



Taxes Management Act 1970

1970 CHAPTER 9

PART IV

ASSESSMENT AND CLAIMS ^{F1}

Textual Amendments

- F1** 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)

- C1** 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—
- 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,
 - 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 ^{F2}.
 - 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 ^{F3}].

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- (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 ^{F4}.]
- (2) Assessments under [sections 426 to 430 of the principal Act^{F5}] shall be made by the inspector or the Board^{F6}.]
- ^{M1}(3) If an inspector or the Board discover—
- that any profits which ought to have been assessed to tax have not been assessed, or
 - that an assessment to tax is or has become insufficient, or
 - 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. ^{F7}
- ^{M2}(4) All income tax . . . ^{F8} 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.
- ^{M3}(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 ^{F9}] the time within which any appeal against the assessment may be made ^{F10}.
- ^{M4}(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.
- ^{M5}(7) Assessments to income tax . . . ^{F8} 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.
- ^{M6}(8) In this section “profits”—
- in relation to income tax, means income,
 - in relation to capital gains tax, means chargeable gains,
 - in relation to corporation tax, means profits as computed for the purposes of that tax,
- ^{M7}(d) ^{F11}
 and “return under Part II of this Act”^{F12} includes a return under that Part as extended by section [284(4) ^{F13}] of the principal Act (returns of income of husband and wife).

Textual Amendments

- F2** See *Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) s.205—formal assessments under Sch. E unnecessary in certain cases.*
- F3** *Finance Act 1988 (c. 39, SIF 63:1,2) s. 119(2)*
- F4** *Finance Act 1988 (c. 39, SIF 63:1,2) s. 119(3). For previous (1A) (DLT) see 1987 edition.*
- F5** *Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para. 32.*
- F6** *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.*

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- F7** 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.
- F8** Words omitted repealed for 1973—74 et seq. by Finance Act 1971 ss. 37 and 38 and Sch. 14 Part II.
- F9** Words added by Finance (No. 2) Act 1975 s. 44(5) for notices of assessment issued after 31 July 1975.
- F10** 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.
- F11** 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.]
- F12** 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.
- F13** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para 32.

Modifications etc. (not altering text)

- C2** 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)
- C3** S. 29(3)(c) extended by Finance Act 1991 (c. 31, SIF 63:1), **s. 33(3)(a)**

Marginal Citations

- M1** 1964 (M) s.(3)
- M2** 1964 (M) s.5(4).
- M3** 1964 (M) s.5(5).
- M4** 1964 (M) s.5(6).
- M5** 1964 (M) s.5(7).
- M6** 1964(M) s.5; 1965 Sch.X1(1); 1966 Sch.VI 27(1).
- M7** 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 ^{F14}.
- (1A) Subsection (1) above shall not apply where the amount of tax which has been repaid is assessable under section 29 of this Act ^{F15}.]
- (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 ^{F16}] [^{F17}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) ^{F18}
- (3) In any case where—

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- (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 ^{F16}] [^{F17}283 of the 1992 Act]; and
- (b) that payment ought not to have been increased either at all or to any extent; 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) ^{F18}
- (4) An assessment to income tax or corporation tax under this section shall be made under Case VI of Schedule D ^{F18}.
- (4A) ^{F18}
- (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 ^{F19}] 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 ^{F20}.] ^{F21}

Textual Amendments

- F14** 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.
- F15** Finance Act 1990 s. 105 in relation to amounts of tax repaid on or after 26 July 1990.
- F16** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1) Sch. 29 para 32.
- F17** 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))
- F18** 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.
- F19** 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”.
- F20** Finance Act 1982 s. 149 in relation to any amount repaid or paid on or after 6 April 1982.
- F21** 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)

- C4** S. 30 extended by Finance Act 1991 (c. 31, SIF 63:1), s. 33(3)(b)

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C5 S. 30 modified (6.4.1992) by S.I. 1992/734, reg. 6(1)

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 ^{F22}.
- (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.
- ^{M8}(3) The appeal shall be to the Special Commissioners if the assessment is made—
 - (a) by the Board; or
 - (b) under section 350, 426 ^{F23}, 445, 740, 743(1) or 747(4)(a) of the principal Act; or
 - (c) under section [^{F24}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 ^{F25}] of the principal Act ^{F26}.
- (3A) ^{F27}
- (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 ^{F28}.] ^{F29}
- (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

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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.^{F30}

Textual Amendments

- F22** 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”.
- F23** “426”
repealed by Finance Act 1989 s. 187 and Sch. 17 Part V in relation to accounting periods beginning after 31 March 1989.
- F24** 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))
- F25** 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”.
- F26** Income and Corporation Taxes Act 1988 Sch. 29 para. 32. *See 1987 edition for previous wording.*
- F27** *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.]*
- F28** 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).*
- F29** *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.*
- F30** *See Finance Act 1988 (c. 39, SIF 63:1,2) Sch. 5 para. 8(2)—individual underwriters determinations.*

Marginal Citations

- M8** 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 . . . ^{F31}, 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 ^{F32}.

