
STATUTORY INSTRUMENTS

2006 No. 3427

STAMP DUTY LAND TAX

The Stamp Duty Land Tax (Electronic Communications) (Amendment) Regulations 2006

Made - - - - 20th December 2006
Laid before the House of Commons - - - - 21st December 2006
Coming into force - - 31st January 2007

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 132 and 133(2) of the Finance Act 1999⁽¹⁾ and now vested in them⁽²⁾, section 79(1), (5) and (6)(b) of the Finance Act 2003⁽³⁾ and section 47(5) and (6)(b) of the Finance (No. 2) Act 2005⁽⁴⁾.

Citation and commencement

1. These Regulations may be cited as the Stamp Duty Land Tax (Electronic Communications) (Amendment) Regulations 2006 and shall come into force on 31st January 2007.

Amendment of the Stamp Duty Land Tax (Electronic Communications) Regulations 2005

2. The Stamp Duty Land Tax (Electronic Communications) Regulations 2005⁽⁵⁾ are amended as follows.

3. In regulation 1(2) (interpretation)—
- (a) before the definition of “the Board” insert—

(1) 1999 c.16. The definition of “electronic communication” in section 132(10) was amended by paragraph 156 of Schedule 17 to the Communications Act 2003 (c. 21).

(2) The functions of the Commissioners of Inland Revenue (“the former Commissioners”) were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50 of that Act provides that, insofar as is appropriate in consequence of section 5, a reference to the former Commissioners in other enactments is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(3) 2003 c.14. Section 79(1) was amended by section 47(2) of the Finance (No. 2) Act 2005 (c. 22). Subsection (6)(b) is cited because it defines “land registrar” in relation to Scotland.

(4) 2005 c.22. Subsection (6)(b) is cited because it defines “land registrar” in relation to Scotland.

(5) S.I. 2005/844.

- “ARTL System” has the meaning given by section 12(1) of the Requirements of Writing (Scotland) Act 1995(6);”;
- (b) for the definition of “the Board” substitute—
- ““the Board” means the Commissioners for Her Majesty’s Revenue and Customs;”;
- and
- (c) after the definition of “the Board” insert—
- ““the Keeper” means the Keeper of the Registers of Scotland;”.
- 4.—(1) Amend regulation 2 (scope of these Regulations) as follows.
- (2) Renumber the existing text as paragraph (1) of that regulation.
- (3) In paragraph (1)—
- (a) for “apply” substitute “apply to”;
- (b) for sub-paragraph (a) substitute—
- “(a) the delivery of a land transaction return to the Board;
- (ab) the delivery of a land transaction return, by means of the ARTL System, to the Keeper; and”
- (4) After paragraph (1) add—
- “(2) Part 2 sets out general provisions as to the use of electronic communications in connection with the delivery to the Board of information and payments in relation to stamp duty land tax.
- (3) Part 2 does not apply to stamp duty land tax in connection with a land transaction which—
- (a) falls to be registered in the Land Register of Scotland; and
- (b) is to be registered by means of the ARTL System.
- Instead Part 2A applies to stamp duty land tax, and any land transaction return, in respect of such a land transaction, and in these Regulations—
- “an ARTL transaction” means such a land transaction; and
- “an ARTL application” means an application for the registration of such a land transaction.
- (4) Part 3 contains provisions about evidence in connection with the use of electronic communications in respect of payments of stamp duty land tax and the delivery of land transaction returns.”.
5. In regulation 3 (restriction on the use of electronic communications), in paragraphs (1) and (2) for “regulation 2” substitute “regulation 2(1)”.
6. After regulation 4 insert—

(6) 1995 c. 7. The definition of “ARTL System” was inserted by Article 3(7) of the Automated Registration of Title to Land (Electronic Communications) (Scotland) Order 2006 (S.S.I. 2006/491).

“Part 2A

Electronic Communications and the ARTL System

Administrative functions of Keeper

4A.—(1) The Keeper shall have the following functions in respect of stamp duty land tax—

- (a) receiving, on behalf of the Board, land transaction returns in respect of ARTL transactions;
- (b) receiving, on behalf of the Board, payments of any stamp duty land tax in respect of ARTL transactions; and
- (c) transmitting to the Board those land transaction returns and any payment of stamp duty land tax in respect of the ARTL transactions to which they relate.

(2) The Keeper is the intermediary of the Board in respect of the matters mentioned in sub-paragraphs (a) and (b) of paragraph (1).

