

SCHEDULES

SCHEDULE 18

COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

PART VII

GENERAL PROVISIONS AS TO CLAIMS AND ELECTIONS

Claims must be quantified

- 54 A claim under any provision of the Corporation Tax Acts for a relief, an allowance or a repayment of tax must be for an amount which is quantified at the time when the claim is made.

General time limit for making claims

- 55 Subject to any provision prescribing a longer or shorter period, a claim for relief under any provision of the Corporation Tax Acts must be made within six years from the end of the accounting period to which it relates.

Supplementary claim or election

- 56 A company which has made a claim or election under any provision of the Corporation Tax Acts (by including it in a return or otherwise) and subsequently discovers that a mistake has been made in it may make a supplementary claim or election within the time allowed for making the original claim or election.

Claims or elections affecting a single accounting period

- 57 (1) This paragraph applies to a claim or election for tax purposes which affects only one accounting period (“the relevant accounting period”).
- (2) If notice has been given under paragraph 3 requiring a company to deliver a company tax return for the relevant accounting period, a claim or election by the company which can be made by being included in the return (as originally made or by amendment) must be so made.
- (3) If a company has delivered a company tax return for the relevant accounting period, a claim or election made by the company which could be made by amending the return is treated as an amendment of the return.

The provisions of paragraph 15 (amendment of return by company) apply.

- (4) Schedule 1A to the Taxes Management Act 1970 (claims and elections not included in returns) applies to a claim or election made by a company which cannot be included in a company tax return for the relevant accounting period.

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This applies in particular to a claim or election made—

- (a) before any notice is given under paragraph 3 requiring a company tax return for the relevant accounting period, or
- (b) at a time when its return for the relevant accounting period cannot be amended.

Claims or elections involving more than one accounting period

- 58 (1) This paragraph applies to a claim or election for tax purposes if—
- (a) the event or occasion giving rise to it occurs in one accounting period (the period to which it “relates”), and
 - (b) it affects one or more other accounting periods (whether or not it also affects the period to which it relates).
- (2) If a company makes a claim or election which—
- (a) relates to an accounting period for which the company has delivered a company tax return and could be made by amendment of the return, or
 - (b) affects an accounting period for which the company has delivered a company tax return and could be given effect by amendment of the return,
- the claim or election is treated as an amendment of the return.

The provisions of paragraph 15 (amendment of return by company) apply.

- (3) Schedule 1A to the Taxes Management Act 1970 (claims and elections not included in returns) applies to a claim or election made by a company if or to the extent that it is not—
- (a) made by being included (by amendment or otherwise) in the company tax return for the accounting period to which it relates, and
 - (b) given effect by being included (by amendment or otherwise) in company tax returns for the accounting periods affected by it.

Other claims and elections

- 59 (1) Schedule 1A to the Taxes Management Act 1970 applies to a claim or election for tax purposes which is not within paragraph 57 or 58, whether or not it is included (by amendment or otherwise) in a company tax return.
- (2) The provisions of this Schedule do not apply where or to the extent that the provisions of Schedule 1A apply.

Provisions supplementary to paragraphs 57 to 59

- 60 (1) Paragraphs 57 to 59 have effect subject to any express provision to the contrary.
- (2) Nothing in those paragraphs affects the time limit or any other conditions for making a claim or election.
- (3) Where Schedule 1A to the Taxes Management Act 1970 applies by virtue of any of those paragraphs and the claim or election results in an increase in the amount of tax payable, all such adjustments by way of assessment or otherwise shall be made as are necessary to give effect to it.

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Consequential claims, etc. arising out of certain Revenue amendments or assessments

- 61 (1) Paragraphs 62 to 64 have effect to allow certain claims, elections, applications and notices to be made or given, or if previously given to be revoked or varied, where—
- (a) an amendment of a company tax return is made under paragraph 34(2)(b) (amendments of other returns required in consequence of closure notice) which has the effect of increasing the amount of tax payable by a company,
 - (b) a discovery assessment is made, or
 - (c) an assessment is made under paragraph 76 (recovery of excessive group relief).
- (2) Paragraphs 62 to 64 do not apply in relation to an assessment made in a case involving fraudulent or negligent conduct on the part of—
- (a) the company, or
 - (b) a person acting on behalf of the company, or
 - (c) a person who was a partner of the company at the relevant time.

In such a case more limited provision is made by paragraph 65.

