



Taxes Management Act 1970

1970 CHAPTER 9

PART V

APPEALS AND OTHER PROCEEDINGS

[^{F1} Appeals]

[^{F1}55 Recovery of tax not postponed.

[^{F2}(1) This section applies to an appeal to the [^{F3}tribunal] against—

[^{F4}[^{F5}(a) an amendment of a self-assessment—

(i) under section 9C of this Act, or

(ii) under paragraph 30 or [^{F6}34] of Schedule 18 to the Finance Act 1998,

(aa) a conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act,]

(b) an assessment to tax other than a self-assessment,]

^{F7}(c)

^{F8}(d)]

(2) [^{F9}Except as otherwise provided by the following provisions of this section], the tax charged[^{F10}—

(a) by the amendment or assessment, or

(b) where the appeal is against a conclusion stated by a closure notice, as a result of that conclusion,]

shall be due and payable as if [^{F11}there had been no appeal.]

[^{F12}(3) If the appellant has grounds for believing that the amendment or assessment overcharges the appellant to tax, or as a result of the conclusion stated in the closure notice the tax charged on the appellant is excessive, the appellant may—

(a) first apply by notice in writing to HMRC within 30 days of the specified date for a determination by them of the amount of tax the payment of which should be postponed pending the determination of the appeal;

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- (b) where such a determination is not agreed, refer the application for postponement to the tribunal within 30 days from the date of the document notifying HMRC's decision on the amount to be postponed.

An application under paragraph (a) must state the amount believed to be overcharged to tax and the grounds for that belief.]

[An application under subsection (3) above may be made more than thirty days after ^{F13}(3A) [^{F14}the specified date] 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 [^{F15}amendment or assessment][^{F16}, or as a result of the conclusion stated in the closure notice][^{F17}, or where the notice of appeal has been given after the relevant time limit (see section 49)].]

[^{F18}(4) If, after any determination of the amount of tax the payment of which should be so postponed—

- (a) 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, and
- (b) the parties cannot agree on a revised determination,
 the party mentioned in paragraph (a) may, at any time before the determination of the appeal, apply to the tribunal for a revised determination of that amount.]

[^{F19}(5) Any such application is to be subject to the relevant provisions of Part 5 of this Act (see, in particular, section 48(2)(b)).]

- (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 ^{F20}... 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) ^{F21}(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 [^{F15}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 [^{F15}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.]

[^{F22}(6A) Notwithstanding the provisions of sections 11 and 13 of the TCEA 2007, the decision of the tribunal shall be final and conclusive.]

[^{F23}(7) If the appellant and HMRC reach an agreement as to the amount of tax the payment of which should be postponed pending the determination of the appeal, the agreement shall not have effect unless—

- (a) the agreement is in writing, or
- (b) the fact that the agreement has been reached, and the terms of the agreement, are confirmed by notice in writing given—

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- (i) by the appellant to HMRC, or
- (ii) by HMRC to the appellant.]

^{F24}(8)

[Where an agreement is made which has effect under subsection (7), references in ^{F25}(8A) subsection (6)(a) and (b) above to the date of the determination shall be construed as references to the date that the agreement is confirmed in writing.]

[Subsections (8C) and (8D) apply where a person has been given an accelerated ^{F26}(8B) payment notice or partner payment notice under Chapter 3 of Part 4 of the Finance Act 2014 and that notice has not been withdrawn.

(8C) Nothing in this section enables the postponement of the payment of (as the case may be)—

- (a) the understated tax to which the payment specified in the notice under section 220(2)(b) of that Act relates,
- (b) the disputed tax specified in the notice under section 221(2)(b) of that Act, or
- (c) the understated partner tax to which the payment specified in the notice under paragraph 4(1)(b) of Schedule 32 to that Act relates.

(8D) Accordingly, if the payment of an amount of tax within subsection (8C)(b) is postponed by virtue of this section immediately before the accelerated payment notice is given, it ceases to be so postponed with effect from the time that notice is given, and the tax is due and payable—

- (a) if no representations were made under section 222 of that Act in respect of the notice, on or before the last day of the period of 90 days beginning with the day the notice or partner payment notice is given, and
- (b) if representations were so made, on or before whichever is later of—
 - (i) the last day of the 90 day period mentioned in paragraph (a), and
 - (ii) the last day of the period of 30 days beginning with the day on which HMRC's determination in respect of those representations is notified under section 222 of that Act.]

