



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. 4 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Working Tax Credit \(Payment by Employers\) Regulations 2002 \(S.I. 2002/2172\)](#), regs. 1(1), **14(4)**

[^{F1}28A Completion of enquiry into personal or trustee return

- (1) An enquiry under section 9A(1) of this Act is completed when an officer of the Board by notice (a “closure notice”) informs the taxpayer that he has completed his enquiries and states his conclusions.

In this section “the taxpayer” means the person to whom notice of enquiry was given.

- (2) A closure notice must either—
 - (a) state that in the officer’s opinion no amendment of the return is required, or
 - (b) make the amendments of the return required to give effect to his conclusions.
- (3) A closure notice takes effect when it is issued.

Status: Point in time view as at 31/03/2003.

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- (4) The taxpayer may apply to the Commissioners for a direction requiring an officer of the Board to issue a closure notice within a specified period.
- (5) Any such application shall be heard and determined in the same way as an appeal.
- (6) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that there are reasonable grounds for not issuing a closure notice within a specified period.]

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Textual Amendments

F1 S. 28A substituted (with effect and application in accordance with s. 88(3), Sch. 29 para. 8(2) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 8\(1\)](#)

^{F2}28AA Amendment of return of profits made for wrong period.

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Textual Amendments

F2 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

^{F2}28AB Provisions supplementary to section 28AA.

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Textual Amendments

F2 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

[^{F3}28B Completion of enquiry into partnership return

- (1) An enquiry under section 12AC(1) of this Act is completed when an officer of the Board by notice (a “closure notice”) informs the taxpayer that he has completed his enquiries and states his conclusions.

In this section “the taxpayer” means the person to whom notice of enquiry was given or his successor.

- (2) A closure notice must either—
 - (a) state that in the officer’s opinion no amendment of the return is required, or
 - (b) make the amendments of the return required to give effect to his conclusions.
- (3) A closure notice takes effect when it is issued.
- (4) Where a partnership return is amended under subsection (2) above, the officer shall by notice to each of the partners amend—
 - (a) the partner’s return under section 8 or 8A of this Act, or

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- (b) the partner's company tax return,
so as to give effect to the amendments of the partnership return.
- (5) The taxpayer may apply to the Commissioners for a direction requiring an officer of the Board to issue a closure notice within a specified period.
- (6) Any such application shall be heard and determined in the same way as an appeal.
- (7) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that there are reasonable grounds for not issuing a closure notice within a specified period.]

Textual Amendments

F3 S. 28B substituted (with effect and application in accordance with s. 88(3), Sch. 29 para. 9(2) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 9\(1\)](#)

[^{F4}28C Determination of tax where no return delivered.

- [^{F5}(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 ^{F6}... 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) [^{F7}proceedings have been commenced] 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.
- (5) No determination under this section, and no self-assessment superseding such a determination, shall be made otherwise than—

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- (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) [^{F8}or, as the case may be, section 8A(1A)] of this Act.]

Textual Amendments

- F4** 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
- F5** 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\(1\)](#)
- F6** 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\(6\)](#)
- F7** Words in s. 28C(4) substituted (with effect and application in accordance with s. 88(3), Sch. 29 para. 17(3) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 17\(1\)](#)
- F8** 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\(2\)](#)

^{F9}**28D Determination of corporation tax where no return delivered.**

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Textual Amendments

- F9** 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

^{F9}**28E Determination of corporation tax where notice complied with in part.**

