

Status: Point in time view as at 31/07/1998.

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SCHEDULES

SCHEDULE 19

COMPANY TAX RETURNS, ETC.: MINOR AND CONSEQUENTIAL AMENDMENTS

Taxes Management Act 1970 (c.9)

- 1 The following provisions of the Taxes Management Act 1970 shall cease to have effect—
 - section 10 (notice of liability to corporation tax),
 - section 11 (return of profits),
 - section 11AA (return of profits to include self-assessment),
 - section 11AB (power to enquire into return of profits),
 - sections 11AC to 11AE (modifications of sections 11AA and 11AB for certain insurance companies and friendly societies).
- 2 In section 12(2) of the Taxes Management Act 1970 (information about chargeable gains), omit “or section 11”.
- 3 In section 12AA(7) of the Taxes Management Act 1970 (partnership return: information about chargeable gains), after “section 12(2) of this Act” insert “ or paragraph 13 of Schedule 18 to the Finance Act 1998 ”.
- 4 In section 12AB of the Taxes Management Act 1970 (partnership return to include partnership statement), for subsection (4) substitute—

“(4) Where a partnership statement is amended under subsection (2) above, the officer shall by notice to the partners amend—

 - (a) their self-assessment under section 9 of this Act, or
 - (b) their company tax return,

so as to give effect to the amendments of the partnership statement.”.
- 5 In section 12AC of the Taxes Management Act 1970 (power to enquire into partnership return), for subsection (3) substitute—

“(3) The giving of notice under subsection (1) above at any time shall be deemed to include—

 - (a) the giving of notice under section 9A(1) of this Act to each partner who at that time has made a return under section 9 of this Act or at any subsequent time makes such a return;
 - (b) the giving of notice of enquiry under Schedule 18 to the Finance Act 1998 to each partner who at that time has made a company tax return or at any subsequent time makes such a return.”.

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- 6 In section 12B(1) of the Taxes Management Act 1970 (records to be kept for purposes of returns), omit “, 11”.
- 7 In section 19A(1) of the Taxes Management Act 1970 (power to call for documents for purposes of certain enquiries), omit “, 11AB(1)”.
- 8 (1) Section 28A of the Taxes Management Act 1970 (amendment of self-assessment where enquiries made) is amended as follows.
- (2) In subsection (1) omit “or 11AB(1)”.
- (3) In subsection (7B) omit paragraph (b) and the word “and” preceding it.
- (4) Omit subsection (7C).
- (5) For subsection (8) substitute—
- “(8) In this section “filing date” means the day mentioned in section 8(1A) or section 8A(1A) of this Act, as the case may be.”.
- 9 Sections 28AA and 28AB of the Taxes Management Act 1970 (amendment of return of profits made for wrong period) shall cease to have effect.
- 10 (1) Section 28B of the Taxes Management Act 1970 (amendment of partnership statement where enquiries made) is amended as follows.
- (2) For subsection (4) substitute—
- “(4) Where a partnership statement is amended under this section, the officer shall by notice to each of the partners amend—
- (a) the partner’s self-assessment under section 9 of this Act, or
- (b) the partner’s company tax return,
- so as to give effect to the amendments of the partnership statement.”.
- (3) For subsection (6B) substitute—
- “(6B) For the purposes of subsection (6A) above—
- (a) “period of account” has the same meaning as in section 12AB of this Act, and
- (b) the cases where alternative methods are allowed by the Tax Acts are those specified in section 28A(7B) of this Act or paragraph 84(2) or (3) of Schedule 18 to the Finance Act 1998.”.
- 11 Sections 28D, 28E and 28F of the Taxes Management Act 1970 (determination of corporation tax in absence of self-assessment) shall cease to have effect.
- 12 (1) Section 29 of the Taxes Management Act 1970 (assessment where loss of tax discovered) is amended as follows.
- (2) In subsection (1) for “profits which ought to have been assessed to tax” substitute “income which ought to have been assessed to income tax, or chargeable gains which ought to have been assessed to capital gains tax, ”.
- (3) For “chargeable period”, wherever it occurs, substitute “ year of assessment ”.

