

SCHEDULES

SCHEDULE 10

STAMP DUTY LAND TAX: RETURNS, ENQUIRIES, ASSESSMENTS AND APPEALS

PART 7

APPEALS AGAINST REVENUE DECISIONS ON TAX

Right of appeal

- 35 (1) An appeal may be brought against—
- (a) an amendment of a self-assessment under paragraph 17 (amendment by Revenue during enquiry to prevent loss of tax),
 - (b) a conclusion stated or amendment made by a closure notice,
 - (c) a discovery assessment, or
 - (d) an assessment under paragraph 29 (assessment to recover excessive repayment).
- (2) The appeal lies to the General or Special Commissioners.
- (3) An appeal under sub-paragraph (1)(a) against an amendment of a self-assessment made while an enquiry is in progress shall not be heard and determined until the enquiry is completed.

Notice of appeal

- 36 (1) Notice of an appeal under paragraph 35 must be given—
- (a) in writing,
 - (b) within 30 days after the specified date,
 - (c) to the relevant officer of the Board.
- (2) In relation to an appeal under paragraph 35(1)(a)—
- (a) the specified date is the date on which the notice of amendment was issued, and
 - (b) the relevant officer of the Board is the officer by whom the notice of amendment was given.
- (3) In relation to an appeal under paragraph 35(1)(b)—
- (a) the specified date is the date on which the closure notice was issued, and
 - (b) the relevant officer of the Board is the officer by whom the closure notice was given.
- (4) In relation to an appeal under paragraph 35(1)(c) or (d)—

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- (a) the specified date is the date on which the notice of assessment was issued, and
 - (b) the relevant officer of the Board is the officer by whom the notice of assessment was given.
- (5) The notice of appeal must specify the grounds of appeal.
- (6) On the hearing of the appeal the Commissioners may allow the appellant to put forward grounds not specified in the notice, and take them into consideration, if satisfied that the omission was not deliberate or unreasonable.

Settling of appeals by agreement

- 37 (1) If, before an appeal under paragraph 35 is determined, the appellant and the Inland Revenue agree that the decision appealed against—
- (a) should be upheld without variation,
 - (b) should be varied in a particular manner, or
 - (c) should be discharged or cancelled,
- the same consequences shall follow, for all purposes, as would have followed if, at the time the agreement was come to, the Commissioners had determined the appeal and had upheld the decision without variation, varied it in that manner or discharged or cancelled it, as the case may be.
- (2) Sub-paragraph (1) does not apply if, within 30 days from the date when the agreement was come to, the appellant gives notice in writing to the Inland Revenue that he wishes to withdraw from the agreement.
- (3) Where the agreement is not in writing—
- (a) sub-paragraphs (1) and (2) do not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the Inland Revenue to the appellant or by the appellant to the Inland Revenue, and
 - (b) the references in those provisions to the time when the agreement was come to shall be read as references to the time when the notice of confirmation was given.
- (4) Where—
- (a) the appellant notifies the Inland Revenue, orally or in writing, that he does not wish to proceed with the appeal, and
 - (b) the Inland Revenue do not, within 30 days after that notification, give the appellant notice in writing indicating that they are unwilling that the appeal should be withdrawn,
- the provisions of sub-paragraphs (1) to (3) have effect as if, at the date of the appellant's notification, the appellant and the Inland Revenue had come to an agreement (orally or in writing, as the case may be) that the decision under appeal should be upheld without variation.
- (5) References in this paragraph to an agreement being come to with an appellant, and to the giving of notice or notification by or to the appellant, include references to an agreement being come to, or notice or notification being given by or to, a person acting on behalf of the appellant in relation to the appeal.

Recovery of tax not postponed by appeal

- 38 (1) Where there is an appeal to the Commissioners under paragraph 35, the tax charged by the amendment or assessment in question remains due and payable as if there had been no appeal.
- (2) Sub-paragraph (1) is subject to—
paragraph 39 (direction by Commissioners postponing payment), and
paragraph 40 (agreement to postpone payment).

Direction by Commissioners to postpone payment

- 39 (1) If the appellant has grounds for believing that he is overcharged to tax by the decision appealed against, he may by notice in writing apply to the Commissioners for a direction that payment of an amount of tax shall be postponed pending the determination of the appeal.
- (2) The notice must—
(a) be given to the relevant officer of the Board within 30 days after the specified date, and
(b) state the amount by which the appellant believes himself to be overcharged to tax, and his grounds for that belief.
- (3) An application may be made more than 30 days after the specified date if there is a change in the circumstances of the case as a result of which the appellant has grounds for believing that he is overcharged to tax by the decision appealed against.
- (4) If, after any determination on such an application of the amount of tax the payment of which should be postponed, there is a change in the circumstances of the case as a result of which either party has grounds for believing that the amount so determined has become excessive or, as the case may be, insufficient, he may, by notice in writing given to the other party at any time before the determination of the appeal, apply to the Commissioners for a further determination of that amount.
- (5) An application under this paragraph shall be heard and determined by the Commissioners in the same way as an appeal.
- The fact that any such application has been heard and determined by any Commissioners does not preclude them from hearing and determining the appeal or any further application under this paragraph.
- (6) The amount of tax of which payment is to be postponed pending the determination of the appeal is the amount (if any) by which it appears to the Commissioners, having regard to the representations made and any evidence adduced, that there are reasonable grounds for believing that the appellant is overcharged.
- (7) Where an application is made under this paragraph, the date on which any tax of which payment is not postponed is due and payable shall be determined as if the tax were charged by an amendment or assessment of which notice was issued on the date on which the application was determined and against which there was no appeal.
- (8) On the determination of the appeal—
(a) the date on which any tax payable in accordance with that determination is due and payable shall, so far as it is tax the payment of which had been postponed, or which would not have been charged by the amendment or

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assessment if there had been no appeal, be determined as if the tax were charged by an amendment or assessment—

- (i) of which notice was issued on the date on which the Inland Revenue issues to the appellant a notice of the total amount payable in accordance with the determination, and
 - (ii) against which there had been no appeal, and
- (b) any tax overpaid shall be repaid.

Agreement to postpone payment of tax

- 40 (1) If the appellant and the relevant officer of the Board agree that payment of an amount of tax should be postponed pending the determination of the appeal, the same consequences shall follow, for all purposes, as would have followed if, at the time the agreement was come to, the Commissioners had made a direction to the same effect.

This is without prejudice to the making of a further agreement or of a further direction.

- (2) Where the agreement is not in writing—
- (a) sub-paragraph (1) does not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the relevant officer of the Board to the appellant or by the appellant to that officer, and
 - (b) the reference in that provision to the time when the agreement was come to shall be read as a reference to the time when notice of confirmation was given.
- (3) References in this paragraph to an agreement being come to with an appellant, and to the giving of notice to or by the appellant, include references to an agreement being come to, or notice being given to or by, a person acting on behalf of the appellant in relation to the appeal.