

SCHEDULES

SCHEDULE 18

COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

PART IV

ENQUIRY INTO COMPANY TAX RETURN

Notice of enquiry

- 24 (1) The Inland Revenue may enquire into a company tax return if they give notice to the company of their intention to do so (“notice of enquiry”) within the time allowed.
- (2) If the return was delivered on or before the filing date, notice of enquiry may be given at any time up to twelve months from the filing date.
- (3) If the return was delivered after the filing date, notice of enquiry may be given at any time up to and including the 31st January, 30th April, 31st July or 31st October next following the first anniversary of the day on which the return was delivered.
- (4) If the company amends its return, notice of enquiry may be given at any time up to and including the 31st January, 30th April, 31st July or 31st October next following the first anniversary of the day on which the amendment was made.
- (5) A return which has been the subject of one notice of enquiry may not be the subject of another, except one given in consequence of an amendment (or another amendment) by the company of its return.

Scope of enquiry

- 25 (1) An enquiry into a company tax return extends to anything contained in the return, or required to be contained in the return, including—
- (a) any claim or election included in the return,
 - (b) any amount that affects or may affect—
 - (i) the tax payable by that company for another accounting period, or
 - (ii) the tax liability of another company for any accounting period,
- subject to the following limitation.
- (2) If the notice of enquiry is given—
- (a) as a result of an amendment by the company of its return, and
 - (b) at a time when it is no longer possible to give notice of enquiry under paragraph 24(2) or (3),
- the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.

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Enquiry into return for wrong period

- 26 (1) In the case of a company tax return which it appears to the Inland Revenue—
- (a) is or may be a return for the wrong period, or
 - (b) has become a return for the wrong period as a result of a direction under section 12(5A) of the Taxes Act 1988 (power of Board to direct which accounting date to be used where company carries on several trades),
- the power to enquire into the return includes power to enquire into the period for which the return ought to have been made.
- (2) A return is a “return for the wrong period” in the following cases.
- (3) The first case is where the return is made for a period which is treated in the return as an accounting period, but which is not an accounting period of the company.
- (4) The second case is where the return is made on the basis that there is no accounting period ending in or at the end of the specified period, but there is such an accounting period.
- (5) In relation to a return for the wrong period the references to the filing date in paragraph 24(2) and (3) (period within which notice of enquiry may be given) are to the date that would be the filing date if the period for which the return was made were a period of the kind it is treated as in the return.
- (6) In this paragraph “the specified period” means the period specified in the notice requiring a company tax return.

Notice to produce documents, etc. for purposes of enquiry

- 27 (1) If the Inland Revenue give a notice of enquiry to a company, they may by notice require the company—
- (a) to produce to them such documents in the company’s possession or power, and
 - (b) to provide them with such information, in such form,
- as they may reasonably require for the purposes of the enquiry.
- (2) A notice under this paragraph (which may be given at the same time as the notice of enquiry) must specify the time (which must not be less than 30 days) within which the company is to comply with it.
- (3) In complying with a notice under this paragraph copies of documents may be produced instead of originals, but—
- (a) the copies must be photographic or other facsimiles, and
 - (b) the Inland Revenue may by notice require the original to be produced for inspection.
- A notice under paragraph (b) must specify the time (which must not be less than 30 days) within which the company is to comply with it.
- (4) The Inland Revenue may take copies of, or make extracts from, any document produced to them under this paragraph.
- (5) A notice under this paragraph does not oblige the company to produce documents or provide information relating to the conduct of any pending appeal by the company.

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Appeal against notice to produce documents, etc

- 28 (1) An appeal may be brought against a requirement imposed by a notice under paragraph 27 to produce documents or provide information.
- (2) Notice of appeal must be given—
- (a) in writing,
 - (b) within 30 days after the notice was given to the company,
 - (c) to the officer of the Board by whom that notice was given.
- (3) An appeal under this paragraph shall be heard and determined in the same way as an appeal against an assessment.
- (4) On an appeal under this paragraph the Commissioners—
- (a) shall set aside the notice so far as it requires the production of documents, or the provision of information, which appears to them not reasonably required for the purposes of the enquiry, and
 - (b) shall confirm the notice so far as it requires the production of documents, or the provision of information, which appears to them reasonably required for the purposes of the enquiry.
- (5) A notice which is confirmed by the Commissioners (or so far as it is confirmed) has effect as if the period specified in it for complying was 30 days from the determination of the appeal.
- (6) The decision of the Commissioners on an appeal under this paragraph is final and conclusive.

Penalty for failure to produce documents, etc

- 29 (1) A company which fails to comply with a notice under paragraph 27 (notice to produce documents, etc. for purposes of enquiry) is liable—
- (a) to a penalty of £50, and
 - (b) if the failure continues after a penalty is imposed under paragraph (a) above, to a further penalty or penalties not exceeding the amount specified in sub-paragraph (2) below for each day on which the failure continues.
- (2) The amount referred to in sub-paragraph (1)(b) is—
- (a) £30 if the penalty is determined by an officer of the Board under section 100 of the Taxes Management Act 1970, and
 - (b) £150 if the penalty is determined by the Commissioners under section 100C of that Act.
- (3) An officer of the Board authorised by the Board for the purposes of section 100C of the Taxes Management Act 1970 may commence proceedings under that section for any penalty under sub-paragraph (1)(b) above.
- (4) No penalty shall be imposed under this paragraph in respect of a failure at any time after the failure has been remedied.