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Textual Amendments

- F9** 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

^{F9}**28F Corporation tax determinations: supplementary.**

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Textual Amendments

- F9** 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

[^{F10}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 [^{F11}year of assessment]—
 - (a) that any [^{F12}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 [^{F13}section 8 or 8A] of this Act in respect of the relevant [^{F11}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 [^{F11}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 [^{F13}section 8 or 8A] of this Act in respect of the relevant [^{F11}year of assessment], he shall not be assessed under subsection (1) above—
 - (a) in respect of the [^{F11}year of assessment] mentioned in that subsection; and
 - (b) ^{F14}... 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 [^{F15}section 8 or 8A] of this Act in respect of the relevant [^{F11}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 [F16section 8 or 8A] of this Act in respect of the relevant [F11year 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 [F11year 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 [F17section 8 or 8A] of this Act in respect of the relevant [F11year 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 [F18any partnership return with respect to the partnership] for the relevant [F11year 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 [F11year of assessment] is a reference to—
- (a) in the case of the situation mentioned in paragraph (a) or (b) of subsection (1) above, the [F11year of assessment] mentioned in that subsection; and
 - (b) in the case of the situation mentioned in paragraph (c) of that subsection, the [F11year of assessment] in respect of which the claim was made.

F19(10)]

Textual Amendments

- F10** 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
- F11** 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
- F12** 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
- F13** 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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- F14** 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
- F15** 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
- F16** 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
- F17** 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
- F18** Words in s. 29(7)(a)(ii) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 22](#)
- F19** 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 modified (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\), ss. 319, 458\(1\)](#); S.I. 2003/120, art. 2, Sch. (with arts. 3, 4)
- C10** 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\(a\)](#))
- C11** S. 29(2)(3) excluded (1.5.1995) by [Finance Act 1995 \(c. 4\), Sch. 22 para. 11\(1\)\(3\)](#)
- C12** 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\(4\)\(a\)](#)

[^{F20}30 Recovery of overpayment of tax, etc.

- (1) Where an amount of [^{F21}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 ^{F22}(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 ^{F23}(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) a repayment of tax has been increased in accordance with section [^{F24}824 ^{F25}... of the principal Act or section][^{F26}283 of the 1992 Act] (supplements added to repayments of tax, etc.); and
 - (b) the whole or any part of that repayment has been paid to any person but ought not to have been paid to him; and
 - (c) 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.

^{F27}(2A)

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(3) In any case where—

- (a) a payment, other than a repayment of tax to which subsection (2) above applies, is increased in accordance with section [F24]824 or 825 of the principal Act or section [F26]283 of the 1992 Act; and
- (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 ^{F28}

^{F29}(3A)

[F30](4) An assessment to income tax under this section shall be made under Case VI of Schedule D.]

^{F31}(4A)

[F32](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 [F33]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 ^{F34}... is enquired into by an officer of the Board, the period ending with the day on which, by virtue of section [F35]28A(1)] of this Act, [F36]the enquiry is] completed.]

(6) Subsection (5) above is without prejudice to [F37]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

- F20** 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\(1\)\(3\)](#)
- F21** 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
- F22** 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
- F23** 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
- F24** [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [Sch. 29 para 32](#).
- F25** 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
- F26** 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))
- F27** 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
- F28** 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
- F29** 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
- F30** 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

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- F31** 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
- F32** 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
- F33** 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
- F34** Words in s. 30(5)(b) repealed (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 23\(2\)\(a\), Sch. 33 Pt. 2\(13\)](#) Note
- F35** Word in s. 30(5)(b) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 23\(2\)\(b\)](#)
- F36** Words in s. 30(5)(b) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 23\(2\)\(c\)](#)
- F37** 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)

