



Taxes Management Act 1970

1970 CHAPTER 9

PART IV

ASSESSMENT AND CLAIMS

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](#))
- C2** See also [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [s. 252](#) (assessments to rectify excessive set-off etc. of advance corporation tax or tax credit)

[^{F1}28A Amendment of self-assessment where enquiries made.

- (1) This section applies where an officer of the Board gives notice under section 9A(1) or 11AB(1) of this Act to any person (the taxpayer) of his intention to enquire into—
- the return on the basis of which the taxpayer's self-assessment was made, or
 - any amendment of that return on the basis of which an amendment (the taxpayer's amendment) of that assessment has been made by the taxpayer.
- (2) If, at any time before the officer's enquiries are completed, the officer is of opinion that—
- the tax contained in the taxpayer's self-assessment is insufficient and, in a case falling within subsection (1)(b) above, the deficiency is attributable (wholly or partly) to the taxpayer's amendment, and
 - unless the assessment is immediately so amended as to make good the deficiency or, as the case may be, so much of the deficiency as is so attributable, there is likely to be a loss of tax to the Crown,
- he may by notice to the taxpayer amend the assessment accordingly.
- (3) At any time in the period of 30 days beginning with the day on which the officer's enquiries are completed, the taxpayer may so amend his self-assessment—

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- (a) as to make good any deficiency or eliminate any excess which, on the basis of the conclusions stated in the officer's notice under subsection (5) below, is a deficiency or excess which could be made good or eliminated under subsection (4) below; or
 - (b) in a case falling within subsection (1)(a) above where the return was made before the end of the period of twelve months beginning with the filing date, as to give effect to any amendments to the return which he has notified to the officer.
- (4) If, at any time in the period of 30 days beginning immediately after the period mentioned in subsection (3) above, the officer is of opinion that—
- (a) the tax contained in the taxpayer's self-assessment is insufficient or excessive, and
 - (b) in a case falling within subsection (1)(b) above, the deficiency or excess is attributable (wholly or partly) to the taxpayer's amendment,
- he may by notice to the taxpayer so amend the assessment as to make good or eliminate the deficiency or excess or, where paragraph (b) above applies, so much of the deficiency or excess as is so attributable.
- (5) Subject to subsection (6) below, the officer's enquiries shall be treated as completed at such time as he by notice—
- (a) informs the taxpayer that he has completed his enquiries, and
 - (b) states his conclusions as to the amount of tax which should be contained in the taxpayer's self-assessment.
- (6) At any time before a notice is given under subsection (5) above the taxpayer may apply to the Commissioners for a direction that the officer shall give such a notice within such period as may be specified in the direction; and the Commissioners shall give such a direction unless they are satisfied that the officer has reasonable grounds for not giving such a notice.
- (7) Proceedings under subsection (6) above shall be heard and determined in the same way as an appeal.
- (8) In this section "filing date" means the day mentioned in section 8(1A), section 8A(1A) or, as the case may be, section 11(4) of this Act.]

Textual Amendments

- F1** S. 28A inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 188](#); [S.I. 1998/3173](#), art. 2

[^{F2}28B Amendment of partnership statement where enquiries made.

- (1) This section applies where an officer of the Board gives notice under section 12AC(1) of this Act to any person (the taxpayer) of his intention to enquire into—
- (a) the return on the basis of which the taxpayer's partnership statement was made, or
 - (b) any amendment of that return on the basis of which an amendment (the taxpayer's amendment) of that statement has been made by the taxpayer.

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- (2) At any time in the period of 30 days beginning with the day on which the officer's enquiries are completed, the taxpayer may so amend his partnership statement—
- (a) as to make good any deficiency or eliminate any excess which, on the basis of the conclusions stated in the officer's notice under subsection (5) below, is a deficiency or excess which could be made good or eliminated under subsection (3) below; or
 - (b) in a case falling within subsection (1)(a) above where the return made before the end of the period of twelve months beginning with the filing date, as to give effect to any amendments to the return which he has notified to the officer.
- (3) If, at any time in the period of 30 days beginning immediately after the period mentioned in subsection (2) above, the officer is of opinion that—
- (a) any amount contained in the taxpayer's partnership statement is insufficient or excessive, and
 - (b) in a case falling within subsection (1)(b) above, the deficiency or excess is attributable (wholly or partly) to the taxpayer's amendment,
- he may by notice to the taxpayer so amend the statement as to make good or eliminate the deficiency or excess or, where paragraph (b) above applies, so much of the deficiency or excess as is so attributable.
- (4) Where a partnership statement is amended under this section, the officer shall by notice to each of the partners so amend his self-assessment under section 9 or 11AA of this Act as to give effect to the amendments of the partnership statement.
- (5) Subject to subsection (6) below, the officer's enquiries shall be treated as completed at such time as he by notice—
- (a) informs the taxpayer that he has completed his enquiries, and
 - (b) states his conclusions as to the amounts which should be contained in the taxpayer's partnership statement.
- (6) Subsections (6) and (7) of section 28A of this Act apply for the purposes of subsection (5) above as they apply for the purposes of subsection (5) of that section.
- (7) In this section "filing date" means the day specified in the notice under subsection (2) or, as the case may be, subsection (3) of section 12AA of this Act.
- (8) Any reference in this section to the taxpayer includes a reference to any predecessor or successor of his.]

Textual Amendments

F2 S. 28B inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 189](#); [S.I. 1998/3173](#), art. 2

[^{F3}28C Determination of tax where no return delivered.

- (1) Where—
- (a) a notice has been given to any person under section 8, 8A or 11 of this Act (the relevant section), and
 - (b) the required return is not delivered on or before the filing date,

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an officer of the Board may make a determination of the amounts in which, to the best of his information and belief, the person who should have made the return is chargeable to income tax and capital gains tax for the year of assessment or (as the case may be) is chargeable to corporation tax for the accounting period.

