

**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 III BA 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(i) if a deeming-in provision applied — rescinded, annulled or otherwise terminated without being completed; or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 III BA 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) or 76AP(6)(a);

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

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

[Section 76AU inserted by No. 2 of 2003 s. 99.]