

Status: Point in time view as at 01/08/2002.

Changes to legislation: Taxes Management Act 1970, SCHEDULE 3 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)

SCHEDULES

[F¹]SCHEDULE 3

Section 44.

RULES FOR ASSIGNING PROCEEDINGS TO GENERAL COMMISSIONERS

Textual Amendments

- F1** Sch. 3 substituted (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 22 para. 10](#)

Modifications etc. (not altering text)

- C1** Sch. 3: power to modify conferred (E.W.S.) (25.2.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#), [ss. 13\(2\)\(a\)\(i\)\(b\)](#), [28\(2\)](#); [S.I. 1999/527](#), art. 2(b), Sch. 2 (with arts. 3-6)
- C2** Sch. 3 power to apply and modify conferred (26.3.1999 for specified purposes, 1.4.1999 in so far as not already in force) by [The Social Security Contributions \(Transfer of Functions, etc.\) \(Northern Ireland\) Order 1999 \(S.I. 1999/671\)](#), arts. 1(3), [12\(2\)\(a\)\(i\)\(b\)](#); [S.R. 1999/149](#), art. 2(b)(c), Schs. 1, 2 (with arts. 3-6)

Introductory

- 1 In this Schedule—

“the relevant place” means the place referred to in section 44(1) of this Act, which is used to identify the General Commissioners before whom proceedings are to be brought; and

“the taxpayer”, in relation to any proceedings, means the party to the proceedings who is neither the Board nor an officer of the Board.

General rule for income and capital gains tax proceedings

- 2 (1) In the case of any proceedings relating to income tax or capital gains tax the relevant place is whichever of the places specified in sub-paragraph (2) below is identified—
- (a) except where the proceedings are commenced by an officer of the Board, by an election made by the taxpayer; and
 - (b) where the proceedings are so commenced, by an election made by the officer.
- (2) Those places are—
- (a) the place (if any) in the United Kingdom which, at the time when the election is made, is the taxpayer’s place of residence;
 - (b) the place (if any) which at that time is the taxpayer’s place of business in the United Kingdom;
 - (c) the place (if any) in the United Kingdom which at that time is the taxpayer’s place of employment;

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and, in the case of a place of employment, it shall be immaterial for the purposes of this paragraph whether the proceedings in question relate to matters connected with the employment of the taxpayer.

- (3) Where the taxpayer fails to make an election for the purposes of this paragraph before the time limit given by paragraph 5 below, an officer of the Board may elect which of the places specified in sub-paragraph (2) above is to be the relevant place.
- (4) In sub-paragraph (2)(a) above “place of residence” means—
 - (a) in relation to an election made by the taxpayer, his usual place of residence; and
 - (b) in relation to an election made by an officer of the Board, the taxpayer’s usual place of residence or, if that is unknown, his last known place of residence.
- (5) In sub-paragraph (2)(b) above “place of business” means—
 - (a) the place where the trade, profession, vocation or business with which the proceedings are concerned is carried on, or
 - (b) if the trade, profession, vocation or business is carried on at more than one place, the head office or place where it is mainly carried on.
- (6) This paragraph does not apply in the case of any proceedings to which paragraph 3, 4 or 7 below applies.

PAYE appeals

- 3 (1) In the case of an appeal in exercise of a right of appeal conferred by regulations under section 203 of the principal Act, the relevant place is—
 - (a) except in a case falling in paragraph (b) below, the place determined by the regulations, and
 - (b) if the appellant elects for one of the places specified in paragraph 2(2) above to be the relevant place instead, the place identified by the election.
- (2) This paragraph does not apply in the case of any proceedings to which paragraph 4 or 7 below applies.

Corporation tax etc.

