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Changes to legislation: Finance Act 2003, SCHEDULE 10 is up to date with all changes known to be in force on or before 23 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 10

Section 78

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

PART 1

LAND TRANSACTION RETURNS

Contents of return

- 1 (1) A land transaction return must—
 - (a) be in the prescribed form,
 - (b) contain the prescribed information, and
 - (c) include a declaration by the purchaser (or each of them) that the return is to the best of his knowledge correct and complete.
- [^{F1}(1A) Sub-paragraph (1)(c) is subject to paragraphs 1A and 1B.]
- (2) In sub-paragraph (1) “prescribed” means prescribed by regulations made by the Inland Revenue.
- (3) The regulations may make different provision for different kinds of return.
- (4) Regulations under sub-paragraph (1)(b) may require the provision of information corresponding to any of the particulars formerly required under—
 - (a) Schedule 2 to the Finance Act 1931 (c. 28) (requirement to deliver particulars of land transactions in Great Britain), or
 - (b) section 244 of the Finance Act 1994 (c. 9) (corresponding provision for Northern Ireland).
- (5) The return is treated as containing any information provided by the purchaser for the purpose of completing the return.

Textual Amendments

- F1** Sch. 10 para. 1(1A) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **3(a)**

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[^{F2}Declaration by agent

Textual Amendments

F2 Sch. 10 paras. 1A, 1B and cross-headings inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **3(b)**

- 1A. (1) Where —
 - (a) the purchaser (or each of them) authorises an agent to complete a land transaction return,
 - (b) the purchaser (or each of them) makes a declaration that, with the exception of the effective date, the information provided in the return is to the best of his knowledge correct and complete, and
 - (c) the land transaction return includes a declaration by the agent that the effective date provided in the return is to the best of his knowledge correct, the requirement in paragraph 1(1)(c) shall be deemed to be met.
- (2) Sub-paragraph (1) applies only where the return is in a form specified by the Inland Revenue for the purposes of that sub-paragraph.
- (3) Nothing in this paragraph affects the liability of the purchaser (or each of them) under this Part of this Act.

Declaration by the relevant Official Solicitor

- 1B. (1) Where —
 - (a) the purchaser (or any of them) is a person under a disability,
 - (b) the Official Solicitor is acting for the purchaser (or any of them), and
 - (c) the land transaction return includes a declaration by the Official Solicitor that the return is to the best of his knowledge correct and complete, the requirement in paragraph 1(1)(c) shall be deemed to be met.
- (2) Sub-paragraph (1) applies only where the return is in a form specified by the Inland Revenue for the purposes of that sub-paragraph.
- (3) Nothing in this paragraph affects the liability of the purchaser (or each of them) under this Part of this Act.
- (4) In this paragraph “the Official Solicitor” means the Official Solicitor to the Supreme Court of England and Wales or the Official Solicitor to the Supreme Court of Northern Ireland (as the case requires).]

Meaning of filing date and delivery of return

- 2 (1) References in this Part of this Act to the filing date, in relation to a land transaction return, are to the last day of the period within which the return must be delivered.
- (2) References in this Part of this Act to the delivery of a land transaction return are to the delivery of a return that—
 - (a) complies with the requirements of paragraph 1(1) (contents of return), ^{F3}...
 - ^{F3}(b)

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Textual Amendments

- F3** Sch. 10 para. 2(2)(b) repealed (with effect in accordance with s. 80(9) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), s. 80(7), [Sch. 27 Pt. 4\(4\)](#)

Failure to deliver return: flat-rate penalty

- 3 (1) A person who is required to deliver a land transaction return and fails to do so by the filing date is liable to a flat-rate penalty under this paragraph.
- He may also be liable to a tax-related penalty under paragraph 4.
- (2) The penalty is—
- (a) £100 if the return is delivered within three months after the filing date, and
 - (b) £200 in any other case.

Failure to deliver return: tax-related penalty

- 4 (1) A purchaser who is required to deliver a land transaction return in respect of a chargeable transaction and fails to do so within twelve months after the filing date is liable to a tax-related penalty under this paragraph.
- This is in addition to any flat-rate penalty under paragraph 3.
- (2) The penalty is an amount not exceeding the amount of tax chargeable in respect of the transaction.

Formal notice to deliver return: daily penalty

- 5 (1) If it appears to the Inland Revenue—
- (a) that a purchaser required to deliver a land transaction return in respect of a chargeable transaction has failed to do so, and
 - (b) that the filing date has now passed,
- they may issue a notice requiring him to deliver a land transaction return in respect of the transaction.
- (2) The notice must specify—
- (a) the transaction to which it relates, and
 - (b) the period for complying with the notice (which must not be less than 30 days from the date of issue of the notice).
- (3) If the purchaser does not comply with the notice within the specified period, the Inland Revenue may apply to the [^{F4}tribunal] for an order imposing a daily penalty.
- (4) On such an application the [^{F5}tribunal] may direct that the purchaser shall be liable to a penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which he is notified of the direction.
- (5) This paragraph does not affect, and is not affected by, any penalty under paragraph 3 or 4 (flat-rate or tax-related penalty for failure to deliver return).

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Textual Amendments

- F4** Word in Sch. 10 para. 5(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 374(2)**
- F5** Word in Sch. 10 para. 5(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 374(3)**

Amendment of return by purchaser

- 6 (1) The purchaser may amend a land transaction return given by him by notice to the Inland Revenue.
- (2) The notice must be in such form, and contain such information, as the Inland Revenue may require.
- [^{F6}(2A) If the effect of the amendment would be to entitle the purchaser to a repayment of tax, the notice must be accompanied by—
- (a) the contract for the land transaction; and
 - (b) the instrument (if any) by which that transaction was effected.]
- (3) Except as otherwise provided, an amendment may not be made more than twelve months after the filing date.

