

## 1999 No. 3263

### TAXES

#### The Distraint by Collectors (Fees, Costs and Charges) (Stamp Duty Penalties) Regulations 1999

*Made* - - - 7th December 1999

*Laid before the House  
of Commons* 8th December 1999

*Coming into force* 29th December 1999

The Treasury, in exercise of the powers conferred on them by section 61(6) of the Taxes Management Act 1970(a), hereby make the following Regulations:

#### Citation, commencement and effect

1.—(1) These Regulations may be cited as the Distraint by Collectors (Fees, Costs and Charges) (Stamp Duty Penalties) Regulations 1999 and shall come into force on 29th December 1999.

(2) These Regulations have effect in relation to the levying of distress under section 61 of the Taxes Management Act 1970 where, upon demand made by a collector, a person has neglected or refused to pay a sum in respect of a stamp duty penalty.

#### Interpretation

2. In these Regulations—

“close possession” means physical possession by the distrainor or a person acting on his behalf of the goods and chattels distrained;

“the enactments relating to stamp duty” means the Stamp Act 1891(b) and any enactment amending, or which is to be construed as one with, that Act(c);

“stamp duty penalty” means a penalty under the enactments relating to stamp duty, other than a penalty under section 15B of the Stamp Act 1891(d);

“walking possession” means possession in accordance with an agreement between the distrainor and the distrainee whereby, in consideration of the distrainor not remaining in close possession, the distrainor undertakes not to dispose of the goods distrained or any part thereof, or permit their removal by any person not authorised by the distrainor to remove them.

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(a) 1970 c. 9. Section 61(6) was added by section 152(6) of the Finance Act 1989 (c. 26) and applies in relation to stamp duty penalties by virtue of the Stamp Duty (Collection and Recovery of Penalties) Regulations 1999, S.I. 1999/2537, regulation 3.

(b) 1891 c. 39.

(c) Relevant amendments were made to those enactments, and to the Stamp Act 1891, by paragraphs 2 to 8 of Schedule 17 to the Finance Act 1999 (c. 16).

(d) Sections 15, 15A and 15B were substituted for section 15 by section 109(1) of the Finance Act 1999.

### **Ascertainment of fees, costs and charges**

3. The fees chargeable on or in connection with the levying of distress and the costs recoverable where the distress has been levied shall be those specified in the Schedule to these Regulations, but subject to any provision of that Schedule.

### **Deduction of fees, costs and charges by the collector**

4. The fees, costs and charges specified in the Schedule to these Regulations shall be deducted by the collector from the sums received on or in connection with the levying of distress or where distress has been levied.

### **Disputes as to fees, costs and charges**

5.—(1) In the case of dispute as to any fees chargeable, or costs and charges recoverable under the Schedule to these regulations, the amount of those fees, costs and charges shall be taxed.

(2) Such a taxation shall be carried out by the district judge of the county court for the district in which the distress is or is intended to be levied, and he may give such directions as to the costs of taxation as he thinks fit.

(3) In the application of paragraph (2) to Northern Ireland, there shall be substituted for the words “by the district judge of the county court for the district in which the distress is or is intended to be levied” the words “by the Master (Taxing Office)”.

*Bob Ainsworth*

*Greg Pope*

7th December 1999

Two of the Lords Commissioners of Her Majesty's Treasury

# SCHEDULE

Regulation 3

<i>Action Taken</i>	<i>Fees, Costs and Charges</i>
<i>On or in connection with the levying of distress</i>	<i>Fees</i>
For making a visit to premises with a view to levying distress (whether the levy is made or not).	A sum not exceeding £12.50.
Levying distress where the total sum charged is £100 or less.	£12.50
Levying distress where the total sum charged is more than £100.	<p>12½ per cent. on the first £100 of the amount to be recovered;</p> <p>4 per cent. on the next £400;</p> <p>2½ per cent. on the next £1,500;</p> <p>1 per cent. on the next £8,000;</p> <p>¼ per cent. on any additional sum.</p>
<i>Where distress has been levied</i>	<i>Costs and Charges</i>
<i>1. Taking possession</i>	
Where close possession is taken.	£4.50 for the day of levy only.
Where walking possession is taken	45p per day, payable for the day the distress is levied and up to 14 days thereafter.
<i>2. Removal and storage of goods</i>	The reasonable costs and charges of removal and storage.
<i>3. Appraisalment</i>	The reasonable fees, charges and expenses of the person appraising.
<i>4. Sale</i>	
Where the sale is held on the auctioneer's premises, for the auctioneer's commission (to include all out-of-pocket expenses other than charges for advertising, removal and storage).	15 per cent. on the sum realised plus the reasonable cost of advertising, removal and storage.
Where the sale is held on the debtor's premises, for the auctioneer's commission (not to include out-of-pocket expenses or charges for advertising).	7½ per cent. on the sum realised plus out-of-pocket expenses actually and reasonably incurred and the reasonable costs of advertising.
<p><b>1.</b> In any case where close possession is taken, an individual left in possession must provide his own board.</p> <p><b>2.</b> For the purpose of calculating any percentage fees, costs and charges, a fraction of £1 is to be reckoned as £1, but any fraction of a penny in the total amount so calculated is to be disregarded.</p> <p><b>3.</b> In addition to any amount authorised by this Schedule in respect of the supply of goods or services on which value added tax is chargeable there may be added a sum equivalent to value added tax at the appropriate rate on that amount.</p>	

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made under section 61(6) of the Taxes Management Act 1970 which applies in relation to stamp duty penalties by virtue of the Stamp Duty (Collection and Recovery of Penalties) Regulations 1999 (S.I. 1999/2537). The Regulations make provisions for fees, costs and charges where a collector of taxes distrains upon the goods and chattels of a person who is in default in respect of a stamp duty penalty. The Regulations mirror the Distraint by Collectors (Fees, Costs and Charges) Regulations 1994 (S.I. 1994/236) which make similar provisions in respect of such distraint upon the goods and chattels of a person who is in default of income tax, capital gains tax or corporation tax.

Regulation 1 provides for citation, commencement and effect, and regulation 2 for interpretation.

Regulation 3 provides that the fees, costs and charges which arise on or in connection with the levying of distress, or where distress has been levied, shall be ascertained from the Schedule to the Regulations. Various different actions are specified in the Schedule, and the relevant charge is given.

Regulation 4 provides for fees, costs and charges to be deducted by the collector or in connection with the levying of distress or where distress has been levied.

Regulation 5 provides for the district judge of the county court (or, in Northern Ireland, the Master (Taxing Office)) to tax fees, costs and charges that are disputed.

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