

SCHEDULES

SCHEDULE 18

COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

PART II

COMPANY TAX RETURN

Company tax return

- 3 (1) The Inland Revenue may by notice require a company to deliver a return (a “company tax return”) of such information, accounts, statements and reports—
- (a) relevant to the tax liability of the company, or
 - (b) otherwise relevant to the application of the Corporation Tax Acts to the company,
- as may reasonably be required by the notice.
- (2) Different information, accounts, statements and reports may be required from different descriptions of company.
- (3) A company tax return must include a declaration by the person making the return that the return is to the best of his knowledge correct and complete.
- (4) The return must be delivered to the officer of the Board by whom the notice was issued not later than the filing date.

Meaning of delivery of return

- 4 References in this Schedule to the delivery of a company tax return are to the delivery of all the information, accounts, statements and reports required to comply with the notice requiring the return.

Period for which return required

- 5 (1) A notice requiring a company tax return must specify the period to which the notice relates.
- (2) If an accounting period of the company ended during (or at the end of) the specified period, a return is required for that accounting period.
- If there is more than one, a separate company tax return is required for each of them.
- (3) If sub-paragraph (2) does not apply but an accounting period of the company began during the specified period, a company tax return is required for the part of the specified period before the accounting period began.

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- (4) If the company was outside the charge to corporation tax for the whole of the specified period, a company tax return is required for the whole of the specified period.
- (5) If none of the above provisions applies, no company tax return is required in response to the notice.

Notice relating to period beginning before appointed day

- 6 (1) A notice requiring a company tax return may be given on or after the self-assessment appointed day in relation to a period beginning before that day.
- (2) Where the effect of such a notice is to require a return for an accounting period ending before that day, the provisions of the Tax Acts apply as if it were a notice under section 11 of the Taxes Management Act 1970.
- (3) The provisions of this Act relating to company tax returns, or amending other provisions of the Tax Acts so as to refer to such returns, do not affect the operation of those Acts in relation to such a notice.

Return to include self-assessment

- 7 (1) Every company tax return for an accounting period must include an assessment (a “self-assessment”) of the amount of tax which is payable by the company for that period—
 - (a) on the basis of the information contained in the return, and
 - (b) taking into account any relief or allowance for which a claim is included in the return or which is required to be given in relation to that accounting period.
- (2) For this purpose a company tax return is regarded as a return for an accounting period if the period is treated in the return as an accounting period and is not longer than twelve months, even though it is not, or may not be, an accounting period.

Calculation of tax payable

- 8 (1) The amount of tax payable for an accounting period is calculated as follows.
 - First step*
 Calculate the corporation tax chargeable on the company’s profits:
 - 1. Take the amount of the company’s profits for that period on which corporation tax is chargeable.
 - 2. Apply the rate or rates of corporation tax applicable to the company.
 - Second step*
 Then give effect to any reliefs or set-offs available against corporation tax chargeable on profits:
 - 1. Any reduction under section 13(2) of the Taxes Act 1988 (marginal small companies' relief).
 - 2. Any double taxation relief under section 788 or 790 of that Act.
 - 3. Any set off for advance corporation tax under section 239 of that Act or under regulations made under section 32 of this Act.

Third step

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Then add any amounts assessable or chargeable as if they were corporation tax (reduced by any reliefs specific to those amounts):

1. Any amount due under section 419(1) of the Taxes Act 1988 (tax on a loan or advance made by close company to a participator).
2. Any sum chargeable under section 747(4)(a) of that Act (tax on profits of a controlled foreign company).

Fourth step

Then deduct any amounts to be set off against the company's overall tax liability for that period:

1. Any amount to be set off under section 7(2) or 11(3) of the Taxes Act 1988 (income tax borne by deduction).
2. Any amount to be set off under section 246N or 246Q of that Act (advance corporation tax paid in respect of foreign income dividend).

- (2) Except as otherwise provided, references in this Schedule to the amount of tax payable by a company for an accounting period are to the amount shown in the company's self-assessment as the amount payable.