Textual Amendments

- F6** Sch. 10 para. 6(2A) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **3(e)**

Correction of return by Revenue

- 7 (1) The Inland Revenue may amend a land transaction return so as to correct obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise).
- [^{F7}(1A) The power under sub-paragraph (1) may, in such circumstances as the Commissioners for Her Majesty's Revenue and Customs may specify in regulations, be exercised—
- (a) in relation to England and Wales, by the Chief Land Registrar;
 - (b) in relation to Scotland, by the Keeper of the Registers of Scotland;
 - (c) in relation to Northern Ireland, by the Registrar of Titles or the registrar of deeds;
 - (d) in any case, by such other persons with functions relating to the registration of land as the regulations may specify.]
- (2) A correction under this paragraph is made by notice to the purchaser.
- (3) No such correction may be made more than nine months after—
- (a) the day on which the return was delivered, or
 - (b) if the correction is required in consequence of an amendment under paragraph 6, the day on which that amendment was made.
- (4) A correction under this paragraph is of no effect if the purchaser—

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- (a) amends the return so as to reject the correction, or
- (b) after the end of the period within which he may amend the return, but within three months from the date of issue of the notice of correction, gives notice rejecting the correction.

(5) Notice under sub-paragraph (4)(b) must be given to the officer of the Board by whom notice of the correction was given.

Textual Amendments

F7 Sch. 10 para. 7(1A) inserted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 47\(4\)](#)

Penalty for incorrect or uncorrected return

F8

Textual Amendments

F8 Sch. 10 para. 8 omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\), s. 122\(2\)](#), [Sch. 40 para. 21\(k\)\(ii\)](#); [S.I. 2009/571, art. 2](#)

PART 2

DUTY TO KEEP AND PRESERVE RECORDS

Duty to keep and preserve records

- 9 (1) A purchaser who is required to deliver a land transaction return must—
- (a) keep such records as may be needed to enable him to deliver a correct and complete return, and
 - (b) preserve those records in accordance with this paragraph.
- (2) The records must be preserved for six years after the effective date of the transaction and until any later date on which—
- (a) an enquiry into the return is completed, or
 - (b) if there is no enquiry, the Inland Revenue no longer have power to enquire into the return.
- (3) The records required to be kept and preserved under this paragraph include—
- (a) relevant instruments relating to the transaction, in particular, any contract or conveyance, and any supporting maps, plans or similar documents;
 - (b) records of relevant payments, receipts and financial arrangements.

Preservation of information instead of original records

- 10 (1) The duty under paragraph 9 to preserve records may be satisfied by the preservation of the information contained in them.

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- (2) Where information is so preserved a copy of any document forming part of the records is admissible in evidence in any proceedings before the [F9tribunal] to the same extent as the records themselves.

Textual Amendments

- F9** Word in Sch. 10 para. 10(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 375**

Penalty for failure to keep and preserve records

- 11 (1) A person who fails to comply with paragraph 9 in relation to a transaction is liable to a penalty not exceeding £3,000, subject to the following exception.
- (2) No penalty is incurred if the Inland Revenue are satisfied that any facts that they reasonably require to be proved, and that would have been proved by the records, are proved by other documentary evidence provided to them.

PART 3

ENQUIRY INTO RETURN

Notice of enquiry

- 12 (1) The Inland Revenue may enquire into a land transaction return if they give notice of their intention to do so (“notice of enquiry”)—
- (a) to the purchaser,
 - (b) before the end of the enquiry period.
- (2) The enquiry period is the period of nine months—
- (a) after the filing date, if the return was delivered on or before that date;
 - (b) after the date on which the return was delivered, if the return was delivered after the filing date;
 - (c) after the date on which the amendment was made, if the return is amended under paragraph 6 (amendment by purchaser).

[F10This is subject to the following qualification.]

[F11(2A) If—

- (a) the Inland Revenue give notice, within the period specified in sub-paragraph (2), of their intention to enquire into a land transaction return delivered under section 80 (adjustment where contingency ceases or consideration is ascertained), 81 (further return where relief withdrawn) or 81A (return or further return in consequence of later linked transaction), and
- (b) it appears to the Inland Revenue to be necessary to give a notice under this paragraph in respect of an earlier land transaction return in respect of the same land transaction,

a notice may be given notwithstanding that the period referred to in sub-paragraph (2) has elapsed in relation to that earlier land transaction.]

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- (3) A return that has been the subject of one notice of enquiry may not be the subject of another, except one given in consequence of an amendment (or another amendment) of the return under paragraph 6.

Textual Amendments

- F10** Words in Sch. 10 para. 12(2) added (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **4(2)(a)**
- F11** Sch. 10 para. 12(2A) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **4(2)(b)**

Scope of enquiry

- 13 (1) An enquiry extends to anything contained in the return, or required to be contained in the return, that relates—
- (a) to the question whether tax is chargeable in respect of the transaction, or
 - (b) to the amount of tax so chargeable.

This is subject to the following exception.

- (2) If the notice of enquiry is given as a result of an amendment of the return under paragraph 6 (amendment by purchaser)—
- (a) at a time when it is no longer possible to give notice of enquiry under paragraph 12, or
 - (b) after an enquiry into the return has been completed,
- the enquiry into the return is limited to matters to which the amendment relates or that are affected by the amendment.

