



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, [^{F1}an assessment to income tax or capital gains tax may be made at any time not later than five years after the 31st January next following the year of assessment 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

- F1** Words in s. 34(1) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 17](#); S.I. 1998/3173, art. 2

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 1988 \(c. 1\)](#), [s. 455\(4\)](#)*—assessments in respect of sums paid into special reserve funds by underwriters who have died. 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.*
- 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](#)

Status: Point in time view as at 27/08/2002.

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- 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 S. 34 applied (with modifications) by the **Oil Taxation Act 1975 (c. 22), s. 1, Sch. 2 para. 1(1)**
- C7 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.**
- C8 S. 34(1) modified (with effect in accordance with reg. 7(3) of the amending S.I.) by **The Lloyds Underwriters (Tax) (1992-93 to 1996-97) Regulations 1995 (S.I. 1995/352), regs. 1(1), 7(1)(2)**
- C9 S. 34(1) modified (with effect in accordance with reg. 6(3) of the amending S.I.) by **The Lloyds Underwriters (Tax) (1992-93 to 1996-97) Regulations 1995 (S.I. 1995/352), regs. 1(1), 6(1)(2)**

^{F2}35 **Emoluments received after year for which they are assessable.**

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Textual Amendments

- F2 S. 35 repealed (with application in accordance with s. 58(4) of the amending Act) by **Finance Act 1998 (c. 36), Sch. 27 Pt. 3(9)**

[^{F3}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 [^{F4}loss of income tax or capital gains 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 [^{F5}not later than 20 years after the 31st January next following the year of assessment to which it relates].
 - [^{F6}(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 ^{F7}(3A) section 257BA of the principal Act (elections as to transfer of married couple’s allowance) ^{F8}... .]
- [Any act or omission such as is mentioned in section 98B below on the part of a ^{F9}(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.]]

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Textual Amendments

- F3** 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
- F4** Words in s. 36(1) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 18\(a\)](#); S.I. 1998/3173, art. 2
- F5** Words in s. 36(1) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 18\(b\)](#); S.I. 1998/3173, art. 2
- F6** 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
- F7** S. 36(3A) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 20, [Sch. 5 paras. 9\(2\), 10](#)
- F8** Words in s. 36(3A) repealed (27.8.2002 for specified purposes) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 6](#); S.I. 2002/1727, art. 2
- F9** 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 applied by [The Income Tax \(Entertainers and Sportsmen\) Regulations 1987 \(S.I. 1987/530\)](#), [reg. 11\(2\)](#)
- C11** S. 36 modified by [Finance Act 1988 \(c. 39\)](#), [Sch. 5 para. 9](#) (underwriter's agent) (repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), [Sch. 1 Pt. 10 Group 1](#))
- C12** S. 36 modified (27.7.1993) by [Finance Act 1993 \(c. 34\)](#), s. 173, [Sch. 19 Pt. 1 para. 8](#) (repealed (20.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), s. 45(1)(8)(9), [Sch. 11 Pt. 2\(11\)](#); S.I. 2005/3337, art. 3)
- C13** S. 36 applied (1.10.1993) by [The Income Tax \(Manufactured Overseas Dividends\) Regulations 1993 \(S.I. 1993/2004\)](#), [reg. 11\(7\)](#)
- C14** S. 36 applied (2.1.1996) by [The Gilt-edged Securities \(Periodic Accounting for Tax on Interest\) Regulations 1995 \(S.I. 1995/3224\)](#), [regs. 1, 18\(1\)](#) (with [reg. 21](#))
- C15** S. 36 applied (2.1.1996) by [The Lloyds Underwriters \(Gilt-edged Securities\) \(Periodic Accounting for Tax on Interest\) Regulations 1995 \(S.I. 1995/3225\)](#), [regs. 1, 10\(1\)](#) (with [reg. 13](#))
- C16** S. 36(1) applied (with modifications) (19.4.1991) for the year of assessment 1988-1989 by [The Lloyd's Underwriters \(Tax\) \(1988-89\) Regulations 1991 \(S.I. 1991/851\)](#), [regs. 1, 3\(2\)](#), [Sch. 1](#)
S. 36(1) extended (with modifications) (28.3.1992) for the year of assessment 1989-90 by [The Lloyd's Underwriters \(Tax\) \(1989-90\) Regulations 1992 \(S.I. 1992/511\)](#), [regs. 1, 3](#), [Sch. 1](#)
- C17** S. 36(1) applied (with modifications) (23.3.1993 with effect for the year of assessment 1990-91 only) by [The Lloyd's Underwriters \(Tax\) \(1990-91\) Regulations 1993 \(S.I. 1993/415\)](#), [regs. 1\(1\), 3\(2\)](#), [Sch. 1](#)
- C18** 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](#)
- C19** S. 36(1) modified (with effect in accordance with [reg. 7\(3\)](#) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\)](#), [regs. 1\(1\), 7\(1\)\(2\)](#)
- C20** S. 36(1) modified (with effect in accordance with [reg. 6\(3\)](#) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\)](#), [regs. 1\(1\), 6\(1\)\(2\)](#)

