

SCHEDULES

SCHEDULE 13

STAMP DUTY LAND TAX: INFORMATION POWERS

PART 2

POWER OF AUTHORISED OFFICER TO CALL FOR DOCUMENTS FROM THIRD PARTY

Notice requiring documents to be delivered or made available

- 6 (1) An authorised officer of the Board may for the purpose of enquiring into the tax liability of any person (“the taxpayer”) by notice in writing require any other person—
- (a) to deliver to the officer, or
 - (b) if the person to whom the notice is given so elects, to make available for inspection by a named officer of the Board,
- such documents as are in that person’s possession or power and (in the officer’s reasonable opinion) contain, or may contain, information relevant to any tax liability to which the taxpayer is or may be, or may have been, subject, or the amount of any such liability.
- (2) An “authorised officer of the Board” means an officer of the Board authorised for the purposes of this Part of this Schedule.
- (3) Before a person is given a notice under this paragraph he must be given a reasonable opportunity to deliver or make available the documents in question.
- No application for consent under paragraph 7 shall be made unless he has been given that opportunity.
- (4) The persons who may be treated as “the taxpayer” for the purposes of this paragraph include a company that has ceased to exist and an individual who has died.
- But a notice in relation to a taxpayer who has died may not be given more than six years after his death.

Requirement of consent of General or Special Commissioner

- 7 (1) The consent of a General or Special Commissioner is required for the giving of a notice under paragraph 6.
- (2) Consent shall not be given unless the Commissioner is satisfied that in all the circumstances the officer is justified in proceeding under that paragraph.
- (3) A Commissioner who has given such consent shall not take part in, or be present at, any proceedings on, or related to, any appeal brought by the taxpayer concerned

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if the Commissioner has reason to believe that any of the documents that were the subject of the notice is likely to be adduced in evidence in those proceedings.

Contents of notice under paragraph 6

- 8 (1) A notice under paragraph 6 must—
- (a) specify or describe the documents to which it relates, and
 - (b) require the documents to be delivered or made available within such time as may be specified in the notice.
- (2) The period specified for complying with the notice must not be less than 30 days after the date of the notice.
- (3) Subject to paragraph 11 (power to give notice in respect of unnamed taxpayer or taxpayers), a notice under this paragraph must name the taxpayer to whom it relates.

Copy of notice to be given to taxpayer

- 9 (1) Where a notice is given to a person under this paragraph, the officer shall give a copy of the notice to the taxpayer to whom it relates.
- (2) This paragraph does not apply if, on application by the officer, a General or Special Commissioner directs that it shall not apply.
- (3) Such a direction shall only be given if the Commissioner is satisfied that the officer has reasonable grounds for suspecting the taxpayer of fraud.

Summary of reasons to be given

- 10 (1) An officer who gives a notice under paragraph 6 must also give to the taxpayer concerned a written summary of his reasons for applying for consent to the notice.
- (2) This does not require the disclosure of any information—
- (a) that would, or might, identify any person who has provided the officer with any information which he took into account in deciding whether to apply for consent, or
 - (b) that the General or Special Commissioner giving consent under paragraph 7 directs need not be disclosed.
- (3) A Commissioner shall not give such a direction unless he is satisfied that the officer has reasonable grounds for believing that disclosure of the information in question would prejudice the assessment or collection of tax.
- (4) This paragraph does not apply if under paragraph 9(2) a copy of the notice need not be given to the taxpayer.

Power to give notice relating to unnamed taxpayer or taxpayers

- 11 (1) If, on an application made by an officer of the Board and authorised by an order of the Board, a Special Commissioner gives his consent, the officer may give such a notice as is mentioned in paragraph 6 without naming the taxpayer to whom the notice relates.
- (2) Consent shall not be given unless the Commissioner is satisfied—
- (a) that the notice relates—

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- (i) to a taxpayer whose identity is not known to the officer, or
 - (ii) to a class of taxpayers whose individual identities are not so known,
- (b) that there are reasonable grounds for believing that the taxpayer, or any of the class of taxpayers, to whom the notice relates may have failed or may fail to comply with any provision of this Part of this Act,
 - (c) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax, and
 - (d) that the information that is likely to be contained in the documents to which the notice relates is not readily available from another source.
- (3) Before a person is given a notice under this paragraph he must be given a reasonable opportunity to deliver or make available the documents in question.

No application for consent under sub-paragraph (1) shall be made unless he has been given that opportunity.

- (4) A person to whom there is given a notice under this paragraph may, by notice in writing given to the officer within 30 days after the date of the notice, object to it on the ground that it would be onerous for him to comply with it.
- (5) If the matter is not resolved by agreement it shall be referred to the Special Commissioners who may confirm, vary or cancel the notice.

Contents of notice under paragraph 11

- 12 (1) A notice under paragraph 11 must—
- (a) specify or describe the documents to which it relates, and
 - (b) require the documents to be delivered or made available within such time as may be specified in the notice.
- (2) The period specified for complying with the notice must not be less than 30 days after the date of the notice.

Power to take copies of documents etc

- 13 The person to whom documents are delivered or made available in pursuance of a notice under this Part of this Schedule may take copies of them or of extracts from them.