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Changes to legislation: Finance Act 2003, SCHEDULE 13 is up to date with all changes known to be in force on or before 25 June 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)

SCHEDULES

SCHEDULE 13

Section 93

STAMP DUTY LAND TAX: INFORMATION POWERS

PART 1

POWER OF AUTHORISED OFFICER TO CALL FOR DOCUMENTS OR INFORMATION FROM TAXPAYER

Notice requiring taxpayer to deliver documents or provide information

- 1 (1) An authorised officer of the Board may by notice in writing require a person—
- (a) to deliver to him such documents as are in that person’s possession or power and (in the officer’s reasonable opinion) contain, or may contain, information relevant to—
 - (i) any tax liability to which that person is or may be subject, or
 - (ii) the amount of any such liability, or
 - (b) to provide him with such information as he may reasonably require as being relevant to, or to the amount of, any such liability.
- (2) An “authorised officer of the Board” means an officer of the Board authorised for the purposes of this Part of this Schedule.
- (3) Before a person is given a notice under this paragraph he must be given a reasonable opportunity to deliver the documents or provide the information in question.

No application for consent under paragraph 2 shall be made unless he has been given that opportunity.

Requirement of consent of ^{F1}the tribunal

Textual Amendments

F1 Words in Sch. 13 para. 2 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. 402\(2\)](#)

- 2 (1) The consent of ^{F2}the tribunal] is required for the giving of a notice under paragraph 1.
- (2) Consent shall not be given unless the ^{F3}tribunal] is satisfied that in all the circumstances the officer is justified in proceeding under that paragraph.

^{F4}(3)

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Textual Amendments

- F2** Words in Sch. 13 para. 2(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. 402(3)**
- F3** Word in Sch. 13 para. 2(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. 402(4)**
- F4** Sch. 13 para. 2(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. 402(5)**

Contents of notice under this Part

- 3 (1) A notice under paragraph 1 must—
- (a) specify or describe the documents or information to which it relates, and
 - (b) require the documents to be delivered, or the information to be provided, within such time as may be specified in the notice.
- (2) The period specified for complying with the notice must not be less than 30 days after the date of the notice.

Summary of reasons to be given

- 4 (1) An officer who gives a notice under paragraph 1 must also give to the person to whom the notice applies a written summary of his reasons for applying for consent to the notice.
- (2) This does not require the disclosure of any information—
- (a) that would, or might, identify any person who has provided the officer with any information which he took into account in deciding whether to apply for consent, or
 - (b) that the [^{F5}tribunal] giving consent under paragraph 2 directs need not be disclosed.
- (3) [^{F6}The tribunal] shall not give any such direction unless ^{F7}... satisfied that the officer has reasonable grounds for believing that disclosure of the information in question would prejudice the assessment or collection of tax.

Textual Amendments

- F5** Word in Sch. 13 para. 4(2)(b) 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. 403(2)**
- F6** Words in Sch. 13 para. 4(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. 403(3)(a)**
- F7** Words in Sch. 13 para. 4(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. 403(3)(b)**

Power to take copies of documents etc

- 5 The person to whom documents are delivered, or to whom information is provided, in pursuance of a notice under paragraph 1 may take copies of them or of extracts from them.

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PART 2

POWER OF AUTHORISED OFFICER TO CALL FOR DOCUMENTS FROM THIRD PARTY

Notice requiring documents to be delivered or made available

- 6 (1) An authorised officer of the Board may for the purpose of enquiring into the tax liability of any person (“the taxpayer”) by notice in writing require any other person—
- (a) to deliver to the officer, or
 - (b) if the person to whom the notice is given so elects, to make available for inspection by a named officer of the Board,
- such documents as are in that person’s possession or power and (in the officer’s reasonable opinion) contain, or may contain, information relevant to any tax liability to which the taxpayer is or may be, or may have been, subject, or the amount of any such liability.
- (2) An “authorised officer of the Board” means an officer of the Board authorised for the purposes of this Part of this Schedule.
- (3) Before a person is given a notice under this paragraph he must be given a reasonable opportunity to deliver or make available the documents in question. No application for consent under paragraph 7 shall be made unless he has been given that opportunity.
- (4) The persons who may be treated as “the taxpayer” for the purposes of this paragraph include a company that has ceased to exist and an individual who has died.
- But a notice in relation to a taxpayer who has died may not be given more than six years after his death.

