
STATUTORY INSTRUMENTS

2003 No. 2837

The Stamp Duty Land Tax (Administration) Regulations 2003

PART 4

DEFERRED PAYMENTS

Interpretation of this Part

10.—(1) In this Part—

“application” means an application under section 90;

“the Inland Revenue” means any officer of the Board;

“relevant events” has the meaning given by regulation 12(2)(c).

When application to be made

11. An application must be made on or before the last day of the period within which the land transaction return relating to the transaction in question must be delivered.

Form and contents of application

12.—(1) An application must be in writing.

(2) An application must set out all the facts and circumstances relevant to it and, in particular, must specify—

(a) the consideration to which it relates;

(b) the respects in which that consideration is contingent or uncertain; and

(c) the events (“relevant events”) on the occurrence of which the whole or any part of that consideration will—

(i) cease to be contingent, or

(ii) become ascertained.

Additional contents of application where consideration consists of works or services

13.—(1) This regulation applies where the consideration to which an application relates, or any element of that consideration, consists of—

(a) the carrying out of works of construction, improvement or repair of a building or other works to enhance the value of land; or

(b) the provision of services (other than the carrying out of such works).

(2) The application must contain a scheme for payment of tax which must include—

(a) a proposal for the payment of tax in respect of the consideration, or element of the consideration, consisting of the carrying out of such works or the provision of such services within 30 days after the carrying out or provision is substantially completed;

- (b) if the carrying out of such works or the provision of such services is expected to last for more than 6 months, proposals for a scheme of payment of tax at intervals of not more than 6 months.

Provision of information

14.—(1) The Inland Revenue may by notice in writing require a person by whom an application is made to provide such information as they may reasonably require for the purposes of determining whether to accept the application.

(2) A notice given under this regulation must specify the time (which must not be less than 30 days from the date of issue of the notice) within which the applicant must comply with it.

Recovery of tax not postponed by application

15.—(1) This regulation applies where an application has been made but has not been accepted by the Inland Revenue (including where there is an appeal under regulation 19 against the refusal of the application).

(2) The tax in respect of the chargeable consideration to which the application relates remains due and payable as if there had been no application (and, if relevant, no appeal).

This is subject to—

- (a) the following paragraphs of this regulation;
- (b) regulation 22 (direction by Commissioners postponing payment); and
- (c) regulation 23 (agreement to postpone payment).

(3) Payment of an amount of such tax as would not be due and payable if the application were accepted shall be postponed pending the reaching of a decision on the application.

(4) If an application is refused by the Inland Revenue, and there is no appeal under regulation 19 against the refusal of the application, the date on which any tax the payment of which had been postponed under paragraph (3) is due and payable shall be determined as if it were charged by an assessment of which notice was issued on the date on which the Inland Revenue issues to the applicant a notice of the total amount payable in consequence of the refusal of the application.

This is subject to—

- (a) regulation 22 (direction by Commissioners postponing payment); and
- (b) regulation 23 (agreement to postpone payment).

Notice of decision on an application

16.—(1) The Inland Revenue must give notice in writing to the person by whom the application was made of their decision whether to accept or refuse an application.

(2) Where the Inland Revenue accept an application, the notice must set out the terms on which the application has been accepted and, in particular, must—

- (a) specify—
 - (i) any tax payable in accordance with a land transaction return relating to the transaction in question;
 - (ii) the nature of any relevant events; and
 - (iii) the dates of any relevant events (if known); and
- (b) state that tax is payable within 30 days after the occurrence of a relevant event and in accordance with Part 4 of these Regulations.

- (3) Where the Inland Revenue refuse an application, the notice must set out—
- (a) the grounds for the refusal; and
 - (b) the total amount of tax payable in consequence of the refusal.

Grounds on which application may be refused

17. An application may be refused by the Inland Revenue if—
- (a) the conditions for making an application specified in section 90(1) are not met;
 - (b) the application does not comply with the requirements of regulation 12 or 14;
 - (c) there are tax avoidance arrangements in relation to the transaction in question (see regulation 18);
 - (d) the application, or information provided in connection with it, is incorrect; or
 - (e) information required to be provided under regulation 14 is not provided within such time as the Inland Revenue reasonably required.

Tax avoidance arrangements

18.—(1) For the purposes of regulation 17(c), arrangements are tax avoidance arrangements in relation to a transaction if their main object or one of their main objects is—

- (a) to enable payment of the tax payable in respect of the transaction to be deferred; or
- (b) to avoid the amount or value of the whole or part of the chargeable consideration for the transaction being determined for the purposes of Part 4 of the Finance Act 2003 in accordance with section 51(1).

(2) In this regulation, “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable.

Right of appeal

19.—(1) An appeal may be brought against a refusal by the Inland Revenue to accept an application.

- (2) The appeal lies to the General or Special Commissioners (“the Commissioners”).

