



# Taxes Management Act 1970

## 1970 CHAPTER 9

An Act to consolidate certain of the enactments relating to income tax, capital gains tax and corporation tax, including certain enactments relating also to other taxes. [12th March 1970]

### Editorial Information

- X1** General amendments to Tax Acts, Income Tax Acts, and/or Corporation Tax Acts made by legislation after 1.2.1991 are noted against [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) but not against each Act

### Modifications etc. (not altering text)

- C1** Act applied (19.4.1991) for the year of assessment 1988-1989 by [S.I. 1991/851, regs. 1, 3\(1\)](#)
- C2** **EDITORIAL NOTE** This Act is presented in the form in which it appears in the 1990 edition of The Taxes Acts edited by the Inland Revenue and published by Her Majesty's Stationery Office (any references in footnotes etc. to Vol. 1, 2 etc. are to the Volumes of that edition). The style of editing (see the following paragraph) differs from that applicable to most Acts published in Statutes in Force. Repealed matter is printed in italic type with a foot-note or, if its inclusion is unnecessary, omitted. Textual amendments, including additions, to any enactment are printed, as part of that enactment, in ordinary type enclosed in square brackets, with a footnote giving the reference to the amending enactment and, where necessary, the previous wording of the amended enactment. Where the effect of an enactment is modified or extended by a later enactment without specific amendment of the original words, the change is indicated by a footnote.
- C3** Act extended (with modifications) (28.3.1992) for year of assessment 1989-1990 by [S.I. 1992/511, regs. 1,3, Sch. 1](#)
- C4** Power to modify Act conferred (6.3.1992) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), ss. 209\(3\), 289](#) (having effect in relation to tax for the year 1992-93 and subsequent years of assessment, and tax for other chargeable periods beginning on or after 6.4.1992 see [s. 289](#)) (with ss. 60, 101(1), 171, 201(3))
- C5** Act applied (with modifications) (23.3.1993 with effect for the year of assessment 1990-91 only) by [S.I. 1993/415, regs. 1\(1\), 3\(1\)](#).
- C6** Act applied (27.7.1993) by [1993 c. 34, s. 80\(7\)](#)
- C7** Act: power to modify conferred (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by [1993 c. 34, s. 182\(2\), 184\(3\)](#)

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**Changes to legislation:** Taxes Management Act 1970 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Commencement Information

- II** Act wholly in force at 6.4.1970, see s. 119(1)

## PART I

### ADMINISTRATION <sup>F1</sup>

#### Textual Amendments

- F1** See Finance Act 1989 s. 92—powers to make regulations to extend time limits in respect of underwriters.

### **1 Taxes under care and management of the Board. [1952 s.5(1); 1965 s.49(7), Sch.X 1(1).] [1964(M) s.3(1).] [1964(M) s.3(3); 1965 Sch.X 1(1); 1966 Sch.VI 13.]**

- (1) Income tax, corporation tax . . . <sup>F2</sup> and capital gains tax shall be under the care and management of the Commissioners of Inland Revenue (in this Act referred to as “the Board”), and the definition of “inland revenue” in section 39 of the Inland Revenue Regulation Act 1890 shall have effect accordingly <sup>F3</sup>.
- (2) The Board shall appoint inspectors and collectors of taxes who shall act under the direction of the Board <sup>F4</sup>.
- (2A) The Board may appoint a person to be an inspector or collector for general purposes or for such specific purposes as the Board think fit.
- (2B) Where in accordance with the Board’s administrative practices a person is authorised to act as an inspector or collector for specific purposes, he shall be deemed to have been appointed to be an inspector or collector for those purposes. <sup>F5</sup>]
- (3) Any legal proceedings or administrative act relating to any tax begun by one inspector or collector may be continued by another inspector or, as the case may be, another collector; and any inspector or collector may act for any division or other area <sup>F6</sup>.

#### Textual Amendments

- F2** Words relating to development land tax added by [Development Land Tax Act 1976 \(c. 24\)](#) Sch.8 para.1. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.
- F3** For the application of this Act to petroleum revenue tax and supplementary petroleum duty see [Oil Taxation Act 1975 s.1](#) and Sch.2 para.1(1)—[Oil Taxation Acts](#).
- F4** See also as to appointments etc. of officers, [Inland Revenue Regulation Act 1890 \(c. 21, SIF 63:1\)](#), s.4 (in Part II Vol.5).
- F5** Finance Act 1990 s. 104(1), (3)—deemed always to have had effect.
- F6** For the application of this subsection to the special tax on banking deposits see Finance Act 1981 s.134 and Sch.17 para.18. (in 1988 edition).

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

- C8** S. 1 extended (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\)](#), ss. 15(3), 173(4), **Sch. 2 para. 6(2)** (with ss. 108(5), 116(3), 165)

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## 2 General Commissioners, [1964(M) s.1(1)—(8).]

- (1) For the purpose of exercising such powers relating to appeals and other matters as are conferred on them by the Taxes Acts there shall be “Commissioners for the general purposes of the income tax” (in the Taxes Acts referred to as “General Commissioners”) who shall act for the same separate areas in Great Britain as heretofore[or for the separate areas in Northern Ireland defined by an order made by the Lord Chancellor <sup>F7</sup>](in the Taxes Acts referred to as “divisions”).
- (2) General Commissioners for divisions in England and Wales[or Northern Ireland <sup>F7</sup>]shall be appointed by, and shall hold office during the pleasure of, the Lord Chancellor.
- (3) General Commissioners for divisions in Scotland shall be appointed by, and shall hold office during the pleasure of,[the Secretary of State <sup>F8</sup>], . . . <sup>F9</sup>.
- (4) In Scotland a sheriff shall be ex officio a General Commissioner for any division wholly or partly within his sherriffdom and a salaried sheriff-substitute shall be ex officio a General Commissioner for any division wholly or partly within his district.
- (5) General Commissioners shall be entitled to receive out of money provided by Parliament payments by way of travelling allowance or subsistence allowance of such amounts and in such circumstances as may be determined by [the Minister for the Civil Service <sup>F10F11</sup>].
- (6) The Lord Chancellor or, in Scotland, the Secretary of State may by order create a new division or abolish an existing division or alter in any other respect the divisions or their boundaries; and any such order may contain such consequential and transitional provisions as the Lord Chancellor or the Secretary of State, as the case may be, thinks fit and may be revoked or varied by a subsequent order under this subsection.  
  
*Subject to the preceding provisions of this subsection, the areas of the divisions shall be the same as immediately before the passing of this Act <sup>F12F13</sup>.*
- (7) A General Commissioner shall not continue in office after he attains the age of seventy-five years.
- (8) The validity of any proceedings of General Commissioners shall not be affected by a defect in the appointment of any of them, or by a failure to observe the requirements of the last preceding subsection.

### Textual Amendments

- F7** Added by Finance Act 1988 s. 134(1)(4)from 3April 1989—Commencement order S.I. 1989 No. 473 (not reproduced).
- F8** Finance Act 1975 s.57(1)from 15May 1975.
- F9** Words omitted repealed byFinance Act 1975 s.59(5)and Sch.13 Part II.
- F10** The Minister for the Civil Service Order 1971 (S.I. 1971 No.2099) arts.1(4)and 4(2)with effect from7February1972.See alsoart.6—validity of previous decisions etc. not affected.
- F11** SeeS.I. 1981 No.1670 art.2(4) (not reproduced)—function transferred from the Minister for the Civil Service to Treasury with effect from7December1981.
- F12** See Finance Act 1973 s. 41—boundaries of divisions specified by order made or having effect as if made under s. 2(6)not to be affected by changes in local government areas in England and Wales on 1April 1974or in Scotland on 16May 1975.

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**F13** Repealed by Finance Act 1988 s. 148 and Sch. 14 Part IX on or after 3 April 1989—commencement order S.I. 1989 No. 473 (in Part III Vol.5).

### 3 Clerk to General Commissioners. [1964(M) s.2(1)—(5); S.I. 1968/1656.]

- (1) The General Commissioners for every division shall appoint a clerk and, if they think it necessary, an assistant clerk, and persons appointed under this subsection shall hold office during the pleasure of the Commissioners and act under their direction.
- (2) A clerk shall be paid such remuneration in respect of his services as the Board may with the consent of the Minister for the Civil Service <sup>F14</sup> determine.
- (3) The Board may, in such cases as they may in their discretion determine, pay to or in respect of any full-time clerk such pension [allowance <sup>F15</sup>] or gratuity, or make such provision for the payment of pension [allowance <sup>F15</sup>] or gratuity to or in respect of any full-time clerk, as they may with the consent of the Minister for the Civil Service <sup>F14</sup> determine.

In this subsection “full-time clerk” means a clerk as regards whom the Board are satisfied that he is required to devote substantially the whole of his time to the duties of his office <sup>F16</sup>.

- (4) Without prejudice to the power of any General Commissioners to dismiss their clerk or assistant clerk, the Lord Chancellor or, in Scotland, the Secretary of State may, after consulting the General Commissioners for any division, dismiss their clerk or assistant clerk.
- (5) A clerk or assistant clerk shall not continue in office after he has attained the age of seventy years unless the General Commissioners for whom he acts think it desirable in the public interest and extend his term of office; and the term shall not be extended beyond the age of seventy-five years.

#### Textual Amendments

**F14** See S.I. 1981 No. 1670 art.2(4) (not reproduced)—function transferred from the Minister for the Civil Service to Treasury with effect from 7 December 1981.

**F15** Superannuation Act 1972 (c. 11) s.26 and Sch. 6 para.77.

**F16** See also Finance Act 1972 s.130—compensation for loss of office etc. by clerks on reorganisation of divisions.

### [4 Special Commissioners.

- (1) The Lord Chancellor shall, after consultation with the Lord Advocate, appoint such persons as he thinks fit as “Commissioners for the special purposes of the Income Tax Acts” (in the Taxes Acts referred to as “Special Commissioners”) and shall designate one of the Special Commissioners as the Presiding Special Commissioner <sup>F17</sup>.
- (2) No person shall be appointed under subsection (1) above unless—
  - (a) he has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;
  - (b) he is an advocate or solicitor in Scotland of at least 10 years’ standing; or
  - (c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years’ standing <sup>F18</sup>]

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- (3) If the Presiding Special Commissioner is temporarily absent or unable to act or there is a vacancy in his office, the Lord Chancellor may designate another Special Commissioner to act as deputy Presiding Special Commissioner and the Commissioner so designated shall, when so acting, have all the functions of the Presiding Special Commissioner.
- (4) The Lord Chancellor may, if he thinks fit, and after consultation with the Lord Advocate, remove a Special Commissioner from office on the grounds of incapacity or misbehaviour.
- (5) By virtue of their appointment the Special Commissioners shall have authority to execute such powers, and to perform such duties, as are assigned to them by any enactment.
- (6) Such sums shall be allowed to Special Commissioners in respect of salary and incidental expenses and such pensions (including allowances and gratuities) shall be paid to, or in respect of, them as the Lord Chancellor may, with the approval of the Treasury, determine.
- (7) Officers and staff may be appointed under section 27 of the <sup>M1</sup>Courts Act 1971 (court staff) for carrying out the administrative work of the Special Commissioners.

#### Textual Amendments

- F17** See—Oil Taxation Act 1975 s.1 and Sch. 2 para. 1(1)—Oil Taxation Acts—for modification regarding petroleum revenue tax and supplementary petroleum duty. Finance Act 1981 s. 134 and Sch. 17 para. 18 for the application of this provision to the special tax on banking deposits (1988 edition).
- F18** Courts and Legal Services Act 1990 (c. 41) s. 71(2) and Sch. 10 para. 30.

#### Marginal Citations

- M1** 1971 c.23.

### 4A Deputy Special Commissioners.

- (1) If it appears to the Lord Chancellor expedient to do so in order to facilitate the performance of any functions of the Special Commissioners, he may, after consultation with the Lord Advocate, appoint a person to be a deputy Special Commissioner during such period or on such occasions as the Lord Chancellor thinks fit.
- (2) A person shall not be qualified for appointment as a deputy Special Commissioner unless he is qualified for appointment as a Special Commissioner.
- (3) A deputy Special Commissioner while acting under this section shall have all the jurisdiction and functions of a Special Commissioner and any reference to a Special Commissioner in the following provisions of this Act or in any other enactment or any instrument made under any enactment (whenever passed or made) shall include a reference to a deputy Special Commissioner.
- (4) The duty under section 6(1) below shall only apply to a deputy Special Commissioner on his first appointment to that office.
- (5) Notwithstanding the expiry of any period for which a person is appointed under this section, he may continue to act under the appointment for the purpose of continuing to deal with any matter with which he was concerned during that period.

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- (6) The Lord Chancellor may pay to any person appointed under this section such remuneration and allowances as he may, with the approval of the Treasury, determine<sup>F19</sup>.]

#### Textual Amendments

**F19** Finance Act 1984 s.127 and Sch.22 para. 1 from 1 January 1985 (see S.I. 1984 No. 1836 (c. 45)) (not reproduced) but not to affect the appointment of any person, who, immediately before the passing of Finance Act 1984, held office as a Special Commissioner. Previously

“4.—(1) Such persons as the Treasury may by warrant from time to time appoint shall be “Commissioners for the special purposes of the Income Tax Acts” (in the Taxes Acts(a) referred to as “Special Commissioners”), and shall, by virtue of their appointment, and without other qualification, have authority to execute such powers, and to perform such duties, as are assigned to them by the Taxes Acts(a). (2) The Treasury shall cause an account of all appointments of Special Commissioners with salaries to be laid before Parliament within twenty days of their appointment, or, if Parliament be not then sitting, within twenty days after the next meeting of Parliament. (3) Special Commissioners shall be allowed such sums in respect of salary and incidental expenses as the Minister for the Civil Service directs.”

(a)

See—Oil Taxation Act 1975 s.1 and Sch.2 para.1(1), the Oil Taxation Acts, for modification regarding petroleum revenue tax and supplementary petroleum duty. Finance Act 1981 s.134 and Sch.17 para.18 for the application of this provision to the special tax on banking deposits (in 1988 edition).

#### 5 General and Special Commissioners. 1969 Sch.XX 17(1). [1952 s.17.]

- (1) No General Commissioner or Special Commissioner shall act as such in relation to any matter in which he has a personal interest, or is interested on behalf of another person, except with the express consent of the parties to the proceedings.

(2)<sup>F20</sup>

#### Textual Amendments

**F20** Repealed, in England and Wales, from 30 March 1974 by the Criminal Justice Act 1972 (c. 71) s. 64(2) and Sch. 6 Part I and S.I. 1973 No. 1472 r. 2 and Sch. 2 (not reproduced), and in Scotland, from 22 December 1980, by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55) s. 28(2) and Sch. 3 and S.I. 1980 No. 1726 (C. 74)(S. 148) (not reproduced).

#### 6 Declarations on taking office. [1964(M) s.4.]

- (1) Every person who is appointed to be—
- (a) a General Commissioner or a Special Commissioner, or
  - (b) .....<sup>F21</sup>
  - (c) a member of the tribunal established under section [706<sup>F22</sup>] of the principal Act (cancellation of tax advantages),
- shall make a declaration in the form set out in Part I of Schedule 1 to this Act before another person holding the same office, or before a General Commissioner.

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- (2) Every person who is appointed to be a clerk or assistant clerk to the General Commissioners for any division, or who assists any such clerk, shall make a declaration in the form set out in Part I of Schedule 1 to this Act.

A clerk or assistant clerk shall make the declaration before a General Commissioner for the division, and a person who assists any such clerk shall make the declaration before such a General Commissioner or the clerk.

- (3) Every person who is appointed to be a member of the Board shall make a declaration in the form set out in Part II of Schedule 1 to this Act before another member of the Board.
- (4) Every person who is appointed an inspector or collector, or who is appointed by the Board to serve in any other capacity, shall make a declaration in the form set out in Part III of Schedule 1 to this Act before such person as the Board may direct.
- (5) A declaration under this section shall be made as soon as may be after first appointment to the office in question <sup>F23F24</sup>.

#### Textual Amendments

- F21** S. 6(1)(b) repealed by Finance Act 1982 s.157 and Sch. 22 Part X.
- F22** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para 32.
- F23** *As to savings, etc., in respect of disclosure in certain cases, see—* Finance Act 1969 s.58(3) (in Part II Vol.5)—*disclosure of information for statistical purposes.* Finance Act 1972 s.127 (in Part II Vol.5)—*disclosure of information between revenue departments.* Finance Act 1978 s.77 (in Part II Vol.5)—*disclosure to tax authorities in other member states of EEC.* Income and Corporation Taxes Act 1988 s.816—*relief for double taxation.* Charities Act 1960 s.9 (in Part II Vol.5)—*disclosure to and by Charity Commissioners of information about charities.* [Social Security Pensions Act 1975 \(c. 60\)](#) S. 56K (in Part II Vol. 5)—*disclosure in connection with the registration of occupational and personal pension schemes.* Child Benefit Act 1975 s.10 (in Part II Vol.5)—*disclosure of information to Secretary of State.*
- F24** See Finance Act 1989 s. 182 (in Part II Vol. 5)—*disclosure of information.*

## PART II

### RETURNS OF INCOME AND GAINS

#### *Income tax*

#### 7 [Notice of liability to income tax.]

- (1) Every person who is chargeable to income tax for any year of assessment and has neither—
- (a) delivered a return of his profits or gains or his total income for that year, nor
  - (b) received a notice under section 8 of this Act requiring such a return,
- shall, subject to subsections (2) to (5) below, within twelve months from the end of that year, give notice to the inspector that he is so chargeable, specifying each separate source of income.
- (2) A source of income is excluded for the purposes of subsection (1) above in relation to any year of assessment if—

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- (a) all payments of, or on account of, income from it during that year, and
  - (b) all income from it for that year which does not consist of payments,
- have or has been taken into account in the making of deductions or repayments of tax under section 203 of the principal Act.
- (3) A source of income is excluded for the purposes of subsection (1) above in relation to any person and any year of assessment if all income from it for that year has been assessed or has been taken into account—
- (a) in determining that person's liability to tax, or
  - (b) in the making of deductions or repayments of tax under section 203 of the principal Act.
- (4) A source of income is excluded for the purposes of subsection (1) above in relation to any person and any year of assessment if all income from it for that year is—
- (a) income from which income tax has been deducted;
  - (b) income from or on which income tax is treated as having been deducted or paid (not being income consisting of a payment to which section 559 of the principal Act applies); or
  - (c) income chargeable under Schedule F.
- and that person is not for that year liable to tax at a rate other than basic rate.
- (5) A person shall not be required to give notice under subsection (1) above in respect of a year of assessment if and to the extent that his total income for that year consists of income from sources—
- (a) which are excluded under subsections (2) to (4) above, or
  - (b) in respect of income from which he could not become liable to tax under assessments made more than twelve months after the end of that year.
- (6) If any person, for any year of assessment, fails to comply with subsection (1) above as respects any source of income, he shall be liable to a penalty not exceeding the amount of the tax for which he is liable, in respect of income from that source for that year, under assessments made more than twelve months after the end of that year.
- (7) In the case of a partner, the reference in subsection (6) above to the tax for which he is liable in respect of income from any source does not include a reference to tax assessable in the name of the partnership on so much of the income from that source as falls to be included in the total income of any other person <sup>F25</sup>.]

### Textual Amendments

**F25** Finance Act 1988 s. 120 *with respect to notices required to be given for the year 1988-89 and subsequent years. Previously*

“7.—(1) Every person who is chargeable to income tax for any year of assessment and who has not delivered a return of his profits or gains or his total income for that year in accordance with the provisions of the Income Tax Acts shall, not later than one year after the end of that year of assessment, give notice that he is so chargeable. (2) A notice under this section shall be given to the inspector ..... (a) (3) If any person fails to give a notice which he is required to give under this section he shall be liable to a penalty not exceeding £100.”

**(a)**

*Words omitted repealed for 1973—74 et seq. by Finance Act 1971 ss. 37 and 38 and Sch. 14 Part II.*



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## 8 [Personal return.

- (1) For the purposes of assessing a person to income tax, he may be required by a notice given to him by an inspector—
  - (a) to make and deliver to the inspector within the time limited by the notice a return containing such information as may be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts and statements, relating to information contained in the return, as may be required in pursuance of the notice.
- (2) Every return under this section shall include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.
- (3) A notice under this section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.
- (4) Notices under this section may require different information, accounts and statements in relation to different descriptions of person <sup>F26</sup>.

### Textual Amendments

**F26** See—Finance Act 1974 s. 24—*notice may require particulars of emoluments of certain employments etc. under non-residents duties performed for benefit of a person resident or trading etc., in the United Kingdom.* Capital Gains Tax Act 1979 (c. 14, SIF 63:2) S. 5(5) and Sch. 1—*return of small deposits and gains.* Capital Allowances Act 1990 (c. 1, SIF 63:1) s. 140(3)—*inclusion in returns of income of any claim for capital allowances.*

### Modifications etc. (not altering text)

**C9** S. 8 modified (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 3(6)(b), 289 (with ss. 60, 101(1), 171, 201(3))

## 8A Trustee's return.

- (1) For the purpose of assessing a trustee of a settlement, and the settlors and beneficiaries, to income tax an inspector may by a notice given to the trustee require the trustee—
  - (a) to make and deliver to the inspector within the time limited by the notice a return containing such information as may be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts and statements, relating to information contained in the return, as may be required in pursuance of the notice;and a notice may be given to any one trustee or separate notices may be given to each trustee or to such trustees as the inspector thinks fit.
- (2) Every return under this section shall include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.
- (3) A notice under this section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.
- (4) Notices under this section may require different information, accounts and statements in relation to different descriptions of settlement.

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## 9 Partnership return.

- (1) Where a trade or profession is carried on by two or more persons jointly, for the purposes of making assessment to income tax in the partnership name an inspector may act under subsection (2) or (3) below (or both).
- (2) An inspector may by a notice given to the partners require such person as is identified in accordance with rules given with the notice—
  - (a) to make and deliver to the inspector within the time limited by the notice a return containing such information as may be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts and statements as may be required in pursuance of the notice.
- (3) An inspector may by a notice given to any partner require the partner—
  - (a) to make and deliver to the inspector within the time limited by the notice a return containing such information as may be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts and statements as may be required in pursuance of the notice;

and a notice may be given to any one partner or separate notices may be given to each partner or to such partners as the inspector thinks fit.
- (4) Every return under this section shall include—
  - (a) a declaration of the names and residences of the partners;
  - (b) a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.
- (5) A notice under this section may require different information, accounts and statements for different periods or in relation to different descriptions of sources of income.
- (6) Notices under this section may require different information, accounts and statements in relation to different descriptions of partnership <sup>F27</sup>.]

### Textual Amendments

**F27** Ss 8, 8A, 9 substituted for ss, 8, 9 (with effect where a notice to deliver a return was, or falls to be, given after 5.4.1990) by [Finance Act 1990 \(c. 29\), s. 90\(1\)\(5\)](#)

## *Corporation tax*

## 10 [Notice of liability to corporation tax.

- (1) Every company which is chargeable to corporation tax for any accounting period and has neither—
  - (a) made a return of its profits for that period, nor
  - (b) received a notice under section 11 of this Act requiring such a return,

shall, within twelve months from the end of that period, give notice to the inspector that it is so chargeable.
- (2) If any company, for any accounting period ending on or before the appointed day, fails to comply with subsection (1) above, it shall be liable to a penalty not exceeding the

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amount of the corporation tax for which it is liable, in respect of its profits for that period, under assessments made more than twelve months after the end of that period.

- (3) If any company, for any accounting period ending after the appointed day, fails to comply with subsection (1) above, it shall be liable to a penalty not exceeding the amount by which so much of the corporation tax chargeable on its profits for that period as remains unpaid for twelve months after the end of that period exceeds any income tax borne by deduction from payments included in those profits.

- (4) In determining—

- (a) for the purposes of subsection (2) above, for how much corporation tax a company is liable, in respect of its profits for an accounting period, under assessments made more than twelve months after the end of that period; or  
(b) for the purposes of subsection (3) above, how much of the corporation tax chargeable on the profits of a company for an accounting period remained unpaid at the time of any failure to comply with subsection (1) above,

no account shall be taken of the discharge of any liability for that tax which, pursuant to a claim under subsection (3) of section 239 of the principal Act, is attributable to an amount of surplus advance corporation tax, as defined in that subsection.

- (5) In this section “the appointed day” means the day appointed for the purposes of section 8(3) of the principal Act <sup>F28</sup>.]

#### Textual Amendments

**F28** Finance Act 1980 (c. 39 SIF 63:1,2) s. 121 *in respect of notices given for accounting periods ending after 31 March 1989. Previously*

“10.—(1) Every company which is chargeable to corporation tax for any accounting period and which has not made a return of its profits for that accounting period give notice to the inspector that it is so chargeable.(2) If a company fails to give a notice which it is required to give under this section the company shall be liable to a penalty not exceeding £100”.

## 11 Return of profits. [1966 Sch. VI 2.]

- (1) A company may be required by a notice served on the company by an inspector or other officer of the Board to deliver to the officer within the time limited by the notice a return of the profits of the company computed in accordance with the Corporation Tax Acts—

- (a) specifying the income taken into account in computing those profits, with the amount from each source,  
(b) giving particulars of all disposals giving rise to chargeable gains or allowable losses under the provisions of [<sup>F29</sup>the [<sup>F30</sup>1992 Act]] and the Corporation Tax Acts and particulars of those chargeable gains or allowable losses, and  
(c) giving particulars of all charges on income to be deducted against those profits for the purpose of assessment to corporation tax <sup>F31F32</sup>.

- (2) A notice under this section may require a return of profits arising in any period during which the company was within the charge to corporation tax <sup>F32</sup>.

- (3) Every return under this section shall include a declaration [by the person making the return <sup>F33</sup>] to the effect that the return is [to the best of his knowledge <sup>F33</sup>] correct and complete <sup>F32</sup>.

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- (4) A return under this section which includes profits which are payments on which the company has borne income tax by deduction shall specify the amount of income tax so borne.
- (5) A notice under this section may require the inclusion in the return of particulars of management expenses, capital allowances and balancing charges which have been taken into account in arriving at the profits included in the return.
- (6) A notice under this section may require the inclusion in the return of particulars of advance corporation tax paid by the company (and not repaid) and of any surplus advance corporation tax carried forward under section [239(4) of the principal Act  
F34] F35 .] F32F36

#### Textual Amendments

- F29** Capital Gains Tax Act 1979 (c. 14, SIF 63:2), s. 157(2), **Sch. 7 para. 8**
- F30** Words in s. 11(1)(b) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 2(2)** (with ss. 60, 101(1), 171, 201(3))
- F31** See Income and Corporation Taxes Act 1988 s. 451(2)(a)—*the Treasury may modify s. 11 in its application to Lloyd's underwriting agency companies by regulations made by statutory instrument for accounting periods ending after a day to be appointed.*
- F32** See—Finance (No. 2) Act 1987 ss. 82(2)(3)(4), 95(2)(3), Income and Corporation Taxes Act 1988 Sch. 29 para. 10(1) and Finance Act 1990 s. 91 for modifications in the event of a notice being served after a day to be appointed.
- F33** Finance Act 1990 s. 91(4), (8) with respect to any notice served on or after 26 July 1990.
- F34** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 10. Previously “85(4) of the Finance Act 1972”.
- F35** Finance Act 1972 s. 111 and Sch. 24 para. 5 with effect from 6 April 1973.
- F36** See—Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)—s. 10(2)—*time for payment of tax under Pay and File.* Finance Act 1990—ss. 100 and 102 and Schs. 15 and 16—*claims for group relief and claims for capital allowances after a day to be appointed (see Income and Corporation Taxes Act 1988 s. 10).*

#### 11A [Notice of liability to capital gains tax.

- (1) Every person who is chargeable to capital gains tax for any year of assessment and has neither—
  - (a) delivered a return of his chargeable gains for that year, nor
  - (b) received a notice under section 8 of this Act requiring such a return,
 shall, within twelve months from the end of that year, give notice to the inspector that he is so chargeable; but a person all of whose chargeable gains for a year of assessment have been assessed shall not be required to give notice under this subsection in respect of that year.
- (2) If any person, for any year of assessment, fails to comply with subsection (1) above, he shall be liable to a penalty not exceeding the amount of the tax for which he is liable, in respect of his chargeable gains for that year, under assessments made more than twelve months after the end of that year.

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- (3) In this section references to a person's chargeable gains for a year of assessment include, if section 45(1) of the Capital Gains Tax Act 1979 applies in relation to him and his wife in that year, her chargeable gains for that year<sup>F37</sup>.<sup>F38</sup>

#### Textual Amendments

- F37** S. 11A inserted (with effect with respect to notices required to be given for the year 1988-89 and subsequent years) by Finance Act 1988 (c. 39), s. 122(1)(3)
- F38** S. 11A(3) repealed (for 1990-91 and subsequent years) by Finance Act 1988 (c. 39), s. 148, Sch. 14 Pt. VIII

## 12 Information about chargeable gains. [1965 Sch.X 1(1).] [1965 Sch.X 6(1); 1966 Sch.VI 2(6).]

- (1) [Sections 8 and 8A<sup>F39</sup>] of this Act shall apply in relation to capital gains tax as [they apply<sup>F39</sup>] in relation to income tax, and subject to any necessary modifications<sup>F40</sup>.<sup>F41</sup>
- (2) A notice under section 8 [or section 8A<sup>F42</sup>] or section 11 of this Act may require particulars of any assets acquired by the person on whom the notice was served (or if the notice relates to income or chargeable gains of some other person, of any assets acquired by that other person) in the period specified in the notice (being a period beginning not earlier than 6th April 1965) but excluding—
- (a) any assets exempted by the following provisions of the [<sup>F43</sup>1992 Act], namely—
    - (i) section [<sup>F44</sup>51(1)] (rights to winnings from pool betting, lotteries or games with prizes),
    - (ii) section [<sup>F45</sup>121] (government non-marketable securities),
    - (iii) section [<sup>F46</sup>263, 268 or 269] (passenger vehicles, decorations for valour or gallant conduct and foreign currency for personal expenditure)<sup>F47</sup>, or
  - (b) unless the amount or value of the consideration for its acquisition exceeded [£6,000<sup>F48</sup>], any asset which is tangible movable property and is not within the exceptions in [<sup>F47</sup>section [<sup>F49</sup>262(6)]] of the said Act (terminal markets and currency), or
  - (c) any assets acquired as trading stock.
- <sup>M2</sup>(3) The particulars required under this section may include particulars of the person from whom the asset was acquired, and of the consideration for the acquisition.
- <sup>M3</sup>(4) A return of income of a partnership<sup>F50</sup> under section 9 of this Act shall include—
- (a) with respect to any disposal of partnership property during a period to which any part of the return relates, the like particulars as if the partnership were liable to tax on any chargeable gain accruing on the disposal, and
  - (b) with respect to any acquisition of partnership property, the particulars required under subsection (2) above.
- <sup>M4</sup>(5) In this section “trading stock” has the meaning given by section [100(2)<sup>F51</sup>] of the principal Act.<sup>F52</sup>

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### Textual Amendments

- F39** Finance Act 1990 s. 90(2)(a), (5) *where a notice to deliver a return was, or falls to be given after 5 April 1990. Previously*  
“Section 8”  
*and*  
“it applies”.
- F40** Finance Act 1988 (c. 39, SIF 63:1,2) s. 122 *with respect to notices required to be given for the year 1988-89 and subsequent years. Previously*  
“(1) Sections 7 and 8 of this Act shall apply in relation to capital gains tax as they apply in relation to income tax.....(a) and subject to any necessary modifications.”  
*in s. 12(1).*  
**(a)**  
*Words omitted repealed for 1973-74 et seq. by Finance Act 1971 ss.37 and 38 and Sch. 14 Part II.*
- F41** *See—Capital Gains Tax Act 1979 (c. 14, SIF 63:2) s.5(5) and Sch.1 para.3—return of small disposals and gains. Capital Gains Tax Act 1979 (c. 14, SIF 63:2) s.45(3)—returns of chargeable gains accruing to a married woman.*
- F42** Finance Act 1990 s. 90(2)(b), (5) *where a notice to deliver a return was, or falls to be given after 5 April 1990.*
- F43** Words in s. 12(2)(a) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 3(a)** (with ss. 60, 101(1), 171, 201(3))
- F44** Words in s. 12(2)(a)(i) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 3(b)** (with ss. 60, 101(1), 171, 201(3))
- F45** Words in s. 12(2)(a)(ii) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 2(3)(c)** (with ss. 60, 101(1), 171, 201(3))
- F46** Words in s. 12(2)(a)(iii) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 2(3)(d)** (with ss. 60, 101(1), 171, 201(3))
- F47** Capital Gains Tax Act 1979 (c. 14), s. 157(2), Sch. 7 paras. 1(2), **9** *for 1979-80 et seq.*
- F48** Finance Act 1989 s. 123 *in relation to assets acquired on or after 6 April 1989. Previously*  
“£3000”  
**(a)**—*see earlier editions for earlier years.*  
**(a)**—Finance Act 1982 s. 81(1)(b) *in relation to assets acquired on or after 6 April 1982.*
- F49** Words in s. 12(2)(b) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation and Chargeable Gains Act 1992 (c. 12) ss. 289, 290, Sch. 10 para. 2(3)(e) (with ss. 60, 101(1), 171, 201(3))
- F50** Repealed by Finance Act 1990 s. 90(2)(c), (5) and Sch. 19 Part V *where a notice to deliver a return was, or falls to be, given after 5 April 1990.*
- F51** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.
- F52** *See Finance Act 1990 s. 39—power to call for a return in connection with claims for roll-over relief on disposal of shares to employee share ownership trusts.*

### Marginal Citations

- M2** [1965 Sch. X (6)(2).]  
**M3** [1965 Sch. X 10.]  
**M4** [1965 s. 45(1).]

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*[European Economic Interest Groupings*

**12A European Economic Interest Groupings. Official Journal of the European Communities No. L199/1.**

- (1) In this section “grouping” means a European Economic Interest Grouping formed in pursuance of Council Regulation (EEC) No. 2137/85 of 25th July 1985 (“the Council Regulation”), whether registered in Great Britain, in Northern Ireland, or elsewhere.
- (2) For the purposes of making assessments to income tax, corporation tax and capital gains tax on members of a grouping, an inspector may act under subsection (3) or (4) below.
  - (3) In the case of a grouping which is registered in Great Britain or Northern Ireland or has an establishment registered in Great Britain or Northern Ireland, and inspector may by a notice given to the grouping require the grouping—
    - (a) to make and deliver to the inspector within the time limited by the notice a return containing such information as may be required in pursuance of the notice, and
    - (b) to deliver with the return such accounts and statements as may be required in pursuance of the notice.
  - (4) In the case of any other grouping, an inspector may by a notice given to any member of the grouping resident in the United Kingdom, or if none is to any member of the grouping, require the member—
    - (a) to make and deliver to the inspector within the time limited by the notice a return containing such information as may be required in pursuance of the notice, and
    - (b) to deliver with the return such accounts and statements as may be required in pursuance of the notice,and a notice may be given to any one of the members concerned or separate notices may be given to each of them or to such of them as the inspector thinks fit.
- (5) Every return under this section shall include a declaration by the grouping or member making the return to the effect that the return is to the best of the maker’s knowledge correct and complete.
- (6) A notice under this section may require different information, accounts and statements for different periods, in relation to different descriptions of income or gains or in relation to different descriptions of member.
- (7) Notices under this section may require different information, accounts and statements in relation to different descriptions of grouping.
- (8) Subject to subsection (9) below, where a notice is given under subsection (3) above, everything required to be done shall be done by the grouping acting through its manager or, where there is more than one, any of them; but where the manager of a grouping (or each of them) is a person other than an individual, the grouping shall act through the individual, or any of the individuals, designated in accordance with the Council Regulation as the representative of the manager (or any of them).
- (9) Where the contract for the formation of a grouping provides that the grouping shall be validly bound only by two or more managers acting jointly, any declaration required by subsection (5) above to be included in a return made by a grouping shall be given by the appropriate number of managers <sup>F53</sup>

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### Textual Amendments

**F53** S. 12A and cross-heading inserted (1.7.1989) by [Finance Act 1990 \(c. 29\)](#), s. 69, Sch. 11 paras. 2, 5

## *[<sup>F54</sup>Voluntary returns*

### Textual Amendments

**F54** S. 12D and cross-heading inserted (retrospective) by [Finance Act 2019 \(c. 1\)](#), s. 87(1)(3) (with s. 87(4))

## 12D Returns made otherwise than pursuant to a notice

- (1) This section applies where—
  - (a) a person delivers a purported return (“the relevant return”) under section 8, 8A or 12AA (“the relevant section”) for a year of assessment or other period (“the relevant period”),
  - (b) no notice under the relevant section has been given to the person in respect of the relevant period, and
  - (c) HMRC treats the relevant return as a return made and delivered in pursuance of such a notice.
- (2) For the purposes of the Taxes Acts—
  - (a) treat a relevant notice as having been given to the person on the day the relevant return was delivered, and
  - (b) treat the relevant return as having been made and delivered in pursuance of that notice (and, accordingly, treat it as if it were a return under the relevant section).
- (3) “Relevant notice” means—
  - (a) in relation to section 8 or 8A, a notice under that section in respect of the relevant period;
  - (b) in relation to section 12AA, a notice under section 12AA(3) requiring the person to deliver a return in respect of the relevant period, on or before the day the relevant return was delivered (or, if later, the earliest day that could be specified under section 12AA).
- (4) In subsection (1)(a) “purported return” means anything that—
  - (a) is in a form, and is delivered in a way, that a corresponding return could have been made and delivered had a relevant notice been given, and
  - (b) purports to be a return under the relevant section.
- (5) Nothing in this section affects sections 34 to 36 or any other provisions of the Taxes Acts specifying a period for the making or delivering of any assessment (including self-assessment) to income tax or capital gains tax.]



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

- C10** S. 12D power to amend conferred (retrospective) by [Finance Act 2019 \(c. 1\)](#), [s. 87\(3\)\(5\)\(b\)](#) (with [s. 87\(4\)](#))

## PART III

### OTHER RETURNS AND INFORMATION <sup>F55</sup>

#### Textual Amendments

- F55** See also—[Finance Act 1973 s.38 and Sch. 15 para. 2](#)—particulars which may be required from holder of licence under the [Petroleum \(Production\) Act 1934 \(c.36\)](#). [Finance Act 1974 s.47 and Sch. 10 para. 3](#)—duty to make returns in relation to tax on first letting or occupation of building after material development, and [para. 4](#)—particulars which may be required for purposes of such tax or tax on development gains. [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) s. 127—production of computer records.

### 13 Persons in receipt of taxable income belonging to others. [1952 s.22.]

- (1) Every person who, in whatever capacity, is in receipt of any money or value, or of any profits or gains from any of the sources mentioned in the Income Tax Acts, of or belonging to another person who is chargeable to income tax in respect thereof, or who would be so chargeable if he were resident in the United Kingdom and not an incapacitated person, shall, whenever required to do so by a notice given to him by an inspector, prepare and deliver, within the time mentioned in the notice, a return . . . <sup>F56</sup>, signed by him, containing—
- (a) a statement of all such money, value, profits or gains, and
  - (b) the name and address of every person to whom the same belong, and
  - (c) a declaration whether every such person is of full age, *or is a married woman* <sup>F57</sup>, or is resident in the United Kingdom or is an incapacitated person.
- (2) If any person described above is acting jointly with any other person, he shall, in like manner, deliver a return of the names and addresses of all persons joined with him at the time of delivery of the return mentioned in subsection (1) above <sup>F58</sup>.
- (3) A notice under this section shall not require information as to any money, value, profits or gains received in a year of assessment ending more than three years before the date of the giving of the notice <sup>F59</sup>.]

#### Textual Amendments

- F56** Words omitted repealed by [Finance Act 1970 \(c. 24, SIF 63:1,2\)](#) s.36 and Sch. 8 Part VII.
- F57** Words repealed by [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) s. 148 and Sch. 14 Part VIII for 1990-91 and subsequent years.
- F58** See [Taxes Management Act 1970 \(c. 9, SIF 63:1\)](#) s.76—protection for certain trustees, agents and receivers who have made returns under s.13.
- F59** [Finance Act 1988 \(c. 39 SIF 63:1,2\)](#) s. 123(1) with respect to notices given on or after 29 July 1988.

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#### **14 Return of lodgers and inmates. [1952 s.23.]**

Every person, when required to do so by a notice served on him by an inspector, shall, within the time limited by the notice, prepare and deliver to the inspector a return, in writing, containing to the best of his belief—

- (a) the name of every lodger or inmate resident in his dwelling-house, and
- (b) the name and ordinary place of residence of any such lodger or inmate who has any ordinary place of residence elsewhere at which he can be assessed and who desires to be assessed at such ordinary place of residence.

#### **15 [Return of employees emoluments, etc.]**

- (1) Every employer, when required to do so by notice from an inspector, shall, within the time limited by the notice, prepare and deliver to the inspector a return relating to persons who are or have been employed by him, containing the information required under the following provisions of this section.
- (2) An employer shall not be required to include in his return information relating to a year of assessment beginning more than six years before the year of assessment in which the notice is given.
- (3) A notice under subsection (1)—
  - (a) shall specify the employees for whom a return is to be made and may, in particular, specify individuals (by name or otherwise) or all employees of an employer or all his employees who are in [employment to which Chapter II of Part V of the principal Act applies<sup>F60</sup>]; and
  - (b) shall specify the years of assessment or other periods with respect to which the information is to be provided.
- (4) A notice under subsection (1) may require the return to state the name and place of residence of an employee to whom it relates.
- (5) A notice under subsection (1) may require the return to contain, in respect of an employee to whom it relates, particulars of the payments made to him in respect of his employment including—
  - (a) payments to him in respect of expenses (including sums put at his disposal and paid away by him),
  - (b) payments made on his behalf and not repaid, and
  - (c) payments to him for services rendered in connection with a trade or business, whether the services were rendered in the course of his employment or not.
- (6) Where, for the purposes of his return, an employer apportions expenses incurred partly in or in connection with a particular matter and partly in or in connection with other matters—
  - (a) the return shall contain a statement that the sum included in the return is the result of such an apportionment; and
  - (b) if required to do so by notice from the inspector, he shall prepare and deliver to the inspector, within the time limited by the notice, a return containing full particulars as to the amount apportioned and the manner in which, and the grounds on which, the apportionment has been made.
- (7) A notice under subsection (1) may require the return—

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- (a) to state in respect of an employee to whom it relates whether any benefits are or have been provided for him (or for any other person) by reason of his employment, such as may give rise to charges to tax under[sections 141, 142, 143, 145 or 154 to 165 of the principal Act <sup>F61</sup>](miscellaneous benefits in cash or in kind); and
  - (b) if such benefits are or have been provided, to contain such particulars of those benefits as may be specified in the notice.
- (8) Where such benefits are provided the notice may, without prejudice to subsection (7) (b), require the return to contain the following particulars—
- (a) where the benefits are or have been provided by the employer, particulars of the cost of providing them; and
  - (b) where the benefits are or have been provided otherwise than by the employer himself, the name and business address of any person who has (either by arrangement with the employer, or to his knowledge) provided them.
- (9) Where it appears to an inspector that a person has, in any year of assessment, been concerned in providing benefits to or in respect of employees of another, the inspector may at any time up to 6 years after the end of that year of assessment by notice require him to deliver to the inspector, within the time limited by the notice, such particulars of those benefits as may be specified in the notice (so far as known to him) and to include with those particulars the names and addresses (so far as known to him) of the employees concerned.
- (10) Where the employer is a body of persons, the secretary of the body or other officer (by whatever name called) performing the duties of secretary shall be treated as the employer for the purposes of this section.
- Provided that, where the employer is a body corporate, that body corporate, as well as the secretary or other officer, shall be liable to a penalty for failure to comply with this section.
- (11) In this section—
- (a) “employee” means an office holder or employee whose emoluments fall to be assessed under Schedule E, and related expressions are to be construed accordingly; and
  - (b) “director’s or higher-paid employment” has the same meaning as in Chapter II of [Part V of the principal Act <sup>F62</sup> <sup>F63</sup>.] <sup>F64</sup> <sup>F65</sup>]

#### Textual Amendments

- F60** Finance Act 1989 s. 53(2)(g). *Previously* “director's or higher-paid employment”.
- F61** Income and Corporation Taxes Act 1988 Sch. 29 para. 32. *Previously* “section 196 of the principal Act, section 36 [36A(a)] or 37 of the Finance (No.2) Act 1975 [sections 61 [to 67(b)] of the Finance Act 1976 or section 33 of the Finance Act 1977(e)”.
  - (a) Finance Act 1981 s. 71(2) *for* 1982-83 *et seq.*
  - (b) Finance Act 1981 s. 72(3) *for* 1982-83 *et seq.*
  - (c) Finance Act 1977 s. 35 *and* Sch. 8 para. 1 *for* 1977-78 *et seq.*
- F62** Income and Corporation Taxes Act 1988 Sch. 29 para. 32
- F63** Finance Act 1976 s.72 *and* Sch.9 para. 1, *with effect for* 1976—77 *as if* 1976 ss.64 *and* 68 *and* Sch.7 *were in operation for that year.*
- F64** Subs. (11)(b) *repealed by* Finance Act 1989 s. 187 *and* Sch. 17 Part IV.

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**F65** See—Finance Act 1974 s.24—*person resident or trading etc. in United Kingdom to be treated as employer where duties of an office or employment under a non-resident are performed there for his benefit for continuous period of not less than 30 days, but s.15(1) to apply only to require return of employee's name and address.* S.R. & O. 1921 No.1699 regn.11 (in Part III Vol.5)—*inclusion in return of contributions to approved superannuation fund.*

## 16 Fees, commissions, etc. [1956 s.20.]

- (1) Every person carrying on a trade or business shall, if required to do so by notice from an inspector, make and deliver to the inspector a return of all payments of any kind specified in the notice made during a period so specified, being—
  - (a) payments made in the course of the trade or business, or of such part of the trade or business as may be specified in the notice, for services rendered by persons not employed in the trade or business, or
  - (b) payments for services rendered in connection with the formation, acquisition, development or disposal of the trade or business, or any part of it, by persons not employed in the trade or business, or
  - (c) periodical or lump sum payments made in respect of any copyright [public lending right, right in a registered design or design right<sup>F66</sup>].
- (2) Every body of persons carrying on any activity which does not constitute a trade or business shall, if required to do so by notice from an inspector, make and deliver to the inspector a return of all payments of a kind specified in the notice made during a period so specified, being—
  - (a) payments made in the course of carrying on the activity, or such part of the activity as may be specified in the notice, for services rendered by persons not employed by the said body of persons, or
  - (b) periodical or lump sum payments made in respect of any copyright [public lending right, right in a registered design or design right<sup>F66</sup>].
- <sup>M5</sup>(3) A return required under either of the preceding subsections shall, if the trade or business or other activity is carried on by an unincorporated body of persons (other than a company), be made and delivered by the person who is or performs the duties of secretary of the body, and the notice shall be framed accordingly.
- (4) A return under the preceding provisions of this section shall give the name of the person to whom each payment was made, the amount of the payment and such other particulars (including particulars as to the services or rights in respect of which the payment was made, the period over which any services were rendered and any business name and any business or home address of the person to whom payment was made) as may be specified in the notice.
- (5) No person shall be required under the preceding provisions of this section to include in a return—
  - (a) particulars of any payment from which income tax is deductible, or
  - (b) particulars of payments made to any one person where the total of the payments to that person which would otherwise fall to be included in the return does not exceed £15, or
  - (c) particulars of any payment made in a year of assessment ending more than three years before the service of the notice requiring him to make the return.

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- (6) A person who fails to deliver, within the time limited in any notice served on him under this section, a true and correct return which he is required by the notice to deliver shall be liable to a penalty not exceeding £50 and, after judgment has been given for that penalty, to a further penalty of the like amount for every day during which the failure continues<sup>F67</sup>.
- (7) In this section—
- (a) references to payments for services include references to payments in the nature of commission of any kind and references to payments in respect of expenses incurred in connection with the rendering of services, and
- (b) references to the making of payments include references to the giving of any valuable consideration,
- and the requirement imposed by subsection (4) above to state the amount of a payment shall, in relation to any consideration given otherwise than in the form of money, be construed as a requirement to give particulars of the consideration.
- (8) In subsection (2) above references to a body of persons include references to any department of the Crown, any public or local authority and any other public body<sup>F68</sup>.]

#### Textual Amendments

- F66** Words substituted (on and after 1.8.1989) by [Copyright, Designs and Patents Act 1988 \(c. 48\)](#), Sch. 7 para. 13; [S.I. 1989/816](#)
- F67** S. 16(6) repealed by [Finance Act 1989 \(c. 26\)](#), ss. 164(6), 187, Sch. 17 Pt. VIII (in relation to any failure to comply with a notice etc. on or after 27 July 1989)
- F68** [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) s. 124(1)with respect to payments made in the year 1988-89or subsequent years.

#### Marginal Citations

- M5** 1969 Sch.XX 23(3).

### 16A [Agency workers.

- (1) Where—
- (a) any services which an individual renders or is under an obligation to render under a contract are treated under section 134(1) of the principal Act as the duties of an office or employment held by him; or
- (b) any remuneration receivable under or in consequence of arrangements to which subsection (6) of that section applies is treated under that subsection as emoluments of an office or employment held by an individual,
- section 15 above shall apply as if that individual were employed—
- (i) in a case within paragraph (a) above, by the persons or each of the persons from whom he receives any remuneration under or in consequence of the contract; and
- (ii) in a case within paragraph (b) above, by the other party to the arrangements, and section 16 above shall not apply to any payments made to that individual under or in consequence of that contract or those arrangements.

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- (2) In subsection (1) above “remuneration”, in relation to an individual, does not include anything in respect of which he would not have been chargeable to tax under Schedule E if it had been receivable in connection with an office or employment held by him but, subject to that, includes every form of payment and all perquisites, benefits and profits whatsoever <sup>F69</sup>.]

#### Textual Amendments

**F69** S. 16A inserted by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), Sch. 29 para. 6.

### 17 Interest paid or credited by banks, etc. without deduction of income tax. [1952 s.29.]

- (1) Every person carrying on a trade or business who, in the ordinary course of the operations thereof, receives or retains money in such circumstances that interest becomes payable thereon which is paid or credited without deduction of income tax <sup>F70</sup>, and, in particular, every person carrying on the trade or business of banking, shall, if required to do so by notice from an inspector, make and deliver to the inspector, within the time specified in the notice, a return of all interest paid or credited by him as aforesaid during a year<sup>[of assessment <sup>F71</sup>]</sup> specified in the notice in the course of his trade or business or any such part of his trade or business as may be so specified, giving the names and addresses of the persons to whom the interest was paid or credited and stating, in each case, the amount of the interest <sup>F70</sup>:

Provided that—

- (a) no interest paid or credited to any person shall be required to be included in any such return if the total amount of the interest paid or credited to that person which would otherwise have fallen to be included in the return does not exceed £15, and <sup>F72</sup>
  - (b) the year specified in a notice under this subsection shall not be a year ending more than three years before the date of the service of the notice <sup>F73F74</sup>.
- (2) Without prejudice to the generality of so much of subsection (1) above as enables different notices to be served thereunder in relation to different parts of a trade or business, separate notices may be served under that subsection as respects the transactions carried on at any branch or branches respectively specified in the notices, and any such separate notice shall, if served on the manager or other person in charge of the branch or branches in question, be deemed to have been duly served on the person carrying on the trade or business; and where such a separate notice is so served as respects the transactions carried on at any branch or branches, any notice subsequently served under the said subsection (1) on the person carrying on the trade or business shall not be deemed to extend to any transaction to which the said separate notice extends.
- (3) This section shall, with any necessary adaptations, apply in relation to the National Savings Bank as if it were a trade or business carried on by the Director of Savings <sup>F73</sup>.
- (4) This section shall apply only to money received or retained in the United Kingdom, and if a person to whom any interest is paid or credited in respect of any money received or retained in the United Kingdom by notice in writing served on the person paying or crediting the interest—

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- (a) declares that the person who was beneficially entitled to that interest when it was paid or credited was not then ordinarily resident in the United Kingdom, and
  - (b) requests that the interest shall not be included in any return under this section, the person paying or crediting the interest shall not be required to include that interest in such return.
- (5) The Board may by regulations provide as mentioned in all or any of the following paragraphs—
- (a) that a return under subsection (1) above shall contain such further information as is prescribed if the notice requiring the return specifies the information and requires it to be contained in the return;
  - (b) that a person required to make and deliver a return under subsection (1) above shall furnish with the return such further information as is prescribed if the notice requiring the return specifies the information and requires it to be so furnished;
  - (c) that if a person is required to furnish information under any provision made under paragraph (b) above, and the notice requiring the return specifies the form in which the information is to be furnished, the person shall furnish the information in that form;
  - (d) that a notice under subsection (1) above shall not require prescribed information;
- and in this subsection “prescribed” means prescribed by the regulations.
- (6) Regulations under subsection (5) above—
- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons,
  - (b) may make different provision in relation to different cases or descriptions of case, and
  - (c) may include such supplementary, incidental, consequential or transitional provisions as appear to the Board to be necessary or expedient <sup>F75</sup>.] <sup>F76</sup>

#### Textual Amendments

**F70** See Finance Act 1990 s. 92(2)(a)(b)—insertion of words

“or after deduction of income tax”

and

“actually paid or credited and (where the interest was paid or credited after deduction of income tax) the amount of the interest from which the tax was deducted and the amount of the tax deducted” respectively where interest is paid or credited in the year 1991-92 or in a subsequent year of assessment.