Requirement of consent of [^{F8}the tribunal]

Textual Amendments

F8 Words in Sch. 13 para. 7 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. 404(2)**

- 7 (1) The consent of [^{F9}the tribunal] is required for the giving of a notice under paragraph 6.
- (2) Consent shall not be given unless the [^{F10}tribunal] is satisfied that in all the circumstances the officer is justified in proceeding under that paragraph.

^{F11}(3)

Textual Amendments

F9 Words in Sch. 13 para. 7(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. 404(3)**

F10 Word in Sch. 13 para. 7(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. 404(4)**

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- F11** Sch. 13 para. 7(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. 404(5)**

Contents of notice under paragraph 6

- 8 (1) A notice under paragraph 6 must—
- (a) specify or describe the documents to which it relates, and
 - (b) require the documents to be delivered or made available within such time as may be specified in the notice.
- (2) The period specified for complying with the notice must not be less than 30 days after the date of the notice.
- (3) Subject to paragraph 11 (power to give notice in respect of unnamed taxpayer or taxpayers), a notice under this paragraph must name the taxpayer to whom it relates.

Copy of notice to be given to taxpayer

- 9 (1) Where a notice is given to a person under this paragraph, the officer shall give a copy of the notice to the taxpayer to whom it relates.
- (2) This paragraph does not apply if, on application by the officer, [^{F12}the tribunal] directs that it shall not apply.
- (3) Such a direction shall only be given if the [^{F13}tribunal] is satisfied that the officer has reasonable grounds for suspecting the taxpayer of fraud.

Textual Amendments

- F12** Words in Sch. 13 para. 9(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. 405(2)**
- F13** Word in Sch. 13 para. 9(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. 405(3)**

Summary of reasons to be given

- 10 (1) An officer who gives a notice under paragraph 6 must also give to the taxpayer concerned a written summary of his reasons for applying for consent to the notice.
- (2) This does not require the disclosure of any information—
- (a) that would, or might, identify any person who has provided the officer with any information which he took into account in deciding whether to apply for consent, or
 - (b) that the [^{F14}tribunal] giving consent under paragraph 7 directs need not be disclosed.
- (3) [^{F15}The tribunal] shall not give such a direction unless ^{F16}... satisfied that the officer has reasonable grounds for believing that disclosure of the information in question would prejudice the assessment or collection of tax.
- (4) This paragraph does not apply if under paragraph 9(2) a copy of the notice need not be given to the taxpayer.

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Textual Amendments

- F14** Word in Sch. 13 para. 10(2)(b) 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. 406(2)**
- F15** Words in Sch. 13 para. 10(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. 406(3)(a)**
- F16** Words in Sch. 13 para. 10(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. 406(3)(b)**

Power to give notice relating to unnamed taxpayer or taxpayers

- 11 (1) If, on an application made by an officer of the Board and authorised by an order of the Board, [^{F17}the tribunal gives consent], the officer may give such a notice as is mentioned in paragraph 6 without naming the taxpayer to whom the notice relates.
- (2) Consent shall not be given unless the [^{F18}tribunal] is satisfied—
- that the notice relates—
 - to a taxpayer whose identity is not known to the officer, or
 - to a class of taxpayers whose individual identities are not so known,
 - that there are reasonable grounds for believing that the taxpayer, or any of the class of taxpayers, to whom the notice relates may have failed or may fail to comply with any provision of this Part of this Act,
 - that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax, and
 - that the information that is likely to be contained in the documents to which the notice relates is not readily available from another source.
- (3) Before a person is given a notice under this paragraph he must be given a reasonable opportunity to deliver or make available the documents in question.
- No application for consent under sub-paragraph (1) shall be made unless he has been given that opportunity.
- (4) A person to whom there is given a notice under this paragraph may, by notice in writing given to the officer within 30 days after the date of the notice, object to it on the ground that it would be onerous for him to comply with it.
- (5) If the matter is not resolved by agreement it shall be referred to the [^{F19}tribunal] who may confirm, vary or cancel the notice.

