

*Status: Point in time view as at 29/04/1996.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 19. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 19 **U.K.**

Section 133.

#### SELF-ASSESSMENT: CLAIMS AND ENQUIRIES

##### *Introductory*

- 1 The <sup>M1</sup>Taxes Management Act 1970, as it has effect—
- (a) for the purposes of income tax and capital gains tax, as respects the year 1996-97 and subsequent years of assessment, and
  - (b) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions),
- shall be amended in accordance with the following provisions of this Schedule.

##### **Marginal Citations**

**M1** 1970 c. 9.

##### *Matters subject to enquiry*

- 2 In each of sections 9A(1), 11AB(1), 12AC(1), 19A(1), 28A(1) and 28B(1) (matters subject to enquiry), after paragraph (b) there shall be inserted “or
- (c) any claim or election included in the return (by amendment or otherwise)”.

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

- 3 (1) In section 19A (power to call for documents for the purposes of certain enquiries), after subsection (2) there shall be inserted the following subsection—
- “(2A) The officer of the Board may also (whether or not he imposes a requirement under subsection (2) above), by a 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 purpose of making a determination for the purposes of section 28A(7A)(d) or 28B(6A)(d) of this Act, and
  - (b) to furnish the officer with such accounts or particulars as he may reasonably require for that purpose.”

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- (2) In subsections (3), (5), (7), (9)(a) and (10) of that section, for the words “subsection (2)”, in each place where they occur, there shall be substituted “subsection (2) or (2A)”.
- (3) In subsection (4) of that section, for “subsection (2) or” there shall be substituted “subsection (2), (2A) or”.
- (4) In section 97AA(1) (penalty for failure to comply with notice), for “section 19A(2) or (3)” there shall be substituted “section 19A(2), (2A) or (3)”.

*Further amendments of section 28A*

- 4 (1) In section 28A (amendment of self-assessment where enquiries made in the case of individuals, trustees and companies)—
  - (a) in each of subsections (2)(a) and (4)(b), for “subsection (1)(b) above” there shall be substituted “subsection (1)(b) or (c) above”;
  - (b) in subsection (4)(a), for “the tax contained in the taxpayer’s self-assessment” there shall be substituted “any amount set out in the return”; and
  - (c) in subsection (5)(b), at the end there shall be inserted “and as to any claims or elections into which he has enquired.”
- (2) After subsection (4) of that section there shall be inserted the following subsections—
  - “(4A) If—
    - (a) any claim or election is included in the return,
    - (b) the officer is of opinion that the claim or election should be disallowed in whole or in part but that its disallowance to the extent he thinks appropriate would not require any amendment of the taxpayer’s self-assessment, and
    - (c) the claim or election, so far as the officer thinks it should be disallowed, is not, before the end of the period mentioned in subsection (3) above, amended to the officer’s satisfaction or withdrawn,
 the officer shall, before the end of the period mentioned in subsection (4) above, give notice to the taxpayer of the extent to which he is disallowing the claim or election.
  - (4B) Subsection (4A)(c) above is without prejudice to any provision by virtue of which any claim or election is irrevocable or unamendable.”
- (3) Immediately before subsection (8) of that section there shall be inserted the following subsections—
  - “(7A) Where, in the case of any return made in respect of any chargeable period—
    - (a) alternative methods are allowed by the Tax Acts for bringing amounts into account in that return,
    - (b) the return is made or amended using one of those methods,
    - (c) a return could have been made in that case using an alternative method, and
    - (d) an officer of the Board determines which of the alternative methods is to be used by the Board in relation to the taxpayer for that period,

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any enquiry into that return or into an amendment of it shall be conducted, and this section shall have effect, as if the only method allowed for the purposes of the Tax Acts were the method determined by the officer.

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

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

and

- (b) the case where the computation in which amounts are brought into account may be either—
  - (i) a computation for the purposes of Case I of Schedule D; or
  - (ii) a computation for the purpose of applying the basis (commonly called the I minus E basis) under which a company carrying on life assurance business or capital redemption business may be charged to tax on that business otherwise than under Case I of Schedule D.

(7C) In subsection (7B) above—

“life assurance business” includes annuity business within the meaning of Chapter I of Part XII of the principal Act; and

“capital redemption business” means any capital redemption business, within the meaning of section 458 of that Act, which is business to which that section applies.”

#### *Further amendments of section 28B*

- 5 (1) In section 28B (amendment of partnership statement following enquiry)—
- (a) in subsection (3)(b), for “subsection (1)(b) above” there shall be substituted “subsection (1)(b) or (c) above”; and
  - (b) in subsection (5)(b), at the end there shall be inserted “and as to any claims or elections into which he has enquired.”
- (2) After subsection (6) of that section there shall be inserted the following subsections—
- “(6A) Where, in the case of any return made in relation to any period of account—
- (a) alternative methods are allowed by the Tax Acts for bringing amounts into account in that return,
  - (b) the return is made or amended using one of those methods,
  - (c) a return could have been made in that case using an alternative method, and
  - (d) an officer of the Board determines which of the alternative methods is to be used by the Board in relation to the partnership for that period,

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any enquiry into that return or into an amendment of it shall be conducted, and this section shall have effect, as if the only method allowed for the purposes of the Tax Acts were the method determined by the officer.

