STATUTORY INSTRUMENTS

2004 No. 3208

TAXES

The Stamp Duty Land Tax (Land Transaction Returns) Regulations 2004

Made - - - -	*7th December 2004*
Laid before the House of Commons	*7th December 2004*
Coming into force - -	*8th December 2004*

The Treasury, in exercise of the powers conferred upon them by section 78(3) of the Finance Act 2003 (**a**), make the following Regulations:

Citation, commencement and effect

1. These Regulations may be cited as the Stamp Duty Land Tax (Land Transaction Returns) Regulations 2004, shall come into force on 8th December 2004, and have effect in relation to a land transaction the effective date of which is on or after 8th December 2004.

Amendments to Schedule 10 to the Finance Act 2003

2. Schedule 10 to the Finance Act 2003 (stamp duty land tax: returns, enquiries, assessments and appeals) shall be amended as follows.

3. In Part 1 (land transaction returns) —

(a) in paragraph 1, after sub-paragraph (1) insert —

"(1A) Sub-paragraph (1)(c) is subject to paragraphs 1A and 1B.";

(b) after paragraph 1 insert —

"*Declaration by agent*

1A.—(1) Where —

(a) the purchaser (or each of them) authorises an agent to complete a land transaction return,

(b) the purchaser (or each of them) makes a declaration that, with the exception of the effective date, the information provided in the return is to the best of his knowledge correct and complete, and

(c) the land transaction return includes a declaration by the agent that the effective date provided in the return is to the best of his knowledge correct,

the requirement in paragraph 1(1)(c) shall be deemed to be met.

(**a**) 2003 (c. 14)

(2) Sub-paragraph (1) applies only where the return is in a form specified by the Inland Revenue for the purposes of that sub-paragraph.

(3) Nothing in this paragraph affects the liability of the purchaser (or each of them) under this Part of this Act.

Declaration by the relevant Official Solicitor

1B.—(1) Where —

(a) the purchaser (or any of them) is a person under a disability,

(b) the Official Solicitor is acting for the purchaser (or any of them), and

(c) the land transaction return includes a declaration by the Official Solicitor that the return is to the best of his knowledge correct and complete,

the requirement in paragraph 1(1)(c) shall be deemed to be met.

(2) Sub-paragraph (1) applies only where the return is in a form specified by the Inland Revenue for the purposes of that sub-paragraph.

(3) Nothing in this paragraph affects the liability of the purchaser (or each of them) under this Part of this Act.

(4) In this paragraph "the Official Solicitor" means the Official Solicitor to the Supreme Court of England and Wales or the Official Solicitor to the Supreme Court of Northern Ireland (as the case requires).**"**

(c) in paragraph 6, after sub-paragraph (2) insert —

"(2A) If the effect of the amendment would be to entitle the purchaser to a repayment of tax, the notice must be accompanied by—

(a) the contract for the land transaction; and

(b) the instrument (if any) by which that transaction was effected.".

Enquiries into returns

4.—(1) Part 3 (enquiries into returns) is amended as follows.

(2) In paragraph 12 (enquiries)—

(a) at the end of sub-paragraph (2) (length of enquiry period) add—

"This is subject to the following qualification.**"**.

(b) after that sub-paragraph insert—

"(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) or 81A (return or further return in consequence of later linked transaction)(**a**), 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.**"**.

(**a**) Section 81A was inserted by paragraph 19(1) of Part 2 of Schedule 39 to the Finance Act 2004 (c. 12).

Appeals against Revenue decisions on tax

5.—(1) Part 7 (appeals against Revenue decisions on tax) is amended as follows.

(2) In paragraph 35—

(a) at the end of sub-paragraph (1)(c) omit "or";

(b) at the end of sub-paragraph (1)(d) add—

", or

(e) a Revenue determination under paragraph 25 (determination of tax chargeable if no return delivered).**"**.

(3) In paragraph 36 (notice of appeal) —

(a) after sub-paragraph (4) insert —

"(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.**"**; and

(b) after sub-paragraph (5) insert—

"(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,

(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 one for which a self-certificate is due (for example, because the land transaction is exempt from charge under Schedule 3).**"**.

Derek Twigg
Joan Ryan

7th December 2004 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Schedule 10 to the Finance Act 2003 (c. 14) which deals with land transaction returns for stamp duty land tax. Stamp duty land tax is charged under Part 4 of the Finance Act 2003 on land transactions. Under section 76 of that Act a purchaser must deliver to the Inland Revenue a land transaction return in respect of a notifiable land transaction. Schedule 10 to the Act makes provision for land transaction returns.

Regulation 1 provides for the citation, commencement and effect of these Regulations.

Regulation 2 introduces the amendments to Schedule 10.

Regulation 3 amends Part 1 of Schedule 10. Paragraph 1 to that Schedule makes provision as to the contents of the return and sub-paragraph (1)(c) of that paragraph provides that a land transaction return must include a declaration by the purchaser (or each of them) that the return is to the best of his knowledge correct and complete. A new paragraph 1A is inserted providing for the requirement in paragraph 1(1)(c) to be met in an alternative way; provided the purchaser (or each of them) declares that with the exception of the effective date, the information provided in the return is to the best of his knowledge correct and complete, it will be sufficient that the return contains a declaration by the authorised agent of the purchaser (or each of them) that the effective date provided in the return is to the best of his knowledge correct. The purchaser's declaration is not required to be made in the return. This alternative method of meeting the requirement in paragraph 1(1)(c) is permitted only where the return used is in a form specified by the Board of Inland Revenue for this purpose.

Secondly, regulation 3 inserts a new paragraph 1B, which deals with the making of land transaction returns by the Official Solicitor to the Supreme Court in England and Wales and the Official Solicitor to the Supreme Court in Northern Ireland, and also amends paragraph 6 to impose additional requirements to produce evidence where the effect of an amendment to a return would be to entitle the purchaser to a repayment of tax.

Regulation 4 amends Part 3 of Schedule 10 by making provision for enquiries in relation to an earlier land transaction return where an enquiry has been raised in respect of a further return required under section 80, 81 or 81A, and it appears to the Inland Revenue necessary to enquire into the earlier return. The amendment permits the giving of a notice in respect of the earlier return notwithstanding that the period referred to in paragraph 12(2) has elapsed.

Regulation 5 amends Part 7 of Schedule 10 by providing for an appeal against a Revenue determination under paragraph 25.

These Regulations do not impose new costs on business.

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