**F71** Finance Act 1988 (c. 39, SIF 63:1,2) s. 123(2) with respect to notices given on or after 29 July 1988.

**F72** See Finance Act 1990 ss. 92(2)(c) and 132 and Sch. 19 Part V—para. (a) omitted where interest is paid or credited in the year 1991-92 or a subsequent year of assessment.

**F73** See—Taxes Management Act 1970 (c. 9, SIF 63:1) s. 119 and Sch. 4 para. 2—references in s. 17(1) to interest paid or credited by the Director of Savings to include references to interest paid or credited before 1 October 1969 by the Postmaster General to depositors. National Savings Bank Act 1971 (c. 29) s. 12(3)—s. 12(1) of that Act (secrecy) to have effect subject to Taxes Management Act 1970 (c. 9, SIF 63:1) s. 17(3).

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- F74** S.I. 1986 No. 482 (in Part III Vol. 5) regn. 10—s. 17 to apply to a building society as if references to interest include references to dividends within the meaning of S.I. 1986 No. 482 and with the insertion of the words  
“or of a building society”  
after the words  
“trade or business of banking”  
in subs. (1).
- F75** Finance Act 1990 s. 92(3), (7)—subss. (5) and (6) have effect where interest is paid or credited in the year 1991-92 or a subsequent year of assessment.
- F76** See S.I. 1990 No. 2231 coming into force 30 November 1990 for 1991-91 and subsequent years.

## 18 Interest paid without deduction of income tax. [1969 Sch.XIII 13(1)(2)(3).]

- (1) Any person by whom any interest is paid in the year 1969—70 or any subsequent year of assessment without deduction of income tax <sup>F77</sup>[other than interest to which subsection (4) below applies<sup>F78</sup>] shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice—
- (a) the name and address of the person to whom the interest has been paid or on whose behalf the interest has been received, and
  - (b) the amount of the interest so paid or received <sup>F79</sup>,
- and any person who receives any such interest on behalf of another person shall on being so required furnish to the inspector the name and address of the person on whose behalf the interest has been received, and its amount <sup>F79</sup>.
- (2) The persons to whom [subsection (1) above <sup>F80</sup>] applies include any officer in any public office or in any department of the Crown.
- (3) [Subsection (1) above <sup>F80</sup>] shall not impose any obligation on a bank carrying on a bona fide business in the United Kingdom in respect of any interest paid by the bank in the ordinary course of that business.
- (3A) A notice under this section shall not require information with respect to interest paid in a year of assessment ending more than three years before the date of the giving of the notice <sup>F81</sup>.
- (3B) The Board may by regulations provide as mentioned in all or any of the following paragraphs—
- (a) that a person required to furnish information under subsection (1) above shall furnish at the same time such further information as is prescribed if the notice concerned specifies the information and requires it to be so furnished;
  - (b) that if a person is required to furnish information under subsection (1) above or under any provision made under paragraph (a) above, and the notice concerned specifies the form in which the information is to be furnished, the person shall furnish the information in that form;
  - (c) that a notice under subsection (1) above shall not require prescribed information;
- and in this subsection “prescribed” means prescribed by the regulations.
- (3C) Regulations under subsection (3B) above—
- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons,



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- (b) may make different provision in relation to different cases or descriptions of case, and
- (c) may include such supplementary, incidental, consequential or transitional provisions as appear to the Board to be necessary or expedient<sup>F82</sup>.]

[<sup>F83</sup>(3D) For the purposes of this section, the payment by a building society of a dividend in respect of a share in the society shall be treated as the payment of interest.]

(4) *Where interest on any securities issued subject to the condition that interest is payable without deduction of tax is paid without deduction of tax—*

- (a) *any person by whom such interest is paid,*
- (b) *any person who receives, on behalf of any other person who is a registered or inscribed holder of such securities, any interest paid without deduction of tax, and*

*shall, on being so required by the Board, furnish to the Board—*

- (i) *the names and addresses of the persons to whom such interest has been paid, or on whose behalf such interest has been received, or on whose behalf such securities have been purchased, and*
- (ii) *the amount of the interest so paid or received, or the amount of the securities so purchased<sup>F84</sup>.*]

#### Textual Amendments

**F77** See Finance Act 1990 s. 92(5)(a), (8) for insertion of words

“or after deduction of tax”

*where interest is paid in the year 1991-92 or a subsequent year of assessment.*

**F78** Income and Corporation Taxes Act 1988 Sch. 29 para. 7. Repealed by Finance Act 1988 Sch. 14 Part IV for 1988-89 and subsequent years.

**F79** See Finance Act 1990 s. 92(5)(b), (c), (8), Words

“so paid or received”

*and*

“its amount”

*replaced by*

“actually paid or received and (where the interest has been paid or received after deduction of income tax) the amount of the interest from which the tax has been deducted and the amount of the tax deducted”

*and*

“the amount actually received and (where the interest has been received after deduction of income tax) the amount of the interest from which the tax has been deducted and the amount of the tax deducted” respectively where interest is paid in the year 1991-92 or in a subsequent year of assessment.

**F80** Income and Corporation Taxes Act 1988 Sch. 29 para. 7(2).

**F81** Finance Act 1988 (c. 39 SIF 63:1,2) s. 123(3) with respect to notices given on or after 29 July 1988.

**F82** See Finance Act 1990 s. 92(6), (8) for insertion of subss. (3A) and (3B) where interest is paid in the year 1991-92 or in a subsequent year of assessment.

**F83** S. 18(3D) inserted (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 52(1), Sch. 11, para. 5(1)(2)

**F84** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 7 Repealed by Finance Act 1988 (c. 39 SIF 63:1,2) Sch. 14 Part IV for 1988-89 and subsequent years.

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## **18A [Other payments and licences etc.**

- (1) Any person by whom any payment out of public funds is made by way of grant or subsidy shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice—
  - (a) the name and address of the person to whom the payment has been made or on whose behalf the payment has been received, and
  - (b) the amount of the payment so made or received,
 and any person who receives any such payment on behalf of another person shall on being so required furnish to the inspector the name and address of the person on whose behalf the payment has been received, and its amount.
- (2) Any person to whom licences or approvals are issued or a register is maintained shall, on being so required by a notice given to him by an inspector, furnish to the inspector within the time limited by the notice—
  - (a) the name and address of any person who is or has been the holder of a licence or approval issued by the first-mentioned person, or to whom an entry in that register relates or related; and
  - (b) particulars of the licence or entry.
- (3) The persons to whom this section applies include any department of the Crown, any public or local authority and any other public body.
- (4) A notice is not to be given under this section unless (in the inspector's reasonable opinion) the information required is or may be relevant to any tax liability to which a person is or may be subject, or the amount of any such liability.
- (5) A notice under this section shall not require information with respect to a payment which was made, or to a licence, approval or entry which ceased to subsist—
  - (a) before 6th April 1988; or
  - (b) in a year of assessment ending more than three years before the date of the giving of the notice.
- (6) For the purposes of this section a payment is a payment out of public funds if it is provided directly or indirectly by the Crown, by any Government, public or local authority whether in the United Kingdom or elsewhere or by any Community institution <sup>F85</sup>.]

### **Textual Amendments**

**F85** Finance Act 1988 (c. 39, SIF 63:1,2) s. 125

## **19 Information for purposes of Schedule A. [1963 s.18(1); 1969 Sch.XX 1(1), 20(4).]**

- (1) For the purpose of obtaining particulars of profits or gains chargeable to tax under Schedule A (or, for chargeable periods ending before 6th April 1970, under Case VIII of Schedule D), the inspector may by notice in writing require—
  - (a) any lessee, occupier or former lessee or occupier of land (including any person having, or having had, the use of land) to give such information as may be prescribed by the Board as to the terms applying to the lease, occupation or use of the land, and where any of those terms are established by any written instrument, to produce the instrument to the inspector,

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- (b) any lessee or former lessee of land to give such information as may be so prescribed as to any consideration given for the grant or assignment to him of the tenancy,
- (c) any person who as agent manages land or is in receipt of rent or other payments arising from land to furnish the inspector with such particulars relating to payments arising therefrom as may be specified in the notice.

<sup>M6</sup>(2) Subsection (1) above shall apply in relation to sums chargeable to tax under Case VI of Schedule D by virtue of any provision of sections [34 to 36 <sup>F86</sup>] of the principal Act as it applies to profits or gains chargeable to tax under Schedule A or Case VIII of Schedule D.

<sup>M7</sup>(3) In this section —

- (a) “lease” includes an agreement for a lease, and any tenancy, but does not include a mortgage or heritable security, and “lessee” shall be construed accordingly but shall include the successor in title of a lessee,
- (b) in relation to Scotland “assignment” means an assignation.

(4) A notice under this section shall not require information with respect to—

- (a) the terms applying to the lease, occupation or use of the land, or
- (b) consideration given, or
- (c) payments arising,

in a year of assessment ending more than three years before the date of the giving of the notice <sup>F87</sup>].

#### Textual Amendments

**F86** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.

**F87** Finance Act 1988 (c. 39, SIF 63:1,2) s. 123(4) with respect to notices given on or after 29 July 1988.

#### Marginal Citations

**M6** 1963 s. 25(2)

**M7** 1963 s. 32(1)

### *Production of accounts, books and other information*

## **20 [Power to call for documents of taxpayer and others.]**

(1) Subject to this section, an inspector may by notice in writing require [a person—

- (a) to deliver to him such documents as are in the person’s possession or power and as (in the inspector’s reasonable opinion) contain, or may contain, information relevant to—
  - (i) any tax liability to which the person is or may be subject, or
  - (ii) to the amount of any such liability, or
- (b) to furnish to him such particulars as the inspector may reasonably require as being relevant to, or to the amount of, any such liability <sup>F88</sup>.]

(2) Subject to this section, the Board may by notice in writing require [a person—

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- (a) to deliver, to a named officer of the Board such documents as are in the person's possession or power and as (in the Board's reasonable opinion) contain, or may contain, information relevant to—
    - (i) any tax liability to which the person is or may be subject, or
    - (ii) to the amount of such liability, or
  - (b) to furnish to a named officer of the Board such particulars as the Board may reasonably require as being relevant to, or to the amount of, any such liability<sup>F88</sup>].
- (3) Subject to this section, an inspector may, for the purpose of enquiring into the tax liability of any person (“the taxpayer”), by notice in writing require any [other person<sup>F88</sup>] to deliver to the inspector or, if the person to whom the notice is given so elects, to make available for inspection by a named officer of the Board, such documents as are in his possession or power and as (in the inspector's reasonable opinion) contain, or may contain, information relevant to any tax liability to which the taxpayer is or may be, or may have been, subject, or to the amount of any such liability[; and the persons who may be required to deliver or make available a document under this subsection include the Director of Savings<sup>F89</sup>.]
- (4) *The persons so subject are—*
- (a) *the taxpayer's spouse, and any son or daughter of his;*
  - (b) *in so far as the inspector's enquiries relate to liability of the taxpayer in respect of income, profits or gains that were, or may have been, derived from—*
    - (i) *any business (past or present) carried on by the taxpayer or his spouse, or*
    - (ii) *any business (past or present) with whose management either of them was concerned at a material time,**any person who is carrying on a business, or was doing so at a material time, [any company, whether carrying on a business or not, and the Director of Savings]*
- <sup>F90F91</sup>(5) *For the purposes of subsection (4) above, every director of a company is to be taken as being concerned with the management of any business carried on by the company; and a material time is any time which (in the inspector's reasonable opinion) is, or may have been, material in the ascertainment of any past or present tax liability of the taxpayer<sup>F91</sup>.*
- (6) The persons who may be treated as “the taxpayer” [for the purposes of this section<sup>F92</sup>] include a company which has ceased to exist and an individual who has died; *and in relation to such an individual the references in subsection (4) to the spouse are then instead to the widow or widower (the circumstances that she or he may have re-married being immaterial for the purposes of those subsections)<sup>F91</sup>.*
- (7) Notices under [subsection (1) or (3) above<sup>F90</sup>] are not to be given by an inspector unless he is authorised by the Board for its purposes; and—
- (a) a notice is not to be given by him except with the consent of a General or Special Commissioner; and
  - (b) the Commissioner is to give his consent only on being satisfied that in all the circumstances the inspector is justified in proceeding under this section.
- (7A) A notice under subsection (2) above is not to be given unless the Board have reasonable grounds for believing—

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- (a) that the person to whom it relates may have failed or may fail to comply with any provision of the Taxes Acts; and
  - (b) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax <sup>F93</sup>.]
- (8) Subject to subsection (8A) below, a notice under subsection (3) above shall name the taxpayer with whose liability the inspector (or, where section 20B(3) applies, the Board) is concerned <sup>F92</sup>.]
- (8A) If, on an application made by an inspector and authorised by order of the Board, a Special Commissioner gives his consent, the inspector may give such a notice as is mentioned in subsection (3) above by without naming the taxpayer to whom the notice relates; but such a consent shall not be given unless the Special Commissioner is satisfied—
  - (a) that the notice relates to a taxpayer whose identity is not known to the inspector or to a class of taxpayers whose individual identities are not so known;
  - (b) there are reasonable grounds for believing that the taxpayer or any of the class of taxpayers to whom the notice relates may have failed or may fail to comply with any provision of the Taxes Acts;
  - (c) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax; and
  - (d) that the information which is likely to be contained in the documents to which the notice relates is not readily available from another source.
- (8B) A person to whom there is given a notice under subsection (8A) above may, by notice in writing given to the inspector within thirty days after the date of the notice under that subsection object to that notice on the ground that it would be onerous for him to comply with it; and if the matter is not resolved by agreement, it shall be referred to the Special Commissioners, who may confirm, vary or cancel that notice <sup>F94</sup>.]
- (8C) In this section references to documents do not include—
  - (a) personal records (as defined in section 12 of the Police and Criminal Evidence Act 1984), or
  - (b) journalistic material (as defined in section 13 of that Act),and references to particulars do not include particulars contained in such personal records or journalistic material.
- (8D) Subject to subsection (8C) above, references in this section to documents and particulars are to those specified or described in the notice in question; and—
  - (a) the notice shall require documents to be delivered (or delivered or made available), or particulars to be furnished, within such time (which, except in the case of a notice under subsection (2) above, shall not be less than thirty days after the date of the notice) as may be specified in the notice; and
  - (b) the person to whom they are delivered, made available or furnished may take copies of them or of extracts from them <sup>F95</sup>.]
- (9) To the extent specified in section 20B below, the above provisions are subject to the restrictions of that section <sup>F96</sup>.] <sup>F97</sup>

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### Textual Amendments

- F88** Finance Act 1989 s. 142(2), (3) and (4)(a) with respect to notices given on or after 27 July 1989.  
 Previously “a person to deliver to him such documents as are in the person's possession or power and as (in the inspector's reasonable opinion) contain, or may contain, information relevant to any tax liability to which the person is or may be subject, or to the amount of any such liability.”, “a person to deliver, to a named officer of theirs, such documents as are in the person's possession or power and as (in the Board's reasonable opinion) contain, or may contain, information relevant to any tax liability to which he is or may be subject, or to the amount of any such liability.”  
*and*  
 “of the persons who in relation to the taxpayer are subject to this subsection”  
*respectively.*
- F89** Finance Act 1989 s. 142(4)(b) with respect to notices given on or after 27 July 1989.
- F90** Finance Act 1988 s. 126(1), (2), (6) with respect to notices given on or after 29 July 1988. Previously “and any company whether carrying on a business or not”  
*and*  
 “this section”.
- F91** Repealed by Finance Act 1989 s. 142(5)(6)(b), (10) and 187 and Sch. 17 Part VIII with respect to notices given or warrants issued on or after 27 July 1989.
- F92** Finance Act 1989 s. 142(6)(a), (7) with respect to notices given on or after 27 July 1989. Previously “under subsections (3) and (4)”  
*and*  
 “(8) The references in subsections (1), (2) and (3) above to documents are to those specified or described in the notice in question; and—(a) the notice shall require them to be delivered or (as the case may be) made available within such time as may be there specified; and (b) the person to whom they are delivered or made available may take copies of, or extracts from them; and a notice under subsection (3) shall name the taxpayer with whose liability the inspector (or, as the case may be, the Board) is concerned.”  
*respectively.*
- F93** Finance Act 1990 s. 93 with respect to notices given on or after 26 July 1990.
- F94** Finance Act 1988 (c. 39 SIF 63:1,2) s. 126(3), (6) with respect to notices given after 29 July 1988.
- F95** Finance Act 1989 s. 142(8), (10) with respect to notices given on or after 27 July 1989.
- F96** Finance Act 1976 s. 57 and Sch. 6.
- F97** See Finance Act 1990 s. 125(1), (2), (6)—in respect of notices given on or after 26 July 1990, subss. (1) to (8) and (8C) to (9) to apply as if references to tax liability included reference to liability to a tax of a member state which is a tax on income or capital.

## 20A [Power to call for papers of tax accountant.]

- (1) Where after the passing of the Finance Act 1976<sup>F98</sup> a person—
- (a) is convicted of an offence in relation to tax (whenever committed) by or before any court in the United Kingdom; or
  - (b) has [a penalty imposed on<sup>F99</sup>] him (whether before or after the passing of that Act) under section 99 of this Act,

and he has stood in relation to others as tax accountant, an inspector authorised by the Board for the purpose of this section may by notice in writing require the person to deliver to him such documents as are in his possession or power and as (in the inspector's reasonable opinion) contain information relevant to any tax liability to which any client of his is or has been, or may be or have been, subject, or to the amount of any such liability.

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- (1A) The reference to documents in subsection (1) above does not include—
- (a) personal records (as defined in section 12 of the Police and Criminal Evidence Act 1984), or
  - (b) journalistic material (as defined in section 13 of that Act).
- (1B) Subject to subsection (1A) above, the reference to documents in subsection (1) above is to those specified or described in the notice in question; and—
- (a) the notice shall require documents to be delivered within such time (which shall not be less than thirty days after the date of the notice) as may be specified in the notice; and
  - (b) the inspector may take copies of them or of extracts from them <sup>F100</sup>.]
- (2) Subsection (1) above does not have effect in relation to a person convicted or penalised as there mentioned for so long as an appeal is pending against the conviction or [penalty <sup>F101</sup>]; and—
- (a) for this purpose an appeal is to be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing it or, in the case of a conviction in Scotland, until the expiration of 28 days from the date of conviction; and
  - (b) references here to appeal include further appeal but, in relation to the [imposition <sup>F101</sup>] of a penalty, do not include appeal against the amount of the penalty.
- (3) A notice is not to be given to any person under this section unless with the consent of the appropriate judicial authority; and that authority is to give his consent only on being satisfied that in all the circumstances the inspector is justified in so proceeding.
- (4) The power to give a notice under this section, by reference to a person's conviction or the [imposition on <sup>F102</sup>] him of a penalty, ceases at the expiration of the period of 12 months beginning with the date on which it was first exercisable in his case by virtue of that conviction or [penalty <sup>F102</sup>].
- (5) To the extent specified in section 20B below, the above provisions are subject to the restrictions of that section <sup>F103</sup>.]

#### Textual Amendments

**F98** The Finance Act 1976 received the Royal Assent on 29 July 1976.

**F99** Finance Act 1989 s. 168(2)(a). Previously  
“awarded against him a penalty incurred by”.

**F100** Finance Act 1989 s. 143 with respect to notices given on or after 27 July 1989. Previously  
“for this purpose section 20(8) above applies, substituting “the client” for “the taxpayer”.”

**F101** Finance Act 1989 s. 168(2)(b). Previously  
“award”.

**F102** Finance Act 1989 s. 168(2)(c). Previously  
“award against” and “award”.

**F103** Finance Act 1976 s. 57 and Sch. 6.

#### 20B [Restrictions on powers under ss.20 and 20A.

- (1) Before a notice is given to a person by an inspector under [section 20(1), (3) or (8A) <sup>F104</sup>], or under section 20A, the person must have been given a reasonable opportunity

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to deliver (or, in the case of section 20(3), to deliver or make available) the documents in question [, or to furnish the particulars in question <sup>F105</sup>]; and the inspector must not apply for consent under [section 20(7) or (8A) <sup>F104</sup>] or, as the case may be, section 20A(3), until the person has been given that opportunity.

- (1A) Subject to subsection (1B) below, where a notice is given to any person under section 20(3) the inspector shall give a copy of the notice to the taxpayer to whom it relates.
- (1B) If, on an application by the inspector, a General or Special Commissioner so directs, a copy of a notice under section 20(3) need not be given to the taxpayer to whom it relates; but such a direction shall not be given unless the Commissioner is satisfied that the inspector has reasonable grounds for suspecting the taxpayer of fraud <sup>F106</sup> .]
- (2) A notice under section 20(1) does not oblige a person to deliver documents [or furnish particulars <sup>F106</sup>] relating to the conduct of any pending appeal by him; a notice under section 20(3) [or (8A) <sup>F107</sup>] does not oblige a person to deliver or make available documents relating to the conduct of a pending appeal by the taxpayer; and a notice under section 20A does not oblige a person to deliver documents relating to the conduct of a pending appeal by the client.

“Appeal” means appeal relating to tax.

- (3) An inspector cannot under section 20(1) or (3), or under section 20A(1), give notice to a barrister, advocate or solicitor, but the notice must in any such case be given (if at all) by the Board; and accordingly in relation to a barrister, advocate or solicitor for references in section 20(3) and (4) and section 20A to the inspector there are substituted references to the Board.
- (4) To comply with a notice under section 20(1) or section 20A(1), and as an alternative to delivering documents to comply with a notice under section 20(3), [or (8A) <sup>F107</sup>] copies of documents may be delivered instead of the originals; but—
- (a) the copies must be photographic or otherwise by way of facsimile; and
  - (b) if so required by the inspector (or, as the case may be, the Board) in the case of any documents specified in the requirement, the originals must be made available for inspection by a named officer of the Board (failure to comply with this requirement counting as failure to comply with the notice).
- (5) A notice under section 20(3), [does not oblige a person <sup>F108</sup>] to deliver or make available any document the whole of which originates more than 6 years before the date of the notice.
- (6) But subsection (5) does not apply where the notice is so expressed as to exclude the restrictions of that subsection; and it can only be so expressed where—
- (a) the notice being given by an inspector with consent under section 20(7), the Commissioner giving consent has also given approval to the exclusion;
  - (b) the notice being given by the Board, they have applied to a General or Special Commissioner for, and obtained, that approval.

For this purpose the Commissioner gives approval only if satisfied, on the inspector’s or the Board’s application, that there is reasonable ground for believing that tax has, or may have been, lost to the Crown owing to the fraud of the taxpayer.

- (7) A notice under section 20(3) in relation to a taxpayer who has died cannot be given to a person by virtue of her or his being the taxpayer’s widower, son or daughter <sup>F109</sup> if more than 6 years have elapsed since the death.



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- (8) A notice under section 20(3) [or (8A)<sup>F107</sup>] or section 20A(1) does not oblige a barrister, advocate or a solicitor to deliver or make available, without his client's consent, any document with respect to which a claim to professional privilege could be maintained<sup>F110</sup>].
- (9) Subject to subsections (11) and (12) below, a notice under section 20(3) or (8A)—
- (a) does not oblige a person who has been appointed as an auditor for the purposes of any enactment to deliver or make available documents which are his property and were created by him or on his behalf for or in connection with the performance of his functions under that enactment, and
  - (b) does not oblige a tax adviser to deliver or make available documents which are his property and consist of relevant communications.
- (10) In subsection (9) above “relevant communications” means communications between the tax adviser and—
- (a) a person in relation to whose tax affairs he has been appointed, or
  - (b) any other tax adviser of such a person,
- the purpose of which is the giving or obtaining of advice about any of those tax affairs; and in subsection (9) above and this subsection “tax adviser” means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that other person or by another tax adviser of his).
- (11) Subject to subsection (13) below, subsection (9) above shall not have effect in relation to any document which contains information explaining any information, return, accounts or other document which the person to whom the notice is given has, as tax accountant, assisted any client of his in preparing for, or delivering to, the inspector or the Board.
- (12) Subject to subsection (13) below, in the case of a notice under section 20(8A) subsection (9) above shall not have effect in relation to any document which contains information giving the identity or address of any taxpayer to whom the notice relates or of any person who has acted on behalf of any such person.
- (13) Subsection (9) above is not disapplied by subsection (11) or (12) above in the case of any document if—
- (a) the information within subsection (11) or (12) is contained in some other document, and
  - (b) either—
    - (i) that other document, or a copy of it, has been delivered to the inspector or the Board, or
    - (ii) that other document has been inspected by an officer of the Board.
- (14) Where subsection (9) above is disapplied by subsection (11) or (12) above in the case of a document, the person to whom the notice is given either shall deliver the document to the inspector or make it available for inspection by an officer of the Board or shall—
- (a) deliver to the inspector (or, where subsection (3) above applies, the Board) a copy (which is photographic or otherwise by way of facsimile) of any parts of the document which contain the information within subsection (11) or (12), and
  - (b) if so required by the inspector (or, as the case may be, the Board), make available for inspection by a named officer of the Board such parts of the document as contain that information;

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and failure to comply with any requirement under paragraph (b) above shall constitute a failure to comply with the notice <sup>F111</sup>.]

#### Textual Amendments

- F104** Finance Act 1988 s. 126(4), (6) *with respect to notices given on or after 29th July 1988. Previously* “section 20(1) or (3)”  
*and*  
“section 20(7)”  
*in subs. (1).*
- F105** Finance Act 1989 s. 144(2), (8) *with respect to notices given on or after 27 July 1989.*
- F106** Finance Act 1989 s. 144(3)(4), (8) *with respect to notices given on or after 27 July 1989.*
- F107** Finance Act 1988 s. 126(4) *With respect to notices given on or after 27 July 1988.*
- F108** Finance Act 1989 s. 144(5), (8) *with respect to notices given on or after 27 July 1989. Previously* “if given to a person who is carrying on a business or was doing so at any time material to the subject matter of the inspector’s (or the Board’s) enquiries, or if given to a company (whether carrying on a business or not), does not oblige the person or company”.
- F109** *Words repealed by* Finance Act 1989 ss. 144(6), (8) *and* 187 *and* Sch. 17 Part VIII *with respect to notices given on or after 27 July 1989.*
- F110** Finance Act 1976 s. 57 *and* Sch. 6.
- F111** Finance Act 1989 s. 144(7), (8) *in respect of notices given on or after 27 July 1989. Previously* “9. A notice under section 20(3) [or 8A(a)] does not, in the case of a person who (in the course of a business carried on by him) has stood in relation to another as tax accountant, oblige that person to deliver or make available documents which are his (the accountant’s) property and originate as working papers of that relationship(b).]”  
**(a)** Finance Act 1988 s. 126(4) *with respect to notices given on or after 29 July 1988.*  
**(b)** Finance Act 1976 s. 57 *and* Sch. 6 (with subs. (1) to (8)).

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

- C11** S. 20B(3) amended (E.W.) (1.1.1992) by S.I. 1991/2684, arts. 2, 4, Sch.1

#### 20BB [Falsification etc. of documents.

- (1) Subject to subsections (2) to (4) below, a person shall be guilty of an offence if he intentionally falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, a document which—
  - (a) he has been required by a notice under section 20 or 20A above, or
  - (b) he has been given an opportunity in accordance with section 20B(1) above, to deliver, or to deliver or make available for inspection.
- (2) A person does not commit an offence under subsection (1) above if he acts—
  - (a) with the written permission of a General or Special Commissioner, the inspector or an officer of the Board,
  - (b) after the document has been delivered or, in the case within section 20(3) or (8A) above, inspected, or
  - (c) after a copy has been delivered in accordance with section 20B(4) or (14) above and the original has been inspected.
- (3) A person does not commit an offence under subsection (1)(a) above if he acts after the end of the period of two years beginning with the date on which the notice is given,

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unless before the end of that period the inspector or an officer of the Board has notified the person in writing that the notice has not been complied with to his satisfaction.

- (4) A person does not commit an offence under subsection (1)(b) above if he acts—
- (a) after the date of the period of six months beginning with the date on which an opportunity to deliver the document was given, or
  - (b) after an application for consent to a notice being given in relation to the document has been refused.
- (5) A person guilty of an offence under subsection (1) above shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both <sup>F112</sup>.]

#### Textual Amendments

**F112** Finance Act 1989 s. 145(1), (2) in relation to any falsification, concealment, destruction or disposal of a document occurring on or after 27 July 1989.

### 20C [Entry with warrant to obtain documents.

- (1) If the appropriate judicial authority is satisfied on information on oath given by an officer of the Board that—
- (a) there is reasonable ground for suspecting that an offence involving [serious fraud <sup>F113</sup>] in connection with, or in relation to, tax [is being, has been or is about to be <sup>F113</sup>] committed and that evidence of it is to be found on premises specified in the information; and
  - (b) in applying under this section, the officer acts with the approval of the Board given in relation to the particular case,
- the authority may issue a warrant in writing authorising an officer of the Board to enter the premises, if necessary by force, at any time within 14 days from the time of issue of the warrant, and search them.
- (1A) Without prejudice to the generality of the concept of serious fraud—
- (a) any offence which involves fraud is for the purposes of this section an offence involving serious fraud if its commission had led, or is intended or likely to lead, either to substantial financial gain to any person or to serious prejudice to the proper assessment or collection of tax; and
  - (b) an offence which, if considered alone, would not be regarded as involving serious fraud may nevertheless be so regarded if there is reasonable ground for suspecting that it forms part of a course of conduct which is, or but for its detection would be, likely to result in serious prejudice to the proper assessment or collection of tax.
- (1B) The powers conferred by a warrant under this section shall not be exercisable—
- (a) by more than such number of officers of the Board as may be specified in the warrant;
  - (b) outside such times of day as may be so specified;
  - (c) if the warrant so provides, otherwise than in the presence of a constable in uniform <sup>F114</sup>.]

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- (2) Section 4A of the Inland Revenue Regulation Act 1890 (Board's functions to be exercisable by an officer acting under their authority) does not apply to the giving of Board approval under this section <sup>F115</sup>.
- (3) An officer who enters the premises under the authority of a warrant under this section may—
- (a) take with him such other persons as appear to him to be necessary;
  - (b) seize and remove any things whatsoever found there which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of such an offence as is mentioned in subsection (1) above; and
  - (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such things;
- but no person shall be searched except by a person of the same sex.
- (4) Nothing in subsection (3) above authorises the seizure and removal of documents in the possession of a barrister, advocate or solicitor with respect to which a claim to professional privilege could be maintained.
- (5) An officer of the Board seeking to exercise the powers conferred by a warrant under this section or, if there is more than one such officer, that one of them who is in charge of the search—
- (a) if the occupier of the premises concerned is present at the time the search is to begin, shall supply a copy of the warrant endorsed with his name to the occupier;
  - (b) if at that time the occupier is not present but a person who appears to the officer to be in charge of the premises is present, shall supply such a copy to that person; and
  - (c) if neither paragraph (a) nor paragraph (b) above applies, shall leave such a copy in a prominent place on the premises.
- (6) Where entry to premises has been made with a warrant under this section, and the officer making the entry has seized any things under the authority of the warrant, he shall endorse on or attach to the warrant a list of the things seized.
- (7) Subsections (10) to (12) of section 16 of the Police and Criminal Evidence Act 1984 (return, retention and inspection of warrants) apply to a warrant under this section (together with any list endorsed on or attached to it under subsection (6) above) as they apply to a warrant issued to a constable under any enactment.
- (8) Subsection (7) above extends to England and Wales only <sup>F116</sup>.] <sup>F117</sup>

#### Textual Amendments

**F113** Finance Act 1989 s. 146(2), (5) with respect to warrants issued on or after 27 July 1989. Previously “any form of fraud” and “has been” respectively.

**F114** Finance Act 1989 s. 146(3), (5) with respect to warrants issued on or after 27 July 1989.

**F115** The Inland Revenue Regulation Act 1890 s. 4A is reproduced in Part II Vol. 5.

**F116** Finance Act 1989 s. 146(4), (5) with respect to warrants issued on or after 27 July 1989. Previously “(3) On entering the premises with a warrant under this section, the officer may seize and remove any things whatsoever found there which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of such an offence as is mentioned in subsection (1) above. But this does not authorise the seizure and removal of documents in the possession of a barrister,

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advocate or solicitor with respect to which a claim to professional privilege could be maintained.(4) Where entry to premises has been made with a warrant under this section, and the officer making the entry has seized any things under the authority of the warrant, he shall, if so requested by a person showing himself either—(a) to be the occupier of the premises; or(b) to have had the possession or custody of those things immediately before the seizure,provide that person with a list of them. (5) Where documents are seized which relate to any business, and it is shown that access to them is required for the continued conduct of the business, the officer who has seized them shall afford reasonable access to the documents to the person carrying on the business.”

**F117** Finance Act 1976 s.57andSch.6.

## **20CC [Procedure where documents etc. are removed.**

- (1) An officer of the Board who removes anything in the exercise of the power conferred by section 20C above shall, if so requested by a person showing himself—
  - (a) to be the occupier of premises from which it was removed, or
  - (b) to have had custody or control of it immediately before the removal,provide that person with a record of what he removed.
- (2) The officer of the Board shall provide the record within a reasonable time from the making of the request for it.
- (3) Where anything which has been removed by an officer of the Board as mentioned in subsection (1) above is of such a nature that a photograph or copy of it would be sufficient—
  - (a) for use as evidence at a trial for an offence, or
  - (b) for forensic examination or for investigation in connection with an offence,it shall not be retained longer than is necessary to establish that fact and to obtain the photograph or copy.
- (4) Subject to subsection (8) below, if a request for permission to be granted access to anything which—
  - (a) has been removed by an officer of the Board, and
  - (b) is retained by the Board for the purpose of investigating an offence,is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of any such person, the officer shall allow the person who made the request access to it under the supervision of an officer of the Board.
- (5) Subject to subsection (8) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of any such person, the officer shall—
  - (a) allow the person who made the request access to it under the supervision of an officer of the Board for the purpose of photographing it or copying it, or
  - (b) photograph or copy it, or cause it to be photographed or copied.
- (6) Where anything is photographed or copied under subsection (5)(b) above the photograph or copy shall be supplied to the person who made the request.
- (7) The photograph or copy shall be supplied within a reasonable time from the making of the request.

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- (8) There is no duty under this section to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—
- (a) that investigation;
  - (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
  - (c) any criminal proceedings which may be brought as a result of—
    - (i) the investigation of which he is in charge, or
    - (ii) any such investigation as is mentioned in paragraph (b) above.
- (9) Any reference in this section to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant concerned as being the officer so in charge <sup>F118</sup>.]

#### Textual Amendments

**F118** S. 20CC inserted by [Finance Act 1989 \(c. 26\)](#), s. 147, with respect to warrants issued on or after 27 July 1989

#### 20D [Interpretation of ss.20 to 20C.

- (1) For the purposes of section 20A and 20C above, “the appropriate judicial authority” is—
- (a) in England and Wales, a Circuit judge;
  - (b) in Scotland, a sheriff; and
  - (c) in Northern Ireland, a county court judge.
- (2) For the purposes of sections 20 and 20A, a person stands in relation to another as tax accountant at any time when he assists the other in the preparation[or delivery of any information, return, accounts or other document which he knows will be, or is or are likely to be, used <sup>F119</sup>] for any purpose of tax; and his clients are all those to whom he stands or has stood in that relationship. <sup>F120</sup>]
- (3) Without prejudice to section 127 of the Finance Act 1988, in sections 20 to 20CC above “document” has, subject to sections 20(8C) and 20(1A), the same meaning as it has—
- (a) in relation to England and Wales, in Part I of the Civil Evidence Act 1968,
  - (b) in relation to Scotland, in Part III of the Law reform (Miscellaneous Provisions) (Scotland) Act 1968, and
  - (c) in relation to Northern Ireland, in Part I of the Civil Evidence Act (Northern Ireland) 1971 <sup>F121</sup>.]

#### Textual Amendments

**F119** [Finance Act 1989 \(c. 26\)](#), s. 148(2).

**F120** Finance Act 1976 s. 57 and Sch. 6

**F121** [Finance Act 1989 \(c. 26\)](#), s. 148(3)

*Status:* Point in time view as at 06/03/1992. This version of this Act contains provisions that are not valid for this point in time.

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## 21 Stock jobbers' transactions. [1966 s.50(1)—(4).]

- (1) The Board may exercise the powers conferred by this section as respects, and in connection with, any business which is, or has been, carried on by a [market maker <sup>F122</sup>] . . . <sup>F123</sup> whose liability to tax in respect of the business is determined on the footing that any excess of his payments in respect of interest on securities over his receipts in respect thereof, being payments made or receipts accrued in pursuance of a contract for the sale or purchase of the securities, is to be treated for all the purposes of the Income Tax Acts or the Corporation Tax Acts as an annual payment made by him <sup>F124</sup>.
- (2) With a view to obtaining information about transactions in the course of a business within subsection (1) above, the Board may serve on the [market maker <sup>F122</sup>] . . . <sup>F123</sup> by whom the business is or has been carried on a notice requiring him to make available within a time specified in the notice, for inspection by an inspector or other officer of the Board, all such books, accounts and other documents in his possession or power as may be specified or described in the notice, being books, accounts or other documents which in the opinion of the Board contain or may contain information directly or indirectly relating to any such transactions.
- (3) The Board may serve on any broker a notice requiring him to make available within a time specified in the notice, for inspection by an inspector or other officer of the Board, all such books, accounts or other documents in his possession or power as may be specified or described in the notice, being books, accounts or other documents which in the opinion of the Board contain or may contain information relating directly or indirectly to transactions in the course of a business within subsection (1) above.
- (4) The Board may by notice in writing require—
  - (a) a person, other than a broker, who has directly or indirectly received from a [market maker <sup>F125</sup>] . . . <sup>F126</sup> any payment made by the [market maker <sup>F125</sup>] . . . <sup>F126</sup> in the course of a business within subsection (1) above, being a payment treated by the [market maker <sup>F125</sup>] . . . <sup>F126</sup> as made in respect of interest on securities, to state within a time specified in the notice whether the amount received is in whole or in part received on behalf of, or for payment on to, any other person and, if so, to furnish the name and address of that other person, or
  - (b) a person who has directly or indirectly paid to a [market maker <sup>F125</sup>] . . . <sup>F126</sup> any sum constituting a receipt by him in the course of a business within subsection (1) above, being a receipt treated by the [market maker <sup>F125</sup>] . . . <sup>F126</sup> as accruing in respect of interest on securities, to state within a time specified in the notice whether the amount paid is in whole or in part received from, or paid on account of, any other person and, if so, to furnish the name and address of that other person.
- <sup>M8</sup>(5) If, for the purpose of obtaining (from any persons whether brokers or [market makers <sup>F125</sup>] or not) information directly or indirectly relating to any transactions in the course of a business within subsection (1) above, any person in whose name any securities are registered is so required by notice in writing by the Board, he shall state whether or not he is the beneficial owner of those securities, and, if not the beneficial owner of those securities or any of them, shall furnish the name and address of the person or persons on whose behalf the securities are registered in his name.
- <sup>M9</sup>(6) The Board may not exercise their powers under the preceding provisions of this section for the purpose of obtaining information relating to transactions in any year of assessment ending more than six years before the service of the notice.
- (7) In this section—

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["broker" in relation to securities, means a member of The Stock Exchange who carries on his business in the United Kingdom and is not a market maker in securities of the kind concerned <sup>F125</sup>;

.....  
F126

["market maker", in relation to securities, means a person who—

- (a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities of the kind concerned at a price specified by him, and
  - (b) is recognised as doing so by the Council of The Stock Exchange <sup>F127</sup>;
- "securities" includes shares and stock, and references to interest include references to dividends.

### Textual Amendments

**F122** Finance Act 1986 s. 63 and Sch. 18 para. 7 in relation to transactions effected on or after 27 October 1986. *Previously* "jobber".

**F123** *Words omitted repealed by* Finance Act 1973 ss.54, 59(7), Sch.21 para.5 and Sch.22 Part IV from 25 March 1973 *except in relation to things done before that day.*

**F124** *See* Finance Act 1986 Sch. 18 para. 9(1)(b)—*the Board may by regulations substitute s. 21(1) and amend other provisions of s. 21.*

**F125** Finance Act 1986 s. 63 and Sch. 18 para. 7 in relation to transactions effected on or after 27 October 1986. *Previously* "jobber"

*in* subs. (4), "jobbers"

*in* subs. (5), *and*

" "broker" means a member of The Stock Exchange who carries on his business in the United Kingdom and is not a jobber; (a)"

*in* subs. (7).

(a) Finance Act 1973 s. 54 and Sch. 21 para. 5 on or after 25 March 1973 *except in relation to things done before that day.*

**F126** *Words omitted repealed by* Finance Act 1973 ss.54, 59(7), Sch.21 para.5 and Sch.22 Part IV from 25 March 1973 *except in relation to things done before that day.*

**F127** Finance Act 1986 s. 63 and Sch. 18 para. 7 in relation to transactions effected on or after 27 October 1986. *Previously*

" "jobber" means a member of The Stock Exchange who is recognised by the Council thereof as carrying on the business of a jobber and carries on that business in the United Kingdom (a)".

(a) Finance Act 1973 s. 54 and Sch. 21 para. 5 on or after 25 March 1973 *Except in relation to things done before that day.*

### Modifications etc. (not altering text)

**C12** S. 21 applied (with modifications) (22.3.1992) by [S.I. 1992/569](#), [regs.18,22](#)

**C13** S. 21 applied (with modifications) (24.9.1992) by [S.I. 1992/2074](#), [regs.9,12](#)

**C14** S. 21 applied (with modifications) (1.10.1993) by [S.I. 1993/2004](#), [reg.16](#)

### Marginal Citations

**M8** 1952 s.250(4); 1964(M) Sch.IV(1); 1966 s.50(5).

**M9** 1966 S.50(6)-(7)



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### Surtax

#### 22 Additional particulars for surtax. [1952 s.232; 1964(M) Sch.IV; 1969 Sch.XX 17(25).]

The Board may . . . <sup>F128</sup>, by notice in writing require any individual to furnish to them within such time as they may prescribe, not being less than twenty-eight days, such particulars as to the several sources of his income and the amount arising from each source, and as to the nature and the amount of any deductions claimed to be allowed therefrom as they consider necessary.

#### Textual Amendments

**F128** Words omitted repealed for 1973—74 et seq. by Finance Act 1971 ss.37 and 38 and Sch.14 Part II.

#### 23 Power to obtain copies of registers of securities. [1952 s.233; 1964(M) Sch.IV(1).]

- (1) The Board may cause to be served upon any body corporate a notice requiring them to deliver to the Board within a specified time, being not less than twenty-one days, a copy, certified by a duly authorised officer of such body, of the whole of, or any specified class of entries in, any register containing the names of the holders of any securities issued by them.
- (2) On delivery of the copy in accordance with the notice payment shall be made therefor at the rate of five shillings <sup>F129</sup> in respect of each one hundred entries.
- (3) In this section “security” includes shares, stock, debentures and debenture stock, and “entry” means, in relation to any register, so much thereof as relates to the securities held by any one person.

#### Textual Amendments

**F129** See the [Decimal Currency Act 1969 \(c.19\)](#) ss.10 and 16(1)—references to shillings and pence in enactments passed before 15 February 1971 to be read on and after that day as referring to equivalent amount in the new currency.

#### 24 Power to obtain information as to income from securities. [1952 s.234; 1964(M) Sch.IV(1).]

- (1) The Board may by notice in writing require—
  - (a) any person, being a registered or inscribed holder of any United Kingdom securities, who, in any year of assessment, has received on behalf of any other person any income arising from any such securities, or
  - (b) any person by or through whom, in any year of assessment, any income in respect of United Kingdom securities has been paid in any case where—
    - (i) the registered or inscribed holder of the securities is not the person to whom the income was paid, or
    - (ii) the securities are bearer securities,

to furnish them, within such time as may be specified in the notice (not being less than twenty-eight days) with particulars of the amounts so received or, as the case may be,

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paid in that year (other than amounts received or paid in that year on behalf of or to any one person which did not exceed in the aggregate the sum of £15), the securities to which those amounts respectively relate, and the names and addresses of the persons on whose behalf or to whom those amounts were respectively received or paid.

- (2) The Board may similarly require any person who acts or has acted, directly or indirectly, as an intermediary or as one of a series of intermediaries between any such person as is specified in subsection (1)(a) or (b) above and the person or persons beneficially entitled to the income in question to furnish such information as the Board may require for the purpose of enabling them to ascertain the names and addresses of the person or persons beneficially entitled to the income and the respective amounts to which those persons were beneficially entitled.
- (3) Nothing in this section shall impose on any bank the obligation to disclose any particulars relating to income from securities in cases where the person beneficially entitled to the income is not resident in the United Kingdom <sup>F130</sup>.

- (4) In this section—

“securities” includes shares, stocks, bonds, debentures and debenture stock, and

“United Kingdom securities” means any securities issued by or on behalf of Her Majesty’s Government in the United Kingdom or the Government of Northern Ireland and any securities of a body corporate incorporated in any part of the United Kingdom.

#### **Textual Amendments**

**F130** See, however, Income and Corporation Taxes Act 1988 s. 816(3) where a person resides in territory to which arrangements under Income and Corporation Taxes Act 1988 s. 788 (agreements with other countries for double taxation relief) apply.

### *Chargeable gains*

#### **25 Issuing houses, stockbrokers, auctioneers, etc. [1965 Sch.X 7(1)—(4).]**

- (1) For the purpose of obtaining particulars of chargeable gains an inspector may by notice in writing require a return under any of the provisions of this section.
- (2) An issuing house or other person carrying on a business of effecting public issues of shares of securities in any company, or placings of shares or securities in any company, either on behalf of the company, or on behalf of holders of blocks of shares or securities which have not previously been the subject of a public issue or placing, may be required to make a return of all such public issues or placings effected by that person in the course of the business in the period specified in the notice requiring the return, giving particulars of the persons to or with whom the shares or securities are issued, allotted or placed, and the number or amount of the shares or securities so obtained by them respectively.
- (3) A person not carrying on such a business may be required to make a return as regards any such public issue or placing effected by that person and specified in the notice, giving particulars of the persons to or with whom the shares or securities are issued, allotted, or placed and the number or amount of the shares or securities so obtained by them respectively.

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- (4) A member of a stock exchange in the United Kingdom<sup>F131</sup>, other than a [market maker<sup>F132</sup>], may be required to make a return giving particulars of any transactions effected by him in the course of his business in the period specified in the notice requiring the return and giving particulars of—
- (a) the parties to the transactions,
  - (b) the number or amount of the shares or securities dealt with in the respective transactions, and
  - (c) the amount or value of the consideration.
- <sup>M10</sup>(5) A person (other than a member of a stock exchange in the United Kingdom<sup>F131</sup>) who acts as an agent or broker in the United Kingdom in transactions in shares or securities may be required to make a return giving particulars of any such transactions effected by him after 5th April 1968 and in the period specified in the notice, and giving particulars of—
- (a) the parties to the transactions,
  - (b) the number or amount of the shares or securities dealt with in the respective transactions, and
  - (c) the amount or value of the consideration.
- <sup>M11</sup>(6) The committee or other person or body of persons responsible for managing a clearing house for any terminal market in commodities may be required to make a return giving particulars of any transactions effected through the clearing house in the period specified in the notice requiring the return and giving particulars of—
- (a) the parties to the transactions,
  - (b) the amounts dealt with in those transactions respectively, and
  - (c) the amount or value of the consideration.
- (7) An auctioneer, and any person carrying on a trade of dealing in any description of tangible movable property, or of acting as an agent or intermediary in dealings in any description of tangible movable property, may be required to make a return giving particulars of any transactions effected by or through him in which any asset which is tangible movable property is disposed of for a consideration the amount or value of which, in the hands of the recipient, exceeds [£6,000<sup>F133</sup>].
- (8) No person shall be required under this section to include in a return particulars of any transaction effected more than three years before the service of the notice requiring him to make the return.
- (9) In this section “company” and “shares” shall be construed in accordance with [<sup>F134</sup>sections 99 and 288(1) of the 1992 Act.].
- (10) In this section “market maker”, in relation to shares or securities, means a person who—
- (a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell shares or securities of the kind concerned at a price specified by him, and
  - (b) is recognised as doing so by the Council of The Stock Exchange<sup>F135</sup>

#### Textual Amendments

**F131** See Finance Act 1973 s.54(1)—to be construed as reference to a member of The Stock Exchange on and after 25 March 1973 except in relation to things done before that day.

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- F132** Finance Act 1986 s. 63 and Sch. 18 para. 8 in relation to transactions on or after 27 October 1986. Previously “jobber”.
- F133** Finance Act 1989 s. 123 in relation to disposals on or after 6 April 1989. Previously “£3,000”  
by Finance Act 1982 s. 81(1)(c) in relation to disposals on or after 6 April 1982.
- F134** Words in s. 25(9) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by virtue of Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 2(4)** (with ss. 60, 101(1), 171, 201(3))
- F135** Finance Act 1986 s. 63 and Sch. 18 para. 8 in relation to transactions on or after 27 October 1986.

#### Marginal Citations

- M10** 1969 Sch. XIX 13  
**M11** 1965 Sch. X 7(5)-(7)

## 26 Nominee shareholders. [1952 s.250(4); 1964(M) Sch.IV(1); 1965 Sch.X 8.]

- (1) If, for the purpose of obtaining particulars of chargeable gains, any person in whose name any shares of a company are registered is so required by notice in writing by the Board or an inspector, he shall state whether or not he is the beneficial owner of those shares and, if not the beneficial owner of those shares or any of them, shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name.
- (2) In this section references to shares include references to securities and loan capital.

## 27 Settled property. [1952 s.410; 1964(M) Sch.IV(1); 1965 Sch.X 9.]

- (1) The Board may by notice in writing require any person, being a party to a settlement, to furnish them within such time as they may direct (not being less than twenty-eight days) with such particulars as they think necessary for the purposes of [F136 the [F137 1992 Act]].
- (2) In this section “settlement” has the meaning given by section [681(4) F138] of the principal Act.

#### Textual Amendments

- F136** Capital Gains Tax Act 1979 (c. 14, SIF 63:2), s. 157(2) and Sch. 7 para. 8 for 1979-80 et seq.
- F137** Words in s. 27(1) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 2(2)** (with ss. 60, 101(1), 171, 201(3))
- F138** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para 32.

[F139M12] 28

- (1) A person holding shares or securities in a company which is not resident or ordinarily resident in the United Kingdom may be required by a notice by the Board to give such particulars as the Board may consider are required to determine whether the company falls within section 13 of the 1992 Act and whether any chargeable gains have accrued to that company in respect of which the person to whom the notice is given is liable to capital gains tax under that section.

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- (2) For the purposes of this section “company” and “shares” shall be construed in accordance with sections 99 and 288(1) of the 1992 Act.]

#### Textual Amendments

**F139** S. 28 substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 2(5)** (with ss. 60, 101(1), 171, 201(3))

#### Marginal Citations

**M12** Non-resident companies and trusts. [1965 Sch.X 11(1).]

## PART IV

### ASSESSMENT AND CLAIMS <sup>F140</sup>

#### Textual Amendments

**F140** See also [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) s.252—assessments to rectify excessive set-off etc. of advance corporation tax or tax credit.

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

**C15** Pt. 4 (ss. 29-43B) applied (with modifications) (6.4.1993) by [The Income Tax \(Sub-contractors in the Construction Industry\) Regulations 1993 \(S.I. 1993/743\)](#), **reg. 14(2)** (revoked (6.4.2007) by [S.I. 2005/2045](#), **Sch. 2**)

### 29 Assessing procedure. [1964(M) s.5(1) 9; 1965 Sch.X 1(1); 1966 Sch.VI 6(1), 17(1), 27(1); 1967 Sch.XI 10(3).]

- (1) Except as otherwise provided, all assessments to tax shall be made by an inspector, and—

- (a) if the inspector is satisfied that any return under the Taxes Acts affords correct and complete information concerning profits in respect of which tax is chargeable, he shall make an assessment accordingly,
- (b) if it appears to the inspector that there are any profits in respect of which tax is chargeable and which have not been included in a return under Part II of this Act, or if the inspector is dissatisfied with any return under Part II of this Act, he may make an assessment to tax to the best of his judgment <sup>F141</sup>.
- (c) Where income tax is charged for a year of assessment in respect of income arising in that year, the inspector may make an assessment during that year to the best of his judgement, by reference to actual income or estimated income (whether from any particular source or generally) or partly by reference to one and partly by reference to the other <sup>F142</sup>].