(6B) In subsection (6A) above “period of account” has the same meaning as in section 12AB of this Act; and subsection (7B) of section 28A of this Act applies for the purposes of subsection (6A) above as it applies for the purposes of subsection (7A) of that section.”

*Right of appeal against notice disallowing claim in return*

- 6 (1) In subsection (1) of section 31 (appeals)—
- (a) after paragraph (a) there shall be inserted the following paragraph—
- “(aa) a decision contained in a notice under section 28A(4A) of this Act disallowing a claim or election in whole or in part, or”;
- and
- (b) in the words after paragraph (c), for “amendment or” there shall be substituted “ amendment, the notice under section 28A(4A) of this Act or, as the case may be, the notice of”.
- (2) After that subsection there shall be inserted the following subsection—
- “(1AA) The matters that may be questioned on any appeal against—
- (a) an amendment under subsection (2) or (4) of section 28A of this Act,
- (b) a decision contained in a notice under subsection (4A) of that section disallowing a claim or election in whole or in part, or
- (c) an amendment under section 28B(3) or 30B(1) of this Act,
- do not include any determination made for the purposes of section 28A(7A) (d) or 28B(6A)(d) of this Act.”
- (3) In subsection (5) of that section, the words “against any assessment” shall be omitted.
- 7 In section 50 (procedure on appeals), after subsection (7) there shall be inserted the following subsection—
- “(7A) If, on appeal, it appears to the Commissioners that a claim or election specified in a notice under section 28A(4A) of this Act should have been allowed or disallowed to an extent different from that specified in the notice, the claim or election shall be allowed or disallowed accordingly to the extent that appears to them appropriate, but otherwise the decision in the notice shall stand good.”

*Claims not included in returns*

- 8 (1) In Schedule 1A (claims not included in returns), in paragraph 4 (giving effect to claims and amendments), in sub-paragraph (1) for “(1A) and (3)” there shall be substituted “ (1A), (3) and (4) ”.
- (2) In sub-paragraph (2) of that paragraph, for “sub-paragraph (3)” there shall be substituted “ sub-paragraphs (3) and (4) ”.

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(3) After sub-paragraph (3) there shall be inserted the following sub-paragraph—

“(4) Nothing in this paragraph applies in relation to a claim or an amendment of a claim if the claim is not one for discharge or repayment of tax.”

9 (1) In paragraph 7 of Schedule 1A (amendment of claims where enquiries made), after sub-paragraph (3), there shall be inserted the following sub-paragraphs—

“(3A) If, in the case of a claim which is not a claim for discharge or repayment of tax—

- (a) the officer is of opinion that the claim should be disallowed in whole or in part, and
- (b) the claim, so far as the officer thinks it should be disallowed, is not, before the end of the period mentioned in sub-paragraph (2) above, amended to the officer’s satisfaction or withdrawn,

the officer shall, before the end of the period mentioned in sub-paragraph (3) above, give notice to the taxpayer of the extent to which he is disallowing the claim.

(3B) Sub-paragraph (3A)(b) above is without prejudice to any provision by virtue of which any claim is irrevocable or unamendable.”

(2) In sub-paragraph (4)(b) of that paragraph, for “the amount which” there shall be substituted “ whether the claim should be allowed in whole or in part and as to what amount (if any) ”.

*Right of appeal against notice disallowing claim not in return*

10 (1) In paragraph 9 of Schedule 1A (appeals), for sub-paragraph (1) there shall be substituted the following sub-paragraph—

“(1) An appeal may be brought against—

- (a) an amendment under paragraph 7(3) above, or
- (b) a decision contained in a notice under paragraph 7(3A) above,

by giving notice to the officer within 30 days after the date on which the notice of amendment or, as the case may be, the notice under paragraph 7(3A) above was issued.”

(2) In sub-paragraph (2) of that paragraph, for “making of the amendment under paragraph 7(3) above” there shall be substituted “ date mentioned in sub-paragraph (1) above ”.

(3) In sub-paragraph (3) of that paragraph, for “under this paragraph” there shall be substituted “ against an amendment under paragraph 7(3) above ”.

(4) After sub-paragraph (4) of that paragraph there shall be inserted the following sub-paragraph—

“(5) If, on appeal, it appears to the Commissioners that a claim specified in a notice under paragraph 7(3A) above should have been allowed or disallowed to an extent different from that specified in the notice, the claim shall

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be allowed or disallowed accordingly to the extent that appears to them appropriate, but otherwise the decision in the notice shall stand good.”

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