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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 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).

[^{F1}This is subject to the following qualification.]

[^{F2}(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under section 80 (adjustment where contingency ceases or consideration is ascertained), 81 (further return where relief withdrawn) [^{F3}, 81A (return or further return in consequence of later linked transaction) or paragraph 6 of Schedule 6B (adjustment for change of circumstances)], and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

- F1** 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)**
- F2** 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)**
- F3** Words in Sch. 10 para. 12(2A) substituted (with effect in accordance with Sch. 22 para. 9 of the amending Act) by [Finance Act 2011 \(c. 11\)](#), **Sch. 22 para. 7**

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

^{F4}14

Textual Amendments

- F4** Sch. 10 paras. 14-16 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 11(4)** (with art. 7(2))

Appeal against notice to produce documents etc

^{F4}15

Textual Amendments

- F4** Sch. 10 paras. 14-16 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 11(4)** (with art. 7(2))

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Penalty for failure to produce documents etc

F⁴16

Textual Amendments

F4 Sch. 10 paras. 14-16 omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 11\(4\)](#) (with art. 7(2))

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—
 - (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

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- (b) ending with the day on which the enquiry is completed.

Referral of questions to [F5the tribunal] during enquiry

Textual Amendments

F5 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 [F6to the tribunal for determination].
- (2) Notice of referral must be given—
 - (a) jointly by the purchaser and the Inland Revenue,
 - ^{F7}(b)
 - (c) to the [F8tribunal].
- ^{F9}(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

- F6** 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)**
- F7** 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)**
- F8** 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)**
- F9** 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)**

Withdrawal of notice of referral

- 20 (1) The Inland Revenue or the purchaser may withdraw a notice of referral under paragraph 19 ^{F10}....
- ^{F11}(2)

Textual Amendments

F10 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)**

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F11 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 [^{F12}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

F12 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 [^{F13}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.

Textual Amendments

F13 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](#)

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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 [^{F14}tribunal] for a direction that the Inland Revenue give a closure notice within a specified period.
- [^{F15}(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 [^{F16}tribunal] hearing the application shall give a direction unless ^{F17}... satisfied that the Inland Revenue have reasonable grounds for not giving a closure notice within a specified period.

Textual Amendments

F14 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)**

F15 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)**

F16 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)**

F17 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)**

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