- (2) Notice of any determination under this section shall be served on the person in respect of whom it is made and shall state the date on which it is issued.
- (3) Until such time (if any) as it is superseded by a self-assessment made under section 9 or 11AA of this Act (whether by the taxpayer or an officer of the Board) on the basis of information contained in a return under the relevant section, a determination under this section shall have effect for the purposes of Parts VA, VI, IX and XI of this Act as if it were such a self-assessment.
- (4) Where—
 - (a) an officer of the Board has commenced any proceedings for the recovery of any tax charged by a determination under this section; and
 - (b) before those proceedings are concluded, the determination is superseded by such a self-assessment as is mentioned in subsection (3) above,
 those proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not been paid.
- (5) No determination under this section, and no self-assessment superseding such a determination, shall be made otherwise than—
 - (a) before the end of the period of five years beginning with the filing date; or
 - (b) in the case of such a self-assessment, before the end of the period of twelve months beginning with the date of the determination.
- (6) In this section “the filing date” means the day mentioned in section 8(1A), section 8A(1A) or, as the case may be, section 11(4) of this Act.]

Textual Amendments

- F3** S. 28C inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 190](#); [S.I. 1998/3173](#), art. 2

[^{F4}29] Assessment where loss of tax discovered.

- (1) If an officer of the Board or the Board discover, as regards any person (the taxpayer) and a chargeable period—
 - (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 officer or, as the case may be, the Board may, subject to subsections (2) and (3) below, make an assessment in the amount, or the further amount, which ought in his or their opinion to be charged in order to make good to the Crown the loss of tax.
- (2) Where—
 - (a) the taxpayer has made and delivered a return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period, and

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- (b) the situation mentioned in subsection (1) above is attributable to an error or mistake in the return as to the basis on which his liability ought to have been computed,
- the taxpayer shall not be assessed under that subsection in respect of the chargeable period there mentioned if the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.
- (3) Where the taxpayer has made and delivered a return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period, he shall not be assessed under subsection (1) above—
- (a) in respect of the chargeable period mentioned in that subsection; and
- (b) in the case of a return under section 8 or 8A, in the same capacity as that in which he made and delivered the return,
- unless one of the two conditions mentioned below is fulfilled.
- (4) The first condition is that the situation mentioned in subsection (1) above is attributable to fraudulent or negligent conduct on the part of the taxpayer or a person acting on his behalf.
- (5) The second condition is that at the time when an officer of the Board—
- (a) ceased to be entitled to give notice of his intention to enquire into the taxpayer's return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period; or
- (b) informed the taxpayer that he had completed his enquiries into that return,
- the officer could not have been reasonably expected, on the basis of the information made available to him before that time, to be aware of the situation mentioned in subsection (1) above.
- (6) For the purposes of subsection (5) above, information is made available to an officer of the Board if—
- (a) it is contained in the taxpayer's return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period (the return), or in any accounts, statements or documents accompanying the return;
- (b) it is contained in any claim made as regards the relevant chargeable period by the taxpayer acting in the same capacity as that in which he made the return, or in any accounts, statements or documents accompanying any such claim;
- (c) it is contained in any documents, accounts or particulars which, for the purposes of any enquiries into the return or any such claim by an officer of the Board, are produced or furnished by the taxpayer to the officer, whether in pursuance of a notice under section 19A of this Act or otherwise; or
- (d) it is information the existence of which, and the relevance of which as regards the situation mentioned in subsection (1) above—
- (i) could reasonably be expected to be inferred by an officer of the Board from information falling within paragraphs (a) to (c) above; or
- (ii) are notified in writing by the taxpayer to an officer of the Board.
- (7) In subsection (6) above—
- (a) any reference to the taxpayer's return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period includes—
- (i) a reference to any return of his under that section for either of the two immediately preceding chargeable periods; and

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- (ii) where the return is under section 8 and the taxpayer carries on a trade, profession or business in partnership, a reference to any return with respect to the partnership under section 12AA of this Act for the relevant chargeable period or either of those periods; and
 - (b) any reference in paragraphs (b) to (d) to the taxpayer includes a reference to a person acting on his behalf.
- (8) An objection to the making of an assessment under this section on the ground that neither of the two conditions mentioned above is fulfilled shall not be made otherwise than on an appeal against the assessment.
- (9) Any reference in this section to the relevant chargeable period is a reference to—
- (a) in the case of the situation mentioned in paragraph (a) or (b) of subsection (1) above, the chargeable period mentioned in that subsection; and
 - (b) in the case of the situation mentioned in paragraph (c) of that subsection, the chargeable period in respect of which the claim was made.
- (10) In this section “profits”—
- (a) in relation to income tax, means income,
 - (b) in relation to capital gains tax, means chargeable gains, and
 - (c) in relation to corporation tax, means profits as computed for the purposes of that tax.]

Textual Amendments

- F4** S. 29 substituted (with effect in accordance with ss. 191(2), 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [s. 191\(1\)](#); [S.I. 1998/3173](#), art. 2

Modifications etc. (not altering text)

- C3** 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](#))

[^{F5}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 .
- [Subsection (1) above shall not apply where the amount of tax which has been repaid ^{F6}(1A) is assessable under section 29 of this Act.]
- [Subsections (2) to (8) of section 29 of this Act shall apply in relation to an ^{F7}(1B) assessment under subsection (1) above as they apply in relation to an assessment under subsection (1) of that section; and subsection (4) of that section as so applied shall have effect as if the reference to the loss of tax were a reference to the repayment of the amount of tax which ought not to have been repaid.]
- (2) In any case where—
- (a) a repayment of tax has been increased in accordance with section [^{F8}824 or 825 of the principal Act or section][^{F9}283 of the 1992 Act] (supplements added to repayments of tax, etc.); and

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- (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.

[In any case where—

- ^{F10}(2A) (a) interest has been paid under section 826 of the principal Act on a repayment of tax, 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) interest ought not to have been paid on that repayment, 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 interest that ought not to have been paid.]

(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 [^{F8}824 or 825 of the principal Act or section][^{F9}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.

[If, in a case not falling within subsection (2A) above,—

- ^{F11}(3A) (a) interest has been paid under section 826 of the principal Act on a repayment of tax, and
- (b) that interest ought not to have been paid, either at all or to any extent,
- then an amount equal to the interest that ought not to have been paid may be assessed and recovered as if it were unpaid corporation tax.]