Amendment of self-assessment during enquiry to prevent loss of tax

- 30 (1) If after notice of enquiry has been given and before the enquiry is completed the Inland Revenue form the opinion—

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- (a) that the amount stated in the company's self-assessment as the amount of tax payable is insufficient, and
- (b) that unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,

they may by notice to the company amend its self-assessment to make good the deficiency.

- (2) In the case of an enquiry which under paragraph 25(2) is limited to matters arising from an amendment of the return, sub-paragraph (1) above only applies so far as the deficiency is attributable to the amendment.
- (3) An appeal may be brought against an amendment of a company's self-assessment by the Inland Revenue under this paragraph.
- (4) Notice of appeal must be given—
 - (a) in writing,
 - (b) within 30 days after the amendment was notified to the company,
 - (c) to the officer of the Board by whom the notice of amendment was given.
- (5) The appeal shall not be heard and determined before the completion of the enquiry.

Amendment of return by company during enquiry

- 31 (1) This paragraph applies if a company amends its company tax return at a time when an enquiry is in progress into the return.
- (2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.
- (3) So far as the amendment affects—
- (a) the amount stated in the company's self-assessment as the amount of tax payable, or
 - (b) any amount that affects or may affect—
 - (i) the tax payable by the company for another accounting period, or
 - (ii) the tax liability of another company for any accounting period,
- it does not take effect until after the enquiry is completed.
- This does not affect any claim by the company under section 59DA of the Taxes Management Act 1970 (claim for repayment in advance of liability being established).
- (4) An amendment whose effect is deferred under sub-paragraph (3) takes effect as follows—
- (a) if the conclusions in the closure notice state either—
 - (i) that the amendment was not taken into account in the enquiry, or
 - (ii) that no amendment of the return is required arising from the enquiry,
 the amendment takes effect on the completion of the enquiry;
 - (b) in any other case, the amendment shall be taken into account by the company in amending its return to accord with the conclusions stated in the closure notice and takes effect accordingly as part of those amendments.
- (5) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—

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- (a) beginning with the day on which the Inland Revenue give notice of enquiry into the return, and
- (b) ending with the day on which the enquiry is completed.

Completion of enquiry

- 32 (1) An enquiry is completed when the Inland Revenue by notice (a “closure notice”) inform the company they have completed their enquiry and state their conclusions.

The notice takes effect when it is issued.

- (2) If the Inland Revenue conclude that the return was a return for the wrong period, the closure notice must designate the accounting period for which a return should have been made (specifying the dates on which the period begins and ends).
- (3) If there is more than one accounting period ending in or at the end of the period specified in the notice requiring a return, the closure notice shall only designate the first of those accounting periods for which no return has been delivered.

Paragraph 35 provides for a return to be delivered for any other outstanding accounting period.

Direction to complete enquiry

- 33 (1) The company may apply to the Commissioners for a direction that the Inland Revenue give a closure notice within a specified period.
- (2) Any such application shall be heard and determined in the same way as an appeal.
 - (3) The Commissioners hearing the application shall give a direction unless they are satisfied that the Inland Revenue have reasonable grounds for not giving a closure notice within a specified period.

Amendment of return after enquiry

- 34 (1) The company has 30 days beginning with the day on which the enquiry is completed in which—
- (a) to amend the return that was the subject of the enquiry—
 - (i) to accord with the conclusions stated in the closure notice, and
 - (ii) in the case of a return for the wrong period, to make it a return appropriate to the designated period, and
 - (b) to make any amendments of other company tax returns delivered by it which are required to give effect to the conclusions stated in the closure notice.

The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made under paragraph (a) or (b).

- (2) If after the end of that period of 30 days the Inland Revenue are not satisfied—
 - (a) that the return that was the subject of the enquiry—
 - (i) is correct and complete, and
 - (ii) in the case of a return for the wrong period, is a return appropriate to the designated period, and

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- (b) that any necessary amendments have been made to any other return delivered by the company that are required to give effect to the conclusions stated in the closure notice,
they may, within the following period of 30 days, by notice to the company make such amendments of that return or those returns as they consider necessary.
- (3) An appeal may be brought against any such amendment of a company's return.
- (4) Notice of appeal must be given—
 - (a) in writing,
 - (b) within 30 days after the amendment was notified to the company,
 - (c) to the officer of the Board by whom the notice of amendment was given.
- (5) In this paragraph “the designated period” means the period designated in the closure notice.

Further return for outstanding period

- 35 (1) Where, following an enquiry into a company tax return—
- (a) it is finally determined—
 - (i) that the return is a return for the wrong period, and
 - (ii) what the period is for which the return should have been made, and
 - (b) the effect of the determination is that there is a further period (“the outstanding period”) for which a company tax return should have been made under the original notice requiring a return,
- then, if there is no such return delivered by the company which can be amended so as to become a return for the outstanding period, the original notice shall be taken to require the company to deliver a return in respect of that period.
- (2) The filing date for such a return for an outstanding period is whichever is the later of—
- (a) the original filing date, and
 - (b) the last day of the period of 30 days beginning with the day on which the matters mentioned in sub-paragraph (1)(a) are finally determined.