Information to be delivered about compliance with Part 4 of the Finance Act 2003

4B.—(1) If a land transaction return is delivered to the Keeper in connection with an ARTL transaction by means of the ARTL system, it must be accompanied by the following information as to compliance—

- (a) a declaration by the person completing the return (“the responsible person”) that the information which it contains has been approved by the purchaser; and
- (b) a digital signature identifying the responsible person which is included in, or logically associated with, the communication containing the land transaction return.

(2) In this regulation—

“digital signature” means data in electronic form which serves as a method of authentication and which is—

- (a) uniquely linked to the signatory;
- (b) capable of identifying the signatory;
- (c) created using a signature-creation device that the signatory can maintain under the signatory’s sole control; and
- (d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;

“signature-creation data” means unique data (including, but not limited to, codes or private cryptographic keys) which are used by the signatory to create an electronic signature; and

“signature-creation device” means configured software or hardware used to implement the signature-creation data.”.

7.—(1) Amend regulation 5 (effect of delivering information by means of electronic communications) as follows.

(2) In paragraph (2) for “paragraphs (3) and (4)” substitute “paragraphs (2A), (3) and (4)”.

(3) After paragraph (2) insert—

“(2A) Information contained in a land transaction return delivered by electronic communications through the ARTL System to the Keeper in connection with an ARTL application shall be treated as delivered to the Board on the date on which it is delivered to the Keeper.

This is subject to paragraphs (3) and (4).”

(4) In paragraph (4) after “official computer system” insert “or the ARTL System”.

8.—(1) Amend regulation 6 (proof of content) as follows.

(2) At the end of paragraph (1) add—

“This paragraph does not apply to information delivered by means of electronic communications to the Keeper through the ARTL System.”.

(3) After paragraph (1) insert—

“(1A) A document certified by the Keeper to be a printed-out version of any information delivered by means of electronic communications through the ARTL System in connection with stamp duty land tax on any occasion shall be evidence, unless the contrary is proved that that information—

(a) was delivered by means of electronic communications on that occasion; and

(b) constitutes the entirety of what was delivered in that connection on that occasion.”.

(4) In paragraph (2) after “paragraph (1)” insert “or (1A)”.

9.—(1) Amend regulation 7 (proof of sender or recipient) as follows.

(2) Renumber the existing text as paragraph (1) of that regulation.

(3) At the end of paragraph (1) add—

“This paragraph does not apply to information delivered by means of electronic communications to the Keeper through the ARTL System.”.

(4) After that paragraph add—

“(2) The sender of any information delivered to the Keeper through the ARTL System in connection with stamp duty land tax shall be presumed, unless the contrary is proved, to be the person recorded as such on that system.”.

10. At the end of regulation 9 (proof of delivery of information and payments) add the following paragraph—

“(4) Nothing in this regulation applies to information or a payment delivered by means of electronic communications to the Keeper through the ARTL System in connection with stamp duty land tax.”.

Paul Gray

Mike Eland

Two of the Commissioners for Her Majesty's
Revenue and Customs

20th December 2006

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Stamp Duty Land Tax (Electronic Communications) Regulations 2005 (S.I. 2005/844: “the principal Regulations”). They make provision in connection with the introduction by the Keeper of the Registers of Scotland of an automated system for land registration. The system is known as “Automated Registration of Title to Land” (“the ARTL System”) and is brought into being by the Automated Registration of Title to Land (Electronic Communication) (Scotland) Order 2006 (S.S.I. 2006/491: “the 2006 Order”).

Section 47 of the Finance (No.2) Act 2005 authorises the Commissioners for Her Majesty’s Revenue and Customs to make regulations conferring administrative functions on land registrars in connection with stamp duty land tax. These Regulations confer such functions on the Keeper of the Registers of Scotland in relation to stamp duty land tax due in connection with applications to register land under the 2006 Order. They also make a series of amendments consequential upon the Keeper’s appointment as the Commissioners’ intermediary in connection with that tax.

Regulation 1 provides for the citation and commencement of this instrument.

Regulation 2 introduces the amendments to the principal Regulations.

Regulation 3 amends the list of defined terms in regulation 1 of those Regulations.

Regulation 4 amends regulation 2 of the principal Regulations to make clear the relationship between the subsequent Parts of those Regulations.

Regulation 5 inserts a new Part 2A into the principal Regulations dealing with the use of electronic communications for the purposes of delivering land transaction returns and associated payments of stamp duty land tax in connection with land transactions which are registered using the ARTL System.

Regulations 6 to 9 make amendments to provisions in Part 3 of the principal Regulations dealing with evidential matters in connection with the use of the ARTL System for the delivery of land transaction returns and the payment of stamp duty land tax in connection with the land transactions to which they relate.

These Regulations do not impose new costs on business.