

Changes to legislation: Finance Act 2003, Part 7 is up to date with all changes known to be in force on or before 19 April 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) View outstanding changes

SCHEDULES

SCHEDULE 10

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

Modifications etc. (not altering text)

- C1** Sch. 10 applied (with modifications) (with effect in accordance with Sch. 61 para. 29(2)(a) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 61 para. 7\(9\)](#)

PART 7

[^{F1}REVIEWS AND APPEALS]

Textual Amendments

- F1** 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,^{F2}...
 - (d) an assessment under paragraph 29 (assessment to recover excessive repayment)^{F3}, or
 - (e) a Revenue determination under paragraph 25 (determination of tax chargeable if no return delivered).]

^{F4}(2)

- (3) [^{F5}If] An appeal under sub-paragraph (1)(a) against an amendment of a self-assessment [^{F6}is] made while an enquiry is in progress [^{F7}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

- F2** 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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- F3** 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)**
- F4** 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)**
- F5** 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)**
- F6** 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)**
- F7** 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)**

Modifications etc. (not altering text)

- C1** Sch. 10 para. 35(1)(b) excluded (with application in accordance with Sch. 31 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **ss. 208(10)(11)(d)**

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.
- [^{F8}(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.
- [^{F9}(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,

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- (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 [^{F10}not notifiable] (for example, because the land transaction is exempt from charge under Schedule 3).]

^{F11}(6)

Textual Amendments

- F8** 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)**
- F9** 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)**
- F10** 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**
- F11** 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**

[^{F12}Appeal: HMRC review or determination by tribunal

Textual Amendments

- F12** 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)

- C2** 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.

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- (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.
- (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.

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- (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.
- (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.

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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 [F13tribunal] 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,

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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

- F13** 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 ^{F14}... 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 [^{F15}the tribunal] postponing payment), and
 paragraph 40 (agreement to postpone payment).

Textual Amendments

- F14** 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)**
- F15** 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 [^{F16}the tribunal] to postpone payment

Textual Amendments

- F16** 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 [^{F17}(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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- ^{F18}(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, [^{F19}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.
- [^{F20}(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 ^{F21}...., 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 [^{F22}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.
- [^{F23}(9) Sub-paragraphs (10) and (11) apply where a person has been given an accelerated payment notice under Chapter 3 of Part 4 of the Finance Act 2014 and that notice has not been withdrawn.
- (10) Nothing in this paragraph enables the postponement of the payment of (as the case may be)—
- (a) the understated tax to which the payment specified in the notice under section 220(2)(b) of that Act relates, or
- (b) the disputed tax specified in the notice under section 221(2)(b) of that Act.
- (11) Accordingly, if the payment of an amount of tax within sub-paragraph (10)(b) is postponed by virtue of this paragraph immediately before the accelerated payment notice is given, it ceases to be so postponed with effect from the time that notice is given, and the tax is due and payable—

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- (a) if no representations were made under section 222 of that Act in respect of the notice, on or before the last day of the period of 90 days beginning with the day the notice is given, and
- (b) if representations were so made, on or before whichever is later of—
 - (i) the last day of the 90 day period mentioned in paragraph (a), and
 - (ii) the last day of the period of 30 days beginning with the day on which HMRC's determination in respect of those representations is notified under section 222 of that Act.]

Textual Amendments

- F17** 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)**
- F18** 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)**
- F19** 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)**
- F20** 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)**
- F21** 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)**
- F22** 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)**
- F23** Sch. 10 para. 39(9)-(11) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), **s. 224(3)**

Modifications etc. (not altering text)

- C3** Sch. 10 para. 39(11) modified (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), **s. 227(9)(c)**

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 [F24tribunal] 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.

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[^{F25}(4) Sub-paragraphs (9) to (11) of paragraph 39 apply for the purposes of this paragraph as they apply for the purposes of paragraph 39.]

