

Conveyance or transfer in contemplation of sale. FA1978 s34(1) to (4) 33.—(1) Subject to this section, any instrument whereby property is conveyed or transferred to any person in contemplation of a sale of that property shall be treated for the purposes of this Act as a conveyance or transfer on sale of that property for a consideration equal to the value of that property.

(2) If on a claim made to the Commissioners not later than 6 years after the making or execution of an instrument chargeable with duty in accordance with subsection (1), it is shown to their satisfaction—

(a) that the sale in contemplation of which the instrument was made or executed has not taken place and the property has been reconveyed or retransferred to the person from whom it was conveyed or transferred or to a person to whom his or her rights have been transmitted on death or bankruptcy, or

(b) that the sale has taken place for a consideration which is less than the value in respect of which duty was paid on the instrument by virtue of this section,

the Commissioners shall repay the duty paid by virtue of this section, in a case falling under paragraph (a), so far as it exceeds the stamp duty which would have been payable apart from this section and, in a case falling under paragraph (b), so far as it exceeds the stamp duty which would have been payable if the instrument had been stamped in accordance with subsection (1) in respect of a value equal to the consideration in question.

(3) In a case to which subsection (2)(b) relates, duty shall not be repayable if it appears to the Commissioners that the circumstances are such that a conveyance or transfer on the sale in question would have been chargeable with duty under section 30 by virtue of subsection (4) of that section.

(4) No instrument chargeable with duty in accordance with subsection (1) shall be deemed to be duly stamped unless the Commissioners have been required to express their opinion on the instrument under section 20 and have expressed their opinion on the instrument in accordance with that section.

(5) This section shall apply whether or not an instrument conveys or transfers other property in addition to the property in contemplation of the sale of which it is made or executed, but this section shall not affect the stamp duty chargeable on the instrument in respect of that other property.