



Taxes Management Act 1970

1970 CHAPTER 9

PART X

PENALTIES, ETC.

Modifications etc. (not altering text)

- C1** Part X (ss. 93-107) applied (with modifications) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 16\(1\)\(b\), 177\(4\), Sch. 2](#)
- C2** Part X (ss 93-107) applied (27.7.1993 with effect in relation to the year 1993-94 and subsequent years of assessment) by [1993 c. 34, s. 122\(2\)\(3\)](#)
- C3** See Finance Act 1966 s.27, Sch.6 para.23(7)—regulations under Finance Act 1965 s.84(7) may apply any provisions of Finance Act 1960 Part III (now Taxes Management Act 1970 Part X) in relation to penalties under para.23 and recovery of relief under Finance Act 1965 s.84 (overspill relief), subject to modifications, etc.

[^{F1}93 Failure to make return for income tax and capital gains tax.

- (1) This section applies where—
 - (a) any person (the taxpayer) has been required by a notice served under or for the purposes of section 8 or 8A of this Act (or either of those sections as extended by section 12 of this Act) to deliver any return, and
 - (b) he fails to comply with the notice.
- (2) The taxpayer shall be liable to a penalty which shall be £100.
- (3) If, on an application made to them by an officer of the Board, the General or Special Commissioners so direct, the taxpayer shall be liable to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which he is notified of the direction (but excluding any day for which a penalty under this subsection has already been imposed).
- (4) If—

Status: Point in time view as at 31/03/1995.

Changes to legislation: Taxes Management Act 1970, PART X is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the failure by the taxpayer to comply with the notice continues after the end of the period of six months beginning with the filing date, and
 - (b) no application is made under subsection (3) above before the end of that period,
- the taxpayer shall be liable to a further penalty which shall be £100.
- (5) Without prejudice to any penalties under subsections (2) to (4) above, if—
- (a) the failure by the taxpayer to comply with the notice continues after the anniversary of the filing date, and
 - (b) there would have been a liability to tax shown in the return,
- the taxpayer shall be liable to a penalty of an amount not exceeding the liability to tax which would have been so shown.
- (6) No penalty shall be imposed under subsection (3) above in respect of a failure at any time after the failure has been remedied.
- (7) If the taxpayer proves that the liability to tax shown in the return would not have exceeded a particular amount, the penalty under subsection (2) above, together with any penalty under subsection (4) above, shall not exceed that amount.
- (8) On an appeal against the determination under section 100 of this Act of a penalty under subsection (2) or (4) above, neither section 50(6) to (8) nor section 100B(2) of this Act shall apply but the Commissioners may—
- (a) if it appears to them that, throughout the period of default, the taxpayer had a reasonable excuse for not delivering the return, set the determination aside; or
 - (b) if it does not so appear to them, confirm the determination.
- (9) References in this section to a liability to tax which would have been shown in the return are references to an amount which, if a proper return had been delivered on the filing date, would have been payable by the taxpayer under section 59B of this Act for the year of assessment.
- (10) In this section—
- “the filing date” means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act;
 - “the period of default”, in relation to any failure to deliver a return, means the period beginning with the filing date and ending with the day before that on which the return was delivered.]

Textual Amendments

- F1** S. 93 substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 25; S.I. 1998/3173, art. 2](#)

[^{F2}93A Failure to make 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—
- (a) a partner (the representative partner) has been required by a notice served under or for the purposes of section 12AA(2) or (3) of this Act to deliver any return, and
 - (b) he fails to comply with the notice.

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- (2) Each relevant partner shall be liable to a penalty which shall be £100.
- (3) If, on an application made to them by an officer of the Board, the General or Special Commissioners so direct, each relevant partner shall be liable, for each day on which the failure continues after the day on which the representative partner is notified of the direction (but excluding any day for which a penalty under this subsection has already been imposed), to a further penalty or penalties not exceeding £60.
- (4) If—
- (a) the failure by the representative partner to comply with the notice continues after the end of the period of six months beginning with the filing date, and
 - (b) no application is made under subsection (3) above before the end of that period,
- each relevant partner shall be liable to a further penalty which shall be £100.
- (5) No penalty shall be imposed under subsection (3) above in respect of a failure at any time after the failure has been remedied.
- (6) Where, in respect of the same failure to comply, penalties under subsection (2), (3) or (4) above are determined under section 100 of this Act as regards two or more relevant partners—
- (a) no appeal against the determination of any of those penalties shall be brought otherwise than by the representative partner;
 - (b) any appeal by that partner shall be a composite appeal against the determination of each of those penalties; and
 - (c) section 100B(3) of this Act shall apply as if that partner were the person liable to each of those penalties.
- (7) On an appeal against a determination under section 100 of this Act of a penalty under subsection (2) or (4) above, neither section 50(6) to (8) nor section 100B(2) of this Act shall apply but the Commissioners may—
- (a) if it appears to them that, throughout the period of default, the representative partner had a reasonable excuse for not delivering the return, set the determination aside; or
 - (b) if it does not so appear to them, confirm the determination.
- (8) In this section—
- “the filing date” means the day specified in the notice under section 12AA(2) or (3) of this Act;
- “the period of default”, in relation to any failure to deliver a return, means the period beginning with the filing date and ending with the day before that on which the return was delivered;
- “relevant partner” means a person who was a partner at any time during the period in respect of which the return was required.]

Textual Amendments

- F2** S. 93A inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 26](#); [S.I. 1998/3173](#), art. 2

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[^{F3}94] Failure to make return for corporation tax.

- (1) If a company has been required by a notice served under section 11 of this Act (or under that section as extended by section 12 of this Act) to deliver a return for any period (in this section referred to as “the return period”) and the company fails to make proper delivery of the return, then, subject to subsections (3) and (5) below, the company shall be liable to a penalty which,—
 - (a) if the return is delivered before the expiry of the period of three months beginning on the day following the final day for the delivery of the return, shall be £100; and
 - (b) in any other case, shall be £200.
- (2) In relation to a return required by such a notice as is referred to in subsection (1) above,—
 - (a) any reference in this section (however expressed) to the delivery of the return is a reference to its delivery together with the accompanying accounts, statements and reports referred to in section 11(1) of this Act; and
 - (b) any reference in this section to making proper delivery of the return is a reference to the delivery of the return on or before the day which (in accordance with section 11(4) of this Act) is the final day for the delivery of the return.
- (3) In a case where—
 - (a) a company is required to deliver a return for a return period, and
 - (b) the return period is a period for which, under the ^{M1}Companies Act 1985, the company is required to deliver accounts to the Registrar of Companies,

the company shall not be liable to a penalty under subsection (1) above by reason of a failure to make proper delivery of the return if the return is delivered on or before the day which is the last day for the delivery to the Registrar of the accounts referred to in paragraph (b) above.
- (4) In the application of this section to a company registered in Northern Ireland, the reference in subsection (3) above to the Companies Act 1985 shall be construed as a reference to the ^{M2}Companies (Northern Ireland) Order 1986 and references to the Registrar of Companies shall be construed accordingly.
- (5) In any case where—
 - (a) a company is within the charge to corporation tax for three consecutive accounting periods, each of which is a return period, and
 - (b) at no time between the beginning of the first of those periods and the end of the last is the company outside the charge to corporation tax, and
 - (c) the company fails to make proper delivery of the return for the third of those periods, and
 - (d) the company was liable to a penalty under this section in respect of each of the first two of those periods,

subsection (1) above shall have effect in relation to the failure referred to in paragraph (c) above as if for “£100” there were substituted “£500” and for “£200” there were substituted “£1,000”.
- (6) If a company which has been required as mentioned in subsection (1) above to deliver a return fails to deliver the return before [^{F4}whichever is the later of the end of the final day for the delivery of the return and]the expiry of the period of eighteen months beginning on the day following the last day of the return period, then (without

