

SCHEDULES

SCHEDULE 10

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

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).
- (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.

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.

Status: This is the original version (as it was originally enacted).

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.
- (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 Special Commissioners under paragraph 19 to which he is a party.

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 heard and determined in the same way as an appeal against an assessment.
- (4) On an appeal under this paragraph the Commissioners—
- (a) shall set aside the notice so far as it requires the production of documents, or the provision of information, that appears to them 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 to them reasonably required for the purposes of the enquiry.
- (5) A notice that is confirmed by the Commissioners (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.

- (6) The decision of the Commissioners on an appeal under this paragraph is final.

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—

Status: This is the original version (as it was originally enacted).

- (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 Special Commissioners during enquiry

- 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 to the Special Commissioners for their determination.
- (2) Notice of referral must be given—
- (a) jointly by the purchaser and the Inland Revenue,
 - (b) in writing,
 - (c) to the Special Commissioners.
- (3) The notice of referral must specify the question or questions being referred.
- (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.

Withdrawal of notice of referral

- 20 (1) The Inland Revenue or the purchaser may withdraw a notice of referral under paragraph 19 by notice in accordance with this paragraph.
- (2) Notice of withdrawal must be given—
- (a) in writing,
 - (b) to the other party to the referral and to the Special Commissioners,
 - (c) before the first hearing by the Special Commissioners in relation to the referral.

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 Special Commissioners, 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).

Effect of determination

- 22 (1) The determination of a question referred to the Special Commissioners 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.

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 General or Special Commissioners for a direction that the Inland Revenue give a closure notice within a specified period.
- (2) Any such application shall be heard and determined in the same way as an appeal.
- (3) The Commissioners hearing the application shall give a direction unless they are satisfied that the Inland Revenue have reasonable grounds for not giving a closure notice within a specified period.