



# Finance (No. 2) Act 1987

## 1987 CHAPTER 51

### PART I

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER V

#### TAXES MANAGEMENT PROVISIONS

#### *Company returns*

<sup>F1</sup>82 .....

**Textual Amendments**

**F1** S. 82 repealed (31.7.1998) by 1998 c. 36, s. 165, **Sch. 27 Pt. III** Group 28

<sup>F2</sup>83 .....

**Textual Amendments**

**F2** S. 83 repealed (31.7.1998) by 1998 c. 36, s. 165, **Sch. 27 Pt. III** Group 28

84 (1) ..... <sup>F3</sup>

(4) At the end of section 70 of the Management Act (evidential certificates) there shall be inserted the following subsection—

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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1987, Chapter V. (See end of Document for details)*

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“(5) Where an amount has been assessed by way of penalty under section 94 of this Act and either no appeal has been brought against that assessment or the amount assessed has been confirmed or varied on appeal,—

- (a) a certificate of an inspector or other officer of the Board that an amount is due by way of penalty under that section, and
- (b) a certificate of a collector that payment of that amount has not been made to him or, to the best of his knowledge and belief, to any other collector, or to a person acting on his behalf or on behalf of another collector,

shall be sufficient evidence that the amount mentioned in the certificates is unpaid and is due to the Crown; and any document purporting to be such a certificate as is mentioned in this subsection shall be deemed to be such a certificate unless the contrary is proved.”

(5) ..... F4

(9) This section has effect with respect to penalties incurred after the appointed day.

#### **Textual Amendments**

**F3** S. 84(1)–(3) repealed by Finance Act 1989, s. 187, Sch. 17 Pt. VIII

**F4** S. 84(5)–(8) repealed by Finance Act 1989, s. 187, Sch. 17 Pt. VIII

#### **Modifications etc. (not altering text)**

**C1** Taxes Management Act 1970 (c. 9, SIF 63:1), s. 70(5) repealed by Finance Act 1989, s. 187, Sch. 17 Pt. VIII

## **85 Interest on overdue corporation tax etc.**

With respect to accounting periods ending after the appointed day, after section 87 of the Management Act there shall be inserted the following section—

### **“87A Interest on overdue corporation tax etc.**

- (1) Corporation tax shall carry interest at the [F5 rate applicable under section 178 of the Finance Act 1989] from the date when the tax becomes due and payable (in accordance with section [F6 10] of the principal Act) until payment.
- (2) Subsection (1) above applies even if the date when the tax becomes due and payable (as mentioned in that subsection) is a non-business day within the meaning of section 92 of the M1 Bills of Exchange Act 1882.
- (3) In relation to corporation tax assessed by virtue of section [F7 346(2) or 347(1) of the principal Act, section 267(3C) or 278(5) of the Income and Corporation Taxes Act 1970][F8, section 96(8) of the Finance Act 1990] or section 87(4) of the M2 Capital Gains Tax Act 1979 (which enable unpaid corporation tax assessed on a company to be assessed on other persons in certain circumstances), the reference in subsection (1) above to the date when the tax becomes due and payable is a reference to the date when it became due and payable by the company.
- (4) [F9 Subject to subsection (7) below] in any case where—

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- (a) there is in any accounting period of a company (in this subsection referred to as “the later period”) an amount of surplus advance corporation tax, as defined in subsection (3) of section [F10]239 of the principal Act], and
- (b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is treated for the purposes of the said section [F10]239] as discharging liability for an amount of corporation tax for an earlier accounting period (in this subsection referred to as “the earlier period”), and
- (c) disregarding the effect of the said subsection (3), an amount of corporation tax for the earlier period would carry interest in accordance with this section,

then, in determining the amount of interest payable under this section on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax which results from the said subsection (3) except so far as concerns interest for any time after the date on which any corporation tax for the later period became due and payable (as mentioned in subsection (1) above).

- (5) A sum assessed on a company by such an assessment as is referred to in [F11]section 252(5) of the principal Act] (recovery of payment of tax credit or interest on such a payment) shall carry interest at the [F12]rate applicable under section 178 of the Finance Act 1989] from the date when the payment of tax credit or interest was made until the sum assessed is paid.”

[F13](6) In any case where—

- (a) on a claim under section 393A(1) of the principal Act, the whole or any part of a loss incurred in an accounting period (“the later period”) has been set off for the purposes of corporation tax against profits of a preceding accounting period (“the earlier period”);
- (b) the earlier period does not fall wholly within the period of twelve months immediately preceding the later period; and
- (c) if the claim had not been made, there would be an amount or, as the case may be, an additional amount of corporation tax for the earlier period which would carry interest in accordance with this section,

then, for the purposes of the determination at any time of whether any interest is payable under this section or of the amount of interest so payable, the amount mentioned in paragraph (c) above shall be taken to be an amount of unpaid corporation tax for the earlier period except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable as mentioned in subsection (1) above.

