

*Status: Point in time view as at 22/07/2020.*

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## SCHEDULES

### <sup>F1</sup>SCHEDULE 1

#### Textual Amendments

- F1** Sch. 1 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 52**

### <sup>F2</sup>SCHEDULE 1AA

#### ORDERS FOR PRODUCTION OF DOCUMENTS

#### Textual Amendments

- F2** Sch. 1AA inserted (28.7.2000) by [Finance Act 2000 \(c. 17\)](#), s. 149(2), **Sch. 39**

#### Modifications etc. (not altering text)

- C1** Sch. 1AA applied (1.8.2002 for specified purposes) by [Tax Credits Act 2002 \(c. 21\)](#), **ss. 36(1)**, 61; [S.I. 2002/1727](#), art. 2
- C2** Sch. 1AA applied (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\)](#), regs. 1, 4

#### *Introduction*

- 1 The provisions of this Schedule supplement section 20BA.

#### *Authorised officer of the Board*

- 2 (1) In section 20BA(1) an “authorised officer of the Board” means an officer of the Board authorised by the Board for the purposes of that section.
- (2) The Board may make provision by regulations as to—
- the procedures for approving in any particular case the decision to apply for an order under that section, and
  - the descriptions of officer by whom such approval may be given.

#### *Notice of application for order*

- 3 (1) A person is entitled—
- to notice of the intention to apply for an order against him under section 20BA, and

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- (b) to appear and be heard at the hearing of the application, unless the appropriate judicial authority is satisfied that this would seriously prejudice the investigation of the offence.
- (2) The Board may make provision by regulations as to the notice to be given, the contents of the notice and the manner of giving it.

*Obligations of person given notice of application*

- 4 (1) A person who has been given notice of intention to apply for an order under section 20BA(4) shall not—
  - (a) conceal, destroy, alter or dispose of any document to which the application relates, or
  - (b) disclose to any other person information or any other matter likely to prejudice the investigation of the offence to which the application relates.

This is subject to the following qualifications.

- (2) Sub-paragraph (1)(a) does not prevent anything being done—
  - (a) with the leave of the appropriate judicial authority,
  - (b) with the written permission of an officer of the Board,
  - (c) after the application has been dismissed or abandoned, or
  - (d) after any order made on the application has been complied with.
- (3) Sub-paragraph (1)(b) does not prevent a professional legal adviser from disclosing any information or other matter—
  - (a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or
  - (b) to any person—
    - (i) in contemplation of, or in connection with, legal proceedings; and
    - (ii) for the purpose of those proceedings.

This sub-paragraph does not apply in relation to any information or other matter which is disclosed with a view to furthering a criminal purpose.

- (4) A person who fails to comply with the obligation in sub-paragraph (1)(a) or (b) above may be dealt with as if he had failed to comply with an order under section 20BA.

*Exception of items subject to legal privilege*

- 5 (1) Section 20BA does not apply to items subject to legal privilege.
- (2) For this purpose “items subject to legal privilege” means—
  - (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
  - (b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and
  - (c) items enclosed with or referred to in such communications and made—

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- (i) in connection with the giving of legal advice; or
  - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,  
when they are in the possession of a person who is entitled to possession of them.
- (3) Items held with the intention of furthering a criminal purpose are not subject to legal privilege.

*Resolution of disputes as to legal privilege*

- 6
- (1) The Board may make provision by regulations for the resolution of disputes as to whether a document, or part of a document, is an item subject to legal privilege.
  - (2) The regulations may, in particular, make provision as to—
    - (a) the custody of the document whilst its status is being decided;
    - (b) the appointment of an independent, legally qualified person to decide the matter;
    - (c) the procedures to be followed; and
    - (d) who is to meet the costs of the proceedings.

*Complying with an order*

- 7
- (1) The Board may make provision by regulations as to how a person is to comply with an order under section 20BA.
  - (2) The regulations may, in particular, make provision as to—
    - (a) the officer of the Board to whom the documents are to be produced,
    - (b) the address to which the documents are to be taken or sent, and
    - (c) the circumstances in which sending the documents by post complies with the order.
  - (3) Where an order under section 20BA applies to a document in electronic or magnetic form, the order shall be taken to require the person to deliver the information recorded in the document in a form in which it is visible and legible.

*Procedure where documents are delivered*

- 8
- (1) The provisions of section 20CC(3) to (9) apply in relation to a document delivered to an officer of the Board in accordance with an order under section 20BA as they apply to a thing removed by an officer of the Board as mentioned in subsection (1) of section 20CC.
  - (2) In section 20CC(9) as applied by sub-paragraph (1) above the reference to the warrant concerned shall be read as a reference to the order concerned.

*Sanction for failure to comply with order*

- 9
- (1) If a person fails to comply with an order made under section 20BA, he may be dealt with as if he had committed a contempt of the court.
  - (2) For this purpose “the court” means—

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- (a) in relation to an order made by a Circuit judge [<sup>F3</sup>or a District Judge (Magistrates' Courts)], the Crown Court;
- (b) in relation to an order made by a sheriff, a sheriff court;
- (c) in relation to an order made by a county court judge, a county court in Northern Ireland.

#### Textual Amendments

**F3** Words in Sch. 1AA para. 9(2)(a) inserted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), [Sch. 4 para. 2\(b\)](#); [S.I. 2005/910](#), art. 3(u)

#### *Notice of order etc.*

- 10 The Board may make provision by regulations as to the circumstances in which notice of an order under section 20BA, or of an application for such an order, is to be treated as having been given.

#### *General provisions about regulations*

- 11 Regulations under this Schedule—
- (a) may contain such incidental, supplementary and transitional provision as appears to the Board to be appropriate, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

## [<sup>F4</sup>SCHEDULE 1AB

Section 33

### RECOVERY OF OVERPAID TAX ETC

#### Textual Amendments

**F4** Sch. 1AB inserted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 52 para. 2](#) (with [Sch. 52 paras. 10, 11](#))

#### *Claim for relief for overpaid tax etc*

- 1 (1) This paragraph applies where—
- (a) a person has paid an amount by way of income tax or capital gains tax but the person believes that the tax was not due, or
  - (b) a person has been assessed as liable to pay an amount by way of income tax or capital gains tax, or there has been a determination or direction to that effect, but the person believes that the tax is not due.
- (2) The person may make a claim to the Commissioners for repayment or discharge of the amount.
- (3) Paragraph 2 makes provision about cases in which the Commissioners are not liable to give effect to a claim under this Schedule.