Textual Amendments

- F17** Words in Sch. 13 para. 11(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. 407(2)**
- F18** Word in Sch. 13 para. 11(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. 407(3)**
- F19** Word in Sch. 13 para. 11(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. 407(4)**

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Contents of notice under paragraph 11

- 12 (1) A notice under paragraph 11 must—
- (a) specify or describe the documents to which it relates, and
 - (b) require the documents to be delivered or made available within such time as may be specified in the notice.
- (2) The period specified for complying with the notice must not be less than 30 days after the date of the notice.

Power to take copies of documents etc

- 13 The person to whom documents are delivered or made available in pursuance of a notice under this Part of this Schedule may take copies of them or of extracts from them.

PART 3

POWER TO CALL FOR PAPERS OF TAX ACCOUNTANT

Power to call for papers of tax accountant

- 14 (1) Where a person who has stood in relation to others as a tax accountant—
- (a) is convicted of an offence in relation to tax by or before a court in the United Kingdom, or
 - (b) has a penalty imposed on him under section 96 (assisting in preparation of incorrect return etc),
- an authorised officer of the Board may by notice in writing require that person to deliver to him such documents as are in his possession or power and (in the officer’s reasonable opinion) contain information relevant to any tax liability to which any client of his is or has been, or may be or have been, subject, or to the amount of any such liability.
- (2) An “authorised officer of the Board” means an officer of the Board authorised for the purposes of this Part of this Schedule.
- (3) Before a person is given a notice under this paragraph he must be given a reasonable opportunity to deliver the documents in question.
- No application for consent under paragraph 16 shall be made unless he has been given that opportunity.

When notice may be given

- 15 (1) No notice under paragraph 14 may be given for so long as an appeal is pending against the conviction or penalty.
- (2) For the purposes of sub-paragraph (1)—
- (a) an appeal is treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing it or, in the case of a conviction in Scotland, until the expiration of 28 days from the date of conviction; and

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- (b) references to an appeal include a further appeal, but in relation to the imposition of a penalty do not include an appeal against the amount of the penalty.
- (3) No notice may be given under paragraph 14 by reference to a person's conviction or the imposition on him of a penalty after the end of the period of twelve months beginning with the date on which the power to give such a notice was first exercisable in his case by virtue of that conviction or penalty.

Requirement of consent of appropriate judicial authority

- 16
- (1) The consent of the appropriate judicial authority is required for the giving of a notice under paragraph 14.
 - (2) Consent shall not be given unless that authority is satisfied that in all the circumstances the officer is justified in proceeding under that paragraph.
 - (3) The appropriate judicial authority is—
 - (a) in England and Wales, a circuit judge;
 - (b) in Scotland, a sheriff;
 - (c) in Northern Ireland, a county court judge.

Contents of notice

- 17
- (1) A notice under paragraph 14 must—
 - (a) specify or describe the documents to which it relates, and
 - (b) require the documents to be delivered within such time as may be specified in the notice.
 - (2) The period specified for complying with the notice must not be less than 30 days after the date of the notice.

Power to take copies of documents etc

- 18
- The officer to whom documents are delivered in pursuance of a notice under paragraph 14 may take copies of them or of extracts from them.

PART 4

RESTRICTIONS ON POWERS UNDER PARTS 1 TO 3

Introduction

- 19
- The provisions of Parts 1 to 3 of this Schedule have effect subject to the following restrictions.

Personal records or journalistic material

- 20
- (1) Parts 1 to 3 of this Schedule do not apply—
 - (a) to documents that are personal records or journalistic material, or
 - (b) to information contained in any personal records or journalistic material.

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(2) In sub-paragraph (1)—

“personal records” means personal records as defined in section 12 of the Police and Criminal Evidence Act 1984 (c. 60) or, in Northern Ireland, in Article 14 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)); and

“journalistic material” means journalistic material as defined in section 13 of that Act or, in Northern Ireland, in Article 15 of that Order.

Documents or information relating to pending appeal

- 21 (1) A notice under Part 1 of this Schedule does not oblige a person to deliver documents or provide information relating to the conduct of any pending appeal by him.
- (2) A notice under Part 2 of this Schedule does not oblige a person to deliver or make available documents relating to the conduct of a pending appeal by the taxpayer.
- (3) A notice under Part 3 of this Schedule does not oblige a person to deliver documents relating to the conduct of a pending appeal by the client.
- (4) An “appeal” here means an appeal relating to tax.

