



Taxes Management Act 1970

1970 CHAPTER 9

PART IV

ASSESSMENT AND CLAIMS

Modifications etc. (not altering text)

- C1** Pt. 4 (ss. 29-43B) applied (with modifications) (6.4.1993) by [The Income Tax \(Sub-contractors in the Construction Industry\) Regulations 1993 \(S.I. 1993/743\)](#), [reg. 14\(2\)](#) (revoked (6.4.2007) by [S.I. 2005/2045](#), [Sch. 2](#))
- C2** Pt. 4 applied (with modifications) by [The Income Tax \(Employments\) Regulations 1993 \(S.I. 1993/744\)](#), [reg. 49\(7\)](#) (as amended (19.8.1999) by [The Income Tax \(Employments\) \(Amendment No. 3\) Regulations 1999 \(S.I. 1999/2155\)](#), [regs. 1\(1\), 7](#))
- C3** Pt. 4 applied (with modifications) (E.W.) (1.4.2000) by [Education \(Student Loans\) \(Repayment\) Regulations 2000 \(S.I. 2000/944\)](#), [regs. 1\(1\), 20\(1\), 45\(4\)](#)
- C4** Pt. 4 applied (with modifications) (N.I.) (1.4.2000) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2000 \(S.R. 2000/121\)](#), [regs. 1, 20\(1\), 45\(4\)](#)
- C5** Pt. IV applied (with modifications) (6.4.2000) by [The Tax Credits \(Payment by Employers\) Regulations 1999 \(S.I. 1999/3219\)](#), [regs. 1, 12\(5\)](#)

[^{F1}28A Amendment of self-assessment where enquiries made.

- (1) This section applies where an officer of the Board gives notice under section 9A(1) ^{F2}... of this Act to any person (the taxpayer) of his intention to enquire into—
 - (a) the return on the basis of which the taxpayer's self-assessment was made, or
 - (b) any amendment of that return on the basis of which an amendment (the taxpayer's amendment) of that assessment has been made by the taxpayer [^{F3}or
 - (c) any claim or election included in the return (by amendment or otherwise)].
- (2) If, at any time before the officer's enquiries are completed, the officer is of opinion that—

Status: Point in time view as at 06/04/2000.

Changes to legislation: Taxes Management Act 1970, PART IV is up to date with all changes known to be in force on or before 09 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the tax contained in the taxpayer's self-assessment is insufficient and, in a case falling within [^{F4}subsection (1)(b) or (c) above], the deficiency is attributable (wholly or partly) to the taxpayer's amendment, and
- (b) unless the assessment is immediately so amended as to make good the deficiency or, as the case may be, so much of the deficiency as is so attributable, there is likely to be a loss of tax to the Crown,
- he may by notice to the taxpayer amend the assessment accordingly.
- (3) At any time in the period of 30 days beginning with the day on which the officer's enquiries are completed, the taxpayer may so amend his self-assessment—
- (a) as to make good any deficiency or eliminate any excess which, on the basis of the conclusions stated in the officer's notice under subsection (5) below, is a deficiency or excess which could be made good or eliminated under subsection (4) below; or
- (b) in a case falling within subsection (1)(a) above where the return was made before the end of the period of twelve months beginning with the filing date, as to give effect to any amendments to the return which he has notified to the officer.
- (4) If, at any time in the period of 30 days beginning immediately after the period mentioned in subsection (3) above, the officer is of opinion that—
- (a) [^{F5}any amount set out in the return] is insufficient or excessive, and
- (b) in a case falling within [^{F6}subsection (1)(b) or (c) above], the deficiency or excess is attributable (wholly or partly) to the taxpayer's amendment,
- he may by notice to the taxpayer so amend the assessment as to make good or eliminate the deficiency or excess or, where paragraph (b) above applies, so much of the deficiency or excess as is so attributable.
- [If—
- ^{F7}(4A) (a) any claim or election is included in the return,
- (b) the officer is of opinion that the claim or election should be disallowed in whole or in part but that its disallowance to the extent he thinks appropriate would not require any amendment of the taxpayer's self-assessment, and
- (c) the claim or election, so far as the officer thinks it should be disallowed, is not, before the end of the period mentioned in subsection (3) above, amended to the officer's satisfaction or withdrawn,
- the officer shall, before the end of the period mentioned in subsection (4) above, give notice to the taxpayer of the extent to which he is disallowing the claim or election.
- (4B) Subsection (4A)(c) above is without prejudice to any provision by virtue of which any claim or election is irrevocable or unamendable.]
- (5) Subject to subsection (6) below, the officer's enquiries shall be treated as completed at such time as he by notice—
- (a) informs the taxpayer that he has completed his enquiries, and
- (b) states his conclusions as to the amount of tax which should be contained in the taxpayer's self-assessment [^{F8}and as to any claims or elections into which he has enquired].
- [^{F9}(6) At any time before a notice is given under subsection (5) above, the taxpayer may apply for a direction that the officer shall give such a notice within such period as may be specified in the direction.

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(6A) Subject to subsection (7) below, an application under subsection (6) above shall be heard and determined in the same way as an appeal against an amendment of a self-assessment under subsection (2) or (4) above.

(7) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that the officer has reasonable grounds for not giving the notice.]

[Where, in the case of any return made in respect of any chargeable period—
^{F10}(7A) (a) alternative methods are allowed by the Tax Acts for bringing amounts into account in that return,
(b) the return is made or amended using one of those methods,
(c) a return could have been made in that case using an alternative method, and
(d) an officer of the Board determines which of the alternative methods is to be used by the Board in relation to the taxpayer for that period,
any enquiry into that return or into an amendment of it shall be conducted, and this section shall have effect, as if the only method allowed for the purposes of the Tax Acts were the method determined by the officer.

(7B) For the purposes of subsection (7A) above the cases where the Tax Acts allow alternative methods for bringing amounts into account in a return are—

- (a) the case where those amounts may be brought into account either—
 - (i) in making a computation for the purposes of Case I or II of Schedule D; or
 - (ii) in making a computation for the purposes of any of Cases III to V of that Schedule;

^{F11} ...
^{F11}(b)

^{F12}(7C)]

[^{F13}(8) In this section “filing date” means the day mentioned in section 8(1A) or section 8A(1A) of this Act, as the case may be.]]

Textual Amendments

- F1** S. 28A inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [s. 188](#); [S.I. 1998/3173](#), art. 2
- F2** Words in s. 28A(1) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 8\(2\)](#), [Sch. 27 Pt. 3\(28\)](#); [S.I. 1998/3173](#), art. 2
- F3** S. 28A(1)(c) and preceding word inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 2](#)
- F4** Words in s. 28A(2)(a) substituted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 4\(1\)\(a\)](#)
- F5** Words in s. 28A(4)(a) substituted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 4\(1\)\(b\)](#)
- F6** Words in s. 28A(4)(b) substituted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 4\(1\)\(a\)](#)
- F7** S. 28A(4A)(4B) inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 4\(2\)](#)
- F8** Words in s. 28A(5)(b) inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 4\(1\)\(c\)](#)

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- F9** S. 28A(6)(6A)(7) substituted for s. 28A(6)(7) (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 22 para. 3](#)
- F10** S. 28A(7A)-(7C) inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 4\(3\)](#)
- F11** S. 28A(7B)(b) and preceding word repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 8\(3\)](#), [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2
- F12** S. 28A(7C) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 8\(4\)](#), [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2
- F13** S. 28A(8) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 8\(5\)](#); S.I. 1998/3173, art. 2

^{F14}**28AA** Amendment of return of profits made for wrong period.

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Textual Amendments

- F14** Ss. 28AA, 28AB repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 9](#), [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2

^{F14}**28AB** Provisions supplementary to section 28AA.

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Textual Amendments

- F14** Ss. 28AA, 28AB repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 9](#), [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2

^{F15}**28B** Amendment of partnership statement where enquiries made.

- (1) This section applies where an officer of the Board gives notice under section 12AC(1) of this Act to any person (the taxpayer) of his intention to enquire into—
- the return on the basis of which the taxpayer's partnership statement was made, or
 - any amendment of that return on the basis of which an amendment (the taxpayer's amendment) of that statement has been made by the taxpayer [^{F16}or
 - any claim or election included in the return (by amendment or otherwise)].
- (2) At any time in the period of 30 days beginning with the day on which the officer's enquiries are completed, the taxpayer may so amend his partnership statement—
- as to make good any deficiency or eliminate any excess which, on the basis of the conclusions stated in the officer's notice under subsection (5) below, is a deficiency or excess which could be made good or eliminated under subsection (3) below; or
 - in a case falling within subsection (1)(a) above where the return made before the end of the period of twelve months beginning with the filing date, as to give effect to any amendments to the return which he has notified to the officer.

Status: Point in time view as at 06/04/2000.