- (1A) Where an assessment is made by virtue of subsection (1)(c) above, any necessary adjustments shall be made after the end of the year (whether by way of assessment, repayment of tax or otherwise) to secure that tax is charged in respect of income actually arising in the year <sup>F143</sup>.]

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- (2) Assessments under [sections 426 to 430 of the principal Act<sup>F144</sup>] shall be made by the inspector or the Board<sup>F145</sup>.
- <sup>M13</sup>(3) If an inspector or the Board discover—
- (a) that any profits which ought to have been assessed to tax have not been assessed, or
  - (b) that an assessment to tax is or has become insufficient, or
  - (c) that any relief which has been given is or has become excessive,
- the inspector or, as the case may be, the Board may make an assessment in the amount, or the further amount, which ought in his or their opinion to be charged.<sup>F146</sup>
- <sup>M14</sup>(4) All income tax . . . <sup>F147</sup> which is charged for any year on any person under subsection (3)(c) above may, notwithstanding that it was chargeable under more than one Schedule, be included in one assessment and an appeal against an assessment under subsection (3)(c) above shall be to the Commissioners to whom an appeal would lie on a claim for the relief in connection with which the assessment is made.
- <sup>M15</sup>(5) Notice of any assessment to tax shall be served on the person assessed and shall state [the date on which it is issued and <sup>F148</sup>] the time within which any appeal against the assessment may be made <sup>F149</sup>.
- <sup>M16</sup>(6) After the notice of assessment has been served on the person assessed, the assessment shall not be altered except in accordance with the express provisions of the Taxes Acts.
- <sup>M17</sup>(7) Assessments to income tax . . . <sup>F147</sup> which are under any provision in the Income Tax Acts to be made by the Board shall be made in accordance with this section, and as if in subsection (1)(a) and (b) above the references to the inspector were references to the Board.
- <sup>M18</sup>(8) In this section “profits”—
- (a) in relation to income tax, means income,
  - (b) in relation to capital gains tax, means chargeable gains,
  - (c) in relation to corporation tax, means profits as computed for the purposes of that tax,
- <sup>M19</sup>(d) . . . . . <sup>F150</sup>  
 and “return under Part II of this Act”<sup>F151</sup> includes a return under that Part as extended by section [284(4) <sup>F152</sup>] of the principal Act (returns of income of husband and wife).

**Textual Amendments**

**F141** See *Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s.205—formal assessments under Sch. E unnecessary in certain cases.*

**F142** *Finance Act 1988 (c. 39, SIF 63:1,2) s. 119(2)*

**F143** *Finance Act 1988 (c. 39, SIF 63:1,2) s. 119(3). For previous (1A) (DLT) see 1987 edition.*

**F144** *Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.*

**F145** *Finance Act 1972 s.111 and Sch.24 para.6 for 1973—74 et seq. Repealed by Finance Act 1989 s. 187 and Sch. 17 Part V in relation to accounting periods beginning after 31 March 1989.*

**F146** See—*Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 588(5)—assessment under s. 29(3) to recover relief for costs of training where the time limit conditions in s. 589 are subsequently not met. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 14 para 7(3)(a)—application of (c) to sums claimed under s. 266(5)(b) to which the claimant was not entitled. Finance Act 1989 s. 57(3) application of (c) to medical insurance relief.*

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- F147** Words omitted repealed for 1973—74 et seq. by Finance Act 1971 ss.37 and 38 and Sch. 14 Part II.
- F148** Words added by Finance (No. 2) Act 1975 s.44(5) for notices of assessment issued after 31 July 1975.
- F149** See also **Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)** ss.285 to 286—notice to wife or her executors, etc., to pay outstanding tax assessed on her husband and attributable to her income.
- F150** A development land tax provision added by **Development Land Tax Act 1976 (c. 24)** Sch.8 para.2. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.]
- F151** Words repealed by **Finance Act 1988 (c. 39, SIF 63:1,2)** s. 148 and Sch. 14 Part VIII for 1990-91 and subsequent years.
- F152** **Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)** Sch. 29 para 32.

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

- C16** S. 29 excluded (16.7.1992) by **Income and Corporation Taxes Act 1988 (c. 1), Sch. 3 para. 6E** (which was inserted (16.7.1992 having effect in relation to transactions effected on or after 1.10.1992) by **Finance (No. 2) Act 1992 (c. 48), s. 63, Sch. 11 paras. 2(2), 6**)
- C17** S. 29(3)(c) extended by **Finance Act 1991 (c. 31, SIF 63:1), s. 33(3)(a)**

**Marginal Citations**

- M13** 1964 (M) s.(3)
- M14** 1964 (M) s.5(4).
- M15** 1964 (M) s.5(5).
- M16** 1964 (M) s.5(6).
- M17** 1964 (M) s.5(7).
- M18** 1964(M) s.5; 1965 Sch.X1(1); 1966 Sch.VI 27(1).
- M19** 1964 (M) s.5(9).

**30 [Recovery of overpayment of tax, etc.**

- (1) Where an amount of tax has been repaid to any person which ought not to have been repaid to him, that amount of tax may be assessed and recovered as if it were unpaid tax <sup>F153</sup>.
- (1A) Subsection (1) above shall not apply where the amount of tax which has been repaid is assessable under section 29 of this Act <sup>F154</sup>.]
- (2) In any case where—
  - (a) a repayment of tax has been increased in accordance with section [824 or 825 of the principal Act or section <sup>F155</sup>] [<sup>F156</sup>283 of the 1992 Act] (supplements added to repayments of tax, etc.); and
  - (b) the whole or any part of that repayment has been paid to any person but ought not to have been paid to him; and
  - (c) that repayment ought not to have been increased either at all or to any extent; then the amount of the repayment assessed under subsection (1) above may include an amount equal to the amount by which the repayment ought not to have been increased.
- (2A) ..... <sup>F157</sup>
- (3) In any case where—
  - (a) a payment, other than a repayment of tax to which subsection (2) above applies, is increased in accordance with section [824 or 825 of the principal Act or section <sup>F155</sup>] [<sup>F156</sup>283 of the 1992 Act]; and
  - (b) that payment ought not to have been increased either at all or to any extent;

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then an amount equal to the amount by which the payment ought not to have been increased may be assessed and recovered as if it were unpaid income tax or corporation tax.

- (3A) ..... <sup>F157</sup>
- (4) An assessment to income tax or corporation tax under this section shall be made under Case VI of Schedule D <sup>F157</sup>.
- (4A) ..... <sup>F157</sup>
- (5) An assessment under this section shall not be out of time under section 34 of this Act if it is made before the end of the chargeable period following that in which the amount so assessed was repaid or paid as the case may be.
- (6) Subsection (5) above is without prejudice to [section 36 <sup>F158</sup>] of this Act.
- (7) In this section any reference to an amount repaid or paid includes a reference to an amount allowed by way of set-off <sup>F159</sup>.] <sup>F160</sup>

#### Textual Amendments

- F153** See—Income and Corporation Taxes Act 1988 s. 812 to 813—*application of s.30 to the recovery of tax credits incorrectly paid.* S.I. 1987 No. 1749 (in Part III Vol 5) regn. 11—s. 30 to apply to payments by the Board of amounts paid under S.I. 1987 No. 1749 to which scheme administrators were not entitled or recoverable from scheme administrators under S.I. 1987 No. 1749 regns. 7(5), 8(4) or (6) or 10 as if they were income tax repaid to scheme administrators to which they were not entitled.
- F154** Finance Act 1990 s. 105 in relation to amounts of tax repaid on or after 26 July 1990.
- F155** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para 32.
- F156** Words in s. 30(2)(a)(3)(a) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10 para 2(6) (with ss. 60, 101(1), 171, 201(3))
- F157** See Finance (No. 2) Act 1987 s. 88(1) and Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 Para. 10(3) for the wording to be inserted in respect of accounting periods ending after a day to be appointed.
- F158** Finance Act 1989 s. 149(3)(a) but not to affect the making of assessments before 1983-84 or for accounting periods before 1 April 1983. Previously “sections 36, 37 and 39”.
- F159** Finance Act 1982 s. 149 in relation to any amount repaid or paid on or after 6 April 1982.
- F160** See—Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 14 para 7(3)(b)—application of s. 30 to sums claimed under s. 266(5)(b) to which the claimant was not entitled. Finance Act 1989 s. 57(3)—application of s. 30 to medical insurance relief. Personal Pension Schemes (Relief at Source) Regns. 1988 (S.I. 1988 No. 1013) in Part III Vol. 5)—s. 30 to apply to payments under regn. 13. Personal Pension Schemes (Min. Contributions under the Social Security Act 1986) Regns. 1988 (S.I. 1988 No. 1012) (in Part III Vol. 5)—s. 30 to apply to payments under regn. 6. Private Medical Insurance (Disentitlement to Tax Relief and Approved Benefits) Regns. 1989 (S.I. 1989 No. 2389) regn. 5 (in Part III Vol. 5)—application of s. 30 to recovery of tax from person who ceases to be entitled to relief.

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

- C18** S. 30 extended by Finance Act 1991 (c. 31, SIF 63:1), s. 33(3)(b)
- C19** S. 30 modified (6.4.1992) by S.I. 1992/734, reg. 6(1)



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**31 Right of appeal. [1969 Sch.XX 12.]**

- (1) An appeal may be brought against an assessment to tax by a notice of appeal in writing given within thirty days after the date of the notice of assessment <sup>F161</sup>.
- (2) The notice of appeal shall be given to the inspector or other officer of the Board by whom the notice of assessment was given.
- <sup>M20</sup>(3) The appeal shall be to the Special Commissioners if the assessment is made—
  - (a) by the Board; or
  - (b) under section 350, 426 <sup>F162</sup>, 445, 740, 743(1) or 747(4)(a) of the principal Act; or
  - (c) under section [<sup>F163</sup>276 of the 1992 Act] or section 830 of the Principal Act and is not an assessment to tax under Schedule E;or if the appeal involves any question as to the application of [any of sections 660 to 685 and 695 to 702 <sup>F164</sup>] of the principal Act <sup>F165</sup>.
- (3A) ..... <sup>F166</sup>
- (4) Subject to subsection (3) above the appeal shall be to the General Commissioners, except that the appellant may elect (in accordance with section 46(1) of this Act) to bring the appeal before the Special Commissioners instead of the General Commissioners.
- (5) The notice of appeal against any assessment shall specify the grounds of appeal, but on the hearing of the appeal the Commissioners may allow the appellant to put forward any ground not specified in the notice, and take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (5A) An election under subsection (4) above shall be disregarded if—
  - (a) the appellant and the inspector or other officer of the Board agree in writing, at any time before the determination of the appeal, that it is to be disregarded; or
  - (b) the General Commissioners have given a direction under subsection (5C) below and have not revoked it.
- (5B) At any time before the determination of an appeal in respect of which an election has been made under subsection (4) above, the inspector or other officer of the Board after giving notice to the appellant may refer the election to the General Commissioners.
- (5C) On any such reference the Commissioners shall, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, direct that the election be disregarded.
- (5D) If, at any time after the giving of a direction under subsection (5C) above (but before the determination of the appeal) the General Commissioners are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, they shall revoke the direction.
- (5E) Any decision to give a direction under subsection (5C) above or revoke such a direction under subsection (5D) above shall be final <sup>F167</sup>.] <sup>F168</sup>
- (6) This section has effect subject to any express provision in the Taxes Acts, including in particular any provision under which an appeal lies to the Special Commissioners to the exclusion of the General Commissioners, any provision transferring jurisdiction to some other tribunal, and any provision making one kind of assessment conclusive in an appeal against another kind of assessment. <sup>F169</sup>

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### Textual Amendments

- F161** See Finance (No. 2) Act 1975 s.67(1)—“For the removal of doubt it is hereby declared that in section 31(1) of the Taxes Management Act 1970 (right of appeal) the reference to the date of the notice of assessment is a reference to the date on which the notice was issued”.
- F162** “426”  
*repealed by Finance Act 1989 s. 187 and Sch. 17 Part V in relation to accounting periods beginning after 31 March 1989.*
- F163** Words in s. 31(3)(c) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 2(7)** (with ss. 60, 101(1), 171, 201(3))
- F164** Finance Act 1990 s. 89 and Sch. 14 para. 14 (*correction of errors*)—*deemed to have been made by Taxes Act 1988. Previously*  
 “Part XV or XVI”.
- F165** Income and Corporation Taxes Act 1988 Sch. 29 para. 32. *See 1987 edition for previous wording.*
- F166** *A development land tax provision added by [Development Land Tax Act 1976 \(c. 24\)](#) Sch. 8 para. 3. Development Land Tax Act 1976 repealed by Finance Act 1985 s. 98(6) and Sch. 27 Part X.]*
- F167** Finance Act 1984 s. 127 and Sch. 22 para. 3(1) *on and after 1 January 1985 by virtue of S.I. 1984 No. 1836 (C. 45).*
- F168** *See—[Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) Sch. 5 para 5(2)—application of subsections (5) to (5E) to appeal by underwriter against inspector’s determination. [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) s. 134—General Commissioners for Northern Ireland.*
- F169** *See [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) Sch. 5 para. 8(2)—individual underwriters determinations.*

### Marginal Citations

- M20** 1964 (M) Sch. IV.

### *Relief for excessive assessments*

## 32 Double assessment. [1952 s.65; 1964(M) Sch.II, IV; 1965 Sch.X 1(1); 1969 Sch.XX 17(2).] [1964(M) Sch.II.]

- (1) If on a claim made to the Board it appears to their satisfaction that a person has been assessed to tax more than once for the same cause and for the same chargeable period . . . <sup>F170</sup>, they shall direct the whole, or such part of any assessment as appears to be an overcharge, to be vacated, and thereupon the same shall be vacated accordingly.
- (2) An appeal on a claim under this section shall lie to any of the bodies of Commissioners having jurisdiction to hear an appeal against the assessment, or the later of the assessments, to which the claim relates <sup>F171</sup>.

### Textual Amendments

- F170** *Words relating to development land tax added by [Development Land Tax Act 1976 \(c. 24\)](#) Sch. 8 para. 4. Development Land Tax Act 1976 repealed by Finance Act 1985 s. 98(6) and Sch. 27 Part X.*
- F171** *See Finance Act 1981 s. 134 and Sch. 17 para. 18 for the application of this provision to the special tax on banking deposits.*

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**33 Error or mistake. [1952, ss.66(1), 229(5); 1964(M) Sch.II, IV; 1965 Sch.X 1(1), Sch.XII 5(2); 1966 Sch.VI 5(1), 27(1); 1969 Sch.XX 17(3).] [1952 s.66(2).]**

(1) If any person who has paid tax charged under an assessment 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 six years after the end of the year of assessment<sup>F172</sup> (or, if the assessment is to corporation tax, the end of the accounting period) in<sup>F173</sup> which the assessment was made, make a claim to the Board for relief<sup>F174</sup>.

(2) On receiving the claim the Board shall inquire into the matter and shall, subject to the provisions of this section, give by way of repayment such relief . . .<sup>F175</sup> in respect of the error or mistake as is reasonable and just:

Provided that no relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the claimant ought to have been computed where the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when the return was made<sup>F174</sup>.

<sup>M21</sup>(3) In determining the claim the Board shall have regard to all the relevant circumstances of the case, and in particular shall consider whether the granting of relief would result in the exclusion from charge to tax of any part of the profits of the claimant, and for this purpose the Board may take into consideration the liability of the claimant and assessments made on<sup>F173</sup> him in respect of chargeable periods other than that to which the claim relates<sup>F174</sup>.

<sup>M22</sup>(4) If any appeal is brought from the decision of the Board on the claim the Special Commissioners shall hear and determine the appeal in accordance with the principles to be followed by the Board in determining claims under this section; and neither the appellant nor the Board shall be entitled to require a case to be stated under section 56 of this Act otherwise than on a point of law arising in connection with the computation of profits<sup>F174</sup>.

(4A) . . . . .<sup>F176</sup>

<sup>M23</sup>(5) In this section “profits”—

- (a) in relation to income tax, means income,
- (b) in relation to capital gains tax, means chargeable gains,
- (c) in relation to corporation tax, means profits as computed for the purposes of that tax.

(d) . . . . .<sup>F176F177F173</sup>

**Textual Amendments**

**F172** For modification in relation to Lloyd's Underwriters see S.I. 1974 No. 896 regn.4(1) (in Part III Vol.5)

**F173** For modification in relation to petroleum revenue tax and supplementary petroleum duty see Oil Taxation Act 1975 s.1 and Sch.2 para.1(1)—Oil Taxation Acts.

**F174** See—Finance Act 1981 s.134 and Sch.17 para.18 for the application of this provision to the special tax on banking deposits. S.I. 1989 No. 421, Schedule (in Part III Vol. 5) for modification in relation to Lloyd's underwriters for 1986-87. S.I. 1990 no. 627, regn. 3(2) and Schedule (in Part III Vol. 5) for modification in relation to Lloyd's underwriters for 1987-88.

**F175** Words omitted repealed for 1973—74 et seq. by Finance Act 1971 ss.37 and 38 and Sch.14 Part II.

**F176** A development land tax provision added by Development Land Tax Act 1976 (c. 24) Sch.8 para.5 Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.]

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**F177** See Finance Act 1981 s.134 and Sch.17 para.18 for the application of this provision to the special tax on banking deposits.

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

**C20** S. 33(1) modified (19.4.1991) for the assessment year 1988-1989 by S.I. 1991/851, regs. 1, 9, Sch. 2

**C21** S. 33(1) modified (28.3.1992) for the year of assessment 1989 - 90 by S.I. 1992/511, reg. 9, Sch.2

**C22** S. 33(1) applied (with modifications) (23.3.1993 with effect for the year of assessment 1990-91 only) by S.I. 1993/415, regs. 1(1), 9, Sch. 2

#### Marginal Citations

**M21** 1952

s.66(3).

**M22** 1964

(M) Sch.IV

**M23** 1952

s.66; 1965 Sch.X 1(1); 1966 Sch.VI 27(1).

#### Time limits <sup>F178</sup>

#### Textual Amendments

**F178** See Finance (No. 2) Act 1987 s. 84(7)—nothing in ss.34 to 40 applies to assessments made under Finance (No. 2) Act 1987 s. 84.

### 34 Ordinary time limit of six years. [1952 ss.47(1)(3), 229(3); 1965 Sch.X 1(1); 1966 Sch.VI 7.]

- (1) Subject to the following provisions of this Act, and to any other provisions of the Taxes Acts allowing a longer period in any particular class of case, an assessment to tax may be made at any time not later than six years after the end of the chargeable period <sup>F179F180</sup> to which the assessment relates . . . <sup>F181F182</sup>.
- (2) An objection to the making of any assessment on the ground that the time limit for making it has expired shall only be made on an appeal against the assessment.

#### Textual Amendments

**F179** For modification in relation to petroleum revenue tax and supplementary petroleum duty see Oil Taxation Act 1975 s.1 and Sch.2 para.1(1)—Oil Taxation Acts.

**F180** For modification see S.I. 1974 No. 896 regn.4(2) (in Part III Vol.5) regn. 4(2) in relation to Lloyd's Underwriters.

**F181** Words relating to development land tax added by Development Land Tax Act 1976 (c. 24) Sch.8 para.6. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.

**F182** See—Income and Corporation Taxes Act 1970 (c. 10, SIF 63:1) ss.278(6) and 279(5)—adjustments when company ceases to be a member of a group. Income and Corporation Taxes Act 1970 (c. 10, SIF 63:1) s.280(6)—adjustments consequential on depreciable transaction within a group of companies. Finance (No. 2) Act 1987 s. 84(7)—nothing in ss. 34 to 40 applies to assessments made under Finance (no. 2) Act 1987 s. 84. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 12—assessments to corporation tax consequential on determination of accounting period. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 41(1)—rent etc., received after lost rent relief allowed. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 67(7) and (8)—adjustments

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in respect of sources of income chargeable to income tax under Sch. D Case III, IV or V, which are disposed of or cease to yield income. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 108—receipts accruing after discontinuance of trade, etc. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 448 and 806—adjustments in respect of double taxation relief. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 455(4)—assessments in respect of sums paid into special reserve funds by underwriters who have died. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 488—adjustments on revocation of direction under that section (co-operative housing associations). Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 535—assessments consequential on claims under that section (copyright sold after ten years). Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) ss. 569 and 572—repayment of amounts paid under schemes for rationalizing industry or statutory redundancy schemes. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 584(2)—adjustments in respect of overseas profits ceasing to be unremittable. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 585—adjustments in respect of delayed remittances of overseas income. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 700—adjustments on completion of administration of deceased person's estate. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 703—cancellation of tax advantages from certain transactions in securities. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 781—cancellation of certain reliefs for payments under leases of plant, etc. Capital Allowances Act 1990 (c. 1, SIF 63:1) s. 1(8), (9)—withdrawal of initial allowance where investment grant made. S.I. 1956 No. 1230 (in Part III Vol. 5) regs. 18 and 21—adjustments in respect of purchased life annuities. S.I. 1989 No. 421, Schedule (in Part III Vol. 5) modifications for underwriters for 1986-87. S.I. 1990 No. 627, regn. 3(2) and Schedule (in Part III Vol. 5)—modification for underwriters for 1987-88. Transport Act 1962 (10 & 11 Eliz. 2 c.46) s.42(2)—adjustments of capital allowances in consequence of directions under s.40(3) of that Act.

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

- C23** S. 34 excluded (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 248(2), 289 (with ss. 60, 101(1), 171, 201(3))  
S. 34 modified (16.7.1992) by Income and Corporation Taxes Act 1988 (c. 1), Sch. 3 para. 6E (which was inserted (16.7.1992 having effect in relation to transactions effected on or after 1.10.1992) by Finance (No. 2) Act 1992 (c. 48), s. 63, Sch. 11 paras. 2(2), 6)
- C24** S. 34(1) applied (with modification) (19.4.1991) for the assessment year 1988-1989 by S.I. 1991/851, regs. 1, 3(2), Sch. 1  
S. 34(1) extended (with modifications) (28.3.1992) for the year of assessment 1989-90 by S.I. 1992/511, regs. 1, 3, Sch. 1
- C25** S. 34(1) applied (with modifications) (23.3.1993 with effect for the year of assessment 1990-91 only) by S.I. 1993/415, regs. 1(1), 3(2), Sch. 1

**35 Emoluments received after year for which they are assessable.[1961 s.28(2)(3); 1964(M) Sch.IV.]**

- (1) Where income to which this section applies is received in a year of assessment subsequent to that for which it is assessable, assessments to income tax as respects that income may be made at any time within six years after the year of assessment in which it was received.<sup>F183</sup>
- (2) The income to which this section applies is any income which is chargeable to tax under Schedule E, but which is not taken into account in an assessment to income tax for the year of assessment in which it is received; and for the purposes of this section—
  - (a) .....<sup>F184</sup>
  - (b) any payment chargeable to tax by virtue of section [148<sup>F185</sup>] of the principal Act (payments on retirement or loss of office or employment) shall

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notwithstanding anything in subsection (4) of that section (notional date of payment) be treated as having been received at the time it was actually received.

#### Textual Amendments

- F183** See Finance (No. 2) Act 1987 s. 84(7)—*nothing in ss.34 to 40 applies to assessments made under Finance (No. 2) Act 1987 s. 84.*
- F184** S. 35(2)(a) *repealed by* Finance Act 1976 Schs.9 para.10 and 15 Part III *in relation to income assessable for 1977—78 and subsequent years.*
- F185** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 32.

### 36 [Fraudulent or negligent conduct.

- (1) An assessment on any person (in this section referred to as “the person in default”) for the purpose of making good to the Crown a loss of tax attributable to his fraudulent or negligent conduct or the fraudulent or negligent conduct of a person acting on his behalf may be made at any time not later than twenty years after the end of the chargeable period to which the assessment relates.
- (2) Where the person in default is an individual who carried on a trade or profession in partnership with another individual, or with other persons at least one of whom is an individual, at any time in the year for which the assessment is made, an assessment in respect of the profits or gains of the trade or profession for the purpose mentioned in subsection (1) above may be made not only on the person in default but also on his partner or, as the case may be, on any of his partners who is an individual.
- (3) If the person on whom the assessment is made so requires, in determining the amount of the tax to be charged for any chargeable period in any assessment made for the purpose mentioned in subsection (1) above, effect shall be given to any relief or allowance to which he would have been entitled for that chargeable period on a claim or application made within the time allowed by the Taxes Acts <sup>F186</sup>.]
- (4) Any act or omission such as is mentioned in section 98B below on the part of a grouping (as defined in that section) or member of a grouping shall be deemed for the purposes of subsection (1) above to be the act or omission of each member of the grouping <sup>F187</sup> <sup>F188</sup>.]

#### Textual Amendments

- F186** Finance Act 1989 s. 149(1) *but shall not affect making of assessments before 1983-84 or for accounting periods ending before 1 April 1983. Previously*  
“Fraud or wilful default. **36.** Subject to section 41 below, where any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to tax, assessments on that person to tax may, for the purpose of making good to the Crown any loss of tax attributable to the fraud or wilful default, be made at any time **(a)**”  
**(a)**  
*See [Taxes Management Act 1970 \(c. 9, SIF 63:1\)](#) s. 119 and Sch. 4 para. 3(1)—not applicable to tax for years before 1936—37.*
- F187** Finance Act 1990 s. 69 and Sch. 11 para. 4(1) *on and after 1 July 1989.*
- F188** *See—[Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 13—application of s. 36 to assessments to advance corporation tax. [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 16—application of s. 36 to assessments to income tax on company payments which are not*

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distributions. Finance Act 1988 (c. 39, SIF 63:1,2) Sch. 5 para. 9—underwriter's agent. S.I. 1987 No. 530 (in Part III Vol. 5) regn. 11(2)—application of ss. 36 and 37 to assessments in relation to non-resident entertainers and sportsmen.

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

**C26** S. 36(1) applied (with modifications) (19.4.1991) for the year of assessment 1988-1989 by S.I. 1991/851, regs. 1, 3(2), Sch. 1

**37 Neglect: income tax and capital gains tax. [1960 s.51; 1965 Sch.X 1(1).]**

- (1) *Where, for the purpose of making good to the Crown a loss of tax wholly or partly attributable to the fraud, wilful default or neglect of any person, an assessment for any year (in this section referred to as “the normal year”) has been made on him not later than six years after the end of that year<sup>F189</sup>, assessments to tax for earlier years may, to the extent provided by the following provisions of this section, be made on him notwithstanding that, but for this section, they would be out of time<sup>F190</sup>.*
- (2) *No assessment under this section shall be made on any person except for the purpose of making good to the Crown a loss of tax attributable to his neglect.*
- (3) *An assessment under this section for any year ending not earlier than six years before the end of the normal year may, subject to section 41 below, be made at any time not later than the end of the year of assessment following that in which the tax covered by the assessment mentioned in subsection (1) of this section is finally determined.*
- (4) *An assessment under this section for any year ending earlier than six years before the end of the normal year may only be made with the leave of the General or Special Commissioners, given under the following provisions of this section.*
- (5) *Where an assessment for any year (in this section referred to as “the earlier year”) has been made on any person more than six years after the end of that year—*
  - (a) *under this section, or*
  - (b) *(in the circumstances mentioned in subsection (6) below) under section 36 above,*

*and it appears to the General or Special Commissioners, on an application made to them not later than the end of the year of assessment following that in which the tax covered by the assessment for the earlier year is finally determined, that there are reasonable grounds for believing that tax for a year ending not earlier than six years before the end of the earlier year was or may have been lost to the Crown owing to the neglect of that person, they may give leave for the making on him of an assessment under this section for that year.*
- (6) *The circumstances referred to in subsection (5)(b) above are that the assessment for the earlier year was one of a number of assessments made on that person for the purpose mentioned in subsection (1) above and that of the years for which those assessments were made—*
  - (a) *the latest, apart from the normal year, ended not more than six years before the end of the normal year;*
  - (b) *the next, if any, ended not more than six years before the end of the said latest year,*

*and so on for any earlier years.*

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- (7) *An application for leave under this section may be made by the inspector or the Board, and on any such application the person to be assessed shall be entitled to appear and be heard.*
- (8) *In determining the amount of the tax to be charged for any year in any assessment made under this section effect shall be given, if the person to be assessed so requires, to any relief or allowance to which he would have been entitled for that year on a claim or application made within the time allowed by the Taxes Acts.*
- <sup>M24</sup>(9) *In this section and section 38 below “tax” does not include corporation tax, and this section shall apply separately to income tax and to capital gains tax, so that the making of an assessment to one of those taxes shall not affect the time allowed for the making of an assessment to the other tax.*

<sup>F191</sup>(10) . . . . . <sup>F192</sup>

#### Textual Amendments

- F189** See S.I. 1974 No. 896 regn. 4(2) (in Part III Vol.5) and S.I. 1989 No. 421, Schedule, for modification in relation to Lloyd's Underwriters.
- F190** See—Finance (No. 2) Act 1987 s.84(7)—nothing in ss. 34 to 40 applies to assessments made under Finance (no. 2) Act 1987 s. 84. [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 16—application of s. 37 to assessments to income tax on company payments which are not distributions. S.I. 1987 No. 530 (in Part III Vol. 5) regn. 11(2)—application of ss. 36 and 37 to assessments in relation to non-resident entertainers and sportsmen. S.I. 1990 No. 627, regn. 3(2) and Schedule (in Part III Vol. 5)—modification for underwriters for 1987-88.
- F191** Repealed by Finance Act 1989 ss. 149(2), 187 and Sch. 17 Part VIII but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983. And see—[Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) s. 35 and Sch. 3—married couples—para. 29 re time limits for assessments. [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) Sch. 5 para. 9—underwriter's agent.
- F192** A development land tax provision added by [Development Land Tax Act 1976 \(c. 24\)](#) Sch.8 para.7. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.

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

- C27** S. 37(1) applied (with modifications) (19.4.1991) for the year of assessment 1988-1989 by [S.I. 1991/851, regs. 1, 3\(2\), Sch. 1](#)

#### Marginal Citations

- M24** 1969  
Sch.XX 19(4).

### 37A [Effect of assessment where allowances transferred.]

Where an assessment is made on any person for the purpose of making good a loss of tax wholly or partly attributable to [fraudulent or negligent conduct <sup>F193</sup>], the fact that the person's total income for any year of assessment is assessed as greater than it was previously taken to be shall not affect the validity of any deduction made from the total income of the person's spouse by virtue of section 257B, 257D or 265 of the principal Act; and where any such deduction has been made in such a case, the total amount which the first-mentioned person is entitled to deduct from total income for the year in question shall be correspondingly reduced <sup>F194</sup>.]



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### Textual Amendments

**F193** Finance Act 1989 s. 149(4)(a)(i) *but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983. Previously*  
“fraud, wilful default or neglect”.

**F194** Finance Act 1988 s. 35 and Sch. 3 para. 30 *for 1990-91 and subsequent years.*

## 38 Modification of s.37 in relation to partnerships. [1960 s.52.]

(1) *The following provisions of this section shall have effect where such an assessment to tax as is mentioned in section 37(1) above was made on any person who at any time carried on a trade, profession or vocation in partnership with any other person (whether the assessment was made in respect of the profits or gains thereof or not).*

<sup>F195</sup>(2) *In this section—*

“the business” means the trade, profession or vocation mentioned in subsection (1) of this section,

“the normal year” has the same meaning as in section 37 above,

“the person in default” means the person mentioned in section 37(1) above.

(3) *Subject to subsection (5) <sup>F196</sup> of this section, an assessment in respect of the profits or gains of the business may be made under section 37 above not only on the person in default but on any person who carried on the business at any time in the year for which the assessment is made and either—*

(a) *then carried it on in partnership with the person in default or with a person who at any time in the normal year carried it on in partnership with the person in default; or*

(b) *at any time in the normal year carried on the business in partnership with the person in default;*

*and may be made for the purpose of making good to the Crown a loss of tax attributable to the neglect of any person who carried on the business at any time in the year for which the assessment is made.*

(3A) ..... <sup>F197</sup>

(4) *For the purpose of determining whether leave may be given for the making of such an assessment on two or more persons who carried on the business in partnership subsections (5) and (6) of section 37 above shall have effect as if the neglect referred to therein were the neglect of any of those persons and as if the assessments referred to therein were assessments made on any one of those persons.*

(5) *Where such an assessment is made on two or more persons who carried on the business in partnership and those persons include any person (in this subsection referred to as “the exempted partner”) who was not charged in any such assessment as is mentioned in subsection (1) of this section, the tax charged in the assessment—*

(a) *shall not include tax on so much of the profits or gains as would fall to be included in the exempted partner’s total income; and*

(b) *shall not be recoverable from the exempted partner;*

*and where a person who was not charged as aforesaid carried on the business otherwise than in partnership no such assessment shall be made on him.* <sup>F198</sup>

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### Textual Amendments

**F195** See Finance (No. 2) Act 1987 s. 84(7)—*nothing in ss. 34 to 40 applies to assessments made under Finance (No. 2) Act 1987 s. 84.*

**F196** Amended in relation to development land tax by [Development Land Tax Act 1976 \(c. 24\)](#) Sch.8 para.8 and restored to the original by Finance Act 1985 s.93(7) and Sch.25 para.4.

**F197** A development land tax provision added by [Development Land Tax Act 1976 \(c. 24\)](#) Sch.8 para.8. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.

**F198** Repealed by Finance Act 1989 ss. 149(2), 187 and Sch. 17 Part VIII but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983.

## 39 Neglect: corporation tax. [1966 Sch.VI 9(1)—(9).]

- (1) *Where, for the purpose of making good to the Crown a loss of tax wholly or partly attributable to the fraud, wilful default or neglect of any person, an assessment to corporation tax for any accounting period (in this section referred to as “the normal accounting period”) has been made on him not later than six years after the end of that accounting period, assessments to corporation tax, income tax and the profits tax for earlier accounting periods, years of assessment and chargeable accounting periods may, to the extent provided by the following provisions of this section, be made on him notwithstanding that, but for this section, they would be out of time<sup>F199</sup>.*
- (2) *No assessment under this section shall be made on any person except for the purpose of making good to the Crown a loss of tax attributable to his neglect.*
- (3) *An assessment under this section for any accounting period, year of assessment or chargeable accounting period ending not earlier than six years before the end of the normal accounting period may, subject to section 41 below, be made at any time not later than one year after the time when the tax covered by the assessment mentioned in subsection (1) above is finally determined.*
- (4) *An assessment under this section for any accounting period, year of assessment or chargeable accounting period ending earlier than six years before the end of the normal accounting period may only be made with the leave of the General or Special Commissioners, given under the following provisions of this section.*
- (5) *Where an assessment for any accounting period, year of assessment or chargeable accounting period (in this section referred to as “the earlier period”) has been made on any person more than six years after the end of that period—*
  - (a) *under this section, or*
  - (b) *(in the circumstances mentioned in subsection (6) below) under section 36 above,*

*and it appears to the General or Special Commissioners, on an application made to them not later than one year after the tax covered by the assessment for the earlier period is finally determined, that there are reasonable grounds for believing that tax for an accounting period, year of assessment or chargeable accounting period ending not earlier than six years before the end of the earlier period was or may have been lost to the Crown owing to the neglect of that person, they may give leave for the making on him of an assessment under this section for that accounting period, year of assessment or chargeable accounting period.*

- (6) *The circumstances referred to in subsection (5)(b) above are that the assessment for the earlier period was one of a number of assessments made on that person for the*

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purpose mentioned in subsection (1) above and that of the accounting periods, years of assessment and chargeable accounting periods for which those assessments were made—

- (a) the latest, apart from the normal accounting period, ended not more than six years before the end of the normal accounting period,
  - (b) the next, if any, ended not more than six years before the end of the said latest accounting period, year of assessment or chargeable accounting period,
- and so on for any earlier accounting periods, years of assessment or chargeable accounting periods.
- (7) An application for leave under subsection (5) above may be made by the inspector or the Board, and on any such application the person to be assessed shall be entitled to appear and be heard.
- (8) In determining the amount of the tax to be charged for any accounting period, year of assessment or chargeable accounting period in any assessment made under this section effect shall be given, if the person to be assessed so requires, to any relief or allowance to which he would have been entitled for that accounting period, year of assessment or chargeable accounting period on a claim or application made within the time allowed by the Taxes Acts or the enactments relating to the profits tax, as the case may be.
- (9) For the purposes of this section the year 1965—66 and any earlier year of assessment, and any chargeable accounting period, is to be regarded as earlier than any corporation tax accounting period.
- <sup>M25</sup>(10) For the purpose of making assessments to income tax for the year 1965—66 and earlier years of assessment, section 38 above shall apply in relation to this section as it applies in relation to section 37 above, but as if references in the said section 38 to the normal year were references to the normal accounting period, and with any other necessary modifications.<sup>F200</sup>

#### Textual Amendments

**F199** See—Finance (No. 2) Act 1987 s. 84(7)—nothing in ss. 34 to 40 applies to assessments made under Finance (No. 2) Act 1987 s. 84. **Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)** Sch. 13—application of s. 39 to assessments to advance corporation tax.

**F200** Repealed by Finance Act 1989 ss. 149(2), 187 and Sch. 17 Part VIII but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983.

#### Marginal Citations

**M25** 1966  
Sch. VI 10

#### 40 Assessment on personal representatives. [1952 s.47(2); 1961 s.28(2); 1965 Sch.X 1(1).] [1960 s.53; 1965 Sch.X 1(1).]

- (1) For the purpose of the charge of tax on the executors or administrators of a deceased person in respect of the income, or chargeable gains, which arose or accrued to him before his death, the time allowed by section 34, 35 or 36 above shall in no case extend beyond the end of the third year next following the year of assessment<sup>F201</sup> in which the deceased died<sup>F202</sup>.

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- (2) Subject to section 41 below<sup>F203</sup>, for the purpose of making good to the Crown any loss of tax attributable to the [fraudulent or negligent conduct<sup>F204</sup>] of a person who has died, an assessment on his personal representatives to tax for any year of assessment ending not earlier than six years before his death may be made at any time before the end of the third year next following the year of assessment<sup>F201</sup> in which he died.
- (3) In this section<sup>F205</sup> “tax” means income tax or capital gains tax<sup>F206</sup>.
- (4) Any act or omission such as is mentioned in section 98B below, on the part of a grouping (as defined in that section) or member of a grouping shall be deemed for the purposes of subsection (2) above to be the act or omission of each member of the grouping<sup>F207</sup>.<sup>F208</sup>

#### Textual Amendments

- F201** See—S.I. 1984 No. 896 regn. 4(2) (in Part III Vol.5) regn. 4(2) and S.I. 1989 No. 421, Schedule modification in relation to Underwriters. S.I. 1990 No. 627, regn. 3(2) and Schedule (in Part III Vol. 5)—modification in relation to underwriters in 1987-88.
- F202** See Finance (No. 2) Act 1987 s. 84(7)—nothing in ss. 34 to 40 applies to assessments made under Finance (No. 2) Act 1987 s. 84.
- F203** Words repealed by Finance Act 1989 s. 187 and Sch. 17 Part VIII.
- F204** Finance Act 1989 s. 149 para. (4)(a)(ii) but not to affect making of assessments before 1983-84 or for accounting periods ending before 1 April 1983. Previously “fraud, wilful default or neglect”.
- F205** Amended in relation to development land tax by Development Land Tax Act 1976 Sch. 8 para. 9 and restored to the original by Finance Act 1985 s. 93(7) and Sch. 25 para. 5.
- F206** See Finance Act 1988 (c. 39, SIF 63:1,2) Sch. 5 para. 9—underwriter’s agent.
- F207** Finance Act 1990 s. 69 and Sch. 11 para. 4(2) on and after 1 July 1989.
- F208** Development land tax provisions were added by Development Land Tax Act 1976 Sch. 8 para. 9 Development Land Tax Act 1976 repealed by Finance Act 1985 s. 98(6) and Sch. 27 Part X.

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

- C28** S. 40 modified (27.7.1993) by 1993 c. 34, s. 173, Sch. 19 Pt. 1 para. 8
- C29** S. 40(1)(2) applied (with modifications) (19.4.1991) for the year of assessment 1988-1989 by S. I. 1991/851, regs. 1, 3(2), Sch. 1
- S. 40(1)(2) extended (with modifications) (28.3.1992) for the year of assessment 1989-90 by S.I. 1992/511, regs. 1, 3, Sch. 1
- C30** S. 40(1)(2) applied (with modifications) (23.3.1993 with effect for the year of assessment 1990-91 only) by S.I. 1993/415, regs. 1(1), 3(2), Sch. 1

#### 41 Leave of General or Special Commissioners required for certain assessments. [1964(M) s.6; 1965 Sch.X 1(1); 1966 Sch.VI 8(1), 9(3).]

- (1) An assessment to tax made by virtue of—
- section 36 of this Act, or
  - so far as they relate to an assessment for a period ending not earlier than six years before the end of the normal year or normal accounting period, section 37, 38 or 39 of this Act, or
  - section 40(2) of this Act,
- may only be made with the leave of a General or Special Commissioner given on being satisfied by an inspector or other officer of the Board that there are reasonable

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grounds for believing that tax has or may have been lost to the Crown owing to the fraud or wilful default or neglect of any person.

(2) The General or Special Commissioner giving leave to make such an assessment shall take no part in the proceedings, and shall not be present, when any appeal against the assessment is heard or determined<sup>F209F210</sup>.

(3) ..... F211

**Textual Amendments**

**F209** See Finance Act 1988 (c. 39, SIF 63:1,2) Sch. 5 para. 9—underwriter's agent.

**F210** Repealed by Finance Act 1989 ss. 149(2), 187 and Sch. 17 Part VIII but not to affect making of assessments before 1983-84 or for accounting periods ending before 1 April 1983.

**F211** A development land tax provision added by Development Land Tax Act 1976 (c. 24) Sch. 8 para. 10. Development Land Tax Act 1976 repealed by Finance Act 1985 s. 98(6) and Sch. 27 Part X.

41A, ..... F212  
41B,  
41C.

**Textual Amendments**

**F212** See Finance Act 1990 s. 95 for insertion of ss. 41A, 41B and 41C (corporation tax determinations) in relation to accounting periods ending after the appointed day (see Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 10); and see Finance Act 1990 s. 96 (consequential group relief adjustments) and Finance Act 1990 s. 102 and Sch. 16 (claims for capital allowances).

*Claims*

**42 Procedure for making claims. [1964(M) s.9(2)(4), Sch.II.] [1964(M) s.9(5).]**

(1) Where any provision of the Taxes Acts provides for relief to be given, or any other thing to be done, on the making of a claim, this section shall, unless otherwise provided, have effect in relation to the claim<sup>F213</sup>.

(2) Subject to any provision in the Taxes Acts for a claim to be made to the Board, every claim shall be made to an inspector.

(3) An appeal may be brought against the decision of the inspector or the Board on a claim by giving written notice to the inspector or the Board as the case may be within thirty days of receipt of written notice of that decision:

Provided that the time for appealing against the Board's decision—

- (a) under section [278<sup>F214</sup>] of the principal Act (personal reliefs for non-residents), or
- (b) on a question of residence, ordinary residence or domicile, or
- (c) in the case of a claim under [subsection 5 of section 614<sup>F214</sup>] of the principal Act (pension funds for service abroad) on the question whether a fund is one to which [section 615(3) of that Act<sup>F214</sup>] applies, shall be three months from receipt of notice of their decision.

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(4) Schedule 2 to this Act shall have effect as respects the Commissioners to whom an appeal lies under this section.

<sup>M26</sup>(5) A claim shall be in such form as the Board may determine and the form of claim—  
(a) shall provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the knowledge and belief of the person making the claim, and  
(b) may require—  
(i) a return of profits to be made in support of the claim, and  
(ii) any such particulars of assets acquired as may be required in a return by virtue of subsections (2) and (3) of section 12 of this Act <sup>F215</sup>,  
and, in the case of a claim made by or on behalf of a person who is not resident, or who claims to be not resident or not ordinarily resident or not domiciled, in the United Kingdom, the inspector or the Board may require a statement or declaration in support of the claim to be made by affidavit. <sup>F216</sup>

(5A) ..... <sup>F216</sup>

<sup>M27</sup>(6) A claim may be made on behalf of an incapacitated person by his trustee, guardian, tutor or curator; and a person who under Part VIII of this Act has been charged with tax on the profits of another person may make any such claim for relief by discharge or repayment of that tax <sup>F217</sup>.

<sup>M28</sup>(7) The inspector or the Board may give effect to any claim by discharge of tax or, on proof to the satisfaction of the inspector or the Board that any tax has been paid by the claimant by deduction or otherwise, by repayment of tax <sup>F218</sup>.

(8) Where a claim has been made and the claimant subsequently discovers that an error or mistake has been made in the claim, the claimant may make a supplementary claim within the time allowed for making the original claim.

(9) On an appeal on a claim, the Commissioners may vary the decision appealed against whether or not the variation is to the advantage of the appellant.

(10) Where it is necessary, in order to give effect to a claim, or as a result of allowing a claim, to make any adjustment by way of an assessment on any person, the assessment shall not be out of time if it is made within one year of the final determination of the claim.

For the purposes of this subsection, a claim shall not be deemed to be finally determined until the amount recoverable under the claim can no longer be varied, whether by any Commissioners on appeal or by the order of any court.

(10A) ..... <sup>F216</sup>

<sup>M29</sup>(11) In this section “profits”—  
(a) in relation to income tax, means income,  
(b) in relation to capital gains tax, means chargeable gains,  
(c) in relation to corporation tax, means profits as computed for the purposes of that tax.  
(d) ..... <sup>F219F220</sup>

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### Textual Amendments

- F213** See—Taxes Management Act 1970 (c. 9 SIF 63:1) s.119 and Sch.4 para.4—application of s.42 to claims under repealed provisions. Finance Act 1981 s.134 and Sch.17 para.18—application of s.(1) to (5) and (7) to (9) to the special tax on banking deposits. [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\) s. 489\(7\)](#)—s. 42 not to apply to certain claims by self-build societies. [Capital Allowances Act 1990 \(c. 1, SIF 63:1\) s. 17\(3\)](#)—s. 42 to apply to claims to carry back balancing allowances in respect of mining structures etc. [Capital Allowances Act 1990 \(c. 1, SIF 63:1\) s. 140\(3\)](#)—s. 42 not to apply to certain claims for capital allowances for income tax purposes. [Capital Allowances Act 1990 \(c. 1, SIF 63:1\) s. 145\(3\)](#)—s. 42 to apply to certain claims for capital allowances for corporation tax purposes where relief given by discharge or repayment of tax. Finance Act 1990 s. 100 and Sch. 15—s. 42 not to apply for claims for group relief under [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\) Sch. 17A](#) for accounting periods ending after a day to be appointed (See [Income and Corporation Taxes Act 1988 s. 10](#)). Finance Act 1990 s. 102 and Sch. 16—s. 42 not to apply to claims for capital allowances made under [Capital Allowances Act 1990 \(c. 1, SIF 63:1\) Sch. A1](#) and falling to be made for accounting periods ending after a day to be appointed (see [Income and Corporation Taxes Act 1988 s. 10](#)). Income Tax (Sub-Contractors in the Construction Industry) Regns. 1975 (S.I. 1975 No. 1960) (in Part III Vol.5) regn. 13(2)—application of s.42 to appeals against decisions on claims under regn. 13. Income Tax (Interest Relief) Regulations 1982 (S.I. 1982 No. 1236) (in Part III Vol.5) regn. 14(1)—s.42 not applicable to claims under these regulations. Personal Equity Plan Regns. 1986 (S.I. 1986 No. 1948) (in Part III Vol. 5) regn. 26(1)—s. 42 not to apply to claims under S.I. 1986 No. 1948. Income Tax (Entertainers and Sportsmen) Regns. 1987 (S.I. 1987 No. 530) (in Part III Vol. 5) Regn. 13—application of s. 42 to claims that excessive tax payments made in relation to non-resident entertainers and sportsmen. Occupational Pension Schemes (Additional Voluntary Contributions) Regns. 1987 (S.I. 1987 No. 1749) (in Part III Vol. 5) Regn. 9—s. 42 not to apply to claims under S.I. 1987 No. 1749.
- F214** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\) Sch. 29 para. 32.](#)
- F215** See [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\) s.45](#)—returns as respects chargeable gains accruing to a married woman.
- F216** See Finance Act 1990 s. 97(3), (5) for changes in relation to claims relating to income of accounting periods ending after the appointed day (see [Income and Corporation Taxes Act 1988 s. 10](#))
- F217** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\) s. 231](#)—payment of tax credit on dividends etc.
- F218** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\) s. 824](#)—repayment supplements.
- F219** A development land tax provision added by [Development Land Tax Act 1976 \(c. 24\) Sch.8 para.11.](#) [Development Land Tax Act 1976](#) repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.
- F220** S. 42 not to apply to claims under S.I. 1989 No. 469—personal equity plan regulations.

### Modifications etc. (not altering text)

- C31** S. 42 applied (with modifications) by [S.I. 1993/743, reg. 20\(3\)](#)
- C32** S. 42 modified (27.7.1993) by [1993 c. 34, s. 194\(4\)](#)

### Marginal Citations

- M26** 1964, 1965  
1964(M) s.9(6); 1965 Sch.X 6.
- M27** 1964  
(M) s.9(7).
- M28** 1964  
(M) s.9(8)-(11).
- M29** 1964(M)s.9; 1965 Sch.X 1(1); 1966 Sch. VI 11(1),27(1).

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**43 Time limit for making claims. [1952 s.507; 1964(M) Sch.IV; 1965 Sch.X 1(1); 1966 Sch.VI 11(2).] [1964(M) Sch.IV; 1965 Sch.X 1(1).]**

- (1) Subject to any provision of the Taxes Acts prescribing a longer or shorter period <sup>F221</sup>, no claim for relief under the Taxes Acts shall be allowed unless it is made within six years from the end of the chargeable period <sup>F222</sup> to which it relates . . . <sup>F223F224</sup>.
- (2) A claim (including a supplementary claim) which could not have been allowed but for the making of an assessment to income tax or capital gains tax after the year of assessment to which the claim relates may be made at any time before the end of the year of assessment following that in which the assessment was made.
- (3) . . . . . <sup>F225</sup>

**Textual Amendments**

- F221** *As to longer time limits, see—Income and Corporation Taxes Act 1970 (c. 10, SIF 63:1) s.280(6)—adjustments consequential on depreciatory transaction within a group of companies. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 36—adjustment of charge on sale of land with right to reconveyance. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 62—commencing provisions for income tax under Sch. D Cases I and II. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 67—sources of income chargeable to income tax under Sch. D Case III, IV or V which are disposed of or cease to yield income. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 419(4)—adjustments of assessments on close companies to tax on loans to participators and to shortfall tax. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) ss. 448 and 806—double taxation relief. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 534—relief for copyright royalties, etc. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 585—relief on delayed remittances of overseas income. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 619—consequential adjustments of relief for retirement annuity premiums. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 700—adjustments on completion of administration of deceased person's estate. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 781(7)—adjustments on cancellation of certain reliefs for payments under leases of plant etc. S.I. 1956 No. 1230 regn.21 (in Part III Vol.5) regn. 21—adjustments in respect of certain purchased life annuities.*
- F222** *See—S.I. 1974 No. 896 regn. 4(2) (in Part III Vol.5) and S.I. 1989 No. 421, Schedule for modification in relation to Lloyd's Underwriters. S.I. 1990 No. 627, regn. 3(2) and Schedule (in Part III Vol. 5)—modification for underwriters for 1987-88.*
- F223** *Words relating to development land tax added by Development Land Tax Act 1976 (c. 24) Sch.8 para.12. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.*
- F224** *See—Finance Act 1981 s.134 and Sch.17 para.18—application of s.43(1) to the special tax on banking deposits. Income and Corporation Taxes Act 1988 Sch. 26 application of s.43 to a claim for relief under Sch. 26 where the chargeable profits of a controlled foreign company are apportioned to a company resident in the UK.*
- F225** *S. 43(3) added by Development Land Tax Act 1976 (c. 24) Sch. 8 para. 12. Development Land Tax Act 1976 repealed by Finance Act 1985 (c.54), s. 98(6), Sch. 27 Part X.*

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

- C33** *S. 43 modified (27.7.1993) by 1993 c. 34, s. 194(4)*
- C34** *S. 43(1) modified (19.4.1991) for the year of assessment 1988-1989 by S.I. 1991/851, regs. 1, 9, Sch. 2*  
*S. 43(1) modified (28.3.1992) for the year of assessment 1989-90 by S.I. 1992/511, reg. 9, Sch.2*
- C35** *S. 43(1) applied (with modifications) (23.3.1993 with effect for the year of assessment 1990-91 only) by S.I. 1993/415, regs. 1(1), 9, Sch.2*



*Status:* Point in time view as at 06/03/1992. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* Taxes Management Act 1970 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### **43A [Further assessments: claims etc.**

- (1) This section applies where—
  - (a) by virtue of section 29(3) of this Act an assessment is made on any person for a chargeable period, and
  - (b) the assessment is not made for the purpose of making good to the Crown any loss of tax attributable to his fraudulent or negligent conduct or the fraudulent or negligent conduct of a person acting on his behalf.
- (2) Without prejudice to section 43(2) above but subject to section 43B below, where this section applies—
  - (a) any relevant claim, election, application or notice which could have been made or given within the time allowed by the Taxes Acts may be made or given at any time within one year from the end of the chargeable period in which the assessment is made, and
  - (b) any relevant claim, election, application or notice previously made or given may at any such time be revoked or varied—
    - (i) in the same manner as it was made or given, and
    - (ii) by or with the consent of the same person or persons who made, gave or consented to it (or, in the case of any such person who has died, by or with the consent of his personal representatives),except where by virtue of any enactment it is irrevocable.
- (3) For the purposes of this section and section 43B below, a claim, election, application or notice is relevant in relation to an assessment for a chargeable period if—
  - (a) it relates to that chargeable period or is made or given by reference to an event occurring in that chargeable period, and
  - (b) it or, as the case may be, its revocation or variation has or could have the effect of reducing any of the liabilities mentioned in subsection (4) below.
- (4) The liabilities referred to in subsection (3) above are—
  - (a) the increased liability to tax resulting from the assessment,
  - (b) any other liability to tax of the person concerned for—
    - (i) the chargeable period to which the assessment relates, or
    - (ii) any chargeable period which follows that chargeable period and ends not later than one year after the end of the chargeable period in which the assessment was made.
- (5) Where a claim, election, application or notice is made given, revoked or varied by virtue of subsection (2) above, all such adjustments shall be made, whether by way of discharge or repayment of tax or the making of assessments or otherwise, as are required to take account of the effect of the taking of that action on any person's liability to tax for any chargeable period.
- (6) The provisions of this Act relating to appeals against decisions on claims shall apply with any necessary modifications to a decision on the revocation or variation of a claim by virtue of subsection (2) above <sup>F226</sup>.]