Textual Amendments

- F31** *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.*
- F32** *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^{F33} (or, if the assessment is to corporation tax, the end of the accounting period) in^{F34} which the assessment was made, make a claim to the Board for relief^{F35}.

(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 . . .^{F36} 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^{F35}.

^{M9}(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^{F34} him in respect of chargeable periods other than that to which the claim relates^{F35}.

^{M10}(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^{F35}.

(4A)^{F37}

^{M11}(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)^{F37F38F34}

Textual Amendments

F33 For modification in relation to Lloyd's Underwriters see S.I. 1974 No. 896 regn.4(1) (in Part III Vol.5)

F34 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.

F35 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.

F36 Words omitted repealed for 1973—74 et seq. by Finance Act 1971 ss.37 and 38 and Sch.14 Part II.

F37 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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F38 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)

C6 S. 33(1) modified (19.4.1991) for the assessment year 1988-1989 by S.I. 1991/851, regs. 1, 9, **Sch. 2**

C7 S. 33(1) modified (28.3.1992) for the year of assessment 1989 - 90 by S.I. 1992/511, reg. 9, **Sch.2**

C8 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

M9 1952

s.66(3).

M10 1964

(M) Sch.IV

M11 1952

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

Time limits ^{F39}

Textual Amendments

F39 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 ^{F40F41} to which the assessment relates . . . ^{F42F43}.
- (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

F40 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.

F41 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.

F42 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.

F43 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)

- C9** 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)
- C10** 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
- C11** 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. ^{F44}
- (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) ^{F45}
- (b) any payment chargeable to tax by virtue of section [148 ^{F46}] 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

- F44** 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.*
- F45** 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.*
- F46** [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 ^{F47}.]
- [^{F48}(3A) In subsection (3) above, “claim or application” does not include an election under section 257BA of the principal Act (elections as to transfer of married couple’s allowance).]
- (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 ^{F49}.] ^{F50}

Textual Amendments

- F47** 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.*

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- F48** S. 36(3A) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 20, Sch. 5 paras. 9\(2\), 10](#)
- F49** [Finance Act 1990 s. 69 and Sch. 11 para. 4\(1\) on and after 1 July 1989.](#)
- F50** *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 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)

- C12** S. 36 modified (27.7.1993) by [1993 c. 34, s. 173, Sch. 19 Pt. 1 para. 8](#)
- C13** S. 36 applied (1.10.1993) by [S.I. 1993/2004, reg. 11\(7\)](#)
- C14** 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](#)
S. 36(1) extended (with modifications) (28.3.1992) for the year of assessment 1989-90 by [S.I. 1992/511, regs. 1, 3, Sch. 1](#)
- C15** S. 36(1)(2) 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](#)
- C16** S. 36(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](#)

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^{F51}, 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^{F52}.*
- (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

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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.*
- (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.*
- ^{M12}(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.*

^{F53}(10) ^{F54}

Textual Amendments

- F51** 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.
- F52** 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.
- F53** 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.
- F54** 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)

- C17** 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

- M12** 1969
Sch.XX 19(4).

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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 ^{F55}], 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 [^{F56}257BB], 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 ^{F57}.]

Textual Amendments

- F55** 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”.
- F56** Words in s. 37A substituted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 20, Sch. 5 para. 9(3), **10**
- F57** 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).*

^{F58}(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) ^{F59} 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) ^{F60}

(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*

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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.^{F61}*

Textual Amendments

- F58** *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.*
- F59** *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.*
- F60** *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.*
- F61** *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^{F62}.*
- (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*

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- (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 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.*
- ^{M13}(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.^{F63}*

Textual Amendments

- F62** 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.*
- F63** 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.