Barristers, advocates and solicitors

- 22 (1) A notice under Part 2 or 3 of this Schedule may not be given to a [F²⁰relevant lawyer] by an authorised officer of the Board but only by the Board.
- (2) Accordingly, in relation to a [F²⁰relevant lawyer], the references in those Parts to an authorised officer of the Board shall be read as references to the Board.
- [F²¹(3) “Relevant lawyer” means a barrister, advocate, solicitor or other professional legal adviser communications with whom may be the subject of a claim to legal privilege.
- (4) “Legal privilege” here has the same meaning as in paragraph 35 of this Schedule.]

Textual Amendments

F20 Words in Sch. 13 para. 22(1)(2) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\), s. 211\(2\), Sch. 21 para. 138\(a\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250, art. 2\(h\)](#)

F21 Sch. 13 para. 22(3)(4) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\), s. 211\(2\), Sch. 21 para. 138\(b\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250, art. 2\(h\)](#)

Provision of copies instead of original documents

- 23 (1) To comply with a notice under Part 1 or 3 of this Schedule, and as an alternative to delivering documents to comply with a notice under Part 2 of this Schedule, copies of documents may be delivered instead of originals.
- (2) The copies must be photographic or otherwise by way of facsimile.
- (3) If so required by the officer (or, as the case may be, the Board) in the case of any documents specified in the requirement, the originals must be made available for inspection by a named officer of the Board.
- (4) Failure to comply with such a requirement counts as failure to comply with the notice.

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Documents originating more than six years before date of notice

- 24 (1) A notice under Part 2 of this Schedule does not oblige a person to deliver or make available a document the whole of which originates more than six years before the date of the notice.
- (2) Sub-paragraph (1) does not apply where the notice is so expressed as to exclude the restrictions of that sub-paragraph.
- (3) A notice may only be so expressed if—
- (a) in the case of a notice given by an authorised officer, the [F22tribunal] giving consent to the notice has also given approval to the exclusion;
 - (b) in the case of a notice given by the Board, they have applied to [F23the tribunal] for, and obtained, that approval.
- (4) Approval shall only be given if the [F24tribunal] is satisfied, on application by the officer or the Board, that tax has been, or may have been, lost to the Crown owing to the fraud of the taxpayer.

Textual Amendments

- F22** Word in Sch. 13 para. 24(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. 408(2)**
- F23** Words in Sch. 13 para. 24(3)(b) 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. 408(3)**
- F24** Word in Sch. 13 para. 24(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. 408(4)**

Documents subject to legal privilege

- 25 (1) A notice under Part 2 or 3 of this Schedule does not oblige a [F25relevant lawyer (within the meaning of paragraph 22(3))] to deliver or make available, without his client’s consent, any document with respect to which a claim to legal privilege could be maintained.
- (2) “Legal privilege” here has the same meaning as in paragraph 35 of this Schedule.

Textual Amendments

- F25** Words in Sch. 13 para. 25 substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), **Sch. 21 para. 138(c)** (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), art. 2(h)

Documents belonging to auditor or tax adviser

- 26 (1) A notice under Part 2 of this Schedule—
- (a) does not oblige a person who has been appointed as auditor for the purposes of any enactment to deliver or make available documents that are his property and were created by him or on his behalf for or in connection with the performance of his functions under that enactment, and
 - (b) does not oblige a tax adviser to deliver or make available documents that are his property and consist of relevant communications (as defined below).

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- (2) “Relevant communications” means communications between the tax adviser and—
- (a) a person in relation to whose tax affairs he has been appointed, or
 - (b) any other tax adviser of such a person,
- the purpose of which is the giving or obtaining of advice about any of those tax affairs.
- (3) In this paragraph “tax adviser” means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that other person or by another tax adviser of his).
- (4) This paragraph has effect subject to paragraph 27 (documents belonging to auditor or tax adviser: information to be disclosed).

