SCHEDULES

SCHEDULE 18

COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

Modifications etc. (not altering text)

C1 Sch. 18 restricted (31.7.1998) by 1988 c. 1, **s. 754B(10)** (as inserted (31.7.1998 with effect as mentioned in Sch. 17 para. 37 of 1998 c. 36) by 1998 c. 36, s. 113, **Sch. 17 para. 11**)

PART V

REVENUE DETERMINATIONS AND ASSESSMENTS

Determination of tax payable if no return delivered in response to notice

36 (1) If no return is delivered in response to a notice requiring a company tax return, the Inland Revenue may determine to the best of their information and belief the amount of tax payable by the company.

(2) The power to make a determination under this paragraph becomes exercisable if no return is delivered on or before the following date—

(a) if the filing date for any return required by the notice can be ascertained, that date;

(b) if no such date can be ascertained, the later of—

(i) 18 months from the end of the period specified in the notice, or

(ii) three months from the day on which the notice was served.

(3) The accounting period or periods for which a determination may be made are—

(a) if there is only one accounting period ending in or at the end of the period specified in the notice, that period;

(b) if there is more than one accounting period ending in or at the end of the period specified in the notice, each of those periods;

(c) if the Inland Revenue have insufficient information to identify the accounting periods of the company, such period or periods ending in or at the end of the period specified in the notice as they may determine.

(4) Notice of a determination under this paragraph must be served on the company, stating the date on which the determination is issued.

(5) No determination under this paragraph may be made more than five years after the day on which the power becomes exercisable.

(6) If the company shows—

(a) that there is no accounting period of the company ending in or at the end of the period specified in the notice, or
(b) that it has delivered a return for the accounting period, or each accounting period, ending in or at the end of the period specified in the notice, or
(c) that no return is yet due for any such period,

any determination under this paragraph is of no effect.

Determination of tax payable if notice complied with in part

37 (1) If a notice requiring a company tax return is served on a company and—
(a) a return is delivered for an accounting period ending in or at the end of the period specified in the notice, but
(b) there is another period so ending (the "outstanding period") which appears to the Inland Revenue is or may be an accounting period,

the Inland Revenue may determine to the best of their information and belief the amount of corporation tax payable by the company for the outstanding period.

(2) The power to make a determination under this paragraph becomes exercisable—
(a) if the filing date for the outstanding period can be ascertained and no return is delivered on or before that date;
(b) if no such date can be ascertained and no return for that period is delivered by the later of—
(i) 30 months from the end of the period specified in the notice, or
(ii) three months from the day on which the notice was served.

(3) Notice of a determination under this paragraph must be served on the company, stating the date on which the determination is issued.

(4) No determination under this paragraph may be made more than five years after the day on which the power first became exercisable.

(5) If the company shows—
(a) that the outstanding period is not an accounting period, or
(b) that it has delivered a return for that period,

any determination under this paragraph is of no effect.

Extent of power to make determination

38 (1) The power to make a determination under paragraph 36 or 37 includes power to determine—
(a) any of the amounts mentioned in paragraph 8(1) (calculation of amount of tax payable), and
(b) any amount forming part of the calculation of any of those amounts.

(2) Notice of a determination under either of those paragraphs may be accompanied by notice of any determination by the Inland Revenue relating to the dates on which amounts of tax become due and payable under section 59D or 59E of the [M1]Taxes Management Act 1970.

Marginal Citations
M1 1970 c. 9.

Determination to have effect as self-assessment

39 (1) A determination under paragraph 36 or 37 has effect for enforcement purposes as if it were a self-assessment by the company.

(2) In sub-paragraph (1) "for enforcement purposes" means for the purposes of —

(a) the following Parts of the [M2]Taxes Management Act 1970—

Part VA (payment),

Part VI (collection and recovery),

Part IX (interest on overdue tax), and

Part XI (miscellaneous and supplementary provisions);

(b) the provisions of this Schedule imposing tax-related penalties; and

(c) the provisions of the Corporation Tax Acts enabling unpaid tax assessed on a company to be assessed on other persons.

(3) For those purposes the period for which the determination is made shall be treated as an accounting period of the company, even though—

(a) in the case of a determination under paragraph 36, the Inland Revenue have insufficient information to determine the accounting periods of the company and exercise their power under sub-paragraph (3)(c) of that paragraph, or

(b) in the case of a determination under paragraph 37, the Inland Revenue have insufficient information to determine whether the outstanding period is an accounting period.

Marginal Citations
M2 1970 c. 9.

Determination superseded by actual self-assessment

40 (1) If after a determination has been made under paragraph 36—

(a) the company delivers a company tax return for a period ending in or at the end of the period specified in the notice requiring a company tax return, and

(b) the period is, or is treated in the return as, an accounting period,

the self-assessment included in that return supersedes the determination or, if there is more than one, the determination for the period which is, or most closely approximates to, the period for which the return is made.

(2) If after a determination has been made under paragraph 37—

(a) the company delivers a further company tax return for a period ending in or at the end of the period specified in the notice requiring a company tax return, and

(b) the period is, or is treated in the return as, an accounting period,

the self-assessment included in that return supersedes the determination.

(3) Sub-paragraphs (1) and (2) do not apply to a return made—

(a) more than five years after the day on which the power to make the determination first became exercisable (see paragraph 36(2) or 37(2)), or

(b) more than twelve months after the date of the determination,

whichever is the later.

