



Finance Act 1989

1989 CHAPTER 26

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER IV

MANAGEMENT

Interest etc.

156 Interest on overdue tax

(1) In section 86 of the Taxes Management Act 1970, for subsection (3) and the words in subsection (4) preceding the Table there shall be substituted—

“(3) For the purposes of this section—

- (a) the reckonable date in relation to any tax charged by an assessment to income tax under Schedule E, and
- (b) subject to subsection (3A) below, the reckonable date in relation to tax charged by any other assessment to which this section applies,

is the date on which the tax becomes due and payable.

(3A) Where an appeal has been made against an assessment and any of the tax charged by the assessment is due and payable on a date later than the date given by the Table in subsection (4) below, the reckonable date in relation to the tax so due and payable is the later of—

- (a) the date given by that Table, and
- (b) the date on which the tax would have been due and payable if there had been no appeal against the assessment (assuming in a case where the tax would not have been charged by the assessment if there had been no appeal that it was so charged).

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- (4) The Table referred to in subsection (3A) above is as follows—”.
- (2) In section 55 of that Act—
- (a) in subsection (2), for the words “it were” onwards there shall be substituted the words “there had been no appeal.”,
 - (b) in subsection (6), for paragraphs (a) and (b) there shall be substituted—
 - “(a) in the case of a determination made on an application under subsection (3) 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 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 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.”, and
 - (c) for subsection (9) there shall be substituted—
 - “(9) On the determination of the appeal—
 - (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 assessment if there had been no appeal, be determined as if the tax were charged by an 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.”
- (3) In section 56(9) of that Act, for the words “amount of” there shall be substituted the words “amount charged by”.
- (4) This section shall apply to tax charged by any assessment notice of which is issued after 30th July 1982.

157 Effect of certain claims on interest

- (1) In relation to any tax charged by an assessment made under section 252(1) of the Taxes Act 1988 to recover corporation tax that becomes payable as a result of the making of a claim under section 240 of that Act, the reckonable date for the purposes of section 86 of the Taxes Management Act 1970 (in this section referred to as “section 86”) is the date which is given by paragraph 5 of the Table in subsection (4) of that section.

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- (2) Subsections (3) and (4) below apply in any case where—
- (a) there is in any accounting period of a company (in this section referred to as “the later period”) an amount of surplus advance corporation tax, as defined in subsection (3) of section 239 of the Taxes Act 1988, and
 - (b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is treated for the purposes of the said section 239 as discharging liability for an amount of corporation tax for an earlier accounting period (in this section referred to as “the earlier period”), and
 - (c) if the claim under the said subsection (3) had not been made—
 - (i) an amount of corporation tax assessed for the earlier period would carry interest in accordance with section 86, or
 - (ii) an assessment could have been made under section 252(1) of that Act to recover corporation tax for the earlier period.
- (3) In determining the amount of interest payable under section 86 on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax which results from section 239(3) of the Taxes Act 1988 except so far as concerns interest for any time after the day following the expiry of nine months from the end of the later period.
- (4) Where, but for the claim under section 239(3) of the Taxes Act 1988, an assessment could have been made under section 252(1) of that Act to recover corporation tax for the earlier period, interest under section 86 shall be chargeable, in relation to any time not later than the day referred to in subsection (3) above, as if the claim had not been made and such an assessment had been made.
- (5) In relation to interest charged under section 86 by virtue of subsection (4) above, section 69 of the Taxes Management Act 1970 shall have effect with the substitution for the words following paragraph (c) of the words “as if it were tax charged and due and payable under an assessment”.
- (6) In this section—
- (a) subsection (1) above shall have effect where the claim under 240 of the Taxes Act 1988 is made on or after 14th March 1989, and
 - (b) subsections (2) to (5) above shall have effect where the claim under section 239(3) of that Act is made on or after that date,
- but this section shall not have effect in relation to corporation tax for any accounting period ending after the day which is the appointed day for the purposes of section 85 of the Finance (No.2) Act 1987.

158 Small amounts of interest

- (1) In the Taxes Management Act 1970—
- (a) section 86(6) (remission of interest payable on overdue income tax, capital gains tax or corporation tax where interest would not exceed £30), and
 - (b) section 87(4) (no interest payable on overdue advance corporation tax or income tax on company payments where interest would not exceed £30),
- shall cease to have effect.
- (2) The words “of not less than £25” in—

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(a) section 47(1) of the Finance (No.2) Act 1975 (no repayment supplement where overdue repayment of capital gains tax less than £25), and
 (b) section 824(1)(a) and (b) and (5) of the Taxes Act 1988 (no repayment supplement where overdue repayment of income tax etc. less than £25),
 and the words “of not less than £100” in section 825(2) of the Taxes Act 1988 (no repayment supplement where overdue repayment of company tax less than £100) shall cease to have effect.

