

TAXREP 15/04 STAMP DUTY LAND TAX (APPEALS) REGULATIONS 2004

Memorandum submitted in March 2004 by the Tax Faculty of the Institute of Chartered Accountants in England and Wales in response to an invitation to submit comments to the Department for Constitutional Affairs announced in February 2004

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STAMP DUTY LAND TAX (APPEALS) REGULATIONS 2004

INTRODUCTION

1. We welcome the opportunity to comment on the draft Stamp Duty Land Tax (Appeals) Regulations 2004.

WHO WE ARE

2. The Institute of Chartered Accountants in England and Wales ('ICAEW') is the largest accountancy body in Europe, with more than 125,000 members. Three thousand new members qualify each year. The prestigious qualifications offered by the Institute are recognised around the world and allow members to call themselves Chartered Accountants and to use the designatory letters ACA or FCA.
3. The Institute operates under a Royal Charter, working in the public interest. It is regulated by the Department of Trade and Industry through the Accountancy Foundation. Its primary objectives are to educate and train Chartered Accountants, to maintain high standards for professional conduct among members, to provide services to its members and students, and to advance the theory and practice of accountancy (which includes taxation).
4. The Tax Faculty is the focus for tax within the Institute. It is responsible for tax representations on behalf of the Institute as a whole and it also provides various tax services including the monthly newsletter 'TAXline' to more than 11,000 members of the ICAEW who pay an additional subscription.

GENERAL COMMENTS

5. We are disappointed that the style and complexity of these Regulations do not reflect the style of the Tax Law Rewrite project, so that the result is unnecessarily opaque legislation. The style adopted appears to be a mixture of rewriting existing rules which apply to other taxes, coupled with extensive amendments to other provisions. The result is that it is far from easy to compare these appeal rules to those which apply for other taxes.
6. We believe that priority should be given as a matter of urgency to rewriting the rules and regulations on tax appeals into one comprehensive code.
7. We support the alignment of the powers in Regulation 10 of the General Commissioners (Jurisdiction and Procedure) Regulations 1994 (SI 1812/1994) with Regulation 10 of the Special Commissioners (Jurisdiction and Procedure) Regulations 1994 (SI 1811/1994) to enable the General Commissioners to serve a notice on the Revenue for information. Our understanding is that this amendment applies for all taxes covered by these regulations and not just Stamp Duty Land Tax but we would welcome confirmation.

SPECIFIC COMMENTS

8. Regulation 5 deals with the election to bring an appeal before the Special Commissioners but the requirements for giving of notice are set out in Regulation 22.. The notice requirements set out in paragraph 22 should be set out in paragraph 5.
9. Regulation 14(3) which deals with elections made by the Inland Revenue does not include a time limit. We appreciate that this mirrors the existing provisions set out in Schedule 3 to the Taxes Management Act 1970. However, we think that it would be reasonable to impose a time limit upon the Inland Revenue. We suggest that this should be 30 days after the commencement of proceedings or 30 days after the Revenue receives the notice of appeal.

AM
15.3.04