#### **Textual Amendments**

**F226** Finance Act 1989 s. 150(1) for any assessment notice of which is issued on or after 27 July 1989.

*Status: Point in time view as at 06/03/1992. This version of this Act contains provisions that are not valid for this point in time.*

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### **43B [Limits on application of section 43A.**

- (1) If the effect of the exercise by any person of a power conferred by section 43A(2) above—
- (a) to make or give a claim, election, application or notice, or
  - (b) to revoke or vary a claim, election, application or notice previously made or given,
- would be to alter the liability to tax of another person, that power may not be exercised except with the consent in writing of that other person, or where he has died, his personal representatives.
- (2) Where—
- (a) a power conferred by subsection (2) of section 43A above is exercised in consequence of an assessment made on a person, and
  - (b) the exercise of the power increases the liability to tax of another person,
- that section shall not apply by reason of any assessment made because of that increased liability.
- (3) In any case where—
- (a) one or more relevant claims, elections, applications or notices are made, given, revoked or varied by virtue of the application of section 43A above in the case of an assessment, and
  - (b) the total of the reductions in liability to tax which, apart from this subsection, would result from the action mentioned in paragraph (a) above would exceed the additional liability to tax resulting from the assessment,
- the excess shall not be available to reduce any liability to tax.
- (4) Where subsection (3) above has the effect of limiting either the reduction in a person's liability to tax for more than one period or the reduction in the liability to tax of more than one person, the limited amount shall be apportioned between the periods or persons concerned—
- (a) except where paragraph (b) below applies, in such manner as may be specified by the inspector by notice in writing to the person or persons concerned, or
  - (b) where the person concerned gives (or the persons concerned jointly give) notice in writing to the inspector within the relevant period, in such manner as may be specified in the notice given by the person or persons concerned.
- (5) For the purposes of paragraph (b) of subsection (4) above the relevant period is the period of 30 days beginning with the day on which a notice under paragraph (a) of that subsection is given to the person concerned or, where more than one person is concerned, the latest date on which such notice is given to any of them <sup>F227</sup>.]

#### **Textual Amendments**

**F227** Finance Act 1989 s. 150(1) *for any assessment notice of which is issued on or after 27 July 1989.*

**Status:** Point in time view as at 06/03/1992. This version of this Act contains provisions that are not valid for this point in time.

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## PART V

### APPEALS AND OTHER PROCEEDINGS <sup>F228</sup>

#### Textual Amendments

**F228** See—[Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) s. 248(3)—*Application of Part V to appeals concerning election under s. 247 (dividends paid by one member of a group to another).* [Finance Act 1990 s. 47\(8\)](#)—*appeals against matters arising from part disposals of unit trusts etc. held by a transferor insurance company to be heard by Special Commissioners.* [Social Security Act 1975 Sch. 2 para. 9 \(in Part II Vol. 5\)](#)—*collection of Class 4 contributions with income tax.* [Income Tax \(Sub-Contractors in the Construction Industry\) Regns. 1975 \(S.I. 1975 No. 1960\)](#) regn. 12(3) (*in Part III Vol.5*)—*Part V applied, with modifications, to applications under regn. 12(2)* [Income Tax \(Interest Relief\) Regulations 1982 \(S.I. 1982 No. 1236\)](#) (*in Part III Vol.5*) regn. 14(5)—*application of Part V to appeals under regn. 14(3).* [Personal Equity Plan Regns. 1986 \(S.I. 1986 No. 1948\)](#) (*in Part III Vol. 5*) regns. 18(3) and 26(5)—*Part V to apply to appeals against withdrawal of Board's approval of plan managers, and against Board's decisions on annual claims for relief in relation to personal equity plans.* [Occupational Pension Schemes \(Additional Voluntary Contributions\) Regns. 1987 \(S.I. 1987 No. 1749\)](#) (*in Part III Vol. 5*) regn. 9(5)—*Part V to apply to appeals under S.I. 1987 No. 1749 regn. 9(3).* [Personal Pension Schemes \(Provisional Approval\) Regns. 1987 \(S.I. 1987 No. 1765\)](#) (*in Part III Vol. 5*) regn. 6(4)—*Part V to apply to appeals under S.I. 1987 No. 1765.* [Personal Pension Schemes \(Relief at Source\) Regns. 1988 \(S.I. 1988 No. 1013\)](#) (*in Part III Vol. 5*) regn. 11(5)—*Part V to apply to appeals under regn. 11(3).* [Private Medical Insurance \(Tax Relief\) Regulations 1989 \(S.I. 1989 No. 2387\)](#) (*in Part III Vol. 5*) regns. 14 and 17 *Part V to apply to appeals.*

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

- C36** Part V (ss. 44 - 59) applied (30.1.1992) by [S.I. 1992/10, reg. 10\(3\)](#) and by [S.I. 1992/12, reg. 10\(3\)](#)
- C37** Part V (ss. 44 - 59) applied (with modifications) (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 15\(3\), 173\(4\), Sch. 2 para.8](#) (with s. 108(5))
- C38** Part V (ss. 44 - 59) applied (with modifications) (6.4.1993) by [S.I. 1993/743, reg. 14\(2\)\(4\)](#)
- C39** Part V (ss. 44 - 59) applied (1.10.1993) by [S.I. 1993/2004, reg.11\(10\)](#)

#### Jurisdiction

#### 44 General Commissioners. [1964(M) s.11; 1965 Sch.X 1(1); 1966 Sch. VI 12 (1)(2).]

- (1) Proceedings before the General Commissioners under the Taxes Acts shall, subject to the provisions of this section, be brought before the General Commissioners for the division in which the place given by the rules in Schedule 3 to this Act is situated.
- (1A) Subject to subsections (1B) and (2) below, the Board may direct that, notwithstanding the said rules, proceedings before the General Commissioners under the Taxes Acts of any description specified in the direction shall be brought before the General Commissioners for the division so specified in relation to proceedings of that description.
- (1B) A direction under subsection (1A) above shall have effect subject to the provisions referred to in the last paragraph of Schedule 3 to this Act and shall not apply to any proceedings if—
- (a) the inspector has not served on the other party a notice stating the effect of the direction in relation to those proceedings;

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- (b) that party has served on the inspector, within thirty days of the service of the inspector's notice, a notice objecting to the direction so applying; or
- (c) in the case of an appeal, that party has elected under rule 3 or 5 of the said rules for the place where he ordinarily resides <sup>F229</sup>.]

(2) Where—

- (a) the parties to any proceedings under the Taxes Acts which are to be heard by any General Commissioners have agreed, whether before or after the institution of the proceedings, that the proceedings shall be brought before the General Commissioners for a division specified in the agreement; and
- (b) in the case of an agreement made before the time of the institution of the proceedings, neither party has determined that agreement by a notice served on the other party before that time,

the proceedings shall be brought before the General Commissioners for the division so specified, notwithstanding the said rules and any direction under subsection (1A) above <sup>F230</sup>.]

- (3) In any case in which proceedings under the Taxes Acts may be brought at the election of any person before the Special Commissioners instead of before the General Commissioners, the Commissioners before whom the proceedings are to be brought or have been brought may, if they think fit, on an application made by the parties, arrange with the other Commissioners concerned for the transfer of the proceedings to those other Commissioners; and the proceedings may be so transferred notwithstanding that the election has been exercised, or that the time for exercising the election has expired without its being exercised.

(3A) Where in any case (including one in which proceedings may be brought as mentioned in subsection (3) above)—

- (a) an appeal has been brought before the General Commissioners; and
- (b) those Commissioners consider that, because of the complexity of the appeal or the length of time likely to be required for hearing it, the appeal should be brought before the Special Commissioners;

the General Commissioners may, with the agreement of the Special Commissioners, and having considered any representations made to them by the parties, arrange for the transfer of the proceedings to the Special Commissioners <sup>F231</sup>.]

- (4) No determination of any General Commissioners under the Taxes Acts shall be questioned, whether by a case stated under section 56 of this Act or otherwise, on the ground that this section did not authorise those General Commissioners to make the determination, except by a party by whom or on whose behalf an objection to the jurisdiction was made to those General Commissioners before or in the course of the proceedings leading to the determination.

- <sup>M30</sup>(5) Anything to be done by the General Commissioners may, save as otherwise expressly provided by the Taxes Acts, be done by any two or more General Commissioners <sup>F232</sup>.

**Textual Amendments**

**F229** Finance Act 1988 (c. 39, SIF 63:1,2) s. 133(1), (3) in relation to proceedings instituted on or after 1st January 1989.

**F230** Finance Act 1988 (c. 39, SIF 63:1,2) s. 133(2), (3) in relation to proceedings instituted on or after 29th July 1988. Previously

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“(2) The parties to any proceedings under the Taxes Acts which are to be heard by any General Commissioners may if they think fit agree that, notwithstanding the said rules, the proceedings shall be brought before the General Commissioners for the division specified in the agreement, but an inspector or the Board shall not enter into any such agreement unless satisfied that the Commissioners concerned would be likely to see no objection to the agreement(a)”.

(a)

See Income Tax (Employment) Regns. 1973 (S.I. 1973 No. 334) regn. 10(3) (in Part III Vol.5)  
—application of s.44(2) to an appeal against coding.

**F231** Finance Act 1984 s.127 and Sch.22 para.5 on and after 1 January 1985 by virtue of S.I. 1984 No. 1836 (C.45). (not reproduced).

**F232** See—Finance Act 1988 (c. 39, SIF 63:1,2) s. 134(7)—General Commissioners for Northern Ireland. Income Tax (Employment) Regns. 1973 (S.I. 1973 No. 334) regn. 48(3) (in Part III Vol.5)  
—appeal against assessment under Sch.E.

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

**C40** S. 44(2) applied (6.4.1993) by S.I. 1993/744, reg. 11(4)

#### Marginal Citations

**M30** 1952  
S.12(1)

## 45 Quorum of Special Commissioners. [1967 s.43.]

- (1) Anything to be done under any Act (including, except where otherwise expressly provided, any Act passed after this Act) by, to or before the Special Commissioners [shall, except in any case where the Presiding Special Commissioner directs otherwise<sup>F233</sup>] be done by, to or before a single Special Commissioner, or any two or more Special Commissioners<sup>F234</sup>; and this section applies not only for the purposes of the Taxes Acts but also for the purposes of any other affairs under the care and management of the Board.
- (2) Subject to the following provisions of this section, proceedings shall not by virtue of this section be brought before a single Special Commissioner unless—
  - (a) the party, or the parties, to the proceedings, other than the Board or any officer of the Board, have given their consent, and
  - (b) a Special Commissioner so directs on being satisfied that the direction will avoid undue delay in the hearing of those or any other proceedings<sup>F234</sup>.
- (3) Proceedings brought [, in accordance with a direction of the Presiding Special Commissioner<sup>F235</sup>] before two or more Special Commissioners may be continued and determined by any one or more of them if the parties to the proceedings have given their consent, and if the continuing Special Commissioner or Commissioners, after such consultation as is practicable with any Special Commissioner retiring from the proceedings, is or are satisfied that to do so will avoid undue delay in the hearing of those or any other proceedings.
- (4) If the notice to the appellant of the setting down for hearing of an appeal to the Special Commissioners states that it is intended that the appeal should be heard by a single Special Commissioner and draws attention to the provisions of this section, the appeal may be so heard without compliance with the requirements of subsection(2) above, but if, in the course of the hearing of the appeal or at any earlier time, the Special Commissioner to whom the appeal is assigned is satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, the case

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*shall thereafter be treated as one which cannot be brought before a single Special Commissioner unless the requirements of subsection(2) above are fulfilled.*

- (5) *Nothing in subsection(1) of this section shall authorise a single Special Commissioner to entertain proceedings under section 100 of this Act (penalties), and subsection(3) of this section shall not apply to proceedings under that section.*
- (6) *No determination of a Special Commissioner shall be questioned, whether by a case stated or otherwise, on the ground that this section did not authorise the Special Commissioner to make the determination, except by a party by whom or on whose behalf an objection to the jurisdiction was made to the Special Commissioner before or in the course of the proceedings leading to the determination<sup>F236</sup>.*

#### Textual Amendments

**F233** Finance Act 1984 s.127 and Sch.22 para.2 from 1 January 1985 by virtue of S.I. 1984 No. 1836 (C.45). Previously “may”.

**F234** Repealed by Finance Act 1984 ss.127, 128(6) and Schs.22 para.2 and 23 Part XIII on and after 1 January 1985 by virtue of S.I. 1984 No. 1836 (C.45).

**F235** Finance Act 1984 s.127 and Sch.22 para.2 from 1 January 1985 by virtue of S.I. 1984 No. 1836 (C.45).

**F236** Subsections (2) and (4) to (6) repealed by Finance Act 1984 ss.127, 128(6) and Schs.22 para.2 and 23 Part XIII on and after 1 January 1985 by virtue of S.I. 1984 No. 1836 (C.45).

#### 46 General and Special Commissioners. [1964(M) s.12(2); 1965 Sch.XI(1); 1966 Sch.VI 12(1).]

- (1) A right to elect to bring an appeal or other proceedings under the Taxes Acts before the Special Commissioners instead of before the General Commissioners shall be exercised by notice combined (in the case of an appeal) with the notice of appeal, or by a separate notice in writing to the inspector or other officer of the Board within the time limited for bringing the proceedings, and if no such notice of election is given the appeal or other proceedings shall be brought before the General Commissioners.<sup>F237</sup>
- <sup>M31</sup>(2) Save as otherwise provided in the Taxes Acts, the determination of the General Commissioners or the Special Commissioners in any proceedings under the Taxes Acts shall be final and conclusive.

#### Textual Amendments

**F237** See Finance Act 1988 (c. 39, SIF 63:1,2) Sch. 5 para. 5(2)—appeal by underwriter's agent against inspector's determination.

#### Marginal Citations

**M31** 1964(M) s.12(4); 1965 Sch.XI(1); 1966 Sch.VI 12(1).

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VALID FROM 16/07/1992

**[<sup>F238</sup>46A Regulations about jurisdiction.**

- (1) The Lord Chancellor may, with the consent of the Lord Advocate, make regulations—
  - (a) providing for appeals or other proceedings under the Taxes Acts to be determined in certain circumstances by the Special Commissioners instead of the General Commissioners or by the General Commissioners instead of the Special Commissioners;
  - (b) providing for appeals or other proceedings under the Taxes Acts that would otherwise be determined by the General Commissioners for one division to be determined in certain circumstances by the General Commissioners for another division;
  - (c) as to the number of General Commissioners or Special Commissioners required or permitted to hear, or perform other functions in relation to, appeals or other proceedings under the Taxes Acts.
- (2) The regulations may—
  - (a) make different provision for different cases or different circumstances, and
  - (b) contain such supplementary, incidental, consequential and transitional provision as the Lord Chancellor thinks appropriate.
- (3) Provision made by virtue of subsection (1) or (2) above may include provision amending this or any other Act or any instrument made under an Act.
- (4) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

**Textual Amendments**

**F238** S. 46A inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 76, [Sch. 16 para.3](#)

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

**C41** S. 46A applied (with modifications) (16.7.1992) by [Inheritance Act 1984 \(c. 51\)](#), [s. 225A\(1\)](#) (which was inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 76, [Sch. 16 para.8](#))

**47 Special jurisdiction relating to tax on chargeable gains. [1965 s.44(6)(7)(8).]**

- (1) If and so far as the question in dispute on any appeal against an assessment to tax (whether capital gains tax or corporation tax) on chargeable gains, or against a decision on a claim under [<sup>F239</sup>the [<sup>F240</sup>1992 Act]] is a question of the value of any land, or of a lease of land then—
  - (a) if the land is in England or Wales the question shall be determined on a reference to the Lands Tribunal, and
  - (b) if the land is in Northern Ireland the question shall be determined on a reference to the Lands Tribunal for Northern Ireland.

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- (2) In relation to land and leases of land in Scotland for any reference to the Lands Tribunal in subsection (1) above there shall be substituted a reference to the Lands Tribunal for Scotland:

F241

- <sup>M32</sup>(3) If and so far as any appeal mentioned in subsection(1) above involves the question of the value of any shares or securities in a company resident in the United Kingdom, other than shares or securities dealt in on a stock exchange in the United Kingdom, that question shall be determined [by the Special Commissioners <sup>F242</sup>], and those Commissioners shall hear and determine the question in the same way as an appeal.

- (4) ..... F243

#### Textual Amendments

**F239** Capital Gains Tax Act 1979 s. 157(2), Sch. 7 para. 8 for 1979-80 *et seq.*

**F240** Words in s. 47(1) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation and Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 2(2)** (with ss. 60, 101(1), 171, 201(3))

**F241** *Proviso repealed (as spent) by Finance Act 1974 s.57(6) and Sch. 14 Part VII. See S.I. 1971 No. 215—Lands Tribunal Act 1949 ss. 1 to 4 brought into force in Scotland on 1 March 1971.*

**F242** Finance Act 1975 s.54(1). See 1975 s.54(2) as to transfer of proceedings pending at the passing of that Act (13 March 1975).

**F243** *Repealed by Capital Gains Tax Act 1979 s.158 and Sch. 8 for 1979—80 *et seq.**

#### Marginal Citations

**M32** 1969  
Sch. XX 22(2).

- 47A ..... F244

#### Textual Amendments

**F244** *A development land tax provision added by [Development Land Tax Act 1976 \(c. 24\)](#) Sch. 8 para. 13. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch. 27 Part X.*

#### 47B [Special jurisdiction relating to Business Expansion Scheme.

If and so far as the question in dispute on any appeal against the refusal of relief under [Chapter III of Part VII of the principal Act <sup>F245</sup>] (relief for investment in corporate trades), or against an assessment withdrawing any such relief, is a question of the value of an interest in land (within the meaning of [Section 294(5) of that Act <sup>F245</sup>], it shall be determined—

- (a) if the land is in England and Wales, on a reference to the Lands Tribunal;
- (b) if the land is in Scotland, on a reference to the Lands Tribunal for Scotland; and
- (c) if the land is in Northern Ireland, on a reference to the Lands Tribunal for Northern Ireland <sup>F246</sup>.]



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### Textual Amendments

**F245** Income and Corporation taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.

**F246** Finance Act 1986 s. 40(3) and Sch. 9 para. 22 in relation to shares issued at any time after 18 March 1986.

### Proceedings before Commissioners

#### **48 Application to appeals and other proceedings. [1964(M) s.12(1)(5); 1965 Sch.X 1(1); 1966 Sch.VI 12(1); 1969 Sch.XX 17(43).]**

(1) In the following provisions of this Part of this Act, unless the context otherwise requires—

“appeal” means any appeal to the General Commissioners or to the Special Commissioners under the Taxes Acts ,

“the Commissioners” means the General Commissioners or the Special Commissioners as the case may be.

(2) The following provisions of this Part of this Act shall apply in relation to—

(a) appeals other than appeals against assessments, and

(b) proceedings which under the Taxes Acts are to be heard and determined in the same way as an appeal,

subject [to any necessary modifications, including (except in the case of applications under section 55 below) the omission of section 56(9) below <sup>F247</sup>].

### Textual Amendments

**F247** Finance (No.2) Act 1975 s.45(4) in relation to notices issued after 31 July 1975.

### Modifications etc. (not altering text)

**C42** See [Oil Taxation Act 1975 \(c. 22\)](#), s.1, Sch.2 para.1(1), the Oil Taxation Acts, for modification regarding petroleum revenue tax and supplementary petroleum duty.

**C43** S. 48 applied by [Finance Act 1981 \(c. 35\)](#), s.134, [Sch.17 para.18](#) (special tax on banking deposits).

#### **49 Proceedings brought out of time. [1964(M) s.12(1)(2).]**

(1) An appeal may be brought out of time if on an application for the purpose an inspector or the Board is satisfied that there was a reasonable excuse for not bringing the appeal within the time limited, and that the application was made thereafter without unreasonable delay, and gives consent in writing; and the inspector or the Board, if not satisfied, shall refer the application for determination by the Commissioners .

(2) If there is a right to elect to bring the appeal before the Special Commissioners instead of before the General Commissioners, the Commissioners to whom an application under this section is to be referred shall be the General Commissioners unless the election has been exercised before the application is so referred.

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

- C44** S. 49(1) applied (with modifications) by the [Oil Taxation Act 1975 \(c. 22\)](#), s. 1, [Sch. 2 para. 1\(1\)](#)  
S. 49(1) applied by [Finance Act 1981 \(c. 35\)](#), s. 134, Sch. 17 para. 18 (special tax on banking deposits).

**50 Procedure. [1952 s.52(1).]**

- (1) The Commissioners shall cause notice of the day for hearing appeals to be given to every appellant, and shall meet together for the hearing of appeals from time to time, with or without adjournment until all appeals have been determined.
- <sup>M33</sup>(2) Notice of appeal meetings to be held by the Commissioners shall also be given to the inspector by the clerk to the Commissioners, except that in proceedings to which the Board, or an officer of the Board other than an inspector, are parties, the notice shall be given to the Board or to that officer.
- <sup>M34</sup>(3) Any officer of the Board may attend every appeal, and shall be entitled—
- (a) to be present during all the time of the hearing and at the determination of the appeal, and
  - (b) to give reasons in support of the assessment or other decision against which the appeal is made.
- <sup>M35</sup>(4) If it is shown to the satisfaction of the Commissioners that owing to absence, sickness or other reasonable cause any person has been prevented from attending at the hearing of an appeal on the day fixed for that purpose, they may postpone the hearing of his appeal for such reasonable time as they think necessary, or may admit the appeal to be made by any agent, clerk or servant on his behalf.
- <sup>M36</sup>(5) Upon any appeal the Commissioners shall permit any barrister or solicitor to plead before them on behalf of any party to the appeal, either orally or in writing, and shall hear any accountant, that is to say, any person who has been admitted a member of an incorporated society of accountants:
- Provided that on an appeal against an assessment under Schedule B the Commissioners shall permit any agent appointed by the appellant to plead before them on his behalf.*
- <sup>F248M37</sup>(6) If, on an appeal, it appears to the majority of the Commissioners present at the hearing, by examination of the appellant on oath or affirmation, or by other lawful evidence, that the appellant is overcharged by any assessment, the assessment shall be reduced accordingly, but otherwise every such assessment shall stand good <sup>F249</sup>.
- (7) If on any appeal it appears to the Commissioners that the person assessed ought to be charged in an amount exceeding the amount contained in the assessment, the assessment shall be increased accordingly. <sup>F249</sup>
- (8) Where, on an appeal against an assessment which—
- (a) assesses an amount which is chargeable to tax, and
  - (b) charges tax on the amount assessed,
- it appears to the Commissioners as mentioned in subsection (6) or (7) above, they may, unless the circumstances of the case otherwise require, reduce or, as the case may be, increase only the amount assessed; and where any appeal is so determined

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the tax charged by the assessment shall be taken to have been reduced or increased accordingly<sup>F250</sup>.<sup>F249</sup>]

#### Textual Amendments

**F248** Repealed by Finance Act 1988 (c. 39, SIF 63:1,2) s. 148 and Sch. 14 Part V with effect from 6 April 1988.

**F249** See Finance (No. 2) Act 1987 s. 84(6)—s. 50(6) to (8) not apply to assessments under Finance (No. 2) Act 1987 s. 84 in relation to penalties incurred under Taxes Management Act 1970 (c. 9, SIF 63:1) s. 94 after a day to be appointed.

**F250** Finance (No. 2) Act 1975 (c. 45), s. 67(2), in relation to all years except that judgments in any court given in proceedings commenced before 29 April 1975 are not to be affected.

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

**C45** S. 50(5) amended (E.W.) (1.1.1992) by S.I. 1991/2684, arts. 2, 4, Sch. 1

**C46** S. 50 applied (with modifications) by the Oil Taxation Act 1975 (c. 22), s. 1, Sch. 2 para. 1(1)

**C47** S. 50 applied (with modifications) by Finance Act 1981 (c. 35), s. 134, Sch. 17 para. 18 (special tax on banking deposits).

#### Marginal Citations

**M33** 1952, 1964

1952 s. 52(2); 1964(M) s. 12(6).

**M34** 1952, 1964

1952 s. 52(2); 1964(M) Sch. IV.

**M35** 1952

s. 52(3).

**M36** 1952 s. 52(4); 1969 Sch. XX 13(5).

**M37** 1952 s. 52(5); 1964(M) Sch. IV.

### 51 Power of Commissioners to obtain information from appellant. [1964(M) s. 12(3).]

- (1) The Commissioners may at any time before the determination of an appeal give notice to the appellant or other party to the proceedings (not being an inspector or the Board) requiring him within the time specified in the notice—
  - (a) to deliver to them such particulars as they may require for the purpose of determining the appeal, and
  - (b) to make available for inspection by them, or by any officer of the Board, all such books, accounts or other documents in his possession or power as may be specified or described in the notice, being books, accounts or other documents which, in the opinion of the Commissioners issuing the notice, contain or may contain information relating to the subject matter of the proceedings.
- (2) Any officer of the Board may, at all reasonable times, inspect and take copies of, or extracts from, any particulars delivered under subsection (1)(a) above; and the Commissioners or any officer of the Board may take copies of, or extracts from, any books, accounts, or other documents made available for their or his inspection under subsection (1)(b) above.<sup>F251</sup>

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#### Textual Amendments

**F251** See Finance Act 1981 s. 134 and Sch. 17 para. 18—application of this section to the special tax on banking deposits.

## 52 Evidence. [1969 Sch.XX 12(1)(2)(3).]

- (1) Any party to an appeal shall be entitled to adduce any lawful evidence.
- (2) The Commissioners may summon any person (other than the appellant) to appear before them and give evidence, and a witness before the Commissioners may be examined on oath:

Provided that any agent or servant of the appellant, and any other person confidentially employed in the affairs of the appellant, may refuse to be sworn or to answer any question to which he objects.

- <sup>M38</sup>(3) A person who after being duly summoned—
- (a) neglects or refuses to appear before the Commissioners at the time and place appointed for that purpose, or
  - (b) appears, but refuses to be sworn, or
  - (c) refuses to answer any lawful question concerning the matters under consideration,

shall incur a penalty not exceeding £50:

Provided that the penalty imposed in respect of any offence under paragraph (b) or paragraph (c) of this subsection shall not apply to any such person as is within the proviso to subsection (2) above <sup>F252</sup>.

#### Textual Amendments

**F252** See Finance Act 1981 s. 134 and Sch. 17 para. 18—application of this section to the special tax on banking deposits.

#### Marginal Citations

**M38** 1952 s. 59(3); 1960 s.59(4); 1969 Sch. XX 13(4).

## 53 Summary award of penalties. [1960 s.59(1)(2)(3); 1964(M) s.12(3).]

- (1) Any penalty incurred by any person for a failure to comply with a notice under section 51 above, or incurred by any person under section 52 above, may be [determined <sup>F253</sup>] summarily by the Commissioners notwithstanding that no proceedings [under section 100C of this Act <sup>F253</sup>] have been commenced, and accordingly [section 98 of this Act shall have effect, in relation to a penalty so awarded, as if subsection (3) were omitted and the reference in subsection (1)(ii) to the Commissioners before whom proceedings for the penalty have been commenced were a reference to the Commissioners by whom the penalty has been awarded <sup>F254F255</sup>].
- (2) An appeal shall lie to the High Court <sup>F256</sup> or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from the [determination <sup>F257</sup>] of any penalty under this section, and on any such appeal the court may either confirm or reverse the

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[determination <sup>F257</sup>] of the Commissioners or reduce or increase the sum [determined <sup>F257</sup>].

- (3) Any penalty [determined <sup>F258</sup>] by virtue of this section shall for all purposes be treated as if it were tax charged in an assessment and due and payable <sup>F259</sup>.

#### Textual Amendments

**F253** Finance Act 1989 s. 168(3)(a). *Previously*

“awarded”

and

“for its recovery”

respectively.

**F254** Finance Act 1972 s.129, *except in relation to penalties awarded before commencement of that Act (27 July 1972).*

**F255** *Words repealed by* Finance Act 1989 s. 187 *and* Sch. 17 Part VIII *in relation to failure to comply with a notice etc. on or after 27 July 1989.*

**F256** *See* R.S.C. Ord. 91, (S.I. 1965 No. 1776 *under*

“appeal tribunals: Supreme Court, Rules of”

*in* Part III Vol.5) r. 5as *to procedure in the High Court in England and Wales.*

**F257** Finance Act 1989 s. 168 (3)(b). *Previously*

“award”, “decision”

and

“awarded”

respectively.

**F258** Finance Act 1989 s. 168 (3)(c). *Previously*

“awarded”.

**F259** *See* Finance Act 1981 s. 134 *and* Sch. 17 para. 18—*application of this section to the special tax on banking deposits.*

#### 54 Settling of appeals by agreement. [1952 s.510; 1958 Sch.VI 5; 1965 Sch.X 1(1); 1966 Sch.VI 12(4).]

- (1) Subject to the provisions of this section, where a person gives notice of appeal and, before the appeal is determined by the Commissioners, the inspector or other proper officer of the Crown and the appellant come to an agreement, whether in writing or otherwise, that the assessment or decision under appeal should be treated as upheld without variation, or as varied in a particular manner or as discharged or cancelled, the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, the Commissioners had determined the appeal and had upheld the assessment or decision without variation, had varied it in that manner or had discharged or cancelled it, as the case may be.
- (2) Subsection (1) of this section shall not apply where, within thirty days from the date when the agreement was come to, the appellant gives notice in writing to the inspector or other proper officer of the Crown that he desires to repudiate or resile from the agreement.
- (3) Where an agreement is not in writing—
- (a) the preceding provisions of this section shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the inspector or other proper officer of the Crown to the appellant or by the appellant to the inspector or other proper officer; and

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- (b) the references in the said preceding provisions to the time when the agreement was come to shall be construed as references to the time of the giving of the said notice of confirmation.
- (4) Where—
- (a) a person who has given a notice of appeal notifies the inspector or other proper officer of the Crown, whether orally or in writing, that he desires not to proceed with the appeal; and
  - (b) thirty days have elapsed since the giving of the notification without the inspector or other proper officer giving to the appellant notice in writing indicating that he is unwilling that the appeal should be treated as withdrawn,
- the preceding provisions of this section shall have effect as if, at the date of the appellant's notification, the appellant and the inspector or other proper officer had come to an agreement, orally or in writing, as the case may be, that the assessment or decision under appeal should be upheld without variation.
- (5) The references in this section to an agreement being come to with an appellant and the giving of notice or notification to or by an appellant include references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant in relation to the appeal .

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

**C48** See—[Finance Act 1981 \(c. 35\)](#), s.134, Sch.17 para.18—application of this section to the special tax on banking deposits. [Finance Act 1982\(c. 39\)](#), s.156, Sch.21 para.4(1)—application of s.54 to the tribunal under [Finance Act 1970 s.463](#) in relation to functions transferred by s.156. [Finance \(No. 2\) Act 1987 \(c. 51\)](#), [s. 84\(7\)](#)—nothing in s. 55 applies to appeals against assessments under [Finance \(No. 2\) Act 1987 s. 84](#). [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [s. 705\(7\)](#)—agreement as to operation of s. 703 advance corporation tax taken into account in tax avoidance counteraction notice) requires agreement of all companies concerned.

**55 [Recovery of tax not postponed.**

- (1) This section applies to an appeal to the Commissioners against—
- (a) an assessment to income tax under Schedule A, Schedule C or Schedule D,
  - (b) an assessment charging income tax at a rate other than the basic rate on income from which income tax has been deducted (otherwise than under section [203<sup>F260</sup>] of the principal Act) or from or on which income tax is treated as having been deducted or paid or income chargeable under Schedule F,
  - (c) an assessment to income tax made under [Schedule 16 to the principal Act<sup>F260</sup>] (income tax on company payments) other than an assessment charging tax the time for the payment of which is given by paragraph 4(1) or 9 of that Schedule,
  - (d) an assessment to capital gains tax,
  - (e) an assessment to corporation tax other than an assessment made under [Schedule 13 to the principal Act<sup>F260</sup>] (advance corporation tax) charging tax the time for the payment of which is given by paragraph 3(1) or 9 of that Schedule.
  - (f) .....<sup>F261</sup>
  - (g) a notice under subsection (1) or subsection (3) of section 753 of the principal Act where, before the appeal is determined, the appellant is assessed to tax

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under section 747(4)(a) of that Act by reference to an amount of chargeable profits specified in that notice <sup>F262</sup>.] <sup>F263</sup>

- (2) [Except as otherwise provided by the following provisions of this section <sup>F264</sup>], the tax charged by the assessment shall be due and payable as if [there had been no appeal <sup>F265</sup>.]
- (3) If the appellant has grounds for believing that he is overcharged to tax by the assessment, he may, by notice in writing given to the inspector within thirty days after the date of the issue of the notice of assessment, apply to the Commissioners for a determination of the amount of tax the payment of which should be postponed pending the determination of the appeal .

A notice of application under this subsection shall state the amount in which the appellant believes that he is overcharged to tax and his grounds for that belief.

- (3A) An application under subsection (3) above may be made more than thirty days after the date of the issue of the notice of assessment if there is a change in the circumstances of the case as a result of which the appellant has grounds for believing that he is overcharged to tax by the assessment <sup>F266</sup>.]

- (4) If, after any determination of the amount of tax the payment of which should be so postponed, there is a change in the circumstances of the case as a result of which either party has grounds for believing that the amount so determined has become excessive or, as the case may be, insufficient, he may, by notice in writing given to the other party at any time before the determination of the appeal, apply to the Commissioners for a further determination of that amount .

A notice of application under this subsection shall state the amount in which the applicant believes that the amount previously determined has become excessive or, as the case may be, insufficient and his grounds for that belief.

- (5) An application under subsection (3) or (4) above shall be heard and determined in the same way as the appeal; and where any such application is heard and determined by any Commissioners, that shall not preclude them from hearing and determining the appeal or any application or further application under subsection (4) above.
- (6) The amount of tax the payment of which shall be postponed pending the determination of the appeal shall be the amount (if any) in which it appears to the Commissioners, having regard to the representations made and any lawful evidence adduced, that there are reasonable grounds for believing that the appellant is overcharged to tax; and—
- (a) in the case of a determination made on an application under subsection (3) above, other than an application made by virtue of subsection (3A) above, the date on which any tax the payment of which is not so postponed is due and payable shall be determined as if the tax were charged by an assessment notice of which was issued on the date of that determination and against which there had been no appeal; and
- (b) in the case of a determination made on an application under subsection (4) above—
- (i) the date on which any tax the payment of which ceases to be so postponed is due and payable shall be determined as if the tax were charged by an assessment notice of which was issued on the date of that determination and against which there had been no appeal; and
- (ii) any tax overpaid shall be repaid <sup>F267</sup>.]

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- (6A) Where an appeal is brought against an assessment to tax under section 747(4)(a) of the principal Act as well as against a notice under section 753(1) or (3) of that Act—
- (a) an application under subsection (3) above may relate to matters arising on both appeals and, in determining the amount of tax the payment of which should be postponed, the Commissioners shall consider the matters so arising together, and
  - (b) if the Commissioners have determined the amount of tax the payment of which should be postponed solely in relation to one of the appeals, the bringing of the other appeal shall be taken to be a change of circumstances falling within subsection (4) above; and
  - (c) any reference in this section to the determination of the appeal shall be construed as a reference to the determination of the two appeals, but the determination of one before the other shall be taken to be a change of circumstances falling within subsection (4) above <sup>F268</sup>.]
- (7) If the appellant and [an inspector <sup>F269</sup>] come to an agreement, whether in writing or otherwise, as to the amount of tax the payment of which should be postponed pending the determination of the appeal, the like consequences shall ensue as would have ensued if the Commissioners had made a determination to that effect under subsection (6) above on the date when the agreement was come to, but without prejudice to the making of a further agreement or of a further determination under that subsection.
- (8) Where an agreement is not in writing—
- (a) subsection (7) above shall not apply unless that fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the inspector to the appellant or by the appellant to the inspector, and
  - (b) the reference in that subsection to the time when the agreement was come to shall be construed as a reference to the time of the giving of the notice of confirmation.
- (9) On the determination of the appeal—
- (a) the date on which any tax payable in accordance with that determination is due and payable shall, so far as it is tax the payment of which had been postponed, or which would not have been charged by the assessment if there had been no appeal, be determined as if the tax were charged by an assessment—
    - (i) notice of which was issued on the date on which the inspector issues to the appellant a notice of the total amount payable in accordance with the determination, and
    - (ii) against which there had been no appeal; and
  - (b) any tax overpaid shall be repaid <sup>F270</sup>.]
- (10) In [subsection (3) above <sup>F271</sup>] “inspector” means the inspector or other officer of the Board by whom the notice of assessment was issued; and references in this section to an agreement being come to with an appellant and the giving of notice to or by an appellant include references to an agreement being come to with, and the giving of notice to or by, a person acting on behalf of the appellant in relation to the appeal.
- (11) *Section 45(2) above shall not apply to an application under subsection (3) or (4) above; and <sup>F272</sup> the transfer of proceedings under this Act from one body of Commissioners to another body of Commissioners shall not affect the validity of a determination under subsection (6) above <sup>F273</sup>.] <sup>F274</sup>*



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### Textual Amendments

- F260** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 32.
- F261** A development land tax provision added by [Development Land Tax Act 1976 \(c. 24\)](#) Sch.8 para.14 [Development Land Tax Act 1976](#) repealed by [Finance Act 1985 s.98\(6\)](#) and [Sch.27 Part X](#).
- F262** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 8(1). *Previously* “(g) a notice under subsection (1) or subsection (3) of section 88 of the [Finance Act 1984](#) where, before the appeal is determined, the appellant is assessed to tax under section 82(4)(a) of that Act by reference to an amount of chargeable profits specified in that notice(a)”  
(a) [Finance Act 1984 s. 89\(5\)](#) from 6 April 1984.
- F263** See—[Finance Act 1981 s.134](#) and [Sch.17 paras.14\(4\), 15\(2\), 18](#)—application of s.55(1) to (10) to the special tax on banking deposits. [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) s. 375—assessments under subsection 3 to be regarded as if included among those specified in s. 55(1). [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 14 para. 6(2)(a)—assessments under para. 6 to be regarded as if they were included among those specified in s. 55(1). S.I. 1986 No. 1948 (in Part III Vol. 5) regn. 33(3)—assessments under S.I. 1986 No. 1948 (personal equity plans) to be treated as assessments specified in s. 55(1). S.I. 1987 No. 352 (in Part III Vol. 5) regn. 6(6)—[Taxes Management Act 1970 \(c. 9, SIF 63:1\)](#) to apply to assessments under S.I. 1987 No. 352 (pension scheme surpluses: administration) as if under s. 55(1) S.I. 1987 No. 530 (in Part III Vol. 5) regn. 14(2)—application of s. 51(1) to assessments in relation to non-resident entertainers and sportsmen.
- F264** [Finance Act 1982 \(c. 39\)](#), s.68(1) in relation to notices of assessment issued after 30 July 1982
- F265** [Finance Act 1989 \(c. 26\)](#), s. 156(2)(a) for tax charged by any assessment notice of which is issued after 30 July 1982
- F266** [Finance Act 1982 \(c. 39\)](#), s.68(2)(3) in relation to notices of assessment issued after 30 July 1982
- F267** [Finance Act 1989 \(c. 26\)](#), s. 156(2) in relation to tax charged by any assessment notice of which is issued after 30 July 1982
- F268** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 8(2).
- F269** [Finance Act 1990 s. 104\(2\)\(a\), \(4\)](#) where notice of appeal given on or after 26 July 1990. *Previously* “the inspector”.
- F270** [Finance Act 1989 s. 156\(2\)\(c\)](#) in relation to tax charged by any assessment notice of which is issued after 30 July 1982. *Previously* “On the determination of the appeal—(a) any tax payable in accordance with that determination the payment of which had been postponed, or which had not been charged by the assessment, shall be due and payable as if it were tax charged by an assessment—(i) notice of which was issued on the date on which the inspector issues to the appellant a notice of the total amount payable in accordance with the determination, and (ii) in respect of which no appeal was pending, or (b) any tax overpaid shall be repaid, as the case may require.”
- F271** [Finance Act 1990 s. 104\(2\)\(b\), \(4\)](#) where notice of appeal given on or after 26 July 1990. *Previously* “this section”.
- F272** Repealed by [Finance Act 1984 s.128\(6\)](#) and [Sch.23 Part XIII](#) on and after 1 January 1985 by virtue of S.I. 1984 No. 1836 (C. 45).
- F273** S. 55 substituted by [Finance \(No.2\) Act 1975 \(c. 45\)](#), s. 45(1) in relation to appeals against assessments notices of which were issued after 31 July 1975.
- F274** See [Finance Act 1988 Sch. 5 para. 6](#) for modification to s. 55 in connection with underwriters; and para. 8(2) (effects of determinations).

### Modifications etc. (not altering text)

- C49** S. 55 modified (27.7.1993) by 1993 c. 34, s. 173, [Sch. 19 Pt. I para. 7\(2\)\(a\)](#)
- C50** S. 55(3)(4) modified by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 10(5)  
S. 55(3)(4) restricted by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 306(8)
- C51** S. 55 modified by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [Sch. 27 para. 19\(3\)](#)

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**56 Statement of case for opinion of the High Court. [1952 s.64(1); 1964(M) Sch.IV.] [1952 s.64(2); 1958 Sch.VI 5; 1964(M) Sch.IV.]**

- (1) Immediately after the determination of an appeal by the Commissioners, the appellant or the inspector or other officer of the Board, if dissatisfied with the determination as being erroneous in point of law, may declare his dissatisfaction to the Commissioners who heard the appeal.
- (2) The appellant or the inspector or other officer of the Board, as the case may be, having declared his dissatisfaction, may, within thirty days after the determination, by notice in writing addressed to the clerk to the Commissioners, require the Commissioners to state and sign a case for the opinion of the High Court thereon. <sup>F275</sup>
- <sup>M39</sup>(3) The party requiring the case shall pay to the clerk to the Commissioners a fee of [£25 <sup>F276</sup>] for and in respect of the same, before he is entitled to have the case stated.
- <sup>M40</sup>(4) The case shall set forth the facts and the determination of the Commissioners, and the party requiring it shall transmit the case, when stated and signed, to the High Court, within thirty days after receiving the same. <sup>F277</sup>
- <sup>M41</sup>(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.
- <sup>M42</sup>(6) The High Court shall hear and determine any question or questions of law arising on the case, and shall reverse, affirm or amend the determination in respect of which the case has been stated, or shall remit the matter to the Commissioners with the opinion of the Court thereon, or may make such other order in relation to the matter as to the Court may seem fit.
- <sup>M43</sup>(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.
- <sup>M44</sup>(8) An appeal shall lie from the decision of the High Court to the Court of Appeal and thence to the House of Lords:
 

Provided that—

  - (a) 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, and
  - <sup>M45</sup>(b) this subsection has effect subject to Part II of the Administration of Justice Act 1969 (appeal from High Court to House of Lords). <sup>F277</sup>
- (9) Where the appeal is against an assessment, then notwithstanding that a case has been required to be stated or is pending before the High Court, tax shall be paid in accordance with the determination of the Commissioners who have been required to state the case:

Provided that, if the [amount charged by <sup>F278</sup>] 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 <sup>F279</sup>; 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

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on which the inspector . . . <sup>F280</sup> issues to the other party a notice of the total amount payable in accordance with the order or judgment of that Court <sup>F281</sup>].

<sup>M46</sup>(10) 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, 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.

(11) This section has effect in Northern Ireland subject to section 58 below .

### Textual Amendments

- F275** See S.I. [1987 No. 1422](#) (in Part III Vol. 5) for modification in the case of referral direct to Court of Appeal.
- F276** Finance Act 1984 s.127 and Sch.22 para.6 on and after 1 January 1985 by virtue of S.I. [1984 No. 1836](#) (C.45). Previously “£1”.
- F277** See S.I. [1987 No. 1422](#) (in Part III Vol. 5) for modification in the case of referral direct to Court of Appeal.
- F278** Finance Act 1989 s. 156(3) in relation to tax charged by any assessment notice of which is issued after 30 July 1982. Previously “amount of”.
- F279** See Finance (No.2) Act 1975 s.47(8) and s.48(7) repayment supplement not payable where Court may allow interest.
- F280** Words relating to development land tax added by Development Land Tax Act 1976 Sch.8 para.15. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.
- F281** Finance (No.2) Act 1975 s.45(3) in relation to appeals against assessments of which notices were issued after 31 July 1975.

### Modifications etc. (not altering text)

- C52** S. 56 applied (6.4.1990) by [The Lloyd’s Underwriters \(Tax\) \(1987—88\) Regulations 1990](#) (S.I. [1990/627](#)), [regs. 1, 9](#)  
S. 56 applied (19.4.1991) by [The Lloyd’s Underwriters \(Tax\) \(1988—89\) Regulations 1991](#) (S.I. [1991/851](#)), [regs. 1, 7\(4\)](#)
- C53** S. 56 applied (28.3.1992) by [The Lloyd’s Underwriters \(Tax\) \(1989—90\) Regulations 1992](#) (S.I. [1992/511](#)), [reg. 7\(4\)](#)
- C54** S. 56 applied (6.4.1993) by [The Income Tax \(Employments\) Regulations 1993](#) (S.I. [1993/744](#)), [reg. 11\(6\)](#) (revoked (6.4.2004) by S.I. [2003/2682](#), [Sch. 2](#))
- C55** S. 56 applied (with modifications) by the [Oil Taxation Act 1975](#) (c. 22), s. 1, [Sch. 2 para. 1\(1\)](#)  
S. 56 applied by [Finance Act 1981](#) (c. 35), s. 134, [Sch. 17 para. 18](#) (special tax on banking deposits).

### Marginal Citations

- M39** 1952  
s.64(4).
- M40** 1952 s.64(4); 1958 Sch. VI 5.
- M41** 1952  
s.64(5).
- M42** 1952  
s.64(6)
- M43** 1952  
s.64(7)
- M44** 1952  
s.64(9).
- M45** 1952 s.64(10); 1964(M) s.12(5), Sch.IV

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**M46** 1952  
 ss.64(9),522.

**56A [Statement of case: Special Commissioners to Court of Appeal.]**

- (1) The Lord Chancellor may by order provide that—
- (a) in such classes of appeal in England and Wales as may be prescribed by the order; and
  - (b) subject to the consent of the parties and to such other conditions as may be so prescribed;
- a case stated by the Special Commissioners under section 56 above, for the opinion of the High Court, shall be referred to the Court of Appeal.
- (2) An order under this section—
- (a) may provide that section 56 above shall have effect, in relation to any appeal to which the order applies, with such modifications as may be specified in the order; and
  - (b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament <sup>F282</sup>.]

**Textual Amendments**

**F282** Finance Act 1984 s.127 and Sch.22 para.7 on and after 1 January 1985 by virtue of S.I. 1984 No. 1836 (C.45). (not reproduced) (For orders see Part III Vol.5).

VALID FROM 16/07/1992

**[<sup>F283</sup>56B Regulations about practice and procedure.**

- (1) The Lord Chancellor may, with the consent of the Lord Advocate, make regulations about the practice and procedure to be followed in connection with appeals.
- (2) The regulations may in particular include provision—
- (a) enabling the Commissioners to join as a party to an appeal a person who would not otherwise be a party;
  - (b) for requiring any party to an appeal to provide information and make documents available for inspection by the Commissioners or by officers of the Board;
  - (c) for requiring persons to attend the hearing of an appeal to give evidence and produce documents;
  - (d) as to evidence generally in relation to appeals;
  - (e) enabling the Commissioners to review their decisions;
  - (f) for the imposition of penalties not exceeding an amount specified in the regulations;
  - (g) for the determination and recovery of penalties (imposed by virtue of paragraph (f) above or any other enactment) and for appeals against penalties.
- (3) The regulations may also include provision—

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- (a) authorising or requiring the Commissioners, in circumstances prescribed in the regulations, to state a case for the opinion of a court;
  - (b) for an appeal to lie to a court on a question of law arising from a decision of the Commissioners;
  - (c) as to the practice and procedure to be followed in connection with cases so stated or such appeals.
- (4) The regulations may—
- (a) make different provision for different cases or different circumstances, and
  - (b) contain such supplementary, incidental, consequential and transitional provision as the Lord Chancellor thinks appropriate.
- (5) Provision made by virtue of any of subsections (1) to (4) above may include provision amending this or any other Act or any instrument made under an Act.
- (6) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F283** Ss. 56B-56D inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 76, [Sch. 16 para.4](#)

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

**C56** Ss. 56B-56D applied (16.7.1992) by [Inheritance Tax Act 1984 \(c. 51\)](#), s. 225A(2) (which was inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 76, [Sch. 16 para.8](#))

VALID FROM 16/07/1992

#### **56C** <sup>F284</sup> **Power of Special Commissioners to order costs.**

- (1) Regulations made under section 56B above may include provision for—
- (a) the award by the Special Commissioners of the costs of, or incidental to, appeal hearings before them,
  - (b) the recovery of costs so awarded, and
  - (c) appeals against such awards.
- (2) Any provision made by virtue of subsection (1)(a) above shall provide that the Special Commissioners shall not award costs against a party to an appeal unless they consider that he has acted wholly unreasonably in connection with the hearing in question.

#### Textual Amendments

**F284** Ss. 56B-56D inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 76, [Sch. 16 para. 4](#).

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

**C57** Ss. 56B-56D applied (16.7.1992) by [Inheritance Tax Act 1984 \(c. 51\)](#), s. 225A(2) (which was inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 76, [Sch. 16 para. 8](#)).

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VALID FROM 16/07/1992

**56D** <sup>F285</sup> **Power of Special Commissioners to publish reports of decisions.**

- (1) Regulations made under section 56B above may include provision for the Special Commissioners to publish reports of such of their decisions as they consider appropriate.
- (2) Any provision made by virtue of subsection (1) above shall provide that any report published, other than a report of an appeal that was heard in public, shall be in a form that so far as possible prevents the identification of any person whose affairs are dealt with in the report.
- (3) No obligation of secrecy to which the Special Commissioners are subject (by virtue of this Act or otherwise) shall prevent their publishing reports of their decisions in accordance with any provision made by virtue of subsection (1) above.