- (3) In paragraphs 62 to 64 “the relevant accounting period”, in relation to the time limit for making a consequential claim, election, application or notice, means—
- (a) in relation to an amendment of a company tax return under paragraph 34(2) (b), the accounting period in which the closure notice was issued;
 - (b) in relation to an assessment, the accounting period in which the assessment was made.

Consequential claims etc that may be made

- 62 (1) A claim, election, application or notice to which this paragraph applies—
- (a) may be made or given at any time within one year from the end of the relevant accounting period, or
 - (b) if previously made or given may at any such time be revoked or varied—
 - (i) in the same manner as it was made or given, and
 - (ii) by or with the consent of the same person or persons who made, gave or consented to it (or, if a person has died, by or with the consent of his personal representatives),unless, by virtue of any enactment, it is irrevocable.
- (2) This paragraph applies to a claim, election, application or notice—
- (a) relating to the accounting period in respect of which the amendment or assessment is made, or
 - (b) made or given by reference to an event occurring in that period,
- whose making, giving, revocation or variation has or could have the effect of reducing a relevant liability of the company.
- (3) The following are relevant liabilities of the company for this purpose—
- (a) the increased liability to tax resulting from the amendment or assessment;
 - (b) any other liability to tax of the company—
 - (i) for the accounting period to which the amendment or assessment relates, or

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- (ii) for any subsequent accounting period ending not later than one year after the end of the relevant accounting period.
- (4) Where a claim, election, application or notice is made, given, revoked or varied by virtue of this paragraph, all such adjustments shall be made, whether by way of discharge or repayment of tax or the making of amendments, assessments or otherwise, as are required to take account of the effect of the taking of that action on any person's liability to tax for any chargeable period.
- (5) The provisions of the Taxes Management Act 1970 relating to appeals against decisions on claims apply with any necessary modifications to a decision on the revocation or variation of a claim by virtue of this paragraph.
- (6) This paragraph has effect subject to—
 - paragraph 63 (consequential claims etc. affecting tax liability of another person), and
 - paragraph 64 (consequential claims etc. not to give rise to reduction in liability).

Consequential claims etc. affecting tax liability of another person

- 63
- (1) If the effect of the exercise by any person of a power conferred by paragraph 62 would be to alter the liability to tax of another person, the power may not be exercised except with the consent in writing of that other person or, if he has died, of his personal representatives.
 - (2) Where such a power is exercised so as to increase the liability to tax of another person, neither paragraph 61 above nor section 43A of the Taxes Management Act 1970 (which makes corresponding provision in relation to income tax or capital gains tax) applies in relation to any amendment or assessment made because of that increased liability.
 - (3) In this paragraph “tax” includes income tax or capital gains tax.

Consequential claims etc. not to give rise to reduction in liability

- 64
- (1) If in any case—
 - (a) one or more claims, elections, applications or notices are made, given, revoked or varied under paragraph 62 in consequence of an amendment or assessment, and
 - (b) the total of the reductions in liability to tax resulting from that action would exceed the additional liability to tax resulting from the amendment or assessment,
 the excess is not available to reduce any liability to tax.
 - (2) Where sub-paragraph (1) has the effect of limiting either—
 - (a) the reduction in a person's liability to tax for more than one period, or
 - (b) the reduction in the liability to tax of more than one person,
 the limited amount shall be apportioned between the periods or persons concerned.
 - (3) The apportionment shall be made in such manner as the Inland Revenue may specify by notice in writing to the person or persons concerned, unless notice is given under the following provision.

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- (4) If the person concerned gives (or the persons concerned jointly give) notice in writing to the Inland Revenue within the period of 30 days beginning with—
- (a) the day on which notice under sub-paragraph (3) is given to the person concerned, or
 - (b) where more than one person is concerned, the latest date on which such notice is given to any of them,
- the apportionment shall be made in such manner as may be specified in the notice given by the person or persons concerned.
- (5) In this paragraph “tax” includes income tax or capital gains tax.

Consequential claims in case of fraud or negligence

- 65 (1) This paragraph applies where an assessment is made on a company in a case involving fraudulent or negligent conduct on the part of—
- (a) the company, or
 - (b) a person acting on behalf of the company, or
 - (c) a person who was a partner of the company at the relevant time.
- (2) If the company so requires, effect shall be given in determining the amount of the tax charged by the assessment to any relief or allowance to which the company would have been entitled for that accounting period on a claim or application made within the time allowed by the Taxes Acts.