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prejudice to any penalty under the preceding provisions of this section) the company shall be liable to a penalty which,—

- (a) if the return is delivered before the expiry of the period of two years beginning on the day following that last day, shall be 10 per cent. of the tax unpaid at the end of the eighteen months referred to above; and
 - (b) in any other case, shall be 20 per cent. of the tax unpaid at the end of those eighteen months.
- (7) In subsection (6) above “the tax unpaid” at any time means the amount by which the corporation tax chargeable on the profits of the company for the return period which then remains unpaid exceeds any income tax [^{F5}which, under section 7(2) or 11(3) of the principal Act, is to be set off against the corporation tax so chargeable].
- (8) In determining for the purposes of subsection (7) above how much of the corporation tax chargeable on the profits of a company for the return period remains unpaid at any time, no account shall be taken of the discharge of any liability for that tax which, pursuant to a claim under subsection (3) of [^{F6}section 239(3) of the principal Act], is attributable to an amount of surplus advance corporation tax, as defined in that subsection, unless it is a surplus for an accounting period ending not later than two years after the end of the return period.]

Textual Amendments

- F3** S. 94 substituted (23.7.1987 with respect to failures to deliver returns required by notices served under s. 11 after the day to be appointed) by 1987 c. 51, s. 83.
- F4** Words in s. 94(6) inserted (27.7.1993) by 1993 c. 34, s. 120, **Sch. 14 para. 6(1)**
- F5** Words in s. 94(7) substituted (27.7.1993) by 1993 c. 34, s. 120, **Sch. 14 para. 6(2)**
- F6** **Income and Corporation Taxes Act 1988 (c. 1), s. 844, Sch. 29 para 10(7)**

Marginal Citations

- M1** 1985 c. 6.
- M2** S.I. 1986/1032 (N.I. 6).

95 Incorrect return or accounts for income tax or capital gains tax.

- (1) Where a person fraudulently or negligently—
- (a) delivers any incorrect return of a kind mentioned in [^{F7}section 8 or 8A of this Act (or either of those sections)] as extended by section 12 of this Act [^{F8}...], or
 - (b) makes any incorrect return, statement, or declaration in connection with any claim for any allowance, deduction or relief in respect of income tax or capital gains tax, or
 - (c) submits to an inspector or the Board or any Commissioners any incorrect accounts in connection with the ascertainment of his liability to income tax or capital gains tax,
- he shall be liable to a penalty not exceeding [^{F9}the amount of the difference specified in subsection (2) below.]
- (2) The difference is that between—
- (a) the amount of income tax and capital gains tax payable for the relevant years of assessment by the said person (including any amount of income tax deducted at source and not repayable), and

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- (b) the amount which would have been the amount so payable if the return, statement, declaration or accounts as made or submitted by him had been correct.
- (3) The relevant years of assessment for the purposes of this section are, in relation to anything delivered, made or submitted in any year of assessment, that, the next following, and any preceding year of assessment; ^{F10} ...

Textual Amendments

- F7** Words in s. 95(1)(a) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 27\(1\)](#); [S.I. 1998/3173](#), art. 2
- F8** *Repealed by* [Finance Act 1988 \(c. 39\)](#), s. 148 and [Sch. 14 Part VIII](#) for 1990-91 and subsequent years.
- F9** [Finance Act 1989 \(c. 26\)](#), [s. 163\(1\)\(a\)](#) in relation to returns, statements, declarations or accounts delivered, made or submitted on or after 27 July 1989.
- F10** Words in s. 95(3) repealed (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 27\(2\)](#), [Sch. 26 Pt. 5\(23\)](#); [S.I. 1998/3173](#), art. 2

Modifications etc. (not altering text)

- C4** S. 95 extended by [Finance Act 1991 \(c. 31\)](#), [s. 33\(3\)\(d\)](#)
- C5** S. 95 modified by [1988 c. 1](#), [Sch. 6A Pt. II para. 8\(4\)](#) (as inserted (27.7.1993 with effect for the year 1993-94 and subsequent years of assessment) by [1993 c. 34](#), [s. 73](#), [Sch. 4 paras. 7, 8](#))
- C6** *See—*[Finance Act 1966 s. 27](#) and [Sch. 6 para. 23\(4\)](#)—*ss. 95 and 97 applied for purposes of* [Finance Act 1966 Sch. 6 para. 23 \(transitional relief for companies with overseas trading income\)](#). [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [Sch. 14 para. 7\(3\)\(d\)](#)—*application of s. 95 to sums claimed under s. 266(5)(b) to which the claimant was not entitled.* [Finance Act 1989 \(c. 26\)](#), [s. 57\(3\)](#)—*application of s. 95(3) to medical insurance relief.*
- C7** *See* [S.I. 1986/1948](#), [reg. 11\(3\)](#) and [S.I. 1989/469](#) [reg. 9](#)—*application of s. 95 to individual applications to subscribe to personal equity plans.*
- C8** *See* [Finance Act 1988 \(c. 39\)](#), [s. 35](#) and [Sch. 3 paras. 27 and 28](#)—*married couples.*
- C9** *See* [S.I. 1986/1948](#), [reg. 23\(4\)](#)—*amounts deducted under* [S.I. 1986/1948](#) [reg. 23\(3\)](#) *to be treated as amounts of income tax deducted at source and not repayable within the meaning of and for the purposes of* [s. 95\(2\)\(a\)](#)

[^{F11}95A Incorrect partnership return or accounts.