Notice to produce documents etc for purposes of enquiry

- 14 (1) If the Inland Revenue give notice of enquiry into a land transaction return, they may by notice in writing require the purchaser—
- (a) to produce to them such documents in his possession or power, and
 - (b) to provide them with such information, in such form,
- as they may reasonably require for the purposes of the enquiry.
- (2) A notice under this paragraph (which may be given at the same time as the notice of enquiry) must specify the time (which must not be less than 30 days) within which the purchaser is to comply with it.
- (3) In complying with a notice under this paragraph copies of documents may be produced instead of originals, but—
- (a) the copies must be photographic or other facsimiles, and
 - (b) the Inland Revenue may by notice require the original to be produced for inspection.

A notice under paragraph (b) must specify the time (which must not be less than 30 days) within which the purchaser is to comply with it.

- (4) The Inland Revenue may take copies of, or make extracts from, any documents produced to them under this paragraph.

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- (5) A notice under this paragraph does not oblige a purchaser to produce documents or provide information relating to the conduct of—
- (a) any pending appeal by him, or
 - (b) any pending referral to the [^{F12}tribunal] under paragraph 19 to which he is a party.

Textual Amendments

F12 Word in Sch. 10 para. 14(5)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 376**

Appeal against notice to produce documents etc

- 15 (1) An appeal may be brought against a requirement imposed by a notice under paragraph 14 to produce documents or provide information.
- (2) Notice of appeal must be given—
- (a) in writing,
 - (b) within 30 days after the issue of the notice appealed against,
 - (c) to the officer of the Board by whom that notice was given.
- (3) An appeal under this paragraph shall be ^{F13}... determined in the same way as an appeal against an assessment.
- (4) On an appeal under this paragraph [^{F14}that is notified to the tribunal, the tribunal] —
- (a) shall set aside the notice so far as it requires the production of documents, or the provision of information, that appears ^{F15}... not reasonably required for the purposes of the enquiry, and
 - (b) shall confirm the notice so far as it requires the production or documents, or the provision of information, that appears ^{F15}... reasonably required for the purposes of the enquiry.
- (5) A notice that is confirmed by the [^{F16}tribunal] (or so far as it is confirmed) has effect as if the period specified in it for complying was 30 days from the determination of the appeal.
- [^{F17}(6) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 the decision of the tribunal on an appeal under this paragraph is final.]

Textual Amendments

F13 Words in Sch. 10 para. 15(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 377(2)**

F14 Words in Sch. 10 para. 15(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 377(3)(a)**

F15 Words in Sch. 10 para. 15(4) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 377(3)(b)**

F16 Word in Sch. 10 para. 15(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 377(4)**

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F17 Sch. 10 para. 15(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 377\(5\)](#)

Penalty for failure to produce documents etc

- 16 (1) A person who fails to comply with a notice under paragraph 14 (notice to produce documents etc for purposes of enquiry) is liable—
- (a) to a penalty of £50, and
 - (b) if the failure continues after a penalty is imposed under paragraph (a) above, to a further penalty or penalties not exceeding the amount specified in sub-paragraph (2) below for each day on which the failure continues.
- (2) The amount referred to in sub-paragraph (1)(b) is—
- (a) £30 if the penalty is determined by an officer of the Board, and
 - (b) £150 if the penalty is determined by the court.
- (3) No penalty shall be imposed under this paragraph in respect of a failure at any time after the failure has been remedied.

Amendment of self-assessment during enquiry to prevent loss of tax

- 17 (1) If at a time when an enquiry is in progress into a land transaction return the Inland Revenue form the opinion—
- (a) that the amount stated in the self-assessment contained in the return as the amount of tax payable is insufficient, and
 - (b) that unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,
- they may by notice in writing to the purchaser amend the assessment to make good the deficiency.
- (2) In the case of an enquiry that under paragraph 13(2) is limited to matters arising from an amendment of the return, sub-paragraph (1) above applies only so far as the deficiency is attributable to the amendment.
- (3) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—
- (a) beginning with the day on which notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.

Amendment of return by taxpayer during enquiry

- 18 (1) This paragraph applies if a return is amended under paragraph 6 (amendment by purchaser) at a time when an enquiry is in progress into the return.
- (2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.
- (3) So far as the amendment affects the amount stated in the self-assessment included in the return as the amount of tax payable, it does not take effect while the enquiry is in progress and—
- (a) if the Inland Revenue state in the closure notice that they have taken the amendments into account and that—

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- (i) the amendment has been taken into account in formulating the amendments contained in the notice, or
 - (ii) their conclusion is that the amendment is incorrect,
- the amendment shall not take effect;
- (b) otherwise, the amendment takes effect when the closure notice is issued.
- (4) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—
- (a) beginning with the day on which notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.

Referral of questions to [^{F18}the tribunal] during enquiry

Textual Amendments

F18 Words in Sch. 10 para. 19 cross-heading heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 378(2)**

- 19 (1) At any time when an enquiry is in progress into a land transaction return any question arising in connection with the subject-matter of the enquiry may be referred [^{F19}to the tribunal for determination].
- (2) Notice of referral must be given—
- (a) jointly by the purchaser and the Inland Revenue,
 - ^{F20}(b)
 - (c) to the [^{F21}tribunal].
- ^{F22}(3)
- (4) More than one notice of referral may be given under this paragraph in relation to an enquiry.
- (5) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—
- (a) beginning with the day on which the notice of enquiry was given, and
 - (b) ending with the day on which the enquiry is completed.

Textual Amendments

- F19** Words in Sch. 10 para. 19(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 378(3)**
- F20** Sch. 10 para. 19(2)(b) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 378(4)(a)**
- F21** Word in Sch. 10 para. 19(2)(c) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 378(4)(b)**
- F22** Sch. 10 para. 19(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 378(5)**

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Withdrawal of notice of referral

20 (1) The Inland Revenue or the purchaser may withdraw a notice of referral under paragraph 19^{F23}

^{F24}(2)

Textual Amendments

F23 Words in Sch. 10 para. 20(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 379(2)**

F24 Sch. 10 para. 20(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 379(3)**

Effect of referral on enquiry

21 (1) While proceedings on a referral under paragraph 19 are in progress in relation to an enquiry—

- (a) no closure notice shall be given in relation to the enquiry, and
- (b) no application may be made for a direction to give such a notice.