(4) An assessment to income tax or corporation tax under this section shall be made under Case VI of Schedule D [^{F12}and an assessment to recover—

- (a) an amount of corporation tax repaid to a company in respect of an accounting period, or
- (b) an amount of income tax repaid to a company in respect of a payment received by the company in any accounting period, or
- (c) interest on any such repayment of tax,

shall be treated as an assessment to corporation tax for the accounting period referred to in paragraph (a) or (b) above, as the case may be, and the sum assessed shall carry interest at the prescribed rate for the purposes of section 87A of this Act from the date when the payment being recovered was made until payment.]

[Where an assessment is made under this section to recover—

- ^{F13}(4A) (a) corporation tax repaid to a company in respect of an accounting period, or
- (b) income tax repaid to a company in respect of payments received by the company in an accounting period,

and more than one repayment of that tax has been made in respect of that period, any sum recovered in respect of income tax or corporation tax repaid shall as far as

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possible be treated as relating to a repayment of that tax made later rather than to a repayment made earlier.]

[^{F14}(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 whichever of the following ends the later, namely—

- (a) the chargeable period following that in which the amount assessed was repaid or paid as the case may be, or
- (b) where a return delivered by the person concerned, or an amendment of such a return, is enquired into by an officer of the Board, the period ending with the day on which, by virtue of section 28A(5) of this Act, the officer's enquiries are treated as completed.]

(6) Subsection (5) above is without prejudice to [^{F15}section 36] 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.]

Textual Amendments

- F5** S. 30 substituted (in relation to any amount repaid or paid on or after 6 April 1982) by [Finance Act 1982 \(c. 39\), s. 149\(1\)\(3\)](#)
- F6** S. 30(1A) inserted (in relation to amounts of tax repaid on or after 26 July 1990) by [Finance Act 1990 \(c. 29\), s. 105](#)
- F7** S. 30(1B) inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 4\(1\)](#); S.I. 1998/3173, art. 2
- F8** [Income and Corporation Taxes Act 1988 \(c. 1\), Sch. 29 para 32.](#)
- F9** 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))
- F10** S. 30(2A) inserted (30.9.1993) by [Finance \(No. 2\) Act 1987 \(c. 51\), s. 88\(1\)](#) (as amended by [Income and Corporation Taxes Act 1988 \(c. 1\), s. 844, Sch. 29 para. 10\(3\)](#)); S.I. 1992/3066, [art. 2\(2\)\(a\)](#)
- F11** S. 30(3A) inserted (30.9.1993) by [Finance \(No. 2\) Act 1987 \(c. 51\), s. 88\(2\)](#) (as amended by [Income and Corporation Taxes Act 1988 \(c. 1\), s. 844, Sch. 29 para. 10\(3\)](#)); S.I. 1992/3066, [art. 2\(2\)\(a\)](#)
- F12** Words in s. 30(4) inserted (30.9.1993) by [Finance \(No. 2\) Act 1987 \(c. 51\), s. 88\(3\)](#); S.I. 1992/3066, [art. 2\(2\)\(a\)](#)
- F13** S. 30(4A) inserted (30.9.1993) by [Finance \(No. 2\) Act 1987 \(c. 51\), s. 88\(4\)](#); S.I. 1992/3066, [art. 2\(2\)\(a\)](#)
- F14** S. 30(5) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 4\(2\)](#); S.I. 1998/3173, art. 2
- F15** Words in s. 30(6) substituted by [Finance Act 1989 \(c. 26\), s. 149\(3\)\(a\)](#) (but not to affect the making of assessments before 1983-84 or for accounting periods before 1 April 1983)

Modifications etc. (not altering text)

- C4** S. 30 extended by [Finance Act 1991 \(c. 31, SIF 63:1\), s. 33\(3\)\(b\)](#)
- C5** S. 30 modified (6.4.1992) by S.I. 1992/734, [reg. 6\(1\)](#)
- C6** *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 reg. 11—s. 30to apply to payments by the Board of amounts paid under S.I. 1987 No. 1749to which scheme administrators were not entitled or recoverable from scheme administrators under S.I. 1987 No. 1749 regs. 7(5), 8(4) or (6) or 10 as if they were income tax repaid to scheme administrators to which they were not entitled.*
- C7** *See—Income and Corporation Taxes Act 1988 (c. 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.*

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1988 (S.I. 1988 No. 1013)— s. 30 to apply to payments under reg. 13. Personal Pension Schemes (Min. Contributions under the Social Security Act 1986) Regs. 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—application of s. 30 to recovery of tax from person who ceases to be entitled to relief.

[^{F16}30A Assessing procedure.

- (1) Except as otherwise provided, all assessments to tax which are not self-assessments shall be made by an officer of the Board.
- (2) All income tax which falls to be charged by an assessment which is not a self-assessment may, notwithstanding that it was chargeable under more than one Schedule, be included in one assessment.
- (3) Notice of any such assessment shall be served on the person assessed and shall state the date on which it is issued and the time within which any appeal against the assessment may be made.
- (4) After the notice of any such 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.
- (5) Assessments to tax which under any provision in the Taxes Acts are to be made by the Board shall be made in accordance with this section.]

Textual Amendments

F16 S. 30A inserted (with effect in accordance with s. 199(2)(3), Sch. 19 para. 5(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 5\(1\)](#); [S.I. 1998/3173](#), art. 2

[^{F17}30B Amendment of partnership statement where loss of tax discovered.

- (1) Where an officer of the Board or the Board discover, as regards a partnership statement made by any person (the representative partner) in respect of any period—
 - (a) that any profits which ought to have been included in the statement have not been so included, or
 - (b) that an amount of profits so included is or has become insufficient, or
 - (c) that any relief claimed by the representative partner is or has become excessive,the officer or, as the case may be, the Board may, subject to subsections (3) and (4) below, by notice to that partner so amend the statement as to make good the omission or deficiency or eliminate the excess.
- (2) Where a partnership statement is amended under subsection (1) above, the officer shall by notice to each of the relevant partners so amend their self-assessments under section 9 or 11AA of this Act as to give effect to the amendments of the partnership statement.
- (3) Where the situation mentioned in subsection (1) above is attributable to an error or mistake as to the basis on which the partnership statement was made, no amendment shall

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be made under that subsection if that statement was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.