- (1) This section applies where, in the case of a trade, profession or business carried on by two or more persons in partnership—
- (a) a partner (the representative partner)—
- (i) delivers an incorrect return of a kind mentioned in section 12AA of this Act, or
 - (ii) makes any incorrect statement or declaration in connection with such a return, or
 - (iii) submits to an officer of the Board any incorrect accounts in connection with such a return, and
- (b) either he does so fraudulently or negligently, or his doing so is attributable to fraudulent or negligent conduct on the part of a relevant partner.
- (2) Each relevant partner shall be liable to a penalty not exceeding the difference between—

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- (a) the amount of income tax or corporation tax payable by him for the relevant period (including any amount of income tax deducted at source and not repayable), and
 - (b) the amount which would have been the amount so payable if the return, statement, declaration or accounts made or submitted by the representative partner had been correct;
- and in determining each such penalty, regard shall be had only to the fraud or negligence, or the fraudulent or negligent conduct, mentioned in subsection (1)(b) above.
- (3) Where, in respect of the same return, statement, declaration or accounts, penalties under subsection (2) above are determined under section 100 of this Act as regards two or more relevant partners—
- (a) no appeal against the determination of any of those penalties shall be brought otherwise than by the representative partner;
 - (b) any appeal by that partner shall be a composite appeal against the determination of each of those penalties; and
 - (c) section 100B(3) of this Act shall apply as if that partner were the person liable to each of those penalties.
- (4) In this section—
- “relevant partner” means a person who was a partner at any time during the relevant period;
 - “relevant period” means the period in respect of which the return was made.]

Textual Amendments

- F11** S. 95A inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 28](#); [S.I. 1998/3173](#), art. 2

96 Incorrect return or accounts for corporation tax.

- (1) Where a company fraudulently or negligently—
- (a) delivers any incorrect return under section 11 of this Act (or under that section as extended by section 12 of this Act), or
 - (b) makes any incorrect return, statement or declaration in connection with any claim for any allowance, deduction or relief in respect of corporation tax, or
 - (c) submits to an inspector or any Commissioners any incorrect accounts in connection with the ascertainment of the company’s liability to corporation tax,
- the company shall be liable to a penalty not exceeding [the amount of the difference specified in subsection (2) below ^{F12}.]
- (2) The difference is that between—
- (a) the amount of corporation tax payable by the said company for the accounting period or accounting periods comprising the period to which the return, statement, declaration or accounts relate, and
 - (b) the amount which would have been the amount so payable if the return, statement, declaration or accounts had been correct.

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Textual Amendments

F12 Finance Act 1989 (c. 26), s. 163(1)(b) in relation to returns, statements, declarations or accounts delivered, made or submitted on or after 27 July 1989.

Modifications etc. (not altering text)

C10 See also Finance Act 1988 (c. 39), ss. 131-132—tax payable by migrating companies.

97 Incorrect return or accounts: supplemental.

- (1) Where any such return, statement, declaration or accounts as are mentioned in section 95 and 96 above were made or submitted by any person neither fraudulently nor negligently and it comes to his notice (or, if he has died, to the notice of his personal representatives) that they were incorrect, then, unless the error is remedied without unreasonable delay, the return, statement, declaration or accounts shall be treated for the purposes of those sections as having been negligently made or submitted by him.
- (2) For the purposes of sections 95 and 96 above, any accounts submitted on behalf of any person shall be deemed to have been submitted by him unless he proves that they were submitted without his consent or connivance .

Modifications etc. (not altering text)

C11 See S.I. 1986/1948, reg. 33(4) and S.I. 1989/469 reg. 28(4)—s. 97(1) to apply to S.I. 1986/1948 (personal equity plan regulations) with certain modifications.

C12 See also Finance Act 1988 (c. 39), ss. 131-132—tax payable by migrating companies.

C13 See Finance Act 1966 s. 27 and Sch. 6 para. 23(4)—ss. 95 and 97 applied for purposes of Finance Act 1966 Sch. 6 para. 23 (transitional relief for companies with overseas trading income).

[^{F13}97AA] Failure to produce documents under section 19A.

- (1) Where a person fails to comply with a notice or requirement under section 19A(2) or (3) of this Act, he shall be liable, subject to subsection (4) below—
 - (a) to a penalty which shall be £50, and
 - (b) if the failure continues after a penalty is imposed under paragraph (a) above, to a further penalty or penalties not exceeding the relevant amount for each day on which the failure continues after the day on which the penalty under that paragraph was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).
- (2) In subsection (1)(b) above “the relevant amount” means—
 - (a) in the case of a determination of a penalty by an officer of the Board under section 100 of this Act, £30;
 - (b) in the case of a determination of a penalty by the Commissioners under section 100C of this Act, £150.
- (3) An officer of the Board authorised by the Board for the purposes of section 100C of this Act may commence proceedings under that section for any penalty under subsection (1)(b) above, notwithstanding that it is not a penalty to which subsection (1) of section 100 of this Act does not apply by virtue of subsection (2) of that section.

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- (4) No penalty shall be imposed under subsection (1) above in respect of a failure within that subsection at any time after the failure has been remedied.]

Textual Amendments

- F13** S. 97AA inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by Finance Act 1994 (c. 9), Sch. 19 para. 29; S.I. 1998/3173, art. 2

[^{F14}97A Two or more tax-gearred penalties in respect of the same tax.

Where two or more penalties—

- (a) are incurred by any person and fall to be determined by reference to any income tax or capital gains tax with which he is chargeable for a year of assessment; or
- (b) are incurred by any company and fall to be determined by reference to any corporation tax with which it is chargeable for an accounting period,

each penalty after the first shall be so reduced that the aggregate amount of the penalties, so far as determined by reference to any particular part of the tax, does not exceed whichever is or, but for this section, would be the greater or greatest of them, so far as so determined.]

Textual Amendments

- F14** s. 97A inserted by Finance Act 1988 (c. 39), s. 129 (s. 97A(a) has effect for the year 1988-89 and subsequent years, and s. 97A(b) has effect for accounting periods ending after 31 March 1989).

98 Special returns, etc.

- (1) [^{F15}Subject to [^{F16}the provisions of this section and] section 98A below, where] any person—

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

he shall be liable, subject to [^{F15}subsections (3) and (4) below—

- (i) to a penalty not exceeding £300, and
- (ii) if the failure continues after a penalty is imposed under paragraph (i) above, to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under paragraph (i) above was imposed (but excluding any day for which a penalty under this paragraph has already been imposed)].

- (2) [^{F17}Subject to section 98A below, where] a person fraudulently or negligently furnishes, gives, produces or makes any incorrect information, certificate, document,

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record or declaration of a kind mentioned in any of the provisions specified in either column of the Table below, he shall be liable to a penalty not exceeding [^{F17}£3000].

[^{F18}(3) No penalty shall be imposed under subsection (1) above in respect of a failure within paragraph (a) of that subsection at any time after the failure has been remedied.

(4) No penalty shall be imposed under paragraph (ii) of subsection (1) above in respect of a failure within paragraph (b) of that subsection at any time after the failure has been remedied.]

[^{F19}(5) In the case of a failure to comply with section 765A(2)(a) or (b) of the principal Act, subsection (1) above shall have effect as if for “£300” there were substituted “£3000” and as if for “£60” there were substituted “£600”.]