(2) For the purposes of this paragraph proceedings on a referral are in progress where—

- (a) notice of referral has been given,
- (b) the notice has not been withdrawn, and
- (c) the questions referred have not been finally determined.

(3) For the purposes of sub-paragraph (2)(c) a question referred is finally determined when—

- (a) it has been determined by the [^{F25}tribunal], and
- (b) there is no further possibility of the determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

Textual Amendments

F25 Word in Sch. 10 para. 21(3)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 380**

Effect of determination

22 (1) The determination of a question referred to the [^{F26}tribunal] under paragraph 19 is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.

(2) The determination shall be taken into account by the Inland Revenue—

- (a) in reaching their conclusions on the enquiry, and
- (b) in formulating any amendments of the return required to give effect to those conclusions.

(3) Any right of appeal under paragraph 35 (appeals against assessments etc) may not be exercised so as to reopen the question determined except to the extent (if any) that it could be reopened if it had been determined as a preliminary issue in that appeal.

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Textual Amendments

- F26** Word in Sch. 10 para. 22(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 381**

Completion of enquiry

- 23 (1) An enquiry under paragraph 12 is completed when the Inland Revenue by notice (a “closure notice”) inform the purchaser that they have completed their enquiries and state their conclusions.
- (2) A closure notice must either—
- (a) state that in the opinion of the Inland Revenue no amendment of the return is required, or
 - (b) make the amendments of the return required to give effect to their conclusions.
- (3) A closure notice takes effect when it is issued.

Direction to complete enquiry

- 24 (1) The purchaser may apply to the [^{F27}tribunal] for a direction that the Inland Revenue give a closure notice within a specified period.
- [^{F28}(2) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).]
- (3) The [^{F29}tribunal] hearing the application shall give a direction unless ^{F30}... satisfied that the Inland Revenue have reasonable grounds for not giving a closure notice within a specified period.

Textual Amendments

- F27** Word in Sch. 10 para. 24(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 382(2)**
- F28** Sch. 10 para. 24(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 382(3)**
- F29** Word in Sch. 10 para. 24(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 382(4)(a)**
- F30** Words in Sch. 10 para. 24(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 382(4)(b)**

PART 4

REVENUE DETERMINATION IF NO RETURN DELIVERED

Determination of tax chargeable if no return delivered

- 25 (1) If in the case of a chargeable transaction no land transaction return is delivered by the filing date, the Inland Revenue may make a determination (a “Revenue

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determination”) to the best of their information and belief of the amount of tax chargeable in respect of the transaction.

- (2) Notice of the determination must be served on the purchaser, stating the date on which it is issued.
- (3) No Revenue determination may be made more than six years after the effective date of the transaction.

Determination to have effect as a self-assessment

- 26 (1) A Revenue determination has effect for enforcement purposes as if were a self-assessment by the purchaser.
- (2) In sub-paragraph (1) “for enforcement purposes” means for the purposes of the following provisions of this Part of this Act—
 - (a) the provisions of this Schedule providing for tax-related penalties;
 - (b) section 87 (interest on unpaid tax);
 - (c) section 91 and Schedule 12 (collection and recovery of unpaid tax etc).
- (3) Nothing in this paragraph affects any liability of the purchaser to a penalty for failure to deliver a return.

Determination superseded by actual self-assessment

- 27 (1) If after a Revenue determination has been made the purchaser delivers a land transaction return in respect of the transaction, the self-assessment included in that return supersedes the determination.
- (2) Sub-paragraph (1) does not apply to a return delivered—
 - (a) more than six years after the day on which the power to make the determination first became exercisable, or
 - (b) more than twelve months after the date of the determination,whichever is the later.
- (3) Where—
 - (a) proceedings have been begun for the recovery of any tax charged by a Revenue determination, and
 - (b) before the proceedings are concluded the determination is superseded by a self-assessment,the proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not been paid.

PART 5

REVENUE ASSESSMENTS

Assessment where loss of tax discovered

- 28 (1) If the Inland Revenue discover as regards a chargeable transaction that—
 - (a) an amount of tax that ought to have been assessed has not been assessed, or

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(b) an assessment to tax is or has become insufficient, or
(c) relief has been given that is or has become excessive,
they may make an assessment (a “discovery assessment”) in the amount or further amount that ought in their opinion to be charged in order to make good to the Crown the loss of tax.

- (2) The power to make a discovery assessment in respect of a transaction for which the purchaser has delivered a return is subject to the restrictions specified in paragraph 30.

Assessment to recover excessive repayment of tax

- 29 (1) If an amount of tax has been repaid to any person that ought not to have been repaid to him, that amount may be assessed and recovered as if it were unpaid tax.
- (2) Where the repayment was made with interest, the amount assessed and recovered may include the amount of interest that ought not to have been paid.
- (3) The power to make an assessment under this paragraph in respect of a transaction for which the purchaser has delivered a land transaction return is subject to the restrictions specified in paragraph 30.