- (4) No amendment shall be made under subsection (1) above unless one of the two conditions mentioned below is fulfilled.
- (5) The first condition is that the situation mentioned in subsection (1) above is attributable to fraudulent or negligent conduct on the part of—
 - (a) the representative partner or a person acting on his behalf, or
 - (b) a relevant partner or a person acting on behalf of such a partner.
- (6) The second condition is that at the time when an officer of the Board—
 - (a) ceased to be entitled to give notice of his intention to enquire into the representative partner’s return under section 12AA of this Act; or
 - (b) informed that partner that he had completed his enquiries into that return, the officer could not have been reasonably expected, on the basis of the information made available to him before that time, to be aware of the situation mentioned in subsection (1) above.
- (7) Subsections (6) and (7) of section 29 of this Act apply for the purposes of subsection (6) above as they apply for the purposes of subsection (5) of that section; and those subsections as so applied shall have effect as if—
 - (a) any reference to the taxpayer were a reference to the representative partner;
 - (b) any reference to the taxpayer’s return under section 8, 8A or 11 were a reference to the representative partner’s return under section 12AA of this Act; and
 - (c) sub-paragraph (ii) of paragraph (a) of subsection (7) were omitted.
- (8) An objection to the making of an amendment under subsection (1) above on the ground that neither of the two conditions mentioned above is fulfilled shall not be made otherwise than on an appeal against the amendment.
- (9) In this section—

“profits” has the same meaning as in section 29 of this Act;

“relevant partner” means a person who was a partner at any time during the period in respect of which the partnership statement was made.
- (10) Any reference in this section to the representative partner includes, unless the context otherwise requires, a reference to any successor of his.]

Textual Amendments

F17 S. 30B inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994](#) (c. 9), [Sch. 19 para. 6](#); [S.I. 1998/3173](#), art. 2

31 Right of appeal.

- [^{F18}(1) Subject to subsection (1A) below, an appeal may be brought against—
- (a) an amendment under section 28A(2) or (4) of this Act of a self-assessment, or
 - (b) an amendment under section 28B(3) or 30B(1) of this Act of a partnership statement, or
 - (c) an assessment to tax which is not a self-assessment,

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by a notice of appeal in writing given within 30 days after the date on which the notice of amendment or assessment was issued.

- (1A) An appeal against an amendment under subsection (2) of section 28A of this Act of a self-assessment shall not be heard and determined before the officer who made the amendment gives notice under subsection (5) of that section that he has completed his enquiries.
- (2) The notice of appeal shall be given to the officer of the Board by whom the notice of amendment or assessment was given.
- (3) The appeal shall be to the Special Commissioners if—
 - (a) the appeal involves any question of the application of any of sections 660 to 685 and 695 to 702 of the principal Act, or
 - (b) in the case of an appeal against an assessment, the assessment was made by the Board.]

^{F19}(3A)

- (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.

^{F20}(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.]
 - (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.

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Textual Amendments

- F18** S. 31(1)(1A)(2)(3) substituted for s. 31(1)–(3) (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 7](#); [S.I. 1998/3173](#), art. 2
- F19** *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), Sch. 27 Part X.
- F20** Finance Act 1984 s. 127, Sch. 22 para. 3(1) *on and after 1 January 1985*; [S.I. 1984 No. 1836](#) (C. 45).

Modifications etc. (not altering text)

- C8** S. 31 modified (27.7.1993) by 1993 c. 34, s. 173, [Sch. 19 Pt. I para. 7\(2\)\(a\)](#)
- C9** S. 31 applied (1.10.1993) by [S.I. 1993/2004](#), [reg.11\(10\)](#)
- C10** See—[Finance Act 1988 \(c. 39\)](#), [Sch. 5 para. 5\(2\)](#)—*application of subsections (5) to (5E) to appeal by underwriter against inspector's determination*; [Finance Act 1988 \(c. 39\)](#), [s. 134](#)—*General Commissioners for Northern Ireland.*
- C11** See [Finance Act 1988 \(c. 39\)](#), [Sch. 5 para. 8\(2\)](#)—*individual underwriters determinations.*

Relief for excessive assessments

32 Double assessment.

- (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 ^{F21}... , 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.

Textual Amendments

- F21** *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), Sch.27 Part X.

Modifications etc. (not altering text)

- C12** See Finance Act 1981, s. 134, Sch. 17 para.18 for the application of this provision to the special tax on banking deposits.

33 Error or mistake.

- (1) If any person who has paid tax charged under an assessment [^{F22}(whether under section 9 or 11AA of this Act or otherwise)] 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
- [^{F23}(a) in the case of an assessment to income tax or capital gains tax, five years after the 31st January next following the year of assessment to which the return relates; and
- (b) in the case of an assessment to corporation tax, six years after the end of the accounting period to which the return relates,]
- make a claim to the Board for relief .

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- (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^{F24}... in respect of the error or mistake as is reasonable and just:

^{F25}

[^{F26}(2A) No relief shall be given under this section in respect of—

- (a) 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 it was made; or
(b) an error or mistake in a claim which is included in the return.]

- (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 him in respect of chargeable periods other than that to which the claim relates .

- (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 .

^{F27}(4A)

(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.

^{F27}(d)

Textual Amendments

- F22** Words in s. 33(1) inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 8\(1\)\(a\)](#); S.I. 1998/3173, art. 2
- F23** Words in s. 33(1) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 8\(1\)\(b\)](#); S.I. 1998/3173, art. 2
- F24** *Words omitted repealed for 1973—74 et seq. by Finance Act 1971 ss. 37, 38, Sch. 14 Part II.*
- F25** Proviso to s. 33(2) repealed (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 8\(2\)](#), [Sch. 26 Pt. 5\(23\)](#); S.I. 1998/3173, art. 2
- F26** S. 33(2A) inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 8\(2\)](#); S.I. 1998/3173, art. 2
- F27** 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), Sch. 27 Pt. X.

