



# Taxes Management Act 1970

## 1970 CHAPTER 9

An Act to consolidate certain of the enactments relating to income tax, capital gains tax and corporation tax, including certain enactments relating also to other taxes. [12th March 1970]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### ADMINISTRATION

#### **1 Taxes under care and management of the Board**

- (1) Income tax, corporation tax and capital gains tax shall be under the care and management of the Commissioners of Inland Revenue (in this Act referred to as " the Board "), and the definition of " inland revenue " in section 39 of the Inland Revenue Regulation Act 1890 shall have effect accordingly.
- (2) The Board shall appoint inspectors and collectors of taxes who shall act under the direction of the Board.
- (3) Any legal proceedings or administrative act relating to any tax begun by one inspector or collector may be continued by another inspector or, as the case may be, another collector; and any inspector or collector may act for any division or other area.

#### **2 General Commissioners**

- (1) For the purpose of exercising such powers relating to appeals and other matters as are conferred on them by the Taxes Acts there shall be " Commissioners for the general purposes of the income tax " (in the Taxes Acts referred to as " General Commissioners

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- ) who shall act for the same separate areas in Great Britain as heretofore (in the Taxes Acts referred to as "divisions").
- (2) General Commissioners for divisions in England and Wales shall be appointed by, and shall hold office during the pleasure of, the Lord Chancellor.
  - (3) General Commissioners for divisions in Scotland shall be appointed by, and shall hold office during the pleasure of, the appropriate local authority, but any such General Commissioner shall not be dismissed except with the consent in writing of the Lord President of the Court of Session. For the purposes of this subsection the appropriate local authority is—
    - (a) in the case of a division wholly within a county or a county of a city, the county council or the town council of the county of the city, as the case may be, and
    - (b) in the case of any other division, such county council or town council of a county of a city as the Secretary of State may from time to time determine,and any appointments under this subsection shall be made at the request of the Board.
  - (4) In Scotland a sheriff shall be ex officio a General Commissioner for any division wholly or partly within his sheriffdom and a salaried sheriff-substitute shall be ex officio a General Commissioner for any division wholly or partly within his district.
  - (5) General Commissioners shall be entitled to receive out of moneys provided by Parliament payments by way of travelling allowance or subsistence allowance of such amounts and in such circumstances as may be determined by the Treasury.
  - (6) The Lord Chancellor or, in Scotland, the Secretary of State may by order create a new division or abolish an existing division or alter in any other respect the divisions or their boundaries ; and any such order may contain such consequential and transitional provisions as the Lord Chancellor or the Secretary of State, as the case may be, thinks fit and may be revoked or varied by a subsequent order under this subsection. Subject to the preceding provisions of this subsection, the areas of the divisions shall be the same as immediately before the passing of this Act.
  - (7) A General Commissioner shall not continue in office after he attains the age of seventy-five years.
  - (8) The validity of any proceedings of General Commissioners shall not be affected by a defect in the appointment of any of them, or by a failure to observe the requirements of the last preceding subsection.

### **3 Clerk to General Commissioners**

- (1) The General Commissioners for every division shall appoint a clerk and, if they think it necessary, an assistant clerk, and persons appointed under this subsection shall hold office during the pleasure of the Commissioners and act under their direction.
- (2) A clerk shall be paid such remuneration in respect of his services as the Board may with the consent of the Minister for the Civil Service determine.
- (3) The Board may, in such cases as they may in their discretion determine, pay to or in respect of any full-time clerk such pension or gratuity, or make such provision for the payment of pension or gratuity to or in respect of any full-time clerk, as they may with the consent of the Minister for the Civil Service determine. In this subsection " full-time clerk " means a clerk as regards whom the Board are satisfied that he is required to devote substantially the whole of his time to the duties of his office.

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- (4) Without prejudice to the power of any General Commissioners to dismiss their clerk or assistant clerk, the Lord Chancellor or, in Scotland, the Secretary of State may, after consulting the General Commissioners for any division, dismiss their clerk or assistant clerk.
- (5) A clerk or assistant clerk shall not continue in office after he has attained the age of seventy years unless the General Commissioners for whom he acts think it desirable in the public interest and extend his term of office; and the term shall not be extended beyond the age of seventy-five years.

#### **4 Special Commissioners**

- (1) Such persons as the Treasury may by warrant from time to time appoint shall be " Commissioners for the special purposes of the Income Tax Acts " (in the Taxes Acts referred to as " Special Commissioners "), and shall, by virtue of their appointment, and without other qualification, have authority to execute such powers, and to perform such duties, as are assigned to them by the Taxes Acts.
- (2) The Treasury shall cause an account of all appointments of Special Commissioners with salaries to be laid before Parliament within twenty days of their appointment, or, if Parliament be not then sitting, within twenty days after the next meeting of Parliament.
- (3) Special Commissioners shall be allowed such sums in respect of salary and incidental expenses as the Minister for the Civil Service directs.

#### **5 General and Special Commissioners**

- (1) No General Commissioner or Special Commissioner shall act as such in relation to any matter in which he has a personal interest, or is interested on behalf of another person, except with the express consent of the parties to the proceedings.
- (2) Every General Commissioner or Special Commissioner shall be discharged from serving on juries in the county wherein he dwells:

Provided that this subsection shall not affect section 2(1) of the Juries Act 1922 (persons named in the jurors' book to serve notwithstanding that they might have claimed exemption).

#### **6 Declarations on taking office**

- (1) Every person who is appointed to be—
  - (a) a General Commissioner or a Special Commissioner, or
  - (b) a member of the Board of Referees appointed under section 26(7) of the Capital Allowances Act 1968, or
  - (c) a member of the tribunal established under section 463 of the principal Act (cancellation of tax advantages),shall make a declaration in the form set out in Part I of Schedule 1 to this Act before another person holding the same office, or before a General Commissioner.
- (2) Every person who is appointed to be a clerk or assistant clerk to the General Commissioners for any division, or who assists any such clerk, shall make a declaration in the form set out in Part I of Schedule 1 to this Act. A clerk or assistant clerk shall make the declaration before a General Commissioner for the division, and

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a person who assists any such clerk shall make the declaration before such a General Commissioner or the clerk.

- (3) Every person who is appointed to be a member of the Board shall make a declaration in the form set out in Part II of Schedule 1 to this Act before another member of the Board.
- (4) Every person who is appointed an inspector or collector, or who is appointed by the Board to serve in any other capacity, shall make a declaration in the form set out in Part III of Schedule 1 to this Act before such person as the Board may direct.
- (5) A declaration under this section shall be made as soon as may be after first appointment to the office in question.

## PART II

### RETURNS OF INCOME AND GAINS

#### *Income tax*

#### **7 Notice of liability to tax**

- (1) Every person who is chargeable to income tax for any year of assessment and who has not delivered a return of his profits or gains or his total income for that year in accordance with the provisions of the Income Tax Acts shall, not later than one year after the end of that year of assessment, give notice that he is so chargeable.
- (2) A notice under this section shall be given to the inspector or, in the case of an individual who is not chargeable to income tax other than surtax, either to the inspector or to the Board.
- (3) If any person fails to give a notice which he is required to give under this section he shall be liable to a penalty not exceeding £100.

#### **8 Return of income**

- (1) Any person may be required by a notice given to him by an inspector or other officer of the Board to deliver to the officer within the time limited by the notice a return of his income, computed in accordance with the Income Tax Acts and specifying each separate source of income and the amount from each source.
- (2) Any person may be required by a notice given to him by an inspector or other officer of the Board to deliver to the officer within the time limited by the notice a return of income which is not his income, but in respect of which he is chargeable in any capacity specified in the notice, computed in accordance with the Income Tax Acts and specifying each separate source of income and the amount from each source.
- (3) A notice under this section may require a return of income for a specified year of assessment, or a return which is, so far as relates to certain sources of income, a return of income for one year of assessment, and, so far as relates to the remaining sources of income, a return of income for the preceding year of assessment.
- (4) So far as a notice under this section relates to income chargeable under Case I or Case II of Schedule D, or any other income which may be computed by reference to the

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profits or gains of a period which is not a year of assessment, the notice may require a return of profits or gains (computed in accordance with the Income Tax Acts) for a period for which accounts are made up or a period by reference to which income is to be computed.

- (5) A notice under this section may require an individual to deliver a return of all his income computed in accordance with the provisions of the Income Tax Acts relating to surtax, or may require a return of his income which will afford the requisite information for computing his income both in accordance with the provisions of the Income Tax Acts relating to surtax and in accordance with the provisions of those Acts relating to tax at the standard rate.
- (6) For the purpose of charging surtax a notice under this section may require a person liable to be charged to tax at the standard rate on the income of any incapacitated, deceased or non-resident person under Part VII or Part VIII of this Act to deliver a return of all the income of the incapacitated, deceased or non-resident person, computed in accordance with the provisions of the Income Tax Acts relating to surtax, and made to the best of his knowledge.
- (7) Every return under this section shall include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.
- (8) In this section references to returns of income computed in accordance with the Income Tax Acts are references to returns which include, as well as all particulars relating to income from which tax has not been deducted, all particulars relating to income from which tax has been deducted before receipt, and relating to charges on income, which are required for computing total income for the purposes of the provisions of the Income Tax Acts relating to surtax or, as the case may require, to tax at the standard rate; and in this subsection the expression "charges on income" means amounts which fall to be deducted in computing total income for either or both of those purposes, or which would fall to be so deducted if the person to whose income the return relates were an individual.

## **9 Partnership return**

- (1) Where a trade or profession is carried on by two or more persons jointly, the precedent partner, that is to say, the partner who, being resident in the United Kingdom—
  - (a) is first named in the agreement of partnership, or
  - (b) if there is no agreement, is named singly, or with precedence to the other partners in the usual name of the firm, or
  - (c) is the precedent acting partner, if the person named with precedence is not an acting partner,shall make and deliver a return under section 8 above of the profits or gains of the trade or profession, on behalf of himself and the other partners, and declare in the return the names and residences of the other partners.
- (2) Where no partner is resident in the United Kingdom, the return shall be made and delivered by the agent, manager or factor of the firm resident in the United Kingdom.
- (3) Any other partner may, if a return has been delivered as aforesaid, notify the fact that he is a partner together with his name and place of abode, without returning the amount of tax payable in respect of the partnership, but an inspector may, if he thinks fit, require from every partner a like return, and the like information and evidence, as he is entitled to require from the precedent partner.

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- (4) This section shall apply to income chargeable to income tax in accordance with section 155 of the principal Act (partnerships involving companies), matters relevant only to corporation tax being omitted from the return, and the obligation to make and deliver the return being that of the individual partner or partners.
- (5) Any return of the profits or gains of a partnership delivered under this section shall include, with respect to any disposal of partnership property during the year of assessment to which the return relates, the like particulars as if the partnership were chargeable under Case VII of Schedule D in respect of any gain accruing on the disposal.

### *Corporation tax*

#### **10 Notice of liability to corporation tax**

- (1) Every company which is chargeable to corporation tax for any accounting period and which has not made a return of its profits for that accounting period shall not later than one year after the end of that accounting period give notice to the inspector that it is so chargeable.
- (2) If a company fails to give a notice which it is required to give under this section the company shall be liable to a penalty not exceeding £100.

#### **11 Return of profits**

- (1) A company may be required by a notice served on the company by an inspector or other officer of the Board to deliver to the officer within the time limited by the notice a return of the profits of the company computed in accordance with the Corporation Tax Acts—
  - (a) specifying the income taken into account in computing those profits, with the amount from each source,
  - (b) giving particulars of all disposals giving rise to chargeable gains or allowable losses under the provisions of Part III of the Finance Act 1965 and the Corporation Tax Acts and particulars of those chargeable gains or allowable losses, and
  - (c) giving particulars of all charges on income to be deducted against those profits for the purpose of assessment to corporation tax.
- (2) A notice under this section may require a return of profits arising in any period during which the company was within the charge to corporation tax.
- (3) Every return under this section shall include a declaration to the effect that the return is correct and complete.
- (4) A return under this section which includes profits which are payments on which the company has borne income tax by deduction shall specify the amount of income tax so borne.
- (5) A notice under this section may require the inclusion in the return of particulars of management expenses, capital allowances and balancing charges which have been taken into account in arriving at the profits included in the return.

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## Capital gains

### 12 Information about chargeable gains

- (1) Sections 7 and 8 of this Act shall apply in relation to capital gains tax as they apply in relation to income tax at the standard rate, and subject to any necessary modifications.
- (2) A notice under section 8 or section 11 of this Act may require particulars of any assets acquired by the person on whom the notice was served (or if the notice relates to income or chargeable gains of some other person, of any assets acquired by that other person) in the period specified in the notice (being a period beginning not earlier than 6th April 1965) but excluding—
  - (a) any assets exempted by section 27 of the Finance Act 1965 (miscellaneous exemptions), without subsection (2) of that section, or
  - (b) unless the amount or value of the consideration for its acquisition exceeded £1,000, any asset which is tangible movable property and is not within the exceptions in section 30(6) of the said Act (terminal markets and currency), or
  - (c) any assets acquired as trading stock.
- (3) The particulars required under this section may include particulars of the person from whom the asset was acquired, and of the consideration for the acquisition.
- (4) A return of income of a partnership under section 9 of this Act shall include—
  - (a) with respect to any disposal of partnership property during a period to which any part of the return relates, the like particulars as if the partnership were liable to tax on any chargeable gain accruing on the disposal, and
  - (b) with respect to any acquisition of partnership property, the particulars required under subsection (2) above.
- (5) In this section "trading stock" has the meaning given by section 137(4) of the principal Act.

## PART III

### OTHER RETURNS AND INFORMATION

### 13 Persons in receipt of taxable income belonging to others

- (1) Every person who, in whatever capacity, is in receipt of any money or value, or of any profits or gains from any of the sources mentioned in the Income Tax Acts, of or belonging to another person who is chargeable to income tax in respect thereof, or who would be so chargeable if he were resident in the United Kingdom and not an incapacitated person, shall, whenever required to do so by a notice given to him by an inspector, prepare and deliver, within the time mentioned in the notice, a return in the prescribed form, signed by him, containing—
  - (a) a statement of all such money, value, profits or gains, and
  - (b) the name and address of every person to whom the same belong, and
  - (c) a declaration whether every such person is of full age, or is a married woman, or is resident in the United Kingdom or is an incapacitated person.

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- (2) If any person described above is acting jointly with any other person, he shall, in like manner, deliver a return of the names and addresses of all persons joined with him at the time of delivery of the return mentioned in subsection (1) above.

#### **14 Return of lodgers and inmates**

Every person, when required to do so by a notice served on him by an inspector, shall, within the time limited by the notice, prepare and deliver to the inspector a return, in writing, containing to the best of his belief—

- (a) the name of every lodger or inmate resident in his dwelling-house, and
- (b) the name and ordinary place of residence of any such lodger or inmate who has any ordinary place of residence elsewhere at which he can be assessed and who desires to be assessed at such ordinary place of residence.

#### **15 Return of employees, etc.**

- (1) Every employer, when required to do so by notice Return of from an inspector, shall, within the time limited by the notice, employees, prepare and deliver to the inspector a return containing—

- (a) the names and places of residence of all persons employed by him, and
- (b) the payments made to those persons in respect of that employment, except persons who are not employed in any other employment and whose remuneration in the employment for the year does not exceed £110 or, if the employment is for less than the year, a proportionately reduced amount:

Provided that, notwithstanding anything in section 98 of this Act, an employer shall not be liable to any penalty for omitting from any such return the name or place of residence of any person employed by him and not employed in any other employment, if it appears to the General Commissioners, on inquiry before them, that that person is entitled to total exemption from tax. The references in this subsection to payments made to persons in respect of their employment and to the remuneration of persons in their employment shall be deemed to include references—

- (i) to any payments made to employed persons in respect of expenses, and
  - (ii) to any payments made on behalf of employed persons and not repaid, and
  - (iii) to any payments made to the employees in a trade or business for services rendered in connection with the trade or business, whether the services were rendered in the course of their employment or not.
- (2) Any director of a company, or person engaged in the management of a company, shall be deemed for the purposes of this section to be a person employed.
- (3) Where the employer is a body of persons, the secretary of the body, or other officer (by whatever name called) performing the duties of secretary, shall be deemed to be the employer for the purposes of this section:

Provided that where the employer is a body corporate, that body corporate shall be liable to a penalty for failure to deliver a return in pursuance of this section as well as the secretary or other officer.



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- (4) In this section " director " has the same meaning as in Chapter II of Part VIII of the principal Act

## **16 Fees, commissions, etc.**

- (1) Every person carrying on a trade or business shall, if required to do so by notice from an inspector, make and deliver to the inspector a return of all payments of any kind specified in the notice made during a period so specified, being—
- (a) payments made in the course of the trade or business, or of such part of the trade or business as may be specified in the notice, for services rendered by persons not employed in the trade or business, or
  - (b) payments for services rendered in connection with the formation, acquisition, development or disposal of the trade or business, or any part of it, by persons not employed in the trade or business, or
  - (c) periodical or lump sum payments made in respect of any copyright.
- (2) Every body of persons carrying on any activity which does not constitute a trade or business shall, if required to do so by notice from an inspector, make and deliver to the inspector a return of all payments of a kind specified in the notice made during a period so specified, being—
- (a) payments made in the course of carrying on the activity, or such part of the activity as may be specified in the notice, for services rendered by persons not employed by the said body of persons, or
  - (b) periodical or lump sum payments made in respect of any copyright.
- (3) A return required under either of the preceding subsections shall, if the trade or business or other activity is carried on by an unincorporated body of persons (other than a company), be made and delivered by the person who is or performs the duties of secretary of the body, and the notice shall be framed accordingly.
- (4) A return under the preceding provisions of this section shall give the name of the person to whom each payment was made, the amount of the payment and such other particulars (including particulars as to the services or rights in respect of which the payment was made, the period over which any services were rendered and any business name and any business or home address of the person to whom payment was made) as may be specified in the notice.
- (5) No person shall be required under the preceding provisions of this section to include in a return—
- (a) particulars of any payment from which income tax is deductible, or
  - (b) particulars of payments made to any one person where the total of the payments to that person which would otherwise fall to be included in the return does not exceed £15, or
  - (c) particulars of any payment made in a year of assessment ending more than three years before the service of the notice requiring him to make the return.
- (6) A person who fails to deliver, within the time limited in any notice served on him under this section, a true and correct return which he is required by the notice to deliver shall be liable to a penalty not exceeding £50 and, after judgment has been given for that penalty, to a further penalty of the like amount for every day during which the failure continues.
- (7) In this section—

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- (a) references to payments for services include references to payments in the nature of commission of any kind and references to payments in respect of expenses incurred in connection with the rendering of services, and
- (b) references to the making of payments include references to the giving of any valuable consideration,

and the requirement imposed by subsection (4) above to state the amount of a payment shall, in relation to any consideration given otherwise than in the form of money, be construed as a requirement to give particulars of the consideration.