[^{F20}TABLE

1.	2.
Part III of this Act, ^{F21}	In the principal Act—
...	
^{F22}	
...	
In the principal Act— ^{F23}	section 41(2);
[section 38(5)]; ^{F23}	section 124(3);
[section 42];	section 136(6);
section 181(1);	^{F24}
regulations under section 202;	...
section 217;	section 148(7);
section 226(3) and (4);	section 180(1);
section 234(7)(b), (8) and (9);	regulations under section 202;
[^{F25} section 246H;]	regulations under section 203;
section 250(6) and (7);	section 216;
section 272(7);	section 226(1) and (2);
section 310(4) and (5);	section 234(5), (6) and (7)(a);
[^{F26}	
regulations under section 326C]	
regulations under section 333;	section 250(1) to (5);
regulations under section 476(1);	section 310(1), (2) and (3);
[^{F27}	section 313(5);

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regulations under section 477A]
F28
...
section 482(3);
regulations under section 482(11);
section 483;
Regulations under section 555(7);
section 561(8);

section 588(7);

regulations under section 602;
[F30regulations under section 605(1A)(b)
to (d);]
section 605(1),(2),(3)(b) and (4);
regulations under section 612(3);
regulations under section 639;
section 652;
section 669;
section 680;

section 700(4);
section 708;
section 728;
section 729(11);

section 730(8);
section 737(8);
section 745(1);
section 755;

[F32
section 765A(2)(b) ;]
section 768(9);
section 772(1) and (3);

[F26
Regulations under section 326C]
Regulations under section 333;
section 350(1);
section 375(5);
regulations under section 476(1);
[F27
regulations under section 477A ;]
[F29
section 482(2)]
regulations under section 482(11);
section 552;

regulations under section 555(7);
regulations under section 566(1) or (2);
section 577(4);
section 588(6);
regulations under section 602;
[F31regulations under section 605(1A)
(a);]
section 605(3)(a);
regulations under section 612(3);
regulations under section 639;
[F32
section 765A(2)(a) ;]
section 772(6);
[F33Schedule 3, paragraph 6C];
Schedule 13;
regulations under paragraph 7 of
Schedule 14;
Schedule 15, paragraph 14(4);

Schedule 16;
Schedule 22, paragraph 2.

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section 774(5);	Regulations under section [^{F34} 151 of the 1992 Act].
section 778;	[F35
	Sections 23(2), 48 and 49(2) of the Capital Allowances Act 1990 .]
section 815;	Regulations 16 and 17 of the Income Tax (Interest Relief) Regulations 1982.
Schedule 3, paragraph 13(1);	Paragraph 15(3) of Schedule 14 to the Finance Act 1984.
Schedule 5, paragraph 10;	F36
	. . .
Schedule 9, [F37	[F38
paragraph 6];	Section 85(1) and (2) of the Finance Act 1988]
Schedule 15 paragraph 14(5);	[F39
	Regulations under section 57 of the Finance Act 1989.]
F40	F41
.
Schedule 22, paragraph 4.	[^{F42} Regulations under section 33 of the Finance Act 1991].
Section 32 of the Finance Act 1973.	F43
	. . .
Paragraph 2 of Schedule 15 to the Finance Act 1973.	[^{F44} Section 28(2) of the Finance (No.2) Act 1992.]
Regulations under section [^{F45} 151 of the 1992 Act].	[^{F46} Paragraphs 2 to 6 of Schedule 5A to the 1992 Act.]
Paragraph [^{F47} 2(9) of Schedule 1 to the 1992 Act].	
[F48	
Sections 23(4) and 49(4) of the Capital Allowances Act 1990]	
Section [^{F49} 98 of the 1992 Act].	
Paragraph 15(1) of Schedule 14 to the Finance Act 1984.	
Paragraph 6(1) of Schedule 22 to the Finance Act 1985.	
[^{F50} Section 79(6) of the 1992 Act].	
[F51	

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Regulations under section 57 of the
Finance Act 1989]

[
F52

Section 73 of the Finance Act 1989]

[
F39

Paragraphs 2 to 4 of Schedule 12 to the
Finance Act 1989]

[^{F53}235 of the 1992 Act].

[^{F42}Regulations under section 33 of the
Finance Act 1991]

[^{F54}Paragraph [^{F55}10 of Schedule 5 to the
1992 Act]]

The references in this Table to regulations under section 602 have effect only for the purpose of giving effect to any provision mentioned in paragraphs (a) and (b) of subsection (2) of that section]

Textual Amendments

- F15** Finance Act 1989 (c. 26), s. 164(2), (7) in relation to failures beginning, or information etc. furnished, on or after 27 July 1989.
- F16** Finance Act 1990 (c. 29), s. 68(3)(a) for transactions carried out on or after 1 July 1990.
- F17** Finance Act 1989 (c. 26), s. 164(3), (7) in relation to failures beginning, or information etc. furnished, on or after 27 July 1989.
- F18** Finance Act 1989 (c. 26), s. 164(4), (7) in relation to failures beginning, or information etc. furnished, on or after 27 July 1989.
- F19** Finance Act 1990 (c. 29), s. 68(3)(b) for transactions carried out on or after 1 July 1990.
- F20** Table substituted by Income and Corporation Taxes Act 1988 (c. 1), Sch. 29 para. 9 (see also Finance Act 1988 (c. 39), Sch. 14 Part VI).
- F21** Words repealed by Finance Act 1989 (c. 26), ss. 164(5)(a) and 187 and Sch. 17 Part VIII in relation to any failure to comply with a notice etc. on or after 27 July 1989.
- F22** Words in s. 98 repealed (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. 13, Sch. 2 Pt. I
- F23** Entries transferred to column 1 from column 2 by Finance Act 1989 (c. 26), s. 164(5)(b) in relation to any failure to comply with a notice etc. on or after 27 July 1989.
- F24** Repealed by Finance Act 1988 (c. 39), s. 148 and Sch. 14 Part VI in relation to acquisitions on or after 26 October 1987.
- F25** Words in s. 98 inserted (3.5.1994) by Finance Act 1994 (c. 9), Sch. 16 para. 10
- F26** Finance Act 1990 (c. 29), s. 28(2).
- F27** Finance Act 1990 (c. 29), s. 30 and Sch. 5 para. 15.
- F28** Words repealed by Finance Act 1989 (c. 26), ss. 164(5)(c), 187, Sch. 17 Part VIII in relation to any failure to comply with a notice etc. on or after 27 July 1989.
- F29** Finance Act 1989 (c. 26), s. 164(5)(c) in relation to any failure to comply with a notice etc. on or after 27 July 1989.
- F30** Words in s. 98 inserted (3.5.1994) by Finance Act 1994 (c. 9), s. 105(4)(a)
- F31** Words in s. 98 inserted (3.5.1994) by Finance Act 1994 (c. 9), s. 105(4)(c)
- F32** Finance Act 1990 (c. 29), s. 68(3)(c), (d) respectively.