Modifications etc. (not altering text)

- C13** S. 33 restricted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [s. 118\(7\)](#)
- C14** S. 33(1) modified (19.4.1991) for the assessment year 1988-1989 by S.I. 1991/851, [regs. 1, 9](#), [Sch. 2](#)

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- C15** S. 33(1) modified (28.3.1992) for the year of assessment 1989 - 90 by [S.I. 1992/511](#), [reg. 9](#), [Sch. 2](#)
- C16** 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](#)
- C17** S. 33(1) modified (with effect for the year of assessment 1991-92 in accordance with [reg. 1\(1\)](#) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\)](#), [reg. 9](#), [Sch. 2](#)
- C18** *See—Finance Act 1981 s. 134, Sch. 17 para. 18 for the application of this provision to the special tax on banking deposits. S.I. 1989 No. 421, Schedule for modification in relation to Lloyd's underwriters for 1986-87. S.I. 1990 no. 627, reg. 3(2), Schedule for modification in relation to Lloyd's underwriters for 1987-88.*
- C19** *For modification in relation to petroleum revenue tax and supplementary petroleum duty see Oil Taxation Act 1975 s. 1, Sch. 2 para. 1(1).*
- C20** *See Finance Act 1981 s. 134 and Sch. 17 para. 18 for the application of this provision to the special tax on banking deposits.*

[^{F28}33A Error or mistake in partnership statement.

- (1) This section applies where, in the case of a trade, profession or business carried on by two or more persons in partnership, those persons allege that the tax charged by self-assessments of theirs under section 9 or 11AA of this Act was excessive by reason of some error or mistake in a partnership statement.
- (2) One of those persons (the representative partner) may, not later than five years after the filing date, by notice in writing make a claim to the Board for relief.
- (3) On receiving the claim the Board shall inquire into the matter and shall, subject to subsection (5) below, so amend the partnership statement so as to give such relief in respect of the error or mistake as is reasonable or just.
- (4) Where a partnership statement is amended under subsection (3) above, the Board shall by notice to each of the relevant partners so amend their self-assessments under section 9 or 11AA of this Act as to give effect to the amendment of the partnership statement.
- (5) 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 partners ought to have been computed where the partnership statement was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.
- (6) In determining the claim the Board—
 - (a) shall have regard to all the relevant circumstances of the case, and
 - (b) 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 any of the partners; and for the purposes of this subsection the Board may take into consideration the liability of the partners and their self-assessments in respect of chargeable periods other than that to which the claim relates.
- (7) 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.
- (8) Neither the representative partner 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.

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- (9) In this section—
- “filing date” has the same meaning as in section 12AC of this Act;
 - “profits” has the same meaning as in section 33 of this Act;
 - “relevant partner” means a person who was a partner at any time during the period in respect of which the partnership statement was made.
- (10) Any reference in this section to the representative partner includes, unless the context otherwise requires, a reference to any successor of his.]

Textual Amendments

- F28** S. 33A inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 9](#); [S.I. 1998/3173](#), art. 2

Time limits

34 Ordinary time limit of six years.

- (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
- [^{F29}(a) in the case of an assessment to income tax or capital gains tax, five years after the 31st January next following the year of assessment to which it relates; and
 - (b) in the case of an assessment to corporation tax, six years after the end of the accounting period to which it relates.]
- (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

- F29** Words in s. 34(1) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 10](#); [S.I. 1998/3173](#), art. 2

Modifications etc. (not altering text)

- C21** 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\(3\)](#))
- C22** See—[Income and Corporation Taxes Act 1970 \(c. 10\)](#), [ss. 278\(6\)](#), [279\(5\)](#)—adjustments when company ceases to be a member of a group. [Income and Corporation Taxes Act 1970 \(c. 10\)](#), [s. 280\(6\)](#)—adjustments consequential on depreciable transaction within a group of companies. [Finance \(No. 2\) Act 1987 \(c. 51\)](#), [s. 84\(7\)](#)—nothing in [ss. 34-40](#) applies to assessments made under [Finance \(No. 2\) Act 1987 s. 84](#). [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [s. 12](#)—assessments to corporation tax consequential on determination of accounting period. [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [s. 41\(1\)](#)—rent etc., received after lost rent relief allowed. [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [s. 67\(7\)](#) and (8)—adjustments 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 \(c. 1\)](#), [s. 108](#)—receipts accruing after discontinuance of trade, etc. [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [ss. 448](#), 806—adjustments in respect of double taxation relief. [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [s. 455\(4\)](#)—assessments in respect of sums paid into special reserve funds by underwriters who have died. [Income and Corporation Taxes Act 1988 \(c. 1\)](#),

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- s. 488**—adjustments on revocation of direction under that section (co-operative housing associations). **Income and Corporation Taxes Act 1988 (c. 1), s. 535**—assessments consequential on claims under that section (copyright sold after ten years). **Income and Corporation Taxes Act 1988 (c. 1), ss. 569, 572**—repayment of amounts paid under schemes for rationalizing industry or statutory redundancy schemes. **Income and Corporation Taxes Act 1988 (c. 1), s. 584(2)**—adjustments in respect of overseas profits ceasing to be unremittable. **Income and Corporation Taxes Act 1988 (c. 1), s. 585**—adjustments in respect of delayed remittances of overseas income. **Income and Corporation Taxes Act 1988 (c. 1), s. 700**—adjustments on completion of administration of deceased person's estate. **Income and Corporation Taxes Act 1988 (c. 1), s. 703**—cancellation of tax advantages from certain transactions in securities. **Income and Corporation Taxes Act 1988 (c. 1), s. 781**—cancellation of certain reliefs for payments under leases of plant, etc. **Capital Allowances Act 1990 (c. 1), s. 1(8) (9)**—withdrawal of initial allowance where investment grant made. **S.I. 1956/1230, regs. 18, 21**—adjustments in respect of purchased life annuities. **S.I. 1989/421, Sch**—modifications for underwriters for 1986-87. **S.I. 1990/627, reg. 3(2), Schedule**—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.
- C23** 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**
- C24** See **S.I. 1974/896, reg. 4(2)** for modification in relation to Lloyd's Underwriters.
- 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**
- C26** *For modification in relation to petroleum revenue tax and supplementary petroleum duty see Oil Taxation Act 1975 s.1, Sch.2 para.1(1)—Oil Taxation Acts.*
- C27** 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**)
- C28** S. 34(1) applied (with modifications) (with effect in accordance with reg. 1(1) of the amending S.I.) by **The Lloyds Underwriters (Tax) (1991-92) Regulations 1994 (S.I. 1994/728), reg. 3(2), Sch.**

35 Emoluments received after year for which they are assessable.

- (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.
- (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—
 - ^{F30}(a)
 - (b) any payment chargeable to tax by virtue of section [^{F31}148] of the principal Act (payments on retirement or loss of office or employment) shall 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

- F30** 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.