Textual Amendments

- F24** 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**
- F25** Sch. 10 para. 40(4) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), s. 224(4)

^{F26}Tribunal determinations

Textual Amendments

- F26** 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—
- sections 9 to 14 of the Tribunals, Courts and Enforcement Act 2007,
 - the Taxes Management Act 1970 applied as modified, or
 - 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—
- that the appellant is overcharged by a self-assessment; or
 - that the appellant is overcharged by an assessment other than a self-assessment,
- the assessment shall be reduced accordingly, but otherwise the assessment shall stand good.
- (3) If, on appeal it appears to the tribunal—
- that the appellant is undercharged to stamp duty land tax by a self-assessment; or
 - 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—
- assesses an amount which is chargeable to stamp duty land tax, and
 - 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.

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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.
- [Sub-paragraph (4) applies where—
- ^{F27}(3) (a) an accelerated payment notice has been given to a party to the appeal under Chapter 3 of Part 4 of the Finance Act 2014 (and not withdrawn), and
- (b) the assessment to which the appeal relates has effect, or partly has effect, to counteract the whole or part of the asserted advantage (within the meaning of section 219(3) of that Act) by reason of which the notice was given.
- (4) If, on the application of HMRC, the relevant court or tribunal considers it necessary for the protection of the revenue, it may direct that sub-paragraph (1) does not apply so far as the stamp duty land tax relates to the counteraction of the whole or part of the asserted advantage, and—
- (a) give permission to withhold all or part of any repayment, or
 - (b) require the provision of adequate security before repayment is made.
- (5) “Relevant court or tribunal” means the tribunal or court from which permission or leave to appeal is sought.]

Textual Amendments

F27 Sch. 10 para. 43(3)-(5) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), s. 225(2)

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.

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- (4) Condition A is that the appellant has made a request in writing to HMRC to agree to the notice being given.
- (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 [^{F28}tribunal]

Textual Amendments

F28 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 [^{F29}paragraph] 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 [^{F30}tribunal].
- (2) In this [^{F31}paragraph “the relevant tribunal”] means—
- (a) where the land is in England ^{F32}... , the [^{F33}Upper Tribunal];
 - ^{F34}(b)
 - (c) where the land is in Northern Ireland, the Lands Tribunal for Northern Ireland.

Textual Amendments

F29 Word in Sch. 10 para. 45(1) substituted (with effect in accordance with s. 28(2) of the amending Act) by virtue of [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 12 para. 4(3)**

F30 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)

F31 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)

F32 Words in Sch. 10 para. 45(2)(a) omitted (1.4.2018 with effect in accordance with s. 16(4)(5) of the amending Act) by virtue of [Wales Act 2014 \(c. 29\)](#), s. 29(2)(b)(3), **Sch. 2 para. 12**; S.I. 2018/214, art. 2(a)

F33 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)

F34 Sch. 10 para. 45(2)(b) omitted (with effect in accordance with s. 29(4) of the amending Act) by virtue of [Scotland Act 2012 \(c. 11\)](#), s. 44(2)(b)(3)(b), **Sch. 3 para. 25(3)** (with s. 29(5)(6)); S.I. 2015/637, art. 2

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Meaning of HMRC

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

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) savings for amendments by 2018 anaw 1, s. 6, Sch. 6 by [S.I. 2019/110 reg. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 57(3) inserted by [2011 c. 11 Sch. 22 para. 4](#)
- s. 87(3)(a)(ia) inserted by [S.I. 2003/2760 Sch. para. 3\(4\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The affecting S.I. is revoked and superseded by [S.I. 2003/2816](#))
- Sch. 12 para. 3(2)(aa) inserted by [2007 asp 3 Sch. 5 para. 32](#) (This effect was superseded by the repeal of Sch. 12 para. 3 by Finance Act 2008 (c. 9), s. 129(4), Sch. 43 para. 16)
- Sch. 12 para. 1A inserted by [2007 c. 15 Sch. 13 para. 147\(2\)](#) (The amending provision was repealed before coming into force.)
- Sch. 12 para. 1A omitted by [2008 c. 9 Sch. 43 para. 9](#) (The amending provision was repealed before coming into force.)