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- F33** Words in s. 98 Table substituted (16.7.1992 with 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.4, 6.
- F34** Words in s. 98 Table substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 2(10)(b)(i)** (with ss. 60, 101(1), 171, 201(3)).
- F35** Capital Allowances Act 1990 (c. 1), s. 164, Sch. 1 para. 1(3).
- F36** Repealed by Capital Allowances Act 1990 (c. 1), s. 164(4), Sch. 2
- F37** Finance Act 1990 (c. 29), s. 89 and Sch. 14 para. 15 (correction of errors)—deemed to have been made by the Taxes Act 1988.
- F38** Finance Act 1988 (c. 39), s. 85(3).
- F39** Finance Act 1989 (c. 26), s. 107 and Sch. 12 para. 5.
- F40** Repealed by Finance Act 1989 (c. 26), s. 187 and Sch. 17 Part Von and after 27 July 1989.
- F41** Words in s. 98 Table repealed (16.7.1992 with application in relation to claims made after 16.7.1992) by Finance (No. 2) Act 1992 (c. 48), ss. 28, 82, **Sch. 18 Pt. VII**.
- F42** Words in s. 98 Table added (25.7.1991) by Finance Act 1991 (c. 31), s. 33(2)
- F43** Words in s. 98 repealed (with effect in accordance with s. 97 of the repealing Act) by Finance Act 1994 (c. 9), **Sch. 26 Pt. 5(10)**
- F44** Entry in s. 98 Table inserted (16.7.1992 with application in relation to claims made after 16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 28(4)(6).
- F45** Words in s. 98 Table substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 2(10)(a)(i)** (with ss. 60, 101(1), 171, 201(3)).
- F46** Words in s. 98 inserted (3.5.1994) by Finance Act 1994 (c. 9), s. 97(6)
- F47** Words in s. 98 Table substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 2(10)(a)(ii)** (with ss. 60, 101(1), 171, 201(3)).
- F48** Capital Allowances Act 1990 (c. 1), s. 164 and Sch. 1 para. 1(2). *Previously* “sections 67(4) of, and paragraph 4(3) of Schedule 12 to, the Finance Act 1980”.
- F49** Words in s. 98 Table substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 2(10)(a)(iii)** (with ss. 60, 101(1), 171, 201(3)).
- F50** Words in s. 98 Table substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 2(10)(a)(iv)** (with ss. 60, 101(1), 171, 201(3)).
- F51** Finance Act 1989 (c. 26), s. 57(2).
- F52** Finance Act 1989 (c. 26), s. 73(9).
- F53** Words in s. 98 Table substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 2(10)(v)** (with ss. 60, 101(1), 171, 201(3)).
- F54** Words in s. 98 Table inserted (25.7.1991) by Finance Act 1991 (c. 31), s. 89(1), **Sch. 16 para. 17**
- F55** Words in s. 98 Table substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 2(10)(a)(vi)** (with ss. 60, 101(1), 171, 201(3)).

Modifications etc. (not altering text)

- C14** S. 98 applied (E.W.S.) (1.7.1992) by Social Security Contributions and Benefits Act 1992 (c. 4), ss. 1(4), 173(4), **Sch. 1**, para. 6(7)
S. 98 applied (N.I.) (1.7.1992) by Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), ss. 1(4), 173(4), **Sch. 1**, para. 6(7)
- C15** S. 98 amended (27.7.1993) by 1993 c. 34, s. 187(8)
- C16** S. 98 applied (with modifications) (1.10.1993) by S.I. 1993/2004, reg. 11(12)(13)
- C17** See—Taxes Management Act 1970 (c. 9), s. 53(1)—s. 98(3) not applicable where penalty under s. 51 or 52 awarded summarily. Taxes Management Act 1970 (c. 9), s. 119, **Sch. 4 para. 10**—application

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of s. 98 in relation to repealed provisions. Oil Taxation Act 1975 (c. 22), s. 1, **Sch. 2 para. 1(1)**—Oil Taxation Acts—regarding modifications relating to petroleum revenue tax and supplementary petroleum tax. Finance Act 1981 (c. 35), s. 134, **Sch. 17 para. 18**—application of this section to the special tax on banking deposits. Social Security Act 1975 (c. 14), **Sch. 1 para. 5(2)**—s. 98 applied in relation to regulations made under Social Security Act 1975, Sch. 1 para. 5(1) as they apply in relation to regulations made under Income and Corporation Taxes Act 1970 s. 204 (now **Income and Corporation Taxes Act 1988 (c. 1), s. 203**). Social Security (Northern Ireland) Act 1975 (c. 15), **Sch. 1 para. 5(2)**—s. 98 applied in relation to regulations made under Social Security (Northern Ireland) Act 1975 Sch. 1 para. 5(1) as they apply in relation to regulations made under Income and Corporation Taxes Act 1970 s. 204 (now **Income and Corporation Taxes Act 1988 (c. 1), s. 203**).

[^{F56}98A Special penalties in the case of certain returns.

- (1) Regulations under section 203(2) (PAYE) or 566(1) (sub-contractors) of the principal Act may provide that this section shall apply in relation to any specified provision of the regulations.
- (2) Where this section applies in relation to a provision of regulations, any person who fails to make a return in accordance with the provision shall be liable—
 - (a) to a penalty or penalties of the relevant monthly amount for each month (or part of a month) during which the failure continues, but excluding any month after the twelfth or for which a penalty under this paragraph has already been imposed, and
 - (b) if the failure continues beyond twelve months, without prejudice to any penalty under paragraph (a) above, to a penalty not exceeding so much of the amount payable by him in accordance with the regulations for the year of assessment to which the return relates as remained unpaid at the end of 19th April after the end of that year.
- (3) For the purposes of subsection (2)(a) above, the relevant monthly amount in the case of a failure to make a return—
 - (a) where the number of persons in respect of whom particulars should be included in the return is fifty or less, is £100, and
 - (b) where the number is greater than fifty, is £100 for each fifty such persons and an additional £100 where that number is not a multiple of fifty.
- (4) Where this section applies in relation to a provision of regulations, any person who fraudulently or negligently makes an incorrect return of a kind mentioned in the provision shall be liable to a penalty not exceeding the difference between—
 - (a) the amount payable by him in accordance with the regulations for the year of assessment to which the return relates, and
 - (b) the amount which would have been so payable if the return had been correct.]

Textual Amendments

F56 S. 98A inserted by **Finance Act 1989 (c. 26), s. 165(1)**.

