

Status: Point in time view as at 29/04/1996.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part I. (See end of Document for details)

SCHEDULES

SCHEDULE 34

PROVISIONAL REPAYMENTS IN CONNECTION WITH PENSION BUSINESS

PART I

AMENDMENTS OF SCHEDULE 19AB TO THE TAXES ACT 1988

- 1 (1) Paragraph 1 (entitlement to certain payments on account) shall be amended in accordance with the following provisions of this paragraph.
- (2) In sub-paragraph (1) (entitlement to payment of an amount equal to the aggregate there mentioned) after “equal” there shall be inserted “, subject to paragraph 2 below,”.
- (3) For sub-paragraphs (3) and (4) (ascertainment of the “provisional fraction”) there shall be substituted—
- “(3) In the application of subsections (5) to (9) of section 432A for the purpose of determining the amounts to which a company is entitled by way of provisional repayments in the case of any accounting period of the company, the reference in subsection (5) to “the relevant fraction” shall be taken as a reference to the provisional fraction for that accounting period.
- (4) For the purposes of this paragraph—
- (a) the provisional fraction for an accounting period of a company is the fraction which would, on the basis of the company’s latest section 11 return, be the relevant fraction for the purposes of section 432A(5) for the accounting period to which that return relates; but
- (b) if there is no section 11 return on the basis of which that fraction can be ascertained, the provisional fraction shall be taken to be nil;
- but this sub-paragraph is subject to paragraph 2 below.”
- (4) In sub-paragraph (5) (meaning of “the appropriate portion”) in paragraph (b) (company carrying on more than one category of long term business) for sub-paragraph (ii) (income arising from assets not linked to pension business) there shall be substituted—
- “(ii) if and to the extent that the payment or distribution in question is income which is not referable to a category of business by virtue of subsection (3) or (4) of section 432A, the provisional fraction; and
- (iii) except as provided by sub-paragraph (i) or (ii) above, none.”
- (5) For sub-paragraph (6) (inspector not to give effect to claim unless he is satisfied he has been given sufficient information) there shall be substituted—

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“(6) Section 42 of the Management Act (claims) shall not apply to a claim for a provisional repayment.

(6A) A claim for a provisional repayment shall be in such form as the Board may determine and the form of claim shall provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the knowledge and belief of the person making the claim.”

(6) For sub-paragraph (7) (provisional repayments to be treated as payments on account of certain payments or repayments which will eventually fall to be made in respect of income tax and tax credits) there shall be substituted—

“(7) A provisional repayment for a provisional repayment period shall be regarded as a payment on account of the amounts (if any) which the company would, apart from this Schedule, be entitled to be paid or repaid in respect of its pension business for the accounting period in which that provisional repayment period falls, in respect of—

(a) income tax borne by deduction on payments received by the company in that accounting period and referable to its pension business, and

(b) tax credits in respect of distributions received by the company in that accounting period and referable to its pension business,

on a claim such as is mentioned in section 7 of this Act or section 42(4) of the Management Act in respect of that accounting period.”

(7) Sub-paragraph (8) (which relates to any case where an election is made under section 438(6) as respects franked investment income and which, having regard to amendments made by this Schedule, is unnecessary) shall cease to have effect.

(8) For sub-paragraph (10) (definitions) there shall be substituted—

“(10) In this paragraph—

“latest section 11 return”, in the case of an accounting period of a company (“the current accounting period”), means, subject to sub-paragraph (11) below, the section 11 return for the latest preceding accounting period of the company for which such a return has been delivered before the making of the first claim for a provisional repayment for the current accounting period;

“section 11 return”, in the case of any company, means a return delivered by the company pursuant to section 11 of the Management Act and includes a reference to any accounts, statements or reports delivered pursuant to that section together with the return;

“self-assessment” means an assessment included in a return under section 11 of the Management Act by virtue of section 11AA of that Act and includes a reference to such an assessment as amended under section 11AA(2) or 28A(3) or (4) of that Act.

(11) In any case where—

(a) there is a section 11 return which would, apart from this sub-paragraph, be the latest section 11 return in the case of an accounting period of a company,

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- (b) the self-assessment required to be included in that return pursuant to section 11AA of the Management Act has been amended under section 11AA(2) or 28A(3) or (4) of that Act, and
- (c) that amendment was made before the making of the first claim for a provisional repayment for the accounting period mentioned in paragraph (a) above,

the return which is to be regarded as the latest section 11 return in the case of that accounting period shall be that return as it stands amended immediately after the making of that amendment of the self-assessment (or, if the self-assessment has been so amended more than once, that return as it stands amended immediately after the making of the last such amendment) but ignoring amendments which do not give rise to any change in the fraction which, on the basis of the return as it has effect from time to time, would be the relevant fraction for the purposes of section 432A(5) for the accounting period to which the return relates.”

- 2 (1) Paragraph 2 (changes in the provisional fraction) shall be amended in accordance with the following provisions of this paragraph.

- (2) For sub-paragraphs (1) and (2) (cases where the paragraph applies, and consequences of its application) there shall be substituted—

“(1) This paragraph applies in any case where—

- (a) a claim has been made for a provisional repayment for at least one provisional repayment period in an accounting period of a company;
- (b) subsequently, a further such claim is made for a provisional repayment period falling within that accounting period; and
- (c) had that further claim been the first claim made for a provisional repayment for that accounting period, the provisional fraction for the accounting period would have been a different fraction (whether in consequence of the delivery of a section 11 return for a later preceding accounting period or the application of paragraph 1(11) above);

and in this paragraph the “substituted provisional fraction” means the different fraction mentioned in paragraph (c) above.

