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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, Paragraph 7. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 29

#### AMENDMENTS TO MACHINERY OF SELF-ASSESSMENT

##### PART 3

##### REFERRAL OF QUESTIONS DURING ENQUIRY

###### *Enquiry into company tax return*

- 7 (1) In Part 4 of Schedule 18 to the Finance Act 1998 (c. 36) (enquiry into company tax return), after paragraph 31 insert—

###### **“Referral of questions to Special Commissioners during enquiry**

- 31A (1) At any time when an enquiry is in progress into a company’s tax return any question arising in connection with the subject-matter of the enquiry may be referred to the Special Commissioners for their determination.
- (2) Notice of referral must be given—
- (a) jointly by the company and the Inland Revenue,
  - (b) in writing,
  - (c) to the Special Commissioners.
- (3) The notice of referral must specify the question or questions being referred.
- (4) More than one notice of referral may be given under this paragraph in relation to an enquiry.
- (5) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—
- (a) beginning with the day on which the Inland Revenue give notice of enquiry into the return, and
  - (b) ending with the day on which the enquiry is completed.

###### **Withdrawal of notice of referral**

- 31B (1) The Inland Revenue or the company may withdraw a notice of referral under paragraph 31A by notice in accordance with this paragraph.
- (2) Notice of withdrawal must be given—
- (a) in writing,
  - (b) to the other party to the referral and to the Special Commissioners,

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- (c) before the first hearing by the Special Commissioners in relation to the referral.

**Effect of referral on enquiry**

- 31C (1) While proceedings on a referral under paragraph 31A are in progress in relation to an enquiry—
- (a) no closure notice shall be given in relation to the enquiry, and
  - (b) no application may be made for a direction to give such a notice.
- (2) For the purposes of this paragraph proceedings on a referral are in progress where—
- (a) notice of referral has been given,
  - (b) the notice has not been withdrawn, and
  - (c) the questions referred have not been finally determined.
- (3) For the purposes of sub-paragraph (2)(c) a question referred is finally determined when—
- (a) it has been determined by the Special Commissioners, and
  - (b) there is no further possibility of that determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

**Effect of determination**

- 31D (1) The determination of a question referred to the Special Commissioners under paragraph 31A is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.
- (2) The determination shall be taken into account by the Inland Revenue in reaching their conclusions on the enquiry.
- (3) Any right of appeal under paragraph 30 or 34(3) may not be exercised so as to reopen the question determined except to the extent (if any) that it could be reopened if it had been determined as a preliminary issue in that appeal.”.
- (2) This paragraph applies in relation to an enquiry under Part 4 of Schedule 18 to the Finance Act 1998 (c. 36)—
- (a) in relation to which notice of enquiry is given after the passing of this Act, or
  - (b) which is in progress (within the meaning of paragraph 31(5) of that Schedule) immediately before the passing of this Act.

**Changes to legislation:**

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