- C13** S. 30 applied by [Income and Corporation Taxes Act 1988 \(c. 1\), Sch. 14 para 7\(3\)\(b\)](#)
S. 30 applied by [Finance Act 1989 \(c. 26\), s. 57\(3\)](#)
S. 30 applied by [Personal Pension Schemes \(Relief at Source\) Regulations 1988 \(S.I. 1988/1013\)](#), reg. 13
S. 30 applied by [Personal Pension Schemes \(Min. Contributions under the Social Security Act 1986\) Regulations 1988 \(S.I. 1988/1012\)](#), reg. 6
S. 30 applied by [Private Medical Insurance \(Disentitlement to Tax Relief and Approved Benefits\) Regulations 1989 \(S.I. 1989/2389\)](#), reg. 5
- C14** S. 30 extended by [Finance Act 1991 \(c. 31\), s. 33\(3\)\(b\)](#)
- C15** S. 30 modified (6.4.1992) by [The Vocational Training \(Public Financial Assistance and Disentitlement to Tax Relief\) Regulations 1992 \(S.I. 1992/734\)](#), reg. 6(1)
- C16** 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
- C17** S. 30: power to apply conferred (1.5.1995) by [Finance Act 1995 \(c. 4\), s. 73\(4\)\(b\)](#)
- C18** 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\(3\)](#))
- C19** S. 30 applied by [Income and Corporation Taxes Act 1988 \(c. 1\), s. 813](#)
S. 30 applied by [The Occupational Pension Schemes \(Additional Voluntary Contributions\) Regulations 1987 \(S.I. 1987/1749\)](#), reg. 11
- C20** S. 30(1)(4)(5)(6) applied (with modifications) (1.2.2001) by [The Income Tax \(Electronic Communications\) \(Incentive Payments\) Regulations 2001 \(S.I. 2001/56\)](#), regs. 1(1), 3(5), 4(5), 5(5) (with reg. 1(2))

[^{F38}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.

Status: Point in time view as at 31/03/2003.

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- (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

F38 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

Modifications etc. (not altering text)

C21 S. 30A applied (with modifications) (1.2.2001) by [The Income Tax \(Electronic Communications\) \(Incentive Payments\) Regulations 2001 \(S.I. 2001/56\)](#), regs. 1(1), [3\(5\)](#), [4\(5\)](#), [5\(5\)](#) (with [reg. 1\(2\)](#))

[^{F39}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 [^{F40}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 [^{F41}amend the partnership return] as to make good the omission or deficiency or eliminate the excess.

- [^{F42}(2) Where a partnership return is amended under subsection (1) above, the officer shall by notice to each of the relevant partners amend—
 - (a) the partner's return under section 8 or 8A of this Act, or
 - (b) the partner's company tax return,
 so as to give effect to the amendments of the partnership return.]

- (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 [^{F43}partnership return]; or

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- (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 [^{F44}section 8 or 8A] were a reference to the representative partner's [^{F45}partnership return]; 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.
- (9) In this section—
- [^{F46}“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

- F39** 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
- F40** 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\(5\)](#)
- F41** Words in s. 30B(1) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 24\(2\)](#)
- F42** S. 30B(2) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 24\(3\)](#)
- F43** Words in s. 30B(6)(a) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 24\(4\)](#)
- F44** 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
- F45** Words in s. 30B(7)(b) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 24\(4\)](#)
- F46** 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)

- C22** S. 30B(3)(4) excluded (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), [Sch. 22 para. 11\(2\)\(3\)](#)

Status: Point in time view as at 31/03/2003.

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[^{F47}31 Appeals: right of appeal

- (1) An appeal may be brought against—
 - (a) any amendment of a self-assessment under section 9C of this Act (amendment by Revenue during enquiry to prevent loss of tax),
 - (b) any conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act (amendment by Revenue on completion of enquiry into return),
 - (c) any amendment of a partnership return under section 30B(1) of this Act (amendment by Revenue where loss of tax discovered), or
 - (d) any assessment to tax which is not a self-assessment.
- (2) An appeal under subsection (1)(a) above against an amendment of a self-assessment made while an enquiry is in progress shall not be heard and determined until the enquiry is completed.
- (3) A determination under section 9D or 12AE of this Act (choice between different Cases of Schedule D) may not be questioned on an appeal under this section.
- (4) This section has effect subject to any express provision in the Taxes Acts, including in particular any provision making one kind of assessment conclusive in an appeal against another kind of assessment.]

