

SCHEDULES

SCHEDULE 18

COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

PART XI

SUPPLEMENTARY PROVISIONS

Conclusiveness of amounts stated in return

- 88 (1) This paragraph applies to an amount stated in a company tax return for an accounting period which is required to be included in the return and which affects or may affect—
- (a) the tax payable by the company making the return for another accounting period, or
 - (b) the tax liability of another company for any accounting period.
- (2) If such an amount can no longer be altered it is taken to be conclusively determined for the purposes of the Corporation Tax Acts in relation to that other period or other company.
- Sub-paragraphs (3) to (5) explain what is meant by “can no longer be altered”.
- (3) An amount is regarded as one that can no longer be altered if—
- (a) the period specified in paragraph 15(4) (general period for amendment by company) has ended,
 - (b) any enquiry into the return has been completed and the period specified in paragraph 34(1) (period for amendment by company after enquiry) has ended,
 - (c) if the Inland Revenue amend the return under paragraph 34(2), the period within which an appeal may be brought against that amendment has ended, and
 - (d) if an appeal is brought, the appeal has been finally determined.
- (4) If the return is amended by the company under a provision that allows an amendment after the end of the period specified in paragraph 15(4), an amount affected by the amendment ceases to be regarded as one that can no longer be altered until after whichever is the last of the following—
- (a) the end of the period within which notice of enquiry into the return may be given in consequence of the amendment;
 - (b) if such a notice is given, the end of the period specified in paragraph 34(1);
 - (c) if the Inland Revenue amend the return under paragraph 34(2), the end of the period within which an appeal against that amendment may be brought;
 - (d) if an appeal is brought, the date on which the appeal is finally determined.

Status: This is the original version (as it was originally enacted).

- (5) If the return is amended by the Inland Revenue under paragraph 83(3) (consequential amendment of return where amount available by way of capital allowances is reduced), an amount affected by the amendment ceases to be regarded as one that can no longer be altered until after—
 - (a) the end of the period within which an appeal against that amendment may be brought, or
 - (b) if an appeal is brought, the date on which the appeal is finally determined.
- (6) For the purposes of this paragraph an amount carried forward from a period for which a return was made under section 11 of the Taxes Management Act 1970 is not regarded as one required to be included in a company tax return for a later period.
- (7) Nothing in this paragraph affects any power to make an assessment other than a self-assessment or the power to make a discovery determination.

Penalty for fraud or negligence

- 89 (1) A company which fraudulently or negligently—
- (a) makes any incorrect return, statement or declaration in connection with a claim for any allowance, deduction or relief in respect of tax, or
 - (b) submits to the Inland Revenue, or to the Special or General Commissioners, any incorrect accounts in connection with ascertainment of the company's tax liability,
- is liable to a tax-related penalty.
- (2) The penalty is an amount not exceeding the amount of tax understated, that is, the difference between—
 - (a) the amount of tax payable by the company for the accounting period or periods to which the claim or accounts relate, and
 - (b) the amount which would have been so payable on the basis of the return, statement or declaration made, or the accounts submitted.
 - (3) In computing for this purpose the amount of tax payable, no account shall be taken of any relief under section 419(4) of the Taxes Act 1988 (relief in respect of repayment, etc. of loan) which is deferred under subsection (4A) of that section.
 - (4) For the purposes of this paragraph any accounts submitted on behalf of a company shall be taken to be submitted by it unless the company proves that they were submitted without its consent or connivance.

Multiple tax-related penalties in respect of same accounting period

- 90 (1) This paragraph applies where a company incurs more than one penalty whose amount falls to be determined by reference to the tax payable by it for an accounting period.
- (2) Each penalty after the first shall be reduced so that the total amount of the penalties, so far as determined by reference to any particular part of the tax, does not exceed whichever is, or but for this paragraph would be, the greater or greatest of them, so far as so determined.

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European Economic Interest Groupings

- 91 An act or omission such as is mentioned in section 98B of the Taxes Management Act 1970 (European Economic Interest Groupings: acts or omissions attracting penalties) on the part of a grouping, or a member of a grouping, is treated as the act or omission of each member of the grouping for the purposes of—
- paragraphs 43 and 46(2) (assessment in case of fraud or negligence), and
 - paragraphs 61(2) and 65(1) (consequential claims in case of such an assessment).

Notices of appeal

- 92 (1) This paragraph applies in relation to any appeal under this Schedule.
- (2) The notice of appeal shall specify the grounds of appeal.
- (3) On the hearing of the appeal the Commissioners may allow the appellant to put forward grounds not specified in the notice, and take them into consideration, if satisfied that the omission was not wilful or unreasonable.

General jurisdiction of Special or General Commissioners

- 93 (1) This paragraph applies in relation to an appeal against—
- (a) an amendment of a self-assessment under paragraph 30, or
 - (b) an amendment of a company tax return under paragraph 34(2), or
 - (c) an assessment to tax other than a self-assessment, or
 - (d) a discovery determination.
- (2) An appeal against a decision of the Board shall be to the Special Commissioners.
- (3) Any other appeal shall be to the General Commissioners, subject—
- (a) to any provision made by or under Part V of the Taxes Management Act 1970, and
 - (b) to any election under paragraph 94 below.