- (3) Paragraph (a) of subsection (1) above shall have effect—
- (a) in relation to income tax under Schedule E, where the demand for the tax is made on or after the appointed day, and
 (b) in any other case, where the tax is charged by an assessment notice of which is issued on or after the appointed day.
- (4) Paragraph (b) of that subsection shall have effect where the tax is charged by an assessment relating to an accounting period beginning on or after the appointed day.
- (5) Subsection (2) above shall have effect in relation to repayments of tax made on or after the appointed day.
- (6) In this section “the appointed day” means such day as the Treasury may by order made by statutory instrument appoint; and different days may be appointed for different enactments or for different purposes of the same enactment.

159 Interest on tax in case of failure or error

- (1) Section 88 of the Taxes Management Act 1970 (interest on tax recovered to make good loss due to taxpayer’s fault) shall be amended as follows.
- (2) In subsection (1), for the words “the fraud, wilful default or neglect of any person” there shall be substituted the words—
- “(a) a failure to give a notice, make a return or produce or furnish a document or other information required by or under the Taxes Acts, or
 (b) an error in any information, return, accounts or other document delivered to an inspector or other officer of the Board.”.
- (3) The following subsection shall be added at the end—
- “(7) In paragraph (a) of subsection (1) above the reference to a failure to do something includes, in relation to anything required to be done at a particular time or within a particular period, a reference to a failure to do it at that time or within that period; and, accordingly, section 118(2) of this Act shall not apply for the purposes of that paragraph.”
- (4) This section shall have effect in relation to failures occurring, and errors in any information or documents delivered, on or after the day on which this Act is passed.

160 Determinations under TMA

- (1) In subsection (1) of section 88 of the Taxes Management Act 1970, for the words “shall carry” there shall be substituted the words “shall, if an inspector or the Board so determine, carry”.
- (2) The following section shall be inserted after that section—

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“88A Determinations under section 88

- (1) Notice of a determination under section 88 above shall be served on the person liable to pay the interest to which it relates and shall specify—
 - (a) the date on which it is issued,
 - (b) the amount of the tax which carries interest and the assessment by which that tax was charged,
 - (c) the date when for the purposes of section 88 above that tax ought to have been paid, and
 - (d) the time within which an appeal against the determination may be made.
 - (2) After the notice of a determination under section 88 above has been served the determination shall not be altered except in accordance with this section.
 - (3) A determination under section 88 above may be made at any time—
 - (a) within six years after the end of the chargeable period for which the tax carrying the interest is charged (or, in the case of development land tax, of the financial year in which the liability for that tax arose), or
 - (b) within three years after the date of the final determination of the amount of that tax.
 - (4) An appeal may be brought against a determination under section 88 above and, subject to the following provisions of this section, the provisions of this Act relating to appeals shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax.
 - (5) On an appeal against a determination under section 88 above section 50(6) to (8) of this Act shall not apply but the Commissioners may—
 - (a) if it appears to them that the tax carries no interest under that section, set the determination aside,
 - (b) if the determination appears to them to be correct, confirm the determination, or
 - (c) if the determination appears to them to be incorrect as to the amount of tax or the date on which the tax ought to have been paid, revise the determination accordingly.”
- (3) In section 70 (certificates) of the Taxes Management Act 1970, for subsection (3) there shall be substituted—
- “(3) A certificate of the inspector or any other officer of the Board that it has been determined that tax carries interest under section 88 of this Act, together with a certificate of the collector 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 another collector, shall be sufficient evidence—
- (a) that interest is chargeable on the tax from the date when for the purposes of section 88 of this Act the tax ought to have been paid, and
 - (b) that the sum mentioned in the certificate is unpaid and is due to the Crown;

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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.”

- (4) In section 113 of that Act (form of documents), the following subsection shall be inserted after subsection (1B)—

“(1C) Where an officer of the Board has decided that an amount of tax carries interest under section 88 of this Act and has taken the decisions needed for arriving at the date when for the purposes of that section that tax ought to have been paid, he may entrust to any other officer of the Board responsibility for completing the determination procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the determination on the person liable to the interest.”

- (5) In section 114 of that Act (want of form not to invalidate), after the word “assessment”, in each place where it occurs, there shall be inserted the words “or determination”.

- (6) In paragraph 5 of Schedule 3 to that Act (rules for assigning proceedings to Commissioners), the following entry shall be inserted in the first column after the entry relating to an appeal against an assessment to capital gains tax—

“An appeal against a determination under section 88 of this Act.”

161 Tax carrying interest under TMA ss. 86 and 88

The following subsection shall be substituted for section 88(3) of the Taxes Management Act 1970—

“(3) Where it is finally determined that any tax carries interest under this section, the tax shall carry no interest under section 86 or 86A above (and, accordingly, any interest under either of those sections which has been paid before the final determination shall be set off against the amount of the interest under this section); and for the purposes of this subsection a determination that tax carries interest is not final until it can no longer be varied, whether by any Commissioners on appeal or by the order of any court.”