Textual Amendments

F47 Ss. 31-31D substituted for s. 31 (with effect and application in accordance with s. 88(3), Sch. 29 para. 11(2) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), **Sch. 29 para. 11(1)**

Modifications etc. (not altering text)

C23 S. 31 applied (1.10.1993) by [The Income Tax \(Manufactured Overseas Dividends\) Regulations 1993 \(S.I. 1993/2004\)](#), **reg. 11(10)**

[^{F47}31A Appeals: notice of appeal

- (1) Notice of an appeal under section 31 of this Act must be given—
 - (a) in writing,
 - (b) within 30 days after the specified date,
 - (c) to the relevant officer of the Board.
- (2) In relation to an appeal under section 31(1)(a) or (c) of this Act—
 - (a) the specified date is the date on which the notice of amendment was issued, and
 - (b) the relevant officer of the Board is the officer by whom the notice of amendment was given.
- (3) In relation to an appeal under section 31(1)(b) of this Act—
 - (a) the specified date is the date on which the closure notice was issued, and
 - (b) the relevant officer of the Board is the officer by whom the closure notice was given.
- (4) In relation to an appeal under section 31(1)(d) of this Act—
 - (a) the specified date is the date on which the notice of assessment was issued, and

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- (b) the relevant officer of the Board is the officer by whom the notice of assessment was given.
- (5) The notice of appeal must specify the grounds of appeal.
- (6) On the hearing of the appeal the Commissioners may allow the appellant to put forward grounds not specified in the notice, and take them into consideration, if satisfied that the omission was not wilful or unreasonable.]

Textual Amendments

F47 Ss. 31-31D substituted for s. 31 (with effect and application in accordance with s. 88(3), Sch. 29 para. 11(2) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 11\(1\)](#)

Modifications etc. (not altering text)

C24 S. 31A applied by Finance Act 1993 (c. 34), Sch. 19 para. 7(2)(a) (as amended (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 36\(3\)](#))

C25 S. 31A(5)(6) applied by Finance Act 1993 (c. 34), Sch. 19 para. 4(3) (as amended (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 36\(2\)\(a\)](#))

[^{F47}31B Appeals: appeals to General Commissioners

- (1) An appeal under section 31(1) of this Act shall be to the General Commissioners, subject to—
 - (a) section 31C of this Act (appeals to be brought to Special Commissioners),
 - (b) any provision made by or under Part 5 of this Act, and
 - (c) any other provision of the Taxes Acts providing for an appeal to be brought to the Special Commissioners to the exclusion of the General Commissioners.
- (2) Subsection (1) above has effect subject to any election under section 31D of this Act (election to take appeal to Special Commissioners).]

Textual Amendments

F47 Ss. 31-31D substituted for s. 31 (with effect and application in accordance with s. 88(3), Sch. 29 para. 11(2) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 11\(1\)](#)

[^{F47}31C Appeals: appeals to Special Commissioners

- (1) Unless the Special Commissioners otherwise direct, an appeal under section 31(1)(a), (b) or (c) of this Act shall be to the Special Commissioners if—
 - (a) the appeal relates to a return in relation to which notice of enquiry has been given under section 9A(1) or 12AC(1) of this Act, and
 - (b) notice has been given under section 28ZA of this Act referring a question relating to the subject-matter of that enquiry to the Special Commissioners.

This applies even if the notice of referral was subsequently withdrawn.

- (2) An appeal under section 31(1)(d) of this Act (appeal against assessment other than self-assessment) shall be to the Special Commissioners if the assessment was made—
 - (a) by the Board, or

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(b) under section 350 of the principal Act.]

Textual Amendments

F47 Ss. 31-31D substituted for s. 31 (with effect and application in accordance with s. 88(3), Sch. 29 para. 11(2) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 11\(1\)](#)

[^{F47}31D Appeals: election to bring appeal before Special Commissioners

- (1) The appellant may elect (in accordance with section 46(1) of this Act) to bring before the Special Commissioners an appeal under section 31(1) of this Act that would otherwise be to the General Commissioners.
- (2) Any such election 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 (5) below and have not revoked it.
- (3) Where an election has been made under subsection (1) above, the inspector or other officer of the Board may refer the election to the General Commissioners.
- (4) A reference under subsection (3) above must be made—
 - (a) after giving notice to the appellant, and
 - (b) before the determination of the appeal in respect of which the election has been made.
- (5) On a reference under subsection (3) above 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.
- (6) If at any time after giving a direction under subsection (5) 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.
- (7) A decision to give or revoke a direction under subsection (5) above shall be final.]