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- (4) In subsections (2), (3), (5)(a), (6)(a) and (7)(a) for “section 8, 8A or 11” substitute “section 8 or 8A”.
 - (5) In subsection (3)(b) omit “in the case of a return under section 8 or 8A,”.
 - (6) Omit subsection (10).
- 13 (1) Section 30 of the Taxes Management Act 1970 (recovery of overpayment of tax, etc.) is amended as follows.
- (2) In subsection (1) for “tax” in the first place where it occurs substitute “income tax or capital gains tax”.
 - (3) In subsection (2)(a), omit “or 825”.
 - (4) Omit subsection (2A).
 - (5) In subsection (3), omit “or corporation tax”.
 - (6) Omit subsection (3A).
 - (7) For subsection (4) substitute—
 - “(4) An assessment to income tax under this section shall be made under Case VI of Schedule D.”.
 - (8) Omit subsection (4A).
 - (9) In subsection (5)(a), for “chargeable period” substitute “year of assessment”.
- 14 (1) Section 30B of the Taxes Management Act 1970 (amendment of partnership statement where loss of tax discovered) is amended as follows.
- (2) For subsection (2) substitute—
 - “(2) Where a partnership statement is amended under subsection (1) above, the officer shall by notice to each of the relevant partners amend—
 - (a) the partner’s self-assessment under section 9 of this Act, or
 - (b) the partner’s company tax return,so as to give effect to the amendments of the partnership statement.”.
 - (3) In subsection (7)(b) for “section 8, 8A or 11” substitute “section 8 or 8A”.
 - (4) In subsection (9) for the definition of “profits” substitute—
 - ““profits”—
 - (a) in relation to income tax, means income,
 - (b) in relation to capital gains tax, means chargeable gains, and
 - (c) in relation to corporation tax, means profits as computed for the purposes of that tax;”.
- 15 (1) Section 33 of the Taxes Management Act 1970 (error or mistake) is amended as follows.
- (2) For subsection (1) substitute—

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- “(1) If a person who has paid income tax or capital gains tax under an assessment (whether a self-assessment or otherwise) alleges that the assessment was excessive by reason of some error or mistake in a return, he may by notice in writing at any time not later than five years after the 31st January next following the year of assessment to which the return relates, make a claim to the Board for relief.”.
- (3) In subsection (5), after paragraph (a) insert “, and ” and omit paragraph (c).
- 16 (1) Section 33A of the Taxes Management Act 1970 (error or mistake in partnership statement) is amended as follows.
- (2) In subsection (1) omit “under section 9 or 11AA of this Act”.
- (3) For subsection (4) substitute—
- “(4) Where a partnership statement is amended under subsection (3) above, the Board shall by notice to each of the relevant partners amend—
- (a) the partner’s self-assessment under section 9 of this Act, or
- (b) the partner’s company tax return,
- so as to give effect to the amendments of the partnership statement.”.
- 17 In section 34(1) of the Taxes Management Act 1970 (ordinary time limit for assessment), for the words from “an assessment to tax may be made” to the end substitute “ an assessment to income tax or capital gains tax may be made at any time not later than five years after the 31st January next following the year of assessment to which it relates ”.
- 18 In section 36(1) of the Taxes Management Act 1970 (fraudulent or negligent conduct)—
- (a) for “loss of tax” substitute “ loss of income tax or capital gains tax ”, and
- (b) for the words from “not later than” to the end substitute “ not later than 20 years after the 31st January next following the year of assessment to which it relates ”.
- 19 Sections 41A, 41B and 41C of the Taxes Management Act 1970 (corporation tax determinations) shall cease to have effect.
- 20 (1) Section 42 of the Taxes Management Act 1970 (procedure for making claims, etc.) is amended as follows.
- (2) In subsections (2), (9) and (11)(a) omit “, 11”.
- (3) Omit subsections (4) and (4A), and in subsection (5) the words from “and the reference in subsection (4)” to the end.
- (4) In subsection (13), after paragraph (a) insert “, and ” and omit paragraph (c).
- 21 In section 43 of the Taxes Management Act 1970, for subsection (1) substitute—
- “(1) Subject to any provision of the Taxes Acts prescribing a longer or shorter period, no claim for relief in respect of income tax or capital gains tax may be made more than five years after the 31st January next following the year of assessment to which it relates.”.

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- 22 (1) Section 43A of the Taxes Management Act 1970 (further assessments: claims etc.) is amended as follows.
- (2) In subsection (1) for paragraph (a) substitute—
- “*(a)* where by virtue of section 29 of this Act an assessment to income tax or capital gains tax is made on any person for a year of assessment, and”.
- (3) In subsections (2), (3), (4) and (5) for “chargeable period”, wherever occurring, substitute “year of assessment”.
- 23 In section 46(2) of the Taxes Management Act 1970 (determinations of Commissioner to be final), omit the words “and in particular save as provided by section 29 of this Act”.
- 24 In section 46B(2) of the Taxes Management Act 1970 (questions to be determined by Special Commissioners), for paragraph (a) substitute—
- “*(a)* an appeal against an amendment of a self-assessment under—
- (i) section 28A(2) or (4) of this Act, or
- (ii) paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998;”.
- 25 In section 46C(2) of the Taxes Management Act 1970 (jurisdiction of Special Commissioners), for paragraph (a) substitute—
- “*(a)* an appeal against an amendment of a self-assessment under—
- (i) section 28A(2) or (4) of this Act, or
- (ii) paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998;”.
- 26 In section 46D(2) of the Taxes Management Act 1970 (questions to be determined by Lands Tribunal), for paragraph (a) substitute—
- “*(a)* an appeal against an amendment of a self-assessment under—
- (i) section 28A(2) or (4) of this Act, or
- (ii) paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998;”.
- 27 (1) Section 50 of the Taxes Management Act 1970 (procedure) is amended as follows.
- (2) In subsection (6)(a), after “28A(2) or (4) of this Act” insert “or paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998”.
- (3) In subsection (7)(a), after “28A(2) or (4) of this Act” insert “or paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998”.
- (4) For subsection (9) substitute—
- “*(9)* Where any amounts contained in a partnership statement are reduced under subsection (6) above or increased under subsection (7) above, an officer of the Board shall by notice to each of the relevant partners amend—