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- (3) If, at any time in the period of 30 days beginning immediately after the period mentioned in subsection (2) above, the officer is of opinion that—
- (a) any amount contained in the taxpayer’s partnership statement is insufficient or excessive, and
 - (b) in a case falling within [^{F17}subsection (1)(b) or (c) above], the deficiency or excess is attributable (wholly or partly) to the taxpayer’s amendment,
- he may by notice to the taxpayer so amend the statement as to make good or eliminate the deficiency or excess or, where paragraph (b) above applies, so much of the deficiency or excess as is so attributable.
- [^{F18}(4) Where a partnership statement is amended under this section, the officer shall by notice to each of the partners amend—
- (a) the partner’s self-assessment under section 9 of this Act, or
 - (b) the partner’s company tax return,
- so as to give effect to the amendments of the partnership statement.]
- (5) Subject to subsection (6) below, the officer’s enquiries shall be treated as completed at such time as he by notice—
- (a) informs the taxpayer that he has completed his enquiries, and
 - (b) states his conclusions as to the amounts which should be contained in the taxpayer’s partnership statement [^{F19}and as to any claims or elections into which he has enquired].
- (6) Subsections (6) and (7) of section 28A of this Act apply for the purposes of subsection (5) above as they apply for the purposes of subsection (5) of that section.
- [Where, in the case of any return made in relation to any period of account—
- ^{F20}(6A) (a) alternative methods are allowed by the Tax Acts for bringing amounts into account in that return,
- (b) the return is made or amended using one of those methods,
 - (c) a return could have been made in that case using an alternative method, and
 - (d) an officer of the Board determines which of the alternative methods is to be used by the Board in relation to the partnership for that period,
- any enquiry into that return or into an amendment of it shall be conducted, and this section shall have effect, as if the only method allowed for the purposes of the Tax Acts were the method determined by the officer.
- [^{F21}(6B) For the purposes of subsection (6A) above—
- (a) “period of account” has the same meaning as in section 12AB of this Act, and
 - (b) the cases where alternative methods are allowed by the Tax Acts are those specified in section 28A(7B) of this Act or paragraph 84(2) or (3) of Schedule 18 to the Finance Act 1998.]]

(7) In this section “filing date” means the day specified in the notice under subsection (2) or, as the case may be, subsection (3) of section 12AA of this Act.

(8) Any reference in this section to the taxpayer includes a reference to any predecessor or successor of his.]

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Textual Amendments

- F15** S. 28B inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [s. 189](#); [S.I. 1998/3173](#), art. 2
- F16** S. 28B(1)(c) and preceding word inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 2](#)
- F17** Words in s. 28B(3)(b) substituted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 5\(1\)\(a\)](#)
- F18** S. 28B(4) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 10\(2\)](#); [S.I. 1998/3173](#), art. 2
- F19** Words in s. 28B(5)(b) inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 5\(1\)\(b\)](#)
- F20** S. 28B(6A)(6B) inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 5\(2\)](#)
- F21** S. 28B(6B) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 10\(3\)](#); [S.I. 1998/3173](#), art. 2

[^{F22}28C Determination of tax where no return delivered.

- [^{F23}(1) This section applies where—
- (a) a notice has been given to any person under section 8 or 8A of this Act (the relevant section), and
 - (b) the required return is not delivered on or before the filing date.
- (1A) An officer of the Board may make a determination of the following amounts, to the best of his information and belief, namely—
- (a) the amounts in which the person who should have made the return is chargeable to income tax and capital gains tax for the year of assessment; and
 - (b) the amount which is payable by him by way of income tax for that year;
- and subsection (1AA) of section 8 or, as the case may be, section 8A of this Act applies for the purposes of this subsection as it applies for the purposes of subsection (1) of that section.]
- (2) Notice of any determination under this section shall be served on the person in respect of whom it is made and shall state the date on which it is issued.
- (3) Until such time (if any) as it is superseded by a self-assessment made under section 9^{F24}... of this Act (whether by the taxpayer or an officer of the Board) on the basis of information contained in a return under the relevant section, a determination under this section shall have effect for the purposes of Parts VA, VI, IX and XI of this Act as if it were such a self-assessment.
- (4) Where—
- (a) an officer of the Board has commenced any proceedings for the recovery of any tax charged by a determination under this section; and
 - (b) before those proceedings are concluded, the determination is superseded by such a self-assessment as is mentioned in subsection (3) above,
- those proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not been paid.

Status: Point in time view as at 06/04/2000.

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- (5) No determination under this section, and no self-assessment superseding such a determination, shall be made otherwise than—
- (a) before the end of the period of five years beginning with the filing date; or
 - (b) in the case of such a self-assessment, before the end of the period of twelve months beginning with the date of the determination.
- (6) In this section “the filing date” means the day mentioned in section 8(1A) [^{F25}or, as the case may be, section 8A(1A)] of this Act.]

Textual Amendments

- F22** S. 28C inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 190](#); [S.I. 1998/3173](#), art. 2
- F23** S. 28C(1)(1A) substituted for s. 28C(1) (with effect in accordance with s. 121(8) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 125\(1\)](#)
- F24** Words in s. 28C(3) repealed (with effect in accordance with s. 121(8) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 125\(2\)](#), [Sch. 41 Pt. 5\(6\)](#)
- F25** Words in s. 28C(6) substituted (with effect in accordance with s. 121(8) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 125\(3\)](#)

Modifications etc. (not altering text)

- C6** S. 28C excluded (E.W.) (1.4.2000) by [Education \(Student Loans\) \(Repayment\) Regulations 2000 \(S.I. 2000/944\)](#), regs. 1(1), [20\(2\)](#)
- C7** S. 28C excluded (N.I.) (1.4.2000) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2000 \(S.R. 2000/121\)](#), regs. 1, [20\(2\)](#)

^{F26}**28D Determination of corporation tax where no return delivered.**

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Textual Amendments

- F26** Ss. 28D-28F repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 11, Sch. 27 Pt. 3\(28\)](#); [S.I. 1998/3173](#), art. 2

^{F26}**28E Determination of corporation tax where notice complied with in part.**

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Textual Amendments

- F26** Ss. 28D-28F repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 11, Sch. 27 Pt. 3\(28\)](#); [S.I. 1998/3173](#), art. 2

^{F26}**28F Corporation tax determinations: supplementary.**

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Textual Amendments

F26 Ss. 28D-28F repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), Sch. 19 para. 11, [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2

[^{F27}29 Assessment where loss of tax discovered.

- (1) If an officer of the Board or the Board discover, as regards any person (the taxpayer) and a [^{F28}year of assessment]—
 - (a) that any [^{F29}income which ought to have been assessed to income tax, or chargeable gains which ought to have been assessed to capital gains tax,] have not been assessed, or
 - (b) that an assessment to tax is or has become insufficient, or
 - (c) that any relief which has been given is or has become excessive,
 the officer or, as the case may be, the Board may, subject to subsections (2) and (3) below, make an assessment in the amount, or the further amount, which ought in his or their opinion to be charged in order to make good to the Crown the loss of tax.
- (2) Where—
 - (a) the taxpayer has made and delivered a return under [^{F30}section 8 or 8A] of this Act in respect of the relevant [^{F28}year of assessment], and
 - (b) the situation mentioned in subsection (1) above is attributable to an error or mistake in the return as to the basis on which his liability ought to have been computed,
 the taxpayer shall not be assessed under that subsection in respect of the [^{F28}year of assessment] there mentioned if the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.
- (3) Where the taxpayer has made and delivered a return under [^{F30}section 8 or 8A] of this Act in respect of the relevant [^{F28}year of assessment], he shall not be assessed under subsection (1) above—
 - (a) in respect of the [^{F28}year of assessment] mentioned in that subsection; and
 - (b) ^{F31}... in the same capacity as that in which he made and delivered the return, unless one of the two conditions mentioned below is fulfilled.
- (4) The first condition is that the situation mentioned in subsection (1) above is attributable to fraudulent or negligent conduct on the part of the taxpayer or a person acting on his behalf.
- (5) The second condition is that at the time when an officer of the Board—
 - (a) ceased to be entitled to give notice of his intention to enquire into the taxpayer's return under [^{F32}section 8 or 8A] of this Act in respect of the relevant [^{F28}year of assessment]; or
 - (b) informed the taxpayer that he had completed his enquiries into that return,
 the officer could not have been reasonably expected, on the basis of the information made available to him before that time, to be aware of the situation mentioned in subsection (1) above.
- (6) For the purposes of subsection (5) above, information is made available to an officer of the Board if—

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- (a) it is contained in the taxpayer's return under [^{F33}section 8 or 8A] of this Act in respect of the relevant [^{F28}year of assessment] (the return), or in any accounts, statements or documents accompanying the return;
 - (b) it is contained in any claim made as regards the relevant [^{F28}year of assessment] by the taxpayer acting in the same capacity as that in which he made the return, or in any accounts, statements or documents accompanying any such claim;
 - (c) it is contained in any documents, accounts or particulars which, for the purposes of any enquiries into the return or any such claim by an officer of the Board, are produced or furnished by the taxpayer to the officer, whether in pursuance of a notice under section 19A of this Act or otherwise; or
 - (d) it is information the existence of which, and the relevance of which as regards the situation mentioned in subsection (1) above—
 - (i) could reasonably be expected to be inferred by an officer of the Board from information falling within paragraphs (a) to (c) above; or
 - (ii) are notified in writing by the taxpayer to an officer of the Board.
- (7) In subsection (6) above—
- (a) any reference to the taxpayer's return under [^{F34}section 8 or 8A] of this Act in respect of the relevant [^{F28}year of assessment] includes—
 - (i) a reference to any return of his under that section for either of the two immediately preceding chargeable periods; and
 - (ii) where the return is under section 8 and the taxpayer carries on a trade, profession or business in partnership, a reference to any return with respect to the partnership under section 12AA of this Act for the relevant [^{F28}year of assessment] or either of those periods; and
 - (b) any reference in paragraphs (b) to (d) to the taxpayer includes a reference to a person acting on his behalf.
- (8) An objection to the making of an assessment under this section on the ground that neither of the two conditions mentioned above is fulfilled shall not be made otherwise than on an appeal against the assessment.
- (9) Any reference in this section to the relevant [^{F28}year of assessment] is a reference to—
- (a) in the case of the situation mentioned in paragraph (a) or (b) of subsection (1) above, the [^{F28}year of assessment] mentioned in that subsection; and
 - (b) in the case of the situation mentioned in paragraph (c) of that subsection, the [^{F28}year of assessment] in respect of which the claim was made.

