

1986 No. 1711**TAXES****The Stamp Duty Reserve Tax Regulations 1986**

<i>Made</i> - - - - -	<i>2nd October 1986</i>
<i>Laid before the House of Commons</i>	<i>3rd October 1986</i>
<i>Coming into Operation</i> - - - -	<i>27th October 1986</i>

ARRANGEMENT OF REGULATIONS

1. Citation and commencement
2. Interpretation
3. Due date for payment
4. Notice of charge and payment
5. Power to require information
6. Notice of determination
7. Relief from accountability
8. Appeals against determination
9. Appeals out of time
10. Statement of case for opinion of High Court
11. Interest on overpaid tax
12. Recovery of tax
13. Underpayments
14. Overpayments
15. Inspection of records
16. Evidence
17. Determination of questions on previous view of the law
18. Recovery of over-repayment of tax, etc
19. Service of documents
20. Taxes Management Act 1970: provisions to apply
21. Inland Revenue Regulation Act 1890: provisions not to apply

The Treasury, in exercise of the powers conferred on them by section 98 of the Finance Act 1986(a), hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Stamp Duty Reserve Tax Regulations 1986 and shall come into operation on 27th October 1986.

(a) 1986 c.41.

*Interpretation***2.** In these Regulations unless the context otherwise requires—

“Act” means Part IV of the Finance Act 1986;

“accountable date” means—

- (a) in relation to a charge under section 87 of the Act the last day of the month following that in which it was incurred,
- (b) in relation to a charge under section 93 of the Act the 28th November 1986 or the last day of the second month following that in which it was incurred whichever is the later, and
- (c) in relation to a charge under section 96 of the Act the 28th November 1986 or the last day of the second month following that in which it was incurred whichever is the later;

“accountable person” means—

- (a) in relation to a charge under section 87 of the Act, the person mentioned as B in section 91(1) or, as the case may be, the other person mentioned in section 91(2) of the Act:

Provided that—

- (i) if the person mentioned in section 87(1) or, as the case may be, section 87(2) of the Act is not a market maker or broker and dealer within the meaning of section 89 thereof, and
- (ii) the person mentioned as A in section 87(1) of the Act is a market maker or broker and dealer within the meaning of section 89 thereof or a qualified dealer,

then the accountable person means A,

- (b) in relation to a charge under section 93(1) to (7) of the Act, the person mentioned in section 93(8) thereof:

Provided that if section 93(9) is applicable, then the accountable person means the person to whom the securities are transferred,

- (c) in relation to a charge under section 93(10) of the Act, the person liable to pay the instalment,

- (d) in relation to a charge under section 96(1) to (5) of the Act, the person mentioned in subsection (6) thereof:

Provided that if section 96(7) is applicable, then the accountable person means the person to whom the securities are transferred, and

- (e) in relation to a charge under section 96(8) of the Act, the person liable to pay the instalment;

“barrister” includes a member of the Faculty of Advocates;

“General Commissioners” has the same meaning as in the Taxes Management Act 1970(a);

“notice” means notice in writing;

“qualified dealer” means a person who—

- (a) holds a principal’s licence within the meaning of the Prevention of

(a) 1970 c.9.

Fraud (Investments) Act 1958(a) or the Prevention of Fraud (Investments) Act (Northern Ireland) 1940(b), or

- (b) is an exempt dealer within the meaning of either of those Acts, or
- (c) is a member of a body which is a recognised association of dealers in securities for the purposes of either of those Acts;

“relevant transaction” means—

- (a) an agreement falling within section 87(1) of the Act,
 - (b) a transfer, issue or appropriation falling within section 93(1)(b) of the Act, or
 - (c) a transfer or issue falling within section 96(1)(b) of the Act,
- and in respect of which there is a charge to tax;

“Special Commissioners” has the same meaning as in the Taxes Management Act 1970;

“tax” means stamp duty reserve tax.

Due date for payment

3. Tax charged under the Act shall be due and payable on the accountable date.

Notice of charge and payment

4.— (1) An accountable person, except where different arrangements are authorised in writing by the Board, shall on or before the accountable date—

- (a) give notice of each charge to tax to the Board, and
- (b) pay the tax due.

(2) A notice under this regulation shall be in such form as the Board may prescribe or authorise and shall contain such information as they may reasonably require for the purposes of the Act.

Power to require information

5.— (1) The Board may by notice require any person to furnish them within such time, not being less than 30 days, as may be specified in the notice with such information (including documents or records) as the Board may reasonably require for the purposes of the Act.

(2) A barrister or solicitor shall not be obliged in pursuance of a notice under this regulation to disclose, without his client’s consent, any information with respect to which a claim to professional privilege could be maintained.

Notice of determination

6.— (1) Where it appears to the Board that a relevant transaction has taken place or where a claim is made to the Board in connection with a relevant transaction, the Board may give notice to any person who appears to them in relation to that transaction to be the accountable person, or the person liable for

(a) 1958 c.45.

(b) 1940 c.9(N.I.).

any of the tax charged or to the claimant, stating that they have determined the matters specified in the notice.

(2) If it appears to the Board that any such matter specified in a notice of determination is, or may be, material as respects any liability under the Act of two or more persons, they may give notice of the determination to each of those persons.

(3) Any matter that appears to the Board to be relevant for the purposes of the Act may be determined and specified in a notice under this regulation.

(4) A determination for the purposes of a notice under this regulation of any fact relating to a relevant transaction—

(a) shall, if that fact has been stated in a notice under regulation 4 and the Board are satisfied that the notice is correct, be made by the Board in accordance with that notice, but

(b) may, in any other case, be made by the Board to the best of their judgment.

(5) A notice under this regulation shall state the time within which and the manner in which an appeal against any determination in it may be made.

(6) Subject to any variation by agreement in writing or on appeal, a determination in a notice under this regulation shall be conclusive for the purposes of the Act against a person on whom the notice is served.

Relief from accountability

7. If on a claim in relation to a charge under section 87 of the Act (a) an accountable person, other than a person liable under section 91 of the Act, proves to the Board's satisfaction that he has taken without success all reasonable steps, both before and after the date of the agreement, to recover from the person liable tax for which he is accountable under regulation 4, he shall be relieved of his liability to account for and pay that tax and any interest on that tax.

Appeals against determination

8.— (1) A person on whom a notice under regulation 6 has been served may, within 30 days of the date of the notice, appeal against any determination specified in it by notice given to the Board and specifying the grounds of appeal.

(2) Subject to the following provisions of this regulation the appeal shall be to the Special Commissioners.

(3) Where—

(a) it is so agreed between the appellant and the Board, or

(b) the High Court, on an application made by the appellant, is satisfied that the matters to be decided on the appeal are likely to be

(a) 1986 c.41.

substantially confined to questions of law and gives leave for that purpose,

the appeal may be to the High Court.

(4) Neither the Special Commissioners nor the High Court shall determine any question as to the value of land in the United Kingdom on any appeal under this regulation, but on any such question the appeal shall be to the Lands Tribunal or, as the case may be, the Lands Tribunal for Scotland or for Northern Ireland.

