

*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 1995, Part III. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 22

#### PREVENTION OF EXPLOITATION OF <sup>F1</sup>SCHEDULE 2 TO ITTOIA 2005 (SO FAR AS RELATING TO OVERLAP PROFIT) ]

##### Textual Amendments

- F1** Words in Sch. 22 heading substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005](#) (c. 5), s. 883(1), [Sch. 1 para. 484\(12\)](#) (with [Sch. 2](#))

### PART III

#### PROCEDURAL AND OTHER PROVISIONS

##### *Time limits for purposes of paragraphs 1, 2, 4, 6 and 8 to 10*

- 11 (1) Nothing in subsection (2) or (3) of section 29 of the Management Act (as substituted by section 191 of the <sup>M1</sup>Finance Act 1994) shall prevent an assessment being made under subsection (1) of that section in any case where—
- (a) the loss of tax there mentioned is attributable to any failure to give effect to any of paragraphs 1, 2, 4, 6 and 8 to 10 above; and
  - (b) at the time when the assessment is made, the condition mentioned in sub-paragraph (3) below is fulfilled.
- (2) Nothing in subsection (3) or (4) of section 30B of the Management Act (amendment of [<sup>F1</sup>partnership return] where loss of tax discovered) shall prevent an amendment being made under subsection (1) of that section in any case where—
- (a) the omission, deficiency or excess there mentioned is attributable to any failure to give effect to any of paragraphs 1, 2, 4, 6 and 8 to 10 above; and
  - (b) at the time when the amendment is made, the condition mentioned in sub-paragraph (3) below is fulfilled.
- (3) The condition referred to in sub-paragraphs (1) and (2) above is that either—
- (a) [<sup>F2</sup>a return under section 8 or 8A of the Management Act (personal or trustee return)] or, as the case may require, a [<sup>F3</sup>partnership return] has been made for the year 1997-98 and that [<sup>F4</sup>return] is still capable of being amended; or
  - <sup>F5</sup>(b) no such return has been so made.]

##### Textual Amendments

- F1** Words in Sch. 22 para. 11(2) substituted (11.5.2001) by [2001 c. 9, s. 88, Sch. 29 para. 37\(1\)\(2\)](#)
- F2** Words in Sch. 22 para. 11(3)(a) substituted (11.5.2001) by [2001 c. 9, s. 88, Sch. 29 para. 37\(1\)\(3\)\(a\)\(i\)](#)

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- F3** Words in Sch. 22 para. 11(3)(a) substituted (11.5.2001) by 2001 c. 9, s. 88, **Sch. 29 para. 37(1)(3)(a)(ii)**  
**F4** Words in Sch. 22 para. 11(3)(a) substituted (11.5.2001) by 2001 c. 9, s. 88, **Sch. 29 para. 37(1)(3)(a)(iii)**  
**F5** Sch. 22 para. 11(3)(b) substituted (11.5.2001) by 2001 c. 9, s. 88, **Sch. 29 para. 37(1)(3)(b)**

#### Marginal Citations

- M1** 1994 c. 9.

#### *Advance notice for purposes of paragraphs 3, 5 and 7*

- 12 (1) An officer of the Board shall not so amend [<sup>F6</sup>a return under section 8 or 8A of the Management Act (personal or trustee return)] as to give effect to paragraph 3, 5 or 7 above unless a notice stating—
- (a) in the case of paragraph 3 or 7 above, the aggregate of the amounts falling within sub-paragraph (1)(b) of that paragraph; and
  - (b) in the case of paragraph 5 above, the aggregate amount of interest paid as mentioned in sub-paragraph (3) of that paragraph,
- is given by such an officer at a time when the condition mentioned in sub-paragraph (2) below is fulfilled.
- (2) The condition referred to in sub-paragraph (1) above is that either—
- (a) [<sup>F7</sup>a return under section 8 or 8A of the Management Act (personal or trustee return)] has been made for the year 1998-99 and [<sup>F8</sup>that return] is still capable of being amended; or
  - [<sup>F9</sup>(b) no such return has been so made.]
- (3) Subject to sub-paragraph (4) below, a notice under sub-paragraph (1) above shall be conclusive of the matters stated in it.
- (4) An appeal may be brought against a notice under sub-paragraph (1) above at any time within the period of 30 days beginning with the date on which the notice is given.
- (5) Subject to sub-paragraph (6) below, the provisions of the Management Act relating to appeals shall have effect in relation to an appeal under sub-paragraph (4) above as they have effect in relation to an appeal against an assessment to tax.
- (6) On an appeal under sub-paragraph (4) above, section 50(6) to (8) of the Management Act (procedure on appeals) shall not apply but the Commissioners may—
- (a) if it appears to them that the matters stated in the notice under sub-paragraph (1) above are correct, confirm the notice; or
  - (b) if it does not so appear to them, set aside or modify the notice accordingly.

#### Textual Amendments

- F6** Words in Sch. 22 para. 12(1) substituted (11.5.2001) by 2001 c. 9, s. 88, **Sch. 29 para. 37(4)**  
**F7** Words in Sch. 22 para. 12(2)(a) substituted (11.5.2001) by 2001 c. 9, s. 88, **Sch. 29 para. 37(5)(a)(i)**  
**F8** Words in Sch. 22 para. 12(2)(a) substituted (11.5.2001) by 2001 c. 9, s. 88, **Sch. 29 para. 37(5)(a)(ii)**  
**F9** Sch. 22 para. 12(2)(b) substituted (11.5.2001) by 2001 c. 9, s. 88, **Sch. 29 para. 37(5)(b)**

#### *Penalties not to apply in certain cases*

- 13 (1) Where a relevant return (as originally made) states—

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(a) that paragraph 1, 3 or 4 above applies in the case of a trade, profession or vocation carried on by any person; or

(b) that paragraph 7 or 8 above applies in the case of any income derived by any person from the carrying on by him of a trade, profession or vocation,

sub-paragraph (2) of that paragraph shall have effect, in its application to any amounts stated in the return (as so made) to fall within sub-paragraph (1)(b) of that paragraph or, in the case of paragraph 4 or 8 above, to be amounts which would have fallen within sub-paragraph (1)(b) of the preceding paragraph, as if the words “1.25 times” were omitted.

(2) Where a relevant return (as originally made) states—

(a) that paragraph 6 above applies in the case of any income derived by any person from the carrying on by him of a trade, profession or vocation; or

(b) that paragraph 9 or 10 above applies in the case of any income arising to any person from any source,

sub-paragraph (2) of that paragraph shall have effect, in its application to any amounts stated in the return (as so made) to fall within sub-paragraph (1)(b) of that paragraph, as if for the words “62.5 per cent.” there were substituted the words “50 per cent”.

(3) In this paragraph—

“relevant return” means a return which, for the relevant year, is made under section 8, 8A or 12AA of the Management Act in respect of the trade, profession or vocation or, as the case may be, the source of the income;

“the relevant year” means—

(a) in relation to paragraph 1, 6, 9 or 10 above, the year 1996–97;

(b) in relation to paragraph 3, 4, 7 or 8 above, the year 1997–98.

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