Documents belonging to auditor or tax adviser: information to be disclosed

- 27 (1) This paragraph applies where a notice is given under Part 2 of this Schedule relating to a document that falls within paragraph 26 (documents belonging to auditor or tax adviser) but contains—
- (a) information explaining any information, return or other document that the person to whom the notice is given has, as tax accountant, assisted any client of his in preparing for, or for delivering to, the officer or the Board, or
 - (b) in the case of a notice under paragraph 11 (notice in respect of unnamed taxpayer or taxpayers), information as to the identity or address of any taxpayer to whom the notice relates or any person who has acted on behalf of any such person,
- that has not otherwise been made available to the Inland Revenue.
- (2) For this purpose information is regarded as having been made available to the Inland Revenue if it is contained in some other document and—
- (a) that other document, or a copy of it, has been delivered to the officer or the Board, or
 - (b) that other document has been inspected by an officer of the Board.
- (3) Where this paragraph applies the person to whom the notice is given must, if he does not deliver the document or make it available for inspection in accordance with the notice—
- (a) deliver to the officer (or, as the case may be, the Board) a copy (photographic or otherwise by way of facsimile) of any parts of the document that contain such information as is mentioned in sub-paragraph (1), and
 - (b) if so required by the officer (or, as the case may be, the Board), make available for inspection by a named officer of the Board such parts of the original document as contain such information.
- (4) Failure to comply with any such requirement counts as a failure to comply with the notice.

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PART 5

POWERS OF BOARD TO CALL FOR DOCUMENTS OR INFORMATION

Notice requiring delivery of documents or provision of information

- 28 (1) The Board may by notice in writing require a person—
- (a) to deliver to a named officer of the Board such documents as are in the person's possession or power and (in the Board's reasonable opinion) contain, or may contain, information relevant to—
 - (i) any tax liability to which the person is or may be subject, or
 - (ii) the amount of any such liability, or
 - (b) to provide to a named officer of the Board such information as the Board may reasonably require as being relevant to, or to the amount of, any such liability.
- (2) Notice under this paragraph shall not be given unless the Board have reasonable grounds for believing—
- (a) that the person to whom it relates may have failed, or may fail, to comply with any provision of this Part of this Act, and
 - (b) that any such failure is likely to have led, or to lead, to serious prejudice to the proper assessment or collection of tax.

Contents of notice

- 29 A notice under paragraph 28 must—
- (a) specify or describe the documents or information to which it relates, and
 - (b) require the documents to be delivered or the information to be provided within such time as may be specified in the notice.

Power to take copies of documents etc

- 30 The person to whom documents are delivered, or to whom information is provided, in pursuance of a notice under paragraph 28 may take copies of them or of extracts from them.

Exclusion of personal records or journalistic material

- 31 (1) This Part of this Schedule does not apply to documents that are personal records or journalistic material.
- (2) In sub-paragraph (1)—
- “personal records” means personal records as defined in section 12 of the Police and Criminal Evidence Act 1984 (c. 60) or, in Northern Ireland, in Article 14 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)); and
 - “journalistic material” means journalistic material as defined in section 13 of that Act or, in Northern Ireland, in Article 15 of that Order.

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PART 6

ORDER OF JUDICIAL AUTHORITY FOR THE DELIVERY OF DOCUMENTS

Order for the delivery of documents

- 32 (1) The appropriate judicial authority may make an order under this paragraph if satisfied on information on oath given by an authorised officer of the Board—
- (a) that there is reasonable ground for suspecting that an offence involving serious fraud in connection with, or in relation to, stamp duty land tax has been or is about to be committed, and
 - (b) that documents that may be required as evidence for the purposes of any proceedings in respect of such an offence are or may be in the power or possession of any person.
- (2) An order under this paragraph is an order requiring the person who appears to the authority to have in his possession or power the documents specified or described in the order to deliver them to an officer of the Board within—
- (a) ten working days after the day on which notice of the order is served on him, or
 - (b) such shorter or longer period as may be specified in the order.
- For this purpose a “working day” means any day other than a Saturday, Sunday or public holiday.
- (3) The appropriate judicial authority is—
- (a) in England and Wales, a circuit judge;
 - (b) in Scotland, a sheriff;
 - (c) in Northern Ireland, a county court judge.
- (4) Where in Scotland the information relates to persons residing or having places of business at addresses situated in different sheriffdoms—
- (a) an application for an order may be made to the sheriff for the sheriffdom in which any of the addresses is situated, and
 - (b) where the sheriff makes an order in respect of a person residing or having a place of business in his own sheriffdom, he may also make orders in respect of all or any of the other persons to whom the information relates (whether or not they have an address within the sheriffdom).
- (5) In sub-paragraph (1) an “authorised officer of the Board” means an officer of the Board authorised by the Board for the purposes of this Part of this Schedule.
- (6) The Inland Revenue may make provision by regulations as to—
- (a) the procedures for approving in any particular case the decision to apply for an order under this Part of this Schedule, and
 - (b) the descriptions of officer by whom such approval may be given.