(5) In the application of this regulation to Scotland, for references to the High Court there shall be substituted references to the Court of Session.

Appeals out of time

9. An appeal under regulation 8 may be brought out of time with the consent of the Board or the Special Commissioners; and the Board—

- (a) shall give that consent if satisfied, on an application for the purpose, that there was a reasonable excuse for not bringing the appeal within the time limited and that the application was made thereafter without unreasonable delay, and
- (b) shall, if not so satisfied, refer the application for determination by the Special Commissioners.

Statement of case for opinion of High Court

10.— (1) Within 30 days of the determination by the Special Commissioners of an appeal any party to the appeal may question the determination on a point of law by a written request to the Special Commissioners to state and sign a case for the opinion of the High Court.

(2) A request for a case under this regulation shall be accompanied by a fee of £25 and any such case shall set forth the facts and the determination of the Commissioners.

(3) A party requiring a case to be stated under this regulation shall, within thirty days of receiving it, send it to the High Court and shall, at or before the time of sending it to the High Court, send a copy of it to every other party.

(4) The High Court shall hear and determine any question of law arising on the case and may reverse, affirm or amend the determination of the Special Commissioners or make such other order as the court thinks fit.

(5) The High Court may cause the case to be sent back for amendment, and the Special Commissioners shall amend it accordingly.

(6) This regulation shall have effect—

- (a) in its application to Scotland, with the substitution of references to the Court of Session for references to the High Court; and
- (b) in its application to Northern Ireland, with the substitution of references to the Court of Appeal in Northern Ireland for references to the High Court.

Interest on overpaid tax

11.— (1) Where tax repaid under regulation 14 is not less than £25 it shall be repaid with interest on it at the rate which is the appropriate rate for the purposes of section 92(2) of the Act(a) from the time it was paid.

(2) Interest paid under this regulation shall not constitute income for the purposes of income tax or corporation tax.

Recovery of tax

12.— (1) The Board shall not exercise any remedy or take any proceedings for the recovery of any amount of tax which is due from any person unless the amount has been agreed in writing between that person and the Board or has been determined and specified in a notice under regulation 6.

(2) Where an amount has been so determined and specified, but an appeal to which this paragraph applies is pending against the determination, the Board shall not exercise any remedy or take any legal proceedings to recover the amount determined except such part of it as may be agreed in writing or determined and specified in a further notice under regulation 6 to be a part not in dispute.

(3) Paragraph (2) applies to any appeal under regulation 8 but not to any further appeal; and regulation 8 shall have effect, in relation to a determination made in pursuance of paragraph (2) of this regulation, as if paragraph (4) of that regulation were omitted.

Underpayments

13.— (1) Subject to paragraphs (2) and (3), where too little tax has been paid in respect of a relevant transaction the tax underpaid shall be payable with interest, whether or not the amount that has been paid was that stated as payable in a notice under regulation 4.

(2) Where tax charged under the Act is paid in accordance with a notice given to the Board under regulation 4 and the payment is made and accepted in full satisfaction of the tax so charged, no additional amount of tax shall be determined and specified in a notice under regulation 6 after the end of the period of 6 years beginning with the later of—

(a) the date on which the payment was made and accepted, and

(b) the relevant accountable date;

and, subject to paragraph (3), at the end of that period any liability for the additional tax shall be extinguished.

(3) In any case of fraud, wilful default or neglect by or on behalf of any person in connection with or in relation to tax the period mentioned in paragraph (2) shall be the period of 6 years beginning when the fraud, default or neglect comes to the knowledge of the Board.

Overpayments

14.— (1) If on a claim it is proved to the Board's satisfaction that too much

(a) With effect from 27th October 1986 8.5 per cent. per annum (S.I. 1986/1710).

tax has been paid in respect of any relevant transaction the excess (and any interest paid thereon) shall be repaid by the Board.

(2) A claim under this regulation shall be made within a period of 6 years beginning with the later of—

- (a) the date on which the payment was made, and
- (b) the relevant accountable date.

Inspection of records

15.— (1) Every accountable person shall, whenever required to do so, make available for inspection by an officer of the Board authorised for that purpose all books, documents and other records in his possession or under his control containing information relating to any relevant transaction to which he was a party or in connection with which he acted.

(2) Where records are maintained by computer the person required to make them available for inspection shall provide the officer making the inspection with all facilities necessary for obtaining information from them.

Evidence

16.— (1) For the purposes of the preceding provisions of these Regulations, a notice under regulation 6 specifying any determination which can no longer be varied or quashed on appeal shall be sufficient evidence of the matters specified.

(2) In any proceedings for the recovery of tax or interest on tax, a certificate by an officer of the Board—

- (a) that the tax or interest is due, or
- (b) that, to the best of his knowledge and belief, it has not been paid,

shall be sufficient evidence that the sum mentioned in the certificate is due or, as the case may be, unpaid; and a document purporting to be such a certificate shall be deemed to be such a certificate unless the contrary is proved.

Determination of questions on previous view of the law

17. Where any payment has been made and accepted in satisfaction of any liability for tax and on a view of the law then generally received or adopted in practice, any question whether too little or too much has been paid or what was the right amount of tax payable shall be determined on the same view, notwithstanding that it appears from a subsequent legal decision or otherwise that the view was or may have been wrong.

Recovery of over-repayment of tax, etc

18.— (1) Where an amount of tax has been repaid, or interest has been paid, to any person which ought not to have been repaid or paid to him, that amount may be determined and recovered as if it were tax due from him.

(2) Subject to paragraph (3) a determination under this regulation may be

made before the expiration of 6 years from the date on which the amount was repaid or paid.

(3) In any case of fraud, wilful default or neglect the period mentioned in paragraph (2) shall be 6 years from the date on which the fraud, wilful default or neglect comes to the knowledge of the Board.

(4) In this regulation an amount repaid or paid includes an amount allowed by way of set off.

Service of documents

19. A notice or other document which is to be served on or given to a person under these Regulations may be delivered to him or left at his usual or last known place of residence or served by post, addressed to him at his usual or last known place of residence or place of business or employment.

Taxes Management Act 1970: provisions to apply

20.— (1) The provisions of the Taxes Management Act 1970(a) specified in the first column of the Table in Part I of the Schedule to these Regulations shall apply in relation to the tax as they apply in relation to a tax within the meaning of that Act subject to any modification specified in the second column of that Table.

(2) Any expression to which a meaning is given by the Act or in these Regulations and which is used in a provision of the Taxes Management Act 1970 as applied by this regulation shall in that provision, as so applied, have the same meaning as in the Act or these Regulations.

(3) The provisions of the Taxes Management Act 1970 specified in the Part I of the Schedule (as modified where appropriate) are restated as so modified and applied in Part II of the Schedule.

Inland Revenue Regulation Act 1890: provisions not to apply

21. Sections 21, 22 and 35 of the Inland Revenue Regulation Act 1890(b) (proceedings for fines, etc) shall not apply in relation to stamp duty reserve tax.

*Nigel Lawson,
Michael Neubert,*

Two of the Lords Commissioners
of Her Majesty's Treasury.

2nd October 1986.