## **17 Interest paid or credited by banks etc. without deduction of income tax**

- (1) Every person carrying on a trade or business who, in the ordinary course of the operations thereof, receives or retains money in such circumstances that interest becomes payable thereon which is paid or credited without deduction of income tax, and, in particular, every person carrying on the trade or business of banking, shall, if required to do so by notice from an inspector, make and deliver to the inspector, within the time specified in the notice, a return of all interest paid or credited by him as aforesaid during a year specified in the notice in the course of his trade or business or any such part of his trade or business as may be so specified, giving the names and addresses of the persons to whom the interest was paid or credited and stating, in each case, the amount of the interest:

Provided that—

- (a) no interest paid or credited to any person shall be required to be included in any such return if the total amount of the interest paid or credited to that person which would otherwise have fallen to be included in the return does not exceed £15, and
  - (b) the year specified in a notice under this subsection shall not be a year ending more than three years before the date of the service of the notice.
- (2) Without prejudice to the generality of so much of subsection (1) above as enables different notices to be served thereunder in relation to different parts of a trade or business, separate notices may be served under that subsection as respects the transactions carried on at any branch or branches respectively specified in the notices, and any such separate notice shall, if served on the manager or other person in charge of the branch or branches in question, be deemed to have been duly served on the person carrying on the trade or business; and where such a separate notice is so served as respects the transactions carried on at any branch or branches, any notice subsequently served under the said subsection (1) on the person carrying on the trade or business shall not be deemed to extend to any transaction to which the said separate notice extends.
- (3) This section shall, with any necessary adaptations, apply in relation to the National Savings Bank as if it were a trade or business carried on by the Director of Savings.
- (4) This section shall apply only to money received or retained in the United Kingdom, and if a person to whom any interest is paid or credited in respect of any money received or retained in the United Kingdom by notice in writing served on the person paying or crediting the interest—
- (a) declares that the person who was beneficially entitled to that interest when it was paid or credited was not then ordinarily resident in the United Kingdom, and
  - (b) requests that the interest shall not be included in any return under this section,

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the person paying or crediting the interest shall not be required to include that interest in any such return.

## **18 Interest paid without deduction of income tax**

- (1) Any person by whom any interest is paid in the year 1969-70 or any subsequent year of assessment without deduction of income tax shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice—
  - (a) the name and address of the person to whom the interest has been paid or on whose behalf the interest has been received, and
  - (b) the amount of the interest so paid or received,and any person who receives any such interest on behalf of another person shall on being so required furnish to the inspector the name and address of the person on whose behalf the interest has been received, and its amount.
- (2) The persons to whom this section applies include any officer in any public office or in any department of the Crown.
- (3) This section shall not impose any obligation on a bank carrying on a bona fide business in the United Kingdom in respect of any interest paid by the bank in the ordinary course of that business.

## **19 Information for purposes of Schedule A**

- (1) For the purpose of obtaining particulars of profits or gains chargeable to tax under Schedule A (or, for chargeable periods ending before 6th April 1970, under Case VIII of Schedule D), the inspector may by notice in writing require—
  - (a) any lessee, occupier or former lessee or occupier of land (including any person having, or having had, the use of land) to give such information as may be prescribed by the Board as to the terms applying to the lease, occupation or use of the land, and where any of those terms are established by any written instrument, to produce the instrument to the inspector,
  - (b) any lessee or former lessee of land to give such information as may be so prescribed as to any consideration given for the grant or assignment to him of the tenancy,
  - (c) any person who as agent manages land or is in receipt of rent or other payments arising from land to furnish the inspector with such particulars relating to payments arising therefrom as may be specified in the notice.
- (2) Subsection (1) above shall apply in relation to sums chargeable to tax under Case VI of Schedule D by virtue of any provision of sections 80 to 82 of the principal Act as it applies to profits or gains chargeable to tax under Schedule A or Case VIII of Schedule D.
- (3) In this section—
  - (a) " lease " includes an agreement for a lease, and any tenancy, but does not include a mortgage or heritable security, and " lessee " shall be construed accordingly but shall include the successor in title of a lessee,
  - (b) in relation to Scotland " assignment " means an assignment.

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*Production of accounts, books and other information*

**20 Powers in connection with trades, professions and vocations**

(1) Where—

- (a) a person who has been duly required to deliver a statement for purposes of income tax of the profits or gains arising to him from any trade, profession or vocation fails to deliver the statement, or the Board are not satisfied with the statement delivered by any such person, or
- (b) a company which has been duly required to make a return under section 11 of this Act relating to profits which consist of or comprise profits arising from a trade or vocation fails to deliver the return, or the Board are not satisfied with the return delivered by any such company,

the Board may serve on the person or company a notice in writing or notices in writing requiring that person or company to do any of the following things, that is to say—

- (i) to deliver to the inspector copies of such accounts (including balance sheets) relating to the trade, profession or vocation as may be specified or described in the notice within such period as may be therein specified, including, where the accounts have been audited, a copy of the auditor's certificate,
  - (ii) to make available, within such time as may be specified in the notice, for inspection by the inspector or by any officer authorised by the Board, all such books, accounts and documents in the possession or power of the said person or company as may be specified or described in the notice, being books, accounts and documents which contain information as to transactions of the trade, profession or vocation.
- (2) The inspector or other officer may take copies of, or extracts from, any books, accounts or documents made available for his inspection under this section.

**21 Stock jobbers' transactions**

- (1) The Board may exercise the powers conferred by this section as respects, and in connection with, any business which is, or has been, carried on by a jobber or dealing broker whose liability to tax in respect of the business is determined on the footing that any excess of his payments in respect of interest on securities over his receipts in respect thereof, being payments made or receipts accrued in pursuance of a contract for the sale or purchase of the securities, is to be treated for all the purposes of the Income Tax Acts or the Corporation Tax Acts as an annual payment made by him.
- (2) With a view to obtaining information about transactions in the course of a business within subsection (1) above, the Board may serve on the jobber or dealing broker by whom the business is or has been carried on a notice requiring him to make available within a time specified in the notice, for inspection by an inspector or other officer of the Board, all such books, accounts and other documents in his possession or power as may be specified or described in the notice, being books, accounts or other documents which in the opinion of the Board contain or may contain information directly or indirectly relating to any such transactions.
- (3) The Board may serve on any broker a notice requiring him to make available within a time specified in the notice, for inspection by an inspector or other officer of the Board, all such books, accounts or other documents in his possession or power as may be

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specified or described in the notice, being books, accounts or other documents which in the opinion of the Board contain or may contain information relating directly or indirectly to transactions in the course of a business within subsection (1) above.

- (4) The Board may by notice in writing require—
- (a) a person, other than a broker, who has directly or indirectly received from a jobber or dealing broker any payment made by the jobber or dealing broker in the course of a business within subsection (1) above, being a payment treated by the jobber or dealing broker as made in respect of interest on securities, to state within a time specified in the notice whether the amount received is in whole or in part received on behalf of, or for payment on to, any other person and, if so, to furnish the name and address of that other person, or
  - (b) a person who has directly or indirectly paid to a jobber or dealing broker any sum constituting a receipt by him in the course of a business within subsection (1) above, being a receipt treated by the jobber or dealing broker as accruing in respect of interest on securities, to state within a time specified in the notice whether the amount paid is in whole or in part received from, or paid on account of, any other person and, if so, to furnish the name and address of that other person.
- (5) If, for the purpose of obtaining (from any persons whether brokers or jobbers or not) information directly or indirectly relating to any transactions in the course of a business within subsection (1) above, any person in whose name any securities are registered is so required by notice in writing by the Board, he shall state whether or not he is the beneficial owner of those securities, and, if not the beneficial owner of those securities or any of them, shall furnish the name and address of the person or persons on whose behalf the securities are registered in his name.
- (6) The Board may not exercise their powers under the preceding provisions of this section for the purpose of obtaining information relating to transactions in any year of assessment ending more than six years before the service of the notice.
- (7) In this section—
- " broker" means a member of a stock exchange in the United Kingdom other than a jobber,
  - " dealing broker ", in relation to any sale of securities, means a member of a stock exchange in the United Kingdom, other than the London Stock Exchange, who is recognised by the committee of his exchange as carrying on the business of a dealer and authorised by them to deal in those securities,
  - "jobber" means a member of the London Stock Exchange who is recognised by the committee thereof as carrying on the business of a jobber,
  - "securities" includes shares and stock, and references to interest include references to dividends.

### *Surtax*

## **22 Additional particulars for surtax**

The Board may, for the purpose of charging surtax, by notice in writing require any individual to furnish to them within such time as they may prescribe, not being less than twenty-eight days, such particulars as to the several sources of his income and the

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amount arising from each source, and as to the nature and the amount of any deductions claimed to be allowed therefrom, as they consider necessary.

### **23 Power to obtain copies of registers of securities**

- (1) The Board may cause to be served upon any body corporate a notice requiring them to deliver to the Board within a specified time, being not less than twenty-one days, a copy, certified by a duly authorised officer of such body, of the whole of, or any specified class of entries in, any register containing the names of the holders of any securities issued by them.
- (2) On delivery of the copy in accordance with the notice payment shall be made therefor at the rate of five shillings in respect of each one hundred entries.
- (3) In this section, " security " includes shares, stock, debentures and debenture stock, and " entry " means, in relation to any register, so much thereof as relates to the securities held by any one person.

### **24 Power to obtain information as to income from securities**

- (1) The Board may by notice in writing require—
  - (a) any person, being a registered or inscribed holder of any United Kingdom securities, who, in any year of assessment, has received on behalf of any other person any income arising from any such securities, or
  - (b) any person by or through whom, in any year of assessment, any income in respect of United Kingdom securities has been paid in any case where—
    - (i) the registered or inscribed holder of the securities is not the person to whom the income was paid, or
    - (ii) the securities are bearer securities,
 to furnish them, within such time as may be specified in the notice (not being less than twenty-eight days) with particulars of the amounts so received or, as the case may be, paid in that year (other than amounts received or paid in that year on behalf of or to any one person which did not exceed in the aggregate the sum of £15), the securities to which those amounts respectively relate, and the names and addresses of the persons on whose behalf or to whom those amounts were respectively received or paid.
- (2) The Board may similarly require any person who acts or has acted, directly or indirectly, as an intermediary or as one of a series of intermediaries between any such person as is specified in subsection (1)(a) or (b) above and the person or persons beneficially entitled to the income in question to furnish such information as the Board may require for the purpose of enabling them to ascertain the names and addresses of the person or persons beneficially entitled to the income and the respective amounts to which those persons were beneficially entitled.
- (3) Nothing in this section shall impose on any bank the obligation to disclose any particulars relating to income from securities in cases where the person beneficially entitled to the income is not resident in the United Kingdom.
- (4) In this section—
 

" securities " includes shares, stocks, bonds, debentures and debenture stock, and

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" United Kingdom securities " means any securities issued by or on behalf of Her Majesty's Government in the United Kingdom or the Government of Northern Ireland and any securities of a body corporate incorporated in any part of the United Kingdom.

### *Chargeable gains*

## **25 Issuing houses, stockbrokers, auctioneers, etc.**

- (1) For the purpose of obtaining particulars of chargeable gains an inspector may by notice in writing require a return under any of the provisions of this section.
- (2) An issuing house or other person carrying on a business of effecting public issues of shares or securities in any company, or placings of shares or securities in any company, either on behalf of the company, or on behalf of holders of blocks of shares or securities which have not previously been the subject of a public issue or placing, may be required to make a return of all such public issues or placings effected by that person in the course of the business in the period specified in the notice requiring the return, giving particulars of the persons to or with whom the shares or securities are issued, allotted or placed, and the number or amount of the shares or securities so obtained by them respectively.
- (3) A person not carrying on such a business may be required to make a return as regards any such public issue or placing effected by that person and specified in the notice, giving particulars of the persons to or with whom the shares or securities are issued, allotted, or placed and the number or amount of the shares or securities so obtained by them respectively.
- (4) A member of a stock exchange in the United Kingdom, other than a jobber, may be required to make a return giving particulars of any transactions effected by him in the course of his business in the period specified in the notice requiring the return and giving particulars of—
  - (a) the parties to the transactions,
  - (b) the number or amount of the shares or securities dealt with in the respective transactions, and
  - (c) the amount or value of the consideration.
- (5) A person (other than a member of a stock exchange in the United Kingdom) who acts as an agent or broker in the United Kingdom in transactions in shares or securities may be required to make a return giving particulars of any such transactions effected by him after 5th April 1968 and in the period specified in the notice, and giving particulars of—
  - (a) the parties to the transactions,
  - (b) the number or amount of the shares or securities dealt with in the respective transactions, and
  - (c) the amount or value of the consideration.
- (6) The committee or other person or body of persons responsible for managing a clearing house for any terminal market in commodities may be required to make a return giving particulars of any transactions effected through the clearing house in the period specified in the notice requiring the return and giving particulars of—
  - (a) the parties to the transactions,

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- (b) the amounts dealt with in those transactions respectively, and
  - (c) the amount or value of the consideration.
- (7) An auctioneer, and any person carrying on a trade of dealing in any description of tangible movable property, or of acting as an agent or intermediary in dealings in any description of tangible movable property, may be required to make a return giving particulars of any transactions effected by or through him in which any asset which is tangible movable property is disposed of for a consideration the amount or value of which, in the hands of the recipient, exceeds £1,000.
- (8) No person shall be required under this section to include in a return particulars of any transaction effected more than three years before the service of the notice requiring him to make the return.
- (9) In this section " company " and " shares " shall be construed in accordance with subsections (1) and (8) of section 45 of the Finance Act 1965.

## **26 Nominee shareholders**

- (1) If, for the purpose of obtaining particulars of chargeable gains, any person in whose name any shares of a company are registered is so required by notice in writing by the Board or an inspector, he shall state whether or not he is the beneficial owner of those shares and, if not the beneficial owner of those shares or any of them, shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name.
- (2) In this section references to shares include references to securities and loan capital.

## **27 Settled property**

- (1) The Board may by notice in writing require any person, being a party to a settlement, to furnish them within such time as they may direct (not being less than twenty-eight days) with such particulars as they think necessary for the purposes of Part III of the Finance Act 1965 (chargeable gains).
- (2) In this section " settlement " has the meaning given by section 454(3) of the principal Act.

## **28 Non-resident companies and trusts**

- (1) A person holding shares or securities in a company which is not resident or ordinarily resident in the United Kingdom, or who is interested in settled property under a settlement the trustees of which are not resident or ordinarily resident in the United Kingdom, may be required by a notice by the Board to give such particulars as the Board may consider are required to determine whether the company or trust falls within section 41 (non-resident companies) or section 42 (non-resident trusts) of the Finance Act 1965, and whether any chargeable gains have accrued to that company, or to the trustees of that settlement, in respect of which the person to whom the notice is given is liable to capital gains tax under the said section 41 or the said section 42.
- (2) In this section " settled property " has the meaning given by section 45(1) of the Finance Act 1965, and " company " and " shares " shall be construed in accordance with subsections (1) and (8) of that section.



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## PART IV

### ASSESSMENT AND CLAIMS

#### 29 Assessing procedure

- (1) Except as otherwise provided, all assessments to tax shall be made by an inspector, and—
  - (a) if the inspector is satisfied that any return under the Taxes Acts affords correct and complete information concerning profits in respect of which tax is chargeable, he shall make an assessment accordingly,
  - (b) if it appears to the inspector that there are any profits in respect of which tax is chargeable and which have not been included in a return under Part II of this Act, or if the inspector is dissatisfied with any return under Part II of this Act, he may make an assessment to tax to the best of his judgment.
- (2) All assessments to surtax shall be made by the Board and—
  - (a) if they are satisfied that a return under Part II of this Act of the income of an individual affords correct and complete information concerning the whole of his income computed in accordance with the provisions of the Income Tax Acts relating to surtax, they shall make an assessment accordingly, and
  - (b) if it appears to them that there has been a failure to make a return under Part II of this Act of the income of an individual, or if they are dissatisfied with such a return, they may make an assessment to surtax to the best of their judgment.
- (3) If an inspector or the Board discover—
  - (a) that any profits which ought to have been assessed to tax have not been assessed, or
  - (b) that an assessment to tax is or has become insufficient,or
  - (c) that any relief which has been given is or has become excessive,the inspector or, as the case may be, the Board may make an assessment in the amount, or the further amount, which ought in his or their opinion to be charged.
- (4) All income tax at the standard rate which is charged for any year on any person under subsection (3)(c) above may, notwithstanding that it was chargeable under more than one Schedule, be included in one assessment and an appeal against an assessment under subsection (3)(c) above shall be to the Commissioners to whom an appeal would lie on a claim for the relief in connection with which the assessment is made.
- (5) Notice of any assessment to tax shall be served on the person assessed and shall state the time within which any appeal against the assessment may be made.
- (6) After the notice of assessment has been served on the person assessed, the assessment shall not be altered except in accordance with the express provisions of the Taxes Acts.
- (7) Assessments to income tax at the standard rate which are under any provision in the Income Tax Acts to be made by the Board shall be made in accordance with this section, and as if in subsection (1)(a) and (b) above the references to the inspector were references to the Board.
- (8) In this section " profits "—
  - (a) in relation to income tax, means income,

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- (b) in relation to capital gains tax, means chargeable gains,
- (c) in relation to corporation tax, means profits as computed for the purposes of that tax,

and " return under Part II of this Act" includes a return under that Part as extended by section 39(3) of the principal Act (returns of income of husband and wife).

