

SCHEDULE 2

Consequential Amendments and Supplemental Provisions – Secondary Legislation

Stamp Duty Reserve Tax Regulations 1986

19. For Part V (appeals and other proceedings) (as modified) substitute—

“47C Meaning of tribunal

In this Act “tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

49A Appeal: HMRC review or determination by tribunal

- (1) This section 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 section 49B),
 - (b) HMRC may notify the appellant of an offer to review the matter in question (see section 49C), or
 - (c) the appellant may notify the appeal to the tribunal (see section 49D).
- (3) See sections 49G and 49H for provision about notifying appeals to the tribunal after a review has been required by the appellant or offered by HMRC.

49B Appellant requires review by HMRC

- (1) Subsections (2) and (3) apply if the appellant notifies HMRC that the appellant requires HMRC to review the matter in question.
- (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 section 49E.
- (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 section in relation to the matter in question,
 - (b) HMRC have given a notification under section 49C in relation to the matter in question, or
 - (c) the appellant has notified the appeal to the tribunal under section 49D.
- (5) In this section “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.

49C HMRC offer review

- (1) Subsections (2) to (6) apply if HMRC notify the appellant of an offer to review the matter in question.

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(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 section 49E.

(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 conclusive for the purposes of Part IV of the Finance Act 1986, and where appropriate, Part II of Schedule II to the Finance Act 1999 against a person on whom the notice is served.

(6) Subsection (4) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under section 49H.

(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 section in relation to the matter in question,
- (b) the appellant has given a notification under section 49B in relation to the matter in question, or
- (c) the appellant has notified the appeal to the tribunal under section 49D.

(8) In this section "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.

49D Notifying appeal to the tribunal

(1) This section applies if notice of appeal has been given to HMRC.

(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) Subsections (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 section 49B, or
- (b) HMRC have given a notification under section 49C in relation to the matter in question.

(5) In a case falling within subsection (4)(a) or (b), the appellant may notify the appeal to the tribunal, but only if permitted to do so by section 49G or 49H.

49E Nature of review etc

(1) This section applies if HMRC are required by section 49B or 49C 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 subsection (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 subsection (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 time period specified in subsection (6), the conclusion of the review is deemed to be that HMRC’s view of the matter in question (see sections 49B(2) and 49C(2)) is upheld.
- (9) If subsection (8) applies, HMRC must notify the appellant of the conclusion which the review is treated as having reached.

49F Effect of conclusions of review

- (1) This section applies if HMRC give notice of the conclusions of a review (see section 49E(6) and (9)).
- (2) The conclusions are to be treated as conclusive for the purposes of Part IV of the Finance Act 1986, and where appropriate, Part II of Schedule II to the Finance Act 1999 against a person on whom the notice is served.
- (4) Subsection (2) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under section 49G.

49G Notifying appeal to tribunal after review concluded

- (1) This section applies if—
 - (a) HMRC have given notice of the conclusions of a review in accordance with section 49E, or
 - (b) the period specified in section 49E(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 section “post-review period” means—
 - (a) in a case falling within subsection (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 section 49E(6), or

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- (b) in a case falling within subsection (1)(b), the period that—
 - (i) begins with the day following the last day of the period specified in section 49E(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 section 49E(9).

49H Notifying appeal to tribunal after review offered but not accepted

- (1) This section applies if—
 - (a) HMRC have offered to review the matter in question (see section 49C), 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.
- (5) In this section “acceptance period” has the same meaning as in section 49C.

49I Interpretation of sections 49A to 49H

- (1) In sections 49A to 49H—
 - (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 sections 49A to 49H 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 section 49B(2);
 - (b) notification by HMRC of an offer of review (and of their view of the matter) under section 49C;
 - (c) notification of the conclusions of a review under section 49E(6); and
 - (d) notification of the deemed conclusions of a review under section 49E(9).
- (3) But if a notification falling within any of the paragraphs of subsection (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.”.

Commencement Information

II Sch. 2 para. 19 in force at 1.4.2009, see **art. 1(2)**

Changes to legislation:

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