



Taxes Management Act 1970

1970 CHAPTER 9

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.