**Textual Amendments**

**F285** Ss. 56B-56D inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 76, Sch. 16 para.4.](#)

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

**C58** Ss. 56B-56D applied (16.7.1992) by [Inheritance Tax Act 1984 \(c. 51\), s. 225A\(2\)](#) (which was inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 76, Sch. 16 para. 8.](#))

*Chargeable gains*

**57** **Regulations about appeals. [1965 Sch.X 2(1).]**

- (1) The Board may make regulations—
  - (a) as respects the conduct of appeals against assessments and decisions on claims under the [<sup>F286</sup>1992 Act],
  - (b) entitling persons, in addition to those who would be so entitled apart from the regulations, to appear on such appeals,
  - (c) regulating the time within which such appeals or claims may be brought or made,
  - (d) where the market value of an asset on a particular date, or an apportionment or any other matter, may affect the liability to capital gains tax of two or more persons, enabling any such person to have the matter determined by the tribunal having jurisdiction to determine that matter if arising on an appeal against an assessment, and prescribing a procedure by which the matter is not determined differently on different occasions,
  - (e) authorising an inspector or other officer of the Board, notwithstanding the obligation as to secrecy imposed by virtue of this or any other Act, to disclose to a person entitled to appear on such an appeal the market value of an asset as determined by an assessment or decision on a claim, or to disclose to a person whose liability to tax may be affected by the determination of the market value of an asset on a particular date, or an apportionment or any other matter, any decision on the matter made by an inspector or other officer of the Board.

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(2) ..... F287

<sup>M47</sup>(3) Regulations under this section may contain such supplemental and incidental provisions as appear to the Board to be expedient including in particular—

- (a) provisions as to the choice of the Commissioners, whether a body of General Commissioners or the Special Commissioners, to hear the appeal where, in addition to the appellant against an assessment, or the claimant in the case of an appeal against the decision on a claim, and in addition to the inspector or other officer of the Board, some other person is entitled to be a party to the appeal, and
- (b) provisions corresponding to [section 151 of the Capital Allowances Act <sup>F288</sup>] (procedure on apportionments where more than one body of General Commissioners has jurisdiction), and
- (c) provisions authorising the giving of conditional decisions where, under section 47 of this Act, . . . <sup>F289</sup> questions on an appeal against an assessment or a decision on a claim may go partly to one tribunal and partly to another.

(4) Regulations under this section—

- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons, and
- (b) shall have effect notwithstanding anything in this Act <sup>F290</sup>.

**Textual Amendments**

**F286** Words in s. 57(1)(a) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 2(2)** (with ss. 60, 101(1), 171, 201(3)).

**F287** *Repealed, as regards disposals after 22 July 1970, by Finance Act 1971 ss.55 and 69(7) and Sch. 14, Part III, subject to Finance Act 1971, s.55 and Sch. 9.*

**F288** [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#) s. 164 and Sch. 1 para. 1(1). *Previously* “section 81 of the Capital Allowances Act 1968”.

**F289** Words omitted repealed (for 1979-80 et seq.) by [Capital Gains Tax Act 1979 \(c. 14\)](#), s. 158, **Sch. 8**

**F290** *For regulations see Part III Vol.5.*

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

**C59** [S. 57\(1\)\(d\)](#) modified by [Finance Act 1974 \(c. 30\)](#), s. 47, **Sch. 10 para. 5(5)**

**Marginal Citations**

**M47** 1962  
Sch. X(2)(3).

57A ..... F291

**Textual Amendments**

**F291** [S. 57A](#) added by [Development Land Tax Act 1976 \(c. 24\)](#), **Sch. 8 para. 16**. [Development Land Tax Act 1976](#) repealed by [Finance Act 1985 s.98\(6\)](#), Sch. 27 Pt. X.

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## 57B [Commissioners: procedural rules.

- (1) The Lord Chancellor may, with the consent of the Lord Advocate, make rules—
  - (a) as to the procedure of the Special Commissioners and the procedure in connection with the bringing of matters before them;
  - (b) as to the time within which matters may be brought before the Special Commissioners; and
  - (c) providing for appeals which have been heard by the Special Commissioners in the absence of the appellant to be reheard, in such circumstances and subject to such conditions, as the rules may prescribe.
- (2) Rules under this section may make such consequential provision (including the amendment of any enactment or instrument made under any enactment) as the Lord Chancellor considers necessary.
- (3) Rules under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament <sup>F292</sup>.]

### Textual Amendments

**F292** Finance Act 1984 s.127 and Sch.22 para.4 on and after 1 January 1985 by virtue of S.I. 1984 No. 1836 (C.45).

## *Northern Ireland*

## 58 Proceedings in tax cases in Northern Ireland. [1964(M) s.14; 1965 Sch.X 1(1), 18; 1966 Sch.VI 12(1), 27(4).]

- (1) *Subject to this section, all references in the Taxes Acts to the General Commissioners (however expressed, and including references in enactments conferring a right of appeal to the General Commissioners or, at the election of the appellant, to the Special Commissioners) shall, in relation to proceedings in Northern Ireland, be taken as references to the Special Commissioners or, in the cases provided for in section 59 below, a county court in Northern Ireland.*
- <sup>F293</sup>(2) A case concerning tax which is stated by the *Special*<sup>F293</sup> Commissioners under section 56 of this Act in proceedings in Northern Ireland shall be a case for the opinion of the Court of Appeal in Northern Ireland, and the Taxes Acts <sup>F294</sup> 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, and
  - (b) with the omission of subsections (4), (5) and (8) of that section,
 and 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 <sup>F295</sup>].
- (2A) Where in proceedings in Northern Ireland an application is made for a case to be stated by the Commissioners under section 56 of this Act the case must be settled and sent to the applicant as soon after the application as is reasonably practicable <sup>F296</sup>.]



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(3) [For the purposes of this section—

- (a) “proceedings in Northern Ireland” means proceedings as respects which the place given by the rules in Schedule 3 to this Act is in Northern Ireland;
- (b) proceedings under section 102, 113(5), 260(3), 281(4) 343(10) or 783(9) of the principal Act (or the corresponding enactments repealed by that Act), section 11 of or paragraph 22 of Schedule 7 to the Income and Corporation Taxes Act 1970 or [section 151 of the Capital Allowances Act 1990 <sup>F297</sup>] (proceedings to which more than one taxpayer is a party) shall be proceedings in Northern Ireland if the place given by the rules in Schedule 3 to this Act in relation to each of the parties concerned in the proceedings is in Northern Ireland.

and sections 21 and 22 of the Interpretation Act (Northern Ireland) 1954 shall apply as if references in those provisions to any enactment included a reference to this section <sup>F298</sup>

(4) *No determination of the Special Commissioners shall be questioned, whether by a case stated under section 56 of this Act or otherwise, on the ground that the place given by the rules in Schedule 3 to this Act was not in Northern Ireland, and accordingly that the proceedings ought to have been determined by some body of General Commissioners, except by a party by whom or on whose behalf an objection to the jurisdiction was made to the Special Commissioners before or in the course of the proceedings leading to the determination* <sup>F299F300</sup>.

#### Textual Amendments

**F293** Repealed by Finance Act 1988 (c. 39, SIF 63:2) ss. 134(2), 148 and Sch. 14 Part IX from 3 April 1989—commencement order S.I. 1989 No. 473 (not reproduced).

**F294** See Oil Taxation Act 1975 s.1 and Sch.2 para.1(1)—the Oil Taxation Acts—for modification regarding petroleum revenue tax and supplementary petroleum duty.

**F295** Judicature (Northern Ireland) Act 1978 (c.23) s.122 and Sch.5 with effect on and after 18 April 1979—S.I. 1979 No.422.

**F296** Finance Act 1988 (c. 39 SIF 63:1,2) s. 135 from 3 April 1989—commencement order S.I. 1989 No. 473 (not reproduced). And see Finance Act 1988 s. 134.

**F297** Capital Allowances Act 1990 (c. 1, SIF 63:1) s. 164 and Sch. 1 para. 1(1). Previously “section 81 of the Capital Allowances Act 1968”.

**F298** Finance Act 1988 (c. 39 SIF 63:1,2) s. 135 from 3 April 1989—commencement order S.I. 1989 No. 473 (not reproduced). And see Finance Act 1988 s. 134. Previously

“For the purposes of this section and section 59 below—(a) “proceedings in Northern Ireland” means proceedings as respects which the place given by the rules in Schedule 3 to this Act is in Northern Ireland, and “proceedings in Great Britain” shall be construed accordingly;(b) proceedings under [sections 102, 113(5), 263(5) and (6), 343(10) or 783(a) of the principal Act, or paragraph 22 of Schedule 7 of the Income and Corporation Taxes Act 1970, or (a)] section 81 of the Capital Allowances Act 1968 (proceedings to which more than one taxpayer is a party) shall be proceedings in Northern Ireland if the place given by the rules in Schedule 3 to this Act in relation to each of the parties concerned in the proceedings is in Northern Ireland, and in relation to such proceedings the right of election to bring proceedings before a county court in Northern Ireland which is mentioned in subsection (1) of this section and section 59 below shall be exercisable jointly by all the parties concerned in the proceedings, and sections 21, 22 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if references in those provisions to any enactment included a reference to this section and section 59 below.(b)

(c)”

(a) Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32. Previously

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“section 11(aa), 137, 154(5), 252(9) or 494(9) of the principal Act, or paragraph 22 of Schedule 7 to that Act, or”.

**(b)**

See Finance Act 1981 s.134 and Sch.17 para.18—application of s.58(2)(3) to the special tax on banking deposits.

**(c)**

See Oil Taxation Act 1975 s.1 and Sch.2 para.1(1)—Oil Taxation Acts—regarding modification in relation to petroleum revenue tax and supplementary petroleum duty.

**(aa)**

See Finance Act 1982 s.157(7)—the repeal of the figure “11”

by Finance Act 1980 s.122 and Sch.20 Part VI for 1982—83 et seq. is to be deemed not to have taken effect at the beginning of 1982—83.

**F299** See Income Tax (Employments) Regns. 1973 (S.I. 1973 No.334) (in Part III Vol.5) regn. 10(3)(4)—appeal against coding and regn. 48(3)—appeal against assessment under Sch.E.

**F300** Subs. (4) repealed by Finance Act 1988 (c. 39, SIF 63:1,2) s. 148 and Sch. 14 Part IX from 3 April 1989—commencement order S.I. 1989 No. 473 (not reproduced).

## 59 Election for county court in Northern Ireland. [1964(M) s.15.]

(1) Proceedings in Northern Ireland—

- (a) which are brought under the Taxes Acts by an appellant or other party who is not the Board or an officer of the Board, and
- (b) which, if they had been proceedings in Great Britain, might have been brought before the General Commissioners,

shall, if the party bringing the proceedings by notice combined (in the case of an appeal) with the notice of appeal, or by a separate notice in writing to the inspector given within the time limited for bringing the proceedings, so elects, be brought before a county court in Northern Ireland instead of before the Special Commissioners.

<sup>M48</sup>(2) In relation to proceedings brought under this section the following provisions of this Act—

section 49

section 51 with 53

sections 54 and 55

shall apply with the substitution for references to the Special Commissioners (however expressed) of references to the county court.

(3) Where proceedings are brought before a county court in Northern Ireland under this section—

- (a) the county court shall have and exercise the same powers and authority in relation to the assessment appealed against (if any), the proceedings, the determination, and all matters consequent thereon, as the Special Commissioners would have and exercise,
- (b) subject to county court rules, the practice and procedure in the proceedings shall be that followed in income tax cases in a county court in Northern Ireland before the commencement of this Act, and
- (c) the proceedings shall be heard and determined by a single judge sitting alone, and not in public, who may, for all purposes of and incidental to the hearing and determination of the proceedings, exercise all the powers, authority and jurisdiction exercisable by a county court in Northern Ireland in relation to

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*the hearing and determination of an appeal to which [Part IV of the County Courts (Northern Ireland) Order 1980<sup>F301</sup>] (appeals to the county courts) applies.*

- (4) *Within thirty days after the determination by the county court of proceedings brought under this section any party to the proceedings may require the court to state a case on a point of law for the opinion of the Court of Appeal in Northern Ireland.*
- (5) *The procedure relating to the statement of the case shall be that for the time being in force in Northern Ireland as respects cases stated under section 2 of the County Courts Appeals Act (Northern Ireland) 1964 or any enactment of the Parliament of Northern Ireland<sup>F302</sup> re-enacting the said section 2 with or without modification so, however, that notwithstanding anything in subsection (7) of the said section 2 or in any such re-enactment, an appeal, with leave as required by [section 42 of the Judicature (Northern Ireland) Act 1978<sup>F303</sup>], shall lie to the House of Lords from any decision of the Court of Appeal in Northern Ireland upon a case stated to it pursuant to subsection (4) above.*
- (6) *On the determination by the county court under this section of an appeal against an assessment, tax shall be paid in accordance with the determination notwithstanding that a case has been required to be stated or is pending:*
- Provided that if the amount of the assessment is altered by the order or judgment of the Court of Appeal, then—*
- (a) *if too much tax has been paid, the amount overpaid shall be refunded with such interest, if any, as the Court of Appeal 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 which the inspector . . .<sup>F304</sup> issues to the other party a notice of the total amount payable in accordance with the order or judgment of that Court<sup>F305</sup>].*
- (7) *Subject to the preceding provisions of this section the determination of the county court in proceedings under this section shall be final and conclusive.*
- (8) *No determination of a county court under this section shall be questioned, whether by a case stated or otherwise, on the ground that the proceedings were not proceedings in Northern Ireland<sup>F306F307</sup>.*

#### Textual Amendments

- F301** S.I. 1980 No. 397 (N.I.3.). art. 68(2) and Sch. 1 Part II with effect from 19 April 1980.
- F302** See the Northern Ireland Constitution Act 1973 (c.36) s. 40 and Sch.5 para.1—includes, from appointed day, a Measure of the Northern Ireland Assembly.
- F303** Judicature (Northern Ireland) Act 1978 (c.23) s.122 and Sch.5 with effect on and after 18 April 1979—S.I. 1979 No. 422.
- F304** Words relating to development land tax added by Development Land Tax Act 1976 Sch.8 para.15. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.
- F305** Finance (No.2) Act 1975 s.45(3) in relation to notices issued after 31 July 1975.
- F306** See Income Tax (Employment) Regns. 1973 (S.I. 1973 No.334) (in Part III Vol.5). regns. 10(3)—appeal against coding and regn. 48(3)—appeal against assessment under Sch.E
- F307** S. 59 Repealed by Finance Act 1988 (c. 39, SIF 63:1,2) ss. 134(2), 148 and Sch. 14 Part IX from 3 April 1989—commencement order S.I. 1989 No. 473 (not reproduced).

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### Marginal Citations

**M48** 1969  
Sch.X 2(2)(3).

## PART VI

### COLLECTION AND RECOVERY

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

- C60** Pt. 6 applied (with modifications) by [The Income Tax \(Sub-contractors in the Construction Industry\) Regulations 1993 \(S.I. 1993/743\)](#), **reg. 14(2)** (revoked (6.4.2007) by S.I. 2005/2045, Sch. 2)
- C61** Pt. 6 applied by [The Income Tax \(Entertainers and Sportsmen\) Regulations 1987 \(S.I. 1987/530\)](#), **reg. 11(3)**

#### **60 Issue of demand notes and receipts. [1952 s.73; 1964(M) Sch.IV; 1965 Sch.X 1(1); 1966 Sch.VI 13.]**

- (1) Every collector shall, when the tax becomes due and payable, make demand of the respective sums given to him in charge to collect, from the persons charged therewith, or at the places of their last abode, or on the premises in respect of which the tax is charged, as the case may require .
- (2) On payment of the tax, the collector shall if so requested give a receipt .

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

- C62** S. 60 applied (with modifications) by the [Oil Taxation Act 1975 \(c. 22\)](#), s. 1, **Sch. 2 para. 1(1)**
- C63** S. 60 applied (with modifications) by [Finance Act 1981 \(c. 35\)](#), s. 134, **Sch. 17 para. 18** (special tax on banking deposits).

#### *Distraint and poinding*

#### **61 Distraint by collectors. [1952 s.74; 1965 Sch.X 1(1); 1966 Sch.VI 13.]**

- (1) If a person neglects or refuses to pay the sum charged, upon demand made by the collector, the collector shall, for non-payment thereof, distraint upon the lands, tenements and premises in respect of which the tax is charged, or distraint the person charged by his goods and chattels, and all such other goods and chattels as the collector is hereby authorised to distraint .
- (2) For the purpose of levying any such distress, a collector may, after obtaining a warrant for the purpose signed by the General Commissioners, break open, in the daytime, any house or premises, calling to his assistance any constable.

Every such constable shall, when so required, aid and assist the collector in the execution of the warrant and in levying the distress in the house or premises.

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- (3) A levy or warrant to break open shall be executed by, or under the direction of, and in the presence of, the collector.
- (4) A distress levied by the collector shall be kept for five days, at the costs and charges of a person neglecting or refusing to pay.
- (5) If the person aforesaid does not pay the sum due, together with the costs and charges within the said five days, the distress shall be appraised by two or more inhabitants of the parish in which the distress is taken, or by other sufficient persons, and shall be sold by public auction by the collector for payment of the sum due and all costs and charges.

The costs and charges of taking, keeping, and selling the distress shall be retained by the collector, and any overplus coming by the distress, after the deduction of the costs and charges and of the sum due, shall be restored to the owner of the goods distrained.

F308

#### Textual Amendments

F308 See Finance Act 1989 s. 152 for changes from a day to be appointed.

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

C64 S. 61 applied (with modifications) by the Oil Taxation Act 1975 (c. 22), s. 1, Sch. 2 para. 1(1)

## 62 Priority of claim for tax. [1952 s.75; 1965 Sch.X 1(1); 1966 Sch.VI 13.]

- (1) [If at any time at which any goods or chattels belonging to any person (in this section referred to as “the person in default”) are <sup>F309</sup> liable to be taken by virtue of any execution or other process, warrant, or authority whatever, or by virtue of any assignment, on any account or pretence whatever, except at the suit of the landlord for rent, [the person in default is in arrears in respect of any such claims as are referred to in subsection (1A) below, the goods or chattels may not be so taken unless on demand made by the collector <sup>F309</sup>] the person at whose suit the execution or seizure is made, or to whom the assignment was made, pays or causes to be paid to the collector, before the sale or removal of the goods or chattels, all [such sums as have fallen due at or before the date of seizure <sup>F309</sup>].
  - (1A) The sums referred to in subsection (1) above are—
    - (a) sums due from the person in default on account of deductions of income tax from emoluments paid during the period of twelve months next before the date of seizure, being deductions which the person in default was liable to make under section 203 of the principal Act (pay as you earn) less the amount of the repayments of income tax which he was liable to make during that period; and
    - (b) sums due from the person in default in respect of deductions required to be made by him for that period under section 559 of the principal Act (sub-contractors in the construction industry) <sup>F310</sup>.]
- (2) [If the sums referred to in subsection (1) above are not paid within ten days of the date of the demand referred to in that subsection, the collector may <sup>F311</sup> distrain the goods and chattels notwithstanding the seizure or assignment, and [may proceed <sup>F311</sup>] to the sale thereof, as prescribed by this Act, for the purpose of obtaining payment of the

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whole of [those sums <sup>F311</sup>], and the reasonable costs and charges attending such distress and sale, and every collector so doing shall be indemnified by virtue of this Act.

(3) ..... <sup>F312</sup>

#### Textual Amendments

**F309** Words in s. 62(1) substituted by Finance Act 1989 (c. 26), s. 153(2).

**F310** S. 62(1A) inserted by Finance Act 1989 (c. 26), s. 153(3).

**F311** Words in s. 62(2) substituted by Finance Act 1989 (c. 26), s. 153(4).

**F312** *A development land tax provision added by Development Land Tax Act 1976 (c. 24) Sch.8 para.17. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.*

### 63 [Recovery of tax in Scotland [1952 s.76; 1965 Sch.X 1(1); 1966 Sch.VI 13.]

(1) Subject to subsection (3) below, in Scotland, where any tax is due and has not been paid, the sheriff, on an application by the collector accompanied by a certificate by the collector—

- (a) stating that none of the persons specified in the application has paid the tax due by him;
- (b) stating that the collector has demanded payment under section 60 of this Act from each such person of the amount due by him;
- (c) stating that 14 days have elapsed since the date of such demand without payment of the said amount; and
- (d) specifying the amount due and unpaid by each such person,

shall grant a summary warrant in a form prescribed by Act of Sederunt authorising the recovery, by way of the diligences mentioned in subsection (2) below, of the amount remaining due and unpaid.

(2) The diligences referred to in subsection (1) above are—

- (a) a pouncing and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987;
- (b) an earnings arrestment;
- (c) an arrestment and auction of furthcoming or sale.

(3) Paragraph (c) of subsection (1) above shall not apply to an application under that subsection [insofar as it relates to sums due in respect of—

- (a) deductions of income tax which any person specified in the application was liable to make under section 203 of the principal Act (pay as you earn); or
- (b) deductions required to be made under section 559 of the principal Act (sub-contractors in the construction industry) by any person specified in the application <sup>F313</sup>.]

(4) In this section references to amounts of tax due and references to sums due in respect of deductions include references to amounts which are deemed to be—

- (a) amounts of tax which the person is liable to pay by virtue of the Income Tax (Employments) Regulations 1973; or
- (b) amounts which the person is liable to pay by virtue of the Income Tax (Sub-Contractors in the Construction Industry) Regulations 1975 <sup>F314</sup>.]

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### Subordinate Legislation Made

- P1** S. 63(1): s. 63(1) power exercised by [S.I.1991/1920](#)  
For previous exercises of power see Index to Government Orders

### Textual Amendments

- F313** Finance Act 1989 s. 154(2). *Previously*  
“which relates to tax deducted from the emoluments of an office or employment by virtue of regulations under section [203(a)] of the principal Act.”  
(a) [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 32.
- F314** Finance Act 1989 s. 154(3).

## 63A Sheriff officer’s fees and outlays.

- (1) Subject to subsection (2) below and without prejudice to paragraphs 25 to 34 of Schedule 5 to the Debtors (Scotland) Act 1987 (expenses of poinding and sale), the sheriff officer’s fees, together with the outlays necessarily incurred by him, in connection with the execution of a summary warrant shall be chargeable against the debtor.
- (2) No fee shall be chargeable by the sheriff officer against the debtor for collecting, and accounting to the collector for, sums paid to him by the debtor in respect of the amount owing <sup>F315</sup>.]

### Textual Amendments

- F315** [Debtors \(Scotland\) Act 1987 \(c. 18\)](#) s. 74(1) and Sch. 4 para. 2 from 30 November 1988 (by [S.I. 1988 No. 1818 \(C. 66\)](#)). *Previously*  
“Recovery in Scotland. **63.** In Scotland, the following provisions shall have effect— (1) Upon certificate made to them by the collector that any tax is due and not paid, the General Commissioners, or sheriff or sheriff substitute for the county, shall issue a warrant for the collector recovering the said tax by poinding the goods and effects of any person entered in the certificate as being a defaulter, and any person who has made default in paying any sum which may be levied on him in respect of tax may be entered in the certificate as a defaulter, notwithstanding that he was not named in the assessment to tax: (2) The warrant shall be executed by the sheriff officers of the county: (3) The goods and effects so poinded shall be detained and kept on the ground, or at the house where the same were poinded, or in such other place of which the owner shall have notice, near to the said ground or house, as the officer so poinding the same shall think proper, for the space of five days, during which time the said goods and effects shall remain in the custody of the said officer, and liable to the payment of the whole tax in arrear and to the costs to be paid to the officer who poinded the same as hereinafter directed, unless the owner from whom the same were poinded shall redeem the same, within the said space of five days, by payment to the officer of the said tax in arrear and costs, to be settled in the same manner as if the said goods and effects had been sold as hereinafter directed: (4) The goods and effects so poinded shall, after the expiration of the said five days, be valued and appraised by any two persons to be appointed by the officer (which two persons shall be obliged to value the same, under the penalty of £2 for each neglect or refusal), and shall be sold and disposed of, at a sum not less than the value, by the officer who does poind the same: (5) The value shall be applied, in the first place to the satisfaction and payment of the tax owing by the person whose goods are so poinded, and, in the second place, to the payment for the trouble of the officer so poinding, at the rate of two shillings per pound of the tax for which the goods shall be so poinded unless the owner from whom the same were poinded shall redeem the same by payment of the appraised value, within the space of five days

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after the valuation, to the officer who pounded the same: (6) In case any surplus remains of the price or value, after payment of the said tax, and after payment of what is allowed to be retained by the officer in manner herein directed, such surplus shall be returned to the owner from whom the goods were pounded: (7) in case no purchaser appears at the said sale, then the said goods and effects, so pounded, shall be consigned and lodged in the hands of the sheriff of the county, or his substitute, and if not redeemed by the owner within the space of five days after the consignment in the hands of the said sheriff or sheriff substitute, the same shall be roused, sold, and disposed of by order of the sheriff, in such manner, and at such time and place, as he shall appoint, he always being liable to the payment of the tax to the collector, and to payment to the officer who shall have pounded the same, for his trouble and expense, as before stated, and to the fees due to the officer, and being, in the third place, entitled to one shilling per pound of the value of the goods so disposed of, for his own pains and trouble, after preference and allowance of the said tax, and of what is appointed to be paid to the officer for his trouble: (8) There shall also be allowed, to the officer so pouncing, the expense of preserving the said goods and effects, and of maintaining the cattle, if there should happen to be any among the goods and effects so pounded, from the time of pouncing the same, during the period allowed to the owner to redeem them, and also the expense of the sale; and in like manner the expense shall be allowed to the sheriff or sheriff substitute, for preserving and maintaining the goods or cattle pounded, during the period that the owner is allowed to redeem, after consignment in his hands, and until the sale thereof, and also the expense of the sale: (9) Every auctioneer, or seller by commission, selling by auction, in Scotland, any goods or effects whatsoever by any mode of sale at auction, shall, at least three days before he begins any sale by way of auction, deliver or cause to be delivered to the collector a notice in writing, signed by such auctioneer or seller by auction, specifying therein the particular day when such sale is to begin, and the name and surname of the person whose goods and effects are to be sold, with his place of residence: (10) If any such auctioneer or seller by auction shall sell any such goods and effects by way of auction, without delivering the notice hereinbefore required to be delivered, every such auctioneer, or person selling by auction, offending therein shall, for every such offence, incur a penalty of £50.”

**64 Priority of claim for tax in Scotland. [1952 s.77; 1965 Sch.X 1(1); 1966 Sch.VI 13.]**

- (1) [If at any time at which any movable goods and effects belonging to any person (in this section referred to as “the person in default”) are <sup>F316</sup>] liable to be taken by virtue of any pouncing, sequestration for rent, or diligence whatever, or by any assignation, [the person in default is in arrears in respect of any such sums as are referred to in subsection (1A) below, the goods and effects may not be so taken unless on demand made by the collector <sup>F317</sup>] the person proceeding to take the said goods and effects pays [such sums as have fallen due at or before the date of pouncing or, as the case may be, other diligence or assignation <sup>F317</sup>.]
- (1A) The sums referred to in subsection (1) above are—
- (a) sums due from the person in default on account of deductions of income tax from emoluments paid during the period of twelve months next before the date of pouncing, being deductions which the person in default was liable to make under section 203 of the principal Act (pay as you earn) less the amount of the repayments of income tax which he was liable to make during that period; and
  - (b) sums due from the person in default in respect of deductions required to be made by him for that period under section 559 of the principal Act (sub-contractors in the construction industry) <sup>F318</sup>.]
- (2) [If the sums referred to in subsection (1) above are not paid within ten days of the date of the demand referred to in that subsection, the sums shall <sup>F319</sup>], notwithstanding



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any [proceedings<sup>F319</sup>] for the purpose of taking the said moveable goods and effects, be recoverable by pointing and selling the said moveable goods and effects under warrant obtained in conformity with the provisions contained in section 63 above.

(3) .....<sup>F320</sup>

#### Textual Amendments

**F316** Finance Act 1989 s. 155(2)(a). *Previously*

“No moveable goods and effects belonging to any person in Scotland, at the time any tax became in arrear or was payable, shall be”.

**F317** Words in s. 64(1) substituted by Finance Act 1989 (c. 26), s. 155(2)(b)(c).

**F318** Finance Act 1989 s. 155(3)

**F319** Words in s. 64(2) substituted by Finance Act 1989 (c. 26), s. 155(4)(a)(b).

**F320** *A development land tax provision added by Development Land Tax Act 1976 (c. 24) Sch.8 para.18*

*Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.*

#### Court proceedings

### 65 Magistrates’ courts. [1952 s.78(1)(2)(5); 1965 Sch.X 1(1); 1966 Sch.VI 13.]

(1) Where—

(a) the amount of any tax for the time being due and payable under any assessment is less than [<sup>F321</sup>£1,000], or

(b) the tax under any assessment is payable by instalments and the sum for the time being due and payable in respect of any of those instalments is less than [<sup>F321</sup>£1,000],

the tax shall, without prejudice to any other remedy, be recoverable summarily as a civil debt by proceedings commenced in the name of a collector.

(2) All or any of the sums due in respect of tax from any one person and payable to any one collector (being sums which are by law recoverable summarily) may, whether or not they are due under one assessment, be included in the same complaint, summons, order, warrant or other document required by law to be laid before justices or to be issued by justices, and every such document as aforesaid shall, as respects each such sum, be construed as a separate document and its invalidity as respects any one such sum shall not affect its validity as respects any other such sum.

(3) Proceedings under this section for the recovery of any tax charged under Schedule E may be brought in England and Wales at any time within one year from the time when the matter complained of arose.

<sup>M49</sup>(4) It is hereby declared that in subsection (1) above the expression “recoverable summarily as a civil debt” in respect of proceedings in Northern Ireland means recoverable [in proceedings under Article 62 of the Magistrates’ Courts (Northern Ireland) Order 1981<sup>F322</sup>].

(5) The Treasury may by order made by statutory instrument increase the sums specified in sub-section (1) above; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament<sup>F323</sup>.]

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### Subordinate Legislation Made

- P2** S. 65: power previously exercised by [S.I. 1989/1300](#).  
**P3** S. 65(5): s. 65(5) power exercised (16.7.1991) by [S.I.1991/1625](#).

### Textual Amendments

- F321** Words in s. 65(1) substituted (1.9.1991) by [S.I.1991/1625](#), [art. 2](#).  
**F322** [Finance Act 1984 \(c. 43\)](#), [s. 57\(1\)](#).  
**F323** [Finance Act 1984 \(c. 43\)](#), [s.57\(1\)\(c\)](#).

### Marginal Citations

- M49** 1964  
(M) s.8(6).

## 66 County courts. [1964(M) s.8(1); 1965 Sch.X 1(1); 1966 Sch.VI 13.]

- (1) [<sup>F324</sup>Tax due and payable under any assessment may, in England and Wales, and in Northern Ireland where the amount does not exceed the limit specified in Article 10(1) of the County Courts (Northern Ireland) Order 1980,]without prejudice to any other remedy, be sued for and recovered from the person charged therewith as a debt due to the Crown by proceedings in a county court commenced in the name of a collector.
- <sup>M50</sup>(2) An officer of the Board who is authorised by the Board to do so may address the court in any proceedings under this section in a county court in England and Wales <sup>F325</sup>.]
- <sup>F326</sup>(2A) . . . . .
- [<sup>F327</sup>(3) In this section as it applies in Northern Ireland the expression “county court” shall mean a county court held for a division under the County Courts (Northern Ireland) Order 1980.]
- (4) Sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this section, and Part III of the County Courts [(Northern Ireland) Order 1980 <sup>F328</sup>] (general civil jurisdiction) shall apply for the purposes of this section in Northern Ireland .

### Textual Amendments

- F324** Words in s. 66(1) substituted by [S.I. 1991/724](#), [art. 2\(8\)](#), [Sch. Pt. I](#)  
**F325** [Finance Act 1984 s.57\(2\)](#).*Previously*  
“(2) Any barrister who is an officer of the Board may appear in, conduct, defend and address the court in any legal proceedings under this section in a county court in England or Wales(a)”.  
**(a)**  
*See also*[Inland Revenue Regulation Act 1890 \(c. 21, SIF 63:1\) s.27 \(reproduced inPart II Vol.5\)](#)  
*—representation of Commissioners of Inland Revenue by solicitors in county court proceedings.*  
**F326** S. 66(2A) repealed by [S.I. 1991/724](#), [art. 2\(8\)](#), [Sch. Pt. I](#)  
**F327** S. 66(3) substituted by [S.I. 1991/724](#), [art. 2\(8\)](#), [Sch. Pt. I](#)  
**F328** [S.I. 1980/397 \(N.I.3\)](#), [art 68\(2\)](#), [Sch. 1 Part II](#) with effect from 19 April 1980.

### Modifications etc. (not altering text)

- C65** S. 66 extended by [S.I. 1991/724](#), [art. 2\(1\)\(f\)](#)  
**C66** S. 66 applied (with modifications) by the [Oil Taxation Act 1975 \(c. 22\)](#), s. 1, [Sch. 2 para. 1\(1\)](#)

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S. 66 applied by [Finance Act 1981 \(c. 35\)](#), s.134, [Sch.17 para.18](#) (special tax on banking deposits)

#### Marginal Citations

**M50** 1964  
(M) s.8(3).

### 67 Inferior courts in Scotland. [1964(M) s.8(4); 1965 Sch.X 1(1); 1966 Sch.VI 13.] [1971 c.58.]

(1) In Scotland, where the amount of tax for the time being due and payable under any assessment [does not exceed the sum for the time being specified in section 35(1)(a) of the Sheriff Courts (Scotland) Act 1971<sup>F329</sup>] the tax may, without prejudice to any other remedy, be sued for and recovered from the person charged therewith as a debt due to the Crown by proceedings commenced in the name of a collector in the sheriff court . . .<sup>F330</sup>.

<sup>M51</sup>(2) Sections 65 and 66 above shall not apply in Scotland<sup>F331</sup>.

#### Textual Amendments

**F329** Finance Act 1976 s.58(1) *having effect on 1 September 1976. From September 1976 S.I. 1976 No.900 substituted the sum of £500 for the sum of £250 previously stated in the Sheriff Courts (Scotland) Act 1971 (c.58) s.35(1)(a).*

**F330** Sheriff's small debt court abolished from 1 September 1976 by [Sheriff Courts \(Scotland\) Act 1971 \(c.58\)](#), [s.35\(2\)](#). Words omitted repealed by [Finance Act 1976 \(c. 40\)](#), s.58(1), [Sch.15 Part III](#) from that date..

**F331** S.I. 1980 No.397 (N.I.3). Art 68(2) and Sch. 1 Part II with effect from 19 April 1980.

#### Marginal Citations

**M51** 1964  
(M) s.8(4); Sch.VI.

### 68 High Court, etc. [1952 s.79; 1965 Sch.X 1(1); 1966 Sch.VI 13.]

(1) Any tax may be sued for and recovered from the person charged therewith in the High Court as a debt due to the Crown, or by any other means whereby any debt of record or otherwise due to the Crown can, or may at any time, be sued for and recovered, as well as by the other means specially provided by this Act for levying the tax.

<sup>M52</sup>(2) 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 .

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

**C67** S. 68 applied (with modifications) by the [Oil Taxation Act 1975 \(c. 22\)](#), s. 1, [Sch. 2 para. 1\(1\)](#)  
S. 68 applied by [Finance Act 1981 \(c. 35\)](#), s.134, [Sch.17 para.18](#) (special tax on banking deposits).

#### Marginal Citations

**M52** 1952 s.522; 1965 Sch.X 1(1); 1966 Sch.VI 13.

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### Supplemental

#### 69 Interest on tax. [1967 s.40(4)(6)(a).]

Interest charged under Part IX of this Act shall be treated for the purposes—

- (a) of sections 61, 63 and 65 to 68 above , and
- (b) of section 35(2)(g)(i) of the Crown Proceedings Act 1947 (rules of court to impose restrictions on set-off and counterclaim where the proceedings or set-off or counterclaim relate to taxes) and of any rules of court (including county court rules) for England and Wales or Northern Ireland, which impose such a restriction, and
- (c) of section 35(2)(b) of the said Act of 1947 as set out in section 50 of that Act (which imposes corresponding restrictions in Scotland),

as if it were tax charged and due and payable under the assessment to which it relates

F332

#### Textual Amendments

**F332** See—Finance (No. 2) Act 1987 ss. 86(1) and 95(2), (3) for additional wording to be inserted for accounting periods after a day to be appointed (not earlier than 31 March 1992). Finance Act 1989 s. 157(5) for words to replace those following (c) where interest is charged under s. 86 Table para. 5 in accordance with Finance Act 1989 s. 157(5)—carry back of surplus ACT. (Ceases to have effect for accounting periods ending after the appointed day).

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

- C68** S. 69 applied (with modifications) by the [Oil Taxation Act 1975 \(c. 22\)](#), s. 1, [Sch. 2 para. 1\(1\)](#)
- C69** S. 69 applied (with modifications) by [Finance Act 1981 \(c. 35\)](#), s.134, [Sch.17 para.18](#) (special tax on banking deposits).

#### 70 Evidence. [1952 s.71; 1964(M) Sch.IV; 1965 Sch.X 1(1); 1966 Sch.VI 13.]

- (1) Where tax is in arrear, a certificate of the inspector or any other officer of the Board that tax has been charged and is due, together with a certificate of the collector that payment of the tax has not been made to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence that the sum mentioned in the certificate 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 until the contrary is proved .
- <sup>M53</sup>(2) A certificate of a collector that interest is payable under section 86 <sup>F333</sup> [or 87 <sup>F334</sup>] of this Act <sup>F335</sup> and that payment of the interest has not been made to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence that the sum mentioned in the certificate 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 .
- (3) A certificate of the inspector or any other officer of the Board that it has been determined that tax carries interest under section 88 of this Act, together with a certificate of the collector that payment of the interest has not been made to him, or,

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to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence—

(a) that interest is chargeable on the tax from the date when for the purposes of section 88 of this Act the tax ought to have been paid, and

(b) that the sum mentioned in the certificate 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 <sup>F336</sup>.]

<sup>M54</sup>(4) A written statement as to the wages, salaries, fees, and other emoluments paid for any period to the person against whom proceedings are brought under section 65, 66 or 67 of this Act, purporting to be signed by his employer for that period or by any responsible person in the employment of the employer, shall in such proceedings be prima facie evidence that the wages, salaries, fees and other emoluments therein stated to have been paid to the person charged have in fact been so paid.

(5) ..... <sup>F337</sup>

#### Textual Amendments

**F333** See—Finance (No. 2) Act 1987 s. 86(3)—*the reference to s. 86 includes a reference to Taxes Management Act 1970 s. 87A for accounting periods ending after a day to be appointed.* Finance Act 1988 (c. 39, SIF 63:1,2) Sch. 5 para. 11(2)—*reference to s. 86 includes a reference to Finance Act 1988 Sch. 5 para. 3(4)—interest on underwriters' liabilities.*

**F334** Finance Act 1985 s.93(7) and Sch.25 para.6. Previously “86A or 87” by Finance Act 1980 s.115. Originally “or 87”.

**F335** See Oil Taxation Act 1975 s.1 and Sch.2 para.1(1)—Oil Taxation Acts—*regarding modification in relation to petroleum revenue tax and supplementary petroleum duty.*

**F336** Finance Act 1989 (c. 26), s. 160(3).

**F337** See Finance (No. 2) Act 1987 ss. 84(4) and 95(2), (3) for new subsection (5) re penalties incurred after a day to be appointed. Repealed by Finance Act 1989 s. 187 and Sch. 17 Part VIII.

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

**C70** S. 70 applied (with modifications) by the Oil Taxation Act 1975 (c. 22), s. 1, Sch. 2 para. 1(1)  
S. 70 applied (with modifications) by Finance Act 1981 (c. 35), s. 134, Sch. 17 para. 18 (special tax on banking deposits).

#### Marginal Citations

**M53** 1952 s.495(5); 1965 Sch.X 1(1), Sch.XV 8.

**M54** 1952 s.78(3); 1964(M) s.8(2).

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## PART VII

### PERSONS CHARGEABLE IN A REPRESENTATIVE CAPACITY, ETC.

#### *Income Tax* <sup>F338</sup>

#### **Textual Amendments**

**F338** See Finance Act 1989 s. 151—assessment on any one of trustees or personal representatives.

#### **71 Bodies of persons. [1952 s.362.]**

- (1) Subject to [sections 6 to 12 and Parts VIII and XI <sup>F339</sup>] of the principal Act (charge of corporation tax on companies), every body of persons shall be chargeable to income tax in like manner as any person is chargeable under the Income Tax Acts.
- (2) Subject to section 108 of this Act, the chamberlain or other officer acting as treasurer, auditor or receiver for the time being of any body of persons chargeable to income tax shall be answerable for doing all such acts as are required to be done under the Income Tax Acts for the purpose of the assessment of the body and for payment of the tax.
- (3) Every such officer as aforesaid may from time to time retain, out of any money coming into his hands on behalf of the body, so much thereof as is sufficient to pay the income tax charged upon the body, and shall be indemnified for all such payments made in pursuance of the Income Tax Acts <sup>F340</sup>.

#### **Textual Amendments**

**F339** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 32.

**F340** See Finance Act 1981 s.134 and Sch.17 para.18—application of this section to the special tax on banking deposits.

#### **72 Trustees, guardians, etc., of incapacitated persons. [1952 s.363.]**

- (1) The trustee, guardian, tutor, curator or committee of any incapacitated person having the direction, control or management of the property or concern of any such person, whether such person resides in the United Kingdom or not, shall be assessable and chargeable to income tax in like manner and to the like amount as that person would be assessed and charged if he were not an incapacitated person.
- (2) The person who is chargeable in respect of an incapacitated person shall be answerable for all matters required to be done under the Income Tax Acts for the purpose of assessment and payment of income tax.
- (3) Any person who has been charged under the Income Tax Acts in respect of any incapacitated person as aforesaid may retain, out of money coming into his hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the tax charged, and shall be indemnified for all such payments made in pursuance of the Income Tax Acts.

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

- C71** S. 72 restricted (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\)](#), ss. 15(3), 173(4), [Sch. 2 para. 5\(a\)](#)

### 73 Further provision as to infants. [1952 s.364.] **E+W+N.I.**

If a person chargeable to income tax is an infant, then his parent, guardian or tutor—

- (a) shall be liable for the tax in default of payment by the infant, and
- (b) on neglect or refusal of payment, may be proceeded against in like manner as any other defaulter, and
- (c) if he makes such payment, shall be allowed all sums so paid in his accounts.

#### Extent Information

- E1** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only.

### 73 Further provision as to infants. [1952 s.364.] **S**

If a person chargeable to income tax is an infant, then his [<sup>F591</sup>parent or guardian]—

- (a) shall be liable for the tax in default of payment by the infant, and
- (b) on neglect or refusal of payment, may be proceeded against in like manner as any other defaulter, and
- (c) if he makes such payment, shall be allowed all sums so paid in his accounts.

#### Textual Amendments

- F591** Words in s. 73 substituted (S.) (25.9.1991) by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), ss. 10(1), 11(2), [Sch. 1 para.33](#) (with s. 1(3))

### 74 Personal representatives. [1952 s.365; 1964(M) Sch.IV.]

- (1) If a person chargeable to income tax dies, the executor or administrator of the person deceased shall be liable for the tax chargeable on such deceased person, and may deduct any payments made under this section out of the assets and effects of the person deceased <sup>F341</sup>.
- (2) On neglect or refusal of payment, any person liable under this section may be proceeded against in like manner as any other defaulter <sup>F342</sup>.

#### Textual Amendments

- F341** See—[Taxes Management Act 1970 \(c. 9, SIF 62:1\) s.40\(1\)](#)—time limit for assessment, etc. [Taxes Management Act 1970 \(c. 9, SIF 62:1\) s.100\(5\)](#)—recovery of fine or penalty incurred by a person who has died. [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\) ss. 60, 62 and 63](#)—liability of executors, etc., for income tax on profits of trade or profession of deceased person. [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\) s. 67](#)—right of executors, etc., to claim relief for cessation

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*of investment income where source retained.* [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) s. 113—*liability of executors for income tax on partnership profits where partner deceased.* [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) s. 285—*collection from deceased wife's executors, etc., of tax assessed on husband attributable to her income and unpaid.* [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) s. 286—*right of husband to disclaim liability for tax on deceased wife's income.* [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) s. 525—*effect of death, etc., on certain charges in respect of patent rights.*

**F342** See [Finance Act 1981 s.134](#) and [Sch.17 para.18](#)—*application of this section to the special tax on banking deposits.*

## 75 Receivers appointed by a court. [1952 s.366.]

- (1) A receiver appointed by any court in the United Kingdom which has the direction and control of any property in respect of which income tax is charged in accordance with the provisions of the Income Tax Acts shall be assessable and chargeable with the tax in like manner and to the like amount as would be assessed and charged if the property were not under the direction and control of the court.
- (2) Every such receiver shall be answerable for doing all matters and things required to be done under the Income Tax Acts for the purpose of assessment and payment of income tax <sup>F343</sup>.

### Textual Amendments

**F343** See [Finance Act 1981 s.134](#) and [Sch.17 para.18](#)—*application of this section to the special tax on banking deposits.*

## 76 Protection for certain trustees, agents and receivers. [1952 s.367.]

- (1) A trustee who has authorised the receipt of profits arising from trust property by, or by the agent of, the person entitled thereto shall not, if—
  - (a) that person or agent actually received the profits under that authority, and
  - (b) the trustee makes a return, as required by section 13 of this Act, of the name, address and profits of that person,
 be required to do any other act for the purpose of the assessment of that person to income tax.
- (2) An agent or receiver of any person resident in the United Kingdom, other than an incapacitated person, shall not, if he makes a return, as required by section 13 of this Act, of the name, address and profits of that person, be required to do any other act for the purpose of the assessment of that person to income tax.

### *Capital gains tax*

## 77 Application of Part VII to capital gains tax. [1965 Sch.X 1(1), 12(2).]

- (1) This Part of this Act (except section 76 above) shall apply in relation to capital gains tax as it applies in relation to income tax . . . <sup>F344</sup>, and subject to any necessary modifications.



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- (2) This Part of this Act as applied by this section shall not affect the question of who is the person to whom chargeable gains accrue, or who is chargeable to capital gains tax, so far as that question is relevant for the purposes of any exemption, or of any provision determining the rate at which capital gains tax is chargeable.

**Textual Amendments**

**F344** Words omitted repealed for 1973—74 et seq. by Finance Act 1971 ss.37 and 38 and Sch.14 Part II.

77A ..... F345

**Textual Amendments**

**F345** A development land tax provision added by Development Land Tax Act 1976 (c. 24) Sch.8 para.19 Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.

**PART VIII**

**CHARGES ON NON-RESIDENTS** F346

**Textual Amendments**

**F346** See also Finance Act 1973 s.38 and Sch.15 paras. 4 to 9—collection from holder of licence under Petroleum (Production) Act 1934 of tax assessed on non-residents under s.38 (territorial extension of charges to tax).

*Income tax*

**78 Method of charging non-residents. [1952 s.369.]**

- (1) Subject to [subsection (2) below and F347] section [43 F348] of the principal Act (Schedule A etc.) a person not resident in the United Kingdom, whether a British subject or not, shall be assessable and chargeable to income tax in the name of any such trustee, guardian, tutor, curator or committee as is mentioned in section 72 of this Act, or of any branch or agent, whether the branch or agent has the receipt of the profits or gains or not, in like manner and to the like amount as such non-resident person would be assessed and charged if he were resident in the United Kingdom and in the actual receipt of such profits or gains F349.
- F350 (2) Subject to the following provisions of this section, a person who is not resident in the United Kingdom shall not, by virtue of this section, be chargeable in the name of an agent in respect of profits or gains arising from investment transactions carried out by the agent if—
- (a) the agent is carrying on a business of providing investment management services to a number of clients of whom the non-resident person is one; and
  - (b) the investment transactions concerned were carried out in the ordinary course of the business referred to in paragraph (a) above; and

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- (c) the remuneration which the agent receives for the provision of investment management services to the non-resident person is at a rate which is not less than that which is customary for that class of business; and
- (d) in the case of profits or gains which are chargeable to tax as the profits or income of the non-resident person from carrying on a trade in the United Kingdom through a branch or agency, the agent carrying out the investment transaction is also the agency through which the trade is carried on;

and in the case of an agent who provides investment management services as part only of a business, paragraphs (a) to (d) above shall apply as if that part were a separate business.

(3) In subsection (2) above “investment transactions” means—

- [<sup>F351</sup>(a) transactions in shares, stock, futures contracts, options contracts or securities of any description not mentioned in this paragraph, but excluding futures contracts or options contracts relating to land,]
- (b) transactions on a recognised futures exchange, within the meaning of the [<sup>F352</sup>1992 Act], and
- (c) the placing of money at interest,

and for the purposes of that subsection an agent carries out such a transaction on behalf of his client whether he undertakes the transaction himself or by giving instructions to another person.

[<sup>F353</sup>(3A) For the purposes of subsection (3) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations.]

(4) <sup>F354</sup> .....

(5) Subsection (2) above does not apply if the non-resident person and the agent are connected with each other, within the terms of section [839 <sup>F355</sup>] of the principal Act.]

#### Textual Amendments

**F347** Finance Act 1985 s.50 for 1985—86 *et seq.* for profits or gains chargeable to income tax and for accounting periods ending on or after 1 April 1985 for profits etc. chargeable to corporation tax.

**F348** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.

**F349** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 43—s. 78 not applicable to tax on profits within Sch. A, or in certain cases Sch. D Case VI, where payment made direct to person whose usual place of abode is outside the United Kingdom.

**F350** S. 78(2)-(5) inserted by Finance Act 1985 (c. 54), s. 50 for 1985—86 *et seq.* for profits or gains chargeable to income tax and for accounting periods ending on or after 1 April 1985 for profits etc. chargeable to corporation tax.

**F351** S. 78(3)(a) substituted (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 81(2)(5)

**F352** Words in s. 78(3)(b) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10 para. 2(2) (with ss. 60, 101(1), 171, 201(3)).

**F353** S. 78(3A) inserted (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 81(3)(5)

**F354** S. 78(4) repealed (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), ss. 81(4)(5), 123, Sch. 19 Pt. V Note 1.

**F355** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.

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**79 Profits from branch or agency. [1952 s.370.]**

A non-resident person shall be assessable and chargeable to income tax in respect of any profits or gains arising, whether directly or indirectly, through or from any branch or agency, and shall be so assessable and chargeable in the name of the branch or agent.

**80 Charge on percentage of turnover. [1952 s.371; 1964(M) Sch.IV.]**

- (1) Where it appears to the inspector or, on appeal, to the General or Special Commissioners, that the true amount of the profits or gains of any non-resident person chargeable with income tax in the name of a resident person cannot in any case be readily ascertained, the inspector or Commissioners may, if he or they think fit, assess and charge the non-resident person on a percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable as aforesaid, and the inspector may by notice require the resident person to deliver a return of the business so done by the non-resident person through or with the resident person.
- (2) The amount of percentage under subsection (1) of this section shall in each case be determined, having regard to the nature of the business, by the inspector or Commissioners.
- (3) If either the resident person or the non-resident person is dissatisfied with the percentage as confirmed or determined by the General or Special Commissioners on appeal, he may within four months of the determination, require the Commissioners to refer the question of the percentage to a referee or board of referees to be appointed for the purpose by the Treasury and the decision of the referee or board shall be final and conclusive.<sup>F356</sup>

**Textual Amendments**

**F356** See Finance Act 1989 s. 182 (in Part II Vol. 5)—disclosure of information.

**81 Taxation on basis of merchanting profit. [1952 s.372; 1964(M) Sch.IV.]**

Where a non-resident person is chargeable to income tax in the name of any branch or agent in respect of any profits or gains arising from the sale of goods or produce manufactured or produced out of the United Kingdom by the non-resident person, the person in whose name the non-resident person is so chargeable may, by notice included in a return of income delivered within six years from the end of the year of assessment for which he is chargeable, elect to be assessed in respect of those profits or gains on the basis of the profits which might reasonably be expected to have been earned by a merchant or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who had bought from the manufacturer or producer direct.

**82 Savings. [1952 s.373.]**

- (1) Nothing in this Part of this Act shall render a non-resident person chargeable in the name of a broker or in the name of an agent not being an authorised person carrying on the regular agency of the non-resident person, in respect of profits or gains arising from sales or transactions carried out through such a broker or agent:

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Provided that where sales or transactions are carried out on behalf of a non-resident person through a broker in the ordinary course of his business as such and the broker—

- (a) is a person carrying on bona fide the business of a broker in the United Kingdom, and
- (b) receives in respect of the business of the non-resident person which is transacted through him remuneration at a rate not less than that customary in the class of business in question, then, notwithstanding that the broker is a person who acts regularly for the non-resident person as such broker, the non-resident person shall not be chargeable in the name of that broker in respect of profits or gains arising from those sales or transactions.

In this subsection, “broker” includes a general commission agent.

- (2) The fact that a non-resident person executes sales or carries out transactions with other non-residents which would make him chargeable in pursuance of this Part of this Act in the name of a resident person shall not of itself make him chargeable in respect of profits arising from those sales or transactions <sup>F357</sup>.