Textual Amendments

F47 Ss. 31-31D substituted for s. 31 (with effect and application in accordance with s. 88(3), Sch. 29 para. 11(2) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 11\(1\)](#)

Modifications etc. (not altering text)

- C26** S. 31D(1) applied by [Finance Act 1993 \(c. 34\)](#), Sch. 19 para. 4(3) (as amended (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 36\(2\)\(b\)](#))
- C27** S. 31D(2)-(7) applied by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), s. 12(5) (as amended (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 39](#))
- C28** S. 31D(2)-(7) applied by [The Social Security Contributions \(Transfer of Functions, etc.\) \(Northern Ireland\) Order 1999 \(S.I. 1999/671\)](#), art. 11(5) (as amended (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 40](#))

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C29 S. 31D(2)-(7) modified (1.9.2002 for specified purposes, 1.1.2003 for specified purposes, 6.4.2003 for specified purposes) by [Tax Credits Act 2002 \(c. 21\)](#), [ss. 39\(4\), 61](#); [S.I. 2002/1727](#), art. 2

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^{F48} ... , 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.

Textual Amendments

F48 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)

C30 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\(2\)](#)

C31 S. 32 applied (with modifications) by Finance Act 1981, s. 134, Sch. 17 para.18 (special tax on banking deposits).

33 Error or mistake.

[^{F49}(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^{F50} ... in respect of the error or mistake as is reasonable and just:

^{F51}

[^{F52}(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

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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 [^{F53}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.

^{F54}(4A)

(5) In this section “profits”—

- (a) in relation to income tax, means income^{F55}, and]
 (b) in relation to capital gains tax, means chargeable gains,
^{F56}(c)
^{F54}(d)

Textual Amendments

- F49** 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
- F50** *Words omitted repealed for 1973—74 et seq.* by Finance Act 1971 ss. 37, 38, Sch. 14 Part II.
- F51** 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
- F52** 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
- F53** 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](#)
- F54** 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.
- F55** 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
- F56** 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)

- C32** 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](#))
- C33** S. 33(1) modified by [The Lloyd’s Underwriters \(Tax\) Regulations 1989 \(S.I. 1989/421\)](#), [Sch. 19 para. 8\(2\)](#); S. 33(1) modified by [The Lloyd’s Underwriters \(Tax\) \(1987—88\) Regulations 1990 \(S.I. 1990/627\)](#), reg. 3(2), [Sch. 19 para. 8\(2\)](#)
- C34** 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. 19 para. 8\(2\)](#)
- C35** S. 33(1) modified (28.3.1992) by [The Lloyd’s Underwriters \(Tax\) \(1989—90\) Regulations 1992 \(S.I. 1992/511\)](#), reg. 9, [Sch. 19 para. 8\(2\)](#)
- C36** 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. 19 para. 8\(2\)](#)
- C37** 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. 19 para. 8\(2\)](#)

Status: Point in time view as at 31/03/2003.

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- C38** 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.](#)
- C39** S. 33 applied (with modifications) by the [Oil Taxation Act 1975 \(c. 22\)](#), s. 1, [Sch. 2 para. 1\(1\)](#)
- C40** S. 33 applied (with modifications) by Finance Act 1981 s. 134, Sch. 17 para. 18 (special tax on banking deposits).

^{F57}33A Error or mistake in ^{F58}partnership return].