### **30 Recovery of tax repaid in consequence of fraud or negligence**

Where, in consequence of a person's fraud, wilful default or negligence, any tax has been repaid which ought not to have been repaid, the amount thereof may be assessed to tax and recovered accordingly, and an assessment to income tax or corporation tax under this section shall be made under Case VI of Schedule D.

### **31 Right of appeal**

- (1) An appeal may be brought against an assessment to tax by a notice of appeal in writing given within thirty days after the date of the notice of assessment.
- (2) The notice of appeal shall be given to the inspector or other officer of the Board by whom the notice of assessment was given.
- (3) The appeal shall be to the Special Commissioners if the assessment—
  - (a) is an assessment to surtax, or any other assessment made by the Board, or
  - (b) is made under section 53, 316 or 480(1) of the principal Act.
- (4) Subject to subsection (3) above the appeal shall be to the General Commissioners, except that the appellant may elect (in accordance with section 46(1) of this Act) to bring the appeal before the Special Commissioners instead of the General Commissioners.
- (5) The notice of appeal against any assessment shall specify the grounds of appeal, but on the hearing of the appeal the Commissioners may allow the appellant to put forward any ground not specified in the notice, and take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (6) This section has effect subject to any express provision in the Taxes Acts, including in particular any provision under which an appeal lies to the Special Commissioners to the exclusion of the General Commissioners, any provision transferring jurisdiction to some other tribunal, and any provision making one kind of assessment conclusive in an appeal against another kind of assessment.

#### *Relief for excessive assessments*

### **32 Double assessment**

- (1) If on a claim made to the Board it appears to their satisfaction that a person has been assessed to tax more than once for the same cause and for the same chargeable period, they shall direct the whole, or such part of any assessment as appears to be an overcharge, to be vacated, and thereupon the same shall be vacated accordingly.
- (2) An appeal on a claim under this section shall lie to any of the bodies of Commissioners having jurisdiction to hear an appeal against the assessment, or the later of the assessments, to which the claim relates.

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### **33 Error or mistake**

- (1) If any person who has paid tax charged under an assessment alleges that the assessment was excessive by reason of some error or mistake in a return, he may by notice in writing at any time not later than six years after the end of the year of assessment (or, if the assessment is to corporation tax, the end of the accounting period) in which the assessment was made, make a claim to the Board for relief.
- (2) On receiving the claim the Board shall inquire into the matter and shall, subject to the provisions of this section, give by way of repayment such relief (including, in the case of assessment to income tax at the standard rate, any consequential relief from surtax) in respect of the error or mistake as is reasonable and just:

Provided that no relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the claimant ought to have been computed where the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when the return was made.

- (3) In determining the claim the Board shall have regard to all the relevant circumstances of the case, and in particular shall consider whether the granting of relief would result in the exclusion from charge to tax of any part of the profits of the claimant, and for this purpose the Board may take into consideration the liability of the claimant and assessments made on him in respect of chargeable periods other than that to which the claim relates.
- (4) If any appeal is brought from the decision of the Board on the claim the Special Commissioners shall hear and determine the appeal in accordance with the principles to be followed by the Board in determining claims under this section; and neither the appellant nor the Board shall be entitled to require a case to be stated under section 56 of this Act otherwise than on a point of law arising in connection with the computation of profits.
- (5) In this section " profits "—
  - (a) in relation to income tax, means income,
  - (b) in relation to capital gains tax, means chargeable gains,
  - (c) in relation to corporation tax, means profits as computed for the purposes of that tax.

#### *Time limits*

### **34 Ordinary time limit of six years**

- (1) Subject to the following provisions of this Act, and to any other provisions of the Taxes Acts allowing a longer period in any particular class of case, an assessment to tax may be made at any time not later than six years after the end of the chargeable period to which the assessment relates.
- (2) An objection to the making of any assessment on the ground that the time limit for making it has expired shall only be made on an appeal against the assessment.

### **35 Emoluments received after year for which they are assessable**

- (1) Where income to which this section applies is received in a year of assessment subsequent to that for which it is assessable, assessments to income tax as respects

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that income may be made at any time within six years after the year of assessment in which it was received.

- (2) The income to which this section applies is any income which is chargeable to tax under Schedule E, but which is not taken into account in an assessment to income tax for the year of assessment in which it is received; and for the purposes of this section—
- (a) any sums which by virtue of Chapter II of Part VIII of the principal Act (expenses allowances, benefits and facilities for directors and others) fall to be treated as perquisites of a person's office or employment but which are not actually paid to that person shall be treated as having been received at the time when (the relevant expenses were incurred or are treated for the purposes of the said Chapter II as having been incurred,
  - (b) any payment chargeable to tax by virtue of section 187 of the principal Act (payments on retirement or loss of office or employment) shall notwithstanding anything in subsection (4) of that section (notional date of payment) be treated as having been received at the time it was actually received.

### **36 Fraud or wilful default**

Subject to section 41 below, where any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to tax, assessments on that person to tax may, for the purpose of making good to the Crown any loss of tax attributable to the fraud or wilful default, be made at any time.

### **37 Neglect: income tax and capital gains tax**

- (1) Where, for the purpose of making good to the Crown a loss of tax wholly or partly attributable to the fraud, wilful default or neglect of any person, an assessment for any year (in this section referred to as " the normal year") has been made on him not later than six years after the end of that year, assessments to tax for earlier years may, to the extent provided by the following provisions of this section, be made on him notwithstanding that, but for this section, they would be out of time.
- (2) No assessment under this section shall be made on any person except for the purpose of making good to the Crown a loss of tax attributable to his neglect.
- (3) An assessment under this section for any year ending not earlier than six years before the end of the normal year may, subject to section 41 below, be made at any time not later than the end of the year of assessment following that in which the tax covered by the assessment mentioned in subsection (1) of this section is finally determined.
- (4) An assessment under this section for any year ending earlier than six years before the end of the normal year may only be made with 'the leave of the General or Special Commissioners, given under the following provisions of this section.
- (5) Where an assessment for any year (in this section referred to as " the earlier year ") has been made on any person more than six years after the end of that year—
  - (a) under this section, or
  - (b) (in the circumstances mentioned in subsection (6) below) under section 36 above,

and it appears to the General or Special Commissioners, on an application made to them not later than the end of the year of assessment following that in which the tax

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covered by the assessment for the earlier year is finally determined, that there are reasonable grounds for believing that tax for a year ending not earlier than six years before the end of the earlier year was or may have been lost to the Crown owing to the neglect of that person, they may give leave for the making on him of an assessment under this section for that year.

- (6) The circumstances referred to in subsection (5)(b) above are that the assessment for the earlier year was one of a number of assessments made on that person for the purpose mentioned in subsection (1) above and that of the years for which those assessments were made—
- (a) the latest, apart from the normal year, ended not more than six years before the end of the normal year,
  - (b) the next, if any, ended not more than six years before the end of the said latest year,
- and so on for any earlier years.
- (7) An application for leave under this section may be made by the inspector or the Board, and on any such application the person to be assessed shall be entitled to appear and be heard.
- (8) In determining the amount of the tax to be charged for any year in any assessment made under this section effect shall be given, if the person to be assessed so requires, to any relief or allowance to which he would have been entitled for that year on a claim or application made within the time allowed by the Taxes Acts.
- (9) In this section and section 38 below " tax" does not include corporation tax, and this section shall apply separately to income tax and to capital gains tax, so that the making of an assessment to one of those taxes shall not affect the time allowed for the making of an assessment to the other tax.

### **38 Modification of s. 37 in relation to partnerships**

- (1) The following provisions of this section shall have effect where such an assessment to tax as is mentioned in section 37(1) above was made on any person who at any time carried on a trade, profession or vocation in partnership with any other person (whether the assessment was made in respect of the profits or gains thereof or not).
- (2) In this section—
- " the business " means the trade, profession or vocation mentioned in subsection (1) of this section,
  - " the normal year " has the same meaning as in section 37 above,
  - " the person in default" means the person mentioned in section 37(1) above.
- (3) Subject to subsection (5) of this section, an assessment in respect of the profits or gains of the business may be made under section 37 above not only on the person in default but on any person who carried on the business at any time in the year for which the assessment is made and either—
- (a) then carried it on in partnership with the person in default or with a person who at any time in the normal year carried it on in partnership with the person in default; or
  - (b) at any time in the normal year carried on the business in partnership with the person in default;

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and may be made for the purpose of making good to the Crown a loss of tax attributable to the neglect of any person who carried on the business at any time in the year for which the assessment is made.

- (4) For the purpose of determining whether leave may be given for the making of such an assessment on two or more persons who carried on the business in partnership subsections (5) and (6) of section 37 above shall have effect as if the neglect referred to therein were the neglect of any of those persons and as if the assessments referred to therein were assessments made on any one of those persons.
- (5) Where such an assessment is made on two or more persons who carried on the business in partnership and those persons include any person (in this subsection referred to as "the exempted partner ") who was not charged in any such assessment as is mentioned in subsection (1) of this section, the tax charged in the assessment—
- (a) shall not include tax on so much of the profits or gains as would fall to be included in the exempted partner's total income; and
  - (b) shall not be recoverable from the exempted partner;
- and where a person who was not charged as aforesaid carried on the business otherwise than in partnership no such assessment shall be made on him.

### **39 Neglect: corporation tax**

- (1) Where, for the purpose of making good to the Crown a loss of tax wholly or partly attributable to the fraud, wilful default or neglect of any person, an assessment to corporation tax for any accounting period (in this section referred to as "the normal accounting period ") has been made on him not later than six years after the end of that accounting period, assessments to corporation tax, income tax and the profits tax for earlier accounting periods, years of assessment and chargeable accounting periods may, to the extent provided by the following provisions of this section, be made on him notwithstanding that, but for this section, they would be out of time.
- (2) No assessment under this section shall be made on any person except for the purpose of making good to the Crown a loss of tax attributable to his neglect.
- (3) An assessment under this section for any accounting period, year of assessment or chargeable accounting period ending not earlier than six years before the end of the normal accounting period may, subject to section 41 below, be made at any time not later than one year after the time when the tax covered by the assessment mentioned in subsection (1) above is finally determined.
- (4) An assessment under this section for any accounting period, year of assessment or chargeable accounting period ending earlier than six years before the end of the normal accounting period may only be made with the leave of the General or Special Commissioners, given under the following provisions of this section.
- (5) Where an assessment for any accounting period, year of assessment or chargeable accounting period (in this section referred to as "the earlier period ") has been made on any person more than six years after the end of that period—
- (a) under this section, or
  - (b) (in the circumstances mentioned in subsection (6) below) under section 36 above,
- and it appears to the General or Special Commissioners, on an application made to them not later than one year after the tax covered by the assessment for the earlier

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period is finally determined, that there are reasonable grounds for believing that tax for an accounting period, year of assessment or chargeable accounting period ending not earlier than six years before the end of the earlier period was or may have been lost to the Crown owing to the neglect of that person, they may give leave for the making on him of an assessment under this section for that accounting period, year of assessment or chargeable accounting period.

- (6) The circumstances referred to in subsection (5)(b) above are that the assessment for the earlier period was one of a number of assessments made on that person for the purpose mentioned in subsection (1) above and that of the accounting periods, years of assessment and chargeable accounting periods for which those assessments were made—
  - (a) the latest, apart from the normal accounting period, ended not more than six years before the end of the normal accounting period,
  - (b) the next, if any, ended not more than six years before the end of the said latest accounting period, year of assessment or chargeable accounting period,and so on for any earlier accounting periods, years of assessment or chargeable accounting periods.
- (7) An application for leave under subsection (5) above may be made by the inspector or the Board, and on any such application the person to be assessed shall be entitled to appear and be heard.
- (8) In determining the amount of the tax to be charged for any accounting period, year of assessment or chargeable accounting period in any assessment made under this section effect shall be given, if the person to be assessed so requires, to any relief or allowance to which he would have been entitled for that accounting period, year of assessment or chargeable accounting period on a claim or application made within the time allowed by the Taxes Acts or the enactments relating to the profits tax, as the case may be.
- (9) For the purposes of this section the year 1965-66 and any earlier year of assessment, and any chargeable accounting period, is to be regarded as earlier than any corporation tax accounting period.
- (10) For the purpose of making assessments to income tax for the year 1965-66 and earlier years of assessment, section 38 above shall apply in relation to this section as it applies in relation to section 37 above, but as if references in the said section 38 to the normal year were references to the normal accounting period, and with any other necessary modifications.

#### **40 Assessment on personal representatives**

- (1) For the purpose of the charge of tax on the executors or administrators of a deceased person in respect of the income, or chargeable gains, which arose or accrued to him before his death, the time allowed by section 34, 35 or 36 above shall in no case extend beyond the end of the third year next following the year of assessment in which the deceased died.
- (2) Subject to section 41 below, for the purpose of making good to the Crown any loss of tax attributable to the fraud, wilful default or neglect of a person who has died, an assessment on his personal representatives to tax for any year of assessment ending not earlier than six years before his death may be made at any time before the end of the third year next following the year of assessment in which he died.

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(3) In this section " tax " means income tax or capital gains tax.

#### **41 Leave of General or Special Commissioners required for certain assessments**

- (1) An assessment to tax made by virtue of—
- (a) section 36 of this Act, or
  - (b) so far as they relate to an assessment for a period ending not earlier than six years before the end of the normal year or normal accounting period, section 37, 38 or 39 of this Act, or
  - (c) section 40(2) of this Act,
- may only be made with the leave of a General or Special Commissioner given on being satisfied by an inspector or other officer of the Board that there are reasonable grounds for believing that tax has or may have been lost to the Crown owing to the fraud or wilful default or neglect of any person.
- (2) The General or Special Commissioner giving leave to make such an assessment shall take no part in the proceedings, and shall not be present, when any appeal against the assessment is heard or determined.

#### *Claims*

#### **42 Procedure for making claims**

- (1) Where any provision of the Taxes Acts provides for relief to be given, or any other thing to be done, on the making of a claim, this section shall, unless otherwise provided, have effect in relation to the claim.
- (2) Subject to any provision in the Taxes Acts for a claim to be made to the Board, every claim shall be made to an inspector.
- (3) An appeal may be brought against the decision of the inspector or the Board on a claim by giving written notice to the inspector or the Board as the case may be within thirty days of receipt of written notice of that decision:
- Provided that the time for appealing against the Board's decision—
- (a) under section 27 of the principal Act (personal reliefs for non-residents), or
  - (b) on a question of residence, ordinary residence or domicile, or
  - (c) in the case of a claim under section 218 of the principal Act (pension funds for service abroad) on the question whether a fund is one to which that section applies,
- shall be three months from receipt of notice of their decision.
- (4) Schedule 2 to this Act shall have effect as respects the Commissioners to whom an appeal lies under this section.
- (5) A claim shall be in such form as the Board may determine and the form of claim—
- (a) shall provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the knowledge and belief of the person making the claim, and
  - (b) may require—
    - (i) a return of profits to be made in support of the claim, and



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- (ii) any such particulars of assets acquired as may be required in a return by virtue of subsections (2) and (3) of section 12 of this Act, and, in the case of a claim made by or on behalf of a person who is not resident, or who claims to be not resident or not ordinarily resident or not domiciled, in the United Kingdom, the inspector or the Board may require a statement or declaration in support of the claim to be made by affidavit.
- (6) A claim may be made on behalf of an incapacitated person by his trustee, guardian, tutor or curator; and a person who under Part VIII of this Act has been charged with tax on the profits of another person may make any such claim for relief by discharge or repayment of that tax.
- (7) The inspector or the Board may give effect to any claim by discharge of tax or, on proof to the satisfaction of the inspector or the Board that any tax has been paid by the claimant by deduction or otherwise, by repayment of tax.
- (8) Where a claim has been made and the claimant subsequently discovers that an error or mistake has been made in the claim, the claimant may make a supplementary claim within the time allowed for making the original claim.
- (9) On an appeal on a claim, the Commissioners may vary the decision appealed against whether or not the variation is to the advantage of the appellant.
- (10) Where it is necessary, in order to give effect to a claim, or as a result of allowing a claim, to make any adjustment by way of an assessment on any person, the assessment shall not be out of time if it is made within one year of the final determination of the claim. For the purposes of this subsection, a claim shall not be deemed to be finally determined until the amount recoverable under the claim can no longer be varied, whether by any Commissioners on appeal or by the order of any court.
- (11) In this section " profits "—
- (a) in relation to income tax, means income,
  - (b) in relation to capital gains tax, means chargeable gains,
  - (c) in relation to corporation tax, means profits as computed for the purposes of that tax.

#### **43 Time limit for making claims**

- (1) Subject to any provision of the Taxes Acts prescribing a longer or shorter period, no claim for relief under the Taxes Acts shall be allowed unless it is made within six years from the end of the chargeable period to which it relates.
- (2) A claim (including a supplementary claim) which could not have been allowed but for the making of an assessment to income tax or capital gains tax after the year of assessment to which the claim relates may be made at any time before the end of the year of assessment following that in which the assessment was made.