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- (4) Paragraphs 3 to 7 (and sections 42 to 43C and Schedule 1A) make further provision about making and giving effect to claims under this Schedule.
- (5) Paragraph 8 makes provision about the application of this Schedule to amounts paid under contract settlements.
- (6) The Commissioners are not liable to give relief in respect of a case described in subparagraph (1)(a) or (b) except as provided—
  - (a) by this Schedule and Schedule 1A (following a claim under this paragraph), or
  - (b) by or under another provision of the Income Tax Acts or an enactment relating to the taxation of capital gains.
- (7) For the purposes of this Schedule an amount paid by one person on behalf of another is treated as paid by the other person.

*Cases in which Commissioners not liable to give effect to claim*

- 2 (1) The Commissioners are not liable to give effect to a claim under this Schedule if or to the extent that the claim falls within a case described in this paragraph (see also [F<sup>5</sup> paragraphs 3A and 4(5)]).
- (2) Case A is where the amount paid, or liable to be paid, is excessive by reason of—
  - (a) a mistake in a claim, election or notice,
  - (b) a mistake consisting of making or giving, or failing to make or give, a claim, election or notice,
  - (c) a mistake in allocating expenditure to a pool for the purposes of the Capital Allowances Act or a mistake consisting of making, or failing to make, such an allocation, or
  - (d) a mistake in bringing a disposal value into account for the purposes of that Act or a mistake consisting of bringing, or failing to bring, such a value into account.
- (3) Case B is where the claimant is or will be able to seek relief by taking other steps under the Income Tax Acts or an enactment relating to the taxation of capital gains.
- (4) Case C is where the claimant—
  - (a) could have sought relief by taking such steps within a period that has now expired, and
  - (b) knew, or ought reasonably to have known, before the end of that period that such relief was available.
- (5) Case D is where the claim is made on grounds that—
  - (a) have been put to a court or tribunal in the course of an appeal by the claimant relating to the amount paid or liable to be paid, or
  - (b) have been put to Her Majesty's Revenue and Customs in the course of an appeal by the claimant relating to that amount that is treated as having been determined by a tribunal (by virtue of section 54 (settling of appeals by agreement)).
- (6) Case E is where the claimant knew, or ought reasonably to have known, of the grounds for the claim before the latest of the following—

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- (a) the date on which an appeal by the claimant relating to the amount paid, or liable to be paid, in the course of which the ground could have been put forward (a “relevant appeal”) was determined by a court or tribunal (or is treated as having been so determined),
  - (b) the date on which the claimant withdrew a relevant appeal to a court or tribunal, and
  - (c) the end of the period in which the claimant was entitled to make a relevant appeal to a court or tribunal.
- (7) Case F is where the amount in question was paid or is liable to be paid—
- (a) in consequence of proceedings enforcing the payment of that amount brought against the claimant by Her Majesty's Revenue and Customs, or
  - (b) in accordance with an agreement between the claimant and Her Majesty's Revenue and Customs settling such proceedings.
- (8) Case G is where—
- (a) the amount paid, or liable to be paid, is excessive by reason of a mistake in calculating the claimant's liability to income tax or capital gains tax (other than a mistake in a PAYE assessment or PAYE calculation), and
  - (b) liability was calculated in accordance with the practice generally prevailing at the time.
- (9) Case H is where—
- (a) the amount paid, or liable to be paid, is excessive by reason of a mistake in a PAYE assessment or PAYE calculation, and
  - (b) the assessment or calculation was made in accordance with the practice generally prevailing at the end of the period of 12 months following the tax year for which the assessment or calculation was made.
- [ Cases G and H do not apply where the amount paid, or liable to be paid, is tax which <sup>F6</sup>(9A) has been charged contrary to EU law.
- (9B) For the purposes of sub-paragraph (9A), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—
- (a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or
  - (b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).]

(10) For the purposes of Cases G and H—

    - (a) “PAYE assessment” means an assessment on the claimant made in accordance with section 709 of ITEPA 2003 (assessment in connection with PAYE deductions), and
    - (b) “PAYE calculation” means a calculation of the amount of a deduction or repayment made or to be made under PAYE regulations in respect of tax estimated to be payable by the claimant.

#### Textual Amendments

- F5** Words in Sch. 1AB para. 2(1) substituted (with effect in accordance with art. 5 of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2011 \(S.I. 2011/1037\), arts. 1, 2\(2\)](#)

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- F6** Sch. 1AB para. 2(9A)(9B) inserted (with effect in accordance with s. 231(5) of the amending Act) by Finance Act 2013 (c. 29), s. 231(1)

### *Making a claim*

- 3 (1) A claim under this Schedule may not be made more than 4 years after the end of the relevant tax year.
- (2) In relation to a claim made in reliance on paragraph 1(1)(a), the relevant tax year is—
- (a) where the amount paid, or liable to be paid, is excessive by reason of a mistake in a return or returns under section 8, 8A or 12AA of this Act, the tax year to which the return (or, if more than one, the first return) relates, and
  - (b) otherwise, the tax year in respect of which the payment was made.
- (3) In relation to a claim made in reliance on paragraph 1(1)(b), the relevant tax year is<sup>F7</sup>—
- (a) where the amount liable to be paid is excessive by reason of a mistake in a return or returns under section 8, 8A or 12AA, the tax year to which the return (or, if more than one, the first return) relates, and
  - (b) otherwise,] the tax year to which the assessment, determination or direction relates.
- (4) A claim under this Schedule may not be made by being included in a return under section 8, 8A or 12AA of this Act.

[ Sub-paragraph (1) is subject to paragraph 3A.]

<sup>F8</sup>(5)

#### **Textual Amendments**

- F7** Words in Sch. 1AB para. 3(3) inserted (with effect in accordance with s. 232(4) of the amending Act) by Finance Act 2013 (c. 29), s. 232(1)
- F8** Sch. 1AB para. 3(5) inserted (with effect in accordance with art. 5 of the amending S.I.) by The Enactment of Extra-Statutory Concessions Order 2011 (S.I. 2011/1037), arts. 1, 2(3)

### *<sup>F9</sup>Determinations under section 28C: special rules*

#### **Textual Amendments**

- F9** Sch. 1AB para. 3A and cross-heading inserted (with effect in accordance with arts. 4, 5 of the amending S.I.) by The Enactment of Extra-Statutory Concessions Order 2011 (S.I. 2011/1037), arts. 1, 2(4)

- 3A. (1) This paragraph applies where—
- (a) a determination has been made under section 28C of an amount that a person is liable to pay by way of income tax or capital gains tax, but the person believes the tax is not due or, if it has been paid, was not due,
  - (b) relief would be available under this Schedule but for the fact that—
    - (i) the claim falls within Case C (see paragraph 2(4)),
    - (ii) the claim falls within Case F(a) (see paragraph 2(7)(a)), or

