

6. Omit section 111 (as modified).

Amendment of the Stamp Duty Reserve Tax Regulations 1986 coming into force on 1st April 2011

7. Amend the Stamp Duty Reserve Tax Regulations 1986 as follows.

8. In regulation 2 (interpretation)(a) after the definition of “the Board” insert—

““carelessly” has the same meaning as in section 118(5) and (6) of the Taxes Management Act 1970;

“deliberately” has the same meaning as in section 118(7) of the Taxes Management Act 1970;”.

9.—(1) Amend regulation 13 (underpayments)(b) as follows.

(2) In paragraph (2)—

(a) for “period of 6” substitute “period of 4”; and

(b) for “paragraph (3)” substitute “paragraphs (2A) and (3)”.

(3) After paragraph (2) insert—

“(2A) In any case of an underpayment of tax brought about carelessly by or on behalf of any person the period mentioned in paragraph (2) shall be the period of 6 years beginning with the date specified under paragraph (2).”.

(4) For paragraph (3) substitute—

“(3) In any case of an underpayment of tax brought about deliberately by or on behalf of any person the period mentioned in paragraph (2) shall be the period of 20 years beginning with the date specified under paragraph (2).

(4) Paragraph (5) applies to any case not falling within paragraph (2) where too little tax has been paid in respect of a relevant transaction or surrender provided that the case does not involve a loss of tax brought about deliberately by a person liable for the tax (or a person acting on behalf of such a person).

(5) Where this paragraph applies—

(a) no proceedings are to be brought for the recovery of the tax after the end of the period of 20 years beginning with the date on which the relevant transaction or surrender was made; and

(b) at the end of that period any liability for the tax is extinguished.”.

10. In regulation 14(2) (overpayments)(c) for “6” substitute “4”.

11.—(1) Amend regulation 18 (recovery of over-repayment of tax, etc)(d) as follows.

(2) In paragraph (2)—

(a) after “(3)” insert “and (3A)”; and

(b) for “6” substitute “4”.

(3) For paragraph (3) substitute—

“(3) In any case where a repayment is brought about carelessly the period mentioned in paragraph (2) shall be 6 years from the date specified in paragraph (2).

(3A) In any case where a repayment is brought about deliberately the period mentioned in paragraph (2) shall be 20 years from the date specified in paragraph (2).”.

(a) Regulation 2 has been amended but not relevantly.

(b) Regulation 13 has been amended by S.I. 1993/3110 and 1999/3264.

(c) Regulation 14 has been amended by S.I. 1999/3264.

(d) Regulation 18 has been amended by S.I. 1997/2430.

Transitional provision

12. In any case under regulation 13(2) or 18(2) of the Stamp Duty Reserve Tax Regulations 1986 where—

- (a) a relevant transaction or surrender took place before 1st April 2011; and
- (b) an underpayment or repayment was brought about by fraudulent or negligent conduct by or on behalf of any person;

the period in which a determination may be made is the earlier of the period of 6 years beginning when the fraudulent or negligent conduct comes to the knowledge of Her Majesty's Revenue and Customs or the period of 20 years provided in regulation 13(3) or 18(3A).

Tony Cunningham

Dave Watts

9th March 2010

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

The information and inspection powers in Schedule 36 to the Finance Act 2008 (c. 9) were extended by section 96 of the Finance Act 2009 (c. 10) to include nine further taxes, including stamp duty reserve tax ("SDRT") from 1st April 2010. These Regulations amend the Stamp Duty Reserve Tax Regulations 1986 (S.I. 1986/1711) ("SDRT regulations") to remove the information and inspection powers from those regulations and apply the new powers and time limits to SDRT.

Regulations 2 to 6 make amendments to take effect from 1st April 2010. These amendments revoke the information and inspection powers that currently apply to SDRT and replace the relevant provisions in the Taxes Management Act 1970 (c. 9), as modified, in the Schedule to the SDRT regulations.

Regulations 7 to 11 make amendments to take effect from 1st April 2011. These amendments introduce "careless" and "deliberate" payments or repayments to the SDRT regulations and replace the time limits. These amendments align SDRT with other taxes.

Regulation 12 contains a transitional provision, the effect of which is to ensure that SDRT transactions which took place before 1st April 2011 are not subject to both the old and new time limits.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is included in the impact assessment for the package containing the provisions commenced by this Order and is available at <http://www.hmrc.gov.uk/better-regulation/ia.htm>.

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