

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1998, Paragraph 51BA. (See end of Document for details)

SCHEDULES

SCHEDULE 18

COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

Modifications etc. (not altering text)

- C1 Sch. 18 restricted (31.7.1998) by 1988 c. 1, s. 754B(10) (as inserted (31.7.1998 with effect as mentioned in Sch. 17 para. 37 of 1998 c. 36) by 1998 c. 36, s. 113, Sch. 17 para. 11)
- C1 Sch. 18 modified (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 68(c); S.I. 2005/1126, art. 2(2)(h)
- C1 Sch. 18 applied (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), s. 61
- C1 Sch. 18 applied (with modifications) (6.4.2006) by The Registered Pension Schemes (Accounting and Assessment) Regulations 2005 (S.I. 2005/3454), regs. 1, 13
- C1 Sch. 18 excluded (17.7.2013) by Finance Act 2013 (c. 29), s. 210(6)(b)
- C1 Sch. 18: power to amend conferred (12.2.2019) by Finance Act 2019 (c. 1), s. 87(5)(a)(6)
- C1 Sch. 18 applied (with modifications) (22.7.2020) by Finance Act 2020 (c. 14), Sch. 16 para. 11(4) (with Sch. 16 para. 11(5))
- C1 Sch. 18 applied (with modifications) (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), s. 303(7)(8) (with s. 303(6))

PART VI

[^{F1}OVERPAID TAX,] EXCESSIVE ASSESSMENTS OR REPAYMENTS, ETC

Textual Amendments

- F1 Words in Sch. 18 Pt. VI heading inserted (with effect in accordance with s. 100(2) of the amending Act) by Finance Act 2009 (c. 10), Sch. 52 para. 14

[^{F1}]^{F2}Determinations under paragraphs 36 and 37: special rules

Textual Amendments

- F1 Sch. 18 paras. 51-51G and cross-headings substituted for Sch. 18 para. 51 (with effect in accordance with s. 100(2) of the amending Act) by Finance Act 2009 (c. 10), Sch. 52 para. 13
- F2 Sch. 18 para. 51BA and cross-heading inserted (with effect in accordance with arts. 4, 5 of the amending S.I.) by The Enactment of Extra-Statutory Concessions Order 2011 (S.I. 2011/1037), arts. 1, 3(4)

51BA.(1) This paragraph applies where—

- (a) a determination has been made under paragraph 36 or 37 of an amount that a person is liable to pay by way of tax, but the person believes the tax is not due or, if it has been paid, was not due,

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- (b) relief would be available under paragraph 51 but for the fact that—
 - (i) the claim falls within Case C (see paragraph 51A(4)),
 - (ii) the claim falls within Case F(a) (see paragraph 51A(7)(a)), or
 - (iii) more than 4 years have elapsed since the end of the relevant accounting period (see paragraph 51B(1)), and
 - (c) if the claim falls within Case F(a), the person was neither present nor legally represented during the enforcement proceedings in question.
- (2) A claim under paragraph 51 for repayment or discharge of the amount may be made, and effect given to it, despite paragraph 51A(4), paragraph 51A(7)(a) or paragraph 51B(1), as the case may be.
- (3) But the Commissioners for Her Majesty’s Revenue and Customs are not liable to give effect to a claim made in reliance on this paragraph unless conditions A, B and C are met.
- (4) Condition A is that in the opinion of the Commissioners for Her Majesty’s Revenue and Customs it would be unconscionable for the Commissioners for Her Majesty’s Revenue and Customs to seek to recover the amount (or to withhold repayment of it, if it has already been paid).
- (5) Condition B is that the person’s affairs (as respects matters concerning the Commissioners for Her Majesty’s Revenue and Customs) are otherwise up to date or arrangements have been put in place, to the satisfaction of the Commissioners for Her Majesty’s Revenue and Customs, to bring them up to date so far as possible.
- (6) Condition C is that either—
- (a) the person has not relied on this paragraph on a previous occasion (whether or not in respect of the same determination), or
 - (b) the person has done so, but in the exceptional circumstances of the case should be allowed to do so again on the present occasion.
- (7) For the purposes of sub-paragraph (6)—
- (a) a person has relied on this paragraph on a previous occasion if the person has made a claim (or a composite set of claims involving one or more determinations and accounting periods) in reliance on this paragraph on a previous occasion, and
 - (b) it does not matter whether that claim (or set of claims) succeeded.
- (8) A claim made in reliance on this paragraph must include (in addition to anything required by Schedule 1A to the Taxes Management Act 1970) such information and documentation as is reasonably required for the purpose of determining whether conditions A, B and C are met.]]

Modifications etc. (not altering text)

- C1** [Sch. 18 paras. 51-51G](#) applied (with modifications) (temp.) (with effect in accordance with [Sch. 10 para. 43](#) of the amending Act) by [Finance Act 2022 \(c. 3\)](#), [Sch. 10 para. 24](#) (as amended (5.1.2023) by The Finance Act 2022, Schedule 10 (Public Interest Business Protection Tax) (Substitution of Date) Regulations 2022 (S.I. 2022/1321), reg. 2(2))

Changes to legislation:

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