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## PART V

### APPEALS AND OTHER PROCEEDINGS

#### *Jurisdiction*

#### **44 General Commissioners**

- (1) Proceedings before the General Commissioners under the Taxes Acts shall, subject to the provisions of this section, be brought before the General Commissioners for the division in which the place given by the rules in Schedule 3 to this Act is situated.
- (2) The parties to any proceedings under the Taxes Acts which are to be heard by any General Commissioners may if they think fit agree that, notwithstanding the said rules, the proceedings shall be brought before the General Commissioners for the division specified in the agreement, but an inspector or the Board shall not enter into any such agreement unless satisfied that the Commissioners concerned would be likely to see no objection to the agreement.
- (3) In any case in which proceedings under the Taxes Acts may be brought at the election of any person before the Special Commissioners instead of before the General Commissioners, the Commissioners before whom the proceedings are to be brought or have been brought may, if they think fit, on an application made by the parties, arrange with the other Commissioners concerned for the transfer of the proceedings to those other Commissioners; and the proceedings may be so transferred notwithstanding that the election has been exercised, or that the time for exercising the election has expired without its being exercised.
- (4) No determination of any General Commissioners under the Taxes Acts shall be questioned, whether by a case stated under section 56 of this Act or otherwise, on the ground that this section did not authorise those General Commissioners to make the determination, except by a party by whom or on whose behalf an objection to the jurisdiction was made to those General Commissioners before or in the course of the proceedings leading to the determination.
- (5) Anything to be done by the General Commissioners may, save as otherwise expressly provided by the Taxes Acts, be done by any two or more General Commissioners.

#### **45 Quorum of Special Commissioners**

- (1) Anything to be done under any Act (including, except where otherwise expressly provided, any Act passed after this Act) by, to or before the Special Commissioners may be done by, to or before a single Special Commissioner, or any two or more Special Commissioners; and this section applies not only for the purposes of the Taxes Acts but also for the purposes of any other affairs under the care and management of the Board.
- (2) Subject to the following provisions of this section, proceedings shall not by virtue of this section be brought before a single Special Commissioner unless—
  - (a) the party, or the parties, to the proceedings, other than the Board or any officer of the Board, have given their consent, and
  - (b) a Special Commissioner so directs on being satisfied that the direction will avoid undue delay in the hearing of those or any other proceedings.

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- (3) Proceedings brought before two or more Special Commissioners may be continued and determined by any one or more of them if the parties to the proceedings have given their consent, and if the continuing Special Commissioner or Commissioners, after such consultation as is practicable with any Special Commissioner retiring from the proceedings, is or are satisfied that to do so will avoid undue delay in the hearing of those or any other proceedings.
- (4) If the notice to the appellant of the setting down for hearing of an appeal to the Special Commissioners states that it is intended that the appeal should be heard by a single Special Commissioner and draws attention to the provisions of this section, the appeal may be so heard without compliance with the requirements of subsection (2) above, but if, in the course of the hearing of the appeal or at any earlier time, the Special Commissioner to whom the appeal is assigned is satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, the case shall thereafter be treated as one which cannot be brought before a single Special Commissioner unless the requirements of subsection (2) above are fulfilled.
- (5) Nothing in subsection (1) of this section shall authorise a single Special Commissioner to entertain proceedings under section 100 of this Act (penalties), and subsection (3) of this section shall not apply to proceedings under that section.
- (6) No determination of a Special Commissioner shall be questioned, whether by a case stated or otherwise, on the ground that this section did not authorise the Special Commissioner to make the determination, except by a party by whom or on whose behalf an objection to the jurisdiction was made to the Special Commissioner before or in the course of the proceedings leading to the determination.

#### **46 General and Special Commissioners**

- (1) A right to elect to bring an appeal or other proceedings under the Taxes Acts before the Special Commissioners instead of before the General Commissioners shall be exercised by notice combined (in the case of an appeal) with the notice of appeal, or by a separate notice in writing to the inspector or other officer of the Board within the time limited for bringing the proceedings, and if no such notice of election is given the appeal or other proceedings shall be brought before the General Commissioners.
- (2) Save as otherwise provided in the Taxes Acts, the determination of the General Commissioners or the Special Commissioners in any proceedings under the Taxes Acts shall be final and conclusive.

#### **47 Special jurisdiction relating to tax on chargeable gains**

- (1) If and so far as the question in dispute on any appeal against an assessment to tax (whether capital gains tax or corporation tax) on chargeable gains, or against a decision on a claim under Part III of the Finance Act 1965 is a question of the value of any land, or of a lease of land then—
  - (a) if the land is in England or Wales the question shall be determined on a reference to the Lands Tribunal, and
  - (b) if the land is in Northern Ireland the question shall be determined on a reference to the Lands Tribunal for Northern Ireland.

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- (2) In relation to land and leases of land in Scotland for any reference to the Lands Tribunal in subsection (1) above there shall be substituted a reference to the Lands Tribunal for Scotland:

Provided that until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland, this subsection shall have effect as if for the reference to the Lands Tribunal for Scotland there were substituted a reference to a person selected from the panel of referees appointed under Part I of the Finance (1909-1910) Act 1910.

- (3) If and so far as any appeal mentioned in subsection (1) above involves the question of the value of any shares or securities in a company resident in the United Kingdom, other than shares or securities dealt in on a stock exchange in the United Kingdom, that question shall be determined by the General Commissioners having jurisdiction in an appeal against an assessment to income tax or corporation tax made on the company, but subject to section 44(4) of this Act, and those Commissioners shall hear and determine the question in the same way as an appeal.
- (4) This section shall be construed in accordance with section 45 of the Finance Act 1965 (interpretation).

#### *Proceedings before Commissioners*

### **48 Application to appeals and other proceedings**

- (1) In the following provisions of this Part of this Act, unless the context otherwise requires—

" appeal" means any appeal to the General Commissioners or to the Special Commissioners under the Taxes Acts,

" the Commissioners " means the General Commissioners or the Special Commissioners as the case may be.

- (2) The following provisions of this Part of this Act shall apply in relation to—
- (a) appeals other than appeals against assessments, and
  - (b) proceedings which under the Taxes Acts are to be heard and determined in the same way as an appeal,
- subject to the omission of section 56(9) below and to any other necessary modifications.

### **49 Proceedings brought out of time**

- (1) An appeal may be brought out of time if on an application for the purpose an inspector or the Board is satisfied that there was a reasonable excuse for not bringing the appeal within the time limited, and that the application was made thereafter without unreasonable delay, and gives consent in writing; and the inspector or the Board, if not satisfied, shall refer the application for determination by the Commissioners.
- (2) If there is a right to elect to bring the appeal before the Special Commissioners instead of before the General Commissioners, the Commissioners to whom an application under this section is to be referred shall be the General Commissioners unless the election has been exercised before the application is so referred.

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## **50 Procedure**

- (1) The Commissioners shall cause notice of the day for hearing appeals to be given to every appellant, and shall meet together for the hearing of appeals from time to time, with or without adjournment until all appeals have been determined.
- (2) Notice of appeal meetings to be held by the Commissioners shall also be given to the inspector by the clerk to the Commissioners, except that in proceedings to which the Board, or an officer of the Board other than an inspector, are parties, the notice shall be given to the Board or to that officer.
- (3) Any officer of the Board may attend every appeal, and shall be entitled—
  - (a) to be present during all the time of the hearing and at the determination of the appeal, and
  - (b) to give reasons in support of the assessment or other decision against which the appeal is made.
- (4) If it is shown to the satisfaction of the Commissioners that owing to absence, sickness or other reasonable cause any person has been prevented from attending at the hearing of an appeal on the day fixed for that purpose, they may postpone the hearing of his appeal for such reasonable time as they think necessary, or may admit the appeal to be made by any agent, clerk or servant on his behalf.
- (5) Upon any appeal the Commissioners shall permit any barrister or solicitor to plead before them on behalf of any party to the appeal, either orally or in writing, and shall hear any accountant, that is to say, any person who has been admitted a member of an incorporated society of accountants:

Provided that on an appeal against an assessment under Schedule B the Commissioners shall permit any agent appointed by the appellant to plead before them on his behalf.
- (6) If, on an appeal, it appears to the majority of the Commissioners present at the hearing, by examination of the appellant on oath or affirmation, or by other lawful evidence, that the appellant is overcharged by any assessment, the assessment shall be reduced accordingly, but otherwise every such assessment shall stand good.
- (7) If on any appeal it appears to the Commissioners that the person assessed ought to be charged in an amount exceeding the amount contained in the assessment, the assessment shall be increased accordingly.

## **51 Power of Commissioners to obtain information from appellant**

- (1) The Commissioners may at any time before the determination of an appeal give notice to the appellant or other party to the proceedings (not being an inspector or the Board) requiring him within the time specified in the notice—
  - (a) to deliver to them such particulars as they may require for the purpose of determining the appeal, and
  - (b) to make available for inspection by them, or by any officer of the Board, all such books, accounts or other documents in his possession or power as may be specified or described in the notice, being books, accounts or other documents which, in the opinion of the Commissioners issuing the notice, contain or may contain information relating to the subject matter of the proceedings.
- (2) Any officer of the Board may, at all reasonable times, inspect and take copies of, or extracts from, any particulars delivered under subsection (1)(a) above ; and the

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Commissioners or any officer of the Board may take copies of, or extracts from, any books, accounts, or other documents made available for their or his inspection under subsection (1)(b) above.

## **52 Evidence**

- (1) Any party to an appeal shall be entitled to adduce any lawful evidence.
- (2) The Commissioners may summon any person (other than the appellant) to appear before them and give evidence, and a witness before the Commissioners may be examined on oath:

Provided that any agent or servant of the appellant, and any other person confidentially employed in the affairs of the appellant, may refuse to be sworn or to answer any question to which he objects.

- (3) A person who after being duly summoned—
  - (a) neglects or refuses to appear before the Commissioners at the time and place appointed for that purpose, or
  - (b) appears, but refuses to be sworn, or
  - (c) refuses to answer any lawful question concerning the matters under consideration,

shall incur a penalty not exceeding £50 :

Provided that the penalty imposed in respect of any offence under paragraph (b) or paragraph (c) of this subsection shall not apply to any such person as is within the proviso to subsection (2) above.

## **53 Summary award of penalties**

- (1) Any penalty incurred by any person for a failure to comply with a notice under section 51 above, or incurred by any person under section 52 above, may be awarded summarily by the Commissioners notwithstanding that no proceedings for its recovery have been commenced, and accordingly section 98(3) of this Act shall not apply to any penalty so awarded.
- (2) An appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from the award of any penalty under this section, and on any such appeal the court may either confirm or reverse the decision of the Commissioners or reduce or increase the sum awarded.
- (3) Any penalty awarded by virtue of this section shall for all purposes be treated as if it were tax charged in an assessment and due and payable.

## **54 Settling of appeals by agreement**

- (1) Subject to the provisions of this section, where a person gives notice of appeal and, before the appeal is determined by the Commissioners, the inspector or other proper officer of the Crown and the appellant come to an agreement, whether in writing or otherwise, that the assessment or decision under appeal should be treated as upheld without variation, or as varied in a particular manner or as discharged or cancelled, the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, the Commissioners had determined the appeal and

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had upheld the assessment or decision without variation, had varied it in that manner or had discharged or cancelled it, as the case may be.

- (2) Subsection (1) of this section shall not apply where, within thirty days from the date when the agreement was come to, the appellant gives notice in writing to the inspector or other proper officer of the Crown that he desires to repudiate or resile from the agreement.
- (3) Where an agreement is not in writing—
  - (a) the preceding provisions of this section shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the inspector or other proper officer of the Crown to the appellant or by the appellant to the inspector or other proper officer; and
  - (b) the references in the said preceding provisions to the time when the agreement was come to shall be construed as references to the time of the giving of the said notice of confirmation.
- (4) Where—
  - (a) a person who has given a notice of appeal notifies the inspector or other proper officer of the Crown, whether orally or in writing, that he desires not to proceed with the appeal; and
  - (b) thirty days have elapsed since the giving of the notification without the inspector or other proper officer giving to the appellant notice in writing indicating that he is unwilling that the appeal should be treated as withdrawn, the preceding provisions of this section shall have effect as if, at the date of the appellant's notification, the appellant and the inspector or other proper officer had come to an agreement, orally or in writing, as the case may be, that the assessment or decision under appeal should be upheld without variation.
- (5) The references in this section to an agreement being come to with an appellant and the giving of notice or notification to or by an appellant include references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant in relation to the appeal.

## **55 Recovery of tax not in dispute**

- (1) This section applies to an appeal to the Commissioners against—
  - (a) an assessment under Schedule A or Schedule D,
  - (b) an assessment to surtax,
  - (c) an assessment to capital gains tax,
  - (d) an assessment to corporation tax,
  - (e) an assessment made by virtue of Schedule 9 to the principal Act (income tax on company distributions, etc.).
- (2) Notwithstanding that the appeal is pending—
  - (a) such part of the tax assessed as appears to the Commissioners not to be in dispute shall be collected and paid in all respects as if it were tax charged by an assessment in respect of which no appeal was pending, and
  - (b) on the determination of the appeal, any balance of tax chargeable in accordance with the determination shall be paid, or any tax overpaid shall be repaid, as the case may require.

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- (3) If the appellant and the inspector or other officer of the Board come to an agreement, whether in writing or otherwise, as to the amount of tax charged by the assessment which should be paid as if it were tax charged by an assessment in respect of which no appeal is pending, the like consequences shall ensue as would have ensued if the Commissioners had come to a decision to that effect under subsection (2) above on the date when the agreement was come to, but without prejudice to the making of a further agreement, or of a decision or further decision under subsection (2) above.
- (4) Subsection (3) above shall not apply where within thirty days from the date when the agreement was come to, the appellant gives notice in writing to the inspector or other officer of the Board that he desires to repudiate or resile from the agreement.
- (5) Where an agreement is not in writing—
  - (a) the preceding provisions of this section shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the inspector or other officer of the Board to the appellant, or by the appellant to the inspector or other officer, and
  - (b) references in the preceding provisions of this section to the time when the agreement was come to shall be construed as references to the time of the giving of the said notice of confirmation.
- (6) References in this section to an agreement being come to with an appellant and the giving of notice to or by an appellant include references to an agreement being come to with, and the giving of notice to or by, a person acting on behalf of the appellant in relation to the appeal.
- (7) The transfer of proceedings under this Act from one body of Commissioners to another body of Commissioners shall not affect the validity of a decision by the Commissioners under subsection (2) above.

## **56 Statement of case for opinion of the High Court**

- (1) Immediately after the determination of an appeal by the Commissioners, the appellant or the inspector or other officer of the Board, if dissatisfied with the determination as being erroneous in point of law, may declare his dissatisfaction to the Commissioners who heard the appeal.
- (2) The appellant or the inspector or other officer of the Board, as the case may be, having declared his dissatisfaction, may, within thirty days after the determination, by notice in writing addressed to the clerk to the Commissioners, require the Commissioners to state and sign a case for the opinion of the High Court thereon.
- (3) The party requiring the case shall pay to the clerk to the Commissioners a fee of £1 for and in respect of the same, before he is entitled to have the case stated.
- (4) The case shall set forth the facts and the determination of the Commissioners, and the party requiring it shall transmit the case, when stated and signed, to the High Court, within thirty days after receiving the same.
- (5) At or before the time when he transmits the case to the High Court, the party requiring it shall send notice in writing of the fact that the case has been stated on his application, together with a copy of the case, to the other party.
- (6) The High Court shall hear and determine any question or questions of law arising on the case, and shall reverse, affirm or amend the determination in respect of which the



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case has been stated, or shall remit the matter to the Commissioners with the opinion of the Court thereon, or may make such other order in relation to the matter as to the Court may seem fit.

- (7) The High Court may cause the case to be sent back for amendment, and thereupon the case shall be amended accordingly, and judgment shall be delivered after it has been amended.
- (8) An appeal shall lie from the decision of the High Court to the Court of Appeal and thence to the House of Lords:  
Provided that—
- (a) no appeal shall lie to the House of Lords from the Court of Appeal unless leave has been given under and in accordance with section 1 of the Administration of Justice (Appeals) Act 1934, and
  - (b) this subsection has effect subject to Part II of the Administration of Justice Act 1969 (appeal from High Court to House of Lords).
- (9) Where the appeal is against an assessment, then notwithstanding that a case has been required to be stated or is pending before the High Court, tax shall be paid in accordance with the determination of the Commissioners who have been required to state the case :  
Provided that, if the amount of the assessment is altered by the order or judgment of the High Court, then—
- (a) if too much tax has been paid the amount overpaid shall be refunded with such interest, if any, as the High Court may allow ; or
  - (b) if too little tax has been paid, the amount unpaid shall be deemed to be arrears of tax, and shall be paid and recovered accordingly.
- (10) All matters within the jurisdiction of the High Court under this section shall be assigned in Scotland to the Court of Session sitting as the Court of Exchequer, and an appeal shall lie from the decision under this section of the Court of Session, as the Court of Exchequer in Scotland, to the House of Lords.
- (11) This section has effect in Northern Ireland subject to section 58 below.

### *Chargeable gains*

## **57 Regulations about appeals**

- (1) The Board may make regulations—
- (a) as respects the conduct of appeals against assessments and decisions on claims under Part III of the Finance Act 1965,
  - (b) entitling persons, in addition to those who would be so entitled apart from the regulations, to appear on such appeals,
  - (c) regulating the time within which such appeals or claims may be brought or made,
  - (d) where the market value of an asset on a particular date, or an apportionment or any other matter, may affect the liability to capital gains tax of two or more persons, enabling any such person to have the matter determined by the tribunal having jurisdiction to determine that matter if arising on an appeal against an assessment, and prescribing a procedure by which the matter is not determined differently on different occasions,

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- (e) authorising an inspector or other officer of the Board, notwithstanding the obligation as to secrecy imposed by virtue of this or any other Act, to disclose to a person entitled to appear on such an appeal the market value of an asset as determined by an assessment or decision on a claim, or to disclose to a person whose liability to tax may be affected by the determination of the market value of an asset on a particular date, or an apportionment or any other matter, any decision on the matter made by an inspector or other officer of the Board.
- (2) In paragraphs (d) and (e) of subsection (1) above references to market value shall, in relation to land in Great Britain, include references to current use value; and the Capital Gains Tax Regulations 1967 shall, except where the context otherwise requires, be construed accordingly. This subsection shall be construed in accordance with Schedule 14 to the Finance Act 1967.
- (3) Regulations under this section may contain such supplemental and incidental provisions as appear to the Board to be expedient including in particular—
- (a) provisions as to the choice of the Commissioners, whether a body of General Commissioners or the Special Commissioners, to hear the appeal where, in addition to the appellant against an assessment, or the claimant in the case of an appeal against the decision on a claim, and in addition to the inspector or other officer of the Board, some other person is entitled to be a party to the appeal, and
  - (b) provisions corresponding to section 81 of the Capital Allowances Act 1968 (procedure on apportionments where more than one body of General Commissioners has jurisdiction), and
  - (c) provisions authorising the giving of conditional decisions where, under section 47 of this Act, or under any provision in the Finance Act 1965, questions on an appeal against an assessment or a decision on a claim may go partly to one tribunal and partly to another.
- (4) Regulations under this section—
- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons, and
  - (b) shall have effect notwithstanding anything in this Act.