#### Textual Amendments

**F357** See *Capital Gains Tax Act 1979 (c. 14, SIF 63:2)* s.12(3)—“branch or agency” in *Capital Gains Tax Act 1979 (capital gains)* excludes person exempt unders.82.

### 83 Responsibilities and indemnification of persons in whose name a non-resident person is chargeable. [1952 s.374.]

- (1) A person in whose name a non-resident person is chargeable shall be answerable for all matters required to be done under the Income Tax Acts for the purpose of assessment and payment of income tax.
- (2) A person who has been charged under the Income Tax Acts in respect of any non-resident person as aforesaid may retain, out of money coming into his hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the tax charged, and shall be indemnified for all such payments made in pursuance of the Income Tax Acts <sup>F358</sup>.

#### Textual Amendments

**F358** See *Finance Act 1981 s.134 and Sch.17 para.18*—application of this section to the special tax on banking deposits.

### *Capital gains tax*

### 84 Gains from branch or agency. [1952 s.370; 1965 Sch.X 1(1).]

- (1) A non-resident person shall be assessable and chargeable to capital gains tax in respect of any chargeable gains arising, whether directly or indirectly, through or from any branch or agency, and shall be so assessable and chargeable in the name of the branch or agent.

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- <sup>M55</sup>(2) The person in whose name the non-resident person is chargeable shall be answerable for all matters required to be done under the enactments relating to capital gains tax for the purpose of assessment and payment of that tax.
- (3) A person who has been charged under this section in respect of any non-resident person may retain, out of money coming into his hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the tax charged, and shall be indemnified for all such payments made in pursuance of the enactments relating to capital gains tax.

**Marginal Citations**

**M55** 1952 s.374; 1968 Sch.XII 13.

*Corporation tax*

**85 Application of Part VIII to corporation tax. [1965 s.50(4).]**

- (1) The provisions of this Part of this Act relating to income tax, so far as they are applicable to tax chargeable on a company, shall apply with any necessary adaptations in relation to corporation tax chargeable on companies not resident in the United Kingdom.
- (2) Subsection (2) of section 83 above shall apply—
- (a) to corporation tax to which a person is chargeable in respect of a non-resident company and which has become due and payable without the making of an assessment; and
  - (b) to interest to which he is chargeable on such tax under section 87A below, as it applies (by virtue of subsection (1) above) to corporation tax which has been assessed on him in respect of such a company <sup>F359</sup>.]

**Textual Amendments**

**F359** Finance (No. 2) Act 1987 s. 95 and Sch. 6 para. 7 for tax in respect of accounting periods ending after a day to be appointed (not earlier than 31 March 1992), and interest on such tax.

**85A** ..... <sup>F360</sup>

**Textual Amendments**

**F360** A development land tax provision added by Development Land Tax Act 1976 (c. 24) Sch.8 para.20 Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.

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## PART IX

### INTEREST ON OVERDUE TAX <sup>F361</sup>

#### Textual Amendments

**F361** See—Finance Act 1984 Sch.14 para.6(4)—*notwithstanding anything in Part IX payments of capital gains tax postponed under Finance Act 1984 Sch.14 not to carry interest for any period before tax becomes payable under Finance Act 1984 Sch.14 para.11. Finance Act 1989 s. 124 and Sch. 14 para. 5—payment by installments of capital gains tax on gifts. S.I. 1987 No. 530 (in Part III Vol. 5) regn. 11(3)—tax under assessments in relation to non-resident entertainers and sportsmen to be treated for the purposes of Part IX as income tax under Sch. D.*

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

**C72** Part IX (ss. 86-92) applied (27.7.1993 with effect in relation to the year 1993-94 and subsequent years of assessment) by 1993 c. 34, s. 122(2)(3)

#### 86 [Interest on overdue tax.

- (1) Any tax charged by an assessment to which this section applies shall carry interest at the [rate applicable under section 178 of the Finance Act 1989 <sup>F362</sup>] from the reckonable date until payment.
- (2) This section applies to—
  - (a) an assessment to income tax under Schedule A, Schedule C, Schedule D or Schedule E,
  - (b) an assessment charging income tax at a rate other than the basic rate on income from which income tax has been deducted (otherwise than under section [203 <sup>F363</sup>] of the principal Act) or from or on which income tax is treated as having been deducted or paid or income chargeable under Schedule F,
  - (c) an assessment to capital gains tax,
  - (d) an assessment to corporation tax other than an assessment made under Schedule [13 to the principal Act <sup>F363</sup>] (advance corporation tax) <sup>F364F365</sup>.

<sup>F366</sup> [In any case where—

- <sup>F367</sup>(2A)
  - (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”) is 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, an amount of corporation tax assessed 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 claim, except so far as concerns interest for any time after the day following the expiry of the period of nine months from the end of the later period.]]

- (3) For the purposes of this section—

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- (a) the reckonable date in relation to any tax charged by an assessment to income tax under Schedule E, and
  - (b) subject to subsection (3A) below, the reckonable date in relation to tax charged by any other assessment to which this section applies,
- is the date on which the tax becomes due and payable.
- (3A) Where an appeal has been made against an assessment and any of the tax charged by the assessment is due and payable on a date later than the date given by the Table in subsection (4) below, the reckonable date in relation to the tax so due and payable is the later of—
- (a) the date given by that Table, and
  - (b) the date on which the tax would have been due and payable if there had been no appeal against the assessment (assuming in a case where the tax would not have been charged by the assessment if there had been no appeal that it was so charged).
- (4) The Table referred to in subsection (3A) above is as follows— <sup>F368</sup> ] <sup>F369</sup> .

TABLE

| <i>Description of tax</i>  | <i>Date applicable</i>   |
|--|--|
| 1. Tax charged by an assessment to income tax under Schedule A or an assessment to income tax under Schedule D other than an assessment made under Part III of Schedule [3 <sup>F370</sup> ] to the principal Act (machinery for assessment, charge and payment of income tax under Schedule C and, in certain cases, Schedule D). | 1. The 1st July following the end of the year of assessment.   |
| 2. Tax charged by an assessment to income tax under Schedule C or an assessment to income tax under Schedule D made under Part III of Schedule [3 <sup>F363</sup> ] to the principal Act.  | 2. The last day of the six months following the end of the thirty days mentioned in paragraph 9 of the said Schedule [3 <sup>F363</sup> ]. |
| 3. Tax charged by an assessment charging income tax as mentioned in subsection (2)(b) above <sup>F371</sup> .  | 3. [The 1st June following the 1st December mentioned in section [5(4) <sup>F372</sup> ] of the principal Act <sup>F373</sup> .]           |
| 4. Tax charged by an assessment to capital gains tax.  | 4. [The 1st June following the 1st December mentioned in section [ <sup>F374</sup> 7 of the 1992 Act].]                                    |
| 5. Tax charged by an assessment to corporation tax other than an assessment  | 5. The last day of the six months following—   |

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made under Schedule [13 to the  
 principal Act  
 F372  
 ].

(a) in a case where section [10(1)  
 F372

] of the principal Act applies, the end of  
 the nine months there mentioned  
 F375

;

(b) in a case where section 244(1)  
 of that Act applies, the end of the  
 interval there mentioned from the end  
 of the accounting period to which the  
 assessment relates  
 F376

; or

(c) in a case where section [478  
 F372

] of that Act applies, the last day on  
 which the tax could have been paid  
 within the time limit  
 F377

imposed by subsection (2)(a) of that  
 section.  
 F378

- (5) Tax charged by an assessment to which this section applies shall carry interest from the reckonable date even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.
- (6) Where the amount of interest payable under this section on the tax charged by any assessment does not exceed [£30<sup>F379</sup>], that interest may, if the Board think fit, be remitted<sup>F380</sup> F381F382.

#### Textual Amendments

**F362** Finance Act 1989 s. 179(1)(b) and S.I. 1989 No. 1298 from 18 August 1989. Previously “prescribed rate”. And see S.I. 1989 No. 1297 for regulations made, and interest rate set, under Finance Act 1989 s. 178. See also Table I Vol. 1 for rates of interest.

**F363** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.

**F364** Subs. (d) omitted by Finance (No. 2) Act 1987 s. 86(2) for accounting periods ending after a day to be appointed (not earlier than 31 March 1992).

**F365** See -Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 375 -assessments undersubsection (3) to be regarded as if included among those specified ins. 86(2). Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 14 para. 6(2)(a) -assessments under para. 6 to be regarded as if they were included among those specified ins. 86(2). S.I. 1986 No. 1948 (in Part III Vol. 5) regn. 33(3) -assessments under S.I. 1986 No. 1948 (personal equity plans) to be treated as assessments specified ins. 86(2). S.I. 1987 No. 352 (in Part III Vol. 5) regn. 6(6) - Taxes Management Act 1970 (c. 9, SIF 63:1) to apply to assessments under S.I. 1987 No. 352 (pension scheme surpluses:



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- administration) as if unders. 86(2)but omissions. 86(3) and (4)and substituting a different definition of the reckonable date'
- F366** S. 86(2A) repealed (*prosp.*) by Finance Act 1991 (c. 31, SIF 63:1), ss. 73(3)(5), 123, Sch. 15 para. 1(2), Sch. 19, Pt. V, Note 2
- F367** S. 86(2A) inserted (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 73(3)(5), Sch. 15, para. 1(1)(with saving in Sch. 15, para. 1(2))
- F368** Finance Act 1989 s. 156(1)for tax charged by any assessment notice of which is issued after 30 July 1982. Previously  
“In this section “reckonable date” means— (a) in relation to any tax the date for the payment of which is given by section 55 above and which, if there had been no appeal, would have become due and payable on an earlier date, that earlier date or the date mentioned in subsection (4) below, whichever is the later, and [(aa) in relation to any tax payable in accordance with the determination of an appeal against an assessment but which had not been charged by the assessment, the date which if it had been charged would by virtue of paragraph (a) above have been the reckonable date; and(a)] (b) in relation to any tax not falling within paragraph (a) [or paragraph (aa)(a)] above, the date on which it becomes due and payable. (4) The date referred to in subsection (3)(a) above is the date on which the tax becomes due and payable or the date given by the following Table, whichever is the earlier.”  
(a)Finance Act 1982 s.69(1)(a)(b)in relation to notices of assessment issued after30July1982.
- F369** See—Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 5for dates of payment of income tax.S.I. 1986 No. 1948 (in Part III Vol. 5) regn. 33(3)—sums charged by assessments under S.I. 1986 No. 1948(personal equity plans) to be treated as tax specified in the Table in s. 86(4).
- F370** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.
- F371** See—Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 375(4)(b)—sums charged by assessments under s. 375(3)to be regarded as if they were included in para. 3 of the Table.Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 14 para. 6(2)(b)—sums charged by assessments under para. 6to be regarded as if they were included in para. 3 of the Table.
- F372** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.
- F373** Finance Act 1980 s.61(3)in relation to tax for1980—81et seq.
- F374** Words in s. 86(4) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10 para. 2(8) (with ss. 60, 101(1), 171, 201(3)).
- F375** SeeIncome and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 30 para. 1(7)for modification of para. 5(a)of the Table for any accounting periods of companies to which Finance Act 1970 s. 244applied for the last accounting period ending before 17 March 1987 and which fell within Income and Corporation Taxes Act 1988 Sch. 30 para. 1(3) or 1(4).
- F376** Para. 5(b)repealed by Finance Act 1987 s. 72(7)and Sch. 16 Part Vfor accounting periods beginning on or after 17 March 1987.
- F377** SeeIncome and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 30—the reference to the time limit imposed by s. 478to be construed as a reference to the time limit for an accounting period of a building society ending in the year 1989-90.
- F378** Para. 5of the Table omitted by Finance (No. 2) Act 1987 s. 86(2)for accounting periods ending after a day to be appointed.  
See—Finance Act 1989 s. 157(1)for application of para. 5 totax charged under s. 252(1)as a result of a s. 240claim made on or after 14 March 1989. (Ceases to have effect for accounting periods ending after the appointed day).Finance Act 1989 s. 157(2)–(4)for application of para. 5 where there is a carry back of surplus ACT in relation to claims made under s. 239(3)on or after 14 March 1989. (Ceases to have effect for accounting periods ending after the appointed day).
- F379** Finance Act 1980 s.62for interest on assessments issued after1August1980.
- F380** Finance (No. 2) Act 1975 s.46(1)in relation to tax charged by assessments where notices issued after31July1975.
- F381** See—Taxes Management Act 1970 (c. 9, SIF 63:1) s. 109—application of s. 86to tax assessable on close companies underIncome and Corporation Taxes Act 1970 (c. 10, 63:1) ss. 286, 288and 289.Finance Act 1973 s.38andSch.15 para.4—collection of interest on tax assessed on non-residents

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unders.38 (territorial extension of charges to tax).Finance Act 1981 s.134andSch.17 para.15(4) —application of s.86to the special tax on banking deposits.Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 285—adjustment of interest where tax assessed on husband in respect of wife's income is collectable from her or her executors.Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) ss. 306 and 307—application of s. 86in relation to business start-up relief and to business expansion scheme relief.

**F382** See - Finance Act 1989 ss. 158 and 187 and Sch. 1 - Subs. (6)ceases to have effect in respect of demands etc. made on or after a day to be appointed.Social Security Act 1975 Sch. 2 para. 7 (in Part II Vol. 5) -collection of Class 4 contributions with income tax.

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

**C73** S. 86 applied (N.I.) (1.7.1992) by Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), ss. 15(3), 173(4), **Sch. 2 para. 6(1)**

**C74** S. 86 excluded (E.W.S.) (1.7.1992) by Social Security Contributions and Benefits Act 1992 (c. 4), ss. 16(3), 177(4), **Sch. 2 para. 6(1)** (as substituted temporarily until 19.4.1993 by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 6, 7(2), **Sch. 4 para. 8**)

**C75** S. 86 excluded (N.I.) (1.7.1992) by Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), ss. 15(3), 173(4), **Sch. 2 para. 6(1)** (as substituted temporarily until 19.4.1993 by Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9), ss. 6, 7(2), **Sch. 4 para. 7**)

**86A** ..... **F383**

**Textual Amendments**

**F383** A development land tax provision added byDevelopment Land Tax Act 1976 (c. 24) Sch.8 para.21 Development Land Tax Act 1976repealed byFinance Act 1985 s.98(6)andSch.27 Part X.

**87 Interest on overdue advance corporation tax and income tax on company payments.**

(1) Any tax assessable in accordance with Schedule [13 <sup>F384</sup>] or [16 <sup>F384</sup>] to [the principal Act <sup>F384</sup>] shall carry interest at the [rate applicable under section 178 of the Finance Act 1989 <sup>F385</sup>] from the date when the tax becomes due and payable until payment <sup>F386</sup>.

(2) Where—

(a) advance corporation tax paid in respect of distributions made in any return period is repaid under paragraph 4 of the said Schedule [13 <sup>F384</sup>] in consequence of the receipt of franked investment income in a later return period; or

(b) income tax paid in respect of payments made in any return period is repaid or discharged under paragraph 5 of the said Schedule [16 <sup>F384</sup>] in consequence of the receipt in a later return period of a payment on which income tax is borne by deduction,

the repayment or discharge shall not affect interest under this section on the tax so repaid or discharged for such time as is specified in subsection (3) below but, subject to that, this section shall apply as if any such tax which is repaid or discharged had never become payable.

(3) The time for which interest is not affected is—

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- (a) any time before the expiration of fourteen days from the end of the later return period, unless the return for that period is made earlier in those fourteen days; and
  - (b) if that return is made earlier in those fourteen days, any time ending before the date on which the return is made.
- (4) Interest shall not be payable under this section on the tax charged by any assessment unless the total amount of the interest exceeds [£30<sup>F387</sup>].<sup>F388</sup>
- (5) Subsection (4) above shall have effect as if all advance corporation tax due from a company in accordance with paragraph 3(1) of the said Schedule [13<sup>F384</sup>] for any return period, whether or not it is actually assessed, were included in a single assessment, and similarly in the case of all income tax due from a company in accordance with paragraph 4(1) of the said Schedule [16<sup>F384</sup>] for any return period.<sup>F388</sup>
- (6) In this section “return period” means a period for which a return is required to be made under the said Schedule [13<sup>F384</sup>] or [16<sup>F384</sup>].
- (7) It is hereby declared that this section applies to advance corporation tax and income tax which, in accordance with either of those Schedules, is paid without the making of any assessment (but is paid after it is due), and that where the tax is charged by an assessment (whether or not any part of it has been paid when the assessment is made) this section applies as respects interest running before as well as after the making of the assessment<sup>F389</sup>.]
- (8) Tax assessable as mentioned in subsection (1) above shall carry interest from the date when it becomes due and payable even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882<sup>F390</sup>.]<sup>F391</sup>

#### Textual Amendments

**F384** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 32.

**F385** Finance Act 1989 s. 179(1)(b) and S.I. 1989 No. 1298 from 18 August 1989. Previously “prescribed rate”. And see S.I. 1989 No. 1297 for regulations made, and interest rate set, under Finance Act 1989 s. 178. See also Table I Vol. 1 for rates of interest.

**F386** See—S. I. 1986 No. 482 (in Part III Vol. 5) regn. 7(4)—application of s. 87 to tax to which Finance Act 1972 Sch. 20 applies by virtue of S.I. 1986 No. 482 regn. 7. S. I. 1987 No. 530 (in Part III Vol. 5) regn. 14(2)—modification of s. 87 in relation to tax assessable in respect of non-resident entertainers and sportsmen.

**F387** Finance Act 1980 s. 62 in relation to interest on tax charged by assessments issued after 1 August 1980.

**F388** See Finance Act 1989 s. 158—subs. (4) ceases to have effect in respect of assessments relating to an accounting period beginning on or after a day to be appointed.

**F389** Finance Act 1972 s. 111 and Sch. 24 para. 10 for 1973—74 et seq.

**F390** Added by Finance (No. 2) Act 1975 s. 46(3)(b) in relation to tax charged by assessments notices of which were issued after 31 July 1975.

**F391** See—Finance Act 1981 s. 134 and Sch. 17 para. 15(4)—application of this section to the special tax on banking deposits.

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

**C76** S. 87(1)(7)(8) applied (1.10.1993) by S.I. 1993/2004, [reg. 11\(10\)](#)

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**[87A** <sup>F392</sup> **Interest on overdue corporation tax etc.**

- (1) Corporation tax shall carry interest at the [<sup>F393</sup>rate applicable under section 178 of the Finance Act 1989] from the date when the tax becomes due and payable (in accordance with section [<sup>F394</sup>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 <sup>M56</sup>Bills of Exchange Act 1882.
- (3) In relation to corporation tax assessed by virtue of section [<sup>F395</sup>346(2) or 347(1) of the principal Act,][<sup>F396</sup>137(4), 139(7) or 179(11) of the 1992 Act or section 96(8) of the Finance Act 1990] (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) In any case where—
  - (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 [<sup>F397</sup>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 [<sup>F397</sup>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 [<sup>F398</sup>section 252(5) of the principal Act] (recovery of payment of tax credit or interest on such a payment) shall carry interest at the [<sup>F399</sup>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.

<sup>F400</sup>(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”) is 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, 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 claim, except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as

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the case may be, would have become) due and payable, as mentioned in subsection (1) above.]

#### Textual Amendments

- F392** S. 87A inserted by [Finance \(No. 2\) Act 1987 \(c. 51\)](#), **ss. 85, 95(2)**
- F393** 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
- F394** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, **Sch. 29 para. 10(4)(a)**. Previously “243(4)”
- F395** [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”.
- F396** Words in s. 87A(3) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 2(9)** (with ss. 60, 101(1), 171, 201(3))
- F397** [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.
- F398** [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”
- F399** 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
- F400** S. 87A(6) added (25.7.1991) by [Finance Act 1991 \(c. 31\)](#), s. 73(3)(4)(5), **Sch. 15, para. 2**

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

- C77** S. 87A modified (25.7.1991) by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 438A, **Sch. 19B, para. 3** (which was added (25. 7. 1991) by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 49, **Sch. 8**)
- C78** S. 87A extended (with modifications) (25.7.1991) by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 438A **Sch. 9B para. 5(6)** (which was added (25.7.1991) by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 49, **Sch. 8**)
- S. 87A applied (with modifications) (2.10.1992) by [S.I. 1992/2326](#), **reg. 6(5)(6)**

#### Marginal Citations

- M56** 1882 c. 61.

### 88 Interest on tax recovered to make good loss due to taxpayer’s fault. [1960 s.58(1); 1962 s.26(1); 1965 Sch.X 1(1); 1966 Sch.VI 8(2).]

- (1) Where an assessment has been made for the purpose of making good to the Crown a loss of tax wholly or partly attributable to
- a failure to give a notice, make a return or produce or furnish a document or other information required by or under the Taxes Acts, or
  - an error in any information, return, accounts or other document delivered to an inspector or other officer of the Board <sup>F401</sup>]

the tax charged by the assessment, or as the case may be such part thereof as corresponds to the part so attributable, [shall, if an inspector or the Board so determine, carry <sup>F402</sup>] interest at the [rate applicable under section 178 of the Finance Act 1989 <sup>F403</sup>] from the date on which the tax ought to have been paid until payment <sup>F404</sup>.

- <sup>M57</sup>(2) This section shall not apply in relation to [<sup>F405</sup>] tax under Schedule [13 or 16 to the principal Act <sup>F406</sup>].

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- (3) Where it is finally determined that any tax carries interest under this section, the tax shall carry no interest under section 86 or 86A above, (and, accordingly, any interest under either of those sections which has been paid before the final determination shall be set off against the amount of the interest under this section); and for the purposes of this subsection a determination that tax carries interest is not final until it can no longer be varied, whether by any Commissioners on appeal or by the order of any court <sup>F407</sup>.]
- <sup>M58</sup>(4) The Board may at their discretion mitigate (whether before or after judgment) any interest due under this section and may stay or compound any proceedings for the recovery thereof.
- <sup>M59</sup>(5) For the purposes of this section the date when tax ought to have been paid shall be taken to be—
  - (a) in the case of income tax, 1st January in the year of assessment for which the tax is charged, but subject to paragraphs (b) and (c) below,
  - (b) in the case of one-half of any income tax specified in section [5(2) <sup>F408</sup>] of the principal Act, the following 1st July,
  - (c) in the case of any income tax specified in section [5(4) <sup>F408</sup>] of the principal Act, the following [1st December <sup>F409</sup>] <sup>F410</sup>,
  - <sup>M60</sup>(d) in the case of capital gains tax, [1st December <sup>F409</sup>] in the year of assessment next following the year for which the tax is charged,
  - <sup>M61</sup>(e) in the case of corporation tax, the date nine months from the end of the accounting period for which the tax is charged <sup>F411F412</sup> . . . <sup>F413</sup>
  - (f) . . . . . <sup>F414</sup>
- (6) Tax charged by an assessment mentioned in subsection (1) above shall carry interest from the date when it ought to have been paid even if that date was a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882 <sup>F415</sup>.]
- (7) In paragraph (a) of subsection (1) above the reference to a failure to do something includes, in relation to anything required to be done at a particular time or within a particular period, a reference to a failure to do it at that time or within that period; and, accordingly, section 118(2) of this Act shall not apply for the purposes of that paragraph <sup>F416</sup>.] <sup>F417</sup>

**Textual Amendments**

**F401** Finance Act 1989 s. 159(2) *in relation to failures occurring, and errors in any information or documents delivered, on or after 27 July 1989. Previously* “the fraud, wilful default or neglect of any person,”.

**F402** Finance Act 1989 s. 160(1). *Previously* “shall carry”.

**F403** Finance Act 1989 s. 179(1)(b)(i) *and S.I. 1989 No. 1298 from 18 August 1989. Previously* “prescribed rate”. *And see S.I. 1989 No. 1297 for regulations made, and interest rate set, under s. 178. See also Table I Vol. 1 for rates of interest.*

**F404** *See Finance Act 1984 Sch. 14 para. 2(3)(b)—Finance Act 1984 Sch. 14 not have effect to allow postponement of capital gains tax carrying interest by virtue of s. 88(1), unless the interest by reason of neglect of any person and that neglect is remedied before 1 July 1985.*

**F405** *See Finance (No. 2) Act 1987 s. 86(4)(a) for wording to be inserted for accounting periods ending after a day to be appointed.*

**F406** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 32 *previously amended by Finance Act 1972 s. 111 and Sch. 24 para. 11.*

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- F407** Finance Act 1989 s. 161. *Previously*  
“(3) Tax carrying interest under this section shall not carry interest under section 86(a) above.”  
**(a)**  
*Amended in relation to development land tax by* Development Land Tax Act 1976 Sch.8 para.22.  
*Development Land Tax Act 1976 repealed by* Finance Act 1985 s.98(6) *and* Sch.27 Part X.
- F408** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 32
- F409** Finance Act 1980 s.61(4) *for* 1980—81 *et seq.*
- F410** Finance Act 1971 ss.37 *and* 38 *and* Sch.6 para.87 *for* 1973—74 *et seq.*
- F411** Subs. (e) *omitted by* Finance (No. 2) Act 1987 s. 86(4) *for* accounting periods ending after a day to be appointed.
- F412** *See* Finance Act 1966 s.27 *and* Sch.6 para.23(5)—s.88 *applied to certain proceedings for the recovery of excessive overspill relief under* Finance Act 1965 s.84 (*transitional relief for companies with overseas trading income*).
- F413** Words repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) s. 844 *and* Sch. 31 *See* 1987 *edition for text.*
- F414** *A development land tax provision added by* Development Land Tax Act 1976 (c. 24) Sch.8 para.22  
*Development Land Tax Act 1976 repealed by* Finance Act 1985 s.98(6) *and* Sch.27 Part X.
- F415** Finance (No.2) Act 1975 s.46(4) *in relation to tax charged by assessments where notices issued after* 31 July 1975.
- F416** Finance Act 1989 s. 159(3) *in relation to failures occurring, and errors in any information or documents delivered, on or after* 27 July 1989.
- F417** *See—* [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 14 para. 7(3)(c)—*application of* s. 88 *to sums claimed under* s. 266(5)(b) *to which the claimant was not entitled.* Finance Act 1989 s. 57(3)—*application of* s. 88 *to medical insurance relief.*

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

- C79** S. 88 extended (25.7.1991) by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), **s. 33(3)(c)**
- C80** S. 88(1)(4)(5)(a)(b) applied (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\)](#), ss. 15(3), 173(4), **Sch. 2 para. 6(1)**
- C81** S. 88(1)(4)(5)(a)(b) extended (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\)](#), ss. 16(3), 177(4), **Sch. 2 para. 6(1)** (as substituted temporarily until 19.4.1993 by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), ss. 6, 7(2), **Sch. 4 para. 8**; S.I. 1993/1025, **art.2**)
- C82** S. 88(1)(4)(5)(a)(b) extended (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\)](#), ss. 15(3), 173(4), **Sch. 2 para. 6(1)** (as substituted temporarily until 19.4.1993 by [Social Security \(Consequential Provisions\) Act 1992 \(c. 9\)](#), ss. 6, 7(2), **Sch. 4 para. 7**; S.I. 1993/1079, **art. 2**)

#### Marginal Citations

- M57** 1967 Sch.XI 10(3), 12(3).
- M58** 1960  
s.58(7).
- M59** 1960  
s.58(2).
- M60** 1969  
Sch.XX 14(5).
- M61** 1966  
Sch.VI 8(2).

#### 88A [Determinations under section 88.

- (1) Notice of a determination under section 88 above shall be served on the person liable to pay the interest to which it relates and shall specify—

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- (a) the date on which it is issued,
  - (b) the amount of the tax which carries interest and the assessment by which that tax was charged,
  - (c) the date when for the purposes of section 88 above that tax ought to have been paid, and
  - (d) the time within which an appeal against the determination may be made.
- (2) After the notice of a determination under section 88 above has been served the determination shall not be altered except in accordance with this section.
- (3) A determination under section 88 above may be made at any time—
- (a) within six years after the end of the chargeable period for which the tax carrying the interest is charged (or, in the case of development land tax, of the financial year in which the liability for that tax arose), or
  - (b) within three years after the date of the final determination of the amount of that tax.
- (4) An appeal may be brought against a determination under section 88 above and, subject to the following provisions of this section, the provisions of this Act relating to appeals shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax.
- (5) On an appeal against a determination under section 88 above section 50(6) to (8) of this Act shall not apply but the Commissioners may—
- (a) if it appears to them that the tax carries no interest under that section, set the determination aside,
  - (b) if the determination appears to them to be correct, confirm the determination, or
  - (c) if the determination appears to them to be incorrect as to the amount of tax or the date on which the tax ought to have been paid, revise the determination accordingly <sup>F418</sup>.]

#### Textual Amendments

**F418** Finance Act 1989 s. 160(2).

### **89 The prescribed rate of interest. [1952 s.495(1); 1960 s.58(1); 1967 s.40(1)(3)(6); S.I. 1969/535.]**

- (1) For the purposes of any provision of this Part of this Act and of section [826 of the principal Act <sup>F419</sup>] “the prescribed rate” means such rate as may for the time being be prescribed for the purposes of the provision in question by order made by the Treasury <sup>F420</sup>.]
- <sup>M62</sup>(2) [The power to make an order under this section shall be exercisable by <sup>F420</sup>] statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament, [and any such order may be framed either so as to prescribe a single rate <sup>F420</sup>] for the purposes of all the provisions of this Part of this Act, or so as to prescribe different rates for different purposes <sup>F421</sup>.



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- (3) [Any rate of interest prescribed by order under this section <sup>F422</sup>] shall apply to interest for periods beginning on or after the date when the order is expressed to come into force, whether or not interest runs from before that date. <sup>F423F424</sup>

#### Textual Amendments

**F419** *Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.*

**F420** *Finance (No. 2) Act 1987 s. 89(1):Previously*

“(1) In this Part of this Act “the prescribed rate” means—(a) for the purposes of sections 86(a) and 87 above, the rate specified in column 2 of the Table below,(b) for the purposes of section 88 above, the rate specified in column 3 of the Table below. The references in column 1 of this Table to any period before or after a specified date apply whether or not interest continues to run after that period, or, as the case may be, runs from before that period.”; “The Treasury may, by order in a”

*and*

“from time to time increase or decrease any rate or rates of interest prescribed by subsection (1) above, either”

*respectively.*

*For orders see Part III Vol. 5under*

“Interest on unpaid tax” and “Interest on unpaid tax and repayment supplement”.

**(a)**

*Amendments in relation to development land tax added by Development Land Tax Act 1976 Sch. 8 para. 23. 1976 Act repealed by Finance Act 1985 s. 98(6)and Sch. 27 Part X.*

**F421** *SeeOil Taxation Act 1975 s.1andSch.2 paras.1(1)and15—Oil Taxation Acts—regarding modifications in relation to petroleum revenue tax and supplementary petroleum duty.*

**F422** *Finance (No. 2) Act 1987 s. 89(3).Previously*

“Any variation of the rate of interest prescribed under subsection (2) above”

**F423** *See Finance Act 1988 Sch. 5 para. 3(4)—payments on account of tax by underwriters.*

**F424** *Repealed by Finance Act 1989 ss. 178(7)and Sch. 17 Part Xfrom a day to be appointed.*

#### Marginal Citations

**M62** 1967

40(2).

- 90** **Disallowance of relief for interest on tax. [1952 s.495(4); 1960 s.58(4); 1965 Sch.X 1(1), Sch.XV 8; 1966 Sch.VI 8(2).]**

Interest payable under this Part of this Act <sup>F425</sup> shall be paid without any deduction of income tax and shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes. <sup>F426F427</sup>

#### Textual Amendments

**F425** *SeeOil Taxation Act 1975 s.1andSch.2 paras.1(1)and15—Oil Taxation Acts—regarding modifications in relation to petroleum revenue tax and supplementary petroleum duty.*

**F426** *See Finance Act 1988 Sch. 5 para. 3(4)—payments on account of tax by underwriters.*

**F427** *SeeIncome and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 19A para. 3as substituted by S.I. 1990 No. 2524.*

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

**C83** S. 90 applied (27.7.1993) by 1993 c. 34, s. 173, **Sch. 19 Pt. II para.11(5)**

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**91 Effect on interest of reliefs. [1952 s.496; 1960 s.58(4); 1965 Sch.X 1(1), Sch.XV 8; 1967 Sch.XI 14(5).]**

(1) Where any amount of interest is payable under section 86 or section 88 of this Act in relation to an assessment, and relief from tax charged by the assessment is given to any person by a discharge of any of that tax, such adjustment shall be made of the said amount, and such repayment shall be made of any amounts previously paid under those provisions in relation to the assessment, as are necessary to secure that the total sum, if any, paid or payable under those provisions in relation to the assessment is the same as it would have been if the tax discharged had never been charged.

[<sup>F428</sup>(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.]

(2) [<sup>F429</sup> Where relief from tax <sup>F430</sup> paid for any chargeable period is given to any person by repayment, he 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 tax charged on him (whether alone or together with other persons) by or by virtue of any assessment for or relating to the same chargeable period, so, however, that it shall not be applied to any assessment made after the relief was given and that it shall not be applied to more than one assessment so as to reduce, without extinguishing, the amount of tax charged thereby.

[<sup>F431</sup>(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 [<sup>F432</sup>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.

<sup>M63</sup>(3) Notwithstanding anything in the preceding provisions of this section, no relief, whether given by way of discharge or repayment, shall be treated for the purposes of this section as—

- (a) ..... <sup>F433</sup>
- (b) affecting tax charged by any assessment to income tax made under Schedule A or Schedule D if either—
  - (i) ..... <sup>F433</sup>
  - (ii) it arises in connection with income taxable otherwise than under Schedule A or Schedule D, or
  - (iii) it relates to a source income from which is taxable otherwise than under Schedule A or Schedule D [or

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- (c) affecting tax charged at a rate other than the basic rate on income from which tax has been deducted (otherwise than under section [203<sup>F434</sup>] of the principal Act) or is treated as having been deducted, unless it is a relief from the tax so charged<sup>F435</sup>].

<sup>M64</sup>(4) For the purposes of this section a relief from corporation tax or capital gains tax shall not be treated as affecting tax charged by any assessment unless the assessment is to the same tax<sup>F436</sup>.

#### Textual Amendments

- F428** S. 91(1A)(1B) inserted (23.7.1987 with effect with respect to accounting periods ending after 30.9.1993) by 1987 c. 51, s. 86(5)(7); S.I. 1992/3066, art.2(2)(a).
- F429** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 19A para. 3 as substituted by S.I. 1990 No. 2524.
- F430** Amended in relation to development land tax by Development Land Tax Act 1976 Sch.8 para.24 and amendment repealed by 1985 s.98(6) and Sch.27 Part X.
- F431** S. 91(2A) added (23.7.1987 with effect with respect to accounting periods ending after 30.9.1993) by 1987 c. 51, s. 85(6)(7); S.I. 1992/3066, art.2(2)(a).
- F432** 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”.
- F433** Words omitted repealed for 1973—74 et seq. by Finance Act 1971 ss.37, 38, Sch.6 para.88 and Sch.14 Part II.
- F434** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.
- F435** Finance Act 1971 ss.37, 38 and Sch.6 para.88 with effect for 1973—74 et seq.
- F436** See—Taxes Management Act 1970 (c. 9, SIF 63:1) s.109—application of s.91 in relation to tax under Finance Act 1970 ss.286, 288 and 289. Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s.306—s.91 not to apply to business expansion scheme relief.

#### Marginal Citations

- M63** 1969  
Sch.XX 1(1).
- M64** 1969  
Sch.XX 14(4).

### 91 Effect on interest of reliefs. [1952 s.496; 1960 s.58(4); 1965 Sch.X 1(1), Sch.XV 8; 1967 Sch.XI 14(5).] **U.K.**

- (1) Where any amount of interest is payable under section 86 or section 88 of this Act in relation to an assessment, and relief from tax charged by the assessment is given to any person by a discharge of any of that tax, such adjustment shall be made of the said amount, and such repayment shall be made of any amounts previously paid under those provisions in relation to the assessment, as are necessary to secure that the total sum, if any, paid or payable under those provisions in relation to the assessment is the same as it would have been if the tax discharged had never been charged.
- (1A)<sup>F592</sup>.]
- (2) [<sup>F593</sup>] Where relief from tax<sup>F594</sup> paid for any chargeable period is given to any person by repayment, he 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 tax charged on him (whether alone or together with other persons) by or by virtue of any assessment for or relating to the same chargeable period, so, however, that it shall

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not be applied to any assessment made after the relief was given and that it shall not be applied to more than one assessment so as to reduce, without extinguishing, the amount of tax charged thereby.

(2A) <sup>F592</sup>.]

<sup>M98</sup>(3) Notwithstanding anything in the preceding provisions of this section, no relief, whether given by way of discharge or repayment, shall be treated for the purposes of this section as—

- (a) ..... <sup>F595</sup>
- (b) affecting tax charged by any assessment to income tax made under Schedule A or Schedule D if either—
  - (i) ..... <sup>F595</sup>
  - (ii) it arises in connection with income taxable otherwise than under Schedule A or Schedule D, or
  - (iii) it relates to a source income from which is taxable otherwise than under Schedule A or Schedule D [or
- (c) affecting tax charged at a rate other than the basic rate on income from which tax has been deducted (otherwise than under section [203 <sup>F596</sup>] of the principal Act) or is treated as having been deducted, unless it is a relief from the tax so charged <sup>F597</sup>].

<sup>M99</sup>(4) For the purposes of this section a relief from corporation tax or capital gains tax shall not be treated as affecting tax charged by any assessment unless the assessment is to the same tax <sup>F598</sup>.

**Textual Amendments**

- F592** See Finance (No. 2) Act 1987 s. 86(5)(6) and [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 10(6) for wording to be inserted with effect with respect to accounting periods ending after a day to be appointed.
- F593** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 19A para. 3 as substituted by S.I. 1990 No. 2524.
- F594** Amended in relation to development land tax by [Development Land Tax Act 1976 Sch.8 para.24](#) and amendment repealed by [1985 s.98\(6\) and Sch.27 Part X](#).
- F595** Words omitted repealed for 1973—74 et seq. by [Finance Act 1971 ss.37, 38, Sch.6 para.88 and Sch.14 Part II](#).
- F596** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 32.
- F597** [Finance Act 1971 ss.37, 38 and Sch.6 para.88](#) with effect for 1973—74 et seq.
- F598** See—[Taxes Management Act 1970 \(c. 9, SIF 63:1\)](#) s.109—application of s.91 in relation to tax under [Finance Act 1970 ss.286, 288 and 289](#). [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) s.306—s.91 not to apply to business expansion scheme relief.

**Marginal Citations**

- M98** 1969  
Sch.XX 1(1).
- M99** 1969  
Sch.XX 14(4).

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### Textual Amendments

**F437** A development land tax provision added by [Development Land Tax Act 1976 \(c. 24\)](#) Sch.8 para.25 Development Land Tax Act 1976 repealed by [Finance Act 1985 s.98\(6\)](#) and [Sch.27 Part X](#).

## 92 Remission in certain cases of interest on tax in arrear by reason of exchange restrictions. [1952 s.497; 1965 Sch.X 1(1), Sch.XV 8.]

(1) The provisions of this section shall have effect where the Board are satisfied as respects any tax carrying interest under section 86<sup>F438</sup> of this Act—

- (a) that the tax is in respect of income or chargeable gains arising in a country outside the United Kingdom, and
- (b) that, as the result of action of the government of that country, it is impossible for the income or gains to be remitted to the United Kingdom, and
- (c) that having regard to the matters aforesaid and to all the other circumstances of the case it is reasonable that the tax should for the time being remain uncollected,

and the Board allow the tax to remain uncollected accordingly.

(2) Interest on the said tax shall, subject to subsection (3) below, cease to run under the said section 86<sup>F438</sup> as from the date on which the Board were first in possession of the information necessary to enable them to be satisfied as aforesaid and, if the said date is not later than three months from the time when the tax became due and payable, the interest thereon under the said section 86<sup>F438</sup> in respect of the period before the said date shall be remitted.

(3) Where, under subsection (2) above, interest has ceased to run on any tax and thereafter demand is made by the collector or other proper officer for payment of all or any of that tax, interest under the said section 86<sup>F438</sup> shall again begin to run from the date of the demand in respect of the amount demanded:

Provided that where all or any part of the amount demanded is paid not later than three months from the date of the demand, the interest under the said section 86<sup>F438</sup> on the amount so paid running from the date of the demand shall be remitted.

### Textual Amendments

**F438** See—[Finance \(No. 2\) Act 1987 s. 86\(3\)](#)—references to s. 86 include reference to [Taxes Management Act 1970 \(c. 9, SIF 63:1\)](#) s. 87A for accounting periods ending after a day to be appointed. [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) Sch. 5 para. 10(2)—reference to s. 86 to include a reference to [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 5 para. 3(4)—interest on underwriters liabilities.

## PART X<sup>F439</sup>

### PENALTIES, ETC.

### Textual Amendments

**F439** See [Finance Act 1966 s.27](#) and [Sch.6 para.23\(7\)](#)—regulations under [Finance Act 1965 s.84\(7\)](#) may apply any provisions of [Finance Act 1960 Part III](#) (now [Taxes Management Act 1970 Part X](#)) in relation to

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penalties under para. 23 and recovery of relief under Finance Act 1965 s. 84 (overspill relief), subject to modifications, etc. For regulations, see Part III Vol. 5.).

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

- C84** Part X (ss. 93-107) applied (with modifications) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 16\(1\)\(b\), 177\(4\), Sch. 2](#)
- C85** Part X (ss 93-107) applied (27.7.1993 with effect in relation to the year 1993-94 and subsequent years of assessment) by [1993 c. 34, s. 122\(2\)\(3\)](#)

### 93 Failure to make return for income tax or capital gains tax. [1960 s.46(1), Sch.VI column 1; 1964(M) 7(8); 1965 Sch.X 1(1).]

- (1) If any person has been required by a notice served under or for the purposes of section 8 or [8A or 9 of this Act or any <sup>F440</sup>] of those sections as extended by section 12 of this Act or section [284(4) <sup>F441</sup>] of the principal Act (husband and wife <sup>F442</sup>) to deliver any return, and he fails to comply with the notice he shall be liable, subject to the provisions of this section—
- (a) to a penalty not exceeding £300, and
  - (b) if the failure continues after a penalty is imposed under paragraph (a) above, to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under paragraph (a) above was imposed (but excluding any day for which a penalty under this paragraph has already been imposed) <sup>F443</sup>.] <sup>F444</sup>.
- (2) If a failure by a person to comply with a notice such as is referred to in subsection (1) above continues after the end of the year of assessment following that during which it was served then, without prejudice to any penalty under subsection (1) above, he shall be liable to a penalty of an amount not exceeding so much of the tax with which he is charged (whether for one or for more than one year of assessment) in assessments—
- (a) based wholly or partly on any income or chargeable gains that ought to have been included in the return required by the notice, and
  - (b) made after the end of the year next following the year of assessment in which the notice was served,
- as is attributable to the income or chargeable gains that ought to have been so included <sup>F443</sup>.] <sup>F444</sup>.
- <sup>M65</sup>(3) Where in any year of assessment any amount was deducted from the said person's emoluments under section [203 <sup>F441</sup>] of the principal Act (pay as you earn), and that amount exceeds the total amount (if any) charged in any assessments under Schedule E made on him for that year before the end of the year of assessment next following that in which the said notice was served, the amount of excess shall be treated, for the purposes of subsection (2) of this section, as reducing the amount of the tax charged in assessments under Schedule E made on him for the first-mentioned year after the end of the said following year.
- <sup>M66</sup>(4) [In relation to a return required for the purposes of section 9 of this Act the reference in subsection (2) above to tax <sup>F445</sup>] does not include any tax not chargeable in the partnership name, and in relation to a person's failure to deliver any other return it does not include tax assessed in the name of a partnership on so much of the profits or gains assessed as falls to be included in the total income of any other person.

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- (5) No penalty shall be imposed under subsection (1) above in respect of a failure at any time after the failure has been remedied <sup>F446</sup>.]
- <sup>M67</sup>(6) Where a person is liable to more than one penalty of an amount determined under subsection (2) above, any assessment taken into account for the purposes of one of those penalties shall be left out of account for the purposes of the other or others.
- (7) If the person on whom a notice is served proves that there was no income or chargeable gain to be included in the return, the penalty under this section shall not exceed £100 <sup>F447</sup>.]
- (8) references in this section to the amount of tax with which a person is charged for any year of assessment and to assessments made on him include, in the case of a person who has died, references to any amount with which his personal representatives are charged for that year and to assessments made on them.

### Textual Amendments

- F440** Finance Act 1990 s. 90(3) *where a notice to deliver a return was, or falls to be, given after 5 April 1990. Previously*  
“9 of this Act (or either”.
- F441** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 32.
- F442** *Repealed by* [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) s. 148 *and* Sch. 14 Part VIII *for 1990-91 and subsequent years.*
- F443** Finance Act 1989 s. 162(2), (3) *in relation to any failure to comply with a notice served on or after 6 April 1989. Previously*  
“(a) to a penalty not exceeding, except in the case mentioned in subsection (2) below, £50, and (b) if the failure continues after it has been declared by the court or Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £10 for each day on which the failure so continues”  
*in subs. (1) and*  
“(2) If the failure continues after the end of the year of assessment following that during which the notice was served, the penalty under subsection (1)(a) above shall be an amount not exceeding the aggregate of £50 and the total amount of the tax with which the said person is charged (whether for one or for more than one year of assessment) in assessments— (a) based wholly or partly on any income or chargeable gains that ought to have been included in the return required by the notice, and (b) made after the end of the year next following the year of assessment in which the said notice was served.”  
*in subs. (2).*
- F444** *See* [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) s. 35 *and* Sch. 3 paras. 27 *and* 28—*married couples.*
- F445** Finance Act 1971 ss. 37, 38 *and* Sch. 6 para. 89 *with effect for 1973—74 et seq.*
- F446** Finance Act 1989 s. 162(4) *in relation to any failure to comply with a notice served on or after 6 April 1989. Previously*  
“(5) Except in the case mentioned in subsection (2) above, a person shall not be liable to any penalty incurred under this section for a failure to comply with any notice, if the failure is remedied before proceedings for the recovery of the penalty are commenced.”
- F447** Finance Act 1989 s. 162(5) *in relation to any failure to comply with a notice served on or after 6 April 1989. Previously*  
“(7) If the defendant (or, in Scotland, the defender) in proceedings under this section proves that there was no income and no chargeable gains to be included in the return, the penalty shall not exceed £5.”

### Marginal Citations

- M65** 1960

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s.46(3).

**M66** 1960 s.46(4).

**M67** 1960 s.46(6); 1965 Sch.X 1(1).

**[94** <sup>F448</sup> **Failure to make return for corporation tax.**

- (1) If a company has been required by a notice served under section 11 of this Act (or under that section as extended by section 12 of this Act) to deliver a return for any period (in this section referred to as “the return period”) and the company fails to make proper delivery of the return, then, subject to subsections (3) and (5) below, the company shall be liable to a penalty which,—
  - (a) if the return is delivered before the expiry of the period of three months beginning on the day following the final day for the delivery of the return, shall be £100; and
  - (b) in any other case, shall be £200.
- (2) In relation to a return required by such a notice as is referred to in subsection (1) above,—
  - (a) any reference in this section (however expressed) to the delivery of the return is a reference to its delivery together with the accompanying accounts, statements and reports referred to in section 11(1) of this Act; and
  - (b) any reference in this section to making proper delivery of the return is a reference to the delivery of the return on or before the day which (in accordance with section 11(4) of this Act) is the final day for the delivery of the return.
- (3) In a case where—
  - (a) a company is required to deliver a return for a return period, and
  - (b) the return period is a period for which, under the <sup>M68</sup>Companies Act 1985, the company is required to deliver accounts to the Registrar of Companies,

the company shall not be liable to a penalty under subsection (1) above by reason of a failure to make proper delivery of the return if the return is delivered on or before the day which is the last day for the delivery to the Registrar of the accounts referred to in paragraph (b) above.
- (4) In the application of this section to a company registered in Northern Ireland, the reference in subsection (3) above to the Companies Act 1985 shall be construed as a reference to the <sup>M69</sup>Companies (Northern Ireland) Order 1986 and references to the Registrar of Companies shall be construed accordingly.
- (5) In any case where—
  - (a) a company is within the charge to corporation tax for three consecutive accounting periods, each of which is a return period, and
  - (b) at no time between the beginning of the first of those periods and the end of the last is the company outside the charge to corporation tax, and
  - (c) the company fails to make proper delivery of the return for the third of those periods, and
  - (d) the company was liable to a penalty under this section in respect of each of the first two of those periods,



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subsection (1) above shall have effect in relation to the failure referred to in paragraph (c) above as if for “£100” there were substituted “£500” and for “£200” there were substituted “£1,000”.

- (6) If a company which has been required as mentioned in subsection (1) above to deliver a return fails to deliver the return before the expiry of the period of eighteen months beginning on the day following the last day of the return period, then (without prejudice to any penalty under the preceding provisions of this section) the company shall be liable to a penalty which,—
- (a) if the return is delivered before the expiry of the period of two years beginning on the day following that last day, shall be 10 per cent. of the tax unpaid at the end of the eighteen months referred to above; and
  - (b) in any other case, shall be 20 per cent. of the tax unpaid at the end of those eighteen months.
- (7) In subsection (6) above “the tax unpaid” at any time means the amount by which the corporation tax chargeable on the profits of the company for the return period which then remains unpaid exceeds any income tax borne by deduction from payments included in those profits.
- (8) In determining for the purposes of subsection (7) above how much of the corporation tax chargeable on the profits of a company for the return period remains unpaid at any time, no account shall be taken of the discharge of any liability for that tax which, pursuant to a claim under subsection (3) of [<sup>F449</sup>section 239(3) of the principal Act], is attributable to an amount of surplus advance corporation tax, as defined in that subsection, unless it is a surplus for an accounting period ending not later than two years after the end of the return period.

#### Textual Amendments

**F448** S. 94 substituted (23.7.1987 with respect to failures to deliver returns required by notices served under s. 11 after the day to be appointed) by [Finance \(No. 2\) Act 1987 \(c. 83\), s. 83](#)

**F449** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\), s. 844, Sch. 29 para 10\(7\)](#)

#### Marginal Citations

**M68** 1985 c. 6.

**M69** S.I. 1986/1032 (N.I. 6).

### 95 **Incorrect return or accounts for income tax or capital gains tax. [1960 s.47(1), Sch.VI; 1964(M) s.7(8); 1965 Sch.X 1(1).]**

- (1) Where a person fraudulently or negligently—
- (a) delivers any incorrect return of a kind mentioned in section 8 or [8A or 9 of this Act (or any <sup>F450</sup>] of those sections as extended by section 12 of this Act or section [284(4) <sup>F451</sup>] of the principal Act (husband and wife <sup>F452</sup>)), or
  - (b) makes any incorrect return, statement, or declaration in connection with any claim for any allowance, deduction or relief in respect of income tax or capital gains tax, or
  - (c) submits to an inspector or the Board or any Commissioners any incorrect accounts in connection with the ascertainment of his liability to income tax or capital gains tax,

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he shall be liable to a penalty not exceeding [the amount of the difference specified in subsection (2) below <sup>F453</sup>.] <sup>F454</sup>

<sup>F455M70</sup>(2) The difference is thatbetween—

- (a) the amount of income tax and capital gains tax payable for the relevant years of assessment by the said person (including any amount of income tax deducted at source and not repayable <sup>F456</sup>), and
- (b) the amount which would have been the amount so payable if the return, statement, declaration or accounts as made or submitted by him had been correct <sup>F455</sup>.

<sup>M71</sup>(3) The relevant years of assessment for the purposes of this section are, in relation to anything delivered, made or submitted in any year of assessment, that, the next following, and any preceding year of assessment; and the references in subsection (2) to the amount of income tax payable [do not, in relation to anything done in connection with a partnership <sup>F457</sup>], include any income tax not chargeable in the partnership name <sup>F458</sup>.

#### Textual Amendments

**F450** Finance Act 1990 s. 90(4) *where a notice to deliver a return was, or falls to be, given after 5 April 1990. Previously*  
“9 of this Act (or either”.

**F451** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 29 para. 32.

**F452** *Repealed by* [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) s. 148 *and* Sch. 14 Part VIII *for* 1990-91 *and subsequent years.*

**F453** Finance Act 1989 s. 163(1)(a) *in relation to returns, statements, declarations or accounts delivered, made or submitted on or after 27 July 1989. Previously*  
“the aggregate of—(i) £50, and (ii) the amount, or, in the case of fraud, twice the amount, of the difference specified in subsection (2) below.”

