

Status: Point in time view as at 24/07/2002.

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SCHEDULES

SCHEDULE 7

INSURANCE PREMIUM TAX

Modifications etc. (not altering text)

C1 Sch. 7 extended (19.3.1997) by 1997 c. 16, s. 50, Sch. 5 Pt. I paras. 1, 4(2)

PART VI

MISCELLANEOUS

Security for tax

- 24 Where it appears to the Commissioners requisite to do so for the protection of the revenue they may require a registrable person, as a condition of his entering into taxable insurance contracts, to give security (or further security) of such amount and in such manner as they may determine for the payment of any tax which is or may become due from him.

Assessments to penalties etc.

- 25 (1) Where a person is liable—
- (a) to a penalty under any of paragraphs 12 to 19 above, or
 - (b) for interest under paragraph 21 above,
- the Commissioners may, subject to sub-paragraph (2) below, assess the amount due by way of penalty or interest (as the case may be) and notify it to him accordingly; and the fact that any conduct giving rise to a penalty under any of paragraphs 12 to 19 above may have ceased before an assessment is made under this paragraph shall not affect the power of the Commissioners to make such an assessment.
- (2) In the case of the penalties and interest referred to in the following paragraphs of this sub-paragraph, the assessment under this paragraph shall be of an amount due in respect of the accounting period which in the paragraph concerned is referred to as the relevant period—
- (a) in the case of a penalty under paragraph 12 above relating to the evasion of tax, the relevant period is the accounting period for which the tax evaded was due;
 - (b) in the case of a penalty under paragraph 12 above relating to the obtaining of a payment under regulations under section 55(3)(c) or (d) or (f) of this Act, the relevant period is the accounting period in respect of which the payment was obtained;

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- (c) in the case of interest under paragraph 21 above, the relevant period is the accounting period in respect of which the tax (or amount assessed as tax) was due.
- (3) In a case where the amount of any penalty or interest falls to be calculated by reference to tax which was not paid at the time it should have been and that tax cannot be readily attributed to any one or more accounting periods, it shall be treated for the purposes of this Part of this Act as tax due for such period or periods as the Commissioners may determine to the best of their judgment and notify to the person liable for the tax and penalty or interest.
- (4) Where a person is assessed under this paragraph to an amount due by way of any penalty or interest falling within sub-paragraph (2) above and is also assessed under subsection (1) or (2) of section 56 of this Act for the accounting period which is the relevant period under sub-paragraph (2) above, the assessments may be combined and notified to him as one assessment, but the amount of the penalty or interest shall be separately identified in the notice.
- (5) Sub-paragraph (6) below applies in the case of—
- (a) an amount due by way of penalty under paragraph 15 or 16 above;
 - (b) an amount due by way of interest under paragraph 21 above.
- (6) Where this sub-paragraph applies in the case of an amount—
- (a) a notice of assessment under this paragraph shall specify a date, being not later than the date of the notice, to which the aggregate amount of the penalty or, as the case may be, the amount of interest which is assessed is calculated, and
 - (b) if the penalty or interest continues to accrue after that date, a further assessment or further assessments may be made under this paragraph in respect of amounts which so accrue.
- (7) If, within such period as may be notified by the Commissioners to the person liable to the penalty under paragraph 15 or 16 above or for the interest under paragraph 21 above—
- (a) a failure falling within paragraph 15(3) above is remedied,
 - (b) the tax referred to in paragraph 16(1) above is paid, or
 - (c) the amount referred to in paragraph 21(1) above is paid,
- it shall be treated for the purposes of paragraph 15, 16 or 21 above (as the case may be) as remedied or paid on the date specified as mentioned in sub-paragraph (6)(a) above.
- (8) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable as if it were tax due from him unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (9) Subsection (8) of section 56 of this Act shall apply for the purposes of this paragraph as it applies for the purposes of that section.

