

**76AU. Reassessment where deeming provision applied**

- (1) If, on the application of a person who has paid, or is liable to pay, duty on a Part IIIBA statement, the Commissioner is satisfied that —
- (a) but for the operation of a deeming provision in relation to a contract or agreement —
    - (i) the duty would not have been chargeable; or
    - (ii) the amount of the duty would have been less;and
  - (b) the contract or agreement has been —
    - (i) if a deeming-in provision applied — rescinded, annulled or otherwise terminated without being completed; or
    - (ii) if a deeming-out provision applied — completed,

the duty chargeable on the Part IIIBA statement is the duty that would have been payable had the deeming provision not applied to the contract or agreement.

- (2) In a case where a deeming-in provision applied, subsection (1) does not apply if the Commissioner is not satisfied that the rescission, annulment or other termination of the contract or agreement was not part of a scheme or arrangement under which the object of the contract or agreement has been or may be achieved in another way.
- (3) This section is in addition to the provisions of the *Taxation Administration Act 2003* relating to the reassessment of duty and does not affect the operation of those provisions.
- (4) In this section —

**“deeming-in provision”** means section 76AI(5)(a), 76AI(6)(a), 76AP(5)(a), 76AP(6)(a), 76ATB(7)(a), 76ATB(8)(a), 76ATI(7)(a) or 76ATI(8)(a);

**“deeming-out provision”** means section 76AI(5)(b), 76AI(6)(b), 76AP(5)(b), 76AP(6)(b), 76ATB(7)(b), 76ATB(8)(b), 76ATI(7)(b) or 76ATI(8)(b);

**“deeming provision”** means a deeming-in provision or a deeming-out provision.

[Section 76AU inserted by No. 2 of 2003 s. 99; amended by No. 11 of 2004 s. 30.]