

SCHEDULES

SCHEDULE 29

AMENDMENTS TO MACHINERY OF SELF-ASSESSMENT

PART 2

ENQUIRIES INTO RETURNS

Enquiry into personal or trustee return

- 4 (1) For section 9A of the Taxes Management Act 1970 (c. 9) (power to enquire into returns) substitute—

“9A Notice of enquiry

- (1) An officer of the Board may enquire into a return under section 8 or 8A of this Act if he gives notice of his intention to do so (“notice of enquiry”)—
- (a) to the person whose return it is (“the taxpayer”),
 - (b) within the time allowed.
- (2) The time allowed is—
- (a) if the return was delivered on or before the filing date, up to the end of the period of twelve months after the filing date;
 - (b) if the return was delivered after the filing date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;
 - (c) if the return is amended under section 9ZA of this Act, up to and including the quarter day next following the first anniversary of the day on which the amendment was made.

For this purpose the quarter days are 31st January, 30th April, 31st July and 31st October.

- (3) 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) of the return under section 9ZA of this Act.
- (4) An enquiry extends to anything contained in the return, or required to be contained in the return, including any claim or election included in the return, subject to the following limitation.
- (5) If the notice of enquiry is given as a result of an amendment of the return under section 9ZA of this Act—
- (a) at a time when it is no longer possible to give notice of enquiry under subsection (2)(a) or (b) above, or

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(b) after an enquiry into the return has been completed,
the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.

(6) In this section “the filing date” means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act.

9B Amendment of return by taxpayer during enquiry

- (1) This section applies if a return is amended under section 9ZA of this Act (amendment of personal or trustee return by taxpayer) 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 the amount stated in the self-assessment included in the return as the amount of tax payable, it does not take effect while the enquiry is in progress and—
 - (a) if the officer states in the closure notice that he has taken the amendment into account and that—
 - (i) the amendment has been taken into account in formulating the amendments contained in the notice, or
 - (ii) his conclusion is that the amendment is incorrect,the amendment shall not take effect;
 - (b) otherwise, the amendment takes effect when the closure notice is issued.
- (4) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—
 - (a) beginning with the day on which notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.

9C Amendment of self-assessment during enquiry to prevent loss of tax

- (1) This section applies where an enquiry is in progress into a return as a result of notice of enquiry by an officer of the Board under section 9A(1) of this Act.
- (2) If the officer forms the opinion—
 - (a) that the amount stated in the self-assessment contained in the return 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,he may by notice to the taxpayer amend the assessment to make good the deficiency.
- (3) In the case of an enquiry which under section 9A(5) of this Act is limited to matters arising from an amendment of the return, subsection (2) above only applies so far as the deficiency is attributable to the amendment.
- (4) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—
 - (a) beginning with the day on which notice of enquiry is given, and

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- (b) ending with the day on which the enquiry is completed.

9D Choice between different Cases of Schedule D

- (1) Where in the case of a return under section 8 or 8A of this Act—
- (a) alternative methods are allowed by the Tax Acts for bringing amounts into charge to tax,
 - (b) the return is made using one of those methods but could have been made using an alternative method, and
 - (c) an officer of the Board determines which of the alternative methods is to be used,
- the officer's determination is final and conclusive, for the purposes of any enquiry into the return, as to the basis of charge to be used.
- (2) For the purposes of this section the cases where the Tax Acts allow alternative methods for bringing amounts into charge to tax are where they may be brought into charge either—
- (a) in computing profits chargeable to tax under Case I or II of Schedule D, or
 - (b) as amounts within Case III, IV or V of that Schedule.”.
- (2) In section 9A(2)(a) of the Taxes Management Act 1970 (c. 9) (as substituted by subparagraph (1) above) as it applies in relation to returns for years of assessment before the year 2001-02, for “up to the end of the period of twelve months after the filing date” substitute “twelve months beginning with that date”.

