



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.
- (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.

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—
 - (a) any sums which by virtue of Chapter II of Part VIII of the principal Act (expenses allowances, benefits and facilities for directors and others) fall to be treated as perquisites of a person's office or employment but which are not actually paid to that person shall be treated as having been received at the time when (the relevant expenses were incurred or are treated for the purposes of the said Chapter II as having been incurred,

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- (b) any payment chargeable to tax by virtue of section 187 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.

36 Fraud or wilful default

Subject to section 41 below, where any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to tax, assessments on that person to tax may, for the purpose of making good to the Crown any loss of tax attributable to the fraud or wilful default, be made at any time.

37 Neglect: income tax and capital gains tax

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

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

- (6) The circumstances referred to in subsection (5)(b) above are that the assessment for the earlier year was one of a number of assessments made on that person for the purpose mentioned in subsection (1) above and that of the years for which those assessments were made—
 - (a) the latest, apart from the normal year, ended not more than six years before the end of the normal year,

- (b) the next, if any, ended not more than six years before the end of the said latest year,
and so on for any earlier years.
- (7) An application for leave under this section may be made by the inspector or the Board, and on any such application the person to be assessed shall be entitled to appear and be heard.
- (8) In determining the amount of the tax to be charged for any year in any assessment made under this section effect shall be given, if the person to be assessed so requires, to any relief or allowance to which he would have been entitled for that year on a claim or application made within the time allowed by the Taxes Acts.
- (9) In this section and section 38 below " tax " does not include corporation tax, and this section shall apply separately to income tax and to capital gains tax, so that the making of an assessment to one of those taxes shall not affect the time allowed for the making of an assessment to the other tax.

38 Modification of s. 37 in relation to partnerships

- (1) The following provisions of this section shall have effect where such an assessment to tax as is mentioned in section 37(1) above was made on any person who at any time carried on a trade, profession or vocation in partnership with any other person (whether the assessment was made in respect of the profits or gains thereof or not).
- (2) In this section—
" the business " means the trade, profession or vocation mentioned in subsection (1) of this section,
" the normal year " has the same meaning as in section 37 above,
" the person in default " means the person mentioned in section 37(1) above.
- (3) Subject to subsection (5) of this section, an assessment in respect of the profits or gains of the business may be made under section 37 above not only on the person in default but on any person who carried on the business at any time in the year for which the assessment is made and either—
(a) then carried it on in partnership with the person in default or with a person who at any time in the normal year carried it on in partnership with the person in default; or
(b) at any time in the normal year carried on the business in partnership with the person in default;
and may be made for the purpose of making good to the Crown a loss of tax attributable to the neglect of any person who carried on the business at any time in the year for which the assessment is made.
- (4) For the purpose of determining whether leave may be given for the making of such an assessment on two or more persons who carried on the business in partnership subsections (5) and (6) of section 37 above shall have effect as if the neglect referred to therein were the neglect of any of those persons and as if the assessments referred to therein were assessments made on any one of those persons.
- (5) Where such an assessment is made on two or more persons who carried on the business in partnership and those persons include any person (in this subsection referred to as "

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the exempted partner ") who was not charged in any such assessment as is mentioned in subsection (1) of this section, the tax charged in the assessment—

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

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

39 Neglect: corporation tax

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

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

- (6) The circumstances referred to in subsection (5)(b) above are that the assessment for the earlier period was one of a number of assessments made on that person for the purpose mentioned in subsection (1) above and that of the accounting periods, years of assessment and chargeable accounting periods for which those assessments were made—

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

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) Subject to section 41 below, for the purpose of making good to the Crown any loss of tax attributable to the fraud, wilful default or neglect 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 this section " tax " means income tax or capital gains tax.

41 Leave of General or Special Commissioners required for certain assessments

- (1) An assessment to tax made by virtue of—
 - (a) section 36 of this Act, or
 - (b) so far as they relate to an assessment for a period ending not earlier than six years before the end of the normal year or normal accounting period, section 37, 38 or 39 of this Act, or
 - (c) section 40(2) of this Act,

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may only be made with the leave of a General or Special Commissioner given on being satisfied by an inspector or other officer of the Board that there are reasonable grounds for believing that tax has or may have been lost to the Crown owing to the fraud or wilful default or neglect of any person.

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