

SCHEDULES

SCHEDULE 13

STAMP DUTY LAND TAX: INFORMATION POWERS

PART 4

RESTRICTIONS ON POWERS UNDER PARTS 1 TO 3

Introduction

- 19 The provisions of Parts 1 to 3 of this Schedule have effect subject to the following restrictions.

Personal records or journalistic material

- 20 (1) Parts 1 to 3 of this Schedule do not apply—
- (a) to documents that are personal records or journalistic material, or
 - (b) to information contained in any personal records or journalistic material.
- (2) In sub-paragraph (1)—
- “personal records” means personal records as defined in section 12 of the Police and Criminal Evidence Act 1984 (c. 60) or, in Northern Ireland, in Article 14 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)); and
- “journalistic material” means journalistic material as defined in section 13 of that Act or, in Northern Ireland, in Article 15 of that Order.

Documents or information relating to pending appeal

- 21 (1) A notice under Part 1 of this Schedule does not oblige a person to deliver documents or provide information relating to the conduct of any pending appeal by him.
- (2) A notice under Part 2 of this Schedule does not oblige a person to deliver or make available documents relating to the conduct of a pending appeal by the taxpayer.
- (3) A notice under Part 3 of this Schedule does not oblige a person to deliver documents relating to the conduct of a pending appeal by the client.
- (4) An “appeal” here means an appeal relating to tax.

Barristers, advocates and solicitors

- 22 (1) A notice under Part 2 or 3 of this Schedule may not be given to a barrister, advocate or solicitor by an authorised officer of the Board but only by the Board.

Status: This is the original version (as it was originally enacted).

- (2) Accordingly, in relation to a barrister, advocate or solicitor, the references in those Parts to an authorised officer of the Board shall be read as references to the Board.

Provision of copies instead of original documents

- 23 (1) To comply with a notice under Part 1 or 3 of this Schedule, and as an alternative to delivering documents to comply with a notice under Part 2 of this Schedule, copies of documents may be delivered instead of originals.
- (2) The copies must be photographic or otherwise by way of facsimile.
- (3) If so required by the officer (or, as the case may be, the Board) in the case of any documents specified in the requirement, the originals must be made available for inspection by a named officer of the Board.
- (4) Failure to comply with such a requirement counts as failure to comply with the notice.

Documents originating more than six years before date of notice

- 24 (1) A notice under Part 2 of this Schedule does not oblige a person to deliver or make available a document the whole of which originates more than six years before the date of the notice.
- (2) Sub-paragraph (1) does not apply where the notice is so expressed as to exclude the restrictions of that sub-paragraph.
- (3) A notice may only be so expressed if—
- (a) in the case of a notice given by an authorised officer, the General or Special Commissioner giving consent to the notice has also given approval to the exclusion;
 - (b) in the case of a notice given by the Board, they have applied to a General or Special Commissioner for, and obtained, that approval.
- (4) Approval shall only be given if the Commissioner is satisfied, on application by the officer or the Board, that tax has been, or may have been, lost to the Crown owing to the fraud of the taxpayer.

Documents subject to legal privilege

- 25 (1) A notice under Part 2 or 3 of this Schedule does not oblige a barrister, advocate or solicitor to deliver or make available, without his client's consent, any document with respect to which a claim to legal privilege could be maintained.
- (2) "Legal privilege" here has the same meaning as in paragraph 35 of this Schedule.

Documents belonging to auditor or tax adviser

- 26 (1) A notice under Part 2 of this Schedule—
- (a) does not oblige a person who has been appointed as auditor for the purposes of any enactment to deliver or make available documents that are his property and were created by him or on his behalf for or in connection with the performance of his functions under that enactment, and
 - (b) does not oblige a tax adviser to deliver or make available documents that are his property and consist of relevant communications (as defined below).

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

- (2) “Relevant communications” means communications between the tax adviser and—
- (a) a person in relation to whose tax affairs he has been appointed, or
 - (b) any other tax adviser of such a person,
- the purpose of which is the giving or obtaining of advice about any of those tax affairs.
- (3) In this paragraph “tax adviser” means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that other person or by another tax adviser of his).
- (4) This paragraph has effect subject to paragraph 27 (documents belonging to auditor or tax adviser: information to be disclosed).

Documents belonging to auditor or tax adviser: information to be disclosed

- 27 (1) This paragraph applies where a notice is given under Part 2 of this Schedule relating to a document that falls within paragraph 26 (documents belonging to auditor or tax adviser) but contains—
- (a) information explaining any information, return or other document that the person to whom the notice is given has, as tax accountant, assisted any client of his in preparing for, or for delivering to, the officer or the Board, or
 - (b) in the case of a notice under paragraph 11 (notice in respect of unnamed taxpayer or taxpayers), information as to the identity or address of any taxpayer to whom the notice relates or any person who has acted on behalf of any such person,
- that has not otherwise been made available to the Inland Revenue.
- (2) For this purpose information is regarded as having been made available to the Inland Revenue if it is contained in some other document and—
- (a) that other document, or a copy of it, has been delivered to the officer or the Board, or
 - (b) that other document has been inspected by an officer of the Board.
- (3) Where this paragraph applies the person to whom the notice is given must, if he does not deliver the document or make it available for inspection in accordance with the notice—
- (a) deliver to the officer (or, as the case may be, the Board) a copy (photographic or otherwise by way of facsimile) of any parts of the document that contain such information as is mentioned in sub-paragraph (1), and
 - (b) if so required by the officer (or, as the case may be, the Board), make available for inspection by a named officer of the Board such parts of the original document as contain such information.
- (4) Failure to comply with any such requirement counts as a failure to comply with the notice.