HMRC - STSM142140 - Stamp Duty And SDRT Administration: SDRT Administration: SDRT Determinations

SDRT Determinations

A notice of determination is the mechanism by which HMRC may recover tax (or over-repaid tax). Regulation 6 of SI 1986/1711 gives HMRC the power to give notice in writing to a person or persons stating that it has determined the matters specified in the notice. A notice may be given to anyone that appears to HMRC to be the accountable person, operator, liable person or claimant in relation to a relevant transaction or surrender (or a claim in connection with a relevant transaction or surrender).

HMRC may not recover tax or over-repaid tax unless the amount has been agreed in writing or determined by a notice of determination (regulations 12 and 18). There is a 4 year time limit for making such a determination which runs from the later of the date payment was made and accepted and the relevant accountable date (regulations 13 and 18). This is extended to 6 years where the underpayment or over-repayment was brought about carelessly and to 20 years where it was brought about deliberately.

An appeal against a notice of determination should be made within 30 days of the service of the notice (regulation 8). Appeals generally lie to the tax tribunal although an appeal can be notified the appeal to the High Court either by agreement or (if the High Court agrees) by application to the High Court by the appellant. If an appeal has been lodged against a notice, then legal proceedings to recover the tax can be taken only for such amounts as have been agreed (or amounts determined in a further notice to be a part not in dispute) - regulation 12. This restriction on recovery proceedings only applies for an appeal under regulation 8 and not for any further appeal.

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