**F454** *See* S.I. [1986 No. 1948](#) (in Part III Vol. 5) regn. 11(3) *and* S.I. [1989 No. 469](#) regn. 9—*application of* s. 95 *to individual applications to subscribe to personal equity plans.*

**F455** *See* [Finance Act 1988 \(c. 39, SIF 63:1,2\)](#) s. 35 *and* Sch. 3 paras. 27 *and* 28—*married couples.*

**F456** *See* S.I. [1986 No. 1948](#) (in Part III Vol. 5) regn. 23(4)—*amounts deducted under* S.I. [1986 No. 1948](#) regn. 23(3) *to be treated as amounts of income tax deducted at source and not repayable within the meaning of and for the purposes of* s. 95(2)(a)

**F457** Finance Act 1971 ss. 37, 38 *and* Sch. 6 para. 90 *for* 1973—74 *et seq.*

**F458** *See*—Finance Act 1966 s. 27 *and* Sch. 6 para. 23(4)—ss. 95 *and* 97 *applied for purposes of* Finance Act 1966 Sch. 6 para. 23 (*transitional relief for companies with overseas trading income*). [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#) Sch. 14 para. 7(3)(d)—*application of* s. 95 *to sums claimed under* s. 266(5)(b) *to which the claimant was not entitled.* Finance Act 1989 s. 57(3)—*application of* s. 95(3) *to medical insurance relief.*

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

**C86** S. 95 extended by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), s. 33(3)(d)

**C87** S. 95 modified by [1988 c. 1, Sch. 6A Pt. II para. 8\(4\)](#) (as inserted (27.7.1993 with effect for the year 1993-94 and subsequent years of assessment) by [1993 c. 34, s. 73, Sch. 4 paras. 7, 8](#))

#### Marginal Citations

**M70** 1960 s. 48(1); 1965 Sch. X 1(1).

**M71** 1960 s. 48(2); 1965 Sch. X 1(1).

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## 96 Incorrect return or accounts for corporation tax. [1966 Sch.VI 4.]

- (1) Where a company fraudulently or negligently—
- (a) delivers any incorrect return under section 11 of this Act (or under that section as extended by section 12 of this Act), or
  - (b) makes any incorrect return, statement or declaration in connection with any claim for any allowance, deduction or relief in respect of corporation tax, or
  - (c) submits to an inspector or any Commissioners any incorrect accounts in connection with the ascertainment of the company's liability to corporation tax,
- the company shall be liable to a penalty not exceeding [the amount of the difference specified in subsection (2) below <sup>F459</sup>.]
- (2) The difference is that between—
- (a) the amount of corporation tax payable by the said company for the accounting period or accounting periods comprising the period to which the return, statement, declaration or accounts relate, and
  - (b) the amount which would have been the amount so payable if the return, statement, declaration or accounts had been correct. <sup>F460</sup>

### Textual Amendments

**F459** Finance Act 1989 s. 163(1)(b) *in relation to returns, statements, declarations or accounts delivered, made or submitted on or after 27 July 1989. Previously*

“the aggregate of—(i) £50, and (ii) the amount, or, in the case of fraud, twice the amount, of the difference specified in subsection (2) below.”

**F460** See also Finance Act 1988 (c. 39, SIF 63:1,2) ss. 131-132—*tax payable by migrating companies.*

## 97 Incorrect return or accounts: supplemental. [1960 ss.47(3), 48(3); 1965 Sch.X 1(1); 1966 Sch.VI 4(3).]

- (1) Where any such return, statement, declaration or accounts as are mentioned in section 95 and 96 above were made or submitted by any person neither fraudulently nor negligently and it comes to his notice (or, if he has died, to the notice of his personal representatives) that they were incorrect, then, unless the error is remedied without unreasonable delay, the return, statement, declaration or accounts shall be treated for the purposes of those sections as having been negligently made or submitted by him. <sup>F461</sup>
- (2) For the purposes of sections 95 and 96 above, any accounts submitted on behalf of any person shall be deemed to have been submitted by him unless he proves that they were submitted without his consent or connivance <sup>F462 F463</sup>.

### Textual Amendments

**F461** See S.I. 1986 No. 1948 (in Part III Vol. 5) regn. 33(4) and S.I. 1989 No. 469 regn. 28(4)—s. 97(1) to apply to S.I. 1986 No. 1948 (personal equity plan regulations) with certain modifications.

**F462** See also Finance Act 1988 (c. 39, SIF 63:1,2) ss. 131-132—*tax payable by migrating companies.*

**F463** See Finance Act 1966 s. 27 and Sch. 6 para. 23(4)—ss. 95 and 97 applied for purposes of Finance Act 1966 Sch. 6 para. 23 (transitional relief for companies with overseas trading income).

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## 97A [Two or more tax-geared penalties in respect of the same tax.

Where two or more penalties—

- (a) are incurred by any person and fall to be determined by reference to any income tax or capital gains tax with which he is chargeable for a year of assessment; or
- (b) are incurred by any company and fall to be determined by reference to any corporation tax with which it is chargeable for an accounting period,

each penalty after the first shall be so reduced that the aggregate amount of the penalties, so far as determined by reference to any particular part of the tax, does not exceed whichever is or, but for this section, would be the greater or greatest of them, so far as so determined <sup>F464</sup>.]

### Textual Amendments

**F464** Finance Act 1988 (c. 39, SIF 63:1,2) s. 129—s. 97A(a) to have effect for the year 1988-89 and subsequent years, and s. 97A(b) to have effect for accounting periods ending after 31st March 1989.

## 98 Special returns, etc. [1960 s.46(1).]

- (1) [Subject to [the provisions of this section and <sup>F465</sup>] section 98A below, where <sup>F466</sup>] any person—

- (a) has been required, by a notice served under or for the purposes of any of the provisions specified in the first column of the Table below, to deliver any return or other document, to furnish any particulars, to produce any document, or to make anything available for inspection, and he fails to comply with the notice, or
- (b) fails to furnish any information, give any certificate or produce any document or record in accordance with any of the provisions specified in the second column of the Table below,

he shall be liable, subject to [subsections (3) and (4) below—

- (i) to a penalty not exceeding £300, and
- (ii) if the failure continues after a penalty is imposed under paragraph (i) above, to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under paragraph (i) above was imposed (but excluding any day for which a penalty under this paragraph has already been imposed) <sup>F466</sup>].

- <sup>M72</sup>(2) [Subject to section 98A below, where <sup>F467</sup>] a person fraudulently or negligently furnishes, gives, produces or makes any incorrect information, certificate, document, record or declaration of a kind mentioned in any of the provisions specified in either column of the Table below, he shall be liable to a penalty not exceeding [£3000 <sup>F467</sup>].

- (3) No penalty shall be imposed under subsection (1) above in respect of a failure within paragraph (a) of that subsection at any time after the failure has been remedied.

- (4) No penalty shall be imposed under paragraph (ii) of subsection (1) above in respect of a failure within paragraph (b) of that subsection at any time after the failure has been remedied <sup>F468</sup> <sup>F469</sup>].

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- (5) In the case of a failure to comply with section 765A(2)(a) or (b) of the principal Act, subsection (1) above shall have effect as if for “£300” there were substituted “£3000” and as if for “£60” there were substituted “£600”<sup>F470</sup>.]

TABLE

| 1.  | 2.   |
|---|--|
| Part III of this Act, <i>except sections 16 and 24(2)</i> <sup>F471</sup> | In the principal Act—                                |
| Section 51 of this Act  | [ <i>section 38(5)</i> <sup>F472</sup><br>]          |
| In the principal Act—   | section 41(2);                                       |
| section 38(5) <sup>F472</sup>   | [ <i>section 42</i> <sup>F472</sup><br>]             |
| ;   |  |
| section 42 <sup>F472</sup>  | section 124(3);                                      |
| ;   |  |
| section 181(1);   | section 136(6);                                      |
| regulations under section 202;  | section 139(5) <i>or</i> (6); <sup>F473</sup>        |
| section 217;  | section 148(7);                                      |
| section 226(3) and (4);   | section 180(1);                                      |
| section 234(7)(b), (8) and (9);   | regulations under section 202;                       |
| section 250(6) and (7);   | regulations under section 203;                       |
| section 272(7);   | section 216;   |
| section 310(4) and (5);   | section 226(1) and (2);                              |
| [regulations under section 326C <sup>F474</sup><br>]                      | section 234(5), (6) and (7)(a);                      |
| regulations under section 333;  | section 250(1) to (5);                               |
| regulations under section 476(1);   | section 310(1), (2) and (3);                         |
| [regulations under section 477A <sup>F475</sup><br>]                      | section 313(5);                                      |
| <i>section 481(5)(k)</i> <sup>F476</sup>                                  | [Regulations under section 326C <sup>F474</sup><br>] |
| ]   |  |
| section 482(3);   | Regulations under section 333;                       |
| regulations under section 482(11);  | section 350(1);                                      |

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|                                    |  |
|------------------------------------|--|
| section 483;                       | section 375(5);  |
| Regulations under section 555(7);  | regulations under section 476(1);  |
| section 561(8);                    | [regulations under section 477A<br>F475  |
|                                    | .]   |
| section 588(7);                    | [section 482(2)<br>F477  |
|                                    | ]  |
| regulations under section 602;     | regulations under section 482(11);   |
| section 605(1),(2),(3)(b) and (4); | section 552;   |
| regulations under section 612(3);  | regulations under section 555(7);  |
| regulations under section 639;     | regulations under section 566(1) or (2);                                       |
| section 652;                       | section 577(4);  |
| section 669;                       | section 588(6);  |
| section 680;                       | regulations under section 602;   |
| section 700(4);                    | section 605(3)(a);   |
| section 708;                       | regulations under section 612(3);  |
| section 728;                       | regulations under section 639;   |
| section 729(11);                   | [section 765A(2)(a)<br>F478  |
|                                    | .]   |
| section 730(8);                    | section 772(6);  |
| section 737(8);                    | Schedule 3, paragraph 6;   |
| section 745(1);                    | Schedule 13;   |
| section 755;                       | regulations under paragraph 7 of<br>Schedule 14;                               |
| [section 765A(2)(b)<br>F478        | Schedule 15, paragraph 14(4);  |
| .]                                 |  |
| section 768(9);                    | Schedule 16;   |
| section 772(1) and (3);            | Schedule 22, paragraph 2.  |
| section 774(5);                    | Regulations under section 149D of the<br>Capital Gains Tax Act 1979.           |
| section 778;                       | [Sections 23(2), 48 and 49(2) of the<br>Capital Allowances Act 1990<br>F479    |
|                                    | .]   |
| section 815;                       | Regulations 16 and 17 of the Income<br>Tax (Interest Relief) Regulations 1982. |

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|   |   |
|---|---|
| Schedule 3, paragraph 13(1);  | Paragraph 15(3) of Schedule 14 to the Finance Act 1984.   |
| Schedule 5, paragraph 10;   | <i>Paragraph 10 of Schedule 16 to the Finance Act 1986</i><br>F480  |
| Schedule 9, [paragraph 6<br>F481<br>];                                    | [Section 85(1) and (2) of the Finance Act 1988<br>F482<br>]   |
| Schedule 15 paragraph 14(5);  | [Regulations under section 57 of the Finance Act 1989<br>F483<br>.]   |
| <i>Schedule 19, paragraph 17</i><br>F484                                  | [section 94(1) of the Finance Act 1990<br>F485<br>]   |
| Schedule 22, paragraph 4.   | [ <sup>F486</sup> Regulations under section 33 of the Finance Act 1991][ <sup>F487</sup> Paragraphs 13 to 16 of Schedule 16 to the Finance Act 1991.] |
| Section 32 of the Finance Act 1973.                                       |   |
| Paragraph 2 of Schedule 15 to the Finance Act 1973.                       |   |
| Regulations under section 149D of the Capital Gains Tax Act 1979.         |   |
| Paragraph 6(9) of Schedule 1 to the Capital Gains Tax Act 1979.           |   |
| [Sections 23(4) and 49(4) of the Capital Allowances Act 1990<br>F488<br>] |   |
| Section 84 of the Finance Act 1981.                                       |   |
| Paragraph 15(1) of Schedule 14 to the Finance Act 1984.                   |   |
| Paragraph 6(1) of Schedule 22 to the Finance Act 1985.                    |   |
| [Paragraph 7(1) of Schedule 10 to the Finance Act 1988<br>F489<br>].      |   |
| [Regulations under section 57 of the Finance Act 1989<br>F490<br>]        |   |
| [Section 73 of the Finance Act 1989                                       |   |

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F491

]

[Paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989

F483

]

[section 39 of the Finance Act 1990

F492

][<sup>F486</sup>Regulations under section 33 of the Finance Act 1991][<sup>F493</sup>Paragraph 12 of Schedule 16 to the Finance Act 1991.]

The references in this Table to regulations under section 602 have effect only for the purpose of giving effect to any provision mentioned in paragraphs (a) and (b) of subsection (2) of that section <sup>F494</sup>]

#### Textual Amendments

**F465** Finance Act 1990 s. 68(3)(a) *for transactions carried out on or after 1 July 1990.*

**F466** Finance Act 1989 s. 164(2), (7) *in relation to failures beginning, or information etc. furnished, on or after 27 July 1989. Previously*

“Where”

and

“subsection (3) below—(i) to a penalty not exceeding £50, and (ii) if the failure continues after it has been declared by the Court, or Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £10 for each day on which the failure so continues.” *respectively.*

**F467** Finance Act 1989 s. 164(3), (7) *in relation to failures beginning, or information etc. furnished, on or after 27 July 1989. Previously*

“Where”

and

“£250, or, in the case of fraud, £500” *respectively.*

**F468** Finance Act 1989 s. 164(4), (7) *in relation to failures beginning, or information etc. furnished, on or after 27 July 1989. Previously*

“A person shall not be liable to any penalty incurred under this section for a failure to comply with any notice, if the failure is remedied before proceedings for the recovery of the penalty are commenced”.

**F469** *See—Taxes Management Act 1970 (c. 9, SIF 63:1) s. 53(1)—s. 98(3) not applicable where penalty under s. 51 or 52 awarded summarily. Taxes Management Act 1970 (c. 9, SIF 63:1) s. 119 and Sch. 4 para. 10—application of s. 98 in relation to repealed provisions. Oil Taxation Act 1975 s. 1 and Sch. 2 para. 1(1)—Oil Taxation Acts—regarding modifications relating to petroleum revenue tax and supplementary petroleum tax. Finance Act 1981 s. 134 and Sch. 17 para. 18—application of this section to the special tax on banking deposits. Social Security Act 1975 (c. 14) Sch. 1 para. 5(2)—s. 98 applied in relation to regulations made under Social Security Act 1975 Sch. 1 para. 5(1) as they apply in relation to regulations made under Income and Corporation Taxes Act 1970 s. 204 (now Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 203) Social Security (Northern Ireland) Act 1975 (c. 15) Sch. 1 para. 5(2)—s. 98 applied in relation to regulations made under Social Security (Northern Ireland) Act 1975 Sch. 1 para. 5(1) as they apply in relation to regulations made under Income and Corporation Taxes Act 1970 s. 204 (now Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 203).*

**F470** Finance Act 1990 s. 68(3)(b) *for transactions carried out on or after 1 July 1990.*



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- F471** Words repealed by Finance Act 1989 ss. 164(5)(a) and 187 and Sch. 17 Part VIII in relation to any failure to comply with a notice etc. on or after 27 July 1989.
- F472** Entries transferred to column 1 from column 2 by Finance Act 1989 s. 164(5)(b) in relation to any failure to comply with a notice etc. on or after 27 July 1989.
- F473** Repealed by Finance Act 1988 s. 148 and Sch. 14 Part VI in relation to acquisitions on or after 26 October 1987.
- F474** Finance Act 1990 s. 28(2).
- F475** Finance Act 1990 s. 30 and Sch. 5 para. 15.
- F476** Words repealed by Finance Act 1989 ss. 164(5)(c) and 187 and Sch. 17 Part VIII in relation to any failure to comply with a notice etc. on or after 27 July 1989.
- F477** Finance Act 1989 s. 164(5)(c) in relation to any failure to comply with a notice etc. on or after 27 July 1989.
- F478** Finance Act 1990 s. 68(3)(c), (d) respectively.
- F479** Capital Allowances Act 1990 (c. 1, SIF 63:1) s. 164 and Sch. 1 para. 1(3). Previously “67(2) of, and paragraph 4(1) of Schedule 12 to, the Finance Act 1980”.
- F480** Repealed by Capital Allowances Act 1990 (c. 1, SIF 63:1) s. 164(4) and Sch. 2. See 1989 edition for these provisions.
- F481** Finance Act 1990 s. 89 and Sch. 14 para. 15 (correction of errors)—deemed to have been made by the Taxes Act 1988. Previously “paragraphs 6 and 25”.
- F482** Finance Act 1988 (c. 39, SIF 63:1,2) s. 85(3).
- F483** Finance Act 1989 s. 107 and Sch. 12 para. 5.
- F484** Repealed by Finance Act 1989 s. 187 and Sch. 17 Part Von and after 27 July 1989.
- F485** Finance Act 1990 s. 94(3).
- F486** Words in s. 98 Table added (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 33(2)
- F487** Words in s. 98 Table inserted (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 89(1), Sch. 16, para. 17(2)
- F488** Capital Allowances Act 1990 (c. 1, SIF 63:1) s. 164 and Sch. 1 para. 1(2). Previously “sections 67(4) of, and paragraph 4(3) of Schedule 12 to, the Finance Act 1980”.
- F489** Finance Act 1988 (c. 39, SIF 63:1,2) s. 109 and Sch. 10 para. 7(2).
- F490** Finance Act 1989 s. 57(2).
- F491** Finance Act 1989 s. 73(9).
- F492** Finance Act 1990 s. 39(9).
- F493** Words in s. 98 Table inserted (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 89(1), Sch. 16, para. 17(1)
- F494** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 9. See 1987 edition for previous table and see Finance Act 1988 Sch. 14 Part VI for repeal of reference to Schedule 12 to the Finance Act 1972 in that table in connection with acquisitions on or after 26 October 1987.

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

- C88** S. 98 applied (E.W.S.) (1.7.1992) by Social Security Contributions and Benefits Act 1992 (c. 4), ss. 1(4), 173(4), Sch. 1, para. 6(7)  
S. 98 applied (N.I.) (1.7.1992) by Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), ss. 1(4), 173(4), Sch. 1, para. 6(7)

#### Marginal Citations

- M72** 1960  
s. 47(2).

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## 98A [Special penalties in the case of certain returns.

- (1) Regulations under section 203(2) (PAYE) or 566(1) (sub-contractors) of the principal Act may provide that this section shall apply in relation to any specified provision of the regulations.
- (2) Where this section applies in relation to a provision of regulations, any person who fails to make a return in accordance with the provision shall be liable—
  - (a) to a penalty or penalties of the relevant monthly amount for each month (or part of a month) during which the failure continues, but excluding any month after the twelfth or for which a penalty under this paragraph has already been imposed <sup>F495</sup>, and
  - (b) if the failure continues beyond twelve months, without prejudice to any penalty under paragraph (a) above, to a penalty not exceeding so much of the amount payable by him in accordance with the regulations for the year of assessment to which the return relates as remained unpaid at the end of 19th April after the end of that year.
- (3) For the purposes of subsection (2)(a) above, the relevant monthly amount in the case of a failure to make a return—
  - (a) where the number of persons in respect of whom particulars should be included in the return is fifty or less, is £100, and
  - (b) where the number is greater than fifty, is £100 for each fifty such persons and an additional £100 where that number is not a multiple of fifty.
- (4) Where this section applies in relation to a provision of regulations, any person who fraudulently or negligently makes an incorrect return of a kind mentioned in the provision shall be liable to a penalty not exceeding the difference between—
  - (a) the amount payable by him in accordance with the regulations for the year of assessment to which the return relates, and
  - (b) the amount which would have been so payable if the return had been correct <sup>F496</sup> ] <sup>F497F498</sup>

### Textual Amendments

**F495** See Finance Act 1989 s. 165(2) for change to subs. (2)(a) in the case of a failure to make a return before a day to be appointed.

**F496** Finance Act 1989 s. 165(1).

**F497** See—S.I. 1973 No. 334, regn. 30(8) (in Part III Vol. 5)—end of year return by employer; and regn. 51(9)—alternative procedure for direct collection. S.I. 1975 No. 1960, regn. 10 (in Part III Vol. 5)—end of year return by contractor.

**F498** S. 98A, as modified by para. 5A of Sch. 1 of Social Security Act 1975 (c. 14) as inserted by Social Security Act 1990 (c. 27) Sch. 5, is applied to returns of contributions under regns. 30(7) and 51(10) of the Social Security (Contributions) Regns. 1979 (S.I. 1975 No. 591) (as inserted by S.I. 1990 No. 1935). For Northern Ireland see para. 5A of Sch. 1 Social Security (Northern Ireland) Act 1975, art. 19(5) and Sch. 5 Social Security (Northern Ireland) Order 1990 and S.R. 1990 No. 350).

### Modifications etc. (not altering text)

**C89** S. 98A power to apply conferred (E.W.S.) (1.7.1992) by Social Security Contributions and Benefits Act 1992 (c. 4), ss. 1(4), 177(4), Sch. 1, para. 7(2)(9)-(12)

S. 98A power to apply conferred (N.I.) (1.7.1992) by Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), ss. 1(4), 173(4), Sch. 1, para. 7(2)(9)-(12)

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S. 98A(2)(a) restricted (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992](#)

(c. 4), ss. 1(4), 177(4), [Sch. 1](#), para. 7(3)

S. 98A(2)(b)(4) modified (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992](#)

(c. 4), ss. 1(4), 177(4), [Sch. 1](#), para. 7(4)

**C90** S. 98A applied (6.4.1993) by [S.I. 1993/743](#), [reg. 11\(11\)](#)

**C91** S. 98A applied (6.4.1993) by [S.I. 1993/744](#), [reg. 43\(12\)](#)

**C92** S. 98A applied (6.4.1993) by [S.I. 1993/744](#), [reg. 104\(16\)](#)

## **98B European Economic Interest Groupings. Official Journal of the European Communities No. L199/1.**

- (1) In this section “grouping” means a European Economic Interest Grouping formed in pursuance of Council Regulation ([EEC](#)) No. 2137/85 of 25th July 1985, whether registered in Great Britain, in Northern Ireland or elsewhere.
- (2) Subject to subsections (3) and (4) below, where a grouping or member of a grouping required by notice given under section 12A above to deliver a return or other document fails to comply with the notice, the grouping or member shall be liable—
  - (a) to a penalty not exceeding £300; and
  - (b) if the failure continues after a penalty is imposed under paragraph (a) above, to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under paragraph (a) above was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).
- (3) No penalty shall be imposed under subsection (2) above in respect of a failure at any time after the failure has been remedied.
- (4) If a grouping to which, or member to whom, a notice is given proves that there was no income or chargeable gain to be included in the return, the penalty under subsection (2) above shall not exceed £100.
- (5) Where a grouping or member fraudulently or negligently delivers an incorrect return, accounts or statement, or makes an incorrect declaration in a return delivered, under section 12A above, the grouping or member shall be liable to a penalty not exceeding £3000 multiplied by the number of members of the grouping at the time of delivery<sup>F499</sup>.]

### **Textual Amendments**

**F499** Finance Act 1990 s. 69 and Sch. 11 para. 3(1) on and after 1 July 1989.

## **99 [Assisting in preparation of incorrect return, etc.**

Any person who assists in or induces the preparation or delivery of any information, return, accounts or other document which—

- (a) he knows will be, or is or are likely to be, used for any purpose of tax, and
- (b) he knows to be incorrect,

shall be liable to a penalty not exceeding £3,000<sup>F500</sup>.] <sup>F501</sup>

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### Textual Amendments

**F500** Finance Act 1989 s. 166 in relation to assistance and inducements occurring on or after 27 July 1989.

Previously

“99. Any person who assists in or induces the making or delivery for any purposes of tax of any return or accounts which he knows to be incorrect shall be liable to a penalty not exceeding £500(a).”

(a)

See Finance Act 1966 s.27 and Sch.6 para.23(3)—s.99 applied to returns, etc., under Finance Act 1965 s.84 (transitional relief for companies with overseas trading income).

**F501** See Finance Act 1981 s.134 and Sch.17 para.18—application to the special tax on banking deposits.

### [99A] <sup>F502</sup> Certificates of non-liability to income tax.

If a person who gives a certificate of non-liability to income tax in pursuance of regulations under section 477A of the principal Act (building societies) or section 480B of that Act (deposit-takers)—

- (a) gives the certificate fraudulently or negligently, or
- (b) fails to comply with any undertaking contained in the certificate in pursuance of the regulations,

he shall be liable to a penalty not exceeding £3,000.]

### Textual Amendments

**F502** S. 99A inserted (25.7.1991) by Finance Act 1991 (c. 31, SIF 63:1), s. 82

### 100 [Determination of penalties by officer of the Board.

- (1) Subject to subsection (2) below and except where proceedings for a penalty have been instituted under section 100D below or a penalty has been imposed by the Commissioners under section 53 of this Act, an officer of the Board authorised by the Board for the purposes of this section may make a determination imposing a penalty under any provision of the Taxes Acts and setting it at such amount as, in his opinion, is correct or appropriate.
- (2) Subsection (1) above does not apply where the penalty is a penalty under—
  - (a) section 93(1) above as it has effect before the amendments made by section 162 of the Finance Act 1989 or section 93(1)(a) above as it has effect after those amendments,
  - (b) section 94(1) above as it has effect before the substitution made by section 83 of the Finance (No. 2) Act 1987,
  - (c) section 98(1) above as it has effect before the amendments made by section 164 of the Finance Act 1989 or section 98(1)(i) above as it has effect after those amendments, or
  - (d) paragraph (a)(i) of section 98A(2) above as it has effect by virtue of section 165(2) of the Finance Act 1989, [or
  - (e) section 98B(2)(a) above <sup>F503</sup>]
- (3) Notice of a determination of a penalty under this section shall be served on the person liable to the penalty and shall state the date on which it is issued and the time within such an appeal against the determination may be made.

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- (4) After the notice of a determination under this section has been served the determination shall not be altered except in accordance with this section or on appeal.
- (5) If it is discovered by an officer of the Board authorised by the Board for the purposes of this section that the amount of a penalty determined under this section is or has become insufficient the officer may make a determination in a further amount so that the penalty is set at the amount which, in his opinion, is correct or appropriate.
- (6) In any case where—
  - (a) a determination under this section is of a penalty under section 94(6) above, and
  - (b) after the determination has been made it is discovered by an officer of the Board authorised by the Board for the purposes of this section that the amount which was taken into account as the relevant amount of tax is or has become excessive,the determination shall be revised so that the penalty is set at the amount which is correct; and, where more than the correct amount has already been paid, the appropriate amount shall be repaid.

#### Textual Amendments

**F503** Finance Act 1990 s. 69 and Sch. 11 para. 3(1) on and after 1 July 1989.

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

**C93** Ss. 100-100D power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)  
Ss. 100-100D power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)  
S. 100 restricted (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(4\)\(b\)](#)

#### 100A Provisions supplementary to section 100.

- (1) Where a person who has incurred a penalty has died, a determination under section 100 above which could have been made in relation to him may be made in relation to his personal representatives, and any penalty imposed on personal representatives by virtue of this subsection shall be a debt due from and payable out of his estate.
- (2) A penalty determined under section 100 above shall be due and payable at the end of the period of thirty days beginning with the date of the issue of the notice of the determination.
- (3) A penalty determined under section 100 above shall for all purposes be treated as if it were charged in an assessment and due and payable.

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

**C94** Ss. 100-100D power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992, ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)  
Ss. 100-100D power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)

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## 100B Appeals against penalty determinations.

- (1) An appeal may be brought against the determination of a penalty under section 100 above and, subject to the following provisions of this section, the provisions of this Act relating to appeals shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax.
- (2) On an appeal against the determination of a penalty under section 100 above section 50(6) to (8) of this Act shall not apply but—
  - (a) in the case of a penalty which is required to be of a particular amount, the Commissioners may—
    - (i) if it appears to them that no penalty has been incurred, set the determination aside,
    - (ii) if the amount determined appears to them to be correct, confirm the determination, or
    - (iii) if the amount determined appears to them to be incorrect, increase or reduce it to the correct amount.
  - (b) in the case of any other penalty, the Commissioners may—
    - (i) if it appears to them that no penalty has been incurred, set the determination aside,
    - (ii) if the amount determined appears to them to be appropriate, confirm the determination,
    - (iii) if the amount determined appears to them to be excessive, reduce it to such other amount (including nil) as they consider appropriate, or
    - (iv) if the amount determined appears to them to be insufficient, increase it to such amount not exceeding the permitted maximum as they consider appropriate.
- (3) Without prejudice to section 56 of this Act, an appeal from a decision of the Commissioners against the amount of a penalty which has been determined under section 100 above or this section shall lie, at the instance of the person liable to the penalty, to the High Court or, in Scotland to the Court of Session as the Court of Exchequer in Scotland; and on that appeal the court shall have the like jurisdiction as is conferred on the Commissioners by virtue of this section.

### Modifications etc. (not altering text)

- C95** Ss. 100-100D power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\)](#), ss. 1(4), 173(4), **Sch. 1**, para. 7(2)(b)(9)-(12)
- Ss. 100-100D power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\)](#), ss. 1(4), 177(4), **Sch. 1**, para. 7(2)(b)(9)-(12)

## 100C Penalty proceedings before Commissioners.

- (1) An officer of the Board authorised by the Board for the purposes of this section may commence proceedings before the General or Special Commissioners for any penalty to which subsection (1) of section 100 above does not apply by virtue of subsection (2) of that section.
- (2) Proceedings under this section shall be by way of information in writing, made to the Commissioners, and upon summons issued by them to the defendant (or defender) to

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appear before them at a time and place stated in the summons; and they shall hear and decide each case in a summary way.

- (3) Any penalty determined by the Commissioners in proceedings under this section shall for all purposes be treated as if it were tax charged in an assessment and due and payable.
- (4) An appeal against the determination of a penalty in proceedings under this section shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland—
  - (a) by any party on a question of law, and
  - (b) by the defendant (or, in Scotland, the defender) against the amount of the penalty.
- (5) On any such appeal the court may—
  - (a) if it appears that no penalty has been incurred, set the determination aside,
  - (b) if the amount determined appears to be appropriate, confirm the determination,
  - (c) if the amount determined appears to be excessive, reduce it to such other amount (including nil) as the court considers appropriate, or
  - (d) if the amount determined appears to be insufficient, increase it to such amount not exceeding the permitted maximum as the court considers appropriate.

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

- C96** Ss. 100-100D power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) 1992 \(c. 7\), ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)
- Ss. 100-100D power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)

**100D Penalty proceedings before court.**

- (1) Where in the opinion of the Board the liability of any person for a penalty arises by reason of the fraud of that person or any other person, proceedings for the penalty may be instituted before the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland.
- (2) Proceedings under this section which are not instituted (in England, Wales or Northern Ireland) under the Crown Proceedings Act 1947 by and in the name of the Board as an authorised department for the purposes of that Act shall be instituted—
  - (a) in England and Wales, in the name of the Attorney General,
  - (b) in Scotland, in the name of the Lord Advocate, and
  - (c) in Northern Ireland, in the name of the Attorney General for Northern Ireland.
- (3) Any proceedings under this section instituted in England and Wales shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947 and any such proceedings instituted in Northern Ireland shall be deemed to be civil proceedings within the meaning of that Part of that Act as for the time being in force in Northern Ireland.
- (4) If in proceedings under this section the court does not find that fraud is proved but consider that the person concerned is nevertheless liable to a penalty, the court may

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determine a penalty notwithstanding that, but for the opinion of the Board as to fraud, the penalty would not have been a matter for the court <sup>F504</sup>.]

### Textual Amendments

**F504** Finance Act 1989 s. 167. *Previously*

“100.—(1) Except as otherwise provided in this section, no proceedings shall be commenced against any person for the recovery of any penalty under the Taxes Acts except by order of the Board **(a)**. (2) Any such proceedings which are not instituted (in England, Wales or Northern Ireland) under the Crown Proceedings Act 1947 by and in the name of the Board as an authorised department for the purposes of that Act shall be instituted in the name of an officer, or—(a) in England and Wales, in the name of the Attorney General, (b) in Scotland, in the name of the Lord Advocate, and (c) in Northern Ireland, in the name of the Attorney General for Northern Ireland. (3).... **(b)** any such proceedings may, except as otherwise provided in the Taxes Acts, be commenced either before the General or **(a)** Special Commissioners, or (a) in England, Wales or Northern Ireland, in the High Court, (b) in Scotland, in the Court of Session as the Court of Exchequer in Scotland, and any proceedings commenced as mentioned in paragraph (a) of this subsection shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947 or, as the case may be, that Part as for the time being in force in Northern Ireland. (4).... **(b)** the inspector may, without an order of the Board, commence before the General Commissioners (or, in Northern Ireland, the Special Commissioners) **(c)** proceedings for a penalty incurred by any person under section 93(1) or section 98(1) of this Act for a failure to deliver, furnish or produce anything to the inspector; but in any proceedings so commenced the Commissioners shall not in any case award, in respect of the penalty under paragraph (a) of the said section 93(1), a sum exceeding £50 **(b)**. (5) Where the person who has incurred any penalty has died, any proceedings under this section which have been or could have been commenced against him may be continued or commenced against his personal representatives, and any penalty awarded in proceedings so continued or commenced shall be a debt due from and payable out of his estate; but nothing in this subsection shall extend the time for commencing proceedings against personal representatives. (6) Where any proceedings under this section are brought before any Commissioners, an appeal shall lie to the High Court **(d)** or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from their decision—(a) by any party, on a question of law, and (b) by the defendant (or, in Scotland, the defender) against the amount of any penalty awarded, and on any appeal under paragraph (b) above the court may either confirm the decision or reduce or increase the sum awarded. (7) Proceedings under this section before any Commissioners shall be by way of information in writing, made to them, and upon summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons, and they shall hear and determine each case in a summary way; and any penalty awarded by them in such proceedings shall for all purposes be treated as if it were tax charged in an assessment and due and payable. (8) The Commissioners or the court before whom any proceedings for a penalty of a fixed amount are brought under this section may, if they think fit, give judgment for a less amount. (9) [The Secretary of State **(e)**] may, if he thinks fit, appoint some other person to act instead of the Attorney General for Northern Ireland in relation to any matters to which this section relates, and in that case the reference in this section to the Attorney General for Northern Ireland shall be construed as a reference to the person so appointed **(f)** **(g)**. [(10)—A development land tax provision added by Development Land Tax Act 1976 (c. 24) Sch. 8 para. 26. Development Land Tax Act 1976 repealed by Finance Act 1985 s. 98(6) and Sch. 27 Part X.]”

**(a)**

See Finance Act 1966 s. 27 and Sch. 6 para. 23(7) and S.I. 1966 No. 1191 regn. 4(2) (in Part III Vol. 5) —application of this subsection to proceedings for penalties for fraudulent or negligent claims under Finance Act 1965 s. 84 (transitional relief for companies with overseas trading income).

**(b)**

Words omitted relate to development land tax. Development Land Tax Act 1976 repealed by Finance Act 1985 s. 98(6) and Sch. 27 Part X.

**(c)**



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Repealed by Finance Act 1988 (c. 39, SIF 63:1,2) s. 135 and s. 148 and Sch. 14 Part IX from 3 April 1989—commencement order S.I. 1989 No. 473 (in Part III Vol. 5).

(d)

See R.S.C. Ord. 91, (S.I. 1965 No. 1776 under  
“Appeals tribunals Supreme Court, Rules of”  
in Part III Vol. 5) r. 5 as to procedure in the High Court in England and Wales.

(e) Northern Ireland Constitution Act 1973 (c. 36) s. 40 and Sch. 5 para. 4(1).

(f)

See Taxes Management Act 1970 (c. 9, SIF 63:1,2) s. 45(5)—two or more Special Commissioners to be a quorum for proceedings under s. 100.

(g)

See Finance Act 1988 (c. 39, SIF 63:1,2) Sch. 5 para. 10(5)—s. 100 not to apply to certain penalties on underwriters' agents

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

C97 Ss. 100-100D power to apply conferred (N.I.) (1.7.1992) by Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), ss. 1(4), 173(4), Sch. 1, para. 7(2)(b)(9)-(12)

Ss. 100-100D power to apply conferred (E.W.S.) (1.7.1992) by Social Security Contributions and Benefits Act 1992 (c. 4), ss. 1(4), 177(4), Sch. 1, para. 7(2)(b)(9)-(12)

### 101 Evidence of profits for purposes of preceding provisions of Part X. [1960 s.60; 1965 Sch.X 1(1); 1966 Sch.VI 3(5); 1969 Sch.XX 19(5).]

For the purposes of the preceding provisions of this Part of this Act, any assessment which can no longer be varied by any Commissioners on appeal or by order of any court shall be sufficient evidence that the income or chargeable gains<sup>F505</sup> in respect of which tax is charged in the assessment arose or were received<sup>F505</sup> as stated therein<sup>F506F507</sup>.

#### Textual Amendments

F505 Amended in relation to development land tax by Development Land Tax Act 1976 (c. 24) Sch. 8 para. 27. Development Land Tax Act 1976 repealed by Finance Act 1985 s. 98(6) and Sch. 27 Part X.

F506 See Oil Taxation Act 1975 s. 1 and Sch. 2 para. 1(1)—Oil Taxation Acts—regarding modifications in relation to petroleum revenue tax and supplementary petroleum duty.

F507 See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 5 para. 10(5)—s. 100 not to apply to certain penalties on underwriters' agents.

### 102 Mitigation of penalties. [1952 s.500; 1965 Sch.XI(1); 1966 Sch.VI 13.]

The Board may in their discretion mitigate any penalty, or stay or compound any proceedings for [a penalty<sup>F508</sup>], and may also, after judgment, further mitigate or entirely remit the penalty<sup>F509F510</sup>.

#### Textual Amendments

F508 Finance Act 1989 s. 168(4). Previously  
“recovery thereof”.

F509 See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 5 para. 10(5)—s. 100 not to apply to certain penalties on underwriters' agents.

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**F510** See Finance Act 1966 s.27 and Sch.6 para.23(7)(b) and S.I. 1966 No.1191, regn.4 (in Part III Vol.5) — application of this section in relation to penalties under para.23 (transitional relief to companies with overseas trading income).

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

**C98** Ss. 102-104 power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)  
Ss. 102-104 power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)

### 103 [Time limits for penalties.

- (1) Subject to subsection (2) below, where the amount of a penalty is to be ascertained by reference to tax payable by a person for any period, the penalty may be determined by an officer of the Board, or proceedings for the penalty may be commenced before the Commissioners or a Court—
  - (a) at any time within six years after the date on which the penalty was incurred, or
  - (b) at any later time within three years after the final determination of the amount of tax by reference to which the amount of the penalty is to be ascertained.
- (2) Where the tax was payable by a person who has died, and the determination would be made in relation to his personal representatives, section (1)(b) above does not apply if the tax was charged in an assessment made later than six years after the end of the chargeable period for which it was charged.
- (3) A penalty under section 99 of this Act may be determined by an officer of the Board, or proceedings for such a penalty may be commenced before a court, at any time within twenty years after the date on which the penalty was incurred.
- (4) A penalty to which neither subsection (1) nor subsection (3) above applies may be so determined, or proceedings for such a penalty may be commenced before the Commissioners or a court, at any time within six years after the date on which the penalty was incurred or began to be incurred<sup>F511</sup>.]

#### Textual Amendments

**F511** Finance Act 1989 s. 169. *Previously*

“Time limit for recovery of penalties. 103.—(1) Proceedings for the recovery of any penalty incurred under the Taxes Acts in connection with or in relation to tax may be commenced at any time within six years next after the date on which it was incurred, or at any later time allowed under the following provisions of this section(a).(2) Proceedings for the recovery of any penalty from any person in connection with or in relation to any tax covered by any assessment may, where any form of fraud or wilful default has been committed by him or on his behalf in connection with or in relation to that tax, be commenced at any time within three years from the final determination of the amount of tax covered by the assessment(b): Provided that this subsection shall not extend the time for the bringing of any proceedings against the personal representatives of any person by whom or on whose behalf any form of fraud or wilful default has been committed.(3) Where the amount of any penalty to which a person is liable under the Taxes Acts is determined by reference to tax(c) charged in an assessment for any chargeable period which is made not later than six years after the end of that chargeable period, proceedings for the recovery of the penalty may be commenced within three years from the final determination of the amount of that tax. [(3A)—A development land tax provision added by Development Land Tax Act 1976 Sch.8 para.28. Development Land Tax Act 1976 repealed

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by Finance Act 1985 s.98(6) and Sch.27 Part X.] (4) In any proceedings for the recovery of a penalty which could not have been commenced but for subsection (3)(c) above, any tax charged in an assessment made under section 37, 39 or 40(2) of this Act shall be left out of account in determining the amount of the penalty (d).”

(a)

See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 5 para. 10(5)—s. 100 not to apply to certain penalties on underwriters' agents.

(b)

See Taxes Management Act 1970 (c. 9, SIF 63:1) s.119 and Sch.4 para.11—not applicable to tax for any year before 1936—37.

(c)

Amended in relation to development land tax by Development Land Tax Act 1976 Sch.8 para.28. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.

(d)

See Finance Act 1966 s.27 and Sch.6 para.23(7)(b) and S.I. 1966 No.1191, regn.4 (in Part III Vol.5)—application of this section in relation to penalties under para.23 (transitional relief to companies with overseas trading income).

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

- C99** Ss. 102-104 power to apply conferred (E.W.S.) (1.7.1992) by Social Security Contributions and Benefits Act 1992 (c. 4), ss. 1(4), 177(4), Sch. 1, para. 7(2)(b)(9)-(12)  
Ss. 102-104 power to apply conferred (N.I.) (1.7.1992) by Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), ss. 1(4), 173(4), Sch. 1, para. 7(2)(b)(9)-(12)

#### 104 Saving for criminal proceedings. [1952 s.503; 1965 Sch.X 1(1); 1966 Sch.VI 13; Criminal Law Act 1967 s.1.]

The provisions of the Taxes Acts <sup>F512</sup> shall not, save so far as is otherwise provided, affect any criminal proceedings for any misdemeanour <sup>F513F514</sup>.

#### Textual Amendments

- F512** See Oil Taxation Act 1975 s.1 and Sch.2 para.1(1)—Oil Taxation Acts—for modifications regarding petroleum revenue tax and supplementary petroleum duty.  
**F513** See Finance Act 1966 s.27 and Sch.6 para.23(7)(b) and S.I. 1966 No.1191, regn.4 (in Part III Vol.5)—application of this section in relation to penalties under para.23 (transitional relief to companies with overseas trading income).  
**F514** See—Finance Act 1981 s.134 and Sch.17 para.18—application to special tax on banking deposits.

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

- C100** Ss. 102-104 power to apply conferred (E.W.S.) (1.7.1992) by Social Security Contributions and Benefits Act 1992 (c. 4), ss. 1(4), 177(4), Sch. 1, para. 7(2)(b)(9)-(12)  
Ss. 102-104 power to apply conferred (N.I.) (1.7.1992) by Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), ss. 1(4), 173(4), Sch. 1, para. 7(2)(b)(9)-(12)

#### 105 Evidence in cases of fraud or wilful default. [1952 s.504; 1965 Sch.X 1(1); 1966 Sch.VI 13.]

- (1) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (2) below by reason only that it has been drawn to his attention that—

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- (a) pecuniary settlements may be accepted instead of a penalty being determined, or proceedings being instituted, in relation to any tax <sup>F515</sup>;
- (b) though no undertaking can be given as to whether or not the Board will accept such a settlement in the case of any particular person, it is the practice of the Board to be influenced by the fact that a person has made a full confession of any [fraudulent conduct <sup>F516</sup>] to which he had been a party and has given full facilities for investigation,

and that he was or may have been induced thereby to make the statements or produce the documents.

(2) The proceedings mentioned in subsection (1) above are—

- (a) any criminal proceedings against the person in question for any form of [fraudulent conduct <sup>F516</sup>] in connection with or in relation to tax <sup>F517</sup>, and
- (b) any proceedings against him for the recovery of any [tax due from him <sup>F518</sup>] <sup>F519</sup> [and
- (c) any proceedings for a penalty or on appeal against the determination of a penalty <sup>F520</sup> .]

#### Textual Amendments

**F515** Finance Act 1989 s. 168(5)(a). *Previously*

“(a) in relation to tax(a), the Board may accept pecuniary settlements instead of instituting proceedings,”

**a**

See Income and Corporation Taxes Act 1970 s.537 and Sch. 14 para.27(4)— “tax”  
*ins.105 includes excess profits tax and the profits tax.*

**F516** Finance Act 1989 s. 149(5) *but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983. Previously*

“fraud or default”

*and*

“fraud or wilful default”.

**F517** See Income and Corporation Taxes Act 1970 s.537 and Sch. 14 para.27(4)— “tax”  
*ins.105 includes excess profits tax and the profits tax.*

**F518** Finance Act 1989 s. 168(5)(b). *Previously*

“sum due from him, whether by way of tax or penalty, in connection with or in relation to tax(a) (b)”

**(a)**

See Income and Corporation Taxes Act 1970 s.537 and Sch. 14 para.27(4)— “tax”  
*ins.105 includes excess profits tax and the profits tax.*

**(b)**

See Finance Act 1966 s.27 and Sch. 6 para.23(7)(b) and S.I. 1966 No.1191 regn.4 (*in Part III Vol.5*)  
—*application of this section in relation to penalties under para.23 (transitional relief for companies with overseas trading income).*

**F519** See Finance Act 1981 s.134 and Sch. 17 para.18—*application of this provision to the special tax on banking deposits.*

**F520** Finance Act 1989 s. 168(5)(c).

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**106 Refusal to allow a deduction of income tax, and avoidance of agreements for payment without deduction. [1952 s.506; 1966 Sch.VI 17(4).]**

- (1) A person who refuses to allow a deduction of income tax authorised by the Taxes Acts to be made out of any payment shall incur a penalty of £50.
- (2) Every agreement for payment of interest, rent or other annual payment in full without allowing any such deduction shall be void.

*Scotland*

**107 Criminal liability for false statements made to obtain allowances. [1952 s.505; 1965 Sch.X 1(1); 1966 Sch.VI 13.] [1960 s.55(1).]**

- (1) This section applies only in Scotland.
- (2) If any person, for the purpose of obtaining any allowance, reduction, rebate or repayment in respect of tax, either for himself or for any other person, or, in any return made with reference to tax, knowingly makes any false statement or false representation, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months.
- (3) Notwithstanding anything in the Summary Jurisdiction (Scotland) Act 1954, proceedings for an offence under this section may be commenced at any time within three years from the time when the offence was committed.
- (4) The expression “return” in this section shall be construed without regard to the definition in section 118(1) of this Act <sup>F521</sup>.

**Textual Amendments**

**F521** See—Taxes Management Act 1970 s.119 and Sch.4 para.12—1952 s.505 remains in force as regards proceedings for offences committed in England and Wales before its repeal by the Theft Act 1968 and in Northern Ireland before its repeal by the Theft Act (Northern Ireland) 1969. Finance Act 1981 s.134 and Sch.17 para.18—application of this section to the special tax on banking deposits.

**PART XI**

MISCELLANEOUS AND SUPPLEMENTAL

*Companies*

**108 Responsibility of company officers. [1966 Sch.VI 24; 1969 Sch.XX 23(3).]**

- (1) Everything to be done by a company under the Taxes Acts <sup>F522</sup> shall be done by the company acting through the proper officer of the company, and service on a company of any document under or in pursuance of the Taxes Acts <sup>F522</sup> may be effected by serving it on the proper officer.

This subsection is without prejudice to Part VIII of this Act (charges on non-residents) as it applies to corporation tax.

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- (2) Corporation tax or other tax chargeable under the Corporation Tax Acts <sup>F522</sup> on a company which is not a body corporate, or which is a body corporate not incorporated under the [Companies Act 1985 <sup>F523</sup>] or any other enactment forming part of the law of the United Kingdom, or by Charter, may, at any time after the tax becomes due, and without prejudice to any other method of recovery, be recovered from the proper officer of the company, and that officer may retain out of any money coming into his hands on behalf of the company sufficient sums to pay that tax, and, so far as he is not so reimbursed, shall be entitled to be indemnified by the company in respect of the liability so imposed on him.
- (3) For the purposes of this section—
  - (a) the proper officer of a company which is a body corporate shall be the secretary or person acting as secretary of the company, except that if a liquidator has been appointed for the company the liquidator shall be the proper officer,
  - (b) the proper officer of a company which is not a body corporate or for which there is no proper officer within paragraph (a) above, shall be the treasurer or the person acting as treasurer, of the company <sup>F524</sup>.
- (4) ..... <sup>F525</sup>

**Textual Amendments**

**F522** See Oil Taxation Act 1975 s.1 and Sch.2 para.1(1)—Oil Taxation Acts—regarding modification in relation to petroleum revenue tax and supplementary petroleum duty.

**F523** Companies Consolidation (Consequential Provisions) Act 1985 (c. 9) s. 30 and Sch. 2 with effect from 1 July 1985. Previously “Companies Act 1948”.

**F524** See Finance Act 1981 s.134 and Sch.17 para.18—application of this section to the special tax on banking deposits.

**F525** A development land tax provision added by Development Land Tax Act 1976 Sch.8 para.29. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.

**109 [Corporation tax on close company in connection with loans to participators etc.]**

- (1) The provisions of [sections 419 and 420 <sup>F526</sup>] of the principal Act (charge of tax in connection with loans by close companies to participators etc.) directing that tax be assessed and recoverable as if it were an amount of corporation tax shall be taken as applying, subject to the provisions of the Taxes Acts, and to any necessary modifications, all enactments applying generally to corporation tax, including those relating to the assessing, collecting and receiving of corporation tax, those conferring or regulating a right of appeal and those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.
- (2) Section 86 of this Act shall apply in relation to tax under the said [sections 419 and 420 <sup>F526</sup>] as if [the date given by the Table in subsection (4) of the said section 86 were the last day of the three months following the end of the financial year in which the loan or advance was made <sup>F527</sup>]. <sup>F528</sup>
- (3) For the purposes of section 88 <sup>F528</sup> of this Act as applied by subsection (1) above, the date when tax charged under the said [sections 419 and 420 <sup>F526</sup>] ought to have been

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paid shall be taken to be the first day of the [financial year <sup>F527</sup>] following that in which the loan or advance was made. <sup>F528</sup>

(3A)

<sup>F528</sup>(4) Section 91 of this Act shall not apply in consequence of any discharge or repayment of tax under section [419(4) <sup>F526</sup>] of the principal Act.

(5) For the purposes of the said section 91, a relief from tax under the said [sections 419 and 420 <sup>F526</sup>] shall not be treated as affecting tax charged by any assessment unless the assessment is to tax under that section <sup>F529</sup>.]

#### Textual Amendments

**F526** Income and Corporation Taxes Act 1988 Sch. 29 para. 32.

**F527** Words substituted by Finance (No.2) Act 1975 s.46(5) in relation to tax charged by assessments where notices issued after 31 July 1975.

**F528** See Finance (No. 2) Act 1987 s. 91 for changes in respect of loans or advances made (or treated as made) in accounting periods ending after a day to be appointed. See also Income and Corporation Taxes Act 1988 Sch. 29 para. 10(8)(a)(b) for later changes.

**F529** Finance Act 1972 s.111 and Sch.24 para.13 in relation to times after 5 April 1973 (subject to s.111(3)).

### Valuation

#### 110 Valuation of land: power of entry. [1963 s.30(2); 1969 Sch.XX 20(4).]

Any person authorised in that behalf by the Board may, on producing if so required evidence of his authority, at any reasonable time enter on and inspect, with a view to establishing its annual value, any land the annual value of which falls to be determined for purposes of income tax or corporation tax <sup>F530</sup>.

#### Textual Amendments

**F530** See Inland Revenue Regulation Act 1890 (c. 21, SIF 63:1) s.11 (reproduced in Part II Vol.5)—fine for obstruction of officers.

#### 111 Valuation of assets: power to inspect. [1965 Sch.X 14.]

(1) If for the purposes of [the <sup>F531</sup>1992 Act] the Board authorise an inspector or other officer of the Board to inspect any property for the purpose of ascertaining its market value the person having the custody or possession of that property shall permit the inspector or other officer so authorised to inspect it at such reasonable times as the Board may consider necessary.

(1A) ..... <sup>F532</sup>

(2) If any person wilfully delays or obstructs an inspector or other officer of the Board acting in pursuance of this section he shall be liable on summary conviction to a fine not exceeding £5 <sup>F533</sup>.