Notice of appeal

20.—(1) Notice of an appeal under regulation 19 must be given—

- (a) in writing;
- (b) within 30 days after the date on which the notice of the decision to refuse the application was issued; and
- (c) to the officer of the Board by whom that notice was given.

(2) The notice of appeal must specify the grounds of appeal.

(3) 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

21.—(1) If before an appeal under regulation 19 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) 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) 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 paragraphs to the time when 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,

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 regulation 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.

Direction by Commissioners postponing payment

22.—(1) An appellant may by notice in writing apply to the Commissioners for a direction that payment of an amount of tax—

- (a) in respect of the chargeable consideration to which the application relates, and
- (b) which would not have been due and payable had the application been accepted,

shall be postponed pending the determination of the appeal.

(2) The notice must—

- (a) be given within 30 days after the date on which the notice of the decision to refuse the application was issued and to the officer of the Board by whom that notice was given; and
- (b) state the amount of tax to be postponed.

(3) If, after any determination on such an application of the amount of tax 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.

(4) An application under this regulation 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 regulation.

(5) The amount of tax of which payment is to be postponed pending the determination of the appeal is the amount (if any) which appears to the Commissioners, having regard to the representations made and any evidence adduced, to be appropriate.

(6) Where an application is made under this regulation, 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 assessment of which notice was issued on the date on which the application was determined.

(7) 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, be determined as if the tax were charged by an assessment 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

(b) any tax overpaid shall be repaid.

Agreement to postpone payment

23.—(1) If the appellant and the officer of the Board by whom the notice of the decision to refuse the application was given 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) 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 officer of the Board in question to the appellant or by the appellant to that officer; and

(b) the reference in that paragraph 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 regulation 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.

Payments and returns

24.—(1) This regulation applies where the Inland Revenue accepts an application.

(2) If the application relates to deferring the payment of tax that has already been paid, the amount already paid shall be repaid together with interest as from the date of payment.

(3) The purchaser must make a return or further return (“the return”) to the Inland Revenue—

(a) within 30 days after the occurrence of a relevant event;

(b) if relevant—

(i) within the period of 30 days mentioned in regulation 13(2)(a);

(ii) subject to regulation 27, in accordance with the scheme for payment mentioned in regulation 13(2)(b); or

(iii) after the final payment has been made in accordance with that scheme, within 30 days after the purchaser obtains new information the effect of which is that additional tax or less tax is payable in respect of the transaction than has already been paid.

(4) The return must be accompanied by payment of any tax or additional tax payable.

(5) If the effect of the return is that less tax is payable in respect of a transaction than has already been paid, the amount overpaid shall on a claim by the purchaser be repaid together with interest as from the date of payment.

Form and contents of returns

25.—(1) A return under regulation 24(3) must be in writing and must contain the following information—

(a) a self-assessment of the amount of tax chargeable in respect of the transaction as a whole on the basis of information contained in the return;

(b) a statement of the amount of tax payable in respect of so much of the chargeable consideration for the transaction as is not, or is no longer, contingent or uncertain.

(2) The amounts mentioned in paragraph (1) must be calculated by reference to the rates in force at the effective date of the transaction.

Adjustment of payments made as mentioned in section 90(5)

26. Where—

(a) a payment is made as mentioned in section 90(5), and

(b) an application is accepted in respect of other chargeable consideration taken into account in calculating the amount of payment,

section 80 (adjustment where contingency ceases or consideration is ascertained) does not apply in relation to the payment and, instead, any necessary adjustment shall be made in accordance with these Regulations.

Returns and payments where consideration consists of works or services

27.—(1) This regulation applies where a return or further return is required to be made in accordance with regulation 24(3)(b)(ii) and the carrying out of the works or provision of the services in question is expected to be substantially completed within a period of less than 6 months after the date on which the return or further return is required.

(2) Where this regulation applies, the applicant and the Inland Revenue may agree that the scheme of payment mentioned in regulation 13(2)(b) should be varied so that the next return or further return due to be made in respect of the consideration, or element of the consideration, consisting of the carrying out of such works or the provision of such services may be made within 30 days after the substantial completion of the carrying out of the works or the provision of the services.

(3) If the carrying out of the works or provision of the services in question is not substantially completed within a period of less than 6 months after the date on which, apart from the variation of the scheme of payment, the return or further return would have been required—

(a) the variation shall cease to have effect; and

(b) returns or further returns must continue to be made in accordance with regulation 24(3)(b)(ii).

Applications accepted by the Inland Revenue having no effect

28. For the purposes of Part 4 of the Finance Act 2003 and these Regulations, an application which has been accepted by the Inland Revenue—

- (a) shall have no effect if—
 - (i) it contains false or misleading information; or
 - (ii) any facts or circumstances relevant to it are not disclosed to the Inland Revenue; and
- (b) shall cease to have any effect if the facts and circumstances relevant to it materially change.