- (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 ^{F59}... was excessive by reason of some error or mistake in a ^{F60}partnership return].
- (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.
- (3) On receiving the claim the Board shall inquire into the matter and shall, subject to subsection (5) below, so amend the ^{F61}partnership return] so as to give such relief in respect of the error or mistake as is reasonable or just.
- ^{F62}(4) Where a partnership return is amended under subsection (3) above, the Board shall by notice to each of the relevant partners amend—
 - (a) the partner’s return under section 8 or 8A of this Act, or
 - (b) the partner’s company tax return,so as to give effect to the amendments of the partnership return.]
- (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 ^{F63}partnership return] 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.
- ^{F64}(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;

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“relevant partner” means a person who was a partner at any time during the period in respect of which the [^{F65}partnership return] 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

- F57** 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
- F58** Words in s. 33A sidenote substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 25\(2\)](#)
- F59** 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
- F60** Words in s. 33A(1) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 25\(2\)](#)
- F61** Words in s. 33A(3) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 25\(2\)](#)
- F62** S. 33A(4) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 25\(3\)](#)
- F63** Words in s. 33A(5) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 25\(2\)](#)
- F64** 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](#)
- F65** Words in s. 33A(9) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 25\(2\)](#)

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, [^{F66}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

- F66** 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)

- C41** 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\(3\)](#))
- C42** *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.](#)

Status: Point in time view as at 31/03/2003.

Changes to legislation: Taxes Management Act 1970, PART IV is up to date with all changes known to be in force on or before 07 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)

- C43** 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](#)
- C44** See [S.I. 1974/896](#), [reg. 4\(2\)](#) for modification in relation to Lloyd's Underwriters.
- C45** 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](#)
- C46** S. 34 applied (with modifications) by the [Oil Taxation Act 1975 \(c. 22\)](#), [s. 1](#), [Sch. 2 para. 1\(1\)](#)
- C47** 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.](#)
- C48** 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\(1\)\(2\)](#)
- C49** 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\(1\)\(2\)](#)

^{F67}**35 Emoluments received after year for which they are assessable.**

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Textual Amendments

- F67** 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\(9\)](#)

^{F68}**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 [^{F69}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 [^{F70}not later than 20 years after the 31st January next following the year of assessment to which it relates].

[^{F71}(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 ^{F72}(3A) section 257BA of the principal Act (elections as to transfer of married couple’s allowance) ^{F73}...]

[Any act or omission such as is mentioned in section 98B below on the part of a ^{F74}(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.]]

Status: Point in time view as at 31/03/2003.

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Textual Amendments

- F68** 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
- F69** 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
- F70** 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
- F71** 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
- F72** S. 36(3A) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 20, [Sch. 5 paras. 9\(2\), 10](#)
- F73** Words in s. 36(3A) repealed (27.8.2002 for specified purposes) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 6](#); S.I. 2002/1727, art. 2
- F74** S. 36(4) added by [Finance Act 1990](#) s. 69, [Sch. 11 para. 4\(1\)](#) *on and after 1 July 1989*.

Modifications etc. (not altering text)

- C50** S. 36 applied by [The Income Tax \(Entertainers and Sportsmen\) Regulations 1987 \(S.I. 1987/530\)](#), [reg. 11\(2\)](#)
- C51** 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](#))
- C52** 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)
- C53** S. 36 applied (1.10.1993) by [The Income Tax \(Manufactured Overseas Dividends\) Regulations 1993 \(S.I. 1993/2004\)](#), [reg. 11\(7\)](#)
- C54** 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](#))
- C55** 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](#))
- C56** 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](#)
- C57** 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](#)
- C58** 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](#)
- C59** 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\(1\)\(2\)](#)
- C60** 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\(1\)\(2\)](#)

^{F75}37 Neglect: income tax and capital gains tax.

.....

Textual Amendments

- F75** 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)

Status: Point in time view as at 31/03/2003.

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[^{F76}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 [^{F77}fraudulent or negligent conduct], the fact that the person's [^{F78}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 [^{F79}any income tax reduction or deduction from total income made in the case of that person's spouse]^{F80} ... by virtue of section [^{F81}257BB]^{F82} ... or 265 of the principal Act ^{F80} ... ; [^{F83}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].]