(7) Where, in a case falling within subsection (6)(a) and (b) above—

- (a) there is in the earlier period, as a result of the claim under section 393A(1) of the principal Act, an amount of surplus advance corporation tax, as defined in subsection (3) of section 239 of that Act; and
- (b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is to be treated for the purposes of the said section 239 as discharging liability for an amount of corporation tax for an accounting period before the earlier period,

the claim under the said subsection (3) shall be disregarded for the purposes of subsection (6) above but subsection (4) above shall have effect in relation to that

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claim as if the reference in the words after paragraph (c) to the later period within the meaning of subsection (4) above were a reference to the period which, in relation to the claim under the said section 393A(1), would be the later period for the purposes of subsection (6) above.]

#### Textual Amendments

- F5** Finance Act 1989, s. 179(1)(b) and **S.I. 1989/1298**. Previously “prescribed rate”. And see **S.I.** 1989/1297 for regulations made, and interest rate set, under Finance Act 1989, s. 178
- F6** **Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)**, s. 844, **Sch. 29 para. 10(4)(a)**. Previously “243(4)”
- F7** **Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)**, s. 844, **Sch. 29 para. 10(4)(b)**. Previously “266(2), section 267(3C), section 277(1) or section 278(5) of the Taxes Act”.
- F8** Finance Act 1990, s. 96(12)
- F9** **S. 85**: words in s. 87A(4) of **Taxes Management Act 1970 (c. 9)** inserted (27.7.1993) by **1993 c. 34**, s. 120, **Sch. 14**, para. 4 (1)
- F10** **Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)**, s. 844, **Sch. 29 para. 10(4)(c)(d)**. Previously “85 of the Finance Act 1972” and “85” respectively.
- F11** **Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)**, s. 844, **Sch. 29 para. 10(4)(d)**. Previously “subsection (2) of section 102 of the Finance Act 1972”
- F12** Finance Act 1989, s. 179(1)(b), **S.I. 1989/1298**. Previously “prescribed rate”. And see **S.I.** 1989/1297 for regulations made and interest rate set under Finance Act 1989, s. 178
- F13** **S. 85**: s. 87A(6) of **Taxes Management Act 1970 (c. 9)** substituted (27.7.1993) by **1993 c. 34**, s. 120, **Sch. 14**, para. 4(2)

#### Modifications etc. (not altering text)

- C2** The appointed day for the purposes of s. 85 is 30.9.1993, see **S.I. 1992/3066**, art. 2(2)(a)

#### Marginal Citations

- M1** 1882 c. 61.  
**M2** 1979 c. 14.

## 86 Supplementary provisions as to interest on overdue tax.

<sup>F14</sup>(1) .....

(2) In section 86 of the Management Act (interest on overdue tax), subsection (2)(d) and paragraph 5 of the Table (which relate to assessed corporation tax) shall be omitted.

(3) References to section 86 of the Management Act in—

- (a) sections 70(2) and 92 of that Act (evidence, and remission of interest in certain cases), and

<sup>F15</sup>(b) .....

shall include a reference to section 87A of the Management Act.

(4) In section 88 of the Management Act (interest on tax recovered to make good loss due to taxpayer’s fault)—

- (a) in subsection (2) (exclusion of certain non-assessed tax) after the words “in relation to” there shall be inserted “corporation tax or”; and  
 (b) in subsection (5), paragraph (e) (which relates to corporation tax) shall be omitted.

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(5) In section 91 of the Management Act (effect on interest of reliefs) after subsection (1) there shall be inserted the following subsections—

“(1A) Where interest is payable under section 87A of this Act in respect of an amount of corporation tax for an accounting period, and relief from tax is given by a discharge of any of that corporation tax—

(a) such adjustment shall be made of the amount of interest payable under that section in respect of corporation tax for that accounting period, and

(b) such repayment shall be made of any amounts of interest previously paid under that section in respect of that corporation tax,

as are necessary to secure that the total sum (if any) paid or payable under that section in respect of corporation tax for that accounting period is the same as it would have been if the tax discharged had never been charged.

(1B) Subsection (1A) above has effect subject to section 87A(4) of this Act.”

(6) At the beginning of subsection (2) of that section there shall be inserted the words “ Subject to subsection (2A) below ” and at the end of that subsection there shall be added the following subsection—

“(2A) In any case where—

(a) relief from corporation tax is given to any person by repayment, and

(b) that tax was paid for an accounting period ending after the day which is the appointed day for the purposes of section [F16]10 of the principal Act],

that person shall be entitled to require that the amount repaid shall be treated for the purposes of this section, so far as it will go, as if it were a discharge of the corporation tax charged on him for that period.”