(a) 1970 c.9. Relevant amendments were made to section 53 by section 129(1) of the Finance Act 1972 (c.41); to section 65 by section 57(1) of the Finance Act 1984 (c.43); to section 66 by section 148(1) of, and paragraph 36 of Schedule 2 to, the County Courts Act 1984 (c.28), by section 57(2) of the Finance Act 1984 and by Article 68(2) of, and Part II of Schedule 1 to, the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)); to section 67 by section 58(1) of, and Part III of Schedule 15 to, the Finance Act 1976 (c.40). Section 86 was substituted by section 46(1) of the Finance (No. 2) Act 1975 (c.45) and section 100(9) was amended by section 40 of, and paragraph 4(1) of Schedule 5 to, the Northern Ireland Constitution Act 1973 (c.36).

(b) 1890 c.21.

Regulation 20

SCHEDULE

PART I

TABLE

<i>Provision applied</i>	<i>Modifications</i>
Section 23(1)	—
	(2) For the words “five shillings” substitute “25 pence”.
	(3) For the word ““security”” substitute ““securities””; and for the words “includes shares, stock, debentures and debenture stock” substitute “means chargeable securities”.
25(1)	For the words “chargeable gains an inspector” substitute “relevant transactions the Board”; and omit the words “in writing”.
	(2) —
	(3) —
	(4) For the words “a stock exchange in the United Kingdom” substitute “The Stock Exchange”.
	(5) For the words “a stock exchange in the United Kingdom” substitute “The Stock Exchange”; and omit the words “after 5th April 1968 and”.
	(8) —
	(9) For the words ““company”” to the end substitute ““shares or securities” means chargeable securities and “company” shall be construed accordingly”.
26(1)	For the words “chargeable gains” substitute “relevant transactions”; omit the words “in writing”; and omit the words “or an inspector”.
	(2) For the words “include” to the end substitute “are references to chargeable securities”.
50(3)	For the words “assessment or other decision” substitute “determination”.
	(4) Before the word “Commissioners” insert “Special”.
	(5) Before the word “Commissioners” insert “Special”; and for the proviso substitute “(5A). On the hearing of an appeal before them, the Special Commissioners may allow the appellant to put forward any ground of appeal not specified in the notice of appeal and take it into account if satisfied that the omission was not wilful or unreasonable”.
	(6) For subsection (6) substitute “The Special Commissioners shall on an appeal to them confirm the determination appealed against unless they are satisfied that the determination ought to be varied or quashed”.
51(1)	Before the word “Commissioners” in both places in which it occurs insert “Special”; and omit the words “an inspector or”.
	(2) Before the word “Commissioners” insert “Special”.
52(1)	—
	(2) Before the word “Commissioners” in both places in which it occurs insert “Special”.
	(3) Before the word “Commissioners” insert “Special”.

-
- 53(1) Before the word "Commissioners" in the first and last place in which it occurs insert "Special"; and omit the words "by whom" to the end.
- (2) Before the word "Commissioners" insert "Special".
- (3) Omit the words "in an assessment".
- 61 —
- 63(1) Before the word "sheriff" in the first place in which it occurs insert "the"; omit the words "or sheriff substitute for the county"; and omit the words "and any person who has made default" to the end.
- (2) For the words "the sheriff officers of the county" substitute "a sheriff officer".
- (3) —
- (4) —
- (5) For the words "two shillings" substitute "10 pence".
- (6) —
- (7) Omit the words "of the county, or his substitute"; omit the words "or sheriff substitute"; and for the words "one shilling" substitute "5 pence".
- (8) Omit the words "or sheriff substitute".
- (9) —
- (10) —
- 65(1) In paragraph (a) omit the words "under any assessment" and the word "or"; and omit paragraph (b).
- (4) —
- 66(1) Omit the words "under any assessment".
- (2) —
- (2A) —
- (3) —
- (4) —
- 67(1) Omit the words "under any assessment".
- (2) —
- 68 —
- 69 For the words "Part IX of this" substitute "the"; omit the words "charged and"; and omit the words "under the assessment" to the end.
- 71(2) For the words "chargeable to" substitute "accountable or liable for"; omit the word "income"; for the words "Income Tax Acts" substitute "Act"; and omit the words "for the purpose of the assessment of the body".
- (3) Omit the word "income"; for the words "charged on the body" substitute "for which the body is accountable or liable"; and for the words "Income Tax Acts" substitute "Act".
- 72(1) For the words "assessable and chargeable to income" substitute "accountable or liable for"; and for the words "assessed and charged" substitute "accountable or liable".

- (2) For the word “chargeable” substitute “accountable or liable”; for the words “Income Tax Acts” substitute “Act”; and for the words “of assessment and payment of income tax” substitute “thereof”.
- (3) For the words “has been charged” substitute “is accountable or liable”; for the words “Income Tax Acts” in both places in which they occur substitute “Act”; and for the word “charged” substitute “for which he is accountable or liable”.
- 73 For the words “chargeable to income” substitute “accountable or liable for”.
- 74(1) For the words “chargeable to income” substitute “accountable or liable for”; and for the words “chargeable on such deceased person” substitute “for which such deceased person is accountable or liable”.
- (2) —
- 78(1) Omit the words from the beginning to “(Schedule A etc.)”; omit the words “whether a British subject or not”; for the words “assessable and chargeable to income” substitute “accountable or liable for”; omit the words from “whether the branch” to “or gains or not”; for the words “assessed and charged” substitute “accountable or liable”; and omit the words from “and in the actual receipt” to the end.
- 83(1) For the words “in whose name” substitute “who is accountable or liable in respect of”; omit the words “is chargeable”; for the words “Income Tax Acts” substitute “Act”; and for the words “of assessment and payment of income tax” substitute “thereof”.
- (2) For the words “has been charged” substitute “is accountable or liable”; for the words “Income Tax Acts” in both places in which they occur substitute “Act”; and for the word “charged” substitute “for which he is accountable or liable”.
- 86(1) Omit the words “charged by an assessment”; and for the word “reckonable” substitute “accountable”.
- (2) For paragraphs (a), (b), (c) and (d) substitute “stamp duty reserve tax”.
- (5) Omit the words “charged by an assessment” and for the word “reckonable” substitute “accountable”.
- (6) For the words “tax charged by any assessment” substitute “total tax due and payable by an accountable person on an accountable date”; and for the words “£30” substitute “£10”.
- 89(1) For the words after “means” substitute “the rate which is the appropriate rate for the purposes of section 92(2) of the Act(a)”.
- (3) —
- 90 —
- 93(1) For the words “has been required” to “with the notice” substitute “fails to give a notice which he is required to give under regulation 4 of The Stamp Duty Reserve Tax Regulations 1986”.
- (2) For the words “the year of assessment following” to “notice was served” substitute “a period of one year beginning on the last day on which the notice should have been given”; omit the word “total”; omit the word “with”; and for the words “is charged” to the end substitute “should have paid by the date by which he should have given the notice.”

(a) 1986 c.41. With effect from 27th October 1986 8.5 per cent. per annum (S.I. 1986/1710).