^{F35}(10)]

Textual Amendments

- F27** S. 29 substituted (with effect in accordance with ss. 191(2), 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 191\(1\)](#); S.I. 1998/3173, art. 2
- F28** Words in s. 29 substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(3\)](#); S.I. 1998/3173, art. 2
- F29** Words in s. 29(1) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(2\)](#); S.I. 1998/3173, art. 2
- F30** Words in s. 29(2)(3) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(4\)](#); S.I. 1998/3173, art. 2

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- F31** Words in s. 29(3)(b) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(5\), Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2
- F32** Words in s. 29(5)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(4\)](#); S.I. 1998/3173, art. 2
- F33** Words in s. 29(6)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(4\)](#); S.I. 1998/3173, art. 2
- F34** Words in s. 29(7)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(4\)](#); S.I. 1998/3173, art. 2
- F35** S. 29(10) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(6\), Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2

Modifications etc. (not altering text)

- C8** S. 29 excluded (16.7.1992) by [Income and Corporation Taxes Act 1988 \(c. 1\), Sch. 3 para. 6E](#) (which was inserted (16.7.1992 having effect in relation to transactions effected on or after 1.10.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\), s. 63, Sch. 11 paras. 2\(2\), 6](#))
- C9** S. 29(1)(c): power to apply conferred by [Finance Act 1995 \(c. 4\), s. 73\(4\)\(a\)](#) (as amended (with effect in accordance with [Sch. 18 para. 17](#) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 18 para. 16\(a\)](#))
- C10** S. 29(2)(3) excluded (1.5.1995) by [Finance Act 1995 \(c. 4\), Sch. 22 para. 11\(1\)\(3\)](#)
- C11** S. 29(3)(c) (as it stood before [Finance Act 1994 \(c. 9\), s. 191\(1\)](#) had effect): power to apply conferred (1.5.1995) by [Finance Act 1995 \(c. 4\), s. 73\(4\)\(a\)](#)

[^{F36}30 Recovery of overpayment of tax, etc.

- (1) Where an amount of [^{F37}income tax or capital gains tax] has been repaid to any person which ought not to have been repaid to him, that amount of tax may be assessed and recovered as if it were unpaid tax.

[Subsection (1) above shall not apply where the amount of tax which has been repaid ^{F38}(1A) is assessable under section 29 of this Act.]

[Subsections (2) to (8) of section 29 of this Act shall apply in relation to an ^{F39}(1B) assessment under subsection (1) above as they apply in relation to an assessment under subsection (1) of that section; and subsection (4) of that section as so applied shall have effect as if the reference to the loss of tax were a reference to the repayment of the amount of tax which ought not to have been repaid.]

- (2) In any case where—
- a repayment of tax has been increased in accordance with section [^{F40}824 ^{F41}... of the principal Act or section][^{F42}283 of the 1992 Act] (supplements added to repayments of tax, etc.); and
 - the whole or any part of that repayment has been paid to any person but ought not to have been paid to him; and
 - that repayment ought not to have been increased either at all or to any extent;
- then the amount of the repayment assessed under subsection (1) above may include an amount equal to the amount by which the repayment ought not to have been increased.

^{F43}(2A)

- (3) In any case where—
- a payment, other than a repayment of tax to which subsection (2) above applies, is increased in accordance with section [^{F40}824 or 825 of the principal Act or section][^{F42}283 of the 1992 Act]; and

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(b) that payment ought not to have been increased either at all or to any extent; then an amount equal to the amount by which the payment ought not to have been increased may be assessed and recovered as if it were unpaid income tax^{F44} ...

^{F45}(3A)

[^{F46}(4) An assessment to income tax under this section shall be made under Case VI of Schedule D.]

^{F47}(4A)

[^{F48}(5) An assessment under this section shall not be out of time under section 34 of this Act if it is made before the end of whichever of the following ends the later, namely—

- (a) the [^{F49}year of assessment] following that in which the amount assessed was repaid or paid as the case may be, or
- (b) where a return delivered by the person concerned, or an amendment of such a return, is enquired into by an officer of the Board, the period ending with the day on which, by virtue of section 28A(5) of this Act, the officer's enquiries are treated as completed.]

(6) Subsection (5) above is without prejudice to [^{F50}section 36] of this Act.

(7) In this section any reference to an amount repaid or paid includes a reference to an amount allowed by way of set-off.]

Textual Amendments

- F36** S. 30 substituted (in relation to any amount repaid or paid on or after 6 April 1982) by [Finance Act 1982 \(c. 39\)](#), s. 149(1)(3)
- F37** Words in s. 30(1) substituted for word (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 13\(2\)](#); S.I. 1998/3173, art. 2
- F38** S. 30(1A) inserted (in relation to amounts of tax repaid on or after 26 July 1990) by [Finance Act 1990 \(c. 29\)](#), s. 105
- F39** S. 30(1B) inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 4\(1\)](#); S.I. 1998/3173, art. 2
- F40** [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [Sch. 29 para 32](#).
- F41** Words in s. 30(2)(a) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 13\(3\)](#), [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2
- F42** Words in s. 30(2)(a)(3)(a) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 10 para 2\(6\)](#) (with ss. 60, 101(1), 171, 201(3))
- F43** S. 30(2A) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 13\(4\)](#), [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2
- F44** Words in s. 30(3) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 13\(5\)](#), [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2
- F45** S. 30(3A) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 13\(6\)](#), [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2
- F46** S. 30(4) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 13\(7\)](#); S.I. 1998/3173, art. 2
- F47** S. 30(4A) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 13\(8\)](#), [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2
- F48** S. 30(5) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 4\(2\)](#); S.I. 1998/3173, art. 2

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- F49** Words in s. 30(5)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 13\(9\)](#); S.I. 1998/3173, art. 2
- F50** Words in s. 30(6) substituted by [Finance Act 1989 \(c. 26\), s. 149\(3\)\(a\)](#) (but not to affect the making of assessments before 1983-84 or for accounting periods before 1 April 1983)

Modifications etc. (not altering text)

- C12** S. 30 extended by [Finance Act 1991 \(c. 31, SIF 63:1\), s. 33\(3\)\(b\)](#)
- C13** S. 30 modified (6.4.1992) by S.I. 1992/734, [reg. 6\(1\)](#)
- C14** S. 30 modified (1.7.1994) by [The Private Medical Insurance \(Disentitlement to Tax Relief and Approved Benefits\) Regulations 1994 \(S.I. 1994/1518\), regs. 1, 5](#)
- C15** S. 30: power to apply conferred (1.5.1995) by [Finance Act 1995 \(c. 4\), s. 73\(4\)\(b\)](#)
- C16** S. 30 modified by [Income and Corporation Taxes Act 1988 \(c. 1\), Sch. 19AB para. 3\(1A\)](#) (as inserted (with effect in accordance with s. 169(3) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 34 para. 3\(3\)](#))
- C17** See—[Income and Corporation Taxes Act 1988 \(c. 1\), ss. 812-813](#) (application of s.30 to the recovery of tax credits incorrectly paid); S.I. 1987/1749, [reg. 11](#) (s. 30 to apply to payments by the Board of amounts paid under S.I. 1987/1749 to which scheme administrators were not entitled or recoverable from scheme administrators under regs. 7(5), 8(4) or (6) or 10 as if they were income tax repaid to scheme administrators to which they were not entitled).
- C18** See—[Income and Corporation Taxes Act 1988 \(c. 1\), Sch. 14 para 7\(3\)\(b\)](#) (application of s. 30 to sums claimed under s. 266(5)(b) to which the claimant was not entitled); [Finance Act 1989 \(c. 26\), s. 57\(3\)](#) (application of s. 30 to medical insurance relief); [Personal Pension Schemes \(Relief at Source\) Regulations 1988 \(S.I. 1988/1013\)](#) (s. 30 to apply to payments under reg. 13); [Personal Pension Schemes \(Min. Contributions under the Social Security Act 1986\) Regulations 1988 \(S.I. 1988/1012\)](#) (s. 30 to apply to payments under reg. 6); [Private Medical Insurance \(Disentitlement to Tax Relief and Approved Benefits\) Regulations 1989 \(S.I. 1989/2389\), reg. 5](#) (application of s. 30 to recovery of tax from person who ceases to be entitled to relief).

[^{F51}30A Assessing procedure.

- (1) Except as otherwise provided, all assessments to tax which are not self-assessments shall be made by an officer of the Board.
- (2) All income tax which falls to be charged by an assessment which is not a self-assessment may, notwithstanding that it was chargeable under more than one Schedule, be included in one assessment.
- (3) Notice of any such assessment shall be served on the person assessed and shall state the date on which it is issued and the time within which any appeal against the assessment may be made.
- (4) After the notice of any such assessment has been served on the person assessed, the assessment shall not be altered except in accordance with the express provisions of the Taxes Acts.
- (5) Assessments to tax which under any provision in the Taxes Acts are to be made by the Board shall be made in accordance with this section.]

Textual Amendments

- F51** S. 30A inserted (with effect in accordance with s. 199(2)(3), Sch. 19 para. 5(2) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 5\(1\)](#); S.I. 1998/3173, art. 2

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[^{F52}30B Amendment of partnership statement where loss of tax discovered.

- (1) Where an officer of the Board or the Board discover, as regards a partnership statement made by any person (the representative partner) in respect of any period—
- (a) that any profits which ought to have been included in the statement have not been so included, or
 - (b) that an amount of profits so included is or has become insufficient, or
 - (c) that any relief [^{F53}or allowance] claimed by the representative partner is or has become excessive,

the officer or, as the case may be, the Board may, subject to subsections (3) and (4) below, by notice to that partner so amend the statement as to make good the omission or deficiency or eliminate the excess.

- [^{F54}(2) Where a partnership statement is amended under subsection (1) above, the officer shall by notice to each of the relevant partners amend—
- (a) the partner's self-assessment under section 9 of this Act, or
 - (b) the partner's company tax return,
- so as to give effect to the amendments of the partnership statement.]