F10³⁷ Neglect: income tax and capital gains tax.

Textual Amendments

- F10** 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)

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[^{F11}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 [^{F12}fraudulent or negligent conduct], the fact that the person's [^{F13}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 [^{F14}any income tax reduction or deduction from total income made in the case of that person's spouse]^{F15} ... by virtue of section [^{F16}257BB]^{F17} ... or 265 of the principal Act ^{F15} ... ; [^{F18}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

- F11** S. 37A inserted (for 1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\), s. 35, Sch. 3 para. 30](#)
- F12** 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)
- F13** 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\(a\)](#)
- F14** 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\(b\)](#)
- F15** Words in s. 37A repealed (27.8.2002 for specified purposes) by [Tax Credits Act 2002 \(c. 21\), s. 61, Sch. 6; S.I. 2002/1727, art. 2](#)
- F16** Words in s. 37A substituted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 20, Sch. 5 para. 9\(3\), 10](#)
- F17** Word in s. 37A repealed (with effect in accordance with Sch. 20 Pt. 3(3) Note 2 of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 20 Pt. 3\(3\)](#)
- F18** 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\(c\)](#)

^{F19}38 Modification of s.37 in relation to partnerships.

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Textual Amendments

- F19** 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)

^{F20}39 Neglect: corporation tax.

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Textual Amendments

- F20** 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)

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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 [^{F21}the period of three years beginning with the 31st January next following the year of assessment] in which the deceased died.
 - (2) ^{F22}... , for the purpose of making good to the Crown any loss of tax attributable to the [^{F23}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 [^{F21}the period of three years beginning with the 31st January next following the year of assessment] in which he died.
 - (3) In [^{F24}this section] “tax” means income tax or capital gains tax.
 - ^{F25}(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.]
- ^{F26}(4)
- ^{F26}(5)

Textual Amendments

- F21** 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
- F22** *Words repealed* by Finance Act 1989 s. 187 and Sch. 17 Part VIII.
- F23** 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.*
- F24** Words in s. 40(3) substituted by [Finance Act 1985 \(c. 54\)](#), s. 93(7), [Sch. 25 para. 5](#)
- F25** S. 40(4) inserted (with effect on and after 1 July 1989) by [Finance Act 1990 \(c. 29\)](#), s. 69, [Sch. 11 para. 4\(2\)](#).
- F26** 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)

- C21** S. 40 modified by [Finance Act 1988 \(c. 39\)](#), [Sch. 5 para. 9](#) (underwriter's agent) (repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), Sch. 1 Pt. 10 Group 1)
- C22** S. 40 modified (27.7.1993) by [1993 c. 34](#), s. 173, [Sch. 19 Pt. 1 para. 8](#)
- C23** 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
- C24** 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](#)
- C25** 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](#)
- C26** S. 40(1)(2) modified (with effect in accordance with reg. 6(3) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(199293 to 199697\) Regulations 1995 \(S.I. 1995/352\)](#), [regs. 1\(1\)](#), [6\(1\)\(2\)](#)

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C27 S. 40(1)(2) modified (with effect in accordance with reg. 7(3) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(199293 to 199697\) Regulations 1995 \(S.I. 1995/352\)](#), regs. 1(1), **7(1)(2)**

^{F27}**41** **Leave of General or Special Commissioners required for certain assessments.**

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Textual Amendments

F27 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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