#### *Northern Ireland*

### **58 Proceedings in tax cases in Northern Ireland**

- (1) Subject to this section, all references in the Taxes Acts to the General Commissioners (however expressed, and including references in enactments conferring a right of appeal to the General Commissioners or, at the election of the appellant, to the Special Commissioners) shall, in relation to proceedings in Northern Ireland, be taken as references to the Special Commissioners or, in the cases provided for in section 59 below, a county court in Northern Ireland.
- (2) A case concerning tax which is stated by the Special Commissioners under section 56 of this Act in proceedings in Northern Ireland shall be a case for the opinion of the Court of Appeal in Northern Ireland, and the Taxes Acts shall have effect as if that section applied in relation to such proceedings—
- (a) with the substitution for references to the High Court of references to the Court of Appeal in Northern Ireland, and

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- (b) with the omission of subsections (4), (5) and (8) of that section, and the procedure relating to the transmission of the case to, and the hearing and determination of the case by, the Court of Appeal in Northern Ireland shall be that for the time being in force in Northern Ireland as respects cases stated by a county court in exercise of its general jurisdiction, and an appeal shall lie from the Court of Appeal to the House of Lords in accordance with section 1 of the Northern Ireland Act 1962.
- (3) For the purposes of this section and section 59 below—
- (a) "proceedings in Northern Ireland" means proceedings as respects which the place given by the rules in Schedule 3 to this Act is in Northern Ireland, and "proceedings in Great Britain" shall be construed accordingly;
  - (b) proceedings under sections 11, 137, 154(5), 252(9) or 494(9) of the principal Act, or paragraph 22 of Schedule 7 to that Act, or section 81 of the Capital Allowances Act 1968 (proceedings to which more than one taxpayer is a party) shall be proceedings in Northern Ireland if the place given by the rules in Schedule 3 to this Act in relation to each of the parties concerned in the proceedings is in Northern Ireland, and in relation to such proceedings the right of election to bring proceedings before a county court in Northern Ireland which is mentioned in subsection (1) of this section and section 59 below shall be exercisable jointly by all the parties concerned in the proceedings, and sections 21, 22 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if references in those provisions to any enactment included a reference to this section and section 59 below.
- (4) No determination of the Special Commissioners shall be questioned, whether by a case stated under section 56 of this Act or otherwise, on the ground that the place given by the rules in Schedule 3 to this Act was not in Northern Ireland, and accordingly that the proceedings ought to have been determined by some body of General Commissioners, except by a party by whom or on whose behalf an objection to the jurisdiction was made to the Special Commissioners before or in the course of the proceedings leading to the determination.

## **59 Election for county court in Northern Ireland**

- (1) Proceedings in Northern Ireland—
- (a) which are brought under the Taxes Acts by an appellant or other party who is not the Board or an officer of the Board, and
  - (b) which, if they had been proceedings in Great Britain, might have been brought before the General Commissioners,
- shall, if the party bringing the proceedings by notice combined (in the case of an appeal) with the notice of appeal, or by a separate notice in writing to the inspector given within the time limited for bringing the proceedings, so elects, be brought before a county court in Northern Ireland instead of before the Special Commissioners.
- (2) In relation to proceedings brought under this section the following provisions of this Act—
- section 49 section 51 with 53 sections 54 and 55 shall apply with the substitution for references to the Special Commissioners (however expressed) of references to the county court.

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- (3) Where proceedings are brought before a county court in Northern Ireland under this section—
- (a) the county court shall have and exercise the same powers and authority in relation to the assessment appealed against (if any), the proceedings, the determination, and all matters consequent thereon, as the Special Commissioners would have and exercise,
  - (b) subject to county court rules, the practice and procedure in the proceedings shall be that followed in income tax cases in a county court in Northern Ireland before the commencement of this Act, and
  - (c) the proceedings shall be heard and determined by a single judge sitting alone, and not in public, who may, for all purposes of and incidental to the hearing and determination of the proceedings, exercise all the powers, authority and jurisdiction exercisable by a county court in Northern Ireland in relation to the hearing and determination of an appeal to which Part VI of the County Courts Act (Northern Ireland) 1959 (appeals to the county court) applies.
- (4) Within thirty days after the determination by the county court of proceedings brought under this section any party to the proceedings may require the court to state a case on a point of law for the opinion of the Court of Appeal in Northern Ireland.
- (5) The procedure relating to the statement of the case shall be that for the time being in force in Northern Ireland as respects cases stated under section 2 of the County Courts Appeals Act (Northern Ireland) 1964 or any enactment of the Parliament of Northern Ireland re-enacting the said section 2 with or without modification so, however, that notwithstanding anything in subsection (7) of the said section 2 or in any such re-enactment, an appeal, with leave as required by section 1 of the Northern Ireland Act 1962, shall lie to the House of Lords from any decision of the Court of Appeal in Northern Ireland upon a case stated to it pursuant to subsection (4) above.
- (6) On the determination by the county court under this section of an appeal against an assessment, tax shall be paid in accordance with the determination notwithstanding that a case has been required to be stated or is pending:
- Provided that if the amount of the assessment is altered by the order or judgment of the Court of Appeal, then—
- (a) if too much tax has been paid, the amount overpaid shall be refunded with such interest, if any, as the Court of Appeal may allow, or
  - (b) if too little tax has been paid, the amount unpaid shall be deemed to be arrears of tax, and shall be paid and recovered accordingly.
- (7) Subject to the preceding provisions of this section the determination of the county court in proceedings under this section shall be final and conclusive.
- (8) No determination of a county court under this section shall be questioned, whether by a case stated or otherwise, on the ground that the proceedings were not proceedings in Northern Ireland.

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## PART VI

### COLLECTION AND RECOVERY

#### 60 Issue of demand notes and receipts

- (1) Every collector shall, when the tax becomes due and payable, make demand of the respective sums given to him in charge to collect, from the persons charged therewith, or at the places of their last abode, or on the premises in respect of which the tax is charged, as the case may require.
- (2) On payment of the tax, the collector shall if so requested give a receipt.

#### *Distraint and poinding*

#### 61 Distraint by collectors

- (1) if a person neglects or refuses to pay the sum charged, upon demand made by the collector, the collector shall, for non-payment thereof, distrain upon the lands, tenements and premises in respect of which the tax is charged, or distrain the person charged by his goods and chattels, and all such other goods and chattels as the collector is hereby authorised to distrain.
- (2) For the purpose of levying any such distress, a collector may, after obtaining a warrant for the purpose signed by the General Commissioners, break open, in the daytime, any house or premises, calling to his assistance any constable. Every such constable shall, when so required, aid and assist the collector in the execution of the warrant and in levying the distress in the house or premises.
- (3) A levy or warrant to break open shall be executed by, or under the direction of, and in the presence of, the collector.
- (4) A distress levied by the collector shall be kept for five days, at the costs and charges of the person neglecting or refusing to pay.
- (5) If the person aforesaid does not pay the sum due, together with the costs and charges, within the said five days, the distress shall be appraised by two or more inhabitants of the parish in which the distress is taken, or by other sufficient persons, and shall be sold by public auction by the collector for payment of the sum due and all costs and charges. The costs and charges of taking, keeping, and selling the distress shall be retained by the collector, and any overplus coming by the distress, after the deduction of the costs and charges and of the sum due, shall be restored to the owner of the goods distrained.

#### 62 Priority of claim for tax

- (1) No goods or chattels whatever, belonging to any person at the time any tax becomes in arrear, shall be liable to be taken by virtue of any execution or other process, warrant, or authority whatever, or by virtue of any assignment, on any account or pretence whatever, except at the suit of the landlord for rent, unless the person at whose suit the execution or seizure is made, or to whom the assignment was made, pays or causes to be paid to the collector, before the sale or removal of the goods or chattels, all arrears

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of tax which are due at the time of seizure, or which are payable for the year in which the seizure is made:

Provided that, where tax is claimed for more than one year, the person at whose instance the seizure has been made may, on paying to the collector the tax which is due for one whole year,

proceed in his seizure in like manner as if no tax had been claimed.

- (2) In case of neglect or refusal to pay the tax so claimed or the tax for one whole year, as the case may be, the collector shall distrain the goods and chattels notwithstanding the seizure or assignment, and shall proceed to the sale thereof, as prescribed by this Act, for the purpose of obtaining payment of the whole of the tax charged and claimed, and the reasonable costs and charges attending such distress and sale, and every collector so doing shall be indemnified by virtue of this Act.

### **63 Recovery in Scotland**

In Scotland, the following provisions shall have effect—

- (1) Upon certificate made to them by the collector that any tax is due and not paid, the General Commissioners, or sheriff or sheriff substitute for the county, shall issue a warrant for the collector recovering the said tax by poinding the goods and effects of any person entered in the certificate as being a defaulter, and any person who has made default in paying any sum which may be levied on him in respect of tax may be entered in the certificate as a defaulter, notwithstanding that he was not named in the assessment to tax:
- (2) The warrant shall be executed by the sheriff officers of the county:
- (3) The goods and effects so poinded shall be detained and kept on the ground, or at the house where the same were poinded, or in such other place of which the owner shall have notice, near to the said ground or house, as the officer so poinding the same shall think proper, for the space of five days, during which time the said goods and effects shall remain in the custody of the said officer, and liable to the payment of the whole tax in arrear and to the costs to be paid to the officer who poinded the same as hereinafter directed, unless the owner from whom the same were poinded shall redeem the same, within the said space of five days, by payment to the officer of the said tax in arrear and costs, to be settled in the same manner as if the said goods and effects had been sold as hereinafter directed:
- (4) The goods and effects so poinded shall, after the expiration of the said five days, be valued and appraised by any two persons to be appointed by the officer (which two persons shall be obliged to value the same, under the penalty of £2 for each neglect or refusal), and shall be sold and disposed of, at a sum not less than the value, by the officer who does poind the same:
- (5) The value shall be applied, in the first place to the satisfaction and payment of the tax owing by the person whose goods are so poinded, and, in the second place, to the payment for the trouble of the officer so poinding, at the rate of two shillings per pound of the tax for which the goods shall be so poinded unless the owner from whom the same were poinded shall redeem the same by payment of the appraised value, within the space of five days after the valuation, to the officer who poinded the same:

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- (6) In case any surplus remains of the price or value, after payment of the said tax, and after payment of what is allowed to be retained by the officer in manner herein directed, such surplus shall be returned to the owner from whom the goods were poinded:
- (7) In case no purchaser appears at the said sale, then the said goods and effects, so poinded, shall be consigned and lodged in the hands of the sheriff of the county, or his substitute, and if not redeemed by the owner within the space of five days after the consignment in the hands of the said sheriff or sheriff substitute, the same shall be roup'd, sold, and disposed of by order of the sheriff, in such manner, and at such time and place, as he shall appoint, he always being liable to the payment of the tax to the collector, and to payment to the officer who shall have poinded the same, for his trouble and expense, as before stated, and to the fees due to the officer, and being, in the third place, entitled to one shilling per pound of the value of the goods so disposed of, for his own pains and trouble, after preference and allowance of the said tax, and of what is appointed to be paid to the officer for his trouble:
- (8) There shall also be allowed, to the officer so poinding, the expense of preserving the said goods and effects, and of maintaining the cattle, if there should happen to be any among the goods and effects so poinded, from the time of poinding the same, during the period allowed to the owner to redeem them, and also the expense of the sale; and in like manner the expense shall be allowed to the sheriff or sheriff substitute, for preserving and maintaining the goods or cattle poinded, during the period that the owner is allowed to redeem, after consignment in his hands, and until the sale thereof, and also the expense of the sale:
- (9) Every auctioneer, or seller by commission, selling by auction, in Scotland, any goods or effects whatsoever by any mode of sale at auction, shall, at least three days before he begins any sale by way of auction, deliver or cause to be delivered to the collector a notice in writing, signed by such auctioneer or seller by auction, specifying therein the particular day when such sale is to begin, and the name and surname of the person whose goods and effects are to be sold, with his place of residence:
- (10) If any such auctioneer or seller by auction shall sell any such goods and effects by way of auction, without delivering the notice hereinbefore required to be delivered, every such auctioneer, or person selling by auction, offending therein shall, for every such offence, incur a penalty of £50.

#### **64 Priority of claim for tax in Scotland**

- (1) No moveable goods and effects belonging to any person in Scotland, at the time any tax became in arrear or was payable, shall be liable to be taken by virtue of any poinding, sequestration for rent, or diligence whatever, or by any assignation, unless the person proceeding to take the said goods and effects pays the tax so in arrear or payable:

Provided that where the tax is claimed for more than one year the person proceeding to take the said goods and effects may on paying the tax for one whole year proceed as he might have done if no tax had been so claimed.

- (2) If the said person neglects or refuses to pay the tax so in arrear or payable, or the tax for one whole year, as the case may be, the tax claimed shall, notwithstanding any proceeding at his instance for the purpose of taking the said moveable goods and effects, be recoverable by poinding and selling the said moveable goods and effects under warrant obtained in conformity with the provisions contained in section 63 above.

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### *Court proceedings*

#### **65 Magistrates' courts**

- (1) Where—
- (a) the amount of any tax for the time being due and payable under any assessment is less than £50, or
  - (b) the tax under any assessment is payable by instalments and the sum for the time being due and payable in respect of any of those instalments is less than £50,
- the tax shall, without prejudice to any other remedy, be recoverable summarily as a civil debt by proceedings commenced in the name of a collector.
- (2) All or any of the sums due in respect of tax from any one person and payable to any one collector (being sums which are by law recoverable summarily) may, whether or not they are due under one assessment, be included in the same complaint, summons, order, warrant or other document required by law to be laid before justices or to be issued by justices, and every such document as aforesaid shall, as respects each such sum, be construed as a separate document and its invalidity as respects any one such sum shall not affect its validity as respects any other such sum.
- (3) Proceedings under this section for the recovery of any tax charged under Schedule E may be brought in England and Wales at any time within one year from the time when the matter complained of arose.
- (4) It is hereby declared that in subsection (1) above the expression "recoverable summarily as a civil debt" in respect of proceedings in Northern Ireland means recoverable in the manner provided by the Summary Jurisdiction Acts for the recovery of sums declared under enactments of the Parliament of Northern Ireland to be a debt recoverable summarily.

#### **66 County courts**

- (1) Where the amount of tax for the time being due and payable under any assessment does not exceed the limit specified in section 40(1)(b) of the County Courts Act 1959 (money recoverable by statute), as for the time being in force, the tax may, without prejudice to any other remedy, be sued for and recovered from the person charged therewith as a debt due to the Crown by proceedings in a county court commenced in the name of a collector.
- (2) Any barrister who is an officer of the Board may appear in, conduct, defend and address the court in any legal proceedings under this section in a county court in England or Wales.
- (3) In the application of subsection (1) of this section to Northern Ireland, for the reference to section 40(1)(b) of the County Courts Act 1959 there shall be substituted a reference to section 10(1) of the County Courts Act (Northern Ireland) 1959, and in this section as it applies in Northern Ireland the expression
- “county court” shall mean a county court held for a division under that Act.
- (4) Sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this



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section, and Part III of the County Courts Act (Northern Ireland) 1959 (general civil jurisdiction) shall apply for the purposes of this section in Northern Ireland.

#### **67 Inferior courts in Scotland**

- (1) In Scotland, where the amount of tax for the time being due and payable under any assessment does not exceed £250 the tax may, without prejudice to any other remedy, be sued for and recovered from the person charged therewith as a debt due to the Crown by proceedings commenced in the name of a collector in the sheriff court or in the sheriff's small debt court, whichever is appropriate.
- (2) Sections 65 and 66 above shall not apply in Scotland.

#### **68 High Court, etc.**

- (1) Any tax may be sued for and recovered from the person charged therewith in the High Court as a debt due to the Crown, or by any other means whereby any debt of record or otherwise due to the Crown can, or may at any time, be sued for and recovered, as well as by the other means specially provided by this Act for levying the tax.
- (2) All matters within the jurisdiction of the High Court under this section shall be assigned in Scotland to the Court of Session sitting as the Court of Exchequer.

### *Supplemental*

#### **69 Interest on tax**

Interest charged under Part IX of this Act shall be treated for the purposes—

- (a) of sections 61, 63 and 65 to 68 above, and
- (b) of section 35(2)(g)(i) of the Crown Proceedings Act 1947 (rules of court to impose restrictions on set-off and counterclaim where the proceedings or set-off or counterclaim relate to taxes) and of any rules of court (including county court rules) for England and Wales or Northern Ireland, which impose such a restriction, and
- (c) of section 35(2)00 of the said Act of 1947 as set out in section 50 of that Act (which imposes corresponding restrictions in Scotland),

as if it were tax charged and due and payable under the assessment to which it relates.

#### **70 Evidence**

- (1) Where tax is in arrear, a certificate of the inspector or any other officer of the Board that tax has been charged and is due, together with a certificate of the collector that payment of the tax has not been made to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Crown ; and any document purporting to be such a certificate as is mentioned in this subsection shall be deemed to be such a certificate until the contrary is proved.
- (2) A certificate of a collector that interest is payable under section 86 or 87 of this Act and that payment of the interest has not been made to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of

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another collector, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Crown, and any document purporting to be such a certificate as is mentioned in this subsection shall be deemed to be such a certificate unless the contrary is proved.