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F31 Income and Corporation Taxes Act 1988 (c. 1), **Sch. 29 para. 32.**

Modifications etc. (not altering text)

C29 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.*

[^{F32}**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

[in the case of an assessment to income tax or capital gains tax, twenty years
^{F33}(a) after the 31st January next following the year of assessment to which it relates;
and

(b) in the case of an assessment to corporation tax, twenty-one years after the end of the accounting period to which it relates.]

[^{F34}(2) Where the person in default carried on a trade, profession or business with one or more other persons at any time in the period for which the assessment is made, an assessment in respect of the profits or gains of the trade, profession or business for the purpose mentioned in subsection (1) above may be made not only on the person in default but also on his partner or any of his partners.]

(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.

[In subsection (3) above, “claim or application” does not include an election under
^{F35}(3A) section 257BA of the principal Act (elections as to transfer of married couple’s allowance).]

[Any act or omission such as is mentioned in section 98B below on the part of a
^{F36}(4) 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.]]

Textual Amendments

F32 S. 36 substituted by Finance Act 1989 (c. 26), s. 149(1) but shall not affect making of assessments before 1983-84 or for accounting periods ending before 1 April 1983

F33 Words in s. 36(1) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 19 para. 11(1)**; S.I. 1998/3173, art. 2

F34 S. 36(2) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 19 para. 11(2)**; S.I. 1998/3173, art. 2

F35 S. 36(3A) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 20, **Sch. 5 paras. 9(2), 10**

F36 S. 36(4) added by Finance Act 1990 s. 69, Sch. 11 para. 4(1) *on and after 1 July 1989.*

Modifications etc. (not altering text)

C30 S. 36 modified (27.7.1993) by 1993 c. 34, s. 173, **Sch. 19 Pt. 1 para.8**

C31 S. 36 applied (1.10.1993) by S.I. 1993/2004, **reg.11(7)**

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- C32** 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
- C33** 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**)
- C34** 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**
- C35** S. 36(1) applied (with modifications) (with effect in accordance with reg. 1(1) of the amending S.I.) by **The Lloyds Underwriters (Tax) (1991-92) Regulations 1994 (S.I. 1994/728)**, **reg. 3(2)**, **Sch. 1**
- C36** See—**Income and Corporation Taxes Act 1988 (c. 1)**, **Sch. 13**—application of s. 36 to assessments to advance corporation tax. **Income and Corporation Taxes Act 1988 (c. 1)**, **Sch. 16**—application of s. 36 to assessments to income tax on company payments which are not distributions. **Finance Act 1988 (c. 39)** Sch. 5 para. 9—underwriter's agent. S.I. 1987/530, **reg. 11(2)**—application of ss. 36, 37 to assessments in relation to non-resident entertainers and sportsmen.

^{F37} **37 Neglect: income tax and capital gains tax.**

.....

Textual Amendments

- F37** Ss 37, 38, 39 repealed by **Finance Act 1989 (c. 26)**, ss. 149(2), 187, **Sch. 17 Pt. VIII** (but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983)

^{F38} **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 [^{F39}fraudulent or negligent conduct], the fact that the person's [^{F40}liability to income tax or] total income for any year of assessment is assessed as greater than it was previously taken to be shall not affect the validity of [^{F41}any income tax reduction or deduction from total income made in the case of that person's spouse] by virtue of section [^{F42}257BB], 257D or 265 of the principal Act; [^{F43}and the entitlement in that case of the first-mentioned person for the year in question to any income tax reduction or deduction from total income shall be treated as correspondingly reduced].]

Textual Amendments

- F38** S. 37A inserted (for 1990-91 and subsequent years) by **Finance Act 1988 (c. 39)**, s. 35, **Sch. 3 para. 30**
- F39** Words in s. 37A substituted by **Finance Act 1989 (c. 26)**, **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)
- F40** Words in s. 37A inserted (with effect in accordance with s. 77(7) of the amending Act) by **Finance Act 1994 (c. 9)**, **Sch. 8 para. 13(a)**
- F41** Words in s. 37A substituted (with effect in accordance with s. 77(7) of the amending Act) by **Finance Act 1994 (c. 9)**, **Sch. 8 para. 13(b)**
- F42** Words in s. 37A substituted (16.7.1992) by **Finance (No. 2) Act 1992 (c. 48)**, s. 20, **Sch. 5 para. 9(3)**, **10**

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F43 Words in s. 37A substituted (with effect in accordance with s. 77(7) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 8 para. 13\(c\)](#)

F44³⁸ **Modification of s.37 in relation to partnerships.**

.....

Textual Amendments

F44 Ss 37, 38, 39 repealed by [Finance Act 1989 \(c. 26\)](#), ss. 149(2), 187, [Sch. 17 Pt. VIII](#) (but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983)

F45³⁹ **Neglect: corporation tax.**

.....

Textual Amendments

F45 Ss 37, 38, 39 repealed by [Finance Act 1989 \(c. 26\)](#), ss. 149(2), 187, [Sch. 17 Pt. VIII](#) (but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983)

40 **Assessment on personal representatives.**

- (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 [^{F46}the period of three years beginning with the 31st January next following the year of assessment] in which the deceased died.
- (2) ^{F47}... For the purpose of making good to the Crown any loss of tax attributable to the [^{F48}fraudulent or negligent conduct] 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 [^{F46}the period of three years beginning with the 31st January next following the year of assessment] in which he died.
- (3) In [^{F49}this section] “tax” means income tax or capital gains tax .
- [^{F50}(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.]
- ^{F51}(4)
- ^{F51}(5)

Textual Amendments

F46 Words in s. 40(1)(2) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 12](#); S.I. 1998/3173, art. 2

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- F47** Words repealed by Finance Act 1989 s. 187 and Sch. 17 Part VIII.
- F48** 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”.
- F49** Words in s. 40(3) substituted by Finance Act 1985 (c. 54), s. 93(7), **Sch. 25 para. 5**
- F50** S. 40(4) inserted (with effect on and after 1 July 1989) by Finance Act 1990 (c. 29), s. 69, **Sch. 11 para. 4(2)**.
- F51** S. 40(4)(5) added by Development Land Tax Act 1976 Sch. 8 para. 9; *Development Land Tax Act 1976 repealed* by Finance Act 1985 s. 98(6), Sch. 27 Part X.