Claims that cannot be made without a return

- 9
- (1) No claim to which this paragraph applies may be made by a company before it delivers a company tax return for the period to which the claim relates.
 - (2) This paragraph applies to a claim by a company for any repayment of income tax called for by virtue of—
 - (a) section 6(2) of the Taxes Act 1988 (exclusion of income tax charge in case of UK resident company or income within chargeable profits for corporation tax), or
 - (b) exemptions from income tax conferred by the Corporation Tax Acts.
 - (3) This paragraph applies to a claim by a company for payment of a tax credit, unless—
 - (a) the company is wholly exempt from corporation tax or is only not so exempt in respect of trading income, and
 - (b) the tax credit is not one in respect of which a payment on account may be claimed by the company under Schedule 19AB to the Taxes Act 1988 (pension business).

Other claims and elections to be included in return

- 10
- (1) In Part VII of this Schedule (general provisions as to claims and elections) paragraphs 57 to 59 contain provisions as to the circumstances in which a claim or election may or must be made, or is to be treated as having been made, in a company tax return.
 - (2) A claim to which Part VIII or IX of this Schedule applies (claims for group relief or capital allowances) can only be made by being included in a company tax return (see paragraphs 67 and 79).

Accounts required in case of Companies Act company

- 11
- (1) In the case of a company which—
 - (a) is required to deliver a company tax return for a period,
 - (b) is resident in the United Kingdom throughout that period, and

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(c) is required under the Companies Act 1985 to prepare accounts for a period consisting of or including the whole of that period,
the power to require the delivery of accounts as part of the return is limited to such accounts, containing such information and having annexed to them such documents, as are required to be prepared under that Act.

- (2) In relation to a company registered in Northern Ireland, for the reference in sub-paragraph (1) to the Companies Act 1985 substitute a reference to the Companies (Northern Ireland) Order 1986.

Information about business carried on in partnership

- 12 (1) A company tax return of a company which carries on a trade, profession or business in partnership must include any amount which in a relevant partnership statement is stated to be its share of any income, loss, consideration, tax, credit or charge.
- (2) A “relevant partnership statement” means a statement under section 12AB of the Taxes Management Act 1970 for the period for which the return is made or a period which includes that period or any part of it.

Information about chargeable gains

- 13 (1) A notice requiring a company tax return may require details of assets acquired by the company in the period specified in the notice.
- The details required may include details of the person from whom the asset was acquired and the consideration for its acquisition.
- (2) The power in sub-paragraph (1) does not apply to—
- (a) assets exempted by—
 - section 121 of the Taxation of Chargeable Gains Act 1992 (government non-marketable securities), or
 - section 263 of that Act (passenger vehicles); or
 - (b) tangible movable property, unless—
 - (i) the amount or value of the consideration for its acquisition exceeded £6,000, or
 - (ii) it is within the exceptions in section 262(6) of the Taxation of Chargeable Gains Act 1992 (terminal markets and currency); or
 - (c) assets acquired as trading stock, unless they are held for the purposes of long term business carried on by an insurance company.
- (3) In sub-paragraph (2)(c)—
- “trading stock” has the meaning given by section 100(2) of the Taxes Act 1988, and
 - “long term business” and “insurance company” have the meaning given by section 431(2) of that Act.

Filing date

- 14 (1) The filing date for a company tax return is the last day of whichever of the following periods is the last to end—
- (a) twelve months from the end of the period for which the return is made;

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- (b) if the company's relevant period of account is not longer than 18 months, twelve months from the end of that period;
 - (c) if the company's relevant period of account is longer than 18 months, 30 months from the beginning of that period;
 - (d) three months from the date on which the notice requiring the return was served.
- (2) In sub-paragraph (1) "relevant period of account" means, in relation to a return for an accounting period, the period of account of the company in which the last day of that accounting period falls.

For this purpose "period of account" means a period for which the company makes up accounts.

Amendment of return by company

- 15 (1) A company may amend its company tax return by notice to the Inland Revenue.
- (2) The notice must be in such form as the Inland Revenue may require.
- (3) The notice must contain such information and be accompanied by such statements as the Inland Revenue may reasonably require.
- (4) Except as otherwise provided, an amendment may not be made more than twelve months after—
- (a) the filing date, or
 - (b) in the case of a return for the wrong period, what would be the filing date if the period for which the return was made were an accounting period.

