

SCHEDULES

SCHEDULE 14

Section 120.

PAY AND FILE: MISCELLANEOUS AMENDMENTS

Failure to give notice of liability for corporation tax

- 1 In section 10(3) of the Taxes Management Act 1970 (penalty for failure to give notice of liability for corporation tax for accounting periods ending after appointed day), for the words from “borne” onwards there shall be substituted “which, under section 7(2) or 11(3) of the principal Act, is to be set off against the corporation tax so chargeable”.

Further claims etc. where assessment made

- 2 In section 43A(1)(a) of that Act of 1970 (section to apply where assessment made by virtue of section 29(3) of that Act), after “section 29(3) of this Act” there shall be inserted “or section 412(3) of the principal Act”.

Interest on overdue corporation tax: transitional cases

- 3 (1) Section 86 of that Act of 1970 (interest on overdue tax) shall be amended as follows.
- (2) In subsection (3)(b), for “subject to subsection (3A)” there shall be substituted “subject to subsections (3A) and (4A)”.
- (3) In subsection (3A), at the beginning there shall be inserted “Subject to subsection (4A) below,”.
- (4) After subsection (4) there shall be inserted the following subsections—

“(4A) For the purposes of this section where—

- (a) a notice served under section 11 above at any time after the appointed day for the purposes of section 82 of the Finance (No. 2) Act 1987 (amendment of section 11 for the purposes of pay and file) is to be taken as requiring a company to make a return for any accounting period ending on or before the day appointed for the purposes of section 10 of the principal Act; and
- (b) the tax charged by any assessment to corporation tax for that accounting period does not become due and payable until after the date nine months from the end of that accounting period,

the reckonable date, in relation to tax charged for that accounting period by that assessment, is the date mentioned in paragraph (b) above (instead of the date which would otherwise be determined under subsection (3) or (3A) above).

- (4B) The Board may at their discretion mitigate (whether before or after judgment) any interest due under this section in a case where the reckonable

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date is determined under subsection (4A) above and may stay or compound any proceedings for the recovery thereof.”

Interest on overdue corporation tax: pay and file cases

4 (1) In subsection (4) of section 87A of that Act of 1970 (which is set out in section 85 of the Finance (No. 2) Act 1987 and makes provision from an appointed day for interest on overdue corporation tax), at the beginning there shall be inserted the words “Subject to subsection (7) below”.

(2) For subsection (6) of that section there shall be substituted the following subsections—

“(6) In any case where—

- (a) on a claim under section 393A(1) of the principal Act, the whole or any part of a loss incurred in an accounting period (“the later period”) has been set off for the purposes of corporation tax against profits of a preceding accounting period (“the earlier period”);
- (b) the earlier period does not fall wholly within the period of twelve months immediately preceding the later period; and
- (c) if the claim had not been made, there would be an amount or, as the case may be, an additional amount of corporation tax for the earlier period which would carry interest in accordance with this section,

then, for the purposes of the determination at any time of whether any interest is payable under this section or of the amount of interest so payable, the amount mentioned in paragraph (c) above shall be taken to be an amount of unpaid corporation tax for the earlier period except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable as mentioned in subsection (1) above.

(7) Where, in a case falling within subsection (6)(a) and (b) above—

- (a) there is in the earlier period, as a result of the claim under section 393A(1) of the principal Act, an amount of surplus advance corporation tax, as defined in subsection (3) of section 239 of that Act; and
- (b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is to be treated for the purposes of the said section 239 as discharging liability for an amount of corporation tax for an accounting period before the earlier period,

the claim under the said subsection (3) shall be disregarded for the purposes of subsection (6) above but subsection (4) above shall have effect in relation to that claim as if the reference in the words after paragraph (c) to the later period within the meaning of subsection (4) above were a reference to the period which, in relation to the claim under the said section 393A(1), would be the later period for the purposes of subsection (6) above.”

Effect on interest of reliefs

5 In section 91(1B) of that Act of 1970 (subsection (1A) subject to section 87A(4)), after “section 87A(4)” there shall be inserted “(6) and (7)”.

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Failure to make return for corporation tax

- 6 (1) In subsection (6) of section 94 of that Act of 1970 (penalty for failure to make return for corporation tax within eighteen months of end of return period), as it is to apply with respect to the failures mentioned in section 83 of the Finance (No. 2) Act 1987 (failures after appointed day), after the word “before”, in the first place where it occurs, there shall be inserted “whichever is the later of the end of the final day for the delivery of the return and”.
- (2) In subsection (7) of that section, as it is so to apply, (calculation of unpaid tax for the purposes of penalty), for the words from “borne” onwards there shall be substituted “which, under section 7(2) or 11(3) of the principal Act, is to be set off against the corporation tax so chargeable”.

Things to be done by companies

- 7 In section 108(1) of that Act of 1970 (which includes provision requiring companies to act for the purposes of the Taxes Acts through their proper officers), after “proper officer of the company” there shall be inserted “or, except where a liquidator has been appointed for the company, through such other person as may for the time being have the express, implied or apparent authority of the company to act on its behalf for the purpose”.