Modifications etc. (not altering text)

- C37** S. 40 modified (27.7.1993) by 1993 c. 34, s. 173, **Sch. 19 Pt. 1 para. 8**
- C38** S. 40(1)(2) applied (with modifications) (19.4.1991 for the year of assessment 1988-89) 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
- C39** 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**
- C40** S. 40(1)(2) applied (with modifications) (with effect in accordance with reg. 1(1) of the amending S.I.) by *The Lloyds Underwriters (Tax) (1991-92) Regulations 1994* (S.I. 1994/728), **reg. 3(2)**, **Sch. 1**
- C41** 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.*
- C42** See Finance Act 1988 (c. 39) Sch. 5 para. 9—underwriter's agent.

^{F52} 41 Leave of General or Special Commissioners required for certain assessments.

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Textual Amendments

- F52** S. 41 repealed by Finance Act 1989 (c. 26), ss. 149(2), 187, **Sch. 17 Pt. VIII** (but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983)

^{F53} Corporation tax determinations

Textual Amendments

- F53** Ss. 41A, 41B, 41C and cross-heading inserted (with effect in relation to accounting periods ending after the day appointed for the purposes of s. 10 of the Taxes Act 1988) by Finance Act 1990 (c. 29), **s. 95** (with s. 96)

41A Determination procedure

- (1) If an inspector is satisfied that a return under section 11 of this Act affords correct and complete information concerning an amount which is—
- required to be given in the return, and
 - determinable under this section,
- he shall determine the amount accordingly.

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- (2) If an inspector is not satisfied that a return under section 11 of this Act affords correct and complete information concerning an amount which is—
 - (a) required to be given in the return, and
 - (b) determinable under this section,he may determine the amount to the best of his judgment.
- (3) If a company is required to deliver a return under section 11 of this Act and fails to deliver the return within the time limited by that section, an inspector may determine any amount which is—
 - (a) required to be given in the return, and
 - (b) determinable under this section,to the best of his judgment.
- (4) An amount shall be treated as determined under this section when the inspector gives notice in writing of the determination to the company which makes, or is required to make, the return.
- (5) After an amount has been determined under this section, the determination shall not be altered except in accordance with the express provisions of the Taxes Acts.
- (6) Section 31 of this Act (except subsection (3)) shall apply in relation to a determination under this section as it applies in relation to an assessment to tax.
- (7) A determination under this section which has become final shall be conclusive for the purposes of the Corporation Tax Acts, except sections 36(3), 41B and 43A of this Act.
- (8) The power conferred by subsection (2) or (3) above includes power to determine that an amount is nil.
- (9) In this section references to an amount which is determinable under this section are references to—
 - (a) the amount of losses incurred in a trade in an accounting period, computed in accordance with section 393(7) of the principal Act; or
 - (b) the amount for an accounting period which is available for surrender by way of group relief under section 403(3) (capital allowances), (4) (expenses of management) or (7) (charges on income) of the principal Act.

41B Reduction of determination

- (1) Where an inspector discovers that an amount determined under section 41A of this Act is or has become excessive, he may issue a direction that the amount determined shall be reduced by an amount specified in the direction.
- (2) A direction under this section in relation to a determination shall be treated as issued when the inspector gives notice in writing of the direction to the company given notice of the determination under section 41A of this Act.
- (3) Section 31 of this Act (except subsection (3)) shall apply in relation to a direction under this section as it applies in relation to an assessment to tax.
- (4) Section 41A(7) of this Act shall not apply to a determination at any time when a direction under this section has been issued in relation to the determination and has not become final.

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- (5) After a direction under this section has become final, the determination to which it relates shall have effect as if the amount determined were reduced by the amount specified in the direction.
- (6) The power conferred by subsection (1) above includes power to issue a direction which would have the effect of reducing the amount determined to nil.
- (7) In its application to a determination in relation to which a direction under this section has already been issued, subsection (1) above shall have effect with the insertion after the word “Act” of the words “, as reduced by the amount specified in any previous direction under this section in relation to the determination,”.

41C Time limits

- (1) A determination of an amount may be made under section 41A of this Act at any time not later than 6 years from the end of the period to which the amount relates.
- (2) Subject to subsection (3) below, a direction in relation to a determination may be issued under section 41B of this Act at any time not later than 6 years from the end of the period to which the determination relates.
- (3) A direction in relation to a determination may be issued under section 41B of this Act at any time not later than 20 years from the end of the period to which the determination relates if the excess by virtue of which the power conferred by that section is exercisable is attributable to the fraudulent or negligent conduct of—
 - (a) the company given notice of the determination under section 41A of this Act, or
 - (b) a person acting on its behalf.]

Claims

[^{F54}42 Procedure for making claims etc.

- (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.
- (2) Subject to subsection (3) below, where notice has been given under section 8, 8A, 11 or 12AA of this Act, a claim shall not at any time be made otherwise than by being included in a return under that section if it could, at that or any subsequent time, be made by being so included.
- (3) Subsection (2) above shall not apply in relation to any claim which falls to be taken into account in the making of deductions or repayments of tax under section 203 of the principal Act.
- (4) A claim made by a company for payment of a tax credit shall be made by being included in a return under section 11 of this Act.
- (5) The references in subsections (2) and (4) above to a claim being included in a return include references to a claim being so included by virtue of an amendment of the return; and the reference in subsection (4) above to a claim for payment includes a reference to a claim resulting in payment.