- (5) For the words “comply with” substitute “give”.
- 95(1) In paragraph (a) for the word “delivers” substitute “gives”; and for the words “return” to “wife” substitute “notice under regulation 4 of The Stamp Duty Reserve Tax Regulations 1986”; in paragraph (b) omit the word “return”; after the word “in” in the first place in which it occurs insert the words “or in”; omit the words “for any allowance, deduction or relief”; and for the words “income tax or capital gains” substitute “stamp duty reserve”; omit paragraph (c).
- (2) In paragraph (a) for the words “income tax and capital gains” substitute “stamp duty reserve”; omit the words “for” to “assessment”; and omit the words “including” to “repayable”; in paragraph (b) for the word “return” substitute “notice”; after the word “statement” insert “or”; omit the words “or accounts”; after the word “as” insert “given or”; and omit the words “or submitted”.
- 97(1) For the word “return” in both places in which it occurs substitute “notice”; after the word “statement” in both places in which it occurs insert “or”; omit the words “or accounts” in both places in which they occur; for the words “sections 95 and 96” substitute “section 95”; for the words “made or submitted” in both places in which they occur substitute “given or made”; and for the words “those sections” substitute “that section”.
- 98 Omit the provisions specified in the first and second columns of the Table and insert the following provisions—
- | | |
|---|---|
| Section 23 of this Act | The Stamp Duty Reserve Tax Regulations 1986 |
| Section 25 (1), (2), (3), (4), (5), (8) and (9) of this Act | (other than regulation 4) |
| Section 26 of this Act | |
| Section 51 of this Act | |
| The Stamp Duty Reserve Tax Regulations 1986 | |
- 99 For the words “making or delivery” substitute “giving”; omit the words “for any purposes of tax”; and for the words “return or accounts” substitute “notice under regulation 4 of The Stamp Duty Reserve Tax Regulations 1986”.
- 100(1) Omit the words from the beginning to “section”; and for the words “the Taxes Acts” substitute “this Act”.
- (2) —
- (3) Omit the words from “except” to “Acts”; omit the word “either”; and omit the words “General or”.
- (5) —
- (6) For the word “any” in the second place in which it occurs substitute “the Special”.
- (7) For the word “any” in the first place in which it occurs substitute “the Special”; and omit the words “charged in an assessment and”.
- (9) —
- 101 For the word “assessment” substitute “notice under regulation 6 of The Stamp Duty Reserve Tax Regulations 1986”; after the word “varied” insert “or quashed”; for the word “any” in the

second place in which it occurs substitute “the Special”; and for the word “that” to the end substitute “of the matters specified”.

- 102 —
- 103(1) For the words “the Taxes Acts” substitute “this Act”.
- (2) Omit the words “covered by any assessment” in both places in which they occur.
- 104 For the words “the Taxes Acts” substitute “this Act”; and for the word “misdemeanour” substitute “offence”.
- 105 —
- 108(1) For the words “Taxes Acts” in both places in which they occur substitute “Act”; and omit the words “This subsection” to the end.
- (2) For the words from the beginning to “on” substitute “Tax for which”; and after the word “Charter” insert “is accountable or liable”.
- (3) —
- 111(1) Omit the words “Capital Gains Tax”; the words “1979”; and omit the words “inspector or other” in both places in which they occur.
- (2) Omit the words “inspector or other”; and for the words “£5” substitute “level 1 on the standard scale as defined in section 75 of the Criminal Justice Act 1982(a).”.
- 114(1) For the words “An assessment” substitute “A notice of determination”; for the words “Taxes Acts” in both places in which they occur substitute “Act”; omit the words “or property charged or”; and the words “charged or”.
- (2) For the words “An assessment” substitute “A notice of determination”; in paragraph (a)(i) omit the word “liable”; in paragraph (a)(ii) for the words “the description of any profits or property” substitute “any matter specified therein”; and omit the word “or”; omit paragraph (a)(iii); omit paragraph (b).
- 118(1) Omit the following expressions and the words which occur after them:
- “the Board”
- “chargeable gain”
- “chargeable period”
- “inspector”
- “return”
- “tax”
- “the Taxes Acts”
- “trade”; and
- in the words which occur after the expression “neglect” for the words “Taxes Act” substitute “Act”.
- (2) Before the word “Commissioners” insert “Special”; and after the word “deemed” in the second place in which it occurs insert “not to have failed to do it unless the excuse ceased and, after the excuse ceased, he shall be deemed”.

(a) 1982 c.48; extended to Northern Ireland as amended by Article 19(1) of, and paragraph 28 of Schedule 6 to, the Fines and Penalties (Northern Ireland) Order 1984 (S.I. 1984/703(N.I.3)).

PART II

TAXES MANAGEMENT ACT 1970

PART III

OTHER RETURNS AND INFORMATION

23.— (1) The Board may cause to be served upon any body corporate a notice requiring them to deliver to the Board within a specified time, being not less than twenty-one days, a copy, certified by a duly authorised officer of such body, of the whole of, or any specified class of entries in, any register containing the names of the holders of any securities issued by them.

Power to obtain copies of registers of securities.

(2) On delivery of the copy in accordance with the notice payment shall be made therefor at the rate of 25 pence in respect of each one hundred entries.

(3) In this section “securities” means chargeable securities, and “entry” means, in relation to any register, so much thereof as relates to the securities held by any one person.

25.— (1) For the purpose of obtaining particulars of relevant transactions the Board may by notice require a return under any of the provisions of this section.

Issuing houses, stockbrokers, etc.

(2) An issuing house or other person carrying on a business of effecting public issues of shares or securities in any company, or placings of shares or securities in any company, either on behalf of the company, or on behalf of holders of blocks of shares or securities which have not previously been the subject of a public issue or placing, may be required to make a return of all such public issues or placings effected by that person in the course of the business in the period specified in the notice requiring the return, giving particulars of the persons to or with whom the shares or securities are issued, allotted or placed, and the number or amount of the shares or securities so obtained by them respectively.

(3) A person not carrying on such a business may be required to make a return as regards any such public issue or placing effected by that person and specified in the notice, giving particulars of the persons to or with whom the shares or securities are issued, allotted, or placed and the number or amount of the shares or securities so obtained by them respectively.

(4) A member of The Stock Exchange, other than a market maker, may be required to make a return giving particulars of any transactions effected by him in the course of his business in the period specified in the notice requiring the return and giving particulars of—

- (a) the parties to the transactions,
- (b) the number or amount of the shares or securities dealt with in the respective transactions, and
- (c) the amount or value of the consideration.

(5) A person (other than a member of The Stock Exchange) who acts as an agent or broker in the United Kingdom in transactions in shares or securities may be required to make a return giving particulars of any such transactions effected by him in the period specified in the notice, and giving particulars of—

- (a) the parties to the transactions,
- (b) the number or amount of the shares or securities dealt with in the respective transactions, and
- (c) the amount or value of the consideration.

(8) No person shall be required under this section to include in a return particulars of any transaction effected more than three years before the service of the notice requiring him to make the return.

(9) In this section “shares or securities” means chargeable securities and “company” shall be construed accordingly.