Assessments: time limits

- 26 (1) Subject to the following provisions of this paragraph, an assessment under—
- (a) any provision of section 56 of this Act, or
 - (b) paragraph 25 above,

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shall not be made more than [^{F1}three years] after the end of the accounting period concerned or, in the case of an assessment under paragraph 25 above of an amount due by way of a penalty which is not a penalty referred to in sub-paragraph (2) of that paragraph, [^{F1}three years] after the event giving rise to the penalty.

- (2) An assessment under paragraph 25 above of—
- (a) an amount due by way of any penalty referred to in sub-paragraph (2) of that paragraph, or
 - (b) an amount due by way of interest,

may be made at any time before the expiry of the period of two years beginning with the time when the amount of tax due for the accounting period concerned has been finally determined.

- (3) In relation to an assessment under paragraph 25 above, any reference in sub-paragraph (1) or (2) above to the accounting period concerned is a reference to that period which, in the case of the penalty or interest concerned, is the relevant period referred to in sub-paragraph (2) of that paragraph.

- (4) If tax has been lost—

- (a) as a result of conduct falling within paragraph 12(1) above or for which a person has been convicted of fraud, or
- (b) in circumstances giving rise to liability to a penalty under paragraph 14 above,

an assessment may be made as if, in sub-paragraph (1) above, each reference to [^{F1}three years] were a reference to twenty years.

Textual Amendments

F1 Words in Sch. 7 para. 26(1)(4) substituted (19.3.1997) by 1997 c. 16, s. 50(1), Sch. 5 para. 6(1)(2)(b)

Supplementary assessments

- 27 If, otherwise than in circumstances falling within subsection (5)(b) of section 56 of this Act, it appears to the Commissioners that the amount which ought to have been assessed in an assessment under any provision of that section or under paragraph 25 above exceeds the amount which was so assessed, then—

- (a) under the like provision as that assessment was made, and
- (b) on or before the last day on which that assessment could have been made,

the Commissioners may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

Disclosure of information

- 28 (1) Notwithstanding any obligation not to disclose information that would otherwise apply, the Commissioners may disclose information—

- (a) to the Secretary of State, or
- (b) to an authorised officer of the Secretary of State,

for the purpose of assisting the Secretary of State in the performance of his duties.

- (2) Notwithstanding any such obligation as is mentioned in sub-paragraph (1) above—

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- (a) the Secretary of State, or
 - (b) an authorised officer of the Secretary of State,
- may disclose information to the Commissioners or to an authorised officer of the Commissioners for the purpose of assisting the Commissioners in the performance of duties in relation to tax.
- (3) Information that has been disclosed to a person by virtue of this paragraph shall not be disclosed by him except—
- (a) to another person to whom (instead of him) disclosure could by virtue of this paragraph have been made, or
 - (b) for the purpose of any proceedings connected with the operation of any provision of, or made under, any enactment in relation to insurance or to tax.
- (4) References in the preceding provisions of this paragraph to an authorised officer of the Secretary of State are to any person who has been designated by the Secretary of State as a person to and by whom information may be disclosed under this paragraph.
- (5) The Secretary of State shall notify the Commissioners in writing of the name of any person designated under sub-paragraph (4) above.

Modifications etc. (not altering text)

C1 Sch. 7 para. 28: certain functions of the Secretary of State made exercisable concurrently with the Treasury (5.1.1998) by S.I. 1997/2781, arts. 4(3) (with art. 7)

- [^{F2}28A(1) Notwithstanding any obligation not to disclose information that would otherwise apply, the Commissioners may disclose information—
- (a) to the Treasury, or
 - (b) to an authorised officer of the Treasury,
- for the purpose of assisting the Treasury in the performance of their duties.
- (2) Notwithstanding any such obligation as is mentioned in sub-paragraph (1) above—
- (a) the Treasury, or
 - (b) an authorised officer of the Treasury,
- may disclose information to the Commissioners or to an authorised officer of the Commissioners for the purpose of assisting the Commissioners in the performance of duties in relation to tax.
- (3) Information that has been disclosed to a person by virtue of this paragraph shall not be disclosed by him except—
- (a) to another person to whom (instead of him) disclosure could by virtue of this paragraph have been made, or
 - (b) for the purpose of any proceedings connected with the operation of any provision of, or made under, any enactment in relation to insurance or to tax.
- (4) References in the preceding provisions of this paragraph to an authorised officer of the Treasury are to any person who has been designated by the Treasury as a person to and by whom information may be disclosed under this paragraph.
- (5) The Treasury shall notify the Commissioners in writing of the name of any person designated under sub-paragraph (4) above.]