- (3) Where the situation mentioned in subsection (1) above is attributable to an error or mistake as to the basis on which the partnership statement was made, no amendment shall be made under that subsection if that statement was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.
- (4) No amendment shall be made under subsection (1) above unless one of the two conditions mentioned below is fulfilled.
- (5) The first condition is that the situation mentioned in subsection (1) above is attributable to fraudulent or negligent conduct on the part of—
- (a) the representative partner or a person acting on his behalf, or
 - (b) a relevant partner or a person acting on behalf of such a partner.
- (6) The second condition is that at the time when an officer of the Board—
- (a) ceased to be entitled to give notice of his intention to enquire into the representative partner's return under section 12AA of this Act; or
 - (b) informed that partner that he had completed his enquiries into that return,
- the officer could not have been reasonably expected, on the basis of the information made available to him before that time, to be aware of the situation mentioned in subsection (1) above.
- (7) Subsections (6) and (7) of section 29 of this Act apply for the purposes of subsection (6) above as they apply for the purposes of subsection (5) of that section; and those subsections as so applied shall have effect as if—
- (a) any reference to the taxpayer were a reference to the representative partner;
 - (b) any reference to the taxpayer's return under [^{F55}section 8 or 8A] were a reference to the representative partner's return under section 12AA of this Act; and
 - (c) sub-paragraph (ii) of paragraph (a) of subsection (7) were omitted.
- (8) An objection to the making of an amendment under subsection (1) above on the ground that neither of the two conditions mentioned above is fulfilled shall not be made otherwise than on an appeal against the amendment.

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(9) In this section—

[^{F56}“profits” —

- (a) in relation to income tax, means income,
- (b) in relation to capital gains tax, means chargeable gains, and
- (c) in relation to corporation tax, means profits as computed for the purposes of that tax;]

“relevant partner” means a person who was a partner at any time during the period in respect of which the partnership statement was made.

(10) Any reference in this section to the representative partner includes, unless the context otherwise requires, a reference to any successor of his.]

Textual Amendments

- F52** S. 30B inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 6](#); S.I. 1998/3173, art. 2
- F53** Words in s. 30B(1)(c) inserted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [s. 115\(5\)](#)
- F54** S. 30B(2) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 14\(2\)](#); S.I. 1998/3173, art. 2
- F55** Words in s. 30B(7)(b) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 14\(3\)](#); S.I. 1998/3173, art. 2
- F56** Words in s. 30B(9) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 14\(4\)](#); S.I. 1998/3173, art. 2

Modifications etc. (not altering text)

- C19** S. 30B(3)(4) excluded (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), [Sch. 22 para. 11\(2\)\(3\)](#)

31 Right of appeal.

[^{F57}(1) Subject to subsection (1A) below, an appeal may be brought against—

- (a) an amendment under section 28A(2) or (4) of this Act of a self-assessment, or
- [^{F58}(aa) a decision contained in a notice under section 28A(4A) of this Act disallowing a claim or election in whole or in part, or]
- (b) an amendment under section 28B(3) or 30B(1) of this Act of a partnership statement, or
- (c) an assessment to tax which is not a self-assessment,

by a notice of appeal in writing given within 30 days after the date on which the notice of [^{F59}amendment, the notice under section 28A(4A) of this Act or, as the case may be, the notice of] assessment was issued.

[^{F60}(1AA) The matters that may be questioned on any appeal against—

- (a) an amendment under subsection (2) or (4) of section 28A of this Act,
- (b) a decision contained in a notice under subsection (4A) of that section disallowing a claim or election in whole or in part, or
- (c) an amendment under section 28B(3) or 30B(1) of this Act,

do not include any determination made for the purposes of section 28A(7A)(d) or 28B(6A)(d) of this Act.]

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- (1A) An appeal against an amendment under subsection (2) of section 28A of this Act of a self-assessment shall not be heard and determined before the officer who made the amendment gives notice under subsection (5) of that section that he has completed his enquiries.
- (2) The notice of appeal shall be given to the officer of the Board by whom the notice of amendment or assessment was given.
- [^{F61}(3) An appeal against an assessment made—
 - (a) by the Board, or
 - (b) under section 350 of the principal Act,shall be to the Special Commissioners.]]
- ^{F62}(3A)
- (4) Subject to subsection (3) above the appeal shall be to the General Commissioners, except that the appellant may elect (in accordance with section 46(1) of this Act) to bring the appeal before the Special Commissioners instead of the General Commissioners.
- (5) The notice of appeal ^{F63}... shall specify the grounds of appeal, but on the hearing of the appeal the Commissioners may allow the appellant to put forward any ground not specified in the notice, and take it into consideration if satisfied that the omission was not wilful or unreasonable.
- ^{F64}(5A) An election under subsection (4) above shall be disregarded if—
 - (a) the appellant and the inspector or other officer of the Board 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 subsection (5C) below and have not revoked it.
- (5B) At any time before the determination of an appeal in respect of which an election has been made under subsection (4) above, the inspector or other officer of the Board after giving notice to the appellant may refer the election to the General Commissioners.
- (5C) 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 of the appeal, direct that the election be disregarded.
- (5D) If, at any time after the giving of a direction under subsection (5C) above (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.
- (5E) Any decision to give a direction under subsection (5C) above or revoke such a direction under subsection (5D) above shall be final.]
- (6) This section has effect subject to any express provision in the Taxes Acts, including in particular any provision under which an appeal lies to the Special Commissioners to the exclusion of the General Commissioners, any provision transferring jurisdiction to some other tribunal, and any provision making one kind of assessment conclusive in an appeal against another kind of assessment.

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Textual Amendments

- F57** S. 31(1)(1A)(2)(3) substituted for s. 31(1)-(3) (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 7](#); [S.I. 1998/3173](#), art. 2
- F58** S. 31(1)(aa) inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 6\(1\)\(a\)](#)
- F59** Words in s. 31(1) substituted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 6\(1\)\(b\)](#)
- F60** S. 31(1AA) inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 6\(2\)](#)
- F61** S. 31(3) substituted (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 22 para. 4](#)
- F62** *A development land tax provision added by* [Development Land Tax Act 1976 \(c. 24\)](#) Sch. 8 para. 3; *Development Land Tax Act 1976 repealed by* [Finance Act 1985 s. 98\(6\)](#), Sch. 27 Part X.
- F63** Words in s. 31(5) repealed (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 6\(3\)](#), [Sch. 41 Pt. 5\(9\)](#)
- F64** [Finance Act 1984 s. 127](#), Sch. 22 para. 3(1) *on and after 1 January 1985*; [S.I. 1984 No. 1836](#) (C. 45).

Modifications etc. (not altering text)

- C20** S. 31 modified (27.7.1993) by [1993 c. 34](#), s. 173, [Sch. 19 Pt. 1 para. 7\(2\)\(a\)](#)
- C21** S. 31 applied (1.10.1993) by [S.I. 1993/2004](#), [reg.11\(10\)](#)
- C22** S. 31(5A)-(5E) extended (E.W.S.) (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), [ss. 12\(5\)](#), [28\(2\)](#); [S.I. 1999/527](#), art. 2(b), Sch. 2 (with arts. 3-6)
- C23** S. 31(5A)-(5E) modified (26.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [The Social Security Contributions \(Transfer of Functions, etc.\) \(Northern Ireland\) Order 1999 \(S.I. 1999/671\)](#), arts. 1(3), [11\(5\)](#); [S.R. 1999/149](#), art. 2(b)(c), Schs. 1, 2 (with arts. 3-6)
- C24** See—[Finance Act 1988 \(c. 39\)](#), [Sch. 5 para. 5\(2\)](#)—*application of subsections (5) to (5E) to appeal by underwriter against inspector's determination* (repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), Sch. 1 Pt. 10 Group 1); [Finance Act 1988 \(c. 39\)](#), [s. 134](#)—*General Commissioners for Northern Ireland* (omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 165).
- C25** See [Finance Act 1988 \(c. 39\)](#), [Sch. 5 para. 8\(2\)](#)—*individual underwriters determinations* (repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), Sch. 1 Pt. 10 Group 1).

Relief for excessive assessments

32 Double assessment.

- (1) If on a claim made to the Board it appears to their satisfaction that a person has been assessed to tax more than once for the same cause and for the same chargeable period^{F65} ... , they shall direct the whole, or such part of any assessment as appears to be an overcharge, to be vacated, and thereupon the same shall be vacated accordingly.
- (2) An appeal on a claim under this section shall lie to any of the bodies of Commissioners having jurisdiction to hear an appeal against the assessment, or the later of the assessments, to which the claim relates.

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Textual Amendments

F65 Words relating to development land tax added by [Development Land Tax Act 1976 \(c. 24\)](#) Sch.8 para.4; Development Land Tax Act 1976 repealed by Finance Act 1985 s.98(6), Sch.27 Part X.

Modifications etc. (not altering text)

C26 S. 32 modified (with application in accordance with Sch. 21 para. 3(1) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 21 para. 3\(2\)](#)

C27 S. 32 applied (with modifications) by Finance Act 1981, s. 134, Sch. 17 para.18 (special tax on banking deposits).

33 Error or mistake.

[^{F66}(1) If a person who has paid income tax or capital gains tax under an assessment (whether a self-assessment or otherwise) alleges that the assessment was excessive by reason of some error or mistake in a return, he may by notice in writing at any time not later than five years after the 31st January next following the year of assessment to which the return relates, make a claim to the Board for relief.]

(2) On receiving the claim the Board shall inquire into the matter and shall, subject to the provisions of this section, give by way of repayment such relief ^{F67}... in respect of the error or mistake as is reasonable and just:

^{F68}

[^{F69}(2A) No relief shall be given under this section in respect of—

- (a) an error or mistake as to the basis on which the liability of the claimant ought to have been computed where the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made; or
- (b) an error or mistake in a claim which is included in the return.]