Nominee
shareholders.

26.— (1) If, for the purpose of obtaining particulars of relevant transactions, any person in whose name any shares of a company are registered is so required by notice by the Board, he shall state whether or not he is the beneficial owner of those shares and, if not the beneficial owner of those shares or any of them, shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name.

(2) In this section references to shares are references to chargeable securities.

PART V

APPEAL AND OTHER PROCEEDINGS

Procedure before Special Commissioners

Procedure

50.— (3) Any officer of the Board may attend every appeal, and shall be entitled—

- (a) to be present during all the time of the hearing and at the determination of the appeal, and
- (b) to give reasons in support of the determination against which the appeal is made.

(4) If it is shown to the satisfaction of the Special Commissioners that owing to absence, sickness or other reasonable cause any person has been prevented from attending at the hearing of an appeal on the day fixed for that purpose, they may postpone the hearing of his appeal for such reasonable time as they think necessary, or may admit the appeal to be made by any agent, clerk or servant on his behalf.

(5) Upon any appeal the Special Commissioners shall permit any barrister or solicitor to plead before them on behalf of any party to the

appeal, either orally or in writing, and shall hear any accountant, that is to say, any person who has been admitted a member of an incorporated society of accountants.

(5A) On the hearing of an appeal before them, the Special Commissioners may allow the appellant to put forward any ground of appeal not specified in the notice of appeal and take it into account if satisfied that the omission was not wilful or unreasonable.

(6) The Special Commissioners shall on an appeal to them confirm the determination appealed against unless they are satisfied that the determination ought to be varied or quashed.

51.— (1) The Special Commissioners may at any time before the determination of an appeal give notice to the appellant or other party to the proceedings (not being the Board) requiring him within the time specified in the notice—

Power of Special Commissioners to obtain information from appellant.

- (a) to deliver to them such particulars as they may require for the purpose of determining the appeal, and
- (b) to make available for inspection by them, or by any officer of the Board, all such books, accounts or other documents in his possession or power as may be specified or described in the notice, being books, accounts or other documents which, in the opinion of the Special Commissioners issuing the notice, contain or may contain information relating to the subject matter of the proceedings.

(2) Any officer of the Board may, at all reasonable times, inspect and take copies of, or extracts from, any particulars delivered under subsection (1)(a) above; and the Special Commissioners or any officer of the Board may take copies of, or extracts from, any books, accounts, or other documents made available for their or his inspection under subsection (1)(b) above.

52.— (1) Any party to an appeal shall be entitled to adduce any lawful evidence. Evidence.

(2) The Special Commissioners may summon any person (other than the appellant) to appear before them and give evidence, and a witness before the Special Commissioners may be examined on oath:

Provided that any agent or servant of the appellant, and any other person confidentially employed in the affairs of the appellant, may refuse to be sworn or to answer any question to which he objects.

(3) A person who after being duly summoned—

- (a) neglects or refuses to appear before the Special Commissioners at the time and place appointed for that purpose, or

(b) appears, but refuses to be sworn, or

(c) refuses to answer any lawful question concerning the matters under consideration,

shall incur a penalty not exceeding £50:

Provided that the penalty imposed in respect of any offence under paragraph (b) or paragraph (c) of this subsection shall not apply to any such person as is within the proviso to subsection (2) above.

Summary
award of
penalties.

53.— (1) Any penalty incurred by any person for a failure to comply with a notice under section 51 above, or incurred by any person under section 52 above, may be awarded summarily by the Special Commissioners notwithstanding that no proceedings for its recovery have been commenced, and accordingly section 98 of this Act shall have effect, in relation to a penalty so awarded, as if subsection (3) were omitted and the reference in subsection (1)(ii) to the Commissioners before whom proceedings for the penalty have been commenced were a reference to the Special Commissioners.

(2) An appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from the award of any penalty under this section, and on any such appeal the court may either confirm or reverse the decision of the Special Commissioners or reduce or increase the sum awarded.

(3) Any penalty awarded by virtue of this section shall for all purposes be treated as if it were tax charged and due and payable.

PART VI

COLLECTION AND RECOVERY

Distrain and poinding

Distrain by
collectors.

61.— (1) If a person neglects or refuses to pay the sum charged, upon demand made by the collector, the collector shall, for non-payment thereof, distrain upon the lands, tenements and premises in respect of which the tax is charged, or distrain the person charged by his goods and chattels, and all such other goods and chattels as the collector is hereby authorised to distrain.

(2) For the purpose of levying any such distress, a collector may, after obtaining a warrant for the purpose signed by the General Commissioners, break open, in the daytime, any house or premises, calling to his assistance any constable.

Every such constable shall, when so required, aid and assist the collector in the execution of the warrant and in levying the distress in the house or premises.

(3) A levy or warrant to break open shall be executed by, or under the direction of, and in the presence of, the collector.

(4) A distress levied by the collector shall be kept for five days, at the costs and charges of a person neglecting or refusing to pay.

(5) If the person aforesaid does not pay the sum due, together with the costs and charges within the said five days, the distress shall be appraised by two or more inhabitants of the parish in which the distress is taken, or by other sufficient persons, and shall be sold by public auction by the collector for payment of the sum due and all costs and charges.

The costs and charges of taking, keeping, and selling the distress shall be retained by the collector, and any overplus coming by the distress, after the deduction of the costs and charges and of the sum due, shall be restored to the owner of the goods distrained.

63. In Scotland, the following provisions shall have effect—

Recovery in
Scotland.

(1) Upon certificate made to them by the collector that any tax is due and not paid, the General Commissioners, or the sheriff, shall issue a warrant for the collector recovering the said tax by pointing the goods and effects of any person entered in the certificate as being a defaulter:

(2) The warrant shall be executed by a sheriff officer:

(3) The goods and effects so pointed shall be detained and kept on the ground, or at the house where the same were pointed, or in such other place of which the owner shall have notice, near to the said ground or house, as the officer so pointing the same shall think proper, for the space of five days, during which time the said goods and effects shall remain in the custody of the said officer, and liable to the payment of the whole tax in arrear and to the costs to be paid to the officer who pointed the same as hereinafter directed, unless the owner from whom the same were pointed shall redeem the same, within the said space of five days, by payment to the officer of the said tax in arrear and costs, to be settled in the same manner as if the said goods and effects had been sold as hereinafter directed:

(4) The goods and effects so pointed shall, after the expiration of the said five days, be valued and appraised by any two persons to be appointed by the officer (which two persons shall be obliged to value the same, under the penalty of £2 for each neglect or refusal), and shall be sold and disposed of, at a sum not less than the value, by the officer who does point the same:

(5) The value shall be applied, in the first place to the satisfaction and payment of the tax owing by the person whose goods are so pointed, and, in the second place, to the payment for the trouble of the officer so pointing, at the rate of 10 pence per pound of the tax for which the goods shall be so pointed unless the owner from whom the same were pointed shall redeem the same by payment of the appraised value, within the space of five days after the valuation, to the officer who pointed the same:

(6) In case any surplus remains of the price or value, after payment of the said tax, and after payment of what is allowed to be retained by the officer in manner herein directed, such surplus shall be returned to the owner from whom the goods were pointed:

