



# Taxes Management Act 1970

## 1970 CHAPTER 9

### PART IV

#### ASSESSMENT AND CLAIMS <sup>F1</sup>

##### *Relief for excessive assessments*

**33 Error or mistake.** [1952, ss.66(1), 229(5); 1964(M) Sch.II, IV; 1965 Sch.X 1(1), Sch.XII 5(2); 1966 Sch.VI 5(1), 27(1); 1969 Sch.XX 17(3).] [1952 s.66(2).]

- (1) If any person who has paid tax charged under an assessment alleges that the assessment was excessive by reason of some error or mistake in a return, he may by notice in writing at any time not later than six years after the end of the year of assessment <sup>F1</sup> (or, if the assessment is to corporation tax, the end of the accounting period) in <sup>F2</sup> which the assessment was made, make a claim to the Board for relief <sup>F3</sup>.
- (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 . . . <sup>F4</sup> in respect of the error or mistake as is reasonable and just:

Provided that no relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the claimant ought to have been computed where the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when the return was made <sup>F3</sup>.

- <sup>M1</sup>(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 <sup>F2</sup> him in respect of chargeable periods other than that to which the claim relates <sup>F3</sup>.
- <sup>M2</sup>(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

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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<sup>F3</sup>.

(4A) .....<sup>F5</sup>

<sup>M3</sup>(5) In this section “profits” —

- (a) in relation to income tax, means income,
- (b) in relation to capital gains tax, means chargeable gains,
- (c) in relation to corporation tax, means profits as computed for the purposes of that tax.

(d) .....<sup>F5F6F2</sup>

#### Textual Amendments

- F1** For modification in relation to Lloyd's Underwriters see S.I. 1974 No. 896 regn.4(1) (in Part III Vol.5)
- F2** For modification in relation to petroleum revenue tax and supplementary petroleum duty see Oil Taxation Act 1975 s.1 and Sch.2 para.1(1)—Oil Taxation Acts.
- F3** See—Finance Act 1981 s.134 and Sch.17 para.18 for the application of this provision to the special tax on banking deposits. S.I. 1989 No. 421, Schedule (in Part III Vol. 5) for modification in relation to Lloyd's underwriters for 1986-87. S.I. 1990 no. 627, regn. 3(2) and Schedule (in Part III Vol. 5) for modification in relation to Lloyd's underwriters for 1987-88.
- F4** Words omitted repealed for 1973—74 et seq. by Finance Act 1971 ss.37 and 38 and Sch.14 Part II.
- F5** A development land tax provision added by Development Land Tax Act 1976 (c. 24) Sch.8 para.5 Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6) and Sch.27 Part X.]
- F6** See Finance Act 1981 s.134 and Sch.17 para.18 for the application of this provision to the special tax on banking deposits.

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

- C1** S. 33(1) modified (19.4.1991) for the assessment year 1988-1989 by S.I. 1991/851, regs. 1, 9, Sch. 2
- C2** S. 33(1) modified (28.3.1992) for the year of assessment 1989 - 90 by S.I. 1992/511, reg. 9, Sch.2
- C3** S. 33(1) applied (with modifications) (23.3.1993 with effect for the year of assessment 1990-91 only) by S.I. 1993/415, regs. 1(1), 9, Sch. 2

#### Marginal Citations

- M1** 1952  
s.66(3).
- M2** 1964  
(M) Sch.IV
- M3** 1952  
s.66; 1965 Sch.X 1(1); 1966 Sch.VI 27(1).

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