Restrictions on assessment where return delivered

- 30 (1) If the purchaser has delivered a land transaction return in respect of the transaction in question, an assessment under paragraph 28 or 29 in respect of the transaction—
- (a) may only be made in the two cases specified in sub-paragraphs (2) and (3) below, and
- (b) may not be made in the circumstances specified in sub-paragraph (5) below.
- (2) The first case is where the situation mentioned in paragraph 28(1) or 29(1) is attributable to fraudulent or negligent conduct on the part of—
- (a) the purchaser,
- (b) a person acting on behalf of the purchaser, or
- (c) a person who was a partner of the purchaser at the relevant time.
- (3) The second case is where the Inland Revenue, at the time they—
- (a) ceased to be entitled to give a notice of enquiry into the return, or
- (b) completed their enquiries into the return,
- could not have been reasonably expected, on the basis of the information made available to them before that time, to be aware of the situation mentioned in paragraph 28(1) or 29(1).
- (4) For this purpose information is regarded as made available to the Inland Revenue if—
- (a) it is contained in a land transaction return made by the purchaser,
- (b) it is contained in any documents produced or information provided to the Inland Revenue for the purposes of an enquiry into any such return, or
- (c) it is information the existence of which, and the relevance of which as regards the situation mentioned in paragraph 28(1) or 29(1)—
- (i) could reasonably be expected to be inferred by the Inland Revenue from information falling within paragraphs (a) or (b) above, or

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(ii) are notified in writing to the Inland Revenue by the purchaser or a person acting on his behalf.

(5) No assessment may be made if—

- (a) the situation mentioned in paragraph 28(1) or 29(1) is attributable to a mistake in the return as to the basis on which the tax liability ought to have been computed, and
- (b) the return was in fact made on the basis or in accordance with the practice generally prevailing at the time it was made.

Time limit for assessment

- 31 (1) The general rule is that no assessment may be made more than six years after the effective date of the transaction to which it relates.
- (2) In a case involving fraud or negligence on the part of—
- (a) the purchaser, or
 - (b) a person acting on behalf of the purchaser, or
 - (c) a person who was a partner of the purchaser at the relevant time,
- an assessment may be made up to 21 years after the effective date of the transaction to which it relates.
- (3) An assessment under paragraph 29 (assessment to recover excessive repayment of tax) is not out of time—
- (a) in a case where notice of enquiry is given into the land transaction return delivered by the person concerned, if it is made before the enquiry is completed;
 - (b) in any case, if it is made within one year after the repayment in question was made.
- (4) Where the purchaser has died—
- (a) any assessment on the personal representatives of the deceased must be made within three years after his death, and
 - (b) an assessment shall not be made by virtue of sub-paragraph (2) in respect of a transaction of which the effective date was more than six years before the death.
- (5) Any objection to the making of an assessment on the ground that the time limit for making it has expired can only be made on an appeal against the assessment.

Assessment procedure

- 32 (1) Notice of an assessment must be served on the purchaser.
- (2) The notice must state—
- (a) the tax due,
 - (b) the date on which the notice is issued, and
 - (c) the time within which any appeal against the assessment must be made.
- (3) After notice of the assessment has been served on the purchaser, the assessment may not be altered except in accordance with the express provisions of this Part of this Act.

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- (4) Where an officer of the Board has decided to make an assessment to tax, and has taken all other decisions needed for arriving at the amount of the assessment, he may entrust to some other officer of the Board responsibility for completing the assessing procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the assessment.

PART 6

RELIEF IN CASE OF EXCESSIVE ASSESSMENT

Relief in case of double assessment

- 33 (1) A person who believes he has been assessed to tax more than once in respect of the same matter may make a claim [^{F31}to the Inland Revenue for relief against any double charge] .
- ^{F32}(2)
- ^{F32}(3)
- [^{F33}(4) An appeal may be made against a decision on a claim for relief under this paragraph.]

Textual Amendments

F31 Words in Sch. 10 para. 33(1) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 299\(7\)\(a\)](#)

F32 Sch. 10 para. 33(2)(3) repealed (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 299\(7\)\(b\)](#), [Sch. 42 Pt. 4\(2\)](#)

F33 Sch. 10 para. 33(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 383](#)

Relief in case of mistake in return

- 34 (1) A person who believes he has paid tax under an assessment that was excessive by reason of some mistake in a land transaction return may make a claim [^{F34}to the Inland Revenue for relief against any excessive charge].
- (2) The claim must be made ^{F35}... not more than six years after the effective date of the transaction.
- ^{F36}(3)
- (4) No relief shall be given under this paragraph—
- (a) in respect of a mistake as to the basis on which the liability of the claimant ought to have been computed when the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made, or
- (b) in respect of a mistake in a claim or election included in the return.
- (5) In determining a claim under this paragraph the Inland Revenue shall have regard to all the relevant circumstances of the case.
- They shall, in particular, consider whether the granting of relief would result in amounts being excluded from charge to tax.

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- (6) On an appeal against the Inland Revenue's decision on the claim [^{F37}that is notified to the tribunal, the tribunal shall] determine the claim in accordance with the same principles as apply to the determination by the Inland Revenue of claims under this paragraph.

Textual Amendments

- F34** Words in Sch. 10 para. 34(1) substituted (22.7.2004) by Finance Act 2004 (c. 12), s. 299(8)(a)
F35 Words in Sch. 10 para. 34(2) repealed (22.7.2004) by Finance Act 2004 (c. 12), s. 299(8)(b), Sch. 42 Pt. 4(2)
F36 Sch. 10 para. 34(3) repealed (22.7.2004) by Finance Act 2004 (c. 12), s. 299(8)(c), Sch. 42 Pt. 4(2)
F37 Words in Sch. 10 para. 34(6) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 384

PART 7

[^{F38}REVIEWS AND APPEALS]

Textual Amendments

- F38** Sch. 10 Pt. 7 heading substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 385

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,^{F39}...
 - (d) an assessment under paragraph 29 (assessment to recover excessive repayment)^{F40}, or
 - (e) a Revenue determination under paragraph 25 (determination of tax chargeable if no return delivered).]
- ^{F41}(2)
- (3) [^{F42}If] An appeal under sub-paragraph (1)(a) against an amendment of a self-assessment [^{F43}is] made while an enquiry is in progress [^{F44}none of the steps mentioned in paragraph 36A(2)(a) to (c) may be taken in relation to the appeal] until the enquiry is completed.