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- (6) In the case of a trade, profession or business carried on by persons in partnership, a claim under any of the provisions mentioned in subsection (7) below shall be made—
- (a) where subsection (2) above applies, by being included in a return under section 12AA of this Act, and
 - (b) in any other case, by such one of those persons as may be nominated by them for the purpose.
- (7) The provisions are—
- (a) sections 84, 91B, 101(2), 120(2), 401, 471, 472, 484, 504, 531, 534, 535, 537A, 538, 570, 571(4), 579(4), 723(3), 732(4), 810 of, and paragraphs 2, 6 and 11 of Schedule 5 to, the principal Act;
 - (b) section 43(5) of the Finance Act 1989;
 - (c) sections 1, 11, 17, 22, 23, 24, 25, 30, 31, 33, 37, 48, 49, 53, 55, 68(5), 68(9), 77, 78, 124A, 129(2), 140(3), 141 and 158 of the Capital Allowances Act 1990; and
 - (d) sections 41 and 42 of the Finance (No. 2) Act 1992.
- (8) 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.
- (9) Where a claim has been made (whether by being included in a return under section 8, 8A, 11 or 12AA of this Act or otherwise) 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.
- (10) This section shall apply in relation to any elections and notices as it applies in relation to claims.
- (11) Schedule 1A to this Act shall apply as respects any claim, election or notice which—
- (a) is made otherwise than by being included in a return under section 8, 8A, 11 or 12AA of this Act, and
 - (b) does not fall to be taken into account in the making of deductions or repayments of tax under section 203 of the principal Act.
- (12) Schedule 2 to this Act shall have effect as respects the Commissioners to whom an appeal lies under Schedule 1A to this Act.
- (13) In this section “profits”—
- (a) in relation to income tax, means income,
 - (b) in relation to capital gains tax, means chargeable gains, and
 - (c) in relation to corporation tax, means profits as computed for the purposes of that tax.]

Textual Amendments

F54 S. 42 substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 13](#); S.I. 1998/3173, art. 2

Modifications etc. (not altering text)

C43 S. 42 restricted (3.5.1994) by [Finance Act 1994 \(c. 9\), s. 118\(7\)](#)

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C44 S. 42 excluded by Capital Allowances Act 1990 (c. 1), s. 140(3) (as substituted (with effect in accordance with ss. 211(2), 218 of the amending Act) by [Finance Act 1994 \(c. 9\), s. 211\(1\)](#) (with s. 214(7), Sch. 20))

43 Time limit for making claims.

- (1) Subject to any provision of the Taxes Acts prescribing a longer or shorter period, no claim for relief under the Taxes Acts shall be allowed unless it is made
- [^{F55}(a) in the case of a claim with respect to income tax or capital gains tax, within five years from the 31st January next following the year of assessment to which it relates; and
- (b) in the case of a claim with respect to corporation tax, within six years from the end of the accounting period to which it relates.]
- (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.

^{F56}(3)

Textual Amendments

- F55** Words in s. 43(1) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 14](#); S.I. 1998/3173, art. 2
- F56** 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)

- C45** S. 43 modified (27.7.1993) by [1993 c. 34, s. 194\(4\)](#)
- C46** 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](#)
- C47** 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](#)
- C48** S. 43(1) modified (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\), reg. 9, Sch. 2](#)
- C49** As to longer time limits, see—[Income and Corporation Taxes Act 1970 \(c. 10\), s. 280\(6\)](#)—adjustments consequential on deprecatory transaction within a group of companies. [Income and Corporation Taxes Act 1988 \(c. 1\), s. 36](#)—adjustment of charge on sale of land with right to reconveyance. [Income and Corporation Taxes Act 1988 \(c. 1\), s. 62](#)—commencing provisions for income tax under Sch. D Cases I and II. [Income and Corporation Taxes Act 1988 \(c. 1\), 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 \(c. 1\), 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 \(c. 1\), ss. 448, 806](#)—double taxation relief. [Income and Corporation Taxes Act 1988 \(c. 1\), s. 534](#)—relief for copyright royalties, etc. [Income and Corporation Taxes Act 1988 \(c. 1\), s. 585](#)—relief on delayed remittances of overseas income. [Income and Corporation Taxes Act 1988 \(c. 1\), s. 619](#)—consequential adjustments of relief for retirement annuity premiums. [Income and Corporation Taxes Act 1988 \(c. 1\), s. 700](#)—adjustments on completion of administration of deceased person's estate. [Income and Corporation Taxes Act 1988 \(c. 1\), s. 781\(7\)](#)—adjustments on cancellation of certain reliefs

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for payments under leases of plant etc. S.I. 1956/1230, **reg. 21**—adjustments in respect of certain purchased life annuities.

- C50** See—S.I. 1974/896, **reg. 4(2)**; S.I. 1989/421, **Schedule**—modification in relation to Lloyd's Underwriters; S.I. 1990/627, **reg. 3(2)**, **Schedule**—modification for underwriters for 1987-88.
- C51** See—**Finance Act 1981 (c. 35)**, s. 134, **Sch. 17 para. 18**—application of s. 43(1) to the special tax on banking deposits; **Income and Corporation Taxes Act 1988 (c. 1)**, **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.

^{F57}**43A Further assessments: claims etc.**

- (1) This section applies where—
- (a) by virtue of [^{F58}section 29 of this Act][^{F59}or section 412(3) of the principal 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.

[In subsection (2) above, “claim, election, application or notice” does not include an ^{F60}(2A) 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—
- (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.

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- (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.]

Textual Amendments

- F57** Ss. 43A, 43B inserted (with effect in relation to any assessment notice which is issued on or after 27 July 1989) by [Finance Act 1989 \(c. 26\)](#), [s. 150](#)
- F58** Words in s. 43A(1) substituted (with effect in accordance with s. 199(2)(3), Sch. 19 para. 15(2) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 15\(1\)](#); [S.I. 1998/3173](#), art. 2
- F59** Words in s. 43A(1)(a) inserted (27.7.1993) by [1993 c. 34, s. 120](#), [Sch. 14 para. 2](#)
- F60** S. 43A(2A) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 20, [Sch. 5 paras. 9\(4\), 10](#)

[^{F61}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—
- to make or give a claim, election, application or notice, or
 - 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 power conferred by subsection (2) of section 43A above is exercised in consequence of an assessment made on a person, and
 - 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—
- 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
 - 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—

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- (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.]

Textual Amendments

F61 Ss. 43A, 43B inserted (with effect in relation to any assessment notice which is issued on or after 27 July 1989) by [Finance Act 1989 \(c. 26\)](#), **s. 150**

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