(4) Where—

(a) the Inland Revenue have begun proceedings for the recovery of any tax charged by a determination under paragraph 36 or 37, and

(b) before the proceedings are concluded the determination is superseded by a self-assessment,

the proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not been paid.

Assessment where loss of tax discovered or determination of amount discovered to be incorrect

41 (1) If the Inland Revenue discover as regards an accounting period of a company that—

(a) an amount which ought to have been assessed to tax has not been assessed, or

(b) an assessment to tax is or has become insufficient, or

(c) relief has been given which is or has become excessive,

they may make an assessment (a “discovery assessment") in the amount or further amount which ought in their opinion to be charged in order to make good to the Crown the loss of tax.

(2) If the Inland Revenue discover that a company tax return delivered by a company for an accounting period incorrectly states—

(a) an amount that affects, or may affect, the tax payable by that company for another accounting period, or

(b) an amount that affects, or may affect, the tax liability of another company,

they may make a determination (a “discovery determination") of the amount which in their opinion ought to have been stated in the return.

Restrictions on power to make discovery assessment or determination

42 (1) The power to make—

(a) a discovery assessment for an accounting period for which the company has delivered a company tax return, or

(b) a discovery determination,

is only exercisable in the circumstances specified in paragraph 43 or 44 and subject to paragraph 45 below.

(2) Those restrictions do not apply to an assessment or determination which only gives effect to a discovery determination duly made with respect to an amount stated in another company’s company tax return.

(3) Any objection to a discovery assessment or determination on the ground that those paragraphs have not been complied with can only be made on an appeal against the assessment or determination.

Fraudulent or negligent conduct

43 A discovery assessment for an accounting period for which the company has delivered a company tax return, or a discovery determination, may be made if the situation mentioned in paragraph 41(1) or (2) is attributable to fraudulent or negligent conduct on the part of—

(a) the company, or

(b) a person acting on behalf of the company, or

(c) a person who was a partner of the company at the relevant time.

Situation not disclosed by return or related documents etc.

44 (1) A discovery assessment for an accounting period for which the company has delivered a company tax return, or a discovery determination, may be made if at the time when the Inland Revenue—

(a) ceased to be entitled to give a notice of enquiry into the return, or

(b) completed their enquiries into the return,

they could not have been reasonably expected, on the basis of the information made available to them before that time, to be aware of the situation mentioned in paragraph 41(1) or (2).

(2) For this purpose information is regarded as made available to the Inland Revenue if—

(a) it is contained in a relevant return by the company or in documents accompanying any such return, or

(b) it is contained in a relevant claim made by the company or in any accounts, statements or documents accompanying any such claim, or

(c) it is contained in any documents, accounts or information produced or provided by the company to the Inland Revenue for the purposes of an enquiry into any such return or claim, or

(d) it is information the existence of which, and the relevance of which as regards the situation mentioned in paragraph 41(1) or (2)—

(i) could reasonably be expected to be inferred by the Inland Revenue from information falling within paragraphs (a) to (c) above, or

(ii) are notified in writing to the Inland Revenue by the company or a person acting on its behalf.

(3) In sub-paragraph (2)—

"relevant return" means the company's company tax return for the period in question or either of the two immediately preceding accounting periods, and

"relevant claim" means a claim made by or on behalf of the company as regards the period in question.

Return made in accordance with prevailing practice

45 No discovery assessment for an accounting period for which the company has delivered a company tax return, or discovery determination, may be made if—

(a) the situation mentioned in paragraph 41(1) or (2) is attributable to a mistake in the return as to the basis on which the company's liability ought to have been computed, and

(b) the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.

General time limits for assessments

46 (1) Subject to any provision of the Taxes Acts allowing a longer period in any particular class of case no assessment may be made more than six years after the end of the accounting period to which it relates.

(2) In a case involving fraud or negligence on the part of—

(a) the company, or

(b) a person acting on behalf of the company, or

(c) a person who was a partner of the company at the relevant time,

an assessment may be made up to 21 years after the end of the accounting period to which it relates.

(3) Any objection to the making of an assessment on the ground that the time limit for making it has expired can only be made on an appeal against the assessment.

Modifications etc. (not altering text)

C1 Sch. 18 para. 46(2)(3) applied (28.7.2000 with application as mentioned in s. 63(4) of the amending Act) by 2000 c. 17, s. 63(1), **Sch. 15 Pt. VI para. 62(3)**

Assessment procedure

47 (1) Notice of an assessment to tax on a company must be served on the company stating—

(a) the date on which the notice is issued, and

(b) the time within which any appeal against the assessment may be made.

(2) After that notice has been served on the company, the assessment may not be altered except in accordance with the express provisions of the Taxes Acts.

Appeal against assessment

48 (1) An appeal may be brought against any assessment to tax on a company which is not a self-assessment.

(2) Notice of appeal must be given—

(a) in writing,

(b) within 30 days after notice of the assessment was issued,

(c) to the officer of the Board by whom the notice of the assessment was given.

Application of provisions to discovery determinations

49 The provisions of paragraphs 46 to 48 (assessments: general provisions as to time limits, procedure and appeals) apply to a discovery determination as they apply to an assessment.