse for not bringing the appeal within the time limit, and
- (b) if not so satisfied, shall refer the matter for determination by the Special Commissioners.
- (4) The notice of appeal must specify the grounds of appeal, but on the hearing of the appeal the Special Commissioners may allow the appellant to put forward a ground not specified in the notice of appeal, and take it into consideration, if satisfied that the omission was not wilful or unreasonable.
- (5) The powers conferred by section 46A(1)(c) and (2) to (4) and sections 56B to 56D of the Taxes Management Act 1970 (power of Lord Chancellor to make regulations as to jurisdiction, practice and procedure in relation to appeals to Special Commissioners) apply in relation to appeals under this paragraph.
- (6) On an appeal under this paragraph the Special Commissioners may—
- (a) if it appears to them that no penalty has been incurred, set the determination aside;
- (b) if the amount determined appears to them to be appropriate, confirm the determination;
- (c) if the amount determined appears to them to be excessive, reduce it to such other amount (including nil) as they consider appropriate;
- (d) if the amount determined appears to them to be insufficient, increase it to such amount not exceeding the permitted maximum as they consider appropriate.
- 12 (1) Section 56A of the Taxes Management Act 1970 (general right of appeal on point of law) applies in relation to a decision of the Special Commissioners under paragraph 11.
- (2) Without prejudice to that right of appeal, an appeal lies against the amount of a penalty determined by the Special Commissioners under paragraph 11, at the instance of the person liable to the penalty—
- (a) to the High Court, or
- (b) in Scotland, to the Court of Session sitting as the Court of Exchequer.
- (3) On an appeal under sub-paragraph (2) the court has the same powers as are conferred on the Special Commissioners by paragraph 11(6) above.