



# Taxes Management Act 1970

## 1970 CHAPTER 9

### PART V

#### APPEALS AND OTHER PROCEEDINGS

##### *Proceedings before Commissioners*

#### **[<sup>F1</sup>55 Recovery of tax not postponed.**

- [<sup>F2</sup>(1) This section applies to an appeal to the Commissioners against—
- (a) an amendment made under section 28A(2) or (4) of this Act of a self-assessment,
  - (b) an assessment to tax made under section 29 of this Act,
  - (c) an assessment to income tax made under Schedule 16 to the principal Act (income tax on company payments) other than an assessment charging tax the time for the payment of which is given by paragraph 4(1) or 9 of that Schedule, or
  - (d) a notice under subsection (1) or (3) of section 753 of that Act where, before the appeal is determined, the appellant is assessed to tax under section 747(4) (a) of that Act by reference to an amount of chargeable profits specified in that notice.]
- (2) [<sup>F3</sup>Except as otherwise provided by the following provisions of this section], the tax charged by the [<sup>F4</sup>amendment or assessment] shall be due and payable as if [<sup>F5</sup>there had been no appeal.]
- (3) If the appellant has grounds for believing that he is overcharged to tax by the [<sup>F4</sup>amendment or assessment], he may, by notice in writing given to the inspector within thirty days after the date of the issue of the notice of [<sup>F4</sup>amendment or assessment], apply to the Commissioners for a determination of the amount of tax the payment of which should be postponed pending the determination of the appeal .

A notice of application under this subsection shall state the amount in which the appellant believes that he is overcharged to tax and his grounds for that belief.

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[ An application under subsection (3) above may be made more than thirty days after <sup>F6</sup>(3A) the date of the issue of the notice of [<sup>F4</sup>amendment or assessment] if there is a change in the circumstances of the case as a result of which the appellant has grounds for believing that he is over-charged to tax by the [<sup>F4</sup>amendment or assessment].]

- (4) If, after any determination of the amount of tax the payment of which should be so postponed, there is a change in the circumstances of the case as a result of which either party has grounds for believing that the amount so determined has become excessive or, as the case may be, insufficient, he may, by notice in writing given to the other party at any time before the determination of the appeal, apply to the Commissioners for a further determination of that amount .

A notice of application under this subsection shall state the amount in which the applicant believes that the amount previously determined has become excessive or, as the case may be, insufficient and his grounds for that belief.

- (5) An application under subsection (3) or (4) above shall be heard and determined in the same way as the appeal; and where any such application is heard and determined by any Commissioners, that shall not preclude them from hearing and determining the appeal or any application or further application under subsection (4) above.

- (6) The amount of tax the payment of which shall be postponed pending the determination of the appeal shall be the amount (if any) in which it appears to the Commissioners, having regard to the representations made and any lawful evidence adduced, that there are reasonable grounds for believing that the appellant is overcharged to tax; and—

[ in the case of a determination made on an application under subsection (3) <sup>F7</sup>(a) above, other than an application made by virtue of subsection (3A) above, the date on which any tax the payment of which is not so postponed is due and payable shall be determined as if the tax were charged by an [<sup>F4</sup>amendment or assessment] notice of which was issued on the date of that determination and against which there had been no appeal; and

(b) in the case of a determination made on an application under subsection (4) above—

(i) the date on which any tax the payment of which ceases to be so postponed is due and payable shall be determined as if the tax were charged by an [<sup>F4</sup>amendment or assessment] notice of which was issued on the date of that determination and against which there had been no appeal; and

(ii) any tax overpaid shall be repaid.]

[ Where an appeal is brought against an [<sup>F4</sup>amendment or assessment] to tax under <sup>F8</sup>(6A) section 747(4)(a) of the principal Act as well as against a notice under section 753(1) or (3) of that Act—

(a) an application under subsection (3) above may relate to matters arising on both appeals and, in determining the amount of tax the payment of which should be postponed, the Commissioners shall consider the matters so arising together, and

(b) if the Commissioners have determined the amount of tax the payment of which should be postponed solely in relation to one of the appeals, the bringing of the other appeal shall be taken to be a change of circumstances falling within subsection (4) above; and

(c) any reference in this section to the determination of the appeal shall be construed as a reference to the determination of the two appeals, but the

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determination of one before the other shall be taken to be a change of circumstances falling within subsection (4) above.]

