

SCHEDULE 1

AMENDMENTS

Income and Corporation Taxes Act 1988 c. 1

24. After section 705 there shall be inserted—

“Statement of case by tribunal for opinion of High Court.

705A.—(1) Immediately after the determination by the tribunal of an appeal re-heard by them under section 705 of this Act, the appellant or the Board, if dissatisfied with the determination as being erroneous in point of law, may declare his or their dissatisfaction to the tribunal.

(2) The appellant or the Board, as the case may be, having declared his or their dissatisfaction, may, within thirty days after the determination, by notice in writing require the tribunal to state and sign a case for the opinion of the High Court.

(3) The party requiring the case shall pay to the tribunal a fee of £25 for and in respect of the same, before he is entitled to have the case stated.

(4) The case shall set forth the facts and the determination of the tribunal, and the party requiring it shall transmit the case, when stated and signed, to the High Court, within thirty days after receiving the same.

(5) At or before the time when he transmits the case to the High Court, the party requiring it shall send notice in writing of the fact that the case has been stated on his application, together with a copy of the case, to the other party.

(6) The High Court shall hear and determine any question of law arising on the case, and may reverse, affirm or amend the determination in respect of which the case has been stated, or remit the matter to the tribunal with the Court’s opinion on it, or make such other order in relation to the matter as the Court thinks fit.

(7) The High Court may cause the case to be sent back for amendment, and thereupon the case shall be amended accordingly, and judgment shall be delivered after it has been amended.

(8) Subject to subsection (9) below and to Part II of the Administration of Justice Act 1969 (appeal from High Court to House of Lords), an appeal shall, in England and Wales, lie from the decision of the High Court to the Court of Appeal and thence to the House of Lords.

(9) No appeal shall lie to the House of Lords from the Court of Appeal unless leave has been given under and in accordance with section 1 of the Administration of Justice (Appeals) Act 1934.

(10) Subject to subsection (11) below, where the determination of the tribunal is in respect of an assessment made in accordance with a notice under subsection (3) of section 703, then notwithstanding that a case has been required to be stated or is pending before the High Court in respect of the determination, tax shall be paid in accordance with the determination.

(11) If the amount charged by the assessment is altered by the order or judgment of the High Court, then—

- (a) if too much tax has been paid the amount overpaid shall be refunded with such interest, if any, as the High Court may allow; or
- (b) if too little tax has been charged, the amount undercharged shall be due and payable at the expiration of a period of thirty days beginning with the date on

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which the Board issue to the other party a notice of the total amount payable in accordance with the order or judgment of that Court.

(12) All matters within the jurisdiction of the High Court under this section shall be assigned in Scotland to the Court of Session sitting as the Court of Exchequer (references in this section to the High Court being construed accordingly); and an appeal shall lie from the decision under this section of the Court of Session, as the Court of Exchequer in Scotland, to the House of Lords.

Proceedings in Northern Ireland.

705B.—(1) A case which is stated by the tribunal under section 705A in proceedings in Northern Ireland shall be a case for the opinion of the Court of Appeal in Northern Ireland, and the Taxes Acts (as defined in section 118(1) of the Management Act⁽¹⁾) shall have effect as if that section applied in relation to such proceedings—

- (a) with the substitution for references to the High Court of references to the Court of Appeal in Northern Ireland;
- (b) with the omission of subsections (4), (5), (8) and (9) of that section.

(2) The procedure relating to the transmission of the case to, and the hearing and determination of the case by, the Court of Appeal in Northern Ireland shall be that for the time being in force in Northern Ireland as respects cases stated by a county court in exercise of its general jurisdiction, and an appeal shall lie from the Court of Appeal to the House of Lords in accordance with section 42 of the Judicature (Northern Ireland) Act 1978.

(3) Where in proceedings in Northern Ireland an application is made for a case to be stated by the tribunal under this section, the case must be settled and sent to the applicant as soon after the application as is reasonably practicable.

(4) For the purposes of this section “proceedings in Northern Ireland” means proceedings as respects which the place given by the rules in Schedule 3 to the Management Act is in Northern Ireland.”.

(1) The definition of “the Taxes Act” in section 118(1) was amended by paragraph 32(d) of Schedule 8 to the Development Land Tax Act 1976 (c. 24), paragraph 8 of Schedule 7 to the Capital Gains Tax Act 1979 (c. 14), Schedule 31 to the Income and Corporation Taxes Act 1988, and paragraph 2(11)(b) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12).