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- (a) the partner’s self-assessment under section 9 of this Act, or
 (b) the partner’s company tax return,
 so as to give effect to the reductions or increases of those amounts.”.
- 28 In section 55(1) of the Taxes Management Act 1970 (recovery of tax not postponed), for paragraphs (a) and (b) substitute—
 “(a) an amendment of a self-assessment under—
 (i) section 28A(2) or (4) of this Act, or
 (ii) paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998,
 (b) an assessment to tax other than a self-assessment,”.
- 29 (1) In Part VA of the Taxes Management Act 1970 (payment of tax), before section 59A insert the heading “*Income tax and capital gains tax*”.
- (2) For section 59D of that Act substitute—

“ Corporation tax

59D General rule as to when corporation tax is due and payable.

- (1) Corporation tax for an accounting period is due and payable on the day following the expiry of nine months from the end of that period.
- (2) If the tax payable is then exceeded by the total of any relevant amounts previously paid (as stated in the relevant company tax return), the excess shall be repaid.
- (3) The tax payable means the amount computed in accordance with paragraph 8 of Schedule 18 to the Finance Act 1998.
- (4) Relevant amounts previously paid means any of the following, so far as relating to the accounting period in question—
 - (a) any amount of corporation tax paid by the company and not repaid;
 - (b) any corporation tax refund surrendered to the company by another group company;
 - (c) any amount by which the sums available for set off under Step 4 of the calculation in paragraph 8 of Schedule 18 to the Finance Act 1998 (amounts set off against overall tax liability) exceeds the amount against which they may be set off under that provision;
 - (d) any amount treated as corporation tax paid in respect of profits of the company under section 559 of the principal Act (deductions from payments to sub-contractors).
- (5) This section has effect subject to section 59E.

59DA Claim for repayment in advance of liability being established.

- (1) This section applies where a company has paid an amount of corporation tax for an accounting period and the circumstances of the company change, so that the company has grounds for believing that the amount paid exceeds its probable tax liability although that liability has not been finally established.

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- (2) The company may, by notice given to an officer of the Board, claim repayment of the excess.

No such claim may be made before the date which under section 826 of the principal Act (interest on overpaid tax), subject to regulations under section 826A of that Act, is the material date in relation to that tax.

- (3) The notice must state—
- (a) the amount which the company considers should be repaid, and
 - (b) its grounds for believing that the amount paid exceeds its probable tax liability.
- (4) If the company has appealed against an amendment of an assessment, or an assessment, relating to the tax liability in question, and the appeal has not been finally determined, it may apply to the Commissioners to whom the appeal stands referred for a determination of the amount which should be repaid to the company pending determination of the liability.
- (5) Any claim under subsection (2) or application under subsection (4) shall be heard and determined in the same way as an appeal.
- (6) If the company makes an application under section 55(3) or (4) (application to postpone payment pending determination of appeal), that application may be combined with an application under subsection (4) above.
- (7) If a company makes a claim or application under this section before it has delivered a company tax return for the period in question, any deductions under section 559 of the principal Act (deductions from payments to certain subcontractors) shall be disregarded in considering whether the amount paid by the company exceeds its probable tax liability.

- (8) This section has effect subject to section 59E.”

- 30 (1) Section 65 of the Taxes Management Act 1970 (recovery of small amounts of tax by civil proceedings in the magistrates’ court) is amended as follows.
- (2) In subsection (1) for the words from the beginning to “payment or tax” substitute “ Any amount due and payable by way of income tax, capital gains tax or corporation tax which does not exceed £2,000 ”.
- (3) In subsection (3), omit the words from “for the recovery of” to the end of paragraph (b).
- (4) In subsection (5) for “sums” substitute “ sum ”.
- 31 In section 69 of the Taxes Management Act 1970 (interest on tax), after “Part II, VA or X of this Act” insert “ or under Schedule 18 to the Finance Act 1998 ”.
- 32 In section 70(2)(a) of the Taxes Management Act 1970 (certificate of collector as evidence), after “Part II, VA or X of this Act” insert “ or under Schedule 18 to the Finance Act 1998 ”.
- 33 Section 94 of the Taxes Management Act 1970 (penalty for failure to make return for corporation tax) shall cease to have effect.