- (7) If the appellant and [<sup>F9</sup>an inspector] come to an agreement, whether in writing or otherwise, as to the amount of tax the payment of which should be postponed pending the determination of the appeal, the like consequences shall ensue as would have ensued if the Commissioners had made a determination to that effect under subsection (6) above on the date when the agreement was come to, but without prejudice to the making of a further agreement or of a further determination under that subsection.
- (8) Where an agreement is not in writing—
- (a) subsection (7) above shall not apply unless that fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the inspector to the appellant or by the appellant to the inspector, and
  - (b) the reference in that subsection to the time when the agreement was come to shall be construed as a reference to the time of the giving of the notice of confirmation.
- [ On the determination of the appeal—
- <sup>F10</sup>(9) (a) the date on which any tax payable in accordance with that determination is due and payable shall, so far as it is tax the payment of which had been postponed, or which would not have been charged by the [<sup>F4</sup>amendment or assessment] if there had been no appeal, be determined as if the tax were charged by an [<sup>F4</sup>amendment or assessment]—
- (i) notice of which was issued on the date on which the inspector issues to the appellant a notice of the total amount payable in accordance with the determination, and
  - (ii) against which there had been no appeal; and
- (b) any tax overpaid shall be repaid.]
- (10) In [<sup>F11</sup>subsection (3) above] “inspector” means the inspector or other officer of the Board by whom the notice of [<sup>F4</sup>amendment or assessment] was issued; and 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.
- (11) <sup>F12</sup>... the transfer of proceedings under this Act from one body of Commissioners to another body of Commissioners shall not affect the validity of a determination under subsection (6) above.]

#### Textual Amendments

- F1** S. 55 substituted by [Finance \(No.2\) Act 1975 \(c. 45\), s. 45\(1\)](#) in relation to appeals against assessments notices of which were issued after 31 July 1975.
- F2** S. 55(1) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 18\(1\)](#); S.I. 1998/3173, art. 2
- F3** [Finance Act 1982 \(c. 39\), s.68\(1\)](#) in relation to notices of assessment issued after 30 July 1982
- F4** Words in s. 55 substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 18\(2\)](#); S.I. 1998/3173, art. 2
- F5** [Finance Act 1989 \(c. 26\), s. 156\(2\)\(a\)](#) for tax charged by any assessment notice of which is issued after 30 July 1982

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- F6** Finance Act 1982 (c. 39), **s.68(2)(3)** in relation to notices of assessment issued after 30 July 1982
- F7** Finance Act 1989 (c. 26), **s. 156(2)** in relation to tax charged by any assessment notice of which is issued after 30 July 1982
- F8** Income and Corporation Taxes Act 1988 (c. 1), **Sch. 29 para. 8(2)**.
- F9** Finance Act 1990 (c. 29), **s. 104(2)(a)**, (4) where notice of appeal given on or after 26 July 1990
- F10** Finance Act 1989 (c. 26), s. 156(2)(c) in relation to tax charged by any assessment notice of which is issued after 30 July 1982
- F11** Finance Act 1990 (c. 29), **s. 104(2)(b)** (4) where notice of appeal given on or after 26 July 1990
- F12** Repealed by Finance Act 1984 (c. 43), s.128(6), **Sch.23 Part XIII** on and after 1 January 1985; S.I. 1984/1836 (C. 45).

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**Modifications etc. (not altering text)**

- C1** S. 55 modified (27.7.1993) by 1993 c. 34, s. 173, **Sch. 19 Pt. I para. 7(2)(a)**
- C2** See Finance Act 1988 (c. 39), **Sch. 5 para. 6** for modification to s. 55 in connection with underwriters; and para. 8(2) (effects of determinations).
- C3** S. 55(3)(4) modified by Income and Corporation Taxes Act 1988 (c. 1), **s. 10(5)**  
S. 55(3)(4) restricted by Income and Corporation Taxes Act 1988 (c. 1), **s. 306(8)**
- C4** S. 55 modified by Income and Corporation Taxes Act 1988 (c. 1), **Sch. 27 para. 19(3)**

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