(7) In case no purchaser appears at the said sale, then the said goods and effects, so poinded, shall be consigned and lodged in the hands of the sheriff, and if not redeemed by the owner within the space of five days after the consignment in the hands of the said sheriff, the same shall be roup'd, sold, and disposed of by order of the sheriff, in such manner, and at such time and place, as he shall appoint, he always being liable to the payment of the tax to the collector, and to payment to the officer who shall have poinded the same, for his trouble and expense, as before stated, and to the fees due to the officer, and being, in the third place, entitled to 5 pence per pound of the value of the goods so disposed of, for his own pains and trouble, after preference and allowance of the said tax, and of what is appointed to be paid to the officer for his trouble:

(8) There shall also be allowed, to the officer so poinding, the expense of preserving the said goods and effects, and of maintaining the cattle, if there should happen to be any among the goods and effects so poinded, from the time of poinding the same, during the period allowed to the owner to redeem them, and also the expense of the sale; and in like manner the expense shall be allowed to the sheriff, for preserving and maintaining the goods or cattle poinded, during the period that the owner is allowed to redeem, after consignment in his hands, and until the sale thereof, and also the expense of the sale:

(9) Every auctioneer, or seller by commission, selling by auction, in Scotland, any goods or effects whatsoever by any mode of sale at auction, shall, at least three days before he begins any sale by way of auction, deliver or cause to be delivered to the collector a notice in writing, signed by such auctioneer or seller by auction, specifying therein the particular day when such sale is to begin, and the name and surname of the person whose goods and effects are to be sold, with his place of residence:

(10) If any such auctioneer or seller by auction shall sell any such goods and effects by way of auction, without delivering the notice hereinbefore required to be delivered, every such auctioneer, or person selling by auction, offending therein shall, for every such offence, incur a penalty of £50.

Court proceedings

Magistrates' Courts. 65.— (1) Where—

(a) the amount of any tax for the time being due and payable is less than £250

the tax shall, without prejudice to any other remedy, be recoverable summarily as a civil debt by proceedings commenced in the name of a collector.

(4) It is hereby declared that in subsection (1) above the expression "recoverable summarily as a civil debt" in respect of proceedings in Northern Ireland means recoverable in proceedings under Article 62 of the Magistrates' Courts (Northern Ireland) Order 1981.

66.— (1) Where the amount of tax for the time being due and payable does not exceed the county court limit, the tax may, without prejudice to any other remedy, be sued for and recovered from the person charged therewith as a debt due to the Crown by proceedings in a county court commenced in the name of a collector. County courts.

(2) An officer of the Board who is authorised by the Board to do so may address the court in any proceedings under this section in a county court in England and Wales.

(2A) In subsection (1) of this section “the county court limit” means the amount which for the time being is the county court limit for the purposes of section 16 of the County Courts Act 1984.

(3) In the application of subsection (1) of this section to Northern Ireland, for the reference to the county court limit there shall be substituted a reference to the limit specified in Article 10(1) of the County Courts (Northern Ireland) Order 1980, and in this section as it applies in Northern Ireland the expression “county court” shall mean a county court held for a division under that Order.

(4) Sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this section, and Part III of the County Courts (Northern Ireland) Order 1980 (general civil jurisdiction) shall apply for the purposes of this section in Northern Ireland.

67.— (1) In Scotland, where the amount of tax for the time being due and payable does not exceed the sum for the time being specified in section 35(1)(a) of the Sheriff Courts (Scotland) Act 1971 the tax may, without prejudice to any other remedy, be sued for and recovered from the person charged therewith as a debt due to the Crown by proceedings commenced in the name of a collector in the sheriff court. Inferior courts in Scotland.

(2) Sections 65 and 66 above shall not apply in Scotland.

68.— (1) Any tax may be sued for and recovered from the person charged therewith in the High Court as a debt due to the Crown, or by any other means whereby any debt of record or otherwise due to the Crown can, or may at any time, be sued for and recovered, as well as by the other means specially provided by this Act for levying the tax. High Court, etc.

(2) All matters within the jurisdiction of the High Court under this section shall be assigned in Scotland to the Court of Session sitting as the Court of Exchequer.

Supplemental

69. Interest charged under the Act shall be treated for the purposes— Interest on tax.

(a) of sections 61, 63 and 65 to 68 above, and

(b) of section 35(2)(g)(i) of the Crown Proceedings Act 1947 (rules of court to impose restrictions on set-off and counterclaim where

the proceedings or set-off or counterclaim relate to taxes) and of any rules of court (including county court rules) for England and Wales or Northern Ireland, which impose such a restriction, and

- (c) of section 35(2)(b) of the said Act of 1947 as set out in section 50 of that Act (which imposes corresponding restrictions in Scotland),

as if it were tax due and payable.

PART VII

PERSONS CHARGEABLE IN A REPRESENTATIVE CAPACITY, ETC

Bodies of persons.

71.— (2) Subject to section 108 of this Act, the chamberlain or other officer acting as treasurer, auditor or receiver for the time being of any body of persons accountable or liable for tax shall be answerable for doing all such acts as are required to be done under the Act and for payment of the tax.

(3) Every such officer as aforesaid may from time to time retain, out of any money coming into his hands on behalf of the body, so much thereof as is sufficient to pay the tax for which the body is accountable or liable, and shall be indemnified for all such payments made in pursuance of the Act.

Trustees, guardians, etc., of incapacitated persons.

72.— (1) The trustee, guardian, tutor, curator or committee of any incapacitated person having the direction, control or management of the property or concern of any such person, whether such person resides in the United Kingdom or not, shall be accountable or liable for tax in like manner and to the like amount as that person would be accountable or liable if he were not an incapacitated person.

(2) The person who is accountable or liable in respect of an incapacitated person shall be answerable for all matters required to be done under the Act for the purpose thereof.

(3) Any person who is accountable or liable under the Act in respect of any incapacitated person as aforesaid may retain, out of money coming into his hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the tax for which he is accountable or liable, and shall be indemnified for all such payments made in pursuance of the Act.

Further provision as to infants.

73. If a person accountable or liable for tax is an infant, then his parent, guardian or tutor—

- (a) shall be liable for the tax in default of payment by the infant, and
 (b) on neglect or refusal of payment, may be proceeded against in like manner as any other defaulter, and
 (c) if he makes such payment, shall be allowed all sums so paid in his accounts.

74.— (1) If a person accountable or liable for tax dies, the executor or administrator of the person deceased shall be liable for the tax for which such deceased person is accountable or liable, and may deduct any payments made under this section out of the assets and effects of the person deceased. Personal representatives.

(2) On neglect or refusal of payment, any person liable under this section may be proceeded against in like manner as any other defaulter.

PART VIII

CHARGES ON NON-RESIDENTS

78.— (1) A person not resident in the United Kingdom shall be accountable or liable for tax in the name of any such trustee, guardian, tutor, curator or committee as is mentioned in section 72 of this Act, or of any branch or agent, in like manner and to the like amount as such non-resident person would be accountable or liable if he were resident in the United Kingdom. Method of charging non-residents

83.— (1) A person who is accountable or liable in respect of a non-resident person shall be answerable for all matters required to be done under the Act for the purpose thereof. Responsibilities and indemnification of persons in whose name a non-resident person is chargeable.