Textual Amendments

- F39** Word in Sch. 10 para. 35(1)(c) omitted (with effect in accordance with reg. 1 of the amending S.I.) by virtue of The Stamp Duty Land Tax (Land Transaction Returns) Regulations 2004 (S.I. 2004/3208), regs. 1, 5(2)(a)

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- F40** Sch. 10 para. 35(1)(e) and word added (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **5(2)(b)**
- F41** Sch. 10 para. 35(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 386(2)**
- F42** Word in Sch. 10 para. 35(3) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 386(3)(a)**
- F43** Word in Sch. 10 para. 35(3) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 386(3)(b)**
- F44** Words in Sch. 10 para. 35(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 386(3)(c)**

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)—
- (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.
- [^{F45}(4A) In relation to an appeal under paragraph 35(1)(e) —
- (a) the specified date is the date on which the Revenue determination was issued, and
 - (b) the relevant officer of the Board is the officer by whom the determination was made.]

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

[^{F46}(5A) The only grounds on which an appeal lies under paragraph 35(1)(e) are that—

 - (a) the purchase to which the determination relates did not take place,
 - (b) the interest in the land to which the determination relates has not been purchased,
 - (c) the contract for the purchase of the interest to which the determination relates has not been substantially performed, or
 - (d) the land transaction is [^{F47}not notifiable] (for example, because the land transaction is exempt from charge under Schedule 3).]

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^{F48}(6)

Textual Amendments

- F45** Sch. 10 para. 36(4A) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **5(3)(a)**
- F46** Sch. 10 para. 36(5A) inserted (with effect in accordance with reg. 1 of the amending S.I.) by [The Stamp Duty Land Tax \(Land Transaction Returns\) Regulations 2004 \(S.I. 2004/3208\)](#), regs. 1, **5(3)(b)**
- F47** Words in Sch. 10 para. 36(5A)(d) substituted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 30 para. 7**
- F48** Sch. 10 para. 36(6) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 387**

^{F49}*Appeal: HMRC review or determination by tribunal*

Textual Amendments

- F49** Sch. 10 paras. 36A-36I and cross-headings inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 388**

- 36A (1) This paragraph applies if notice of appeal has been given to HMRC.
- (2) In such a case—
- (a) the appellant may notify HMRC that the appellant requires HMRC to review the matter in question (see paragraph 36B),
 - (b) HMRC may notify the appellant of an offer to review the matter in question (see paragraph 36C), or
 - (c) the appellant may notify the appeal to the tribunal (see paragraph 36D).
- (3) See paragraphs 36G and 36H for provision about notifying appeals to the tribunal after a review has been required by the appellant or offered by HMRC.
- (4) This paragraph does not prevent the matter in question from being dealt with in accordance with paragraph 37(1) (settling of appeals by agreement).

Modifications etc. (not altering text)

- C1** Sch. 10 paras. 36A-36I applied by [The Stamp Duty Land Tax \(Administration\) Regulations 2003 \(SI 2003/2837\)](#), reg. 20(3) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 116**)

Appellant requires review by HMRC

- 36B (1) Sub-paragraphs (2) and (3) apply if the appellant notifies HMRC that the appellant requires HMRC to review the matter in question.
- (2) HMRC must, within the relevant period, notify the appellant of HMRC's view of the matter in question.
- (3) HMRC must review the matter in question in accordance with paragraph 36E.

Status: Point in time view as at 01/06/2009.

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- (4) The appellant may not notify HMRC that the appellant requires HMRC to review the matter in question and HMRC shall not be required to conduct a review if—
- (a) the appellant has already given a notification under this paragraph in relation to the matter in question,
 - (b) HMRC have given a notification under paragraph 36C in relation to the matter in question, or
 - (c) the appellant has notified the appeal to the tribunal under paragraph 36D.
- (5) In this paragraph “relevant period” means—
- (a) the period of 30 days beginning with the day on which HMRC receive the notification from the appellant, or
 - (b) such longer period as is reasonable.

HMRC offer review

- 36C (1) Sub-paragraphs (2) to (6) apply if HMRC notify the appellant of an offer to review the matter in question.
- (2) When HMRC notify the appellant of the offer, HMRC must also notify the appellant of HMRC’s view of the matter in question.
- (3) If, within the acceptance period, the appellant notifies HMRC of acceptance of the offer, HMRC must review the matter in question in accordance with paragraph 36E.
- (4) If the appellant does not give HMRC such a notification within the acceptance period, HMRC’s view of the matter in question is to be treated as if it were contained in an agreement in writing under paragraph 37(1) for the settlement of that matter.
- (5) The appellant may not give notice under paragraph 37(2) (desire to withdraw from agreement) in a case where sub-paragraph (4) applies.
- (6) Sub-paragraph (4) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under paragraph 36H.
- (7) HMRC may not notify the appellant of an offer to review the matter in question (and, accordingly, HMRC shall not be required to conduct a review) if—
- (a) HMRC have already given a notification under this paragraph in relation to the matter in question,
 - (b) the appellant has given a notification under paragraph 36B in relation to the matter in question, or
 - (c) the appellant has notified the appeal to the tribunal under paragraph 36D.
- (8) In this paragraph “acceptance period” means the period of 30 days beginning with the date of the document by which HMRC notify the appellant of the offer to review the matter in question.

