

SCHEDULES

SCHEDULE 18

COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

PART VI

EXCESSIVE ASSESSMENTS OR REPAYMENTS, ETC

Relief in case of double assessment

- 50 (1) A company which believes it has been assessed to tax more than once for the same cause and for the same accounting period may make a claim for relief—
- (a) by notice in writing,
 - (b) given to the Board.
- (2) If on a claim being made the Board are satisfied that the company has been assessed to tax more than once for the same cause and for the same accounting period, they shall amend the assessment or assessments concerned, or give relief by way of discharge or repayment of tax or otherwise, so as to eliminate the double charge.
- (3) An appeal against the Board's decision on a claim for relief under this paragraph may be brought to the Commissioners having jurisdiction to hear an appeal relating to the assessment, or the later of the assessments, to which the claim relates.

Relief in case of mistake in return

- 51 (1) A company which believes it has paid tax under an assessment which was excessive by reason of some mistake in a return may make a claim for relief—
- (a) by notice in writing,
 - (b) given to the Board,
 - (c) not more than six years after the end of the accounting period to which the return relates.
- (2) On receiving the claim the Board shall enquire into the matter and give by way of repayment such relief in respect of the mistake as is reasonable and just.
- (3) No relief shall be given under this paragraph—
- (a) in respect of a mistake as to the basis on which the liability of the claimant ought to have been computed when the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made, or
 - (b) in respect of a mistake in a claim or election which is included in the return.
- (4) In determining a claim under this paragraph the Board shall have regard to all the relevant circumstances of the case.

Status: This is the original version (as it was originally enacted).

They shall, in particular, consider whether the granting of relief would result in amounts being excluded from charge to tax.

For that purpose they may take into consideration the liability of the claimant company, and assessments made on it, for accounting periods other than that to which the claim relates.

- (5) On an appeal against the Board's decision on the claim, the Special Commissioners shall hear and determine the claim in accordance with the same principles as apply to the determination by the Board of claims under this paragraph.
- (6) Neither the company nor the Board may appeal under section 56A of the Taxes Management Act 1970 against the determination of the Special Commissioners, except on a point of law arising in connection with the computation of—
 - (a) the profits of the company for the purposes of corporation tax,
 - (b) any amount assessable under section 419(1) of the Taxes Act 1988 (tax on loan or advance made by close company to a participator), or
 - (c) any amount chargeable under section 747(4)(a) of that Act (tax on profits of controlled foreign company).

Recovery of excessive repayments etc

- 52 (1) The provisions of paragraphs 41 to 48 relating to discovery assessments apply to an amount to which this paragraph applies as if it were unpaid tax, unless—
- (a) it is assessable under those provisions apart from this paragraph, or
 - (b) it is recoverable under section 826(8A) of the Taxes Act 1988 (interest overpaid which is recoverable in same way as interest charged).
- (2) This paragraph applies to an amount paid to a company by way of—
- (a) repayment of tax (or income tax) or payment of a tax credit,
 - (b) repayment supplement under section 825 of the Taxes Act 1988, or
 - (c) interest paid under section 826 of that Act,
- to the extent that it ought not to have been paid.
- (3) For the purposes of this paragraph—
- (a) an amount is regarded as paid if it is allowed by way of set-off, and
 - (b) an amount is regarded as a repayment if it was intended as repayment but exceeds the amount paid by the company.
- (4) An assessment made by virtue of this paragraph shall be made under Case VI of Schedule D.
- (5) An assessment to recover—
- (a) an amount of tax repaid to a company in respect of an accounting period, or interest on any such repayment, or
 - (b) an amount of income tax repaid to a company in respect of a payment received by the company in an accounting period, or interest on any such repayment,
- shall be treated as an assessment to tax for the accounting period referred to in paragraph (a) or (b).

- (6) The sum assessed shall carry interest at the prescribed rate for the purposes of section 87A of the Taxes Management Act 1970 (interest on overdue corporation tax, etc.) from the date when the payment being recovered was made until payment.

Time limit for recovery of excessive repayments, etc.

- 53 (1) An assessment made by virtue of paragraph 52 is not out of time under paragraph 46(1) (general six year time limit for assessments) if it is made—
- (a) before the end of the accounting period following that in which the amount assessed was paid, or
 - (b) if later, before the end of the period of three months beginning with the day on which the Inland Revenue complete an enquiry into a relevant company tax return by the company concerned.
- (2) Sub-paragraph (1) above is without prejudice to paragraph 46(2) (time limit for assessment in case of fraud or negligence).