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Textual Amendments

F2 Sch. 7 para. 28A inserted (5.1.1998) by S.I. 1997/2781, art. 8(1), Sch. Pt. II para. 124 (with art. 7)

Evidence by certificate

- 29 (1) A certificate of the Commissioners—
- (a) that a person was or was not at any time registered under section 53 of this Act,
 - (b) that any return required by regulations under section 54 of this Act has not been made or had not been made at any time, or
 - (c) that any tax shown as due in a return made in pursuance of regulations made under section 54 of this Act, or in an assessment made under section 56 of this Act, has not been paid,
- shall be sufficient evidence of that fact until the contrary is proved.
- (2) Any document purporting to be a certificate under sub-paragraph (1) above shall be taken to be such a certificate until the contrary is proved.

Service of notices etc.

- 30 Any notice, notification or requirement to be served on, given to or made of any person for the purposes of this Part of this Act may be served, given or made by sending it by post in a letter addressed to that person or his tax representative at the last or usual residence or place of business of that person or representative.

No deduction of penalties or interest

- 31 In section 827 of the Taxes Act 1988 (no deduction for penalties etc.) the following subsection shall be inserted after subsection (1A)—
- “(1B) Where a person is liable to make a payment by way of—
- (a) penalty under any of paragraphs 12 to 19 of Schedule 7 to the Finance Act 1994 (insurance premium tax), or
 - (b) interest under paragraph 21 of that Schedule,
- the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.”

Destination of receipts

- 32 All money and securities for money collected or received for or on account of the tax shall—
- (a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 17 of the ^{M1}Customs and Excise Management Act 1979;
 - (b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.

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Marginal Citations

M1 1979 c. 2.

Provisional collection of tax

- 33 In section 1(1) of the ^{M2}Provisional Collection of Taxes Act 1968 after “value added tax,” there shall be inserted “ insurance premium tax, ”.

Marginal Citations

M2 1968 c. 2.

- 34 (1) In a case where—
- (a) by virtue of a resolution having effect under the Provisional Collection of Taxes Act 1968 tax has been paid at a rate specified in the resolution, and
 - (b) by virtue of section 1(6) or (7) or 5(3) of that Act any of that tax is repayable in consequence of the restoration in relation to the premium concerned of a lower rate,
- the amount repayable shall be the difference between the tax paid by reference to the actual chargeable amount at the rate specified in the resolution and the tax that would have been payable by reference to the actual chargeable amount at the lower rate.
- (2) In sub-paragraph (1) above the “actual chargeable amount” means the chargeable amount by reference to which tax was paid.
- (3) In a case where—
- (a) by virtue of a resolution having effect under the ^{M3}Provisional Collection of Taxes Act 1968 tax is chargeable at a rate specified in the resolution, but
 - (b) before the tax is paid it ceases to be chargeable at that rate in consequence of the restoration in relation to the premium concerned of a lower rate,
- the tax chargeable at the lower rate shall be charged by reference to the same chargeable amount as that by reference to which tax would have been chargeable at the rate specified in the resolution.

Marginal Citations

M3 1968 c. 2.

Adjustment of contracts

- 35 (1) Where, after the making of a contract of insurance and before a given premium is received by the insurer under the contract, there is a change in the tax chargeable on the receipt of the premium, then, unless the contract otherwise provided, there shall be added to or deducted from the amount payable as the premium an amount equal to the difference between—
- (a) the tax chargeable had the change not been made, and
 - (b) the tax in fact chargeable.

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- (2) References in sub-paragraph (1) above to a change in the tax chargeable include references to a change to or from no tax being chargeable.
- (3) Where this paragraph applies, the amount of the premium shall not be treated as altered for the purposes of calculating tax.

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