- (3) A certificate by the General or Special Commissioners that the tax or a specified part of the tax charged by an assessment specified in the certificate carries interest under section 88 of this Act from a date so specified shall be sufficient evidence of that fact in proceedings for the recovery of that interest. A certificate under this subsection shall not be given except on the application of the inspector or the Board, and on any such application the person charged by the assessment (or, if he has died, his personal representatives) shall be entitled to appear and be heard.
- (4) A written statement as to the wages, salaries, fees, and other emoluments paid for any period to the person against whom proceedings are brought under section 65, 66 or 67 of this Act, purporting to be signed by his employer for that period or by any responsible person in the employment of the employer, shall in such proceedings be prima facie evidence that the wages, salaries, fees and other emoluments therein stated to have been paid to the person charged have in fact been so paid.

## PART VII

### PERSONS CHARGEABLE IN A REPRESENTATIVE CAPACITY, ETC.

#### *Income tax*

#### **71 Bodies of persons**

- (1) Subject to Part XI of the principal Act (charge of corporation tax on companies), every body of persons shall be chargeable to income tax in like manner as any person is chargeable under the Income Tax Acts.
- (2) Subject to section 108 of this Act, the chamberlain or other officer acting as treasurer, auditor or receiver for the time being of any body of persons chargeable to income tax shall be answerable for doing all such acts as are required to be done under the Income Tax Acts for the purpose of the assessment of the body and for payment of the tax.
- (3) Every such officer as aforesaid may from time to time retain, out of any money coming into his hands on behalf of the body, so much thereof as is sufficient to pay the income tax charged upon the body, and shall be indemnified for all such payments made in pursuance of the Income Tax Acts.

#### **72 Trustees, guardians, etc. of incapacitated persons**

- (1) The trustee, guardian, tutor, curator or committee of any incapacitated person having the direction, control or management of the property or concern of any such person, whether such person resides in the United Kingdom or not, shall be assessable and chargeable to income tax in like manner and to the like amount as that person would be assessed and charged if he were not an incapacitated person.
- (2) The person who is chargeable in respect of an incapacitated person shall be answerable for all matters required to be done under the Income Tax Acts for the purpose of assessment and payment of income tax.

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- (3) Any person who has been charged under the Income Tax Acts in respect of any incapacitated person as aforesaid may retain, out of money coming into his hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the tax charged, and shall be indemnified for all such payments made in pursuance of the Income Tax Acts.

### **73 Further provision as to infants**

If a person chargeable to income tax is an infant, then his parent, guardian or tutor—

- (a) shall be liable for the tax in default of payment by the infant, and
- (b) on neglect or refusal of payment, may be proceeded against in like manner as any other defaulter, and
- (c) if he makes such payment, shall be allowed all sums so paid in his accounts.

### **74 Personal representatives**

- (1) If a person chargeable to income tax dies, the executor or administrator of the person deceased shall be liable for the tax chargeable on such deceased person, and may deduct any payments made under this section out of the assets and effects of the person deceased.
- (2) On neglect or refusal of payment, any person liable under this section may be proceeded against in like manner as any other defaulter.

### **75 Receivers appointed by a court**

- (1) A receiver appointed by any court in the United Kingdom which has the direction and control of any property in respect of which income tax is charged in accordance with the provisions of the Income Tax Acts shall be assessable and chargeable with the tax in like manner and to the like amount as would be assessed and charged if the property were not under the direction and control of the court.
- (2) Every such receiver shall be answerable for doing all matters and things required to be done under the Income Tax Acts for the purpose of assessment and payment of income tax.

### **76 Protection for certain trustees, agents and receivers**

- (1) A trustee who has authorised the receipt of profits arising from trust property by, or by the agent of, the person entitled thereto shall not, if—
  - (a) that person or agent actually received the profits under that authority, and
  - (b) the trustee makes a return, as required by section 13 of this Act, of the name, address and profits of that person,be required to do any other act for the purpose of the assessment of that person to income tax.
- (2) An agent or receiver of any person resident in the United Kingdom, other than an incapacitated person, shall not, if he makes a return, as required by section 13 of this Act, of the name, address and profits of that person, be required to do any other act for the purpose of the assessment of that person to income tax.

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### *Capital gains tax*

#### **77 Application of Part VII to capital gains tax**

- (1) This Part of this Act (except section 76 above) shall apply in relation to capital gains tax as it applies in relation to income tax chargeable at the standard rate, and subject to any necessary modifications.
- (2) This Part of this Act as applied by this section shall not affect the question of who is the person to whom chargeable gains accrue, or who is chargeable to capital gains tax, so far as that question is relevant for the purposes of any exemption, or of any provision determining the rate at which capital gains tax is chargeable.

## **PART VIII**

### **CHARGES ON NON-RESIDENTS**

#### *Income tax*

#### **78 Method of charging non-residents**

Subject to section 89 of the principal Act (Schedule A etc.) a person not resident in the United Kingdom, whether a British subject or not, shall be assessable and chargeable to income tax in the name of any such trustee, guardian, tutor, curator or committee as is mentioned in section 72 of this Act, or of any branch or agent, whether the branch or agent has the receipt of the profits or gains or not, in like manner and to the like amount as such non-resident person would be assessed and charged if he were resident in the United Kingdom and in the actual receipt of such profits or gains.

#### **79 Profits from branch or agency**

A non-resident person shall be assessable and chargeable to income tax in respect of any profits or gains arising, whether directly or indirectly, through or from any branch or agency, and shall be so assessable and chargeable in the name of the branch or agent.

#### **80 Charge on percentage of turnover**

- (1) Where it appears to the inspector or, on appeal, to the General or Special Commissioners, that the true amount of the profits or gains of any non-resident person chargeable with income tax in the name of a resident person cannot in any case be readily ascertained, the inspector or Commissioners may, if he or they think fit, assess and charge the non-resident person on a percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable as aforesaid, and the inspector may by notice require the resident person to deliver a return of the business so done by the non-resident person through or with the resident person.
- (2) The amount of percentage under subsection (1) of this section shall in each case be determined, having regard to the nature of the business, by the inspector or Commissioners.

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- (3) If either the resident person or the non-resident person is dissatisfied with the percentage as confirmed or determined by the General or Special Commissioners on appeal, he may within four months of the determination, require the Commissioners to refer the question of the percentage to a referee or board of referees to be appointed for the purpose by the Treasury and the decision of the referee or board shall be final and conclusive.

## **81 Taxation on basis of merchanting profit**

Where a non-resident person is chargeable to income tax in the name of any branch or agent in respect of any profits or gains arising from the sale of goods or produce manufactured or produced out of the United Kingdom by the non-resident person, the person in whose name the non-resident person is so chargeable may, by notice included in a return of income delivered within six years from the end of the year of assessment for which he is chargeable, elect to be assessed in respect of those profits or gains on the basis of the profits which might reasonably be expected to have been earned by a merchant or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who had bought from the manufacturer or producer direct.

## **82 Savings**

- (1) Nothing in this Part of this Act shall render a non-resident person chargeable in the name of a broker or in the name of an agent not being an authorised person carrying on the regular agency of the non-resident person, in respect of profits or gains arising from sales or transactions carried out through such a broker or agent:

Provided that where sales or transactions are carried out on behalf of a non-resident person through a broker in the ordinary course of his business as such and the broker—

- (a) is a person carrying on bona fide the business of a broker in the United Kingdom, and
- (b) receives in respect of the business of the non-resident person which is transacted through him remuneration at a rate not less than that customary in the class of business in question,

then, notwithstanding that the broker is a person who acts regularly for the non-resident person as such broker, the non-resident person shall not be chargeable in the name of that broker in respect of profits or gains arising from those sales or transactions. In this subsection, " broker " includes a general commission agent.

- (2) The fact that a non-resident person executes sales or carries out transactions with other non-residents which would make him chargeable in pursuance of this Part of this Act in the name of a resident person shall not of itself make him chargeable in respect of profits arising from those sales or transactions.

## **83 Responsibilities and indemnification of persons in whose name a non-resident person is chargeable**

- (1) A person in whose name a non-resident person is chargeable shall be answerable for all matters required to be done under the Income Tax Acts for the purpose of assessment and payment of income tax.

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- (2) A person who has been charged under the Income Tax Acts in respect of any non-resident person as aforesaid may retain, out of money coming into his hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the tax charged, and shall be indemnified for all such payments made in pursuance of the Income Tax Acts.

#### *Capital gains tax*

### **84 Gains from branch or agency**

- (1) A non-resident person shall be assessable and chargeable to capital gains tax in respect of any chargeable gains arising, whether directly or indirectly, through or from any branch or agency, and shall be so assessable and chargeable in the name of the branch or agent.
- (2) The person in whose name the non-resident person is chargeable shall be answerable for all matters required to be done under the enactments relating to capital gains tax for the purpose of assessment and payment of that tax.
- (3) A person who has been charged under this section in respect of any non-resident person may retain, out of money coming into his hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the tax charged, and shall be indemnified for all such payments made in pursuance of the enactments relating to capital gains tax.

#### *Corporation tax*

### **85 Application of Part VIII to corporation tax**

The provisions of this Part of this Act relating to income tax, so far as they are applicable to tax chargeable on a company, shall apply with any necessary adaptations in relation to corporation tax chargeable on companies not resident in the United Kingdom.

## **PART IX**

### **INTEREST ON OVERDUE TAX**

### **86 Interest on overdue tax**

- (1) Any tax charged by any assessment to which this subsection applies shall carry interest at the prescribed rate from the date when the tax becomes due and payable until payment. This subsection applies to—
- (a) any assessment to income tax made under Schedule A or Schedule D,
  - (b) any assessment to surtax,
  - (c) any assessment to capital gains tax,
  - (d) any assessment to corporation tax.
- (2) Where any tax is paid not later than two months from the date on which it becomes due and payable, the interest thereon under this section shall be remitted. As respects

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tax becoming due and payable before 1st July 1968 this subsection has effect with the substitution of

“three months” for “two months”.

(3) Interest shall not be payable under this section on the tax charged by any assessment unless—

- (a) the total tax charged by that assessment exceeds £1,000, and
- (b) the total amount of the interest exceeds £5,

so, however, that in the case of tax becoming due and payable before 19th April 1967, paragraph (b) above has effect with the substitution of

“£1” for “£5”.

(4) Interest shall not be deemed to have begun to run under this section from any date before 1st January 1948.

## **87 Interest on overdue income tax on company distributions etc.**

(1) Any tax assessable in accordance with Schedule 9 to the principal Act shall carry interest at the prescribed rate from the date when the tax becomes due and payable until payment.

(2) The discharge or repayment of tax in respect of distributions, or payments other than distributions, made in any month in a year of assessment by setting off, under paragraph 3 of Schedule 9 to the principal Act, income tax in respect of any franked investment income or other payment received in a later month in that year shall not affect interest under this section on the tax so discharged or repaid—

- (a) for any period before the expiration of fourteen days from the end of the later month, unless the claim is made on an earlier date (but after the end of that later month), and
- (b) if the claim is made on an earlier date (but after the end of the later month), any period ending before that earlier date,

but subject to that, this section shall apply as if any such tax which is discharged or repaid had never become payable.

(3) Interest shall not be payable under this section on the tax charged by any assessment unless the total amount of the interest exceeds—

- (a) in the case of tax becoming due and payable before 19th April 1967. £1.
- (b) in the case of tax becoming due and payable on or after that date, £5.

(4) Subsection (3) above shall have effect—

- (a) as if all tax due from a company in accordance with paragraph 2(3) of Schedule 9 to the principal Act for any month, whether or not it is actually assessed, were included in a single assessment, and
- (b) as if all tax due from a company in accordance with paragraph 1(2) of the said Schedule 9 for any year, whether or not it is actually assessed, were included in a single assessment.

(5) No tax under Schedule 9 to the principal Act shall carry interest from a date earlier than 19th November 1966.

(6) In this section “month” means a month of a year of assessment, that is to say a month beginning on the sixth day of a month of the calendar year.

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- (7) It is hereby declared that this section applies to income tax which, in accordance with Schedule 9 to the principal Act, is paid without the making of any assessment (but is paid after it is due), and that where the tax is charged by an assessment (whether or not any part of it has been paid when the assessment is made) it applies as respects interest running before as well as after the making of the assessment.

## **88 Interest on tax recovered to make good loss due to taxpayer's fault**

- (1) Where an assessment has been made for the purpose of making good to the Crown a loss of tax wholly or partly attributable to the fraud, wilful default or neglect of any person, the tax charged by the assessment, or as the case may be such part thereof as corresponds to the part so attributable, shall carry interest at the prescribed rate from the date on which the tax ought to have been paid until payment.
- (2) This section shall not apply in relation to tax under Schedule 9 to the principal Act.
- (3) Tax carrying interest under this section shall not carry interest under section 86 above.
- (4) The Board may at their discretion mitigate (whether before or after judgment) any interest due under this section and may stay or compound any proceedings for the recovery thereof.
- (5) For the purposes of this section the date when tax ought to have been paid shall be taken to be—
- in the case of income tax, 1st January in the year of assessment for which the tax is charged, but subject to paragraphs (b) and (c) below,
  - in the case of one-half of any income tax specified in section 4(2) of the principal Act, the following 1st July,
  - in the case of surtax, 1st January in the year of assessment next following the year for which the tax is charged,
  - in the case of capital gains tax, 6th July in the year of assessment next following the year for which the tax is charged,
  - in the case of corporation tax, the date nine months from the end of the accounting period for which the tax is charged or, where section 244(1) of the principal Act applies, at the end of the interval mentioned in that subsection (without the alternative of one month from the making of the assessment).

## **89 The prescribed rate of interest**

- (1) In this Part of this Act " the prescribed rate" means—
- for the purposes of sections 86 and 87 above, the rate specified in column 2 of the Table below,
  - for the purposes of section 88 above, the rate specified in column 3 of the Table below. TABLE

1 Interest for any period before 19th April 1967	2 For the purposes of section 86 or 87 above 3 per cent.	3 For the purposes of section 88 above 3 per cent.
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after 18th April 1967 and before 19th April 1969	4 per cent.	4 per cent.
after 18th April 1969	6 per cent.	4 per cent.

The references in column 1 of this Table to any period before or after a specified date apply whether or not interest continues to run after that period, or, as the case may be, runs from before that period.

- (2) The Treasury may, by order in a statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament, from time to time increase or decrease any rate or rates of interest prescribed by subsection (1) above, either for the purposes of all the provisions of this Part of this Act, or so as to prescribe different rates for different purposes.
- (3) Any variation of the rate of interest prescribed under subsection (2) above shall apply to interest for periods beginning on or after the date when the order is expressed to come into force, whether or not interest runs from before that date.

## 90 Disallowance of relief for interest on tax

Interest payable under this Part of this Act shall be paid without any deduction of income tax and shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.

## 91 Effect on interest of reliefs

- (1) Where any amount of interest is payable under section 86 or section 88 of this Act in relation to an assessment, and relief from tax charged by the assessment is given to any person by a discharge of any of that tax, such adjustment shall be made of the said amount, and such repayment shall be made of any amounts previously paid under those provisions in relation to the assessment, as are necessary to secure that the total sum, if any, paid or payable under those provisions in relation to the assessment is the same as it would have been if the tax discharged had never been charged.
- (2) Where relief from tax paid for any chargeable period is given to any person by repayment, he shall be entitled to require that the amount repaid shall be treated for the purposes of this section, so far as it will go, as if it were a discharge of the tax charged on him (whether alone or together with other persons) by or by virtue of any assessment for or relating to the same chargeable period, so, however, that it shall not be applied to any assessment made after the relief was given and that it shall not be applied to more than one assessment so as to reduce, without extinguishing, the amount of tax charged thereby.
- (3) Notwithstanding anything in the preceding provisions of this section, no relief, whether given by way of discharge or repayment, shall be treated for the purposes of this section as—
  - (a) affecting tax charged by any assessment to surtax unless it is a relief from surtax, or
  - (b) affecting tax charged by any assessment to income tax made under Schedule A or Schedule D if either—
    - (i) it is a relief from surtax, or

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- (ii) it arises in connection with income taxable otherwise than under Schedule A or Schedule D, or
  - (iii) it relates to a source income from which is taxable otherwise than under Schedule A or Schedule D.
- (4) For the purposes of this section a relief from corporation tax or capital gains tax shall not be treated as affecting tax charged by any assessment unless the assessment is to the same tax.

**92 Remission in certain cases of interest on tax in arrear by reason of exchange restrictions**

- (1) The provisions of this section shall have effect where the Board are satisfied as respects any tax carrying interest under section 86 of this Act—
- (a) that the tax is in respect of income or chargeable gains arising in a country outside the United Kingdom, and
  - (b) that, as the result of action of the government of that country, it is impossible for the income or gains to be remitted to the United Kingdom, and
  - (c) that having regard to the matters aforesaid and to all the other circumstances of the case it is reasonable that the tax should for the time being remain uncollected,
- and the Board allow the tax to remain uncollected accordingly.
- (2) Interest on the said tax shall, subject to subsection (3) below, cease to run under the said section 86 as from the date on which the Board were first in possession of the information necessary to enable them to be satisfied as aforesaid and, if the said date is not later than three months from the time when the tax became due and payable, the interest thereon under the said section 86 in respect of the period before the said date shall be remitted.
- (3) Where, under subsection (2) above, interest has ceased to run on any tax and thereafter demand is made by the collector or other proper officer for payment of all or any of that tax, interest under the said section 86 shall again begin to run from the date of the demand in respect of the amount demanded:

Provided that where all or any part of the amount demanded is paid not later than three months from the date of the demand, the interest under the said section 86 on the amount so paid running from the date of the demand shall be remitted.

**PART X**

PENALTIES, ETC.

