



Taxes Management Act 1970

1970 CHAPTER 9

PART V

APPEALS AND OTHER PROCEEDINGS

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
 - (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;

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(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.

(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

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- (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.