Enquiry into partnership return

- 5 (1) For section 12AC of the Taxes Management Act 1970 (c. 9) (power to enquire into partnership return) substitute—

“12AC Notice of enquiry

- (1) An officer of the Board may enquire into a partnership return if he gives notice of his intention to do so (“notice of enquiry”)—
- (a) to the partner who made and delivered the return, or his successor,
 - (b) within the time allowed.
- (2) The time allowed is—
- (a) if the return was delivered on or before the filing date, up to the end of the period of twelve months after the filing date;
 - (b) if the return was delivered after the filing date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;
 - (c) if the return is amended under section 12ABA of this Act, up to and including the quarter day next following the first anniversary of the day on which the amendment was made.

For this purpose the quarter days are 31st January, 30th April, 31st July and 31st October.

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- (3) 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) of the return under section 12ABA of this Act.
- (4) An enquiry extends to anything contained in the return, or required to be contained in the return, including any claim or election included in the return, subject to the following limitation.
- (5) If the notice of enquiry is given as a result of an amendment of the return under section 12ABA of this Act—
 - (a) at a time when it is no longer possible to give notice of enquiry under subsection (2)(a) or (b) above, or
 - (b) after an enquiry into the return has been completed,
 the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.
- (6) The giving of notice of enquiry under subsection (1) above at any time shall be deemed to include the giving of notice of enquiry—
 - (a) under section 9A(1) of this Act to each partner who at that time has made a return under section 8 or 8A of this Act or at any subsequent time makes such a return, or
 - (b) under paragraph 24 of 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.
- (7) In this section “the filing date” means the day specified in the notice under section 12AA(2) of this Act or, as the case may be, subsection (3) of that section.

12AD Amendment of partnership return by taxpayer during enquiry

- (1) This section applies if a partnership return is amended under section 12ABA of this Act (amendment of partnership return by taxpayer) 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 any amount stated in the partnership statement included in the return, it does not take effect while the enquiry is in progress and—
 - (a) if the officer states in the closure notice that he has taken the amendment into account and that—
 - (i) the amendment has been taken into account in formulating the amendments contained in the notice, or
 - (ii) his conclusion is that the amendment is incorrect,
 the amendment shall not take effect;
 - (b) otherwise, the amendment takes effect when the closure notice is issued.
- (4) Where the effect of an amendment is deferred under subsection (3) above—

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- (a) no amendment to give effect to that amendment (“the deferred amendment”) shall be made under section 12ABA(3) of this Act (consequential amendment of partners' returns) while the enquiry is in progress;
 - (b) if the deferred amendment does not take effect but is taken into account as mentioned in subsection (3)(a)(i) above, section 28B(4) of this Act (amendment of partners' returns consequential on amendment of partnership return by closure notice) applies accordingly; and
 - (c) if the deferred amendment takes effect under subsection (3)(b) above, any necessary amendment under section 12ABA(3) of this Act may then be made.
- (5) For the purposes of this section the period during which an enquiry is in progress is the whole of the period—
- (a) beginning with the day on which notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.

12AE Choice between different Cases of Schedule D

- (1) Where in the case of a partnership return—
- (a) alternative methods are allowed by the Tax Acts for bringing amounts into charge to tax,
 - (b) the return is made using one of those methods but could have been made using an alternative method, and
 - (c) an officer of the Board determines which of the alternative methods is to be used,
- the officer’s determination is final and conclusive, for the purposes of any enquiry into the return, as to the basis of charge to be used.
- (2) For the purposes of this section the cases where the Tax Acts allow alternative methods for bringing amounts into charge to tax are those specified—
- (a) for income tax purposes, in section 9D(2) of this Act;
 - (b) for corporation tax purposes, in paragraph 84(2) or (3) of Schedule 18 to the Finance Act 1998.”.
- (2) In section 12AC(2)(a) of the Taxes Management Act 1970 (c. 9) (as substituted by sub-paragraph (1) above) as it applies in relation to returns for years of assessment before the year 2001-02, for “up to the end of the period of twelve months after the filing date” substitute “twelve months beginning with that date”.