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**Textual Amendments**

- F531** Words in s. 111(1) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 10](#), para. 2(2) (with ss. 60, 101(1), 171, 201(3))
- F532** *A development land tax provision added by* [Development Land Tax Act 1976 Sch.8 para.30](#). [Development Land Tax Act 1976](#) *repealed by* [Finance Act 1985 s.98\(6\) and Sch.27 Part X](#).
- F533** *Increased to* £25 *by virtue of the* [Criminal Justice Act 1982 \(c.48\)](#) ss.37, 38 *and* 54 *from* 11 April 1983 *by* S.I. 1982 No.1857 *and* S.I. 1983 No.24 *and to* £50 *from* 1 May 1984 *by* S.I. 1984 No. 447 *and* S.I. 1984 No. 526 (s. 61).

*Documents*

**112 Loss, destruction or damage to assessments, returns, etc. [1952 s.513; 1965 Sch.X 1(1); 1966 Sch.VI 13, 27(1).]**

- (1) Where any assessment to tax, or any duplicate of assessment to tax, or any return or other document relating to tax, has been lost or destroyed, or been so defaced or damaged as to be illegible or otherwise useless, the Commissioners, inspectors, collectors and other officers having powers in relation to tax may, notwithstanding anything in any enactment to the contrary, do all such acts and things as they might have done, and all acts and things done under or in pursuance of this section shall be as valid and effectual for all purposes as they would have been, if the assessment or duplicate of assessment had not been made, or the return or other document had not been made or furnished or required to be made or furnished <sup>F534</sup>.

Provided that, where any person who is charged with tax in consequence or by virtue of any act or thing done under or in pursuance of this section proves to the satisfaction of the Commissioners having jurisdiction in the case that he has already paid any tax for the same chargeable period in respect of the subject matter and on the account in respect of and on which he is so charged, relief shall be given to the extent to which the liability of that person has been discharged by the payment so made either by abatement from the charge or by repayment, as the case may require.

(1A) ..... <sup>F535</sup>

- (2) In this section, “the Commissioners” means, as the case may require, either the Board or the General or Special Commissioners concerned <sup>F536</sup>.
- (3) The references in subsection (1) above to assessments to tax include references to determinations of penalties; and in its application to such determinations the proviso to that subsection shall have effect with the appropriate modifications <sup>F537</sup>.]

**Textual Amendments**

- F534** *See* [Oil Taxation Act 1975 s.1 and Sch.2 para.1\(1\)](#)—*Oil Taxation Acts—regarding modifications relating to petroleum revenue tax and supplementary petroleum duty.*
- F535** *A development land tax provision added by* [Development Land Tax Act 1976 Sch.8 para.31](#). [Development Land Tax Act 1976](#) *repealed by* [Finance Act 1985 s.98\(6\) and Sch.27 Part X](#).
- F536** *See* [Finance Act 1981 s.134 and Sch.17 para.18](#)—*application of this provision to the special tax on banking deposits.*



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**F537** Finance Act 1989 s. 168(6).

**113 Form of returns and other documents. [1952 s.25; 1964(M) Sch.IV; 1966 Sch.VI 5(2)(3); 1969 Sch.XX 15.]**

- (1) Any returns under the Taxes Acts shall be in such form as the Board prescribe, and in prescribing income tax forms under this subsection the Board shall have regard to the desirability of securing, so far as may be possible, that no person shall be required to make more than one return annually of the sources of his income and the amounts derived therefrom.
- (1A) Any notice or direction requiring any return to be made under the Taxes Acts to an inspector or other officer of the Board may be issued or given in the name of that officer, or as the case may be in the name of the Board, by any officer of the Board, and so as to require the return to be made to the first-mentioned officer <sup>F538</sup>.
- (1B) Where the Board or an inspector or other officer of the Board have in accordance with section 29 of this Act, or any other provision of the Taxes Acts, decided to make an assessment to tax, and have taken all other decisions needed for arriving at the amount of the assessment, they may entrust to some other officer of the Board responsibility for completing the assessing procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the assessment on the person liable for tax <sup>F539</sup>.] <sup>F540</sup>
- (1C) Where an officer of the Board has decided that an amount of tax carries interest under section 88 of this Act and has taken the decisions needed for arriving at the date when for the purposes of that section that tax ought to have been paid, he may entrust to any other officer of the Board responsibility for completing the determination procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the determination on the person liable to the interest <sup>F541</sup>.]
- (1D) Where an officer of the Board has decided to impose a penalty under section 100 of this Act and has taken all other decisions needed for arriving at the amount of the penalty, he may entrust to any other officer of the Board responsibility for completing the determination procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the determination on the person liable to the penalty <sup>F542</sup>.]
- <sup>M73</sup>(2) Any return or assessment or other document relating to chargeable gains or tax on capital gains may be combined with one relating to income or income tax.
- <sup>M74</sup>(3) Every assessment, [determination of a penalty <sup>F543</sup>,] duplicate, warrant, notice of assessment [, of determination <sup>F543</sup>] or of demand, or other document required to be used in assessing, charging, collecting and levying tax [or determining a penalty <sup>F543</sup>] shall be in accordance with the forms prescribed from time to time in that behalf by the Board, and a document in the form prescribed and supplied or approved by them shall be valid and effectual <sup>F540</sup><sup>F544</sup>.

**Textual Amendments**

**F538** See Finance Act 1981 s.134 and Sch.17 para.18—application of this provision to the special tax on banking deposits.

**F539** Finance Act 1970, s.18 and Sch.4, para.10.

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**F540** See—Finance Act 1981 s.134 and Sch.17 para.18—application of this provision to the special tax on banking deposits. Oil Taxation Act 1975 s.1 and Sch.2 para.1(1)—Oil Taxation Acts—ss.113 and 114 applied with modifications in relation to petroleum revenue tax and supplementary petroleum duty. Income and Corporation Taxes Act 1988 Sch. 19 para. 13(7)—ss 113(1B) and (3) and 114(2) applied in relation to apportionment of close company's income. S.I. 1990 No. 627, regn. 8 (in Part III Vol. 5)—application of ss. 113(1B) and (3) to underwriters for 1987-88.

**F541** Finance Act 1989 s. 160(4).

**F542** Finance Act 1989 s. 168(7)(a).

**F543** Finance Act 1989 s. 168(7)(b).

**F544** See Income and Corporation Taxes Act 1988 Sch. 16 para. 13(7)—ss. 113(1B) and (3) applied in relation to apportionment of close company's income.

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

**C101** S. 113(1B)(3) applied (19.4.1991) for the year of assessment 1988-1989 by S.I. 1991/851, **regs. 1, 6**

S. 113(1B) applied (28.3.1992) for the year of assessment 1989-90 by S.I. 1992/511, **reg.6**

**C102** S. 113(1B) applied (with modifications) (23.3.1993 with effect for the year of assessment 1990-91 only) by S.I. 1993/415, **regs. 1(1), 6**

#### Marginal Citations

**M73** 1965

Sch. X 17.

**M74** 1952 s.514(1); 1965 Sch.X 1(1); 1966 Sch.VI 13.

### 114 Want of form or errors not to invalidate assessments, etc. [1952 s.514(2)(3); 1965 Sch.X 1(1); 1966 Sch.VI 13.]

- (1) An assessment [or determination <sup>F545</sup>], warrant or other proceeding which purports to be made in pursuance of any provision of the Taxes Acts shall not be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of the Taxes Acts, and if the person or property charged or intended to be charged or affected thereby is designated therein according to common intent and understanding.
- (2) An assessment [or determination <sup>F545</sup>] shall not be impeached or affected—
  - (a) by reason of a mistake therein as to—
    - (i) the name or surname of a person liable, or
    - (ii) the description of any profits or property, or
    - (iii) the amount of the tax charged, or
  - (b) by reason of any variance between the notice and the assessment [or determination <sup>F545</sup>] <sup>F546</sup>.

#### Textual Amendments

**F545** Finance Act 1989 (c. 26), s. 160(5).

**F546** See Income and Corporation Taxes Act 1988 Sch. 16 para. 13(7)—ss. 114(2) applied in relation to apportionment of close company's income.

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

**C103** S. 114 applied by See Finance Act 1981 (c. 35), s. 134, **Sch.17 para.18** (special tax on banking deposits).

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**115 Delivery and service of documents. [1952 s.515(1); 1965 Sch.X 1(1); 1966 Sch.VI 13.] [1969 Sch.XX 16(1)(2).]**

- (1) A notice or form which is to be served under the Taxes Acts on a person may be either delivered to him or left at his usual or last known place or residence <sup>F547</sup>.
- (2) Any notice or other document to be given, sent, served or delivered under the Taxes Acts may be served by post <sup>F547</sup>, and, if to be given, sent, served or delivered to or on any person by the Board, by any officer of the Board, or by or on behalf of any body of Commissioners, may be so served addressed to that person—
  - (a) at his usual or last known place of residence, or his place of business or employment, or
  - (b) in the case of a company, at any other prescribed place, and in the case of a liquidator of a company, at his address for the purposes of the liquidation or any other prescribed place .
- (3) In subsection (2) above “prescribed” means prescribed by regulations made by the Board, and the power of making regulations for the purposes of that subsection shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons .
- <sup>M75</sup>(4) Notices to be given or delivered to, or served on, the General Commissioners shall be valid and effectual if given or delivered to or served on their clerk .

**Textual Amendments**

**F547** See also the [Interpretation Act 1978 \(c. 30\)](#): “References to service by post. 7. Where an Act authorises or requires any document to be served by post (whether the expression “serve” or the expression “give” or “send” or any other expression is used) then, unless the contrary intention appears, the service is deemed to be effected by properly addressing, pre-paying and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.”

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

- C104** S. 115(1)-(3) applied by [Finance Act 1981 \(c. 35\)](#), s. 134, [Sch.17 para.18](#) (special tax on banking deposits).
- C105** See [Oil Taxation Act 1975 \(c. 22\)](#), s. 1, [Sch. 2 para. 1\(1\)](#) (Oil Taxation Acts) regarding modification in relation to petroleum revenue tax and supplementary petroleum duty

**Marginal Citations**

**M75** 1952 s.515(5); 1965 Sch.X 1(1); 1966 Sch.VI 13.

**116** ..... <sup>F548</sup>

**Textual Amendments**

**F548** (*Receipts, etc. exempt from stamp duty.*) Repealed by Finance Act 1970 s.36(8) and Sch.8 Part V, as from 1 February 1971.

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### Northern Ireland

#### 117 Action of ejectment in Northern Ireland. [1952 Sch.XXIII 12.]

Unless other provision is made in that behalf by any enactment <sup>F549</sup>, an action of ejectment in Northern Ireland for non-payment of rent shall not be defeated on the ground that the person liable to pay the rent is entitled under the Income Tax Acts to a deduction which would reduce the amount due by him below a year's rent.

#### Textual Amendments

**F549** See the Northern Ireland Constitution Act 1973 (c.36), s.40 and Sch.5 para.1—includes, from appointed day, a Measure of the Northern Ireland Assembly.

### Interpretation

#### 118 Interpretation. [1952 s.526(1).] **E+W+N.I.**

(1) In this Act, unless the context otherwise requires—

“Act” includes an Act of the Parliament of Northern Ireland <sup>F550</sup> and “enactment” shall be construed accordingly,

“the Board” means the Commissioners of Inland Revenue,

“body of persons” means any body politic, corporate or collegiate, and any company, fraternity, fellowship and society of persons, whether corporate or not corporate,

“branch or agency” means any factorship, agency, receivership, branch or management, and “branch or agent” shall be construed accordingly <sup>F551</sup>,

“chargeable gain” has the same meaning as in [the <sup>F552</sup>1992 Act]],

“chargeable period” means a year of assessment or a company's accounting period,

“collector” means any collector of taxes,

“company” has the meaning given by [sections 419 and 420 <sup>F553</sup>] of the principal Act (with section 468 <sup>F553</sup>] of that Act) . . . <sup>F554</sup>,

“incapacitated person” means any infant, person of unsound mind, lunatic, idiot or insane person,

“inspector” means any inspector of taxes,

“neglect” means negligence or a failure to give any notice, make any return or to produce or furnish any document or other information required by or under the Taxes Acts <sup>F555</sup>,

“the principal Act” means the Income and Corporation Taxes Act [1988 <sup>F553</sup>],

“return” includes any statement or declaration under the Taxes Acts,

“tax”, where neither income tax nor capital gains tax nor corporation tax [nor development land tax <sup>F556</sup>] is specified, means any of those taxes [except that in sections 20, 20A, 20B, 20C and 20D it does not include development land tax <sup>F557</sup>],

“the Taxes Acts” <sup>F558</sup> means this Act and—

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- (a) the Tax Acts . . . [Repealed by Income and Corporation Taxes Act 1988 s. 844 and Sch. 31. See 1987 edition for text] and
- (b) [<sup>F559</sup>the Taxation of Chargeable Gains Act 1992] and all other enactments relating to capital gains tax,
- (c) . . . . .<sup>F560</sup>[<sup>F561</sup>“the 1992 Act ” means the Taxation of Chargeable Gains Act 1992.]  
“trade” includes every trade, manufacture, adventure or concern in the nature of trade <sup>F562</sup>.

<sup>M76</sup>(2) For the purposes of this Act, a person shall be deemed not to have failed to do anything required to be done within a limited time if he did it within such further time, if any, as the Board or the Commissioners or officer concerned may have allowed; and where a person had a reasonable excuse for not doing anything required to be done he shall be deemed [not to have failed to do it unless the excuse ceased and, after the excuse ceased, he shall be deemed <sup>F563</sup>] not to have failed to do it if he did it without unreasonable delay after the excuse had ceased:

. . . . .<sup>F564</sup>

<sup>F562M77</sup>(3) For the purposes of [section 36 <sup>F565</sup>] and Part X of this Act, an assessment made in the partnership name and the tax charged in such an assessment shall, according to the law in Scotland as well as according to the law elsewhere in the United Kingdom, be deemed to be respectively an assessment made on the partners and tax charged on and payable by them <sup>F562</sup>.

<sup>M78</sup>(4) For the purposes of this Act, the amount of tax covered by any assessment shall not be deemed to be finally determined until that assessment can no longer be varied, whether by any Commissioners on appeal or by the order of any court.

### Extent Information

**E2** This version of this provision extends to England and Wales and Northern Ireland only; a separate version has been created for Scotland only.

### Textual Amendments

**F550** See the Northern Ireland Constitution Act 1973 (c.36), s.40 and Sch.5 para.1—includes, from appointed day, a Measure of the Northern Ireland Assembly.

**F551** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) ss. 606 and 612 (administration of retirement benefits schemes)—definition applied.

**F552** Words in s. 118(1) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10, para. 2(11)(a) (with ss. 60, 101(1), 171, 201(3))

**F553** Income and Corporation Taxes Act 1988 Sch. 29 para. 32.

**F554** Words omitted related to development land tax. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.

**F555** See Finance Act 1988 (c. 39, SIF 63:1,2) s. 127—production of computer records. Definition repealed by Finance Act 1989 s. 187 and Sch. 17 Part VIII but does not affect the making of assessments for years before 1983-84 or accounting periods ending before 1 April 1983.

**F556** Development Land Tax Act 1976 s.41 and Sch.8 para.32. Repealed by Finance Act 1985 s.98(6) and Sch.27 Part X in respect of disposals taking place on or after 19 March 1985.

**F557** Finance Act 1976 s.57(2).

**F558** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 754(9)—application to s. 754 (controlled foreign companies.).

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- F559** Words in s. 118(1)(b) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by virtue of Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10, para. 2(11)(b) (with ss. 60, 101(1), 171, 201(3))
- F560** A development land tax provision added by Development Land Tax Act 1976 Sch.8 para.32. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.
- F561** Definition in s. 118(1)(b) inserted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10, para. 2(11)(c) (with ss. 60, 101(1), 171, 201(3))
- F562** See Finance Act 1981 s.134 and Sch.17 para.18—application of this provision to the special tax on banking deposits.
- F563** Finance (No. 2) Act 1987 s. 94.
- F564** Proviso repealed by Finance Act 1970 s.36(8) and Sch.8 Part VII.
- F565** Finance Act 1989 s. 149(3)(b) but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983. Previously “sections 37 to 39”.

#### Marginal Citations

- M76** 1960  
s. 63(2).
- M77** 1960  
s. 63(3).
- M78** [1952 s. 501(1); 1960 s.63(4).]

## 118 Interpretation. [1952 s.526(1).] **S**

(1) In this Act, unless the context otherwise requires—

“Act” includes an Act of the Parliament of Northern Ireland <sup>F599</sup> and “enactment” shall be construed accordingly,

“the Board” means the Commissioners of Inland Revenue,

“body of persons” means any body politic, corporate or collegiate, and any company, fraternity, fellowship and society of persons, whether corporate or not corporate,

“branch or agency” means any factorship, agency, receivership, branch or management, and “branch or agent” shall be construed accordingly <sup>F600</sup>,

“chargeable gain” has the same meaning as in [the <sup>F601</sup>1992 Act]],

“chargeable period” means a year of assessment or a company’s accounting period,

“collector” means any collector of taxes,

“company” has the meaning given by [sections 419 and 420 <sup>F602</sup>] of the principal Act (with section 468 <sup>F602</sup>] of that Act) . . . <sup>F603</sup>,

“incapacitated person” means any infant, person of unsound mind, lunatic, idiot or insane person,

[<sup>F604</sup>“infant”, in relation to Scotland, except in section 73 of this Act, means a person under legal disability by reason of nonage, and, in the said section 73, means a person under the age of 18 years.]

“inspector” means any inspector of taxes,

“neglect” means negligence or a failure to give any notice, make any return or to produce or furnish any document or other information required by or under the Taxes Acts <sup>F605</sup>,

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“the principal Act” means the Income and Corporation Taxes Act [1988<sup>F602</sup>],

“return” includes any statement or declaration under the Taxes Acts,

“tax”, where neither income tax nor capital gains tax nor corporation tax [nor development land tax<sup>F606</sup>] is specified, means any of those taxes [except that in sections 20, 20A, 20B, 20C and 20D it does not include development land tax<sup>F607</sup>],

“the Taxes Acts”<sup>F608</sup> means this Act and—

- (a) the Tax Acts . . . [*Repealed by Income and Corporation Taxes Act 1988 s. 844 and Sch. 31. See 1987 edition for text*] and
- (b) [<sup>F609</sup>the Taxation of Chargeable Gains Act 1992] and all other enactments relating to capital gains tax,
- (c) . . . . .<sup>F610</sup>[<sup>F611</sup>“the 1992 Act ” means the Taxation of Chargeable Gains Act Act 1992.]

“trade” includes every trade, manufacture, adventure or concern in the nature of trade<sup>F612</sup>.

<sup>M100</sup>(2) For the purposes of this Act, a person shall be deemed not to have failed to do anything required to be done within a limited time if he did it within such further time, if any, as the Board or the Commissioners or officer concerned may have allowed; and where a person had a reasonable excuse for not doing anything required to be done he shall be deemed [not to have failed to do it unless the excuse ceased and, after the excuse ceased, he shall be deemed<sup>F613</sup>] not to have failed to do it if he did it without unreasonable delay after the excuse had ceased:

. . . . .<sup>F614</sup>

<sup>F612M101</sup>(3) For the purposes of [section 36<sup>F615</sup>] and Part X of this Act, an assessment made in the partnership name and the tax charged in such an assessment shall, according to the law in Scotland as well as according to the law elsewhere in the United Kingdom, be deemed to be respectively an assessment made on the partners and tax charged on and payable by them<sup>F612</sup>.

<sup>M102</sup>(4) For the purposes of this Act, the amount of tax covered by any assessment shall not be deemed to be finally determined until that assessment can no longer be varied, whether by any Commissioners on appeal or by the order of any court.

#### Textual Amendments

**F599** See the Northern Ireland Constitution Act 1973 (c.36), s.40 and Sch.5 para.1—includes, from appointed day, a Measure of the Northern Ireland Assembly.

**F600** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) ss. 606 and 612 (administration of retirement benefits schemes)—definition applied.

**F601** Words in s. 118(1) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10, para. 2(11)(a) (with ss. 60, 101(1), 171, 201(3))

**F602** Income and Corporation Taxes Act 1988 Sch. 29 para. 32.

**F603** Words omitted related to development land tax. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.

**F604** Definition in s. 118(1) inserted (S.) (25.9.1991) by Age of Legal Capacity (Scotland) Act 1991 (c. 50, SIF 49:8), ss. 10(1), 11(2), Sch. 1 para. 34 (with s. 1(3))

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- F605** See Finance Act 1988 (c. 39, SIF 63:1.2) s. 127—production of computer records. Definition repealed by Finance Act 1989 s. 187 and Sch. 17 Part VIII but does not affect the making of assessments for years before 1983-84 or accounting periods ending before 1 April 1983.
- F606** Development Land Tax Act 1976 s. 41 and Sch. 8 para. 32. Repealed by Finance Act 1985 s. 98(6) and Sch. 27 Part X in respect of disposals taking place on or after 19 March 1985.
- F607** Finance Act 1976 s. 57(2).
- F608** See Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s. 754(9)—application to s. 754 (controlled foreign companies.).
- F609** Words in s. 118(1) substituted (6.3.1992) with effect as mentioned in s. 289(1)(2) of the substituting Act) by virtue of Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10, para. 2(11)(b) (with ss. 60, 101(1), 171, 201(3))
- F610** A development land tax provision added by Development Land Tax Act 1976 Sch. 8 para. 32. Development Land Tax Act 1976 repealed by Finance Act 1985 s. 98(6) and Sch. 27 Part X.
- F611** Definition in s. 118(1) inserted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10, para. 2(11)(c) (with ss. 60, 101(1), 171, 201(3))
- F612** See Finance Act 1981 s. 134 and Sch. 17 para. 18—application of this provision to the special tax on banking deposits.
- F613** Finance (No. 2) Act 1987 s. 94.
- F614** Proviso repealed by Finance Act 1970 s. 36(8) and Sch. 8 Part VII.
- F615** Finance Act 1989 s. 149(3)(b) but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983. Previously “sections 37 to 39”.

#### Marginal Citations

- M100** 1960  
s. 63(2).
- M101** 1960  
s. 63(3).
- M102** [1952 s. 501(1); 1960 s. 63(4).]

## PART XII

### GENERAL

#### 119 Commencement and construction.

- (1) This Act shall come into force for all purposes on 6th April 1970 to the exclusion of the corresponding enactments repealed by the principal Act.
- (2) This Act, and the repeals made by the principal Act, have effect subject to Schedule 4 to this Act.
- (3) This Act, so far as it relates to income tax or corporation tax, shall be construed as one with the principal Act.
- (4) This Act, so far as it relates to chargeable gains, shall be construed as one with [the <sup>F566</sup>1992 Act].
- (5) .....

F567



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### Textual Amendments

**F566** Words in s. 119(4) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 10](#), para. 2(2) (with ss. 60, 101(1), 171, 201(3))

**F567** A development land tax provision added by [Development Land Tax Act 1976 Sch.8 para.33](#).  
Development Land Tax Act 1976 repealed by [Finance Act 1985 s.98\(6\)](#) and [Sch.27 Part X](#).

## 120 Short title.

This Act may be cited as the Taxes Management Act 1970.

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## SCHEDULES

### SCHEDULE 1

#### <sup>M79</sup>FORMS OF DECLARATIONS

##### **Marginal Citations**

**M79** 1964(M) Sch.1; 1965 Sch.X 16.

#### PART I

##### GENERAL AND SPECIAL COMMISSIONERS AND OTHERS

“I, A.B., do solemnly declare that I will impartially and to the best of my ability execute [the duties of my office <sup>F568</sup>] and that I will not disclose any information received by me in the execution of [those duties <sup>F568</sup>] except for the purposes of [those duties <sup>F568</sup>] or for the purposes of any prosecution for an offence relating to [inland revenue <sup>F568</sup>] or in such other cases as may be required by law.”

##### **Textual Amendments**

**F568** Finance Act 1975 s.57(2)(3) *but not so as to invalidate declarations made before the passing of that Act.*

#### PART II

##### COMMISSIONERS OF INLAND REVENUE

“I, A.B., do solemnly declare that I will not disclose any information received by me in the execution of my duties except for the purposes of those duties or for the purposes of any prosecution for an offence relating to inland revenue, or in such other cases as may be required by law.”

#### PART III

##### INSPECTORS, COLLECTORS AND OTHER OFFICERS

“I, A.B., do solemnly declare that I will not disclose any information received by me in the execution of the duties which may from time to time be assigned to me by the Board of Inland Revenue except for the purposes of my duties, or to the Board of Inland Revenue or in accordance with their instructions, or for the purposes of any prosecution for an offence relating to inland revenue, or in such other cases as may be required by law.”

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## SCHEDULE 2

### JURISDICTION IN APPEALS ON CLAIMS

#### *Appeal from inspector*

- 1 <sup>M80</sup>(1) Except as otherwise provided by the following provisions of this Schedule, or any other provision of the Taxes Acts, an appeal against the decision of an inspector on a claim shall lie to the General Commissioners, but the appellant may elect to bring the appeal before the Special Commissioners instead of the General Commissioners.
- (1A) An election under sub-paragraph (1) above shall be disregarded if—
- (a) the appellant and the inspector or other officer of the Board agree in writing, at any time before the determination of the appeal, that it is to be disregarded; or
  - (b) the General Commissioners have given a direction under sub-paragraph (1C) below and have not revoked it.
- (1B) At any time before the determination of an appeal in respect of which an election has been made under sub-paragraph (1) above, the inspector or other officer of the Board after giving notice to the appellant may refer the election to the General Commissioners.
- (1C) On any such reference the Commissioners shall, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, direct that the election be disregarded.
- (1D) If, at any time after the giving of a direction under sub-paragraph (1C) above (but before the determination of the appeal) the General Commissioners are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, they shall revoke the direction.
- (1E) Any decision to give a direction under sub-paragraph (1C) or revoke such a direction under sub-paragraph (1D) above shall be final <sup>F569</sup>.]
- <sup>M81</sup>(2) If an appeal to either body of Commissioners is pending against an assessment on the appellant which relates to the same source of income as that to which the claim relates, the appeal on the claim shall lie to that body of Commissioners.

#### **Textual Amendments**

**F569** Finance Act 1984 s.127 and Sch.22 para.3(2) from 1 January 1985. S.I. 1984 No.1836 (C.45) —commencement order (not reproduced).

#### **Marginal Citations**

**M80** 1964(M) s.9(4), Sch.II; 1969 Sch.XX 21(2).

**M81** 1964(M) s.9(3); 1969 Sch.XX 21(2).

- 2 <sup>M82</sup>(1) Appeal from a decision of an inspector on a claim under any provision in column 1 of the Table below shall be to the General Commissioners, and paragraph 1 of this Schedule shall not apply.

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- (2) An appeal from a decision of an inspector on a claim under any provision in column 2 of the said Table shall be to the Special Commissioners, and paragraph 1 of this Schedule shall not apply.

TABLE

| <b>1</b>  | <b>2</b>  |
|---|---|
| <b><i>Appeal exclusively to General Commissioners</i></b> | <b><i>Appeal exclusively to Special Commissioners</i></b> |
| In the principal Act—                                     | In the principal Act—                                     |
| Chapter [I of Part VII<br>F570                            | section [121(1), (2)<br>F570                              |
| ]   | ]   |
| section [351(5)<br>F570                                   | section 310   |
| ]   |   |
| Schedule [2<br>F570                                       | <i>section 311</i><br>F571                                |
| ]   |   |
|   | section [441(3)<br>F570                                   |
|   | ]   |
|   | section [459<br>F570                                      |
|   | ]   |
|   | section [460<br>F570                                      |
|   | ]   |
|   | section [467<br>F570                                      |
|   | ]   |
|   | section [484<br>F570                                      |
|   | ]   |
|   | section [527<br>F570                                      |
|   | ]   |
|   | section [534<br>F570                                      |
|   | ]   |
|   | section [536<br>F570                                      |
|   | ]   |

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section [538

F570

]

Chapter I of Part XVIII

#### Textual Amendments

**F570** Income and Corporation Taxes Act 1988 Sch. 29 para. 32.

**F571** Repealed by Income and Corporation Taxes Act 1988 s. 844 and Sch. 31.

#### Marginal Citations

**M82** 1964(M) Sch.II; 1969 s.13(1).

#### *Appeal from Board*

**M83** Except as otherwise provided by any provision of the Taxes Acts, an appeal against the decision of the Board on a claim shall lie to the Special Commissioners.

#### Marginal Citations

**M83** 1964 (M) Sch.II.

### SCHEDULE 3

Section 44.

#### **M84** RULES FOR ASSIGNING PROCEEDINGS TO COMMISSIONERS

#### Marginal Citations

**M84** 1964(M) Sch. 3.

| <i>Description of proceedings</i>  | <i>Place given by these rules</i>  |
|--|--|
| <i>Income tax and capital gains tax</i>  |  |
| 1. An appeal against an assessment under Case I or Case II of Schedule D.  | The place where the trade, profession or vocation is carried on, or in which the head office or principal place of business is situated.   |
| 2. Any other proceedings relating to a trade, profession or vocation the profits of which are assessable under Case I or Case II of Schedule D, or would be so assessable if there were any. |  |
| 3. An appeal against an assessment under Schedule E and any appeal in exercise of a right conferred by regulations under section [F572]203] of the principal Act                             | Subject to the right of election for place of residence, the place of employment or such other place as may be assigned instead by regulations under section [F572]203] of the principal Act |

F573

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|   |   |
|---|---|
| (pay as you earn).  | F573  |
| 4. An appeal against an assessment under Schedule B and<br>F574   | The place where the property is situated.   |
| any proceedings concerning the annual value of land.  |   |
| [5. An appeal against an assessment under Schedule A or under Schedule D, other than Cases I and II.<br>An appeal against an assessment charging income tax at a rate other than the basic rate on income from which income tax has been deducted (otherwise than under section [F572203]] of the principal Act) or from or on which income tax is treated as having been deducted or paid or income chargeable under Schedule F.<br>An appeal against an assessment to capital gains tax.<br>[F575 An appeal against a determination under section 88 of this Act F575.]<br>Proceedings for a penalty under [F576 section 100C or an appeal under section 100B against the determination of a penalty F576] of this Act. | [If the appellant or other party to the proceedings (not being an inspector or the Board) is carrying on a trade, profession or vocation, then, subject (in the case of an appeal) to the right of election for place of residence, the place in which the trade, profession or vocation is carried on, or in which the head office or principal place of business is situated.<br>If the appellant or other party is employed and does not carry on a trade, profession or vocation, then, subject (in the case of an appeal) to the right of election for place of residence, the place of employment.<br>In any other case, the place where the appellant or other party ordinarily resides F577.] |
| 5A. . . .<br>F578   |   |
| [5B. An appeal against the decision of an inspector under section [F572159 of the principal Act]].  | [F579 The place where the employees concerned (or most of them) are employed F579.]   |
| 6. Any proceedings under the Income Tax Acts not covered by the preceding rules. Any proceedings relating to capital gains tax not covered by rule 5.   | The place where the appellant or other party to the proceedings (not being an inspector or the Board) ordinarily [F580 resides F580.]<br>F581   |
| <i>Corporation tax, etc.</i>  |   |
| 7. Proceedings which relate to corporation tax.<br>Proceedings which relate to income tax, but to which a company resident in the United Kingdom and within the charge to corporation tax is a party.   | The place where the company or other body concerned carries on its trade or business, or in which its head office or principal place of business is situated, or where it resides.  |
| 8. Proceedings relating to tax assessable under [F572 sections 419 and 20], . . .<br>F582   | The Place where the company concerned carries on its trade or business, or in which its head office or principal place of business is situated, or where it resides.  |

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of the principal Act <sup>F572</sup>or relating to  
a notice under paragraph <sup>F583</sup>13 of  
Schedule 19 to the principal Act]].

#### Textual Amendments

- F572** Income and Corporation Taxes Act 1988 Sch. 29 para. 32.
- F573** See Income Tax (Employments) Regulations 1973 (S.I. 1973 No.334) regn.10(3)—*appeal against coding*—and regn.48(3)—*appeal against assessment under Sch.E (in Part III Vol.5)*.
- F574** Repealed by Finance Act 1988 s. 148 and Sch. 14 Part V with effect from 6 April 1988.
- F575** Finance Act 1989 s. 160(6).
- F576** Finance Act 1989 s. 168(8). Previously “section 100(4)”.
- F577** Finance (No. 2) Act 1975 s.66(2) in relation to appeals and proceedings after 31 July 1975.
- F578** A development land tax provision added by Development Land Tax Act 1976 Sch.8 para.34. Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.
- F579** Finance Act 1976 Sch.9 para.11 for 1977—78 et seq.
- F580** Finance (No. 2) Act 1975 s.66(3) in relation to proceedings after 31 July 1975.
- F581** Words omitted repealed by Finance (No. 2) Act 1975 s.75 and Sch.14 Part IV with effect from 1 August 1975.
- F582** Words omitted repealed by Finance Act 1972 ss.111 and 134, Sch.24 para.14 and Sch.28 Part VI for 1973—74 et seq.
- F583** Finance Act 1972 s.111 and Sch.24 para.14 for 1973—74 et seq.

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

- C106** Sch. 3 para. 3 applied (6.4.1993) by S.I. 1993/744, reg. 11(3)

Rules 3 and 5 have effect subject to rule 4 above.

Rules 7 and 8 have effect to the exclusion of any other rules.

Where under rules 3 and 5 above a right of election for the place of residence is provided in column 2 above, the appellant may, by notice in writing to the inspector or the Board (given not later than the notice of appeal), elect for the place where he ordinarily <sup>F584</sup>resides].

#### Textual Amendments

- F584** Finance (No.2) Act 1975 s.66(3), (4) in relation to appeals and proceedings after 31 July 1975.

<sup>F584</sup>If the place given by any of the rules in this Schedule is outside the United Kingdom, the Board may give directions, which may be either general or addressed to a particular occasion, to meet the case <sup>F584</sup>.]

The rules in this Schedule have effect subject to sections <sup>F585</sup>102, 113(5), 263(5) and (6), 343(10) and 783(9) of the principal Act, to paragraph 22 of Schedule 7 to the Income and Corporation Taxes Act 1970] and to <sup>F586</sup>section 151 of the Capital Allowances Act 1990] (all of which relate to proceedings to which more than one taxpayer may be a party) and to any other express provisions in the Taxes Acts.

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### Textual Amendments

**F585** Income and Corporation Taxes Act 1988 Sch. 29 para. 32.

**F586** Finance Act 1990 s. 164 and Sch. 1 para. 1(4). Previously “section 81 of the Capital Allowances Act 1968”.

VALID FROM 11/07/2019

## [<sup>F587</sup>SCHEDULE 3ZC

Section 59FB

### CT PAYMENT PLANS FOR TAX ON CERTAIN TRANSACTIONS WITH EEA RESIDENTS

### Textual Amendments

**F587** Sch. 3ZC inserted (retrospective and with effect in accordance with Sch. 7 para. 4(1)(a) of the amending Act) by Finance Act 2020 (c. 14), Sch. 7 para. 2

#### *Introduction*

- 1 This Schedule makes provision enabling a company that is liable to pay qualifying corporation tax for an accounting period to defer payment of the tax by entering into a CT payment plan.

#### *Qualifying corporation tax*

- 2 (1) For the purposes of this Schedule a company is liable to pay qualifying corporation tax for an accounting period if CT1 is greater than CT2 where—  
 CT1 is the corporation tax which the company is liable to pay for the accounting period, and  
 CT2 is the corporation tax which the company would be liable to pay for the accounting period if any gains, credits, losses or debits arising in respect of qualifying transactions of the company were ignored.  
 (CT2 will be zero if the company would not be liable to pay any corporation tax for the period).
- (2) The amount of qualifying corporation tax which the company is liable to pay is the difference between CT1 and CT2.

#### *Qualifying transactions*

- 3 (1) For the purposes of this Schedule each of the following is a qualifying transaction of a company (“the company concerned”)—  
 (a) a disposal within sub-paragraph (2),  
 (b) a transaction within sub-paragraph (3),  
 (c) a transaction within sub-paragraph (4), and  
 (d) a transfer within sub-paragraph (5).



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- (2) A disposal is within this sub-paragraph if—
- (a) it is a disposal by the company concerned of an asset,
  - (b) it is a disposal to a company (“the transferee”) that at the time of the disposal is resident outside the United Kingdom in an EEA state, and
  - (c) it is a disposal to which section 139 or 171 of TCGA 1992 would apply were the transferee resident at the time of the disposal in the United Kingdom instead.
- (3) A transaction is within this sub-paragraph if—
- (a) it is a transaction, or the first in a series of transactions, as a result of which the company concerned is directly or indirectly replaced as a party to a loan relationship by another company (“the transferee”),
  - (b) at the time of the transaction the transferee is resident outside the United Kingdom in an EEA state, and
  - (c) it is a transaction to which section 340(3) of CTA 2009 would apply were the transferee resident at the time of the transaction in the United Kingdom instead.
- (4) A transaction is within this sub-paragraph if—
- (a) it is a transaction, or the first in a series of transactions, as a result of which the company concerned is directly or indirectly replaced as a party to a derivative contract by another company (“the transferee”),
  - (b) at the time of the transaction the transferee is resident outside the United Kingdom in an EEA state, and
  - (c) it is a transaction to which section 625(3) of CTA 2009 would apply were the transferee resident at the time of the transaction in the United Kingdom instead.
- (5) A transfer is within this sub-paragraph if—
- (a) it is a transfer from the company concerned of an intangible fixed asset,
  - (b) it is a transfer to a company (“the transferee”) that immediately after the transfer is resident outside the United Kingdom in an EEA state, and
  - (c) it is a transfer to which section 775(1) of CTA 2009 would apply were the transferee resident immediately after the transfer in the United Kingdom instead.
- (6) In this Schedule “transferee”, in relation to a qualifying transaction of a company, means the transferee referred to in sub-paragraph (2), (3), (4) or (5) (as the case may be).

#### *Eligibility to enter a CT payment plan*

- 4 (1) A company that is liable to pay qualifying corporation tax for an accounting period may enter into a CT payment plan in respect of the tax in accordance with this Schedule.
- (2) The CT payment plan may relate to—
- (a) all of the qualifying corporation tax that the company is liable to pay for the accounting period, or
  - (b) only part of the qualifying corporation tax that the company is liable to pay for the accounting period.

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- (3) In this Schedule “deferred tax”, in relation to a CT payment plan, means the qualifying corporation tax to which the plan relates.

*Application to enter a CT payment plan*

5 A company that is liable to pay qualifying corporation tax for an accounting period may enter into a CT payment plan in respect of the tax only if—

- (a) an application to enter into the plan is made to HMRC before the end of the period of 9 months beginning immediately after the accounting period, and
- (b) the application contains details of all the matters which are required by paragraph 7 to be specified in the plan.

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

**C107** Sch. 3ZC para. 5(a) modified (retrospective and with effect in accordance with [Sch. 7 para. 4\(1\)\(a\)](#) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [Sch. 7 para. 4\(2\)](#)

*Entering into a CT payment plan*

- 6 (1) A company enters into a CT payment plan if—
- (a) the company agrees to pay, and an officer of Revenue and Customs agrees to accept payment of, the deferred tax in accordance with paragraphs 9 to 12,
  - (b) the company agrees to pay interest on the deferred tax in accordance with paragraph 8(3) and (5), and
  - (c) the plan meets the requirements of paragraph 7 as to the matters that must be specified in it.
- (2) The CT payment plan may, in the circumstances mentioned in sub-paragraph (3), contain appropriate provision regarding security for HMRC in respect of the payment of the deferred tax.
- (3) Those circumstances are where an officer of Revenue and Customs considers that agreeing to accept payment of the deferred tax in accordance with paragraphs 9 to 12 would present a serious risk as to collection of the tax in the absence of provision regarding security in respect of its payment.
- (4) A CT payment plan is void if any information furnished by the company in connection with the plan does not fully and accurately disclose all facts and considerations material to the decision of the officer of Revenue and Customs to accept payment of the deferred tax in accordance with paragraphs 9 to 12.

*Content of CT payment plan*

- 7 (1) A CT payment plan entered into by a company must—
- (a) specify the accounting period to which the plan relates (“the accounting period concerned”),
  - (b) specify the amount of qualifying corporation tax which, in the company's opinion, is payable by it in respect of the accounting period concerned,
  - (c) specify the amount of the deferred tax,

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- (d) identify each qualifying transaction of the company in respect of which gains or credits arose in the accounting period concerned, and
  - (e) specify in relation to each of those qualifying transactions—
    - (i) the name of the transferee,
    - (ii) the EEA state in which the transferee was resident at the time of the transaction, and
    - (iii) the amount of the deferred tax that is attributable to the transaction.
- (2) The amount of the deferred tax that is attributable to a qualifying transaction of the company in respect of which a gain or credit arose in the accounting period concerned is—

$$A B \times T$$

where—

A is the gain or credit that arose in the accounting period concerned in respect of the qualifying transaction,

B is the total gains or credits that arose in the accounting period concerned in respect of all qualifying transactions of the company,

T is the amount of the deferred tax.

#### *Effect of CT payment plan*

- 8
- (1) This paragraph applies where a CT payment plan is entered into by a company in accordance with this Schedule.
  - (2) As regards when the deferred tax is payable—
    - (a) the CT payment plan does not prevent the deferred tax becoming due and payable under section 59D or 59E, but
    - (b) the Commissioners for Her Majesty's Revenue and Customs—
      - (i) may not seek payment of the deferred tax otherwise than in accordance with paragraphs 9 to 12;
      - (ii) may make repayments in respect of any amount of the deferred tax paid, or any amount paid on account of the deferred tax, before the CT payment plan is entered into.
  - (3) As regards interest—
    - (a) the deferred tax carries interest in accordance with Part 9 as if the CT payment plan had not been entered into, and
    - (b) each time a payment is made in accordance with paragraphs 9 to 12, it is to be paid together with any interest payable on it.
  - (4) As regards penalties, the company will be liable to penalties for late payment of the deferred tax only if it fails to make payments in accordance with paragraphs 9 to 12 (see item 6ZAA of the Table at the end of paragraph 1 of Schedule 56 to the Finance Act 2009).
  - (5) Any of the deferred tax which is for the time being unpaid may be paid at any time before it becomes payable under paragraphs 9 to 12 together with interest payable on it to the date of payment.

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*The payment method: instalments*

- 9 (1) Where a CT payment plan is entered into by a company, the deferred tax is due in 6 instalments of equal amounts as follows—
- (a) the first instalment is due on the first day after the period of 9 months beginning immediately after the end of the accounting period to which the plan relates, and
  - (b) the other 5 instalments are due one on each of the first 5 anniversaries of that day.
- (2) But see paragraphs 10 to 12 for circumstances in which all or part of the outstanding balance of the deferred tax becomes due otherwise than by those instalments.

*The payment method: all of outstanding balance due*

- 10 (1) Where at any time after a CT payment plan is entered into by a company an event mentioned in sub-paragraph (2) occurs the outstanding balance of the deferred tax is due on the date on which the next instalment of that tax would otherwise be due.
- (2) The events are—
- (a) the company becoming insolvent or entering administration;
  - (b) the appointment of a liquidator in respect of the company;
  - (c) an event under the law of a country or territory outside the United Kingdom corresponding to an event in paragraph (a) or (b);
  - (d) the company failing to pay any amount of the deferred tax for a period of 12 months after the date on which the amount becomes due;
  - (e) the company ceasing to be within the charge to corporation tax.

*All of outstanding balance attributable to particular qualifying transaction due*

- 11 (1) This paragraph applies where—
- (a) a CT payment plan is entered into by a company,
  - (b) during the instalments period a trigger event occurs in relation to a qualifying transaction identified in the plan, and
  - (c) a trigger event has not previously occurred in relation to that qualifying transaction during the instalments period.
- (2) A trigger event occurs in relation to a qualifying transaction if the transferee ceases to be resident in an EEA state and, on so ceasing, does not become resident another EEA state.
- (3) A trigger event occurs in relation to a qualifying transaction if the company and the transferee cease to be members of the same group as one another.
- (4) A trigger event occurs in relation to a qualifying transaction within sub-paragraph (2) or (5) of paragraph 3 if the transferee disposes of the asset that is the subject of the transaction.
- (5) A trigger event occurs in relation to a qualifying transaction within sub-paragraph (3) or (4) of paragraph 3 if the transferee ceases to be a party to the loan relationship or derivative contract concerned.
- (6) On the occurrence of the trigger event an amount of the deferred tax is due.

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(7) The amount due is—

$$(A - B) \times O T$$

where—

“A” is the amount of the deferred tax that is attributable to the qualifying transaction (see paragraph 7(2)),

“B” is the amount of the deferred tax that has previously become due under paragraph 12 by reason of a partial trigger event occurring in relation to the qualifying transaction,

“O” is the amount of the deferred tax that is outstanding at the time of the trigger event, and

“T” is the amount of the deferred tax.

(8) In this paragraph “the instalments period” means the period—

- (a) beginning with the time the CT payment plan is entered into, and
- (b) ending with the day on which the final instalment of the deferred tax is due under paragraph 9.

*Part of outstanding balance attributable to particular qualifying transaction due*

12 (1) This paragraph applies where—

- (a) a CT payment plan is entered into by a company,
- (b) during the instalments period a partial trigger event occurs in relation to a qualifying transaction listed in the plan, and
- (c) a trigger event has not previously occurred in relation to that qualifying transaction during the instalments period.

(2) A partial trigger event occurs in relation to a qualifying transaction within sub-paragraph (2) of paragraph 3 if the transferee disposes of part (but not all) of the asset that is the subject of the transaction.

Section 21(2)(b) of TCGA 1992 (meaning of part disposal of an asset) applies for the purposes of this sub-paragraph as it applies for the purposes of that Act.

(3) A partial trigger event occurs in relation to a qualifying transaction within sub-paragraph (3) or (4) of paragraph 3 if there is a disposal by the transferee of a right or liability under the loan relationship or derivative contract concerned which amounts to a related transaction (as defined in section 304 or 596 of CTA 2009 as the case may be).

(4) A partial trigger event occurs in relation to a qualifying transaction within sub-paragraph (5) of paragraph 3 if the transferee enters into a subsequent transaction which results in a reduction in the accounting value of the intangible fixed asset that is the subject of the qualifying transaction but does not result in the intangible fixed asset ceasing to be recognised in the transferee's balance sheet.

(5) In relation to an intangible fixed asset that has no balance sheet value (or no longer has a balance sheet value) sub-paragraph (4) applies as if, immediately before the subsequent transaction, it did have a balance sheet value.

(6) On the occurrence of the partial trigger event an amount of the deferred tax is due.

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- (7) The amount due is the amount that is just and reasonable having regard to the amount that would have been due had a trigger event occurred in relation to the qualifying transaction instead.
- (8) In this paragraph “the instalments period” and “trigger event” have the same meaning as in paragraph 11.]

## SCHEDULE 4

### SAVINGS AND TRANSITORY PROVISIONS

#### *Declaration of secrecy*

- 1 <sup>M85</sup>(1) Section 6(4) of this Act shall not apply to a person who, before 10th July 1964, made a declaration in any of the forms set out in Schedule 2 to the Income Tax Act 1952, or a declaration of secrecy in a form approved by the Board.
- <sup>M86</sup>(2) General or Special Commissioners or other persons who made declarations in the form in Part I of Schedule 1 to the Income Tax Management Act 1964, or in the form in Schedule 2 to the Income Tax Act 1952, before the coming into force of paragraph 16 of Schedule 10 to the Finance Act 1965 (which included in the form of declaration a reference to the new taxes imposed by that Act) shall be subject to the same obligations as to secrecy with respect to those taxes as they are subject to with respect to income tax.
- (3) The repeals made by the principal Act shall not alter the effect or validity of any declaration made before the commencement of this Act.

#### **Marginal Citations**

- M85** 1964(M) Sch. V 3(2).  
**M86** 1966 Sch. VI 12(5).

#### *Information about interest paid or credited without deduction of tax by banks, etc.*

- <sup>M87</sup>2 A notice served under section 29 of the Income Tax Act 1952 (re-enacted in section 17 of this Act) on the Postmaster General before 1st October 1969 shall, if it has not been complied with before that date, be deemed to have been served on the Director of Savings; and section 17(1) of this Act shall, in its application to the National Savings Bank, have effect as if the reference to interest paid or credited by the Director of Savings included, as regards any period before the said date, a reference to interest paid or credited by the Postmaster General to depositors.

#### **Marginal Citations**

- M87** Post Office Act 1969 Sch. IX 21; SI 19669/1066.

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### Assessments

- 3 <sup>M88</sup>(1) Section 36 of this Act shall not apply to tax for any year before the year 1936—37.
- <sup>M89</sup>(2) Section 41 of this Act shall not apply to any assessment signed before 6th April 1965.

#### Marginal Citations

**M88** 1952, s.528(3)(a).

**M89** 1964(M) s.17(4), Sch.V4.

### Claims

- 4 (1) This paragraph has effect as respects relief under any enactment repealed by the principal Act, or repealed or terminated by any Act passed before that Act, so far as it remains in force after the commencement of this Act.
- (2) Section 42 of this Act shall apply to any such relief in like manner as section 9 of the Income Tax Management Act 1964 would have applied but for the passing of this Act, and nothing in the repeals made by the principal Act shall affect any enactment determining whether the claim is made to the inspector or the Board, or the Commissioners to whom an appeal lies on the claim.
- <sup>M905</sup> An appeal, or other proceedings in the nature of an appeal, instituted on a claim, or proceedings in the nature of a claim, made before 6th April 1965 shall be continued before the same Commissioners notwithstanding that, under Schedule 2 to this Act or Schedule 2 to the Income Tax Management Act 1964, an appeal on the claim should have been made to some other Commissioners.

#### Marginal Citations

**M90** 1964(M) s.17(4), Sch.V 7(1).

- 6 <sup>M91</sup>(1) Any relief obtainable under section 87(8) of the Finance Act 1965 (transitional relief for existing companies on cessation of trade) by way of discharge or repayment of tax shall be given on the making of a claim.
- (2) After the making of such a claim in respect of a trade no notice as regards the trade shall be given or revoked under section 129 of the Income Tax Act 1952 or section 80(6) of the Finance Act 1965 (period of computation of profits for second and third years of trade).

#### Marginal Citations

**M91** 1966

Sch. VI 11(6).

### Choice of Commissioners to hear proceedings

- <sup>M927</sup> Neither section 44 of this Act nor any other provision in this Act shall apply to an appeal against an assessment signed, claim made, or other proceedings instituted, before 6th April 1965 so as to require the proceedings to be heard by

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Commissioners other than those who would have heard the proceedings if the Income Tax Management Act 1964 had not passed.

**Marginal Citations**

**M92** 1964(M) s.17(4), Sch.V 8.

*Settling of appeals by agreement*

**M93**<sup>8</sup> . . . **F588**

**Textual Amendments**

**F588** Sch. 4 para. 8 repealed by [Finance Act 1982 \(c. 39\)](#), s.157, **Sch.22 Part X**.

**Marginal Citations**

**M93** 1967  
s. 15(5).

*Interest on tax*

**M94**<sup>9</sup> (1) . . . **F589**

**M95**(2) For the purposes of section 88 of this Act the due date for payment of so much of any surtax for the year 1965—66 as is attributable to subsection (1) of the said section 15 shall be taken to be 1st September 1967, instead of 1st January 1967.

**Textual Amendments**

**F589** Sch. 4 para. 9(1) repealed by [Finance \(No.2\) Act 1975 \(c. 45\)](#), s. 75, **Sch.14 Part III** in relation to tax charged by assessments notice of which was issued after 31 July 1975.

**Marginal Citations**

**M94** 1967 s.15(5).  
**M95** 1967 s. 15(4).

*Penalties, etc.*

10 Section 98 of this Act shall have effect as if the Table contained in it (columns 1 and 2 of which correspond respectively to columns 2 and 3 of Schedule 6 to the Finance Act 1960) included, in the appropriate column, so far as they remained in force, the enactments and regulations mentioned in or added to the said Schedule 6 which were repealed or terminated by any Act passed before this Act.

**M96**<sup>11</sup> Section 103(2) of this Act shall not apply to tax for any year before the year 1936—37.

**Marginal Citations**

**M96** 1952 s. 523(3)(a).



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- 12 The repeals made by the principal Act shall not affect proceedings for any offence punishable under section 505 of the Income Tax Act 1952 and committed before the repeal of the said section 505 by the Theft Act 1968, or, in Northern Ireland, by the Theft Act (Northern Ireland) 1969.

*Northern Ireland*

M97 13 . . . F590

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**Textual Amendments**

**F590** Sch. 4 para. 13 repealed by [Judicature \(Northern Ireland\) Act 1978 \(c.23\)](#), s.122, [Sch.7](#) on and after 18 April 1979; [S.I. 1978/422](#).

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**Marginal Citations**

**M97** 1964(M) Sch. V 10.

- 14 Part V of this Act, and the repeal by the principal Act of the provisions corresponding to Part V of this Act, shall not apply to proceedings falling within paragraph 10(1) of Schedule 5 to the Income Tax Management Act 1964 (assessments, etc. for 1964—65 and earlier years).

**Status:**

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**Changes to legislation:**

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