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- (iii) more than 4 years have elapsed since the end of the relevant tax year (see paragraph 3(1)), and
  - (c) if the claim falls within Case F(a), the person was neither present nor legally represented during the enforcement proceedings in question.
- (2) A claim under this Schedule for repayment or discharge of the amount may be made, and effect given to it, despite paragraph 2(4), paragraph 2(7)(a) or paragraph 3(1), as the case may be.
  - (3) But the Commissioners are not liable to give effect to a claim made in reliance on this paragraph unless conditions A, B and C are met.
  - (4) Condition A is that in the opinion of the Commissioners it would be unconscionable for the Commissioners to seek to recover the amount (or to withhold repayment of it, if it has already been paid).
  - (5) Condition B is that the person's affairs (as respects matters concerning the Commissioners) are otherwise up to date or arrangements have been put in place, to the satisfaction of the Commissioners, to bring them up to date so far as possible.
  - (6) Condition C is that either—
    - (a) the person has not relied on this paragraph on a previous occasion (whether in respect of the same or a different determination or tax), or
    - (b) the person has done so, but in the exceptional circumstances of the case should be allowed to do so again on the present occasion.
  - (7) For the purposes of sub-paragraph (6)—
    - (a) a person has relied on this paragraph on a previous occasion if the person has made a claim (or a composite set of claims involving one or more determinations, taxes and tax years) in reliance on this paragraph on a previous occasion, and
    - (b) it does not matter whether that claim (or set of claims) succeeded.
  - (8) A claim made in reliance on this paragraph must include (in addition to anything required by Schedule 1A) such information and documentation as is reasonably required for the purpose of determining whether conditions A, B and C are met.]

*The claimant: one person accountable for amounts payable by another etc*

- 4 (1) Sub-paragraph (2) applies where, under a relevant enactment, a person ("P") is accountable to the Commissioners for—
  - (a) an amount representing income tax or capital gains tax that is or is estimated to be payable by another person ("T"), or
  - (b) any other amount that, under a relevant enactment, has been or is to be set off against a liability of T.
- (2) A claim under this Schedule in respect of the amount may be made only by T.
- (3) Sub-paragraph (4) applies where—
  - (a) a person ("P") has paid an amount described in sub-paragraph (1)(a) or (b) in the belief that P was accountable to the Commissioners for the amount under a relevant enactment, but
  - (b) P was not so accountable.



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- (4) A claim under this Schedule in respect of the amount may be made only by P.
- (5) The Commissioners are not liable to give effect to a claim under sub-paragraph (4) if or to the extent that the amount has been repaid to T or set against amounts payable to the Commissioners by T.
- (6) “Relevant enactment” means—
  - (a) PAYE regulations,
  - (b) Chapter 3 of Part 3 of the Finance Act 2004 or regulations under that Chapter (construction industry scheme), or
  - (c) any other provision of or made under the Taxes Acts.

*The claimant: partnerships*

- 5 (1) This paragraph applies where—
  - (a) a trade, profession or business is carried on by two or more persons in partnership,
  - (b) an amount is paid, or liable to be paid, by one or more of those persons in accordance with a self-assessment, and
  - (c) the amount is excessive by reason of a mistake in a partnership return.
- (2) A claim under this Schedule in respect of the amount—
  - (a) may be made by the relevant partner nominated to make the claim by all of the relevant partners, and
  - (b) may not be made by any other person.
- (3) In relation to such a claim, references in this Schedule to the claimant are to any of the relevant partners.
- (4) “Relevant partner” means—
  - (a) a person who was a partner in the partnership at any time during the period in respect of which the partnership return was made, or
  - (b) the personal representative of such a person.

*Assessment of claimant in connection with claim*

- 6 (1) This paragraph applies where—
  - (a) a claim is made under this Schedule,
  - (b) the grounds for giving effect to the claim also provide grounds for a discovery assessment or determination on the claimant in respect of any chargeable period, and
  - (c) such an assessment or determination could be made but for a relevant restriction.
- (2) “Discovery assessment or determination” means—
  - (a) an assessment under section 29(1), or
  - (b) a discovery assessment or discovery determination under Schedule 18 to the Finance Act 1998 (company tax return etc).
- (3) The following are relevant restrictions—
  - (a) the conditions in section 29(3) to (5),

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- (b) the restrictions in paragraphs 42 to 45 of Schedule 18 to the Finance Act 1998, and
- (c) the expiry of a time limit for making a discovery assessment or determination.

(4) Where this paragraph applies—

- (a) the relevant restrictions are to be disregarded, and
- (b) the discovery assessment or determination is not out of time if it is made before the final determination of the claim.

*Amendment of partnership return etc in connection with claim*

7 (1) This paragraph applies where—

- (a) a claim is made under this Schedule,
- (b) the claimant is one of two or more persons carrying on a trade, profession or business in partnership,
- (c) the grounds for giving effect to the claim also provide grounds for amending, under section 30B(1) (discovery of loss of tax from partnership), a return made by the partnership or any of the partners in respect of any period, and
- (d) such an amendment could be made but for a relevant restriction.

(2) The following are relevant restrictions—

- (a) the conditions in section 30B(4) to (6), and
- (b) the expiry of a time limit for making an assessment under that section.

(3) Where this paragraph applies—

- (a) the relevant conditions are to be disregarded, and
- (b) the amendment is not out of time if it is made before the final determination of the claim.

*Contract settlements*

8 (1) In paragraph 1(1)(a) the reference to an amount paid by way of income tax or capital gains tax includes an amount paid under a contract settlement in connection with income tax or capital gains tax believed to be due from any person.

(2) Sub-paragraphs (3) to (6) apply if the person who paid the amount under the contract settlement (“the payer”) and the person from whom the tax was due (“the taxpayer”) are not the same person.

(3) In relation to a claim under this Schedule in respect of that amount—

- (a) the references to the claimant in paragraph 2(5) to (7) (Cases D, E and F) have effect as if they included the taxpayer,
- (b) the references to the claimant in paragraph 2(8) and (10) (Cases G and H) have effect as if they were references to the taxpayer,
- (c) the references to the claimant in paragraphs 6(1)(b) and 7(1)(b) have effect as if they were references to the taxpayer, and
- (d) references to tax in Schedule 1A (as it applies to a claim under this Schedule) include such an amount.

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- (4) Sub-paragraph (5) applies where the grounds for giving effect to a claim by the payer in respect of the amount also provide grounds for a discovery assessment or determination on the taxpayer in respect of any chargeable period.
- (5) The Commissioners may set any amount repayable to the payer by virtue of the claim against any amount payable by the taxpayer by virtue of the assessment or determination.
- (6) The obligations of the Commissioners and the taxpayer are discharged to the extent of any set-off under sub-paragraph (5).
- (7) In this paragraph—
  - “contract settlement” means an agreement made in connection with any person's liability to make a payment to the Commissioners under or by virtue of an enactment;
  - “discovery assessment or determination” has the same meaning as in paragraph 6.

