

SCHEDULES

SCHEDULE 10

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

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
 - (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,

Status: This is the original version (as it was originally enacted).

- (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
 - (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.
- (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.