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- 34 Section 96 of the Taxes Management Act 1970 (incorrect return or accounts for corporation tax) shall cease to have effect.
- 35 In section 97 of the Taxes Management Act 1970 (incorrect return or accounts: supplemental), in subsections (1) and (2) for “sections 95 and 96” substitute “section 95”.
- 36 In section 97AA(1) of the Taxes Management Act 1970 (penalty for failure to produce documents for purposes of enquiry), after “section 19A(2), (2A) or (3) of this Act” insert “ or paragraph 6(2) or (3A)(b) of Schedule 1A to this Act, ”.
- 37 In section 97A of the Taxes Management Act 1970 (two or more tax-geared penalties in respect of same tax), omit paragraph (b) and the word “or” preceding it.
- 38 In section 100(6)(a) of the Taxes Management Act 1970 (determination of penalties), for “section 94(6) above” substitute “ paragraph 18(2) of Schedule 18 to the Finance Act 1998 ”.
- 39 For section 101 of the Taxes Management Act 1970 (evidence of profits for purposes of preceding provisions of Part X) substitute—

“101 Evidence for purposes of proceedings relating to penalties.

An assessment which can no longer be varied by any Commissioners on appeal or by order of any court is sufficient evidence, for the purposes of—

- (a) the preceding provisions of this Part, and
- (b) the provisions of Schedule 18 to the Finance Act 1998 relating to penalties,

that the amounts in respect of which tax is charged in the assessment arose or were received as stated in the assessment.”.

- 40 In section 103A of the Taxes Management Act 1970 (interest on penalties), after “this Part of this Act” insert “ , or Schedule 18 to the Finance Act 1998, ”.
- 41 In section 113(1B) of the Taxes Management Act 1970 (Revenue assessments to tax), after “section 29 of this Act” insert “ or paragraph 41 of Schedule 18 to the Finance Act 1998 ”.
- 42 (1) Schedule 1A to the Taxes Management Act 1970 (claims, etc. not included in returns) is amended as follows.
- (2) In paragraph 1, for the definition of “profits” substitute—
- ““profits”—
- (a) in relation to income tax, means income,
 - (b) in relation to capital gains tax, means chargeable gains, and
 - (c) in relation to corporation tax, means profits as computed for the purposes of that tax;”.
- (3) In paragraph 2(5)(c) after “section 12 of this Act” insert “ or paragraph 13 of Schedule 18 to the Finance Act 1998 ”.
- (4) In paragraph 2A (keeping and preserving of records), in sub-paragraphs (3) and (5) (a) after “12B(4A) of this Act” insert “ or paragraph 22(3) of Schedule 18 to the Finance Act 1998 ”.

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(5) In paragraph 5 (power to enquire into claims), in sub-paragraph (3)(b) for “section 9A(1), 11AB(1) or 12AC(1) of this Act” substitute “ section 9A(1) or 12AC(1) of this Act or paragraph 24 of Schedule 18 to the Finance Act 1998 ”.

(6) In paragraph 6 (power to call for documents for purposes of enquiries), for sub-paragraph (3) substitute—

“(3A) 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 officer 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.

(3B) The officer may take copies of, or make extracts from, any document produced to him under this paragraph.

(3C) A notice under this paragraph does not oblige the claimant to produce documents or provide accounts or information relating to the conduct of any pending appeal by the claimant.”.

(7) After that paragraph insert—

“ Appeal against notice to produce documents, etc

6A (1) An appeal may be brought against a requirement imposed by a notice under paragraph 6 to produce documents or provide accounts or information.

(2) Notice of appeal must be given—

- (a) in writing,
- (b) within 30 days after the notice was given to the claimant,
- (c) to the officer of the Board by whom that notice was given.

(3) 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 accounts or 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 accounts or information, which appear to them are reasonably required for the purposes of the enquiry.

(4) 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.

(5) The decision of the Commissioners on an appeal under this paragraph is final and conclusive.”.

43 (1) Schedule 3A to the Taxes Management Act 1970 (electronic lodgement of tax returns) is amended as follows.

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- (2) In paragraph 1(4)(a), after “Part II of this Act” insert “ or Schedule 18 to the Finance Act 1998 ”.
- (3) In paragraph 8(2)(a), after “Part II of this Act” insert “ or Schedule 18 to the Finance Act 1998 ”.

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