Notifying appeal to the tribunal

- 36D (1) This paragraph applies in a case where paragraph 36A applies.
- (2) The appellant may notify the appeal to the tribunal.
- (3) If the appellant notifies the appeal to the tribunal, the tribunal is to decide the matter in question.

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- (4) Sub-paragraphs (2) and (3) do not apply in a case where—
- (a) HMRC have given a notification of their view of the matter in question under paragraph 36B, or
 - (b) HMRC have given a notification under paragraph 36C in relation to the matter in question.
- (5) In a case falling within sub-paragraph (4)(a) or (b), the appellant may notify the appeal to the tribunal, but only if permitted to do so by paragraph 36G or 36H.

Nature of review etc

- 36E (1) This paragraph applies if HMRC are required by paragraph 36B or 36C to review the matter in question.
- (2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.
- (3) For the purpose of sub-paragraph (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—
- (a) by HMRC in deciding the matter in question, and
 - (b) by any person in seeking to resolve disagreement about the matter in question.
- (4) The review must take account of any representations made by the appellant at a stage which gives HMRC a reasonable opportunity to consider them.
- (5) The review may conclude that HMRC’s view of the matter in question is to be—
- (a) upheld,
 - (b) varied, or
 - (c) cancelled.
- (6) HMRC must notify the appellant of the conclusions of the review and their reasoning within—
- (a) the period of 45 days beginning with the relevant day, or
 - (b) such other period as may be agreed.
- (7) In sub-paragraph (6) “relevant day” means—
- (a) in a case where the appellant required the review, the day when HMRC notified the appellant of HMRC’s view of the matter in question,
 - (b) in a case where HMRC offered the review, the day when HMRC received notification of the appellant’s acceptance of the offer.
- (8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the period specified in sub-paragraph (6), the review is treated as having concluded that HMRC’s view of the matter in question (see paragraphs 36B(2) and 36C(2)) is upheld.
- (9) If sub-paragraph (8) applies, HMRC must notify the appellant of the conclusions which the review is treated as having reached.

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Effect of conclusions of review

- 36F (1) This paragraph applies if HMRC give notice of the conclusions of a review (see paragraph 36E).
- (2) The conclusions are to be treated as if they were an agreement in writing under paragraph 37(1) for the settlement of the matter in question.
- (3) The appellant may not give notice under paragraph 37(2) (desire to withdraw from agreement) in a case where sub-paragraph (2) applies.
- (4) Sub-paragraph (2) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under paragraph 36G.

Notifying appeal to tribunal after review concluded

- 36G (1) This paragraph applies if—
- (a) HMRC have given notice of the conclusions of a review in accordance with paragraph 36E, or
 - (b) the period specified in paragraph 36E(6) has ended and HMRC have not given notice of the conclusions of the review.
- (2) The appellant may notify the appeal to the tribunal within the post-review period.
- (3) If the post-review period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.
- (4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.
- (5) In this paragraph “post-review period” means—
- (a) in a case falling with sub-paragraph (1)(a), the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 36E(6), or
 - (b) in a case falling within sub-paragraph (1)(b), the period that—
 - (i) begins with the day following the last day of the period specified in paragraph 36E(6), and
 - (ii) ends 30 days after the date of the document in which HMRC give notice of the conclusions of the review in accordance with paragraph 36E(9).

Notifying appeal to tribunal after review offered but not accepted

- 36H (1) This paragraph applies if—
- (a) HMRC have offered to review the matter in question (see paragraph 36C), and
 - (b) the appellant has not accepted the offer.
- (2) The appellant may notify the appeal to the tribunal within the acceptance period.
- (3) But if the acceptance period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.
- (4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

Status: Point in time view as at 01/06/2009.

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(5) In this paragraph “acceptance period” has the same meaning as in paragraph 36C.

Other interpretation

- 36I (1) In paragraphs 36A to 36H—
- (a) “matter in question” means the matter to which an appeal relates;
 - (b) a reference to a notification is a reference to a notification in writing.
- (2) In paragraphs 36A to 36H, a reference to the appellant includes a person acting on behalf of the appellant except in relation to—
- (a) notification of HMRC’s view under paragraph 36B(2),
 - (b) notification by HMRC of an offer of review (and of their view of the matter) under paragraph 36C,
 - (c) notification of the conclusions of a review under paragraph 36E(6), and
 - (d) notification of the conclusions of a review under paragraph 36E(9).
- (3) But if a notification falling within any of the sub-paragraphs of paragraph (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.]

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 [^{F50}tribunal] 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,

Status: Point in time view as at 01/06/2009.

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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.

Textual Amendments

F50 Word in Sch. 10 para. 37(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 389**

Recovery of tax not postponed by appeal

- 38 (1) Where there is an appeal ^{F51}... 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 [^{F52}the tribunal] postponing payment), and
 paragraph 40 (agreement to postpone payment).

Textual Amendments

F51 Words in Sch. 10 para. 38(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 390(2)**

F52 Words in Sch. 10 para. 38(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 390(3)**

Direction by [^{F53}the tribunal] to postpone payment

Textual Amendments

F53 Words in Sch. 10 para. 39 cross-heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(2)**

- 39 [^{F54}(1) If the appellant has grounds for believing that the amendment or assessment overcharges the appellant to tax, or as a result of the conclusion stated in the closure notice the tax charged on the appellant is excessive, the appellant may—
- (a) first apply by notice in writing to HMRC within 30 days of the specified date for a determination by them of the amount of tax the payment of which should be postponed pending the determination of the appeal;
 - (b) where such a determination is not agreed, refer the application for postponement to the tribunal within 30 days from the date of the document notifying HMRC's decision on the amount to be postponed.

An application under sub-paragraph (a) must state the amount believed to be overcharged to tax and the grounds for that belief.]