Relief under section 393 of the Taxes Act 1988

- 8 (1) In relation to any case in which by virtue of section 99 of the Finance Act 1990 losses may be set off under subsection (1) of section 393 or of section 396 of the Taxes Act 1988 without the making of a claim, the Taxes Act 1988 shall have effect with the following amendments.
- (2) In section 343(3) (company reconstructions without change of ownership), the word “claim”, in the second place where it occurs, shall be omitted.
- (3) In section 395 (leasing contracts and company reconstructions)—
- (a) in subsection (1)(b), for the words “to claim relief under section 393(1) or 393A(1)” there shall be substituted “under section 393(1) or in pursuance of a claim under section 393A(1) to relief”; and
 - (b) in the words after paragraph (c) of subsection (1) and in subsection (4), the words “to claim relief” shall be omitted.
- (4) In section 398 (transactions in deposits), for the words from “he may” onwards there shall be substituted “the amount of his loss may be set off in pursuance of a claim under section 392 or, as the case may be, against which the amount of his loss may be set off under section 396”.
- (5) In section 400(2)(a) (write-off of government investments), the words “or, if a claim had been made under that subsection, would be” shall be omitted.
- 9 In section 65(6) of the Finance (No. 2) Act 1992 (I minus E basis for life assurance business not to be affected by certain claims), after paragraph (b) there shall be inserted the words—

“but, in relation to any case in which by virtue of section 99 of the Finance Act 1990 losses may be set off under subsection (1) of section 393 of the Taxes Act 1988 without the making of a claim, this section shall have effect as if references

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to the making of a claim under that subsection were references to the setting off of any loss under that subsection.”

Interest on tax overpaid

- 10 (1) In subsection (7) of section 826 of the Taxes Act 1988 (interest on overpaid tax)—
- (a) at the beginning, there shall be inserted the words “Subject to subsection (7AA) below,”;
 - (b) in paragraph (c), for “made for the earlier period” there shall be substituted “paid for the earlier period or of income tax in respect of a payment received by the company in that accounting period”; and
 - (c) in the words after paragraph (c), for the words from “of corporation tax” to “resulting from” there shall be substituted “referred to in paragraph (c) above, no account shall be taken of so much of the amount of the repayment as falls to be made as a result of the claim under”.
- (2) In subsection (7A) of that section, for “any increase in the amount of that repayment” there shall be substituted “so much of the amount of that repayment as falls to be made”.
- (3) After subsection (7A) of that section there shall be inserted the following subsection—
- “(7AA) Where, in a case falling within subsection (7A)(a) and (b) above—
- (a) there is in the earlier period, as a result of the claim under section 393A(1), an amount of surplus advance corporation tax, as defined in section 239(3); and
 - (b) pursuant to a claim under section 239(3) the whole or any part of that amount is to be treated for the purposes of section 239 as discharging liability for an amount of corporation tax for an accounting period before the earlier period,
- then subsection (7) above shall have effect in relation to the claim under the said subsection (3) as if the reference in the words after paragraph (c) to the later period within the meaning of subsection (7) above were a reference to the period which, in relation to the claim under section 393A(1), would be the later period for the purposes of subsection (7A) above.”
- (4) In subsection (7B) of that section, for “any increase in the amount of that payment” there shall be substituted “so much of the amount of that payment as falls to be made”.
- (5) Sub-paragraph (3) above shall have effect, subject to sub-paragraph (6) below, in relation to any claim under section 393A(1) of the Taxes Act 1988 as a result of which there is an amount of surplus advance corporation tax in an accounting period ending after the day appointed for the purposes of section 826 of that Act.
- (6) Where in the case of any claim in relation to which sub-paragraph (3) above has effect—
- (a) the case is one falling within subsection (7AA)(a) and (b) of section 826 of the Taxes Act 1988; but
 - (b) the period mentioned in subsection (7AA)(b) ended on or before the appointed day for the purposes of that section,
- subsection (7AA) of that section shall not apply but section 825(4)(a) of that Act shall have effect as if the reference to the accounting period in the case of which the amount

of surplus advance corporation tax arose were a reference to the period which, in relation to the claim, would be the later period for the purposes of subsection (7A) of section 826 of that Act.

Surrender of refunds

11 In section 102 of the Finance Act 1989 (surrender of company tax refund etc. within group), after subsection (4) there shall be inserted the following subsection—

“(4A) Where subsection (4) above has effect in relation to any amount and there is, by virtue of any of subsections (7) to (7C) of section 826 of the Taxes Act 1988, a period for which the whole or any part of that amount would not, had the refund been made to the surrendering company, have carried interest under that section, that period shall be treated as excluded—

- (a) from any period for which any refund made by virtue of subsection (4) above to the recipient company in respect of some or all of that amount or, as the case may be, that part of it is to carry interest under that section; and
- (b) from any period for which a sum representing some or all of that amount or part would (apart from this subsection) be treated by virtue of subsection (4) above as not carrying interest under section 87A of the Taxes Management Act 1970;

and in determining for the purposes of this subsection which part of any amount is applied in discharging a liability of the recipient company to pay any corporation tax and which part is represented by a refund to the recipient company, it shall be assumed that the part in relation to which there is a period which would not have carried interest under section 826 of the Taxes Act 1988 is applied in preference to any other part of that amount in or towards discharging the liability.”