#### *Interpretation*

- 9 (1) In this Schedule “the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs.
- (2) For the purposes of this Schedule a claim is not finally determined until it, or the amount to which it relates, can no longer be varied (whether on appeal or otherwise).]

## [<sup>F10</sup>SCHEDULE 1A

### CLAIMS ETC. NOT INCLUDED IN RETURNS

#### **Textual Amendments**

- F10** Sch. 1A inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\)](#), [Sch. 19 para. 35](#); [S.I. 1998/3173](#), art. 2

#### **Modifications etc. (not altering text)**

- C3** Sch. 1A excluded by Income and Corporation Taxes Act 1988 (c. 1), s. 749A(4)(b) (as inserted (with effect in accordance with Sch. 17 para. 37 to the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 17 para. 4](#))
- C4** Sch. 1A excluded by Income and Corporation Taxes Act 1988 (c. 1), Sch. 24 para. 9(7)(b) (as inserted (with effect in accordance with Sch. 17 para. 37 to the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 17 para. 20\(9\)](#))
- C5** Sch. 1A excluded by Income and Corporation Taxes Act 1988 (c. 1), Sch. 26 para. 3(6A)(b) (as inserted (with effect in accordance with Sch. 17 para. 37 to the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 17 para. 35\(7\)](#))
- C6** Sch. 1A applied (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 18 paras. 58\(3\)](#), [59\(1\)](#) (with [Sch. 18 paras. 59\(2\)](#), [60](#)); [S.I. 1998/3173](#), [art. 2](#)
- C7** Sch. 1A excluded (with effect in accordance with s. 579(1) of the amending Act) by [Capital Allowances Act 2001 \(c. 2\)](#), s. [201\(5\)\(a\)](#) (with [Sch. 3](#))
- C8** Sch. 1A excluded (with effect in accordance with s. 579(1) of the amending Act) by [Capital Allowances Act 2001 \(c. 2\)](#), s. [227\(5\)\(a\)](#) (with [Sch. 3](#))

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- C9** Sch. 1A applied (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), ss. 458\(6\), 1184\(1\)](#) (with Sch. 2)
- C10** Sch. 1A excluded (with effect in accordance with Sch. 7 para. 8 of the amending Act) by [Finance Act 2011 \(c. 11\), Sch. 7 para. 8\(5\)](#)
- C11** Sch. 1A excluded by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 371UB\(5\)\(b\)](#) (as inserted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 20 para. 1](#))
- C12** Sch. 1A applied (with modifications) (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\), regs. 1, 3](#)
- C13** Sch. 1A applied (with modifications) (17.7.2013) by [Finance Act 2013 \(c. 29\), s. 210\(6\)\(a\)\(b\)\(c\)](#)
- C14** Sch. 1A applied by [Corporation Tax Act 2010 \(c. 4\), s. 464B\(6\)](#) (as inserted (20.3.2013) by [Finance Act 2013 \(c. 29\), Sch. 30 para. 5\(1\)\(2\)](#))

### *Preliminary*

#### 1 In this Schedule—

“claim” [<sup>F11</sup>means a claim or election] as respects which this Schedule applies;

“partnership claim” means a claim made in accordance with section 42(6)(b) of [<sup>F12</sup> or paragraph 5 of Schedule 1AB to,] this Act [<sup>F13</sup> or paragraph 51D of Schedule 18 to the Finance Act 1998 (claims for overpaid corporation tax)];

[<sup>F14</sup>“profits”—

- (a) in relation to income tax, means income,
- (b) in relation to capital gains tax, means chargeable gains, and
- (c) in relation to corporation tax, means profits as computed for the purposes of that tax;]

“relevant partner”, in relation to a partnership claim, means any person who was a partner at any time during the period in respect of which the claim is made;

“successor”, in relation to a person who—

- (a) has made a partnership claim, but
- (b) is no longer a partner or is otherwise no longer available,

means such other partner who may at any time be nominated for the purposes of this paragraph by the majority of the partners at that time, and “predecessor” and “successor”, in relation to a person so nominated, shall be construed accordingly.

#### **Textual Amendments**

- F11** Words in Sch. 1A para. 1 substituted (with effect in accordance with s. 130(1) of the amending Act) by [Finance Act 1996 \(c. 8\), s. 130\(5\)](#)
- F12** Words in Sch. 1A para. 1 inserted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 52 para. 6\(1\)](#) (with [Sch. 52 para. 11](#))
- F13** Words in Sch. 1A para. 1 inserted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 52 para. 17](#)
- F14** Words in Sch. 1A para. 1 substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 42\(2\)](#); [S.I. 1998/3173](#), art. 2

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### *Making of claims*

- 2 (1) Subject to any provision in the Taxes Acts for a claim to be made to the Board, every claim shall be made to an officer of the Board.
- (2) No claim requiring the repayment of tax shall be made unless the claimant has documentary proof that the tax has been paid by deduction or otherwise.
- (3) A claim shall be made in such form as the Board may determine.
- (4) The form of claim shall provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the information and belief of the person making the claim.
- (5) The form of claim may require—
- (a) a statement of the amount of tax which will be required to be discharged or repaid in order to give effect to the claim;
  - [<sup>F15</sup>(b) such information as is reasonably required for the purpose of determining whether and, if so, the extent to which the claim is correct; [<sup>F16</sup>and]
  - (bb) the delivery with the claim of such accounts, statements and documents, relating to information contained in the claim, as are reasonably required for the purpose mentioned in paragraph (b) above;]<sup>F17</sup>...
  - <sup>F17</sup>(c) .....
- (6) In the case of a claim made by or on behalf of a person who is not resident, or who claims to be not resident <sup>F18</sup>... or not domiciled, in the United Kingdom, an officer of the Board or the Board may require a statement or declaration in support of the claim to be made by affidavit.