Modifications etc. (not altering text)

C18 S. 98A power to apply conferred (E.W.S.) (1.7.1992) by **Social Security Contributions and Benefits Act 1992 (c. 4), ss. 1(4), 177(4), Sch. 1, para. 7(2)(9)-(12)**

S. 98A power to apply conferred (N.I.) (1.7.1992) by **Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7), ss. 1(4), 173(4), Sch. 1, para. 7(2)(9)-(12)**

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- S. 98A(2)(a) restricted (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(3\)](#)
- S. 98A(2)(b)(4) modified (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(4\)](#)
- C19** S. 98A applied (6.4.1993) by [S.I. 1993/743, reg. 11\(11\)](#)
- C20** S. 98A applied (6.4.1993) by [S.I. 1993/744, reg. 43\(12\)](#)
- C21** S. 98A applied (6.4.1993) by [S.I. 1993/744, reg. 104\(16\)](#)
- C22** *See—S.I. 1973/334, reg. 30(8)—end of year return by employer; and reg. 51(9)—alternative procedure for direct collection.S.I. 1975/1960, reg. 10—end of year return by contractor.*
- C23** S. 98A, *as modified by para. 5A of Sch. 1 of [Social Security Act 1975 \(c. 14\)](#) as inserted by [Social Security Act 1990 \(c. 27\)](#) Sch. 5, is applied to returns of contributions under regs. 30(7) and 51(10) of the Social Security (Contributions) regs. 1979 (S.I. 1975/591) (as inserted by S.I. 1990/1935). For Northern Ireland see para. 5A of Sch. 1 Social Security (Northern Ireland) Act 1975, art. 19(5) and Sch. 5 Social Security (Northern Ireland) Order 1990 and S.R. 1990/350.*
- C24** S. 98A(2)(a) modified by [Finance Act 1989 \(c. 26\), s. 165\(2\)](#)

[^{F57}98B European Economic Interest Groupings.

(1) In this section “grouping” means a European Economic Interest Grouping formed in pursuance of Council Regulation ([EEC](#)) No. 2137/85 of 25th July 1985, whether registered in Great Britain, in Northern Ireland or elsewhere.

[^{F58}(2) Subsections (2A) to (4) below apply where a grouping or member of a grouping required by a notice given under section 12A of this Act to deliver a return or other document fails to comply with the notice.

(2A) The grouping or member shall be liable to a penalty not exceeding £300 multiplied by the number of members of the grouping at the time of the failure to comply.

(2B) If, on an application made to them by an officer of the Board, the General or Special Commissioners so direct, the grouping or member shall be liable, for each day on which the failure continues after the day on which the grouping or member is notified of the direction (but excluding any day for which a penalty under this subsection has already been imposed), to a further penalty or penalties not exceeding £60 multiplied by the number of members of the grouping at the end of that day.]

(3) No penalty shall be imposed under [^{F59}subsection (2A) or (2B)] above in respect of a failure at any time after the failure has been remedied.

(4) If a grouping to which, or member to whom, a notice is given proves that there was no income or chargeable gain to be included in the return, the penalty under [^{F60}subsections (2A) and (2B)] above shall not exceed £100.

(5) Where a grouping or member fraudulently or negligently delivers an incorrect return, accounts or statement, or makes an incorrect declaration in a return delivered, under section 12A above, the grouping or member shall be liable to a penalty not exceeding £3000 multiplied by the number of members of the grouping at the time of delivery.]

Textual Amendments

F57 S. 98B inserted (on and after 1 July 1989) by [Finance Act 1990 \(c. 29\)](#), s. 69, Sch. 11 para. 3(1)

F58 S. 98B(2)(2A)(2B) substituted for s. 98B(2) (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 30\(1\); S.I. 1998/3173](#), art. 2

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F59 Words in s. 98B(3) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 19 para. 30(2)**; S.I. 1998/3173, art. 2

F60 Words in s. 98B(4) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by Finance Act 1994 (c. 9), **Sch. 19 para. 30(3)**; S.I. 1998/3173, art. 2

[^{F61}99 Assisting in preparation of incorrect return, etc.

Any person who assists in or induces the preparation or delivery of any information, return, accounts or other document which—

- (a) he knows will be, or is or are likely to be, used for any purpose of tax, and
- (b) he knows to be incorrect,

shall be liable to a penalty not exceeding £3,000.]

Textual Amendments

F61 S. 99 substituted by Finance Act 1989 (c. 26), **s. 166** in relation to assistance and inducements occurring on or after 27 July 1989.

Modifications etc. (not altering text)

C25 See Finance Act 1981 s.134, Sch.17 para.18—application to the special tax on banking deposits.

[^{F62}99A Certificates of non-liability to income tax.

If a person who gives a certificate of non-liability to income tax in pursuance of regulations under section 477A of the principal Act (building societies) or section 480B of that Act (deposit-takers)—

- (a) gives the certificate fraudulently or negligently, or
- (b) fails to comply with any undertaking contained in the certificate in pursuance of the regulations,

he shall be liable to a penalty not exceeding £3,000.]

Textual Amendments

F62 S. 99A inserted (25.7.1991) by Finance Act 1991 (c. 31), **s. 82**

[^{F63}100 Determination of penalties by officer of the Board.

(1) Subject to subsection (2) below and except where proceedings for a penalty have been instituted under section 100D below ^{F64}..., an officer of the Board authorised by the Board for the purposes of this section may make a determination imposing a penalty under any provision of the Taxes Acts and setting it at such amount as, in his opinion, is correct or appropriate.

(2) Subsection (1) above does not apply where the penalty is a penalty under—

- (a) section 93(1) above as it has effect before the amendments made by section 162 of the Finance Act 1989 or section 93(1)(a) above as it has effect after those amendments,
- (b) section 94(1) above as it has effect before the substitution made by section 83 of the Finance (No. 2) Act 1987,

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- (c) section 98(1) above as it has effect before the amendments made by section 164 of the Finance Act 1989 or section 98(1)(i) above as it has effect after those amendments, or
 - (d) paragraph (a)(i) of section 98A(2) above as it has effect by virtue of section 165(2) of the Finance Act 1989, ^{[^{F65}or}
 - (e) section 98B(2)(a) above.]
- (3) Notice of a determination of a penalty under this section shall be served on the person liable to the penalty and shall state the date on which it is issued and the time within such an appeal against the determination may be made.
- (4) After the notice of a determination under this section has been served the determination shall not be altered except in accordance with this section or on appeal.
- (5) If it is discovered by an officer of the Board authorised by the Board for the purposes of this section that the amount of a penalty determined under this section is or has become insufficient the officer may make a determination in a further amount so that the penalty is set at the amount which, in his opinion, is correct or appropriate.
- (6) In any case where—
- (a) a determination under this section is of a penalty under section 94(6) above, and
 - (b) after the determination has been made it is discovered by an officer of the Board authorised by the Board for the purposes of this section that the amount which was taken into account as the relevant amount of tax is or has become excessive,
- the determination shall be revised so that the penalty is set at the amount which is correct; and, where more than the correct amount has already been paid, the appropriate amount shall be repaid.]

Textual Amendments

F63 Ss. 100-100D substituted for s. 100 by [Finance Act 1989 \(c. 26\), s. 167](#)

F64 Words in s. 100(1) repealed (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. 14, Sch. 2 Pt. I](#)

F65 [Finance Act 1990 \(c. 29\), s. 69, Sch. 11 para. 3\(1\)](#) on and after 1 July 1989.

Modifications etc. (not altering text)

C26 Ss. 100-100D power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)

Ss. 100-100D power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)

S. 100 restricted (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(4\)\(b\)](#)

^[^{F63}] 100A Provisions supplementary to section 100.

- (1) Where a person who has incurred a penalty has died, a determination under section 100 above which could have been made in relation to him may be made in relation to his personal representatives, and any penalty imposed on personal representatives by virtue of this subsection shall be a debt due from and payable out of his estate.