(2) Where this paragraph applies—

- (a) the amount of any provisional repayment to which the company is entitled for the provisional repayment period mentioned in sub-paragraph (1)(b) above shall be an amount determined in accordance with sub-paragraph (3) below or such lesser amount as may be specified in the claim; and
- (b) in relation to any later provisional repayment period in the same accounting period, the substituted provisional fraction shall, subject to any further application of this paragraph, be treated as the provisional fraction for the accounting period.”

- (3) In sub-paragraph (3), in the definition of “total entitlement”, for the words following paragraph (b) there shall be substituted—

“had the substituted provisional fraction been the provisional fraction for the accounting period as from the beginning of that period; and”.

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- 3 (1) Paragraph 3 (repayment, with interest, of excessive provisional repayments) shall be amended in accordance with the following provisions of this paragraph.
- (2) In sub-paragraph (1), for paragraphs (a) and (b) (which respectively refer to the company's assessment to corporation tax being finally determined and the amount referred to in paragraph 1(7)) there shall be substituted—
- “(a) an insurance company's self-assessment for an accounting period becomes final, and
 - (b) the aggregate amount of the provisional repayments made to the company for that accounting period exceeds the appropriate amount.”.
- (3) After that sub-paragraph there shall be inserted—
- “(1A) For the purposes of sub-paragraph (1)(b) above, the appropriate amount for an accounting period of a company is the amount (if any) which, on the assumptions in sub-paragraphs (1B) and (1C) below and disregarding any provisional repayments, the company would be entitled to be paid or repaid, when its self-assessment for the period becomes final, in respect of its pension business for that accounting period on a claim such as is mentioned in section 7 of this Act or section 42(4) of the Management Act in respect of—
- (a) income tax borne by deduction on payments received by the company in that accounting period and referable to its pension business, and
 - (b) tax credits in respect of distributions received by the company in that accounting period and referable to its pension business.
- (1B) The first assumption is that no payments or repayments have been made to the company in respect of—
- (a) income tax such as is mentioned in paragraph (a) of sub-paragraph (1A) above, or
 - (b) tax credits such as are mentioned in paragraph (b) of that sub-paragraph,
- before the company's self-assessment for the accounting period in question becomes final.
- (1C) The second assumption is that in making any set off under—
- (a) section 7(2),
 - (b) paragraph 5 of Schedule 16, or
 - (c) regulations made by virtue of section 51B,
- income tax borne by deduction on income which is not referable to pension business is set off before income tax so borne on income which is referable to pension business.
- (1D) In its application by sub-paragraph (1) above, section 30 of the Management Act shall have effect as if, instead of the provision made by subsection (5), it provided that an assessment under that section by virtue of sub-paragraph (1) above is not out of time under section 34 of that Act if it is made no later than the end of the accounting period following that in which the self-assessment mentioned in paragraph (a) of that sub-paragraph becomes final.”

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- (4) In sub-paragraph (3) (application of section 87A of the ^{M1}Taxes Management Act 1970) in paragraph (b) (which provides for the specified words in subsection (1) of that section to be disregarded) for ““(in accordance with section 10 of the principal Act)”” there shall be substituted ““(in accordance with section 59D of this Act)””.
- (5) In sub-paragraph (4) (amount of principal outstanding to be determined in accordance with sub-paragraphs (5) to (7)) for ““(7)”” there shall be substituted ““(8)””.
- (6) After sub-paragraph (7) there shall be added—
- “(8) For the purposes of sub-paragraph (7) above, any repayment made by the company in respect of an amount paid or repaid to it in respect of—
- (a) income tax such as is mentioned in paragraph (a) of sub-paragraph (1A) above, or
 - (b) tax credits such as are mentioned in paragraph (b) of that sub-paragraph,
- shall be treated as a repayment in respect of the principal, taking an earlier such repayment by the company before a later.
- (9) In this paragraph “self-assessment” means an assessment included in a return under section 11 of the Management Act by virtue of section 11AA of that Act and includes a reference to such an assessment as amended.”

Marginal Citations

M1 1970 c. 9.

- 4 (1) Paragraph 6 (interpretation) shall be amended in accordance with the following provisions of this paragraph.
- (2) In sub-paragraph (1), for the definition of “provisional fraction” there shall be substituted—
- ““provisional fraction” shall be construed in accordance with paragraphs 1(4) and 2 above;”.
- (3) Sub-paragraph (3) (which makes transitional provision for cases where an insurance company has not made a return under section 11 of the ^{M2}Taxes Management Act 1970 as amended by section 82 of the ^{M3}Finance (No.2) Act 1987) shall cease to have effect.
- (4) After that sub-paragraph there shall be added—
- “(4) Sub-paragraph (5) below applies in any case where an insurance company—
- (a) which has delivered a return under section 11 of the Management Act for an accounting period ending before the self-assessment appointed day, but
 - (b) which has not delivered its first return under that section for an accounting period ending on or after that day,
- makes the first claim for a provisional repayment for a particular accounting period ending on or after that day.

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- (5) Where this sub-paragraph applies—
- (a) the provisional fraction for the accounting period to which the claim mentioned in sub-paragraph (4) above relates shall be determined in accordance with paragraph 1(3), (4), and (6) and sub-paragraph (3) above, as they have effect in relation to accounting periods ending before that day; and
 - (b) paragraph 2 above, as originally enacted, shall have effect in relation to that accounting period as it has effect in relation to accounting periods ending before that day.
- (6) In this paragraph “the self-assessment appointed day” means the day appointed under section 199 of the ^{M4}Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).”

Marginal Citations

M2 1970 c. 9.

M3 1987 c. 51.

M4 1994 c. 9.

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