**93 Failure to make return for income tax or capital gains tax**

- (1) If any person has been required by a notice served under or for the purposes of section 8 or 9 of this Act (or either of those sections as extended by section 12 of this Act or section 39(3) of the principal Act (husband and wife)) to deliver any return, and he fails to comply with the notice he shall be liable, subject to the provisions of this section—
- (a) to a penalty not exceeding, except in the case mentioned in subsection (2) below, £50, and

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- (b) if the failure continues after it has been declared by the court or Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £10 for each day on which the failure so continues.
- (2) If the failure continues after the end of the year of assessment following that during which the notice was served, the penalty under subsection (1)(a) above shall be an amount not exceeding the aggregate of £50 and the total amount of the tax with which the said person is charged (whether for one or for more than one year of assessment) in assessments—
- (a) based wholly or partly on any income or chargeable gains that ought to have been included in the return required by the notice, and
  - (b) made after the end of the year next following the year of assessment in which the said notice was served.
- (3) Where in any year of assessment any amount was deducted from the said person's emoluments under section 204 of the principal Act (pay as you earn), and that amount exceeds the total amount (if any) charged in any assessments under Schedule E made on him for that year before the end of the year of assessment next following that in which the said notice was served, the amount of the excess shall be treated, for the purposes of subsection (2) of this section, as reducing the amount of the tax charged in assessments under Schedule E made on him for the first-mentioned year after the end of the said following year.
- (4) The reference in subsection (2) above to tax includes surtax, except that in relation to a return required for the purposes of section 9 of this Act it does not include any tax not chargeable in the partnership name; and in relation to a person's failure to deliver any other return it does not include tax assessed in the name of a partnership on so much of the profits or gains assessed as falls to be included in the total income of any other person.
- (5) Except in the case mentioned in subsection (2) above, a person shall not be liable to any penalty incurred under this section for a failure to comply with any notice, if the failure is remedied before proceedings for the recovery of the penalty are commenced.
- (6) Where a person is liable to more than one penalty of an amount determined under subsection (2) above, any assessment taken into account for the purposes of one of those penalties shall be left out of account for the purposes of the other or others.
- (7) If the defendant (or, in Scotland, the defender) in proceedings under this section proves that there was no income and no chargeable gains to be included in the return, the penalty shall not exceed £5.
- (8) References in this section to the amount of tax with which a person is charged for any year of assessment and to assessments made on him include, in the case of a person who has died, references to any amount with which his personal representatives are charged for that year and to assessments made on them.

#### **94 Failure to make return for corporation tax**

- (1) If any company has been required by a notice served under section 11 of this Act (or under that section as extended by section 12 of this Act) to deliver a return and the company fails to comply with the notice the company shall be liable, subject to subsection (3) of this section—

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- (a) to a penalty not exceeding, except in the case mentioned in subsection (2) of this section, £50, and
  - (b) if the failure continues after it has been declared by the court or Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £10 for each day on which the failure so continues.
- (2) If the failure continues after the end of the period of two years beginning with the date on which the notice was served, the penalty under subsection (1)(a) above shall be an amount not exceeding the aggregate of £50 and the total amount of the tax with which the said company is charged (whether for one or more accounting periods) in assessments to corporation tax—
- (a) based wholly or partly on any profits that ought to have been included in the return required by the notice, and
  - (b) made after the end of the said period of two years,
- and in arriving at the amount of corporation tax with which the company is so charged no account shall be taken of any income tax which under section 240(5) or 246(3) of the principal Act (income tax borne by deduction from receipts) may be set off against corporation tax.
- (3) Except in the case mentioned in subsection (2) above, the company shall not be liable to any penalty incurred under this section for failure to comply with a notice, if the failure is remedied before proceedings for the recovery of the penalty are commenced.
- (4) If in proceedings under this section it is proved that there were no profits to be included in the return, the penalty under this section shall not exceed £5.

## **95 Incorrect return or accounts for income tax or capital gains tax**

- (1) Where a person fraudulently or negligently—
- (a) delivers any incorrect return of a kind mentioned in section 8 or 9 of this Act (or either of those sections as extended by section 12 of this Act or section 39(3) of the principal Act (husband and wife)), or
  - (b) makes any incorrect return, statement or declaration in connection with any claim for any allowance, deduction or relief in respect of income tax or capital gains tax, or
  - (c) submits to an inspector or the Board or any Commissioners any incorrect accounts in connection with the ascertainment of his liability to income tax or capital gains tax,
- he shall be liable to a penalty not exceeding the aggregate of—
- (i) £50, and
  - (ii) the amount, or, in the case of fraud, twice the amount, of the difference specified in subsection (2) below.
- (2) The difference is that between—
- (a) the amount of income tax and capital gains tax payable for the relevant years of assessment by the said person (including any amount of income tax deducted at source and not repayable), and
  - (b) the amount which would have been the amount so payable if the return, statement, declaration or accounts as made or submitted by him had been correct.

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- (3) The relevant years of assessment for the purposes of this section are, in relation to anything delivered, made or submitted in any year of assessment, that, the next following, and any preceding year of assessment; and the references in subsection (2) to the amount of income tax payable include surtax, except that, in relation to anything done in connection with a partnership they do not include any income tax not chargeable in the partnership name.

## **96 Incorrect return or accounts for corporation tax**

- (1) Where a company fraudulently or negligently—
- (a) delivers any incorrect return under section 11 of this Act (or under that section as extended by section 12 of this Act), or
  - (b) makes any incorrect return, statement or declaration in connection with any claim for any allowance, deduction or relief in respect of corporation tax, or
  - (c) submits to an inspector or any Commissioners any incorrect accounts in connection with the ascertainment of the company's liability to corporation tax,
- the company shall be liable to a penalty not exceeding the aggregate of—
- (i) £50, and
  - (ii) the amount, or, in the case of fraud, twice the amount, of the difference specified in subsection (2) below.
- (2) The difference is that between—
- (a) the amount of corporation tax payable by the said company for the accounting period or accounting periods comprising the period to which the return, statement, declaration or accounts relate, and
  - (b) the amount which would have been the amount so payable if the return, statement, declaration or accounts had been correct.

## **97 Incorrect return or accounts: supplemental**

- (1) Where any such return, statement, declaration or accounts as are mentioned in sections 95 and 96 above were made or submitted by any person neither fraudulently nor negligently and it comes to his notice (or, if he has died, to the notice of his personal representatives) that they were incorrect, then, unless the error is remedied without unreasonable delay, the return, statement, declaration or accounts shall be treated for the purposes of those sections as having been negligently made or submitted by him.
- (2) For the purpose of sections 95 and 96 above, any accounts submitted on behalf of any person shall be deemed to have been submitted by him unless he proves that they were submitted without his consent or connivance.

## **98 Special returns, etc.**

- (1) Where any person—
- (a) has been required, by a notice served under or for the purposes of any of the provisions specified in the first column of the Table below, to deliver any return or other document, to furnish any particulars, to produce any document, or to make anything available for inspection, and he fails to comply with the notice, or

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- (b) fails to furnish any information, give any certificate or produce any document or record in accordance with any of the provisions specified in the second column of the Table below,  
 he shall be liable, subject to subsection (3) below—
- (i) to a penalty not exceeding £50, and
  - (ii) if the failure continues after it has been declared by the court or Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £10 for each day on which the failure so continues.
- (2) Where a person fraudulently or negligently furnishes, gives, produces or makes any incorrect information, certificate, document, record or declaration of a kind mentioned in any of the provisions specified in either column of the Table below, he shall be liable to a penalty not exceeding £250, or, in the case of fraud, £500.
- (3) A person shall not be liable to any penalty incurred under this section for a failure to comply with any notice, if the failure is remedied before proceedings for the recovery of the penalty are commenced. Table

1.	2.	
Part III of this Act, except section 16 and section 24(2)	In the principal Act— section 34(4) section 53(2)	
Section 51 of this Act	section 87(1) section 186(11) section 187(7)	
In the principal Act—	section 224(5)(a) section 402	
section 30(1)(2)	section 411(4)	
section 167(4)		
section 200		
section 224(5)(b)	Schedule 5, paragraph 6	
section 301		
section 431(4)	Schedule 9, paragraph 2(1)	
section 443		
section 453	Regulations under section 204 of the principal Act	
section 465		
section 469(8)		
section 470(6)		
section 477(7)		
section 481(1)		

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section 483(7)		
section 486(5)		
section 490		
Schedule 5, paragraph 13(1)		
Schedule 6, paragraph 10		

**99 Assisting in making incorrect return, etc.**

Any person who assists in or induces the making or delivery for any purposes of tax of any return or accounts which he knows to be incorrect shall be liable to a penalty not exceeding £500.

**100 Procedure for recovery of penalties**

- (1) Except as otherwise provided in this section, no proceedings shall be commenced against any person for the recovery of any penalty under the Taxes Acts except by order of the Board.
- (2) Any such proceedings which are not instituted (in England, Wales or Northern Ireland) under the Crown Proceedings Act 1947 by and in the name of the Board as an authorised department for the purposes of that Act shall be instituted in the name of an officer, or—
  - (a) in England and Wales, in the name of the Attorney General,
  - (b) in Scotland, in the name of the Lord Advocate, and
  - (c) in Northern Ireland, in the name of the Attorney General for Northern Ireland.
- (3) Any such proceedings may, except as otherwise provided in the Taxes Acts, be commenced either before the General or Special Commissioners, or
  - (a) in England, Wales or Northern Ireland, in the High Court,
  - (b) in Scotland, in the Court of Session as the Court of Exchequer in Scotland,and any proceedings commenced as mentioned in paragraph (a) of this subsection shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947 or, as the case may be, 'that Part as for the time being in force in Northern Ireland.
- (4) The inspector may, without an order of the Board, commence before the General Commissioners (or, in Northern Ireland, the Special Commissioners) proceedings for a penalty incurred by any person under section 93(1) or section 98(1) of this Act for a failure to deliver, furnish or produce anything to the inspector; but in any proceedings so commenced the Commissioners shall not in any case award, in respect of the penalty under paragraph (a) of the said section 93(1), a sum exceeding £50.
- (5) Where the person who has incurred any penalty has died, any proceedings under this section which have been or could have been commenced against him may be continued or commenced against his personal representatives, and any penalty awarded in proceedings so continued or commenced shall be a debt due from and payable out of his estate; but nothing in this subsection shall extend the time for commencing proceedings against personal representatives.

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- (6) Where any proceedings under this section are brought before any Commissioners, an appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from their decision—
- (a) by any party, on a question of law, and
  - (b) by the defendant (or, in Scotland, the defender) against the amount of any penalty awarded,
- and on any appeal under paragraph (b) above the court may either confirm the decision or reduce or increase the sum awarded.
- (7) Proceedings under this section before any Commissioners shall be by way of information in writing, made to them, and upon summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons, and they shall hear and determine each case in a summary way; and any penalty awarded by them in such proceedings shall for all purposes be treated as if it were tax charged in an assessment and due and payable.
- (8) The Commissioners or the court before whom any proceedings for a penalty of a fixed amount are brought under this section may, if they think fit, give judgment for a less amount.
- (9) The Governor of Northern Ireland may, if he thinks fit, appoint some other person to act instead of the Attorney General for Northern Ireland in relation to any matters to which this section relates, and in that case the reference in this section to the Attorney General for Northern Ireland shall be construed as a reference to the person so appointed.

### **101 Evidence of profits for purposes of preceding provisions of Part X**

For the purposes of the preceding provisions of this Part of this Act, any assessment which can no longer be varied by any Commissioners on appeal or by order of any court shall be sufficient evidence that the income or chargeable gains in respect of which tax is charged in the assessment arose or were received as stated therein.

### **102 Mitigation of penalties**

The Board may in their discretion mitigate any penalty, or stay or compound any proceedings for recovery thereof, and may also, after judgment, further mitigate or entirely remit the penalty.

### **103 Time limit for recovery of penalties**

- (1) Proceedings for the recovery of any penalty incurred under the Taxes Acts in connection with or in relation to tax may be commenced at any time within six years next after the date on which it was incurred, or at any later time allowed under the following provisions of this section.
- (2) Proceedings for the recovery of any penalty from any person in connection with or in relation to any tax covered by any assessment may, where any form of fraud or wilful default has been committed by him or on his behalf in connection with or in relation to that tax, be commenced at any time within three years from the final determination of the amount of tax covered by the assessment:



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Provided that this subsection shall not extend the time for the bringing of any proceedings against the personal representatives of any person by whom or on whose behalf any form of fraud or wilful default has been committed.

- (3) Where the amount of any penalty to which a person is liable under the Taxes Acts is determined by reference to tax charged in an assessment for any chargeable period which is made not later than six years after the end of that chargeable period, proceedings for the recovery of the penalty may be commenced within three years from the final determination of the amount of that tax.
- (4) In any proceedings for the recovery of a penalty which could not have been commenced but for subsection (3) above, any tax charged in an assessment made under section 37, 39 or 40(2) of this Act shall be left out of account in determining the amount of the penalty.

#### **104 Saving for criminal proceedings**

The provisions of the Taxes Acts shall not, save so far as is otherwise provided, affect any criminal proceedings for any misdemeanour.

#### **105 Evidence in cases of fraud or wilful default**

- (1) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (2) below by reason only that it has been drawn to his attention that—
  - (a) in relation to tax, the Board may accept pecuniary settlements instead of instituting proceedings, and
  - (b) though no undertaking can be given as to whether or not the Board will accept such a settlement in the case of any particular person, it is the practice of the Board to be influenced by the fact that a person has made a full confession of any fraud or default to which he has been a party and has given full facilities for investigation,and that he was or may have been induced thereby to make the statements or produce the documents.
- (2) The proceedings mentioned in subsection (1) above are—
  - (a) any criminal proceedings against the person in question for any form of fraud or wilful default in connection with or in relation to tax, and
  - (b) any proceedings against him for the recovery of any sum due from him, whether by way of tax or penalty, in connection with or in relation to tax.

#### **106 Refusal to allow a deduction of income tax, and avoidance of agreements for payment without deduction**

- (1) A person who refuses to allow a deduction of income tax authorised by the Taxes Acts to be made out of any payment shall incur a penalty of £50.
- (2) Every agreement for payment of interest, rent or other annual payment in full without allowing any such deduction shall be void.

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### *Scotland*

#### **107 Criminal liability for false statements made to obtain allowances**

- (1) This section applies only in Scotland.
- (2) If any person, for the purpose of obtaining any allowance, reduction, rebate or repayment in respect of tax, either for himself or for any other person, or, in any return made with reference to tax, knowingly makes any false statement or false representation, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months.
- (3) Notwithstanding anything in the Summary Jurisdiction (Scotland) Act 1954, proceedings for an offence under this section may be commenced at any time within three years from the time when the offence was committed.
- (4) The expression " return " in this section shall be construed without regard to the definition in section 118(1) of this Act.

## **PART XI**

### MISCELLANEOUS AND SUPPLEMENTAL

### COMPANIES

#### **108 Responsibility of company officers**

- (1) Everything to be done by a company under the Taxes Acts shall be done by the company acting through the proper officer of the company, and service on a company of any document under or in pursuance of the Taxes Acts may be effected by serving it on the proper officer. This subsection is without prejudice to Part VIII of this Act (charges on non-residents) as it applies to corporation tax.
- (2) Corporation tax or other tax chargeable under the Corporation Tax Acts on a company which is not a body corporate, or which is a body corporate not incorporated under the Companies Act 1948 or any other enactment forming part of the law of the United Kingdom, or by Charter, may, at any time after the tax becomes due, and without prejudice to any other method of recovery, be recovered from the proper officer of the company, and that officer may retain out of any money coming into his hands on behalf of the company sufficient sums to pay that tax, and, so far as he is not so reimbursed, shall be entitled to be indemnified by the company in respect of the liability so imposed on him.
- (3) For the purposes of this section—
  - (a) the proper officer of a company which is a body corporate shall be the secretary or person acting as secretary of the company, except that if a liquidator has been appointed for the company the liquidator shall be the proper officer,
  - (b) the proper officer of a company which is not a body corporate or for which there is no proper officer within paragraph (a) above, shall be the treasurer or the person acting as treasurer, of the company.

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## **109 Tax at the standard rate on close companies**

- (1) In this section "the tax" means tax assessable under section 286, 288 or 289 of the principal Act (charges in connection with loans and covenants and charges in respect of shortfall).
- (2) The provisions of the said sections directing that the tax be assessed and recoverable as if it were an amount of income tax shall be taken as applying, subject to the provisions of the Taxes Acts, and to any necessary modifications, all enactments applying generally to income tax, including those relating to the assessing, collecting and receiving of income tax, those conferring or regulating a right of appeal and those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.
- (3) Section 33 and section 55 of this Act shall apply to any assessment of the tax as if it were an assessment under Schedule D.
- (4) Section 86 of this Act shall apply in relation to the tax as it applies to income tax charged by an assessment under Schedule D, except that subsection (2) and paragraph (a) of subsection (3) of the said section 86 shall not apply.
- (5) For the purposes of section 88 of this Act as applied by subsection (2) above, the date when the tax charged ought to have been paid shall be taken to be—
  - (a) for tax under sections 286 and 288 of the principal Act, the first day of the year of assessment following that in which the loan or advance (for tax under section 286) or the payment or consideration (for tax under section 288) was made or given, and
  - (b) for tax under section 289, the first day after the period of twelve months from the end of the accounting period for which there is a shortfall.
- (6) Section 91 of this Act shall not apply in consequence of any repayment of tax under section 286(5) of the principal Act.
- (7) For the purposes of the said section 91, a relief from the tax under section 286, 288 or 289 of the principal Act shall not be treated as affecting tax charged by any assessment unless the assessment is to tax under the same section.

### *Valuation*

## **110 Valuation of land: power of entry**

Any person authorised in that behalf by the Board may, on producing if so required evidence of his authority, at any reasonable time enter on and inspect, with a view to establishing its annual value, any land the annual value of which falls to be determined for purposes of income tax or corporation tax.