- 4 (1) In the case of the proceedings mentioned in sub-paragraph (2) below the relevant place is whichever of the places specified in sub-paragraph (3) below is identified—
 - (a) except where the proceedings are commenced by an officer of the Board, by an election made by the company or other body corporate which is a party to the proceedings (“the corporate taxpayer”); and
 - (b) where the proceedings are so commenced, by an election made by the officer.
- (2) The proceedings are—
 - (a) proceedings relating to corporation tax;
 - (b) proceedings relating to income tax which are proceedings to which a company resident in the United Kingdom and within the charge to corporation tax is a party;
 - (c) proceedings relating to tax assessable under sections 419 and 420 of the principal Act (close company loans).
- (3) The places are—

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- (a) the place where, at the time when the election is made, the corporate taxpayer carries on its trade or business;
 - (b) the place where, at that time, the head office or principal place of business of the corporate taxpayer is situated;
 - (c) the place where, at that time, the corporate taxpayer resides.
- (4) Where the corporate taxpayer fails to make an election for the purposes of this paragraph before the time limit given by paragraph 5 below, an officer of the Board may elect which of the places specified in sub-paragraph (3) above is to be the relevant place.
- (5) This paragraph does not apply in the case of any proceedings to which paragraph 7 below applies.

Procedure for making elections, etc.

- 5 (1) An election by a taxpayer for the purposes of this Schedule shall be made by notice in writing to an officer of the Board.
- (2) The time limit for the making of such an election in relation to proceedings is—
 - (a) the time when the taxpayer gives notice of appeal or, if the proceedings are not an appeal, otherwise commences the proceedings; or
 - (b) such later date as the Board allows.
- (3) Such an election shall be irrevocable.
- 6 An election by an officer of the Board for the purposes of this Schedule shall be made by notice in writing served on the taxpayer.

Partnerships

- 7 In the case of proceedings relating to a partnership to which a partner of that partnership is a party, the relevant place is—
 - (a) the place where the trade, profession or business of the partnership is carried on, or
 - (b) if the trade, profession or business is carried on at more than one place, the place where it is mainly carried on.

Directions by the Board

- 8 (1) The Board may give a direction in relation to any class of proceedings specified in the direction that, notwithstanding the preceding provisions of this Schedule, the relevant place shall be taken to be a place in a division specified in the direction.
- (2) A direction given under this paragraph shall not have effect in relation to any proceedings unless an officer of the Board has served on the taxpayer a notice in writing stating the effect of the direction in relation to those proceedings.
- (3) A direction given under this paragraph shall not have effect if the taxpayer gives a notice in accordance with sub-paragraph (4) below objecting to the direction.
- (4) The taxpayer gives a notice in accordance with this sub-paragraph if he gives it in writing to the Board within the period of 30 days beginning with the day on which the notice under sub-paragraph (2) above was served on him.

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- 9 (1) The Board may give directions for determining the relevant place in cases where —
- (a) the proceedings fall within paragraph 2, 4 or 7 above, but there is no place falling within paragraph 2(2), 4(3) or, as the case may be, paragraph 7; or
 - (b) the relevant place would, apart from the direction, be a place outside the United Kingdom.
- (2) A direction given under this paragraph by the Board shall not have effect in relation to any proceedings unless an officer of the Board has served on the taxpayer a notice in writing stating the effect of the direction in relation to those proceedings.
- (3) A direction under sub-paragraph (1) above may be given in relation to—
- (a) proceedings falling within that sub-paragraph;
 - (b) any class of such proceedings specified in the direction; or
 - (c) proceedings specified in the direction.

Other provisions

- 10 The provisions of this Schedule have effect subject to sections 44(2), 46A and 57 of this Act, sections 102(1), 113(5), 343(10) and 783(9) of the principal Act and [^{F2}section 563 of the Capital Allowances Act].]

Textual Amendments

- F2** Words in Sch. 3 para. 10 substituted (with effect in accordance with s. 579(1) of the amending Act) by [Capital Allowances Act 2001 \(c. 2\)](#), [Sch. 2 para. 5](#) (with [Sch. 3](#))

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