Textual Amendments

- F76** S. 37A inserted (for 1990-91 and subsequent years) by [Finance Act 1988 \(c. 39\)](#), s. 35, [Sch. 3 para. 30](#)
- F77** 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)
- F78** 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\(a\)](#)
- F79** 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\(b\)](#)
- F80** Words in s. 37A repealed (27.8.2002 for specified purposes) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, [Sch. 6](#); [S.I. 2002/1727](#), art. 2
- F81** Words in s. 37A substituted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 20, [Sch. 5 para. 9\(3\)](#), [10](#)
- F82** 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\(3\)](#)
- F83** 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\(c\)](#)

^{F84}38 Modification of s.37 in relation to partnerships.

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Textual Amendments

- F84** 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)

^{F85}39 Neglect: corporation tax.

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Textual Amendments

- F85** 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)

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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 [^{F86}the period of three years beginning with the 31st January next following the year of assessment] in which the deceased died.
- (2) ^{F87}... , for the purpose of making good to the Crown any loss of tax attributable to the [^{F88}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 [^{F86}the period of three years beginning with the 31st January next following the year of assessment] in which he died.
- (3) In [^{F89}this section] “tax” means income tax or capital gains tax.
- [^{F90}(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.]
- ^{F91}(4)
- ^{F91}(5)

Textual Amendments

- F86** 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
- F87** *Words repealed by Finance Act 1989 s. 187 and Sch. 17 Part VIII.*
- F88** *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.*
- F89** Words in s. 40(3) substituted by [Finance Act 1985 \(c. 54\)](#), s. 93(7), [Sch. 25 para. 5](#)
- F90** S. 40(4) inserted (with effect on and after 1 July 1989) by [Finance Act 1990 \(c. 29\)](#), s. 69, [Sch. 11 para. 4\(2\)](#).
- F91** 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)

- C61** 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](#))
- C62** S. 40 modified (27.7.1993) by [1993 c. 34](#), s. 173, [Sch. 19 Pt. 1 para. 8](#)
- C63** 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](#)
- C64** 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](#)
- C65** 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](#)
- C66** 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\(1\)\(2\)](#)

Status: Point in time view as at 31/03/2003.

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C67 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)**

^{F92}41 Leave of General or Special Commissioners required for certain assessments.

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Textual Amendments

F92 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)

[^{F93}Corporation tax determinations]

Textual Amendments

F93 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)

^{F94}41A Determination procedure

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Textual Amendments

F94 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

^{F94}41B Reduction of determination

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Textual Amendments

F94 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

^{F94}41C Time limits

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Textual Amendments

F94 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

Status: Point in time view as at 31/03/2003.

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Claims

[^{F95}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.

[^{F96}(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 [^{F97}subsections (3) and (3A)] below, where notice has been given under section 8, 8A ^{F98}... or 12AA of this Act, a claim shall not at any time be made 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) [^{F99}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.

^{F100}(3A)

^{F100}(3B)

^{F101}(4)

^{F102}(4A)

(5) The references in [^{F103}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; ^{F104}...

(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 [^{F105}partnership return], 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) [^{F106}sections ^{F107}... 84], 91B, 101(2), ^{F108}... ^{F107}... 471, 472, 484, 504, 531, ^{F109}... , 570, 571(4), ^{F110}... 723(3), 732(4) ^{F111}... of, and paragraphs 2, 6 and 11 of Schedule 5 to, the principal Act;
- (b) section 43(5) of the Finance Act 1989;
- [^{F112}(c) sections 3, 83, 89, 129, 131, 135, 177, 183, 266, 268, 290, 355, 381 and 569 of the Capital Allowances Act; and
- (d) sections 40B(5), 40D, 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 ^{F113}... 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.

Status: Point in time view as at 31/03/2003.

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(10) This section [^{F114}(except subsection (1A) above)] shall apply in relation to any elections ^{F115}... as it applies in relation to claims.