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- (2) A penalty determined under section 100 above shall be due and payable at the end of the period of thirty days beginning with the date of the issue of the notice of the determination.
- (3) A penalty determined under section 100 above shall for all purposes be treated as if it were charged in an assessment and due and payable.]

Textual Amendments

F63 Ss. 100-100D substituted for s. 100 by [Finance Act 1989 \(c. 26\), s. 167](#)

Modifications etc. (not altering text)

C27 Ss. 100-100D power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992, ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)

Ss. 100-100D power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)

[^{F63}100B Appeals against penalty determinations.

- (1) An appeal may be brought against the determination of a penalty under section 100 above and, subject to [^{F66}sections 93, 93A and 95A of this Act] the following provisions of this section, the provisions of this Act relating to appeals shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax.
- (2) [^{F67}Subject to sections 93(8) and 93A(7) of this Act] on an appeal against the determination of a penalty under section 100 above section 50(6) to (8) of this Act shall not apply but—
 - (a) in the case of a penalty which is required to be of a particular amount, the Commissioners may—
 - (i) if it appears to them that no penalty has been incurred, set the determination aside,
 - (ii) if the amount determined appears to them to be correct, confirm the determination, or
 - (iii) if the amount determined appears to them to be incorrect, increase or reduce it to the correct amount.
 - (b) in the case of any other penalty, the Commissioners may—
 - (i) if it appears to them that no penalty has been incurred, set the determination aside,
 - (ii) if the amount determined appears to them to be appropriate, confirm the determination,
 - (iii) if the amount determined appears to them to be excessive, reduce it to such other amount (including nil) as they consider appropriate, or
 - (iv) if the amount determined appears to them to be insufficient, increase it to such amount not exceeding the permitted maximum as they consider appropriate.
- (3) Without prejudice to [^{F68}any right to have a case stated under regulation 22 of the General Commissioners Regulations or any right of appeal under section 56A] of this Act, an appeal from a decision of the Commissioners against the amount of a penalty which has been determined under section 100 above or this section shall lie, at the

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instance of the person liable to the penalty, to the High Court or, in Scotland to the Court of Session as the Court of Exchequer in Scotland; and on that appeal the court shall have the like jurisdiction as is conferred on the Commissioners by virtue of this section.]

Textual Amendments

- F63** Ss. 100-100D substituted for s. 100 by [Finance Act 1989 \(c. 26\), s. 167](#)
- F66** Words in s. 100B(1) inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 31\(1\)](#); S.I. 1998/3173, art. 2
- F67** Words in s. 100B(2) inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 31\(2\)](#); S.I. 1998/3173, art. 2
- F68** Words in s. 100B(3) 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. 15](#)

Modifications etc. (not altering text)

- C28** Ss. 100-100D power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)
- Ss. 100-100D power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)

[^{F63}100C Penalty proceedings before Commissioners.

- (1) An officer of the Board authorised by the Board for the purposes of this section may commence proceedings before the General or Special Commissioners for any penalty to which subsection (1) of section 100 above does not apply by virtue of subsection (2) of that section.
- (2) Proceedings under this section shall be by way of information in writing, made to the Commissioners, and upon summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons; and they shall hear and decide each case in a summary way.
- (3) Any penalty determined by the Commissioners in proceedings under this section shall for all purposes be treated as if it were tax charged in an assessment and due and payable.
- (4) An appeal against the determination of a penalty in proceedings under this section shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland—
 - (a) by any party on a question of law, and
 - (b) by the defendant (or, in Scotland, the defender) against the amount of the penalty.
- (5) On any such appeal the court may—
 - (a) if it appears that no penalty has been incurred, set the determination aside,
 - (b) if the amount determined appears to be appropriate, confirm the determination,
 - (c) if the amount determined appears to be excessive, reduce it to such other amount (including nil) as the court considers appropriate, or

Status: Point in time view as at 31/03/1995.

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- (d) if the amount determined appears to be insufficient, increase it to such amount not exceeding the permitted maximum as the court considers appropriate.]

Textual Amendments

F63 Ss. 100-100D substituted for s. 100 by [Finance Act 1989 \(c. 26\), s. 167](#)

Modifications etc. (not altering text)

C29 Ss. 100-100D power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) 1992 \(c. 7\), ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)
Ss. 100-100D power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)

[^{F63}100D] Penalty proceedings before court.

- (1) Where in the opinion of the Board the liability of any person for a penalty arises by reason of the fraud of that person or any other person, proceedings for the penalty may be instituted before the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland.
- (2) Proceedings under this section which are not instituted (in England, Wales or Northern Ireland) under the Crown Proceedings Act 1947 by and in the name of the Board as an authorised department for the purposes of that Act shall be instituted—
 - (a) in England and Wales, in the name of the Attorney General,
 - (b) in Scotland, in the name of the Lord Advocate, and
 - (c) in Northern Ireland, in the name of the Attorney General for Northern Ireland.
- (3) Any proceedings under this section instituted in England and Wales shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947 and any such proceedings instituted in Northern Ireland shall be deemed to be civil proceedings within the meaning of that Part of that Act as for the time being in force in Northern Ireland.
- (4) If in proceedings under this section the court does not find that fraud is proved but consider that the person concerned is nevertheless liable to a penalty, the court may determine a penalty notwithstanding that, but for the opinion of the Board as to fraud, the penalty would not have been a matter for the court.]

Textual Amendments

F63 Ss. 100-100D substituted for s. 100 by [Finance Act 1989 \(c. 26\), s. 167](#)

Modifications etc. (not altering text)

C30 Ss. 100-100D power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)
Ss. 100-100D power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)

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101 Evidence of profits for purposes of preceding provisions of Part X.

For the purposes of the preceding provisions of this Part of this Act, any assessment which can no longer be varied by any Commissioners on appeal or by order of any court shall be sufficient evidence that the income or chargeable gains^{F69} in respect of which tax is charged in the assessment arose or were received^{F69} as stated therein .

Textual Amendments

F69 Amended in relation to development land tax by [Development Land Tax Act 1976 \(c. 24\)](#) Sch.8 para.27. Development Land Tax Act 1976 repealed by [Finance Act 1985 s.98\(6\)](#) and [Sch.27 Part X](#).

Modifications etc. (not altering text)

C31 See [Oil Taxation Act 1975 \(c. 22\)](#), s. 1, [Sch. 2 para. 1\(1\)](#) (Oil Taxation Acts) regarding modification in relation to petroleum revenue tax and supplementary petroleum duty

C32 See [Income and Corporation Taxes Act 1988 \(c. 1\)](#), Sch. 5 para. 10(5)—s. 100 not to apply to certain penalties on underwriters' agents.

102 Mitigation of penalties.

The Board may in their discretion mitigate any penalty, or stay or compound any proceedings for [^{F70}a penalty], and may also, after judgment, further mitigate or entirely remit the penalty.