Notice of application for order

- 33 (1) A person is entitled—
- (a) to notice of the intention to apply for an order against him under paragraph 32, and
 - (b) to appear and be heard at the hearing of the application,

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unless the appropriate judicial authority is satisfied that this would seriously prejudice the investigation of the offence.

- (2) The Inland Revenue may make provision by regulations as to the notice to be given, the contents of the notice and the manner of giving it.

Obligations of person given notice of application

- 34 (1) A person who has been given notice of intention to apply for an order under paragraph 32 must not—
- (a) conceal, destroy, alter or dispose of any document to which the application relates, or
 - (b) disclose to any other person information or any other matter likely to prejudice the investigation of the offence to which the application relates.

This is subject to the following qualifications.

- (2) Sub-paragraph (1)(a) does not prevent anything being done—
- (a) with the leave of the appropriate judicial authority,
 - (b) with the written permission of an officer of the Board,
 - (c) after the application has been dismissed or abandoned, or
 - (d) after any order made on the application has been complied with.
- (3) Sub-paragraph (1)(b) does not prevent a professional legal adviser from disclosing any information or other matter—
- (a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client, or
 - (b) to any person—
 - (i) in contemplation or, or in connection with, legal proceedings, and
 - (ii) for the purposes of those proceedings.

This sub-paragraph does not apply in relation to any information or other matter that is disclosed with a view to furthering a criminal purpose.

- (4) A person who fails to comply with the obligation in sub-paragraph (1)(a) or (b) may be dealt with as if he had failed to comply with an order under paragraph 32.

Exception of items subject to legal privilege

- 35 (1) This Part of this Schedule does not apply to items subject to legal privilege.
- (2) Items “subject to legal privilege” means—
- (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
 - (b) communications between a professional legal adviser and his client or any person representing his client, or between such an adviser or his client or any such representative and any other person, made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings;
 - (c) items enclosed with or referred to in such communications and made—
 - (i) in connection with the giving of legal advice, or

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- (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,
when they are in possession of a person entitled to possession of them.
- (3) Items held with the intention of furthering a criminal purpose are not subject to legal privilege.

Resolution of disputes as to legal privilege

- 36 (1) The Inland Revenue may make provision by regulations for the purposes of this Part of this Schedule for the resolution of disputes as to whether a document, or part of a document, is an item subject to legal privilege.
- (2) The regulations may, in particular, make provision as to—
- (a) the custody of the document whilst its status is being decided,
 - (b) the appointment of an independent, legally qualified person to decide the matter,
 - (c) the procedures to be followed, and
 - (d) who is to meet the costs of the proceedings.

Complying with an order

- 37 (1) The Inland Revenue may make provision by regulations as to how a person is to comply with an order under paragraph 32.
- (2) The regulations may, in particular, make provision as to—
- (a) the officer of the Board to whom the documents are to be produced,
 - (b) the address to which the documents are to be taken or sent, and
 - (c) the circumstances in which sending documents by post complies with the order.
- (3) Where an order relates to a document in electronic or magnetic form, the order shall be taken to require the person to deliver the information recorded in the document in a form in which it is visible and legible.

Document not to be retained if photograph or copy sufficient

- 38 (1) Where a document delivered to an officer of the Board under this Part of this Schedule is of such a nature that a photograph or copy of it would be sufficient—
- (a) for use as evidence at a trial for an offence, or
 - (b) for forensic examination or for investigation in connection with an offence,
- it shall not be retained longer than is necessary to establish that fact and to obtain the photograph or copy.

Access to or supply of photograph or copy of documents delivered

- 39 (1) If a request for permission to be granted access to a document that—
- (a) has been delivered to an officer of the Board under this Part of this Schedule, and
 - (b) is retained by the Board for the purposes of investigating an offence,

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is made to the officer in overall charge of the investigation by a person who had custody or control of the document immediately before it was so delivered, or by someone acting on behalf of any such person, the officer shall allow the person who made the request access to it under the supervision of an officer of the Board.