(7) This section has effect with respect to accounting periods ending after the appointed day.

#### Textual Amendments

**F14** S. 86(1) repealed (11.5.2001 with effect as mentioned in Sch. 33 Pt. 2(14) note 2 of the amending Act) by 2001 c. 9, s. 110, **Sch. 33 Pt. 2(14)**

**F15** S. 86(3)(b) repealed (with effect in accordance with s. 381(1) of the commencing Act) by **Taxation (International and Other Provisions) Act 2010 (c. 8)**, s. 381(1), **Sch. 10 Pt. 12** (with Sch. 9 paras. 1-9, 22)

**F16** **Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)**, s. 844, **Sch. 29 para. 10(6)**. Previously “90 of the Finance (No. 2) Act 1987”.

#### Modifications etc. (not altering text)

**C3** The appointed day for the purposes of s. 86 is 30.9.1993, see S.I. 1992/3066, art. 2(2)(a)

## 87 Interest on tax overpaid.

F17

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1987, Chapter V. (See end of Document for details)*

**Textual Amendments**

**F17** S. 87 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, **Sch. 31**

**F18** **88** .....

**Textual Amendments**

**F18** S. 88 repealed (31.7.1998) by [1998 c. 36, s. 165, Sch. 27 Pt. III](#) Group 28

**89** ..... **F19**

**Textual Amendments**

**F19** S. 89 repealed by [Finance Act 1989 \(c. 26\)](#) s. 187(1), Sch. 17, Pt X

*Miscellaneous*

**90** ..... **F20**

**Textual Amendments**

**F20** S. 90 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, **Sch. 31**

**91 Close companies: loans to participators.**

- (1) In section 109 of the Management Act (close companies: loans to participators) subsection (2) shall be omitted.
- (2) In subsection (3) of that section for “88” there shall be substituted “ 87A ” and for the words from “charged” onwards there shall be substituted “ under the said section [<sup>F21</sup>419] became due and payable shall be that determined in accordance with subsection [<sup>F21</sup>(3)] of that section ”.
- (3) After subsection (3) of that section there shall be inserted the following subsection—
  - “(3A) If there is such a repayment of the whole or any part of a loan or advance as is referred to in subsection [<sup>F21</sup>(4)] of section [<sup>F21</sup>419] of the principal Act, interest under section 87A of this Act on so much of the tax under the said section [<sup>F21</sup>419] as is referable to the amount repaid shall not be payable in respect of any period after the date on which the repayment was made.”
- (4) This section has effect with respect to loans or advances made (or treated as made) in any accounting period ending after the appointed day.

*Changes to legislation:* There are currently no known outstanding effects for the Finance (No. 2) Act 1987, Chapter V. (See end of Document for details)

**Textual Amendments**

**F21** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, **Sch. 29 para. 10(8)(a)(b)** from the day appointed under Finance (No. 2) Act 1987 (c. 51 SIF 63:1), ss. 91, 95

**Modifications etc. (not altering text)**

**C4** The appointed day for the purposes of s. 91 is 30.9.1993, see [S.I. 1992/3066](#), art. 2(2)(a)

**92, 93.** ..... **F22**

**Textual Amendments**

**F22** [Ss. 92, 93](#) repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, **Sch. 31**

**94 Failure to do things within a limited time.**

In section 118(2) of the Management Act (cases where persons are deemed not to have failed to do things which are required to be done within a limited time), after the word “deemed”, in the second place where it occurs, there shall be inserted “ not to have failed to do it unless the excuse ceased and, after the excuse ceased, he shall be deemed ”.

**95 Interpretation of Chapter V and consequential and supplementary provisions.**

- (1) In this Chapter “the Management Act” means the <sup>M3</sup>Taxes Management Act 1970.
- (2) Subject to subsection (3) below, any reference in this Chapter to the appointed day is a reference to such day as the Treasury may by order made by statutory instrument appoint, and different days may be so appointed for different provisions of this Chapter.
- (3) No day may be appointed by virtue of subsection (2) above which falls earlier than 31st March 1992.
- (4) The provisions of Schedule 6 to this Act shall have effect, being provisions consequential on and supplementary to the provisions of this Chapter.

**Modifications etc. (not altering text)**

**C5** Other provisions coming into force subsequent upon the making of an order:—Finance Act 1990, s. 91(2)(3)(5)–(7)—amendment of [Taxes Management Act 1970 \(c. 9, SIF 63:1\)](#), s. 11 (corporation tax returns).

**Marginal Citations**

**M3** [1970 c. 9.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Finance (No. 2) Act 1987, Chapter V.