#### **Textual Amendments**

- F15** Sch. 1A para. 2(5)(b)(bb) substituted for Sch. 1A para. 2(5)(b) (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 20 para. 1](#)
- F16** Word in Sch. 1A para. 2(5)(b) inserted (13.8.2009) by [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, [Sch. para. 9\(a\)](#)
- F17** Sch. 1A para. 2(5)(c) and preceding word omitted (13.8.2009) by virtue of [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, [Sch. para. 9\(b\)](#)
- F18** Words in Sch. 1A para. 2(6) omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 46 para. 117](#)

#### **Modifications etc. (not altering text)**

- C15** Sch. 1A para. 2(5) extended by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. [488\(12\)](#) (as substituted by [Finance Act 1998 \(c. 36\)](#), s. [117\(4\)\(5\)](#), [Sch. 19 para. 48\(3\)](#); S.I. 1998/3173, [art. 2](#))

### *<sup>F19</sup>Keeping and preserving of records*

#### **Textual Amendments**

- F19** Sch. 1A para. 2A and cross-heading inserted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 20 para. 2](#)

- 2A (1) Any person who may wish to make a claim in relation to a year of assessment or other period shall—

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- (a) keep all such records as may be requisite for the purpose of enabling him to make a correct and complete claim; and
  - (b) shall preserve those records until the end of the relevant day.
- (2) In relation to a claim, the relevant day for the purposes of sub-paragraph (1) above is whichever of the following is the latest, namely—
- (a) where enquiries into the claim or any amendment of the claim are made by an officer of the Board, the day on which, by virtue of paragraph [F<sup>20</sup>7(1)] below, those enquiries are F<sup>21</sup>... completed; and
  - (b) where no enquiries into the claim or any amendment of the claim are so made, the day on which such an officer no longer has power to make such enquiries.
- [ The Commissioners for Her Majesty's Revenue and Customs may by regulations—
- F<sup>22</sup>(2A) (a) provide that the records required to be kept and preserved under sub-paragraph (1) include, or do not include, records specified in the regulations, and
- (b) provide that those records include supporting documents so specified.]
- [F<sup>23</sup>(3) The duty under sub-paragraph (1) to preserve records may be discharged—
- (a) by preserving them in any form and by any means, or
  - (b) by preserving the information contained in them in any form and by any means,
- subject to sub-paragraph (3A) and any conditions or further exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.
- (3A) Sub-paragraph (3)(b) does not apply in the case of records of the kinds specified in section 12B(4A) or paragraph 22(3) of Schedule 18 to the Finance Act 1998.]
- (4) [F<sup>24</sup>Subject to sub-paragraph (5) below,] any person who fails to comply with sub-paragraph (1) above in relation to any claim which is made for a year of assessment or accounting period shall be liable to a penalty not exceeding £3,000.
- [ Sub-paragraph (4) above does not apply where—
- F<sup>25</sup>(5) (a) the records which the person fails to keep or preserve are records falling within paragraph (a) of section 12B(4A) of this Act [F<sup>26</sup>or paragraph 22(3) of Schedule 18 to the Finance Act 1998]; and
- (b) an officer of the Board is satisfied that any facts which he reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence furnished to him.]
- [ Regulations under this paragraph may—
- F<sup>27</sup>(6) (a) make different provision for different cases, and
- (b) make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice).
- (7) In this paragraph “supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.]]

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### Textual Amendments

- F20** Word in Sch. 1A para. 2A(2)(a) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 34\(2\)\(a\)](#)
- F21** Words in Sch. 1A para. 2A(2)(a) repealed (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 34\(2\)\(b\)](#), [Sch. 33 Pt. 2\(13\)](#)
- F22** Sch. 1A para. 2A(2A) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), [Sch. 37 para. 3\(2\)](#); S.I. 2009/402, art. 2
- F23** Sch. 1A para. 2A(3)(3A) substituted for Sch. 1A para. 2A(3) (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), [Sch. 37 para. 3\(3\)](#); S.I. 2009/402, art. 2
- F24** Words in Sch. 1A para. 2A(4) inserted (with effect in accordance with s. 124(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), s. 124(7) (with s. 124(9))
- F25** Sch. 1A para. 2A(5) inserted (with effect in accordance with s. 124(1) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), s. 124(8) (with s. 124(9))
- F26** Words in Sch. 1A para. 2A(5)(a) inserted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 42\(4\)](#); S.I. 1998/3173, art. 2
- F27** Sch. 1A para. 2A(6)(7) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), [Sch. 37 para. 3\(4\)](#); S.I. 2009/402, art. 2

### *Amendments of claims*

- 3 (1) Subject to sub-paragraph (2) below—
- (a) at any time before the end of the period of nine months beginning with the day on which a claim is made, an officer of the Board may by notice to the claimant so amend the claim as to correct any obvious errors or mistakes in the [F28 claim] (whether errors of principle, arithmetical mistakes or otherwise); and
- (b) at any time before the end of the period of twelve months beginning with the day on which the claim is made, the claimant may amend his claim by notice to an officer of the Board.
- (2) No amendment of a claim may be made under sub-paragraph (1) above at any time during the period—
- (a) beginning with the day on which an officer of the Board gives notice of his intention to enquire into the claim, and
- (b) ending with the day on which the officer's enquiries into the claim are completed.

### Textual Amendments

- F28** Word in Sch. 1A para. 3(1)(a) substituted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 20 para. 3](#)

### Modifications etc. (not altering text)

- C16** Sch. 1A para. 3(1)(b) excluded (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 10 para. 9\(8\)](#)
- C17** Sch. 1A para. 3(1)(b) excluded (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 24 para. 6\(6\)](#)
- C18** Sch. 1A para. 3(1)(b) excluded by [Income Tax Act 2007 \(c. 3\)](#), s. 55D(11) (as inserted (with effect in accordance with s. 11(12) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), s. 11(2))

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### *Giving effect to claims and amendments*

- 4 (1) [<sup>F29</sup>Subject to sub-paragraphs [<sup>F30</sup>(1A), (3) [<sup>F31</sup>to (5)]] below <sup>F32</sup>... ,] an officer of the Board or the Board shall, as soon as practicable after a claim other than a partnership claim is made, or such a claim is amended under paragraph 3 above, give effect to the claim or amendment by discharge or repayment of tax.

[ In relation to a claim which would otherwise fall to be taken into account in <sup>F33</sup>(1A) the making of deductions or repayments of tax under [<sup>F34</sup>PAYE regulations], sub-paragraph (1) above shall apply as if for the word “shall” there were substituted the word “may”.]

- (2) [<sup>F35</sup>Subject to [<sup>F36</sup>sub-paragraphs (3) [<sup>F37</sup>to (5)]] below,] an officer of the Board or the Board shall, as soon as practicable after a partnership claim is made, or such a claim is amended under paragraph 3 above, give effect to the claim or amendment, as respects each of the relevant partners, by discharge or repayment of tax.

[ Where any such claim or amendment as is mentioned in sub-paragraph (1) or (2) <sup>F38</sup>(3) above is enquired into by an officer of the Board—

- (a) that sub-paragraph shall not apply until the day on which, by virtue of paragraph [<sup>F39</sup>7(1)] below, [<sup>F40</sup>the enquiry is] completed; but
- (b) the officer may at any time before that day give effect to the claim or amendment, on a provisional basis, to such extent as he thinks fit.]

[ Nothing in this paragraph applies in relation to a claim or an amendment of a claim <sup>F41</sup>(4) if the claim is not one for discharge or repayment of tax.]

[ This paragraph has effect subject to any provision in the Taxes Acts that—

- <sup>F42</sup>(5) (a) requires or allows effect to be given to a claim by other means, or
- (b) provides that an amount is not to be discharged or repaid.]