(3) In determining the claim the Board shall have regard to all the relevant circumstances of the case, and in particular shall consider whether the granting of relief would result in the exclusion from charge to tax of any part of the profits of the claimant, and for this purpose the Board may take into consideration the liability of the claimant and assessments made on him in respect of chargeable periods other than that to which the claim relates.

(4) If any appeal is brought from the decision of the Board on the claim the Special Commissioners shall hear and determine the appeal in accordance with the principles to be followed by the Board in determining claims under this section; and neither the appellant nor the Board shall be entitled to [^{F70}appeal under section 56A of this Act against the determination of the Special Commissioners except] on a point of law arising in connection with the computation of profits.

^{F71}(4A)

(5) In this section “profits” —

- (a) in relation to income tax, means income [^{F72}, and]
- (b) in relation to capital gains tax, means chargeable gains,

^{F73}(c)

^{F71}(d)

Status: Point in time view as at 06/04/2000.

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Textual Amendments

- F66** S. 33(1) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 15\(2\)](#); S.I. 1998/3173, art. 2
- F67** *Words omitted repealed for 1973—74 et seq.* by Finance Act 1971 ss. 37, 38, Sch. 14 Part II.
- F68** Proviso to s. 33(2) repealed (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 8\(2\)](#), [Sch. 26 Pt. 5\(23\)](#); S.I. 1998/3173, art. 2
- F69** S. 33(2A) inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 8\(2\)](#); S.I. 1998/3173, art. 2
- F70** Words in s. 33(4) substituted (with effect in accordance with reg. 1(1) of the amending S.I.) by [The General and Special Commissioners \(Amendment of Enactments\) Regulations 1994 \(S.I. 1994/1813\)](#), [Sch. 1 para. 2](#)
- F71** A development land tax provision added by [Development Land Tax Act 1976 \(c. 24\)](#) Sch. 8 para. 5; Development Land Tax Act 1976 repealed by Finance Act 1985 s. 98(6), Sch. 27 Pt. X.
- F72** Word in s. 33(5) inserted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 15\(3\)](#); S.I. 1998/3173, art. 2
- F73** S. 33(5)(c) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 15\(3\)](#), [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2

Modifications etc. (not altering text)

- C28** S. 33 excluded by Finance Act 1994 (c. 9), s. 118(7) (as substituted (with effect in accordance with s. 93(2) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 11 para. 8](#))
- C29** S. 33(1) modified by [The Lloyd's Underwriters \(Tax\) Regulations 1989 \(S.I. 1989/421\)](#), [Sch. 33\(1\)](#) modified by [The Lloyd's Underwriters \(Tax\) \(1987—88\) Regulations 1990 \(S.I. 1990/627\)](#), reg. 3(2), [Sch. 33\(1\)](#) modified (19.4.1991) by [The Lloyd's Underwriters \(Tax\) \(1988—89\) Regulations 1991 \(S.I. 1991/851\)](#), regs. 1, 9, [Sch. 2](#)
- C30** S. 33(1) modified (19.4.1991) by [The Lloyd's Underwriters \(Tax\) \(1988—89\) Regulations 1991 \(S.I. 1991/851\)](#), regs. 1, 9, [Sch. 2](#)
- C31** S. 33(1) modified (28.3.1992) by [The Lloyd's Underwriters \(Tax\) \(1989—90\) Regulations 1992 \(S.I. 1992/511\)](#), reg. 9, [Sch. 2](#)
- C32** S. 33(1) applied (with modifications) (23.3.1993) by [The Lloyd's Underwriters \(Tax\) \(1990—91\) Regulations 1993 \(S.I. 1993/415\)](#), regs. 1(1), 9, [Sch. 2](#)
- C33** S. 33(1) modified (with effect for the year of assessment 1991-92 in accordance with reg. 1(1) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\)](#), reg. 9, [Sch. 2](#)
- C34** S. 33(1) modified (with effect in accordance with regs. 14(2), 15(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\)](#), regs. 1(1), 14(1), 15(1), [Sch. 2](#)
- C35** S. 33 applied (with modifications) by the [Oil Taxation Act 1975 \(c. 22\)](#), s. 1, [Sch. 2 para. 1\(1\)](#)
- C36** S. 33 applied (with modifications) by Finance Act 1981 s. 134, Sch. 17 para. 18 (special tax on banking deposits).

[^{F74}33A Error or mistake in partnership statement.

- (1) This section applies where, in the case of a trade, profession or business carried on by two or more persons in partnership, those persons allege that the tax charged by self-assessments of theirs ^{F75}... was excessive by reason of some error or mistake in a partnership statement.
- (2) One of those persons (the representative partner) may, not later than five years after the filing date, by notice in writing make a claim to the Board for relief.

Status: Point in time view as at 06/04/2000.

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- (3) On receiving the claim the Board shall inquire into the matter and shall, subject to subsection (5) below, so amend the partnership statement so as to give such relief in respect of the error or mistake as is reasonable or just.
- [^{F76}(4) Where a partnership statement is amended under subsection (3) above, the Board shall by notice to each of the relevant partners amend—
- (a) the partner’s self-assessment under section 9 of this Act, or
 - (b) the partner’s company tax return,
- so as to give effect to the amendments of the partnership statement.]
- (5) No relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the partners ought to have been computed where the partnership statement was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.
- (6) In determining the claim the Board—
- (a) shall have regard to all the relevant circumstances of the case, and
 - (b) in particular shall consider whether the granting of relief would result in the exclusion from charge to tax of any part of the profits of any of the partners; and for the purposes of this subsection the Board may take into consideration the liability of the partners and their self-assessments in respect of chargeable periods other than that to which the claim relates.
- (7) If any appeal is brought from the decision of the Board on the claim, the Special Commissioners shall hear and determine the appeal in accordance with the principles to be followed by the Board in determining claims under this section.
- [^{F77}(8) Subject to subsection (8A) below, the determination of the Special Commissioners of an appeal under subsection (6) above shall be final and conclusive (notwithstanding any provision having effect by virtue of section 56B of this Act).
- (8A) Subsection (8) above does not apply in relation to a point of law arising in connection with the computation of profits.]
- (9) In this section—
- “filing date” has the same meaning as in section 12AC of this Act;
 - “profits” has the same meaning as in section 33 of this Act;
 - “relevant partner” means a person who was a partner at any time during the period in respect of which the partnership statement was made.
- (10) Any reference in this section to the representative partner includes, unless the context otherwise requires, a reference to any successor of his.]

Textual Amendments

- F74** S. 33A inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 9](#); [S.I. 1998/3173](#), art. 2
- F75** Words in s. 33A(1) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 16\(2\)](#), [Sch. 27 Pt. 3\(28\)](#); [S.I. 1998/3173](#), art. 2
- F76** S. 33A(4) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 16\(3\)](#); [S.I. 1998/3173](#), art. 2
- F77** S. 33A(8)(8A) substituted for s. 33A(8) (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 22 para. 5](#)

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Modifications etc. (not altering text)

- C37** S. 33A excluded by Finance Act 1994 (c. 9), s. 118(7) (as substituted (with effect in accordance with s. 93(2) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 11 para. 8](#))

Time limits

34 Ordinary time limit of six years.

- (1) Subject to the following provisions of this Act, and to any other provisions of the Taxes Acts allowing a longer period in any particular class of case, [^{F78}an assessment to income tax or capital gains tax may be made at any time not later than five years after the 31st January next following the year of assessment to which it relates].
- (2) An objection to the making of any assessment on the ground that the time limit for making it has expired shall only be made on an appeal against the assessment.

Textual Amendments

- F78** Words in s. 34(1) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 17](#); S.I. 1998/3173, art. 2

Modifications etc. (not altering text)

- C38** S. 34 excluded (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), [ss. 248\(2\)](#), 289 (with [ss. 60](#), 101(1), 171, 201(3))
- C39** See—[Income and Corporation Taxes Act 1988 \(c. 1\)](#), [s. 455\(4\)](#)—assessments in respect of sums paid into special reserve funds by underwriters who have died. S.I. 1956/1230, [regs. 18](#), 21—adjustments in respect of purchased life annuities. S.I. 1989/421, [Sch](#)—modifications for underwriters for 1986-87. S.I. 1990/627, [reg. 3\(2\)](#), [Schedule](#)—modification for underwriters for 1987-88.
- C40** S. 34(1) applied (with modification) (19.4.1991) for the assessment year 1988-1989 by S.I. 1991/851, [regs. 1](#), 3(2), [Sch. 1](#)
 S. 34(1) extended (with modifications) (28.3.1992) for the year of assessment 1989-90 by S.I. 1992/511, [regs. 1,3](#), [Sch. 1](#)
- C41** See S.I. 1974/896, [reg. 4\(2\)](#) for modification in relation to Lloyd's Underwriters.
- C42** S. 34(1) applied (with modifications) (23.3.1993 with effect for the year of assessment 1990-91 only) by S.I. 1993/415, [regs. 1\(1\)](#), 3(2), [Sch.1](#)
- C43** S. 34 applied (with modifications) by the [Oil Taxation Act 1975 \(c. 22\)](#), s. 1, [Sch. 2 para. 1\(1\)](#)
- C44** S. 34(1) applied (with modifications) (with effect in accordance with [reg. 1\(1\)](#) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\)](#), [reg. 3\(2\)](#), [Sch.](#)
- C45** S. 34(1) modified (with effect in accordance with [reg. 7\(3\)](#) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\)](#), [regs. 1\(1\)](#), [7\(1\)\(2\)](#)
- C46** S. 34(1) modified (with effect in accordance with [reg. 6\(3\)](#) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\)](#), [regs. 1\(1\)](#), [6\(1\)\(2\)](#)

^{F79}35 Emoluments received after year for which they are assessable.

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Textual Amendments

- F79** S. 35 repealed (with application in accordance with s. 58(4) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 27 Pt. 3\(9\)](#)

[^{F80}36 Fraudulent or negligent conduct.