Textual Amendments

F70 [Finance Act 1989 \(c. 26\)](#), s. 168(4).

Modifications etc. (not altering text)

C33 Ss. 102-104 power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\)](#), ss. 1(4), 177(4), [Sch. 1](#), para. 7(2)(b)(9)-(12)

Ss. 102-104 power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\)](#), ss. 1(4), 173(4), [Sch. 1](#), para. 7(2)(b)(9)-(12)

C34 See [Finance Act 1966 s.27](#), [Sch.6 para.23\(7\)\(b\)](#) and [S.I. 1966/1191](#), [reg. 4](#)—application of this section in relation to penalties under para.23 (transitional relief to companies with overseas trading income).

[^{F71}103 Time limits for penalties.

(1) Subject to subsection (2) below, where the amount of a penalty is to be ascertained by reference to tax payable by a person for any period, the penalty may be determined by an officer of the Board, or proceedings for the penalty may be commenced before the Commissioners or a Court—

- (a) at any time within six years after the date on which the penalty was incurred, or
- (b) at any later time within three years after the final determination of the amount of tax by reference to which the amount of the penalty is to be ascertained.

(2) Where the tax was payable by a person who has died, and the determination would be made in relation to his personal representatives, section (1)(b) above does not apply if the tax was charged in an assessment made later than six years after [^{F72}the 31st January next following the chargeable period] for which it was charged.

Status: Point in time view as at 31/03/1995.

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- (3) A penalty under section 99 of this Act may be determined by an officer of the Board, or proceedings for such a penalty may be commenced before a court, at any time within twenty years after the date on which the penalty was incurred.
- (4) A penalty to which neither subsection (1) nor subsection (3) above applies may be so determined, or proceedings for such a penalty may be commenced before the Commissioners or a court, at any time within six years after the date on which the penalty was incurred or began to be incurred.]

Textual Amendments

- F71** S. 103 substituted by [Finance Act 1989 \(c. 26\), s. 169](#).
- F72** Words in s. 103(2) substituted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 32](#); S.I. 1998/3173, art. 2

Modifications etc. (not altering text)

- C35** Ss. 102-104 power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)
- Ss. 102-104 power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)

[^{F73} 103A Interest on penalties.

A penalty under any of the provisions of Part II or VA or this Part of this Act shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the date on which it becomes due and payable until payment.]

Textual Amendments

- F73** S. 103A inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), Sch. 19 para. 33](#); S.I. 1998/3173, art. 2

104 Saving for criminal proceedings.

The provisions of the Taxes Acts shall not, save so far as is otherwise provided, affect any criminal proceedings for any misdemeanour .

Modifications etc. (not altering text)

- C36** Ss. 102-104 power to apply conferred (E.W.S.) (1.7.1992) by [Social Security Contributions and Benefits Act 1992 \(c. 4\), ss. 1\(4\), 177\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)
- Ss. 102-104 power to apply conferred (N.I.) (1.7.1992) by [Social Security Contributions and Benefits \(Northern Ireland\) Act 1992 \(c. 7\), ss. 1\(4\), 173\(4\), Sch. 1, para. 7\(2\)\(b\)\(9\)-\(12\)](#)
- C37** See [Oil Taxation Act 1975 \(c. 22\), s. 1, Sch. 2 para. 1\(1\)](#) (Oil Taxation Acts) regarding modification in relation to petroleum revenue tax and supplementary petroleum duty
- C38** See [Finance Act 1966 s.27, Sch.6 para.23\(7\)\(b\)](#) and [S.I. 1966/1191, reg.4](#)—application of this section in relation to penalties under para.23 (transitional relief to companies with overseas trading income).
- C39** See—[Finance Act 1981 \(c. 35\), s.134, Sch.17 para.18](#)—application to special tax on banking deposits.

Status: Point in time view as at 31/03/1995.

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105 Evidence in cases of fraud or wilful default.

- (1) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (2) below by reason only that it has been drawn to his attention that—
- [^{F74}(a) pecuniary settlements may be accepted instead of a penalty being determined, or proceedings being instituted, in relation to any tax,]
- (b) though no undertaking can be given as to whether or not the Board will accept such a settlement in the case of any particular person, it is the practice of the Board to be influenced by the fact that a person has made a full confession of any [^{F75}fraudulent conduct] to which he had been a party and has given full facilities for investigation,
- and that he was or may have been induced thereby to make the statements or produce the documents.
- (2) The proceedings mentioned in subsection (1) above are—
- (a) any criminal proceedings against the person in question for any form of [^{F75}fraudulent conduct] in connection with or in relation to tax, and
- (b) any proceedings against him for the recovery of any [^{F76}tax due from him]^{F77}[and
- (c) any proceedings for a penalty or on appeal against the determination of a penalty.]

Textual Amendments

F74 Finance Act 1989 (c. 26), s. 168(5)(a).

F75 Finance Act 1989 (c. 26), s. 149(5) *but not to affect the making of assessments before 1983-84 or for accounting periods ending before 1 April 1983.*

F76 Finance Act 1989 (c. 26), s. 168(5)(b).

F77 Finance Act 1989 (c. 26), s. 168(5)(c).

Modifications etc. (not altering text)

C40 See Income and Corporation Taxes Act 1970 s.537 and Sch.14 para.27(4)—“tax” in s.105 *includes excess profits tax and the profits tax.*

C41 See Finance Act 1981 s.134 and Sch.17 para.18—*application of this provision to the special tax on banking deposits.*

106 Refusal to allow a deduction of income tax, and avoidance of agreements for payment without deduction.

- (1) A person who refuses to allow a deduction of income tax authorised by the Taxes Acts to be made out of any payment shall incur a penalty of £50.
- (2) Every agreement for payment of interest, rent or other annual payment in full without allowing any such deduction shall be void.

Scotland

107 Criminal liability for false statements made to obtain allowances.

- (1) This section applies only in Scotland.

Status: Point in time view as at 31/03/1995.

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- (2) If any person, for the purpose of obtaining any allowance, reduction, rebate or repayment in respect of tax, either for himself or for any other person, or, in any return made with reference to tax, knowingly makes any false statement or false representation, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months.
- (3) Notwithstanding anything in the Summary Jurisdiction (Scotland) Act 1954, proceedings for an offence under this section may be commenced at any time within three years from the time when the offence was committed.
- (4) The expression “return” in this section shall be construed without regard to the definition in section 118(1) of this Act .

Modifications etc. (not altering text)

C42 *See—Taxes Management Act 1970 s.119andSch.4 para.12—1952 s.505remains in force as regards proceedings for offences committed in England and Wales before its repeal by theTheft Act 1968and in Northern Ireland before its repeal by theTheft Act (Northern Ireland) 1969.Finance Act 1981 s.134andSch.17 para.18—application of this section to the special tax on banking deposits.*

Status:

Point in time view as at 31/03/1995.

Changes to legislation:

Taxes Management Act 1970, PART X is up to date with all changes known to be in force on or before 05 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.