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- ^{F55}(2)
- (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, [^{F56}if the parties cannot agree on a revised determination, apply, at any time before the determination of the appeal, to the tribunal for a revised] determination of that amount.
- [^{F57}(5) An application under this paragraph is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).]
- (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 ^{F58}...., 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 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 [^{F59}HMRC] 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.

Textual Amendments

- F54** Sch. 10 para. 39(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(3)**
- F55** Sch. 10 para. 39(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(4)**
- F56** Words in Sch. 10 para. 39(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(5)**
- F57** Sch. 10 para. 39(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(6)**
- F58** Words in Sch. 10 para. 39(6) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(7)**
- F59** Word in Sch. 10 para. 39(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 391(8)**

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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 [^{F60}tribunal] 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.

Textual Amendments

F60 Word in Sch. 10 para. 40(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 392**

[^{F61}Tribunal determinations

Textual Amendments

F61 Sch. 10 paras. 41-46 and cross-headings inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 393**

- 41 The determination of the tribunal in relation to any proceedings under the enactments relating to stamp duty land tax shall be final and conclusive except as otherwise provided in—
- (a) sections 9 to 14 of the Tribunals, Courts and Enforcement Act 2007,
 - (b) the Taxes Management Act 1970 applied as modified, or
 - (c) the enactments relating to stamp duty land tax.

Assessments and self assessments

- 42 (1) In this paragraph any reference to an appeal means an appeal under paragraphs 33(4) or 35(1).
- (2) If, on an appeal notified to the tribunal, the tribunal decides—
- (a) that the appellant is overcharged by a self-assessment; or
 - (b) that the appellant is overcharged by an assessment other than a self-assessment,

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the assessment shall be reduced accordingly, but otherwise the assessment shall stand good.

- (3) If, on appeal it appears to the tribunal—
- (a) that the appellant is undercharged to stamp duty land tax by a self-assessment; or
 - (b) that the appellant is undercharged by an assessment other than a self-assessment,

the assessment shall be increased accordingly.

- (4) Where, on an appeal against an assessment other than a self-assessment which—
- (a) assesses an amount which is chargeable to stamp duty land tax, and
 - (b) charges stamp duty land tax on the amount assessed,
- it appears to the tribunal as mentioned in sub-paragraphs (2) or (3), it may, unless the circumstances of the case otherwise require, reduce or increase only the amount assessed; and where an appeal is so determined the stamp duty land tax charged by that assessment shall be taken to have been reduced or increased accordingly.

Payment of stamp duty land tax where there is a further appeal

- 43 (1) Where a party to an appeal to the tribunal under paragraph 35 makes a further appeal, notwithstanding that the further appeal is pending, stamp duty land tax shall nevertheless be payable or repayable in accordance with the determination of the tribunal or court as the case may be.
- (2) But if the amount charged by the assessment is altered by the order or judgment of the Upper Tribunal or court—
- (a) if too much stamp duty land tax has been paid, the amount overpaid shall be refunded with such interest, if any, as may be allowed by that order or judgment; and
 - (b) if too little stamp duty land tax has been charged, the amount undercharged shall be due and payable at the expiration of a period of thirty days beginning with the date on which HMRC issue to the other party a notice of the total amount payable in accordance with the order or judgment.

Late notice of appeal

- 44 (1) This paragraph applies in a case where—
- (a) notice of appeal may be given to HMRC under this Schedule or any other provision of Part 4 of this Act, but
 - (b) no notice is given before the relevant time limit.
- (2) Notice may be given after the relevant time limit if—
- (a) HMRC agree, or
 - (b) where HMRC do not agree, the tribunal gives permission.
- (3) If the following conditions are met, HMRC shall agree to notice being given after the relevant time limit.
- (4) Condition A is that the appellant has made a request in writing to HMRC to agree to the notice being given.

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- (5) Condition B is that HMRC are satisfied that there was reasonable excuse for not giving the notice before the relevant time limit.
- (6) Condition C is that HMRC are satisfied that request under sub-paragraph (4) was made without unreasonable delay after the reasonable excuse ceased.
- (7) If a request of the kind referred to in sub-paragraph (4) is made, HMRC must notify the appellant whether or not HMRC agree to the appellant giving notice of appeal after the relevant time limit.
- (8) In this paragraph “relevant time limit”, in relation to notice of appeal, means the time before which the notice is to be given (but for this paragraph).

Questions to be determined by the relevant [^{F62}tribunal]

Textual Amendments

F62 Word in Sch. 10 para. 45 cross-heading substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), **Sch. 1 para. 270(a)** (with Sch. 5)

- 45 (1) Where the question in any dispute on any appeal under paragraphs 34(6) or 35(1) is a question of the market value of the subject matter of the land transaction that question shall be determined on a reference by the relevant [^{F63}tribunal].
- (2) In this [^{F64}paragraph “the relevant tribunal”] means—
- (a) where the land is in England and Wales, the [^{F65}Upper Tribunal];
 - (b) where the land is in Scotland, the Lands Tribunal for Scotland;
 - (c) where the land is in Northern Ireland, the Lands Tribunal for Northern Ireland.

Textual Amendments

F63 Word in Sch. 10 para. 45(1) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), Sch. 1 para. 270(a) (with Sch. 5)

F64 Words in Sch. 10 para. 45(2) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), **Sch. 1 para. 270(b)(i)** (with Sch. 5)

F65 Words in Sch. 10 para. 45(2)(a) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), **Sch. 1 para. 270(b)(ii)** (with Sch. 5)

Meaning of HMRC

- 46 In this Schedule “HMRC” means Her Majesty’s Revenue and Customs.]

Status:

Point in time view as at 01/06/2009.

Changes to legislation:

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