(2) A person who is accountable or liable under the Act in respect of any non-resident person as aforesaid may retain, out of money coming into his hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the tax for which he is accountable or liable, and shall be indemnified for all such payments made in pursuance of the Act.

PART IX

INTEREST ON OVERDUE TAX

86.— (1) Any tax to which this section applies shall carry interest at the prescribed rate from the accountable date until payment. Interest on overdue tax.

(2) This section applies to stamp duty reserve tax.

(5) Tax to which this section applies shall carry interest from the accountable date even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.

(6) Where the amount of interest payable under this section on the total tax due and payable by an accountable person on an accountable date does not exceed £10, that interest may, if the Board think fit, be remitted.

89.— (1) In this Part of this Act “the prescribed rate” means the rate which is the appropriate rate for the purposes of section 92(2) of the Act. The prescribed rate of interest.

(3) Any variation of the rate of interest prescribed under subsection (2) above shall apply to interest for periods beginning on or after the date when the order is expressed to come into force, whether or not interest runs from before that date.

Disallow-
ance of relief
for interest
on tax. **90.** Interest payable under this Part of this Act shall be paid without any deduction of income tax and shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.

PART X

PENALTIES, ETC.

Failure to
give notice
for stamp
duty reserve
tax. **93.—** (1) If any person fails to give a notice which he is required to give under regulation 4 of The Stamp Duty Reserve Tax Regulations 1986 he shall be liable, subject to the provisions of this section—

- (a) to a penalty not exceeding, except in the case mentioned in subsection (2) below, £50, and
- (b) if the failure continues after it has been declared by the court or Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £10 for each day on which the failure so continues.

(2) If the failure continues after the end of a period of one year beginning on the last day on which the notice should have been given, the penalty under subsection (1)(a) above shall be an amount not exceeding the aggregate of £50 and the amount of the tax which the said person should have paid by the date by which he should have given the notice.

(5) Except in the case mentioned in subsection (2) above, a person shall not be liable to any penalty incurred under this section for a failure to give any notice, if the failure is remedied before proceedings for the recovery of the penalty are commenced.

Incorrect no-
tice, etc. for
stamp duty
reserve tax. **95.—** (1) Where a person fraudulently or negligently—

- (a) gives any incorrect notice under regulation 4 of The Stamp Duty Reserve Tax Regulations 1986, or
- (b) makes any incorrect statement or declaration in, or in connection with, any claim in respect of stamp duty reserve tax,

he shall be liable to a penalty not exceeding the aggregate of—

- (i) £50, and
- (ii) the amount, or, in the case of fraud, twice the amount, of the difference specified in subsection (2) below.

(2) The difference is that between—

- (a) the amount of stamp duty reserve tax payable by the said person, and

- (b) the amount which would have been the amount so payable if the notice, statement or declaration as given or made by him had been correct.

97.— (1) Where any such notice, statement or declaration as are mentioned in section 95 above were given or made by any person neither fraudulently nor negligently and it comes to his notice (or, if he has died, to the notice of his personal representatives) that they were incorrect, then, unless the error is remedied without unreasonable delay, the notice, statement or declaration shall be treated for the purposes of that section as having been negligently given or made by him.

Incorrect notice; supplemental.

98.— (1) Where any person—

- (a) has been required, by a notice served under or for the purposes of any of the provisions specified in the first column of the Table below, to deliver any return or other document, to furnish any particulars, to produce any document, or to make anything available for inspection, and he fails to comply with the notice, or

Special returns, etc.

- (b) fails to furnish any information, give any certificate or produce any document or record in accordance with any of the provisions specified in the second column of the Table below,

he shall be liable, subject to subsection (3) below—

- (i) to a penalty not exceeding £50, and
(ii) if the failure continues after it has been declared by the court or Commissioners before whom proceedings for the penalty have been commenced, to a further penalty not exceeding £10 for each day on which the failure so continues.

(2) Where a person fraudulently or negligently furnishes, gives, produces or makes any incorrect information, certificate, document, record or declaration of a kind mentioned in any of the provisions specified in either column of the Table below, he shall be liable to a penalty not exceeding £250, or, in the case of a fraud, £500.

(3) A person shall not be liable to any penalty incurred under this section for a failure to comply with any notice, if the failure is remedied before proceedings for the recovery of the penalty are commenced.

TABLE

1	2
Section 23 of this Act	The Stamp Duty Reserve Tax Regulations 1986 (other than regulation 4)
Section 25(1), (2), (3), (4), (5), (8) and (9) of this Act	
Section 26 of this Act	
Section 51 of this Act	
The Stamp Duty Reserve Tax Regulations 1986	

Assisting in giving incorrect notice, etc. **99.** Any person who assists in or induces the giving of any notice under regulation 4 of The Stamp Duty Reserve Tax Regulations 1986 which he knows to be incorrect shall be liable to a penalty not exceeding £500.

Procedure for recovery of penalties. **100.—** (1) No proceedings shall be commenced against any person for the recovery of any penalty under this Act except by order of the Board.

(2) Any such proceedings which are not instituted (in England, Wales or Northern Ireland) under the Crown Proceedings Act 1947 by and in the name of the Board as an authorised department for the purposes of that Act shall be instituted in the name of an officer, or—

- (a) in England and Wales, in the name of the Attorney General,
- (b) in Scotland, in the name of the Lord Advocate, and
- (c) in Northern Ireland, in the name of the Attorney General for Northern Ireland.

(3) Any such proceedings may be commenced before the Special Commissioners, or

- (a) in England, Wales or Northern Ireland, in the High Court,
- (b) in Scotland, in the Court of Session as the Court of Exchequer in Scotland,

and any proceedings commenced as mentioned in paragraph (a) of this subsection shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947 or, as the case may be, that Part as for the time being in force in Northern Ireland.

(5) Where the person who has incurred any penalty has died, any proceedings under this section which have been or could have been commenced against him may be continued or commenced against his personal representatives, and any penalty awarded in proceedings so continued or commenced shall be a debt due from and payable out of his estate; but nothing in this subsection shall extend the time for commencing proceedings against personal representatives.

(6) Where any proceedings under this section are brought before the Special Commissioners, an appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from their decision—

- (a) by any party, on a question of law, and
- (b) by the defendant (or, in Scotland, the defender) against the amount of any penalty awarded,

and on any appeal under paragraph (b) above the court may either confirm the decision or reduce or increase the sum awarded.

(7) Proceedings under this section before the Special Commissioners shall be by way of information in writing, made to them, and upon

summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons, and they shall hear and determine each case in a summary way; and any penalty awarded by them in such proceedings shall for all purposes be treated as if it were tax due and payable.

(9) The Secretary of State may, if he thinks fit, appoint some other person to act instead of the Attorney General for Northern Ireland in relation to any matters to which this section relates, and in that case the reference in this section to the Attorney General for Northern Ireland shall be construed as a reference to the person so appointed.