#### **Textual Amendments**

- F29** Words in Sch. 1A para. 4(1) inserted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 20 para. 4(1)**
- F30** Words in Sch. 1A para. 4(1) substituted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 19 para. 8(1)**
- F31** Words in Sch. 1A para. 4(1) substituted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 52 para. 7(2)(a)** (with [Sch. 52 para. 11](#))
- F32** Words in Sch. 1A para. 4(1) omitted (with effect in accordance with s. 100(2) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 52 para. 7(2)(b)** (with [Sch. 52 para. 11](#))
- F33** Sch. 1A para. 4(1A) inserted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 20 para. 4(2)**
- F34** Words in Sch. 1A para. 4(1A) substituted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), **Sch. 6 para. 141** (with [Sch. 7](#))
- F35** Words in Sch. 1A para. 4(2) inserted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 20 para. 4(3)**
- F36** Words in Sch. 1A para. 4(2) substituted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 19 para. 8(2)**
- F37** Words in Sch. 1A para. 4(2) substituted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 52 para. 7(3)** (with [Sch. 52 para. 11](#))
- F38** Sch. 1A para. 4(3) inserted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 20 para. 4(4)**



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- F39** Word in Sch. 1A para. 4(3)(a) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), **Sch. 29 para. 34(3)(a)**
- F40** Words in Sch. 1A para. 4(3)(a) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), **Sch. 29 para. 34(3)(b)**
- F41** Sch. 1A para. 4(4) inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), **Sch. 19 para. 8(3)**
- F42** Sch. 1A para. 4(5) inserted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 52 para. 7(4)** (with [Sch. 52 para. 11](#))

### *Power to enquire into claims*

- 5 (1) An officer of the Board may enquire into—
- (a) a claim made by any person, or
  - (b) any amendment made by any person of a claim made by him,
- if, before the end of the period mentioned in sub-paragraph (2) below, he gives notice in writing of his intention to do so to that person or, in the case of a partnership claim, any successor of that person.
- [<sup>F43</sup>(2) The period referred to in sub-paragraph (1) above is whichever of the following ends the latest, namely—
- (a) the period ending with the quarter day next following the first anniversary of the day on which the claim or amendment was made;
  - (b) where the claim or amendment relates to a year of assessment, the period ending with the first anniversary of the 31st January next following that year; and
  - (c) where the claim or amendment relates to a period other than a year of assessment, the period ending with the first anniversary of the end of that period;
- and the quarter days for the purposes of this sub-paragraph are 31st January, 30th April, 31st July and 31st October.
- (3) A claim or amendment which has been enquired into under sub-paragraph (1) above shall not be the subject of—
- (a) a further notice under that sub-paragraph; or
  - (b) if it is subsequently included in a return, a notice under [<sup>F44</sup>section 9A(1) or 12AC(1) of this Act or paragraph 24 of Schedule 18 to the Finance Act 1998].]

#### **Textual Amendments**

- F43** Sch. 1A para. 5(2)(3) substituted (with effect in accordance with s. 103(7) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), **Sch. 20 para. 5**
- F44** Words in Sch. 1A para. 5(3)(b) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), **Sch. 19 para. 42(5)**; S.I. 1998/3173, art. 2

#### **Modifications etc. (not altering text)**

- C19** Sch. 1A para. 5(2)(a) modified (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), **Sch. 15 para. 60(2)**

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*Power to call for documents for purposes of enquiries*

<sup>F45</sup>6 .....

**Textual Amendments**

**F45** Sch. 1A para. 6 omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 113(2), [Sch. 36 para. 77](#) (with [Sch. 36 para. 38](#)); S.I. 2009/404, art. 2 (with art. 5)

*[<sup>F46</sup>Appeal against notice to produce documents, etc*

**Textual Amendments**

**F46** Sch. 1A para. 6A and cross-heading inserted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 42\(7\)](#); S.I. 1998/3173, art. 2

<sup>F47</sup>6A ..... ]

**Textual Amendments**

**F47** Sch. 1A para. 6A omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 113(2), [Sch. 36 para. 77](#) (with [Sch. 36 para. 38](#)); S.I. 2009/404, art. 2 (with art. 5)

*[<sup>F48</sup>Completion of enquiry into claim*

**Textual Amendments**

**F48** Sch. 1A para. 7 and cross-heading substituted (with effect and application in accordance with s. 88(3), Sch. 29 para. 10(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 10\(2\)](#)

- 7
- (1) An enquiry under paragraph 5 above is completed when an officer of the Board by notice (a “closure notice”) informs the claimant that he has completed his enquiries and states his conclusions.
  - (2) In the case of a claim for discharge or repayment of tax, the closure notice must either—
    - (a) state that in the officer’s opinion no amendment of the claim is required, or
    - (b) if in the officer’s opinion the claim is insufficient or excessive, amend the claim so as to make good or eliminate the deficiency or excess.

In the case of an enquiry falling within paragraph 5(1)(b) above, paragraph (b) above only applies so far as the deficiency or excess is attributable to the claimant’s amendment.
  - (3) In the case of a claim that is not a claim for discharge or repayment of tax, the closure notice must either—
    - (a) allow the claim, or
    - (b) disallow the claim, wholly or to such extent as appears to the officer appropriate.

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- (4) A closure notice takes effect when it is issued.
- (5) The claimant may apply to the [<sup>F49</sup>tribunal] for a direction requiring an officer of the Board to issue a closure notice within a specified period.
- [<sup>F50</sup>(6) Any such application is to be subject to the relevant provisions of Part 5 of this Act (see, in particular, section 48(2)(b)).]
- (7) The [<sup>F51</sup>tribunal] shall give the direction applied for unless <sup>F52</sup>... satisfied that there are reasonable grounds for not issuing a closure notice within a specified period.
- (8) In relation to a partnership claim, references in this paragraph to the claimant are to the person who made the claim or his successor.]

#### Textual Amendments

- F49** Word in Sch. 1A para. 7(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 56(2)**
- F50** Sch. 1A para. 7(6) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 56(3)**
- F51** Word in Sch. 1A para. 7(7) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 56(4)(a)**
- F52** Words in Sch. 1A para. 7(7) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 56(4)(b)**

#### *Giving effect to such amendments*

- 8 (1) An officer of the Board or the Board shall, within 30 days [<sup>F53</sup>after the date of issue of a closure notice amending a claim other than a partnership claim under paragraph 7(2)] above, give effect to the amendment by making such adjustment as may be necessary, whether—
- (a) by way of assessment on the claimant, or
  - (b) by discharge of tax or, on proof to the satisfaction of the officer or the Board that any tax has been paid by the claimant by deduction or otherwise, by repayment of tax.
- (2) An officer of the Board or the Board shall, within 30 days [<sup>F54</sup>after the date of issue of a closure notice amending a partnership claim under paragraph 7(2)], give effect to the amendment, as respects each of the relevant partners, by making such adjustment as may be necessary, whether—
- (a) by way of assessment on the partner, or
  - (b) by discharge of tax or, on proof to the satisfaction of the officer or the Board that any tax has been paid by the partner by deduction or otherwise, by repayment of tax.
- (3) An assessment made under sub-paragraph (1) or (2) above shall not be out of time if it is made within the time mentioned in that sub-paragraph.

