



# Finance Act 1994

## 1994 CHAPTER 9

### PART IV

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER III

#### MANAGEMENT: SELF-ASSESSMENT ETC.

#### *Enquiries: procedure*

#### **187 Power to call for documents**

Immediately before section 20 of the Management Act there shall be inserted the following section—

#### **“19A Power to call for documents for purposes of certain enquiries**

- (1) This section applies where an officer of the Board gives notice under section 9A(1), 11AB(1) or 12AC(1) 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 or partnership statement was made, or
  - (b) any amendment of that return on the basis of which that assessment or statement has been amended by the taxpayer.
- (2) For the purpose of enquiring into the return or amendment, the officer may at the same or any subsequent time by notice in writing require the taxpayer, within such time (which shall not be less than 30 days) as may be specified in the notice—
  - (a) to produce to the officer such documents as are in the taxpayer’s possession or power and as the officer may reasonably require for the

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- purpose of determining whether and, if so, the extent to which the return is incorrect or incomplete or the amendment is incorrect, and
- (b) to furnish the officer with such accounts or particulars as he may reasonably require for that purpose.
- (3) To comply with a notice under subsection (2) above, copies of documents may be produced instead of originals; but—
- (a) the copies must be photographic or otherwise by way of facsimile; and
- (b) if so required by a notice in writing given by the officer, in the case of any document specified in the notice, the original must be produced for inspection by him within such time (which shall not be less than 30 days) as may be specified in the notice.
- (4) The officer may take copies of, or make extracts from, any document produced to him under subsection (2) or (3) above.
- (5) A notice under subsection (2) above does not oblige the taxpayer to produce documents or furnish accounts or particulars relating to the conduct of any pending appeal by him.
- (6) An appeal may be brought against any requirement imposed by a notice under subsection (2) above to produce any document or to furnish any accounts or particulars.
- (7) An appeal under subsection (6) above must be brought within the period of 30 days beginning with the date on which the notice under subsection (2) above is given.
- (8) Subject to subsection (9) below, the provisions of this Act relating to appeals shall have effect in relation to an appeal under subsection (6) above as they have effect in relation to an appeal against an assessment to tax.
- (9) On an appeal under subsection (6) above section 50(6) to (8) of this Act shall not apply but the Commissioners may—
- (a) if it appears to them that the production of the document or the furnishing of the accounts or particulars was reasonably required by the officer of the Board for the purpose mentioned in subsection (2) above, confirm the notice under that subsection so far as relating to the requirement; or
- (b) if it does not so appear to them, set aside that notice so far as so relating.
- (10) Where, on an appeal under subsection (6) above, the Commissioners confirm the notice under subsection (2) above so far as relating to any requirement, the notice shall have effect in relation to that requirement as if it had specified 30 days beginning with the determination of the appeal.
- (11) Neither the taxpayer nor the officer of the Board shall be entitled to require a case to be stated under section 56 of this Act following the determination of an appeal under subsection (6) above.
- (12) Where this section applies by virtue of a notice given under section 12AC(1) of this Act, any reference in this section to the taxpayer includes a reference to any predecessor or successor of his.”

## 188 Amendment of self-assessment

Immediately before section 29 of the Management be inserted the following section—

### “28A Amendment of self-assessment where enquiries made

- (1) This section applies where an officer of the Board gives notice under section 9A(1) or 11AB(1) 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.
- (2) If, at any time before the officer’s enquiries are completed, the officer is of opinion that—
  - (a) the tax contained in the taxpayer’s self-assessment is insufficient and, in a case falling within subsection (1)(b) 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) the tax contained in the taxpayer’s self-assessment is insufficient or excessive, and
  - (b) in a case falling within subsection (1)(b) 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.
- (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.

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- (6) At any time before a notice is given under subsection (5) above the taxpayer may apply to the Commissioners for a direction that the officer shall give such a notice within such period as may be specified in the direction; and the Commissioners shall give such a direction unless they are satisfied that the officer has reasonable grounds for not giving such a notice.
- (7) Proceedings under subsection (6) above shall be heard and determined in the same way as an appeal.
- (8) In this section “filing date” means the day mentioned in section 8(1A), section 8A(1A) or, as the case may be, section 11(4) of this Act.”

## **189 Amendment of partnership statement**

After section 28A of the Management Act there shall be inserted the following section—

### **“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—
  - (a) the return on the basis of which the taxpayer’s partnership statement was made, or
  - (b) 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.
- (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—
  - (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 (3) below; or
  - (b) 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.
- (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 subsection (1)(b) 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.
- (4) Where a partnership statement is amended under this section, the officer shall by notice to each of the partners so amend his self-assessment under section 9

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or 11AA of this Act 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.
- (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.
- (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."