101. For the purposes of the preceding provisions of this Part of this Act, any notice under regulation 6 of The Stamp Duty Reserve Tax Regulations 1986 which can no longer be varied or quashed by the Special Commissioners on appeal or by order of any court shall be sufficient evidence of the matters specified.

Evidence for purposes of preceding provisions of Part X.

102. The Board may in their discretion mitigate any penalty, or stay or compound any proceedings for recovery thereof, and may also, after judgment, further mitigate or entirely remit the penalty.

Mitigation of penalties.

103.— (1) Proceedings for the recovery of any penalty incurred under this Act in connection with or in relation to tax may be commenced at any time within six years next after the date on which it was incurred, or at any later time allowed under the following provisions of this section.

Time limit for recovery of penalties.

(2) Proceedings for the recovery of any penalty from any person in connection with or in relation to any tax may, where any form of fraud or wilful default has been committed by him or on his behalf in connection with or in relation to that tax, be commenced at any time within three years from the final determination of the amount of tax:

Provided that this subsection shall not extend the time for the bringing of any proceedings against the personal representatives of any person by whom or on whose behalf any form of fraud or wilful default has been committed.

104. The provisions of this Act shall not, save so far as is otherwise provided, affect any criminal proceedings for any offence.

Saving for criminal proceedings.

105.— (1) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (2) below by reason only that it has been drawn to his attention that—

Evidence in cases of fraud or wilful default.

(a) in relation to tax, the Board may accept pecuniary settlements instead of instituting proceedings, and

- (b) though no undertaking can be given as to whether or not the Board will accept such a settlement in the case of any particular person, it is the practice of the Board to be influenced by the fact that a person has made a full confession of any fraud or default to which he had been a party and has given full facilities for investigation,

and that he was or may have been induced thereby to make the statements or produce the documents.

- (2) The proceedings mentioned in subsection (1) above are—
- (a) any criminal proceedings against the person in question for any form of fraud or wilful default in connection with or in relation to tax, and
- (b) any proceedings against him for the recovery of any sum due from him, whether by way of tax or penalty, in connection with or in relation to tax.

PART XI

MISCELLANEOUS AND SUPPLEMENTAL

Companies

Responsi-
bility of
company
officers.

108.— (1) Everything to be done by a company under the Act shall be done by the company acting through the proper officer of the company, and service on a company of any document under or in pursuance of the Act may be effected by serving it on the proper officer.

(2) Tax for which a company which is not a body corporate, or which is a body corporate not incorporated under the Companies Act 1985 or any other enactment forming part of the law of the United Kingdom, or by Charter, is accountable or liable, may, at any time after the tax becomes due, and without prejudice to any other method of recovery, be recovered from the proper officer of the company, and that officer may retain out of any money coming into his hands on behalf of the company sufficient sums to pay that tax, and, so far as he is not so reimbursed, shall be entitled to be indemnified by the company in respect of the liability so imposed on him.

- (3) For the purposes of this section—
- (a) the proper officer of a company which is a body corporate shall be the secretary or person acting as secretary of the company, except that if a liquidator has been appointed for the company the liquidator shall be the proper officer,
- (b) the proper officer of a company which is not a body corporate or for which there is no proper officer within paragraph (a) above, shall be the treasurer or the person acting as treasurer, of the company.

Valuation

111.— (1) If for the purposes of the Act the Board authorise an officer of the Board to inspect any property for the purpose of ascertaining its market value the person having the custody or possession of that property shall permit the officer so authorised to inspect it at such reasonable times as the Board may consider necessary.

Valuation of assets: power to inspect.

(2) If any person wilfully delays or obstructs an officer of the Board acting in pursuance of this section he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale as defined in section 75 of the Criminal Justice Act 1982.

Documents

114.— (1) A notice of determination, warrant or other proceeding which purports to be made in pursuance of any provision of the Act shall not be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of the Act, and if the person intended to be affected thereby is designated therein according to common intent and understanding.

Want of form or errors not to invalidate notice of determination, etc.

(2) A notice of determination shall not be impeached or affected—

(a) by reason of a mistake therein as to—

- (i) the name or surname of a person, or
- (ii) any matter specified therein.

Interpretation

118.— (1) In this Act, unless the context otherwise requires—

Interpretation.

“Act” includes an Act of the Parliament of Northern Ireland and “enactment” shall be construed accordingly,

“body of persons” means any body politic, corporate or collegiate, and any company, fraternity, fellowship and society of persons, whether corporate or not corporate,

“branch or agency” means any factorship, agency, receivership, branch or management, and “branch or agent” shall be construed accordingly,

“collector” means any collector of taxes,

“company” has the meaning given by section 526(5) of the principal Act (with section 354 of that Act),

“incapacitated person” means any infant, person of unsound mind, lunatic, idiot or insane person,

“neglect” means negligence or a failure to give any notice, make any return or to produce or furnish any document or other information required by or under the Act,

“the principal Act” means the Income and Corporation Taxes Act 1970.

(2) For the purposes of this Act, a person shall be deemed not to have failed to do anything required to be done within a limited time if he did it within such further time, if any, as the Board or the Special Commissioners or officer concerned may have allowed; and where a person had a reasonable excuse for not doing anything required to be done he shall be deemed not to have failed to do it unless the excuse ceased and, after the excuse ceased, he shall be deemed not to have failed to do it if he did it without unreasonable delay after the excuse had ceased.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations provide for the management of stamp duty reserve tax imposed by Part IV of the Finance Act 1986.

Regulation 1 gives the title and commencement date and Regulation 2 defines terms used.

Regulation 3 provides the date by which tax must be paid.

Regulation 4 provides for the giving of notice of charge to the Inland Revenue and for the payment of tax.

Regulation 5 enables the Inland Revenue to obtain information.

Regulation 6 enables the Inland Revenue to determine matters specified in a notice of determination.

Regulation 7 enables certain persons to claim to be relieved of liability to pay tax.

Regulations 8–10 provide for the giving of notices of appeal and late appeals.

Regulation 11 provides that interest shall be paid on overpaid tax that is repaid.

Regulation 12 provides for the recovery of tax and Regulation 13 makes provision in respect of underpayments of tax.

Regulation 14 provides for the repayment of tax overpaid together with any interest paid on such tax.

Regulation 15 provides that certain records shall be made available for inspection by the Inland Revenue.

Regulation 16 provides that certain certificates shall be admissible in evidence.

Regulation 17 provides that tax liability shall remain unaltered notwithstanding a subsequent legal decision or changed view of the law.

Regulation 18 provides for the recovery of over repayments of tax and overpayments of interest.

Regulation 19 provides for the service of documents.

Regulation 20 applies the provisions of Taxes Management Act 1970 specified in the first column of the Table in Part I of the Schedule to the Regulations, with the modifications specified in the second column of that Table. Those provisions, as modified where appropriate, are set out in Part II of the Schedule.

Regulation 21 disapplies certain provisions of the Inland Revenue Regulation Act 1890.

SI 1986/1711
ISBN 0-11-067711-0



780110677118