#### Textual Amendments

- F53** Words in Sch. 1A para. 8(1) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), **Sch. 29 para. 34(4)**

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**F54** Words in Sch. 1A para. 8(2) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 34\(5\)](#)

### *Appeals against such amendments*

- 9 <sup>F55</sup>(1) An appeal may be brought against—
- (a) any conclusion stated or amendment made by a closure notice under paragraph 7(2) above, or
  - (b) any decision contained in a closure notice under paragraph 7(3) above.
- (1A) Notice of the appeal must be given—
- (a) in writing,
  - (b) within 30 days after the date on which the closure notice was issued,
  - (c) to the officer of the Board by whom the closure notice was given.]
- (2) Where, in the case of such an appeal, the issues arising include—
- (a) any question arising under section 278 of the principal Act <sup>F56</sup>or section 56 or 460 of ITA 2007 (residence etc of claimants)];
  - (b) any question of residence, ordinary residence or domicile; or
  - (c) the question whether a fund is one to which section 615(3) <sup>F57</sup>of the principal Act] applies (pension funds for service abroad),
- the time for bringing the appeal shall be three months from the <sup>F58</sup>date mentioned in sub-paragraph <sup>F59</sup>(1A)(b)] above].
- (3) <sup>F60</sup>In the case of] an appeal <sup>F61</sup>against an <sup>F62</sup>amendment made by a closure notice under paragraph 7(2) above]], <sup>F63</sup>if an appeal is notified to the tribunal under section 49D, 49G or 49H, the tribunal] may vary the amendment appealed against whether or not the variation is to the advantage of the appellant.
- (4) Where <sup>F64</sup>any such amendment] is varied, whether by <sup>F65</sup>HMRC or by the tribunal] or by the order of any court, paragraph 8 above shall (with the necessary modifications) apply in relation to the variation as it applied in relation to the amendment.
- <sup>F66</sup>(5) [ If, on <sup>F67</sup>an appeal notified to the tribunal, the tribunal decides] that a claim <sup>F68</sup>which was the subject of a decision contained in a closure notice under paragraph 7(3)] above should have been allowed or disallowed to an extent different from that specified in the notice, the claim shall be allowed or disallowed accordingly to the extent that appears <sup>F69</sup>... appropriate, but otherwise the decision in the notice shall stand good.]

#### **Textual Amendments**

- F55** Sch. 1A para. 9(1)(1A) substituted for Sch. 1A para. 9(1) (with effect and application in accordance with s. 88(3), Sch. 29 para. 12(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 12\(2\)](#)
- F56** Words in Sch. 1A para. 9(2)(a) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 264\(a\)](#) (with [Sch. 2](#))
- F57** Words in Sch. 1A para. 9(2)(c) substituted (with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 264\(b\)](#) (with [Sch. 2](#))
- F58** Words in Sch. 1A para. 9(2) substituted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 10\(2\)](#)

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- F59** Word in Sch. 1A para. 9(2) substituted (with effect and application in accordance with s. 88(3), Sch. 29 para. 12(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 12\(3\)](#)
- F60** Words in Sch. 1A para. 9(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 57\(2\)\(a\)](#)
- F61** Words in Sch. 1A para. 9(3) substituted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 10\(3\)](#)
- F62** Words in Sch. 1A para. 9(3) substituted (with effect and application in accordance with s. 88(3), Sch. 29 para. 12(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 12\(4\)](#)
- F63** Words in Sch. 1A para. 9(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 57\(2\)\(b\)](#)
- F64** Words in Sch. 1A para. 9(4) substituted (with effect and application in accordance with s. 88(3), Sch. 29 para. 12(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 12\(5\)](#)
- F65** Words in Sch. 1A para. 9(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 57\(3\)](#)
- F66** Sch. 1A para. 9(5) inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 19 para. 10\(4\)](#)
- F67** Words in Sch. 1A para. 9(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 57\(4\)\(a\)](#)
- F68** Words in Sch. 1A para. 9(5) substituted (with effect and application in accordance with s. 88(3), Sch. 29 para. 12(8) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 12\(6\)](#)
- F69** Words in Sch. 1A para. 9(5) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 57\(4\)\(b\)](#)

**Modifications etc. (not altering text)**

- C20** Sch. 1A para. 9 excluded (with application in accordance with Sch. 31 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 208\(10\)\(11\)\(b\)](#)

**F70** 10 . . . . .

**Textual Amendments**

- F70** Sch. 1A para. 10 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 58](#)

**F71** 11 . . . . . ]

**Textual Amendments**

- F71** Sch. 1A para. 11 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 58](#)

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## [<sup>F72</sup>SCHEDULE 1B

### CLAIMS FOR RELIEF INVOLVING TWO OR MORE YEARS

#### Textual Amendments

**F72** Sch. 1B inserted (with effect in accordance with s. 128(11) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), s. 128(2), [Sch. 17](#)

#### *Preliminary*

- 1 (1) In this Schedule—
- (a) any reference to a claim includes a reference to an election or notice; and
  - (b) any reference to the amount in which a person is chargeable to tax is a reference to the amount in which he is so chargeable after taking into account any relief or allowance for which a claim is made.
- [<sup>F73</sup>(2) For the purposes of this Schedule, two or more claims made by the same person are associated with each other if each of them [<sup>F74</sup>is a claim to which this Schedule applies and the same] year of assessment is the earlier year in relation to each of those claims.
- (3) In sub-paragraph (2) above, any reference to claims [<sup>F75</sup>includes a reference to amendments and revocations to which paragraph 4 below applies.]]

#### Textual Amendments

- F73** Sch. 1B para. 1(2)(3) substituted (with application in accordance with Sch. 24 para. 3(2) of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 24 para. 3\(1\)](#)
- F74** Words in Sch. 1B para. 1(2) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 382\(2\)\(a\)](#) (with [Sch. 2](#))
- F75** Words in Sch. 1B para. 1(3) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 382\(2\)\(b\)](#) (with [Sch. 2](#))

#### *Loss relief*

- 2 (1) This paragraph applies where a person makes a claim requiring relief for a loss incurred or treated as incurred, or a payment made, in one year of assessment (“the later year”) to be given in an earlier year of assessment (“the earlier year”).
- (2) Section 42(2) of this Act shall not apply in relation to the claim.
- (3) The claim shall relate to the later year.
- (4) Subject to sub-paragraph (5) below, the claim shall be for an amount equal to the difference between—
- (a) the amount in which the person is chargeable to tax for the earlier year (“amount A”); and
  - (b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim in relation to that year (“amount B”).