(11) Schedule 1A to this Act shall apply as respects any claim [^{F116}or election] which—
(a) is made otherwise than by being included in a return under section 8, 8A ^{F117}... or 12AA of this Act, ^{F118}...
^{F118}(b)

[^{F119}(11A) Schedule 1B to this Act shall have effect as respects certain claims for relief involving two or more years of assessment.]

^{F120}(12)

(13) In this section “profits”—
(a) in relation to income tax, means income^{F121}, and]
(b) in relation to capital gains tax, means chargeable gains, and
^{F122}(c)]

Textual Amendments

- F95** 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
- F96** S. 42(1A) inserted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\), s. 107\(1\)](#)
- F97** 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\(2\)](#)
- F98** 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
- F99** 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\(3\)](#)
- F100** 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\(6\)](#)
- F101** 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
- F102** 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
- F103** 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\(7\)](#)
- F104** 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
- F105** Words in s. 42(6)(a) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 26](#)
- F106** 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\(8\)](#)
- F107** 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\(7\)](#)
- F108** 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\(2\)](#)
- F109** 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\(6\)](#)
- F110** 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\(4\)](#)

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- F111** Word in s. 42(7)(a) repealed (with effect in accordance with Sch. 30 of the amending Act) by [Finance Act 2000 \(c. 17\)](#), **Sch. 40 Pt. 2(13)**
- F112** S. 42(7)(c)(d) substituted (with effect in accordance with s. 579(1) of the amending Act) by [Capital Allowances Act 2001 \(c. 2\)](#), **Sch. 2 para. 1** (with Sch. 3)
- F113** 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
- F114** 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)**
- F115** 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)**
- F116** 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)**
- F117** 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
- F118** 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)**
- F119** 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)**
- F120** 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)**
- F121** 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
- F122** 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)

- C68** S. 42 excluded (16.8.1995) by [The Venture Capital Trust Regulations 1995 \(S.I. 1995/1979\)](#), regs. 1, **19(1)**
- C69** 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)**)
- C70** 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
- C71** S. 42 excluded (with effect in accordance with s. 579(1) of the amending Act) by [Capital Allowances Act 2001 \(c. 2\)](#), **s. 201(5)(a)** (with Sch. 3)
- C72** S. 42 excluded (with effect in accordance with s. 579(1) of the amending Act) by [Capital Allowances Act 2001 \(c. 2\)](#), **s. 227(5)(a)** (with Sch. 3)

43 Time limit for making claims.

[^{F123}(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.

^{F124}(3)

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Textual Amendments

- F123** 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
- F124** 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](#).

Modifications etc. (not altering text)

- C73** 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).
- C74** 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)
- C75** 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](#)
- C76** 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](#)
- C77** 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](#)
- C78** 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.](#)

[^{F125}43A Further assessments: claims etc.

- (1) This section applies where—
- [^{F126}(a) ^{F127}... 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 [^{F128}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

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- (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 ^{F129}(2A) election under section 257BA of the principal Act (elections as to transfer of married couple’s allowance) ^{F130}]

- (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 [^{F128}year of assessment] if—

- (a) it relates to that [^{F128}year of assessment] or is made or given by reference to an event occurring in that [^{F128}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 [^{F131}year of assessment] to which the assessment relates, or
- (ii) any [^{F131}year of assessment] which follows that [^{F131}year of assessment] and ends not later than one year after the end of the [^{F131}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 [^{F131}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

- F125** 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**
- F126** 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
- F127** 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)**
- F128** 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
- F129** S. 43A(2A) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 20, **Sch. 5 paras. 9(4), 10**
- F130** Words in s. 43A(2A) repealed (27.8.2002 for specified purposes) by [Tax Credits Act 2002 \(c. 21\)](#), s. 61, **Sch. 6**; S.I. 2002/1727, art. 2
- F131** 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

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Modifications etc. (not altering text)

C79 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

[^{F132}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
 - (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

F132 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:

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Changes to legislation:

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