## **111 Valuation of assets: power to inspect**

- (1) If for the purposes of Part III of the Finance Act 1965 the Board authorise an inspector or other officer of the Board to inspect any property for the purpose of ascertaining its market value the person having the custody or possession of that property shall permit the inspector or other officer so authorised to inspect it at such reasonable times as the Board may consider necessary.

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- (2) If any person wilfully delays or obstructs an inspector or other officer of the Board acting in pursuance of this section he shall be liable on summary conviction to a fine not exceeding £5.

### *Documents*

#### **112 Loss, destruction or damage to assessments, returns, etc.**

- (1) Where any assessment to tax, or any duplicate of assessment to tax, or any return or other document relating to tax, has been lost or destroyed, or been so defaced or damaged as to be illegible or otherwise useless, the Commissioners, inspectors, collectors and other officers having powers in relation to tax may, notwithstanding anything in any enactment to the contrary, do all such acts and things as they might have done, and all acts and things done under or in pursuance of this section shall be as valid and effectual for all purposes as they would have been, if the assessment or duplicate of assessment had not been made, or the return or other document had not been made or furnished or required to be made or furnished:

Provided that, where any person who is charged with tax in consequence or by virtue of any act or thing done under or in pursuance of this section proves to the satisfaction of the Commissioners having jurisdiction in the case that he has already paid any tax for the same chargeable period in respect of the subject matter and on the account in respect of and on which he is so charged, relief shall be given to the extent to which the liability of that person has been discharged by the payment so made either by abatement from the charge or by repayment, as the case may require.

- (2) In this section, "the Commissioners " means, as the case may require, either the Board or the General or Special Commissioners concerned.

#### **113 Form of returns and other documents**

- (1) Any returns under the Taxes Acts shall be in such form as the Board prescribe, and in prescribing income tax forms under this subsection the Board shall have regard to the desirability of securing, so far as may be possible, that no person shall be required to make more than one return annually of the sources of his income and the amounts derived therefrom.
- (2) Any return or assessment or other document relating to chargeable gains or tax on capital gains may be combined with one relating to income or income tax.
- (3) Every assessment, duplicate, warrant, notice of assessment or of demand, or other document required to be used in assessing, charging, collecting and levying tax shall be in accordance with the forms prescribed from time to time in that behalf by the Board, and a document in the form prescribed and supplied or approved by them shall be valid and effectual.

#### **114 Want of form or errors not to invalidate assessments, etc.**

- (1) An assessment, warrant or other proceeding which purports to be made in pursuance of any provision of the Taxes Acts shall not be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the

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intent and meaning of the Taxes Acts, and if the person or property charged or intended to be charged or affected thereby is designated therein according to common intent and understanding.

- (2) An assessment shall not be impeached or affected—
- (a) by reason of a mistake therein as to—
    - (i) the name or surname of a person liable, or
    - (ii) the description of any profits or property, or
    - (iii) the amount of the tax charged, or
  - (b) by reason of any variance between the notice and the assessment.

### **115 Delivery and service of documents**

- (1) A notice or form which is to be served under the Taxes Acts on a person may be either delivered to him or left at his usual or last known place of residence.
- (2) Any notice or other document to be given, sent, served or delivered under the Taxes Acts may be served by post, and, if to be given, sent, served or delivered to or on any person by the Board, by any officer of the Board, or by or on behalf of any body of Commissioners, may be so served addressed to that person—
- (a) at his usual or last known place of residence, or his place of business or employment, or
  - (b) in the case of a company, at any other prescribed place and, in the case of a liquidator of a company, at his address for the purposes of the liquidation or any other prescribed place.
- (3) In subsection (2) above " prescribed " means prescribed by regulations made by the Board, and the power of making regulations for the purposes of that subsection shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (4) Notices to be given or delivered to, or served on, the General Commissioners shall be valid and effectual if given or delivered to or served on their clerk.

### **116 Receipts, etc. exempt from stamp duty**

No receipt or certificate of payment given in pursuance and for the purposes of the Taxes Acts shall be liable to any stamp duty.

*Northern Ireland*

### **117 Action of ejectment in Northern Ireland**

Unless other provision is made in that behalf by any enactment, an action of ejectment in Northern Ireland for non-payment of rent shall not be defeated on the ground that the person liable to pay the rent is entitled under the Income Tax Acts to a deduction which would reduce the amount due by him below a year's rent.

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## *Interpretation*

### **118 Interpretation**

- (1) In this Act, unless the context otherwise requires—
- " Act" includes an Act of the Parliament of Northern Ireland and " enactment" shall be construed accordingly,
  - " the Board " means the Commissioners of Inland Revenue,
  - " body of persons " means any body politic, corporate or collegiate, and any company, fraternity, fellowship and society of persons, whether corporate or not corporate,
  - " branch or agency " means any factorship, agency, receivership, branch or management, and " branch or agent " shall be construed accordingly,
  - " chargeable gain " has the same meaning as in Part III of the Finance Act 1965,
  - " chargeable period" means a year of assessment or a company's accounting period,
  - " collector " means any collector of taxes,
  - " company " has the meaning given by section 526(5) of the principal Act (with section 354 of that Act),
  - " incapacitated person " means any infant, person of unsound mind, lunatic, idiot or insane person,
  - " inspector " means any inspector of taxes,
  - " neglect" means negligence or a failure to give any notice, make any return or to produce or furnish any document or other information required by or under the Taxes Acts,
  - " the principal Act" means the Income and Corporation Taxes Act 1970,
  - " return " includes any statement or declaration under the Taxes Acts,
  - " tax ", where neither income tax nor capital gains tax nor corporation tax is specified, means any of those taxes,
  - " the Taxes Acts " means this Act and—
    - (a) the Tax Acts as defined in section 526(2) of the principal Act, and
    - (b) Part III of the Finance Act 1965 and all other enactments relating to capital gains tax,
  - " trade " includes every trade, manufacture, adventure or concern in the nature of trade.
- (2) For the purposes of this Act, a person shall be deemed not to have failed to do anything required to be done within a limited time if he did it within such further time, if any, as the Board or the Commissioners or officer concerned may have allowed; and where a person had a reasonable excuse for not doing anything required to be done he shall be deemed not to have failed to do it if he did it without unreasonable delay after the excuse had ceased:
- Provided that this subsection shall not apply for the purposes of section 10(2) or 16(6) of this Act.
- (3) For the purposes of sections 37 to 39 and Part X of this Act, an assessment made in the partnership name and the tax charged in such an assessment shall, according to the law in Scotland as well as according to the law elsewhere in the United Kingdom,

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be deemed to be respectively an assessment made on the partners and tax charged on and payable by them.

- (4) For the purposes of this Act, the amount of tax covered by any assessment shall not be deemed to be finally determined until that assessment can no longer be varied, whether by any Commissioners on appeal or by the order of any court.

## **PART XII**

### **GENERAL**

#### **119 Commencement and construction**

- (1) This Act shall come into force for all purposes on 6th April 1970 to the exclusion of the corresponding enactments repealed by the principal Act.
- (2) This Act, and the repeals made by the principal Act, have effect subject to Schedule 4 to this Act.
- (3) This Act, so far as it relates to income tax or corporation tax, shall be construed as one with the principal Act.
- (4) This Act, so far as it relates to chargeable gains, shall be construed as one with Part III of the Finance Act 1965.

#### **120 Short title**

This Act may be cited as the Taxes Management Act 1970.

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## SCHEDULE 1

### FORMS OF DECLARATIONS

#### PART I

##### GENERAL AND SPECIAL COMMISSIONERS AND OTHERS

"I, A.B., do solemnly declare that I will impartially and to the best of my ability execute my duties under the Income Tax Acts and the enactments relating to any tax on company profits or capital gains ; and that I will not disclose any information received by me in the execution of my duties except for the purposes of my duties or for the purposes of any prosecution for an offence relating to income tax or any tax on company profits or capital gains, or in such other cases as may be required by law."

#### PART II

##### COMMISSIONERS OF INLAND REVENUE

" I, A.B., do solemnly declare that I will not disclose any information received by me in the execution of my duties except for the purposes of those duties or for the purposes of any prosecution for an offence relating to inland revenue, or in such other cases as may be required by law."

#### PART III

##### INSPECTORS, COLLECTORS AND OTHER OFFICERS

" I, A.B., do solemnly declare that I will not disclose any information received by me in the execution of the duties which may from time to time be assigned to me by the Board of Inland Revenue except for the purposes of my duties, or to the Board of Inland Revenue or in accordance with their instructions, or for the purposes of any prosecution for an offence relating to inland revenue, or in such other cases as may be required by law."

## SCHEDULE 2

### JURISDICTION IN APPEALS ON CLAIMS

#### *Appeal from inspector*

- 1 (1) Except as otherwise provided by the following provisions of this Schedule, or any other provision of the Taxes Acts, an appeal against the decision of an inspector on a claim shall lie to the General Commissioners, but the appellant may elect to bring the appeal before the Special Commissioners instead of the General Commissioners.
- (2) If an appeal to either body of Commissioners is pending against an assessment on the appellant which relates to the same source of income as that to which the claim relates, the appeal on the claim shall lie to that body of Commissioners.



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- 2 (1) An appeal from a decision of an inspector on a claim under any provision in column 1 of the Table below shall be to the General Commissioners, and paragraph 1 of this Schedule shall not apply.
- (2) An appeal from a decision of an inspector on a claim under any provision in column 2 of the said Table shall be to the Special Commissioners, and paragraph 1 of this Schedule shall not apply. Table

1 Appeal exclusively to General Commissioners  In the principal Act— Chapter n of Part I section 65(4) Schedule 3	2 Appeal exclusively to Special Commissioners  In the principal Act— section 158(1) section 310 section 311 section 315(3) section 331 section 332 section 338 section 339 section 384 section 389 section 391 section 392 Chapter I of Part XVIII	
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*Appeal from Board*

- 3 Except as otherwise provided by any provision of the Taxes Acts, an appeal against the decision of the Board on a claim shall lie to the Special Commissioners.

SCHEDULE 3

RULES FOR ASSIGNING PROCEEDINGS TO COMMISSIONERS

Description of proceedings	Place given by these rules
Income tax and capital gains tax  1. An appeal against an assessment under Case I or Case II of Schedule D. 2. Any other proceedings relating to a trade, profession or vocation the profits of which are assessable under Case I or Case II of Schedule	The place where the trade, profession or vocation is carried on, or in which the head office or principal place of business is situated.

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<p>D, or would be so assessable if there were any.</p>		
<p>3. An appeal against an assessment under Schedule E and any appeal in exercise of a right conferred by regulations under section 204 of the principal Act (pay as you earn).</p>	<p>Subject to the right of election for place of residence, the place of employment or such other place as may be assigned instead by regulations under section 204 of the principal Act.</p>	
<p>4. An appeal against an assessment under Schedule B and any proceedings concerning the annual value of land.</p>	<p>The place where the property is situated.</p>	
<p>5. An appeal against an assessment under Schedule A or under Schedule D, other than Cases I and II. An appeal against an assessment to capital gains tax.</p>	<p>Subject to the right of election for place of residence,— (a) if the person assessed is carrying on a trade, profession or vocation, the place in which the trade, profession or vocation is carried on, or in which the head office or principal place of business is situated, or (b) if the person assessed is employed, and does not carry on a trade, profession or vocation, the place of employment.</p>	
<p>6. Any proceedings under the Income Tax Acts not covered by the preceding rules. Any proceedings relating to capital gains tax not covered by rule 5.</p>	<p>The place where the appellant or other party to the proceedings (not being an inspector or the Board) ordinarily resided in the year of assessment to which the proceedings relate. If the party was resident or ordinarily resident outside the United Kingdom, the Board may give directions, which may be either general or addressed to a particular occasion, to meet the case.</p>	
<p>Corporation tax, etc.</p>		
<p>7. Proceedings which relate to corporation tax.</p>	<p>The place where the company or other body concerned carries on its trade or</p>	

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Proceedings which relate to income tax, but to which a company resident in the United Kingdom and within the charge to corporation tax is a party.	business, or in which its head office or principal place of business is situated, or where it resides.	
8. Proceedings relating to tax assessable under section 286, 288 or 289 of the principal Act.	The place where the company concerned carries on its trade or business, or in which its head office or principal place of business is situated, or where it resides.	

Rules 3 and 5 have effect subject to rule 4 above. Rules 7 and 8 have effect to the exclusion of any other rules. Where under rules 3 and 5 above a right of election for the place of residence is provided in column 2 above, the appellant may, by notice in writing to the inspector or the Board (given not later than the notice of appeal), elect for the place where he ordinarily resided in the year of assessment to which the proceedings relate. The rules in this Schedule have effect subject to sections 11, 137, 154(5), 252(9) and section 494(9) of the principal Act, to paragraph 22 of Schedule 7 to the principal Act and to section 81 of the Capital Allowances Act 1968 (all of which relate to proceedings to which more than one taxpayer may be a party) and to any other express provisions in the Taxes Acts.

## SCHEDULE 4

### SAVINGS AND TRANSITORY PROVISIONS

#### *Declaration of secrecy*

- 1 (1) Section 6(4) of this Act shall not apply to a person who, before 10th July 1964, made a declaration in any of the forms set out in Schedule 2 to the Income Tax Act 1952, or a declaration of secrecy in a form approved by the Board.
- (2) General or Special Commissioners or other persons who made declarations in the form in Part I of Schedule 1 to the Income Tax Management Act 1964, or in the form in Schedule 2 to the Income Tax Act 1952, before the coming into force of paragraph 16 of Schedule 10 to the Finance Act 1965 (which included in the form of declaration a reference to the new taxes imposed by that Act) shall be subject to the same obligations as to secrecy with respect to those taxes as they are subject to with respect to income tax.
- (3) The repeals made by the principal Act shall not alter the effect or validity of any declaration made before the commencement of this Act.

#### *Information about interest paid or credited without deduction of tax by banks, etc.*

- 2 A notice served under section 29 of the Income Tax Act 1952 (re-enacted in section 17 of this Act) on the Postmaster General before 1st October 1969 shall, if it has not been complied with before that date, be deemed to have been served on the Director of Savings; and section 17(1) of this Act shall, in its application to the

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National Savings Bank, have effect as if the reference to interest paid or credited by the Director of Savings included, as regards any period before the said date, a reference to interest paid or credited by the Postmaster General to depositors.

*Assessments*

- 3 (1) Section 36 of this Act shall not apply to tax for any year before the year 1.936-37.  
 (2) Section 41 of this Act shall not apply to any assessment signed before 6th April 1965.

*Claims*

- 4 (1) This paragraph has effect as respects relief under any enactment repealed by the principal Act, or repealed or terminated by any Act passed before that Act, so far as it remains in force after the commencement of this Act.  
 (2) Section 42 of this Act shall apply to any such relief in like manner as section 9 of the Income Tax Management Act 1964 would have applied but for the passing of this Act, and nothing in the repeals made by the principal Act shall affect any enactment determining whether the claim is made to the inspector or the Board, or the Commissioners to whom an appeal lies on the claim.
- 5 An appeal, or other proceedings in the nature of an appeal, instituted on a claim, or proceedings in the nature of a claim, made before 6th April 1965 shall be continued before the same Commissioners notwithstanding that, under Schedule 2 to this Act or Schedule 2 to the Income Tax Management Act 1964, an appeal on the claim should have been made to some other Commissioners.
- 6 (1) Any relief obtainable under section 87(8) of the Finance Act 1965 (transitional relief for existing companies on cessation of trade) by way of discharge or repayment of tax shall be given on the making of a claim.  
 (2) After the making of such a claim in respect of a trade no notice as regards the trade shall be given or revoked under section 129 of the Income Tax Act 1952 or section 80(6) of the Finance Act 1965 (period of computation of profits for second and third years of trade).

*Choice of Commissioners to hear proceedings*

- 7 Neither section 44 of this Act nor any other provision in this Act shall apply to an appeal against an assessment signed, claim made, or other proceedings instituted, before 6th April 1965 so as to require the proceedings to be heard by Commissioners other than those who would have heard the proceedings if the Income Tax Management Act 1964 had not passed.

*Settling of appeals by agreement*

- 8 Section 54 of this Act shall apply to the Board of Referees as it applies to the General or Special Commissioners (that is to say in any appeal to the Board of Referees in any jurisdiction under an enactment repealed by the Finance Act 1965).

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*Interest on tax*

- 9 (1) For the purposes of section 86(3) of this Act, the tax charged by any assessment by virtue of section 15(2) of the Finance Act 1967 (increase of surtax rates for 1965-66) shall be treated as if it had been charged by an assessment separately made.
- (2) For the purposes of section 88 of this Act the due date for payment of so much of any surtax for the year 1965-66 as is attributable to subsection (1) of the said section 15 shall be taken to be 1st September 1967, instead of 1st January 1967.

*Penalties, etc.*

- 10 Section 98 of this Act shall have effect as if the Table contained in it (columns 1 and 2 of which correspond respectively to columns 2 and 3 of Schedule 6 to the Finance Act 1960) included, in the appropriate column, so far as they remain in force, the enactments and regulations mentioned in or added to the said Schedule 6 which were repealed or terminated by any Act passed before this Act.
- 11 Section. 103(2) of this Act shall not apply to tax for any year before the year 1936-37.
- 12 The repeals made by the principal Act shall not affect proceedings for any offence punishable under section 505 of the Income Tax Act 1952 and committed before the repeal of the said section 505 by the Theft Act 1968, or, in Northern Ireland, by the Theft Act (Northern Ireland) 1969.

*Northern Ireland*

- 13 For the purposes of section 3 of the Northern Ireland Act 1962 (appellate jurisdiction of High Court in Northern Ireland under enactments passed before that Act) any provision of this Act reproducing such an enactment shall be treated as also having been passed before the passing of the said Act of 1962.
- 14 Part V of this Act, and the repeal by the principal Act of the provisions corresponding to Part V of this Act, shall not apply to proceedings falling within paragraph 10(1) of Schedule 5 to the Income Tax Management Act 1964 (assessments, etc. for 1964-65 and earlier years).