(1) An assessment on any person (in this section referred to as “the person in default”) for the purpose of making good to the Crown a [^{F81}loss of income tax or capital gains tax] attributable to his fraudulent or negligent conduct or the fraudulent or negligent conduct of a person acting on his behalf may be made at any time [^{F82}not later than 20 years after the 31st January next following the year of assessment to which it relates].

[^{F83}(2) Where the person in default carried on a trade, profession or business with one or more other persons at any time in the period for which the assessment is made, an assessment in respect of the profits or gains of the trade, profession or business for the purpose mentioned in subsection (1) above may be made not only on the person in default but also on his partner or any of his partners.]

(3) If the person on whom the assessment is made so requires, in determining the amount of the tax to be charged for any chargeable period in any assessment made for the purpose mentioned in subsection (1) above, effect shall be given to any relief or allowance to which he would have been entitled for that chargeable period on a claim or application made within the time allowed by the Taxes Acts.

[In subsection (3) above, “claim or application” does not include an election under ^{F84}(3A) section 257BA of the principal Act (elections as to transfer of married couple’s allowance) [^{F85}or under Schedule 13B to that Act (elections as to transfer of children’s tax credit)].]

[Any act or omission such as is mentioned in section 98B below on the part of a ^{F86}(4) grouping (as defined in that section) or member of a grouping shall be deemed for the purposes of subsection (1) above to be the act or omission of each member of the grouping.]]

Textual Amendments

- F80** S. 36 substituted by [Finance Act 1989 \(c. 26\)](#), s. 149(1) but shall not affect making of assessments before 1983-84 or for accounting periods ending before 1 April 1983
- F81** Words in s. 36(1) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 18\(a\)](#); S.I. 1998/3173, art. 2
- F82** Words in s. 36(1) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 18\(b\)](#); S.I. 1998/3173, art. 2
- F83** S. 36(2) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 11\(2\)](#); S.I. 1998/3173, art. 2
- F84** S. 36(3A) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 20, [Sch. 5 paras. 9\(2\), 10](#)
- F85** Words in s. 36(3A) inserted (with effect in accordance with s. 30(5) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [s. 30\(4\)\(a\)](#)
- F86** S. 36(4) added by [Finance Act 1990 s. 69](#), [Sch. 11 para. 4\(1\)](#) on and after 1 July 1989.

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Modifications etc. (not altering text)

- C47** S. 36 applied by [The Income Tax \(Entertainers and Sportsmen\) Regulations 1987 \(S.I. 1987/530\)](#), **reg. 11(2)**
- C48** S. 36 modified by [Finance Act 1988 \(c. 39\)](#), **Sch. 5 para. 9** (underwriter's agent) (repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), Sch. 1 Pt. 10 Group 1)
- C49** S. 36 modified (27.7.1993) by [Finance Act 1993 \(c. 34\)](#), s. 173, **Sch. 19 Pt. 1 para.8** (repealed (20.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Finance (No. 2) Act 2005 (c. 22), s. 45(1)(8)(9), Sch. 11 Pt. 2(11); S.I. 2005/3337, art. 3)
- C50** S. 36 applied (1.10.1993) by [The Income Tax \(Manufactured Overseas Dividends\) Regulations 1993 \(S.I. 1993/2004\)](#), **reg.11(7)**
- C51** S. 36 applied (2.1.1996) by [The Gilt-edged Securities \(Periodic Accounting for Tax on Interest\) Regulations 1995 \(S.I. 1995/3224\)](#), regs. 1, **18(1)** (with reg. 21)
- C52** S. 36 applied (2.1.1996) by [The Lloyds Underwriters \(Gilt-edged Securities\) \(Periodic Accounting for Tax on Interest\) Regulations 1995 \(S.I. 1995/3225\)](#), regs. 1, **10(1)** (with reg. 13)
- C53** S. 36(1) applied (with modifications) (19.4.1991) for the year of assessment 1988-1989 by [The Lloyd's Underwriters \(Tax\) \(1988-89\) Regulations 1991 \(S.I. 1991/851\)](#), regs. 1, 3(2), **Sch. 1**
S. 36(1) extended (with modifications) (28.3.1992) for the year of assessment 1989-90 by [The Lloyd's Underwriters \(Tax\) \(1989-90\) Regulations 1992 \(S.I. 1992/511\)](#), **regs. 1, 3**, Sch. 1
- C54** S. 36(1) applied (with modifications) (23.3.1993 with effect for the year of assessment 1990-91 only) by [The Lloyd's Underwriters \(Tax\) \(1990-91\) Regulations 1993 \(S.I. 1993/415\)](#), regs. 1(1), 3(2), **Sch.1**
- C55** S. 36(1) applied (with modifications) (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\)](#), reg. 3(2), **Sch. 1**
- C56** S. 36(1) modified (with effect in accordance with reg. 7(3) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\)](#), regs. 1(1), **7(1)(2)**
- C57** S. 36(1) modified (with effect in accordance with reg. 6(3) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1992-93 to 1996-97\) Regulations 1995 \(S.I. 1995/352\)](#), regs. 1(1), **6(1)(2)**

^{F87}37 Neglect: income tax and capital gains tax.

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Textual Amendments

- F87** Ss 37, 38, 39 repealed by [Finance Act 1989 \(c. 26\)](#), ss. 149(2), 187, **Sch. 17 Pt. VIII** (but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983)

^{F88}37A Effect of assessment where allowances transferred.

Where an assessment is made on any person for the purpose of making good a loss of tax wholly or partly attributable to [^{F89}fraudulent or negligent conduct], the fact that the person's [^{F90}liability to income tax or] total income for any year of assessment is assessed as greater than it was previously taken to be shall not affect the validity of [^{F91}any income tax reduction or deduction from total income made in the case of that person's spouse][^{F92}or partner] by virtue of section [^{F93}257BB]^{F94} ... or 265 of the principal Act [^{F95}or paragraph 4 of Schedule 13B to that Act]; [^{F96}and the entitlement in that case of the first-mentioned person for the year in question to any income tax reduction or deduction from total income shall be treated as correspondingly reduced].]

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Textual Amendments

- F88** S. 37A inserted (for 1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\)](#), s. 35, **Sch. 3 para. 30**
- F89** Words in s. 37A substituted by [Finance Act 1989 \(c. 26\)](#), s. 149(4)(a)(i) (but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983)
- F90** Words in s. 37A inserted (with effect in accordance with s. 77(7) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), **Sch. 8 para. 13(a)**
- F91** Words in s. 37A substituted (with effect in accordance with s. 77(7) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), **Sch. 8 para. 13(b)**
- F92** Words in s. 37A inserted (with effect in accordance with s. 30(5) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), **s. 30(4)(b)(i)**
- F93** Words in s. 37A substituted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 20, **Sch. 5 para. 9(3), 10**
- F94** Word in s. 37A repealed (with effect in accordance with Sch. 20 Pt. 3(3) Note 2 of the amending Act) by [Finance Act 1999 \(c. 16\)](#), **Sch. 20 Pt. 3(3)**
- F95** Words in s. 37A inserted (with effect in accordance with s. 30(5) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), **s. 30(4)(b)(ii)**
- F96** Words in s. 37A substituted (with effect in accordance with s. 77(7) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), **Sch. 8 para. 13(c)**

^{F97}38 Modification of s.37 in relation to partnerships.

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Textual Amendments

- F97** Ss 37, 38, 39 repealed by [Finance Act 1989 \(c. 26\)](#), ss. 149(2), 187, **Sch. 17 Pt. VIII** (but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983)

^{F98}39 Neglect: corporation tax.

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Textual Amendments

- F98** Ss 37, 38, 39 repealed by [Finance Act 1989 \(c. 26\)](#), ss. 149(2), 187, **Sch. 17 Pt. VIII** (but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983)

40 Assessment on personal representatives.

- (1) For the purpose of the charge of tax on the executors or administrators of a deceased person in respect of the income, or chargeable gains, which arose or accrued to him before his death, the time allowed by section 34, 35 or 36 above shall in no case extend beyond the end of [^{F99}the period of three years beginning with the 31st January next following the year of assessment] in which the deceased died.
- (2) ^{F100}... for the purpose of making good to the Crown any loss of tax attributable to the [^{F101}fraudulent or negligent conduct] of a person who has died, an assessment on his personal representatives to tax for any year of assessment ending not earlier than six years before his death may be made at any time before the end of [^{F99}the period

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of three years beginning with the 31st January next following the year of assessment] in which he died.

(3) In [^{F102}this section] “tax” means income tax or capital gains tax.

[^{F103}(4) Any act or omission such as is mentioned in section 98B below, on the part of a grouping (as defined in that section) or member of a grouping shall be deemed for the purposes of subsection (2) above to be the act or omission of each member of the grouping.]

^{F104}(4)

^{F104}(5)

Textual Amendments

F99 Words in s. 40(1)(2) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 12](#); [S.I. 1998/3173](#), art. 2

F100 *Words repealed by Finance Act 1989 s. 187 and Sch. 17 Part VIII.*

F101 Finance Act 1989 s. 149 para. (4)(a)(ii) *but not to affect making of assessments before 1983-84 or for accounting periods ending before 1 April 1983.*

F102 Words in s. 40(3) substituted by [Finance Act 1985 \(c. 54\)](#), s. 93(7), [Sch. 25 para. 5](#)

F103 S. 40(4) inserted (with effect on and after 1 July 1989) by [Finance Act 1990 \(c. 29\)](#), s. 69, [Sch. 11 para. 4\(2\)](#).

