



Finance Act 1989

1989 CHAPTER 26

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER IV

MANAGEMENT

Assessments, claims etc.

149 Assessments founded on fraudulent or negligent conduct

- (1) The following section shall be substituted for section 36 of the Taxes Management Act 1970—

“36 Fraudulent or negligent conduct

- (1) An assessment on any person (in this section referred to as “the person in default”) for the purpose of making good to the Crown a loss of tax attributable to his fraudulent or negligent conduct or the fraudulent or negligent conduct of a person acting on his behalf may be made at any time not later than twenty years after the end of the chargeable period to which the assessment relates.
- (2) Where the person in default is an individual who carried on a trade or profession in partnership with another individual, or with other persons at least one of whom is an individual, at any time in the year for which the assessment is made, an assessment in respect of the profits or gains of the trade or profession for the purpose mentioned in subsection (1) above may be made not only on the person in default but also on his partner or, as the case may be, on any of his partners who is an individual.

Status: This is the original version (as it was originally enacted).

- (3) If the person on whom the assessment is made so requires, in determining the amount of the tax to be charged for any chargeable period in any assessment made for the purpose mentioned in subsection (1) above, effect shall be given to any relief or allowance to which he would have been entitled for that chargeable period on a claim or application made within the time allowed by the Taxes Acts.”
- (2) Sections 37 to 39 (special provisions as to “neglect”) and section 41 (leave required for certain assessments) of the Taxes Management Act 1970 shall cease to have effect.
- (3) The words “section 36” shall be substituted—
- (a) for the words “sections 36, 37 and 39” in section 30(6) of the Taxes Management Act 1970 (tax repaid in error etc.),
 - (b) for the words “sections 37 to 39” in section 118(3) of that Act (effect under law of Scotland of assessment in partnership name),
 - (c) for the words “sections 36 and 39” in paragraph 10(1) of Schedule 13 to the Taxes Act 1988 (assessments to advance corporation tax), and
 - (d) for the words “sections 36 and 37” in paragraph 10(1) of Schedule 16 to that Act (assessments to income tax on company payments which are not distributions).
- (4) The words “fraudulent or negligent conduct” shall be substituted—
- (a) for the words “fraud, wilful default or neglect” in—
 - (i) section 37A of the Taxes Management Act 1970 (married couples),
 - (ii) section 40(2) of that Act (assessment on personal representatives),and
 - (iii) paragraph 9 of Schedule 16A to the Finance Act 1973 and of Schedule 19A to the Taxes Act 1988 (Lloyd’s), and
 - (b) for the words “fraud and wilful default) and section 37 of that Act (neglect” in section 307(5) of the Taxes Act 1988 (assessments for withdrawing relief under Chapter III of Part VII of that Act).
- (5) In section 105 of the Taxes Management Act 1970 (admissibility of evidence), for the words “fraud or default” and the words “fraud or wilful default” there shall be substituted the words “fraudulent conduct”.
- (6) In paragraph 9 of Schedule 16A to the Finance Act 1973 and of Schedule 19A to the Taxes Act 1988, for “37, 40 and 41” there shall be substituted “and 40”.
- (7) Nothing in this section shall affect the making of assessments—
- (a) for years of assessment before the year 1983-84, or
 - (b) for accounting periods which ended before 1st April 1983.