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Marginal Citations

M13 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 ^{F64} in which the deceased died ^{F65}.
- (2) *Subject to section 41 below* ^{F66}, for the purpose of making good to the Crown any loss of tax attributable to the [fraudulent or negligent conduct ^{F67}] 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 ^{F64} in which he died.
- (3) In this section ^{F68}“tax” means income tax or capital gains tax ^{F69}.
- (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 ^{F70}.] ^{F71}

Textual Amendments

- F64** 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.*
- F65** 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.*
- F66** *Words repealed by Finance Act 1989 s. 187 and Sch. 17 Part VIII.*
- F67** 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”.*
- F68** *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.*
- F69** See Finance Act 1988 (c. 39, SIF 63:1,2) Sch. 5 para. 9—*underwriter’s agent.*
- F70** Finance Act 1990 s. 69 and Sch. 11 para. 4(2) *on and after 1 July 1989.*
- F71** *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)

- C18** S. 40 modified (27.7.1993) by 1993 c. 34, s. 173, **Sch. 19 Pt. 1 para.8**
- C19** 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**
- C20** 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**

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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—*
- (a) *section 36 of this Act, or*
 - (b) *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*
 - (c) *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 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*^{F72F73}.
- (3)^{F74}

Textual Amendments

- F72** See Finance Act 1988 (c. 39, SIF 63:1,2) Sch. 5 para. 9—underwriter's agent.
- F73** 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.
- F74** 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,**^{F75}
41B,
41C.

Textual Amendments

- F75** 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^{F76}.
- (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.

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- (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^{F77}] 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^{F77}] 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^{F77}] applies, shall be three months from receipt of notice of their decision.
- (4) Schedule 2 to this Act shall have effect as respects the Commissioners to whom an appeal lies under this section.
- ^{M14}(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^{F78},
 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.^{F79}
- (5A)^{F79}
- ^{M15}(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^{F80}.
- ^{M16}(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^{F81}.
- (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.

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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) F79

^{M17}(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) F82F83

Textual Amendments

- F76** See—Taxes Management Act 1970 (c. 9 SIF 63:1) s.119andSch.4 para.4—*application of s.42 to claims under repealed provisions.* Finance Act 1981 s.134andSch.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. 100and 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. 102and 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.*
- F77** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\) Sch. 29](#) para. 32.
- F78** See [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\) s.45](#)—*returns as respects chargeable gains accruing to a married woman.*
- F79** 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)*
- F80** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\) s. 231](#)—*payment of tax credit on dividends etc.*
- F81** See [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\) s. 824](#)—*repayment supplements.*
- F82** 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)andSch.27 Part X.
- F83** S. 42 *not to apply to claims under S.I. 1989 No. 469—personal equity plan regulations.*

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Modifications etc. (not altering text)

- C21** S. 42 applied (with modifications) by S.I. 1993/743, **reg. 20(3)**
C22 S. 42 modified (27.7.1993) by 1993 c. 34, **s. 194(4)**

Marginal Citations

- M14** 1964,1965
 1964(M) s.9(6); 1965 Sch.X 6.
M15 1964
 (M) s.9(7).
M16 1964
 (M) s.9(8)-(11).
M17 1964(M)s.9; 1965 Sch.X 1(1); 1966 Sch. VI 11(1),27(1).

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 ^{F84}, 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 ^{F85} to which it relates . . . ^{F86F87}.
- (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) ^{F88}

Textual Amendments

- F84** *As to longer time limits, see—Income and Corporation Taxes Act 1970 (c. 10, SIF 63:1) s.280(6)—adjustments consequential on depreciable 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.*
- F85** *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.*
- F86** *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.*

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- F87** 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.
- F88** 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)

- C23** S. 43 modified (27.7.1993) by [1993 c. 34, s. 194\(4\)](#)
- C24** 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](#)
- C25** 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](#)

43A [Further assessments: claims etc.]

- (1) This section applies where—
- by virtue of section 29(3) of this Act an assessment is made on any person for a chargeable period, and
 - 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—
- 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
 - any relevant claim, election, application or notice previously made or given may at any such time be revoked or varied—
 - in the same manner as it was made or given, and
 - 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.

[^{F89}(2A) In subsection (2) above, “claim, election, application or notice” does not include an election under section 257BA of the principal Act (elections as to transfer of married couple’s allowance).]

- (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—
- it relates to that chargeable period or is made or given by reference to an event occurring in that chargeable period, and
 - 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—
- the increased liability to tax resulting from the assessment,

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- (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 ^{F90}.]

Textual Amendments

F89 S. 43A(2A) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 20, Sch. 5 paras. 9\(4\), 10](#)

F90 Finance Act 1989 s. 150(1) for any assessment notice of which is issued on or after 27 July 1989.

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

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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 ^{F91}.]

Textual Amendments

F91 Finance Act 1989 s. 150(1) *for any assessment notice of which is issued on or after 27 July 1989.*

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