Election to take appeal to Special Commissioners

- 94 (1) The appellant may elect (in accordance with section 46(1) of the Taxes Management Act 1970) to bring an appeal to which paragraph 93(3) would otherwise apply before the Special Commissioners.
- (2) Such an election shall be disregarded if—
- (a) the appellant and the Inland Revenue agree in writing, at any time before the determination of the appeal, that it is to be disregarded, or
 - (b) the General Commissioners have given a direction under sub-paragraph (4) and have not revoked it.
- (3) At any time before the determination of an appeal in respect of which an election has been made, the inspector or other officer of the Board for the time being concerned with the proceedings, after giving notice to the appellant, may refer the election to the General Commissioners.

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- (4) On any such reference the Commissioners shall, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the merits or the appeal, direct that the election be disregarded.
- (5) If, at any time before the giving of such a direction (but before the determination of the appeal) the General Commissioners are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, they shall revoke the direction.
- (6) Any decision to give or revoke such a direction shall be final.

Meaning of “the Inland Revenue”

- 95 (1) References in this Schedule to “the Inland Revenue” are to any officer of the Board, except as otherwise provided.
- (2) Functions under these provisions are functions of the Board—
 paragraph 50 (relief in case of double assessment),
 paragraph 51 (relief in case of mistake in return).
- (3) Functions under these provisions are exercisable by the Board or an officer of the Board—
 paragraph 41(1) or (2) (power to make discovery assessment or determination),
 paragraph 52 (recovery of excessive repayments, etc.).
- (4) Functions exercisable by the Board under sub-paragraph (2) or (3) are within section 4A of the Inland Revenue Regulation Act 1890 (functions of Board exercisable by officer acting with their authority).
- (5) These provisions require things to be done by or in relation to the officer of the Board indicated in the Table:—

<i>Provision</i>	<i>Subject-matter</i>	<i>Officer</i>
paragraph 3(4)	Delivery of return	Officer by whom notice requiring return was issued.
paragraph 16(5)(b)	Notice rejecting correction of return.	Officer by whom notice of correction was given.
paragraph 28(2)(c)	Notice of appeal against requirement to produce documents, etc.	Officer by whom notice was given making the requirement.
paragraph 30(4)(c)	Notice of appeal against amendment of self-assessment during enquiry.	Officer by whom notice of amendment was given.
paragraph 34(4)(c)	Notice of appeal against amendment of return after enquiry.	Officer by whom notice of amendment was given.
paragraph 48(2)(c)	Notice of appeal against assessment other than self-assessment.	Officer by whom notice of assessment was given.

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<i>Provision</i>	<i>Subject-matter</i>	<i>Officer</i>
paragraph 70(3)(b)	Notice of consent to surrender group relief.	Officer to whom the surrendering company makes its company tax returns.
paragraph 71(3)	Notice of withdrawal of consent to surrender group relief.	Officer to whom the notice of consent was given.
paragraph 75(8)(c)	Notice of appeal against amendment of consent to surrender group relief.	Officer by whom notice of amendment was given.
paragraph 83(6)(c)	Appeal against amendment of return to reduce claim for capital allowances.	Officer by whom notice of amendment was given.
paragraph 94(3)	Election to take appeal to Special Commissioners.	Inspector or other officer of the Board for the time being concerned with the proceedings.

(6) In this Schedule “the Board” means the Commissioners of Inland Revenue.

The self-assessment appointed day

96 In this Schedule “the self-assessment appointed day” means the day appointed by the Treasury under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

Construction of references to assessment

97 Any reference in the Tax Acts (however expressed) to a person being assessed to tax, or being charged to tax by an assessment, include a reference to his being so assessed, or being so charged—

- (a) by a self-assessment under this Schedule, or an amendment of such a self-assessment, or
- (b) by a determination under paragraph 36 or 37 of this Schedule (which, until superseded by a self-assessment, has effect as if it were one).

Index of defined expressions

98 In this Schedule the expressions listed below are defined or otherwise explained by the provisions indicated—

the Board	paragraph 95(6)
closure notice	paragraph 32(1)
company tax return	paragraph 3(1)
delivery (in relation to company tax return)	paragraph 4
discovery assessment	paragraph 41(1)

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discovery determination	paragraph 41(2)
filing date	paragraph 14
Inland Revenue	paragraph 95
notice of enquiry	paragraph 24(1)
notice requiring company tax return	paragraph 3(1)
self-assessment	paragraph 7
self-assessment appointed day	paragraph 96
tax	paragraph 1 (and see paragraphs 63(3) and 64(5))
tax payable	paragraph 8
wrong period (return for)	paragraph 26(2) to (4)
