



# Taxes Management Act 1970

## 1970 CHAPTER 9

### PART IV

#### ASSESSMENT AND CLAIMS

##### *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 six years after the end of the chargeable period to which the assessment relates <sup>F1</sup>... .
- (2) An objection to the making of any assessment on the ground that the time limit for making it has expired shall only be made on an appeal against the assessment.

#### Textual Amendments

- F1** *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 Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6), Sch.27 Part X.*

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

- C1** 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))
- C2** 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

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- 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 \(c. 1\), 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.
- C3** [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](#)
- C4** See [S.I. 1974/896, reg. 4\(2\)](#) for modification in relation to Lloyd's Underwriters.
- C5** [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](#)
- C6** *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.*
- C7** [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](#))
- C8** [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—
  - <sup>F2</sup>(a) .....
  - (b) any payment chargeable to tax by virtue of section [<sup>F3</sup>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.

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#### Textual Amendments

- F2** 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.
- F3** [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [Sch. 29 para. 32](#).

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

- C9** 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.

### [<sup>F4</sup>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.

[ In subsection (3) above, “claim or application” does not include an election under <sup>F5</sup>(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 <sup>F6</sup>(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

- F4** 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
- F5** S. 36(3A) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), [s. 20](#), [Sch. 5 paras. 9\(2\), 10](#)
- F6** 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)

- C10** S. 36 modified (27.7.1993) by [1993 c. 34](#), [s. 173](#), [Sch. 19 Pt. I para. 8](#)
- C11** S. 36 applied (1.10.1993) by [S.I. 1993/2004](#), [reg. 11\(7\)](#)
- C12** 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](#)

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- 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
- C13** 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**)
- C14** 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**
- C15** 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**
- C16** 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.

### <sup>F7</sup>**37 Neglect: income tax and capital gains tax.**

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#### Textual Amendments

- F7** 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)

### <sup>F8</sup>**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 [<sup>F9</sup>fraudulent or negligent conduct], 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 [<sup>F10</sup>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.]

#### Textual Amendments

- F8** S. 37A inserted (for 1990-91 and subsequent years) by **Finance Act 1988 (c. 39), s. 35, Sch. 3 para. 30**
- F9** 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)
- F10** Words in s. 37A substituted (16.7.1992) by **Finance (No. 2) Act 1992 (c. 48), s. 20, Sch. 5 para. 9(3), 10**

### <sup>F11</sup>**38 Modification of s.37 in relation to partnerships.**

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**Textual Amendments**

**F11** 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)

**<sup>F12</sup>39 Neglect: corporation tax.**

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**Textual Amendments**

**F12** 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 the third year next following the year of assessment in which the deceased died .
- (2) <sup>F13</sup>... , for the purpose of making good to the Crown any loss of tax attributable to the [<sup>F14</sup>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 the third year next following the year of assessment in which he died.
- (3) In [<sup>F15</sup>this section] “tax” means income tax or capital gains tax .
- [<sup>F16</sup>(4) Any act or omission such as is mentioned in section 98B below, on the part of a grouping (as defined in that section) or member of a grouping shall be deemed for the purposes of subsection (2) above to be the act or omission of each member of the grouping.]
- <sup>F17</sup>(4) .....
- <sup>F17</sup>(5) .....

**Textual Amendments**

- F13** *Words repealed by Finance Act 1989 s. 187 and Sch. 17 Part VIII.*
- F14** *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”.*
- F15** *Words in s. 40(3) substituted by Finance Act 1985 (c. 54), s. 93(7), Sch. 25 para. 5*
- F16** *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).*
- F17** *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.*

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

- C17** S. 40 modified (27.7.1993) by 1993 c. 34, s. 173, **Sch. 19 Pt. 1 para. 8**
- C18** 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**
- C19** 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**
- C20** 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**
- C21** See—S.I. 1984/896 reg. 4(2), S.I. 1989/421, **Schedule**—modification in relation to underwriters. S.I. 1990/627, **reg. 3(2), Schedule**—modification in relation to underwriters in 1987-88.
- C22** 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.*
- C23** See **Finance Act 1988 (c. 39) Sch. 5 para. 9**—underwriter's agent.

#### **<sup>F18</sup>41 Leave of General or Special Commissioners required for certain assessments.**

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#### **Textual Amendments**

- F18** 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)

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