- (2) If a request for a photograph or copy of any such document is made to the officer in overall charge of the investigation by a person who had custody or control of the document immediately before it was so delivered, or by someone acting on behalf of any such person, the officer shall—
 - (a) allow the person who made the request access to it under the supervision of an officer of the Board for the purpose of photographing or copying it, or
 - (b) photograph or copy it, or cause it to be photographed or copied.
- (3) Where a document is photographed or copied under sub-paragraph (2)(b) the photograph or copy shall be supplied to the person who made the request.
- (4) The photograph or copy shall be supplied within a reasonable time from the making of the request.
- (5) There is no duty under this paragraph to grant access to, or to supply a photograph or copy of, a document if the officer in overall charge of the investigation for the purposes of which it was delivered has reasonable grounds for believing that to do so would prejudice—
 - (a) that investigation,
 - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the document was delivered, or
 - (c) any criminal proceedings that may be brought as a result of—
 - (i) the investigation of which he is in charge, or
 - (ii) any such investigation as is mentioned in paragraph (b).
- (6) The references in this paragraph to the officer in overall charge of the investigation is to the person whose name and address are endorsed on the order concerned as being the officer so in charge.

Sanction for failure to comply with order

- 40 (1) A person who fails to comply with an order under this Part of this Schedule may be dealt with as if he had committed a contempt of the court.
- (2) For this purpose “the court” means—
 - (a) in relation to an order made by a circuit judge, the Crown Court;
 - (b) in relation to an order made by a sheriff, a sheriff court;
 - (c) in relation to an order made by a county court judge in Northern Ireland, a county court in Northern Ireland.

Notice of order, etc

- 41 The Inland Revenue may make provision by regulations as to the circumstances in which notice of an order under paragraph 32, or of an application for such an order, is to be treated as having been given.

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General provisions about regulations

42 Regulations under this Part of this Schedule may contain such incidental, supplementary and transitional provision as appears to the Inland Revenue to be appropriate.

^{F26}**PART 7**

ENTRY WITH WARRANT TO OBTAIN EVIDENCE OF OFFENCE

Textual Amendments

F26 Sch. 13 Pt. 7 repealed (8.11.2007) by Finance Act 2007 (c. 11), s. 84(4)(5), Sch. 22 para. 16, Sch. 27 Pt. 5(1); S.I. 2007/3166, art. 2(c)

Power to issue warrant

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Meaning of offence involving serious fraud

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Approval of application by Board

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Extent of powers conferred by warrant

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Exercise of powers conferred by warrant

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Items subject to legal privilege

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Procedure where documents etc are removed

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Document not to be retained if photograph or copy sufficient

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Access to or supply of photograph or copy of items removed

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Endorsement and custody etc of warrant

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PART 8

FALSIFICATION ETC OF DOCUMENTS

Falsification etc of documents

- 53 (1) A person commits an offence if he intentionally—
- (a) falsifies, conceals, destroys or otherwise disposes of, or
 - (b) causes or permits the falsification, concealment, destruction or disposal of, a document to which this paragraph applies.
- (2) This paragraph applies to any document that the person—
- (a) has been required by a notice under Part 1, 2, 3 or 5 of this Schedule, or an order under Part 6 of this Schedule, to deliver, or to deliver or make available for inspection, or
 - (b) has been given an opportunity in accordance with paragraph 1(3), 6(3), 11(3) or 14(3) to deliver, or to deliver or make available for inspection.
- (3) A person does not commit an offence under this paragraph if he acts—
- (a) with the written permission of [^{F27}the tribunal] or an officer of the Board,
 - (b) after the document has been delivered or, in a case within Part 2 of this Schedule, inspected, or
 - (c) after a copy has been delivered in accordance with paragraph 23(1) or 27(3) and the original has been inspected.
- (4) A person does not commit an offence under this paragraph as it applies by virtue of sub-paragraph (2)(a) if he acts after the end of the period of two years beginning with the date on which the notice is given or the order is made, unless before the end of that period an officer of the Board has notified the person, in writing, that the notice or order has not been complied with to his satisfaction.
- (5) A person does not commit an offence under this paragraph as it applies by virtue of sub-paragraph (2)(b) if he acts—
- (a) after the end of the period of six months beginning with the date on which an opportunity to deliver the document was given, or
 - (b) after an application for consent to a notice being given in relation to the document has been refused.
- (6) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or to both.

Textual Amendments

F27 Words in Sch. 13 para. 53(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. 409](#)

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