Correction of return by Revenue

- 16 (1) The Inland Revenue may amend a company tax return so as to correct obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise).
- (2) A correction under this paragraph is made by notice to the company concerned.
- (3) No such correction may be made more than nine months after—
- (a) the day on which the return was delivered, or
 - (b) if the correction is required in consequence of an amendment by the company under paragraph 15, the day on which that amendment was made.
- (4) A correction under this paragraph is of no effect if the company—
- (a) amends its return so as to reject the correction, or
 - (b) after the end of the period within which it may amend its return, but within three months from the date of issue of the notice of correction, gives notice rejecting the correction.
- (5) Notice under sub-paragraph (4)(b) must be given—
- (a) in writing,
 - (b) to the officer of the Board by whom notice of the correction was given.

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Failure to deliver return: flat-rate penalty

- 17 (1) A company which is required to deliver a company tax return and fails to do so by the filing date is liable to a flat-rate penalty under this paragraph.
- It may also be liable to a tax-related penalty under paragraph 18.
- (2) The penalty is—
- (a) £100, if the return is delivered within three months after the filing date, and
 - (b) £200, in any other case.
- (3) The amounts are increased to £500 and £1000 for a third successive failure, that is, where—
- (a) the company is within the charge to corporation tax for three consecutive accounting periods (and at no time between the beginning of the first of those periods and the end of the last is it outside the charge to corporation tax),
 - (b) a company tax return is required for each of those accounting periods,
 - (c) the company was liable to a penalty under this paragraph in respect of each of the first two of those periods, and
 - (d) the company is again liable to a penalty under this paragraph in respect of the third period.
- (4) The first or second period mentioned in sub-paragraph (3) may be a period ending before the self-assessment appointed day, in relation to which—
- (a) the reference in paragraph (b) to a company tax return shall be construed as a reference to a return under section 11 of the Taxes Management Act 1970, and
 - (b) the references in paragraphs (c) and (d) to a penalty under this paragraph shall be construed as a reference to a penalty under section 94 of that Act.

Failure to deliver return: tax-related penalty

- 18 (1) A company which is required to deliver a company tax return for an accounting period and fails to do so—
- (a) within 18 months after the end of that period, or
 - (b) if the filing date is later than that, by the filing date,
- is liable to a tax-related penalty under this paragraph.
- This is in addition to any flat-rate penalty under paragraph 17.
- (2) The penalty is—
- (a) 10 per cent. of the unpaid tax, if the return is delivered within two years after the end of the period for which the return is required, and
 - (b) 20 per cent. of the unpaid tax, in any other case.
- (3) The “unpaid tax” means the amount of tax payable by the company for the accounting period for which the return was required which remains unpaid on the date when the liability to the penalty arises under sub-paragraph (1).
- (4) In determining that amount no account shall be taken of any relief under section 419(4) of the Taxes Act 1988 (relief in respect of repayment, etc. of loan) which is deferred under subsection (4A) of that section.

Excuse for late delivery of return

- 19 A company is not liable to a penalty under paragraph 17 (flat rate penalty) if—
- (a) the period for which the return is required is one for which the company is required to deliver accounts under the Companies Act 1985, and
 - (b) the return is delivered no later than the last day for the delivery of those accounts to the registrar of companies.

In relation to a company registered in Northern Ireland, for the reference in paragraph (a) to the Companies Act 1985 substitute a reference to the Companies (Northern Ireland) Order 1986.

Penalty for incorrect or uncorrected return

- 20 (1) A company which—
- (a) fraudulently or negligently delivers a company tax return which is incorrect, or
 - (b) discovers that a company tax return delivered by it (neither fraudulently nor negligently) is incorrect and does not remedy the error without unreasonable delay,
- is liable to a tax-related penalty.
- (2) The penalty is an amount not exceeding the amount of tax understated, that is, the difference between—
- (a) the amount of tax payable by the company for the period for which the return is made, and
 - (b) the amount which would have been so payable on the basis of the return delivered.
- (3) In computing for this purpose the amount of tax payable, no account shall be taken of any relief under section 419(4) of the Taxes Act 1988 (relief in respect of repayment, etc. of loan) which is deferred under subsection (4A) of that section.