F104 S. 40(4)(5) added by Development Land Tax Act 1976 Sch. 8 para. 9; *Development Land Tax Act 1976 repealed by Finance Act 1985 s. 98(6), Sch. 27 Part X.*

Modifications etc. (not altering text)

C58 S. 40 modified by [Finance Act 1988 \(c. 39\)](#), [Sch. 5 para. 9](#) (underwriter's agent) (repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), Sch. 1 Pt. 10 Group 1)

C59 S. 40 modified (27.7.1993) by [1993 c. 34](#), s. 173, [Sch. 19 Pt. 1 para. 8](#)

C60 S. 40(1)(2) applied (with modifications) (19.4.1991 for the year of assessment 1988-89) by [S. I. 1991/851](#), regs. 1, 3(2), [Sch. 1](#)

S. 40(1)(2) extended (with modifications) (28.3.1992 for the year of assessment 1989-90) by [S.I. 1992/511](#), [regs. 1,3](#), Sch. 1

C61 S. 40(1)(2) applied (with modifications) (23.3.1993 with effect for the year of assessment 1990-91 only) by [S.I. 1993/415](#), [regs. 1\(1\), 3\(2\)](#), [Sch.1](#)

C62 S. 40(1)(2) applied (with modifications) (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1991-92\) Regulations 1994 \(S.I. 1994/728\)](#), reg. 3(2), [Sch. 1](#)

C63 S. 40(1)(2) modified (with effect in accordance with reg. 6(3) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(199293 to 199697\) Regulations 1995 \(S.I. 1995/352\)](#), [regs. 1\(1\), 6\(1\)\(2\)](#)

C64 S. 40(1)(2) modified (with effect in accordance with reg. 7(3) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(199293 to 199697\) Regulations 1995 \(S.I. 1995/352\)](#), [regs. 1\(1\), 7\(1\)\(2\)](#)

^{F105}**41 Leave of General or Special Commissioners required for certain assessments.**

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Textual Amendments

F105 S. 41 repealed by [Finance Act 1989 \(c. 26\)](#), ss. 149(2), 187, [Sch. 17 Pt. VIII](#) (but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983)

Status: Point in time view as at 06/04/2000.

Changes to legislation: Taxes Management Act 1970, PART IV is up to date with all changes known to be in force on or before 09 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F106}Corporation tax determinations]

Textual Amendments

F106 Ss. 41A, 41B, 41C and cross-heading inserted (with effect in relation to accounting periods ending after the day appointed for the purposes of s. 10 of the Taxes Act 1988) by [Finance Act 1990 \(c. 29\)](#), s. [95](#) (with s. 96)

^{F107}41A Determination procedure

Textual Amendments

F107 Ss. 41A-41C repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), Sch. 19 para. 19, [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2

^{F107}41B Reduction of determination

Textual Amendments

F107 Ss. 41A-41C repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), Sch. 19 para. 19, [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2

^{F107}41C Time limits

Textual Amendments

F107 Ss. 41A-41C repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), Sch. 19 para. 19, [Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2

Claims

[^{F108}42 Procedure for making claims etc.

(1) Where any provision of the Taxes Acts provides for relief to be given, or any other thing to be done, on the making of a claim, this section shall, unless otherwise provided, have effect in relation to the claim.

[^{F109}(1A) Subject to subsection (3) below, a claim for a relief, an allowance or a repayment of tax shall be for an amount which is quantified at the time when the claim is made.]

(2) Subject to [^{F110}subsections (3) and (3A)] below, where notice has been given under section 8, 8A ^{F111}... or 12AA of this Act, a claim shall not at any time be made

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otherwise than by being included in a return under that section if it could, at that or any subsequent time, be made by being so included.

- (3) [^{F112}Subsections (1A) and (2)] above shall not apply in relation to any claim which falls to be taken into account in the making of deductions or repayments of tax under section 203 of the principal Act.

^{F113}(3A)

^{F113}(3B)

^{F114}(4)

^{F115}(4A)

- (5) The references in [^{F116}this section] to a claim being included in a return include references to a claim being so included by virtue of an amendment of the return; ^{F117}...

- (6) In the case of a trade, profession or business carried on by persons in partnership, a claim under any of the provisions mentioned in subsection (7) below shall be made—

- (a) where subsection (2) above applies, by being included in a return under section 12AA of this Act, and
- (b) in any other case, by such one of those persons as may be nominated by them for the purpose.

- (7) The provisions are—

- (a) [^{F118}sections ^{F119}... 84], 91B, 101(2), ^{F120}... ^{F119}... 471, 472, 484, 504, 531, ^{F121}... , 570, 571(4), ^{F122}... 723(3), 732(4), 810 of, and paragraphs 2, 6 and 11 of Schedule 5 to, the principal Act;
- (b) section 43(5) of the Finance Act 1989;
- (c) sections 1, 11, 17, 22, 23, 24, 25, ^{F123}... 31, ^{F123}... [^{F124}33A,] 37, ^{F123}... 53, 55, 68(5), 68(9), 77, 78, ^{F123}... 129(2), 140(3), 141 and 158 of the Capital Allowances Act 1990; and
- (d) sections 41 and 42 of the Finance (No. 2) Act 1992.

- (8) A claim may be made on behalf of an incapacitated person by his trustee, guardian, tutor or curator; and a person who under Part VIII of this Act has been charged with tax on the profits of another person may make any such claim for relief by discharge or repayment of that tax.

- (9) Where a claim has been made (whether by being included in a return under section 8, 8A ^{F125}... or 12AA of this Act or otherwise) and the claimant subsequently discovers that an error or mistake has been made in the claim, the claimant may make a supplementary claim within the time allowed for making the original claim.

- (10) This section [^{F126}(except subsection (1A) above)] shall apply in relation to any elections ^{F127}... as it applies in relation to claims.

- (11) Schedule 1A to this Act shall apply as respects any claim [^{F128}or election] which—

- (a) is made otherwise than by being included in a return under section 8, 8A ^{F129}... or 12AA of this Act, ^{F130}...

^{F130}(b)

- [^{F131}(11A) Schedule 1B to this Act shall have effect as respects certain claims for relief involving two or more years of assessment.]

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^{F132}(12)

(13) In this section “profits”—

(a) in relation to income tax, means income^{F133}, and]

(b) in relation to capital gains tax, means chargeable gains, and

^{F134}(c)]

Textual Amendments

- F108** S. 42 substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 13](#); [S.I. 1998/3173](#), art. 2
- F109** S. 42(1A) inserted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 107\(1\)](#)
- F110** Words in s. 42(2) substituted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 107\(2\)](#)
- F111** Word in s. 42(2) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 20\(2\), Sch. 27 Pt. 3\(28\)](#); [S.I. 1998/3173](#), art. 2
- F112** Words in s. 42(3) substituted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 107\(3\)](#)
- F113** S. 42(3A)(3B) repealed (with effect in accordance with s. 128(11) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 128\(1\)\(a\), Sch. 41 Pt. 5\(6\)](#)
- F114** S. 42(4) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 20\(3\), Sch. 27 Pt. 3\(28\)](#); [S.I. 1998/3173](#), art. 2
- F115** S. 42(4A) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 20\(3\), Sch. 27 Pt. 3\(28\)](#); [S.I. 1998/3173](#), art. 2
- F116** Words in s. 42(5) substituted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 107\(7\)](#)
- F117** Words in s. 42(5) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 20\(3\), Sch. 27 Pt. 3\(28\)](#); [S.I. 1998/3173](#), art. 2
- F118** Words in s. 42(7)(a) substituted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 107\(8\)](#)
- F119** Words in s. 42(7)(a) repealed (with effect in accordance with s. 130(1) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 130\(2\)\(a\), Sch. 41 Pt. 5\(7\)](#)
- F120** Word in s. 42(7)(a) repealed (with effect in relation to payments made on or after 6.4.1997) by [Finance Act 1997 \(c. 16\), Sch. 18 Pt. 6\(2\)](#)
- F121** Words in s. 42(7)(a) repealed (with effect in accordance with s. 128(12) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 128\(1\)\(b\), Sch. 41 Pt. 5\(6\)](#)
- F122** Words in s. 42(7) repealed (with effect in accordance with s. 38(2)(3) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 27 Pt. 3\(4\)](#)
- F123** Words in s. 42(7)(c) repealed (with effect in accordance with s. 130(1) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 130\(2\)\(b\), Sch. 41 Pt. 5\(7\)](#)
- F124** Word in s. 42(7)(c) inserted (with effect in accordance with s. 98 of the amending Act) by [Finance Act 1995 \(c. 4\), s. 97\(2\)](#)
- F125** Word in s. 42(9) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 20\(2\), Sch. 27 Pt. 3\(28\)](#); [S.I. 1998/3173](#), art. 2
- F126** Words in s. 42(10) inserted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 107\(9\)](#)
- F127** Words in s. 42(10) repealed (with effect in accordance with s. 130(1) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 130\(3\), Sch. 41 Pt. 5\(7\)](#)
- F128** Words in s. 42(11) substituted (with effect in accordance with s. 130(1) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 130\(4\)](#)

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- F129** Word in s. 42(11)(a) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 20\(2\), Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2
- F130** S. 42(11)(b) and preceding word repealed (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 107\(10\), Sch. 29 Pt. 8\(14\)](#)
- F131** S. 42(11A) inserted (with effect in accordance with s. 128(11) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 128\(1\)\(c\)](#)
- F132** S. 42(12) repealed (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 22 para. 6, Sch. 41 Pt. 5\(12\)](#)
- F133** Word in s. 42(13) inserted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 20\(4\)](#); S.I. 1998/3173, art. 2
- F134** S. 42(13)(c) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 20\(4\), Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2

Modifications etc. (not altering text)

- C65** S. 42 excluded by Capital Allowances Act 1990 (c. 1), s. 140(3) (as substituted (with effect in accordance with ss. 211(2), 218 of the amending Act) by [Finance Act 1994 \(c. 9\), s. 211\(1\)](#) (with s. 214(7), [Sch. 20](#))) (repealed (22.3.2001 with effect as mentioned in s. 579(1) of the repealing Act) by 2001 c. 2, s. 580, Sch. 4)
- C66** S. 42 excluded (16.8.1995) by [The Venture Capital Trust Regulations 1995 \(S.I. 1995/1979\), regs. 1, 19\(1\)](#)
- C67** S. 42 excluded by Income and Corporation Taxes Act 1988 (c. 1), Sch. 19AB para. 1(6) (as substituted (with effect in accordance with s. 169(3) of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 34 para. 1\(5\)](#))
- C68** S. 42 (as it has effect in relation to corporation tax for accounting periods ending before the day appointed under Finance Act 1994, s. 199) amended (31.7.1997) by [Finance \(No. 2\) Act 1997 \(c. 58\), Sch. 4 para. 2, Sch. 8 Pt. II\(9\)](#); S.I. 1998/3173, art. 2
- C69** S. 42 excluded by Capital Allowances Act 1990 (c. 1), s. 59C(7) (as substituted (with effect in accordance with s. 93(2) of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 11 para. 6](#))
- C70** S. 42 excluded by Finance Act 1994 (c. 9), s. 118(7) (as substituted (with effect in accordance with s. 93(2) of the amending Act) by [Finance Act 1999 \(c. 16\), Sch. 11 para. 8](#))

43 Time limit for making claims.

[^{F135}(1) Subject to any provision of the Taxes Acts prescribing a longer or shorter period, no claim for relief in respect of income tax or capital gains tax may be made more than five years after the 31st January next following the year of assessment to which it relates.]