[On the determination of the appeal—

^{F27}(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 [^{F15}amendment or assessment][^{F28}, or as a result of the conclusion stated in the closure notice,] if there had been no appeal, be determined as if the tax were charged by an [^{F15}amendment or assessment]—

- (i) notice of which was issued on the date on which [^{F29}HMRC issue] 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.]

^{F30}[^{F31}(10)

(10A) In this section “the specified date” means the date of—

- (a) the issue of the notice of amendment or assessment, or
- (b) in the case of an appeal against a conclusion stated or amendment made by a closure notice, the issue of the closure notice.

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[^{F32}(10B) References in this section to agreements between an appellant and HMRC, and to the giving of notices between the parties, include references to agreements, and the giving of notices, between a person acting on behalf of the appellant in relation to the appeal and HMRC.]]

^{F33}(11)]

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** Word in s. 55 substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 34\(2\)](#)
- F4** S. 55(1)(a)(b) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 28](#); S.I. 1998/3173, art. 2
- F5** S. 55(1)(a)(aa) substituted for s. 55(1)(a) (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 31\(2\)](#)
- F6** Word in s. 55(1)(a)(ii) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 119\(12\)\(a\)\(iv\)\(13\)](#); S.I. 2009/405, art. 2
- F7** S. 55(1)(c) repealed (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 257\(a\), Sch. 3 Pt. 1](#) (with Sch. 2)
- F8** S. 55(1)(d) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\), Sch. 20 para. 11](#) (with Sch. 20 para. 50(9))
- F9** [Finance Act 1982 \(c. 39\), s.68\(1\)](#) in relation to notices of assessment issued after 30 July 1982
- F10** Words in s. 55(2) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 31\(3\)](#)
- F11** [Finance Act 1989 \(c. 26\), s. 156\(2\)\(a\)](#) for tax charged by any assessment notice of which is issued after 30 July 1982
- F12** S. 55(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 34\(3\)](#)
- F13** [Finance Act 1982 \(c. 39\), s.68\(2\)\(3\)](#) in relation to notices of assessment issued after 30 July 1982
- F14** Words in s. 55(3A) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 31\(5\)\(a\)](#)
- F15** 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
- F16** Words in s. 55(3A) inserted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 31\(5\)\(b\)](#)
- F17** Words in s. 55(3A) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 34\(4\)](#)
- F18** S. 55(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 34\(5\)](#)
- F19** S. 55(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 34\(6\)](#)
- F20** Words in s. 55(6) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 34\(7\)](#)
- F21** [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
- F22** S. 55(6A) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 34\(8\)](#)

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- F23** S. 55(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 34(9)**
- F24** S. 55(8) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 34(10)**
- F25** S. 55(8A) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 34(11)**
- F26** S. 55(8B)-(8D) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), s. **224(1)**
- F27** [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
- F28** Words in s. 55(9)(a) inserted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), **Sch. 29 para. 31(6)**
- F29** Words in s. 55(9)(a)(i) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 34(12)**
- F30** S. 55(10) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 34(13)**
- F31** S. 55(10)-(10B) substituted for s. 55(10) (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), **Sch. 29 para. 31(7)**
- F32** S. 55(10B) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 34(14)**
- F33** S. 55(11) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 34(15)**

Modifications etc. (not altering text)

- C1** Pt. 5 applied (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), s. **247(5)** (with ss. 269-271)
- C2** Pt. 5 applied (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), s. **266(11)** (with ss. 269-271)
- C3** S. 55 applied (with modifications) by [Finance Act 1981 \(c. 35\)](#), s. 134, Sch. 17 para. 18 (special tax on banking deposits).
- C4** S. 55 applied (with modifications) (31.7.1997) by [Finance \(No. 2\) Act 1997 \(c. 58\)](#), **Sch. 2 para. 9(6)**
- C5** S. 55 modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), **10**
- C6** S. 55 applied (with modifications) (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\)](#), regs. 1, **11(2)(4)**
- C7** 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)**
- C8** S. 55(3) excluded (with effect in accordance with s. 63(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 15 para. 40(7)**
- C9** S. 55(3)(4) restricted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. **376**, 1034(1) (with Sch. 2)
- C10** S. 55(3)(4) excluded by [Income Tax Act 2007 \(c. 3\)](#), s. **257PA(3)** (as inserted (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 11 para. 1**)
- C11** S. 55 modified by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), **Sch. 27 para. 19(3)**
- C12** S. 55(4) excluded (with effect in accordance with s. 63(4) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 15 para. 40(7)**
- C13** S. 55(8D) modified (17.7.2014) by [Finance Act 2014 \(c. 26\)](#), s. **227(9)(b)**

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