

SCHEDULES

SCHEDULE 18

COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

PART III

DUTY TO KEEP AND PRESERVE RECORDS

Duty to keep and preserve records

- 21 (1) A company which may be required to deliver a company tax return for any period must—
- (a) keep such records as may be needed to enable it to deliver a correct and complete return for the period, and
 - (b) preserve those records in accordance with this paragraph.
- (2) The records must be preserved for six years from the end of the period for which the company may be required to deliver a company tax return.
- (3) If the company is required to deliver a company tax return by notice given before the end of that six year period, the records must be preserved until any later date on which—
- (a) any enquiry into the return is completed, or
 - (b) if there is no enquiry, the Inland Revenue no longer have power to enquire into the return.
- (4) If the company is required to deliver a company tax return by notice given after the end of that six year period and has in its possession at that time any records that may be needed to enable it to deliver a correct and complete return, it is under a duty to preserve those records until the date on which—
- (a) any enquiry into the return is completed, or
 - (b) if there is no enquiry, the Inland Revenue no longer have power to enquire into the return.
- (5) The records required to be kept and preserved under this paragraph include records of—
- (a) all receipts and expenses in the course of the company's activities, and the matters in respect of which the receipts and expenses arise, and
 - (b) in the case of a trade involving dealing in goods, all sales and purchases made in the course of the trade.
- (6) The duty to preserve records under this paragraph includes a duty to preserve all supporting documents relating to the items mentioned in sub-paragraph (5)(a) and (b).

Status: This is the original version (as it was originally enacted).

“Supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.

Preservation of information instead of original records

- 22 (1) The duty under paragraph 21 to preserve records may be satisfied by the preservation of the information contained in them, except in the case of records of the kinds specified in sub-paragraph (3) below.
- (2) Where information is so preserved a copy of any document forming part of the records is admissible in evidence in any proceedings before the Commissioners to the same extent as the records themselves.
- (3) The records excluded from sub-paragraph (1) are—
- (a) any statement in writing such as is mentioned in—
 - (i) section 234(1) of the Taxes Act 1988 (amount of qualifying distribution and tax credit), or
 - (ii) section 352(1) of that Act (gross amount, tax deducted and actual amount paid, in certain cases where payments are made under deduction of tax),
 provided by the company or person there mentioned whether after the making of a request or otherwise;
 - (b) any certificate or other record (however described) required by regulations under section 566(1) of the Taxes Act 1988 to be given to a sub-contractor (within the meaning of Chapter IV of Part XIII of that Act) on the making of a payment to which section 559 of that Act applies (deductions on account of tax);
 - (c) any record relating to an amount of tax—
 - (i) paid under the law of a territory outside the United Kingdom, or
 - (ii) which would have been so payable but for a relief to which section 788(5) of the Taxes Act 1988 applies (relief for promoting development or contemplated by double taxation arrangements).

Penalty for failure to keep and preserve records

- 23 (1) A company which fails to comply with paragraph 21 in relation to an accounting period is liable to a penalty not exceeding £3,000, subject to the following exceptions.
- (2) No penalty is incurred if the records which the company fails to keep or preserve are records which might have been needed only for the purposes of claims, elections or notices not included in the return.
- (3) No penalty is incurred if—
- (a) the records which the company fails to keep or preserve are statements in writing such as are mentioned in—
 - (i) section 234(1) of the Taxes Act 1988 (amount of qualifying distribution and tax credit), or
 - (ii) section 352(1) of that Act (gross amount, tax deducted and actual amount paid, in certain cases where payments are made under deduction of tax),

- provided by the company or person there mentioned whether after the making of a request or otherwise, and
- (b) the Inland Revenue are satisfied that any facts which they reasonably require to be proved, and which would have been proved by the records, are proved by other documentary evidence furnished to them.