(2) A claim (including a supplementary claim) which could not have been allowed but for the making of an assessment to income tax or capital gains tax after the year of assessment to which the claim relates may be made at any time before the end of the year of assessment following that in which the assessment was made.

^{F136}(3)

Textual Amendments

- F135** S. 43(1) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 21](#); S.I. 1998/3173, art. 2
- F136** S. 43(3) added by [Development Land Tax Act 1976 \(c. 24\) Sch. 8 para. 12](#). Development Land Tax Act 1976 repealed by [Finance Act 1985 \(c.54\), s. 98\(6\), Sch. 27 Part X](#).

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Modifications etc. (not altering text)

- C71** S. 43(1) applied (with modifications) by [Finance Act 1981 \(c. 35\), s. 134, Sch. 17 para. 18](#) (special tax on banking deposits).
S. 43 applied by [Income and Corporation Taxes Act 1988 \(c. 1\), Sch. 26](#) (claim for relief under Sch. 26 where the chargeable profits of a controlled foreign company are apportioned to a company resident in the UK).
- C72** S. 43 modified (27.7.1993) by [Finance Act 1993 c. 34, s. 194\(4\)](#) (repealed by 2010 c. 8, Sch. 8 para. 49, Sch. 10 Pt. 1)
- C73** S. 43(1) modified for the year of assessment 1986–87 by [The Lloyd’s Underwriters \(Tax\) Regulations 1989 \(S.I. 1989/421\), Schedule](#)
S. 43(1) modified for the year of assessment 1987–88 by [The Lloyd’s Underwriters \(Tax\) \(1987—88\) Regulations 1990 \(S.I. 1990/627\), reg. 3\(2\), Schedule](#)
S. 43(1) modified (19.4.1991) for the year of assessment 1988–89 by [The Lloyd’s Underwriters \(Tax\) \(1988–89\) Regulations 1991 \(S.I. 1991/851\), regs. 1, 9, Sch. 2](#)
S. 43(1) modified (28.3.1992) for the year of assessment 1989–90 by [The Lloyd’s Underwriters \(Tax\) \(1989—90\) Regulations 1992 \(S.I. 1992/511\), reg. 9, Sch. 2](#)
- C74** S. 43(1) applied (with modifications) (23.3.1993 with effect for the year of assessment 1990–91 only) by [The Lloyd’s Underwriters \(Tax\) \(1990–91\) Regulations 1993 \(S.I. 1993/415\), regs. 1\(1\), 9, Sch. 2](#)
- C75** S. 43(1) modified (with effect in accordance with reg. 1(1) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1991–92\) Regulations 1994 \(S.I. 1994/728\), reg. 9, Sch. 2](#)
- C76** S. 43(1) modified (with effect in accordance with regs. 14(2), 15(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) \(1992–93 to 1996–97\) Regulations 1995 \(S.I. 1995/352\), regs. 1\(1\), 14\(1\), 15\(1\), Sch.](#)

[^{F137}43A Further assessments: claims etc.

- (1) This section applies where—
- [^{F138}(a) ^{F139}... by virtue of section 29 of this Act an assessment to income tax or capital gains tax is made on any person for a year of assessment, and]
- (b) the assessment is not made for the purpose of making good to the Crown any loss of tax attributable to his fraudulent or negligent conduct or the fraudulent or negligent conduct of a person acting on his behalf.
- (2) Without prejudice to section 43(2) above but subject to section 43B below, where this section applies—
- (a) any relevant claim, election, application or notice which could have been made or given within the time allowed by the Taxes Acts may be made or given at any time within one year from the end of the [^{F140}year of assessment] in which the assessment is made, and
- (b) any relevant claim, election, application or notice 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, in the case of any such person who has died, by or with the consent of his personal representatives),
- except where by virtue of any enactment it is irrevocable.

[In subsection (2) above, “claim, election, application or notice” does not include an ^{F141}(2A) election under section 257BA of the principal Act (elections as to transfer of married couple’s allowance) [^{F142}or under Schedule 13B to that Act (elections as to transfer of children’s tax credit)].]

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- (3) For the purposes of this section and section 43B below, a claim, election, application or notice is relevant in relation to an assessment for a [^{F140}year of assessment] if—
- (a) it relates to that [^{F140}year of assessment] or is made or given by reference to an event occurring in that [^{F140}year of assessment], and
 - (b) it or, as the case may be, its revocation or variation has or could have the effect of reducing any of the liabilities mentioned in subsection (4) below.
- (4) The liabilities referred to in subsection (3) above are—
- (a) the increased liability to tax resulting from the assessment,
 - (b) any other liability to tax of the person concerned for—
 - (i) the [^{F143}year of assessment] to which the assessment relates, or
 - (ii) any [^{F143}year of assessment] which follows that [^{F143}year of assessment] and ends not later than one year after the end of the [^{F143}year of assessment] in which the assessment was made.
- (5) Where a claim, election, application or notice is made given, revoked or varied by virtue of subsection (2) above, all such adjustments shall be made, whether by way of discharge or repayment of tax or the making of 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 [^{F143}year of assessment].
- (6) The provisions of this Act relating to appeals against decisions on claims shall apply with any necessary modifications to a decision on the revocation or variation of a claim by virtue of subsection (2) above.]

Textual Amendments

- F137** Ss. 43A, 43B inserted (with effect in relation to any assessment notice which is issued on or after 27 July 1989) by [Finance Act 1989 \(c. 26\)](#), [s. 150](#)
- F138** S. 43A(1)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 22\(2\)](#); S.I. 1998/3173, art. 2
- F139** Word in s. 43A(1)(a) repealed (with effect in accordance with s. 93 of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [Sch. 20 Pt. 3\(21\)](#)
- F140** Words in s. 43A(2)(3) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 22\(3\)](#); S.I. 1998/3173, art. 2
- F141** S. 43A(2A) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), [s. 20](#), [Sch. 5 paras. 9\(4\), 10](#)
- F142** Words in s. 43A(2A) inserted (with effect in accordance with s. 30(5) of the amending Act) by [Finance Act 1999 \(c. 16\)](#), [s. 30\(4\)\(c\)](#)
- F143** Words in s. 43A(4)(5) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 22\(3\)](#); S.I. 1998/3173, art. 2

Modifications etc. (not altering text)

- C77** S. 43A excluded (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 18 para. 63\(2\)](#) (with [Sch. 18 paras. 59\(2\), 61](#)); S.I. 1998/3173, art. 2

[^{F144}43B Limits on application of section 43A.

- (1) If the effect of the exercise by any person of a power conferred by section 43A(2) above—
- (a) to make or give a claim, election, application or notice, or

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- (b) to revoke or vary a claim, election, application or notice previously made or given,
would be to alter the liability to tax of another person, that power may not be exercised except with the consent in writing of that other person, or where he has died, his personal representatives.
- (2) Where—
- (a) a power conferred by subsection (2) of section 43A above is exercised in consequence of an assessment made on a person, and
- (b) the exercise of the power increases the liability to tax of another person, that section shall not apply by reason of any assessment made because of that increased liability.
- (3) In any case where—
- (a) one or more relevant claims, elections, applications or notices are made, given, revoked or varied by virtue of the application of section 43A above in the case of an assessment, and
- (b) the total of the reductions in liability to tax which, apart from this subsection, would result from the action mentioned in paragraph (a) above would exceed the additional liability to tax resulting from the assessment,
the excess shall not be available to reduce any liability to tax.
- (4) Where subsection (3) above has the effect of limiting either the reduction in a person's liability to tax for more than one period or the reduction in the liability to tax of more than one person, the limited amount shall be apportioned between the periods or persons concerned—
- (a) except where paragraph (b) below applies, in such manner as may be specified by the inspector by notice in writing to the person or persons concerned, or
- (b) where the person concerned gives (or the persons concerned jointly give) notice in writing to the inspector within the relevant period, in such manner as may be specified in the notice given by the person or persons concerned.
- (5) For the purposes of paragraph (b) of subsection (4) above the relevant period is the period of 30 days beginning with the day on which a notice under paragraph (a) of that subsection is given to the person concerned or, where more than one person is concerned, the latest date on which such notice is given to any of them.]

Textual Amendments

F144 Ss. 43A, 43B inserted (with effect in relation to any assessment notice which is issued on or after 27 July 1989) by [Finance Act 1989 \(c. 26\)](#), s. 150

Status:

Point in time view as at 06/04/2000.

Changes to legislation:

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