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- (5) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.
- (6) Effect shall be given to the claim in relation to the later year, whether by repayment or set-off, or by an increase in the aggregate amount given by section 59B(1)(b) of this Act, or otherwise.
- (7) For the purposes of this paragraph, any deduction made under section 62(2) of the 1992 Act (death: general provisions) in respect of an allowable loss shall be deemed to be made in pursuance of a claim requiring relief to be given in respect of that loss.

*Relief for fluctuating profits of farming etc.*

- 3 (1) This paragraph applies where a person who is or has been carrying on [<sup>F76</sup>a qualifying trade, profession or vocation (within the meaning of Chapter 16 of Part 2 of ITTOIA 2005) claims that Chapter 16 of Part 2 of ITTOIA 2005] shall have effect in relation to his profits from that trade[<sup>F77</sup>, profession or vocation]
  - [<sup>F78</sup>(a) in the case of a two-year claim, for two consecutive years of assessment, and
  - (b) in the case of a five-year claim, for five consecutive years of assessment.]
- (2) The claim shall relate to [<sup>F79</sup>the last of the two or five years].
- (3) Subject to sub-paragraph (4) below, in so far as the claim relates to the profits of [<sup>F80</sup>an earlier year], the claim shall be for an amount equal to the difference between—
  - (a) the amount in which the person is chargeable to tax for the earlier year (“amount A”); and
  - (b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim in relation to that year (“amount B”).
- (4) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.
- (5) In so far as the claim relates to the profits of [<sup>F81</sup>an earlier year], effect shall be given to the claim in relation to [<sup>F82</sup>the last of the two or five years] by an increase in the amount of tax payable or, as the case may require, in the aggregate amount given by section 59B(1)(b) of this Act.
- (6) Where this paragraph applies twice in relation to the same year of assessment, the increase or reduction in the amount of tax payable for that year which is required by sub-paragraph (5) above on the earlier application shall be disregarded in determining amounts A and B above for the purposes of the later application.
  - [ In this paragraph—<sup>F83</sup>(7) “two-year claim” means a claim under section 222 of ITTOIA 2005;  
“five-year claim” means a claim under section 222A of ITTOIA 2005.]

**Textual Amendments**

- F76** Words in Sch. 1B para. 3(1) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 382\(3\)\(a\)](#) (with Sch. 2)

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- F77** Words in Sch. 1B para. 3(1) inserted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 382\(3\)\(b\)](#) (with Sch. 2)
- F78** Words in Sch. 1B para. 3(1) substituted (with effect in accordance with s. 25(12) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 25\(10\)\(a\)](#)
- F79** Words in Sch. 1B para. 3(2) substituted (with effect in accordance with s. 25(12) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 25\(10\)\(b\)](#)
- F80** Words in Sch. 1B para. 3(3) substituted (with effect in accordance with s. 25(12) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 25\(10\)\(c\)](#)
- F81** Words in Sch. 1B para. 3(5) substituted (with effect in accordance with s. 25(12) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 25\(10\)\(d\)\(i\)](#)
- F82** Words in Sch. 1B para. 3(5) substituted (with effect in accordance with s. 25(12) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 25\(10\)\(d\)\(ii\)](#)
- F83** Sch. 1B para. 3(7) inserted (with effect in accordance with s. 25(12) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 25\(10\)\(e\)](#)

*Relief claimed by virtue of [F84]section 224(4) of ITTOIA 2005]*

**Textual Amendments**

- F84** Words in Sch. 1B para. 4 cross-heading substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 382\(5\)](#) (with Sch. 2)

- 4 (1) This paragraph applies where—
- (a) a person who [F85]claims that Chapter 16 of Part 2 of ITTOIA 2005] shall have effect for two [F86]or five] consecutive years of assessment <sup>F87</sup>... makes or amends a claim for relief under any other provision of the Income Tax Acts for [F88]any] of those years; and
  - (b) the making or amendment of the claim would be out of time but for [F89]section 224(4) of that Act] .
- (2) The claim or amendment shall relate to [F90]the last of the two or five years].
- (3) Subject to sub-paragraph (4) below, in so far as the claim or amendment relates to income of [F91]an earlier year], the amount claimed, or (as the case may be) the increase or reduction in the amount claimed, shall be equal to the difference between—
- (a) the amount in which the person is chargeable to tax for the earlier year (“amount A”); and
  - (b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim or amendment in relation to that year (“amount B”).
- (4) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.
- (5) In so far as the claim or amendment relates to income of [F92]an earlier year], effect shall be given to the claim or amendment in relation to [F93]the last of the two or five years] by an increase in the amount of tax payable or, as the case may require, in the aggregate amount given by section 59B(1)(b) of this Act.



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(6) In this paragraph “amendment” shall be construed accordingly.

#### Textual Amendments

- F85** Words in Sch. 1B para. 4(1)(a) substituted (with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 382(4)(a)** (with Sch. 2)
- F86** Words in Sch. 1B para. 4(1) inserted (with effect in accordance with s. 25(12) of the amending Act) by **Finance Act 2016 (c. 24), s. 25(11)(a)(i)**
- F87** Words in Sch. 1B para. 4(1) omitted (with effect in accordance with s. 25(12) of the amending Act) by virtue of **Finance Act 2016 (c. 24), s. 25(11)(a)(ii)**
- F88** Word in Sch. 1B para. 4(1) substituted (with effect in accordance with s. 25(12) of the amending Act) by **Finance Act 2016 (c. 24), s. 25(11)(a)(iii)**
- F89** Words in Sch. 1B para. 4(1)(b) substituted (with effect in accordance with s. 883(1) of the amending Act) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 382(4)(b)** (with Sch. 2)
- F90** Words in Sch. 1B para. 4(2) substituted (with effect in accordance with s. 25(12) of the amending Act) by **Finance Act 2016 (c. 24), s. 25(11)(b)**
- F91** Words in Sch. 1B para. 4(3) substituted (with effect in accordance with s. 25(12) of the amending Act) by **Finance Act 2016 (c. 24), s. 25(11)(c)**
- F92** Words in Sch. 1B para. 4(5) substituted (with effect in accordance with s. 25(12) of the amending Act) by **Finance Act 2016 (c. 24), s. 25(11)(d)(i)**
- F93** Words in Sch. 1B para. 4(5) substituted (with effect in accordance with s. 25(12) of the amending Act) by **Finance Act 2016 (c. 24), s. 25(11)(d)(ii)**

#### *Carry-back of post-cessation etc. receipts*

- 5 (1) This paragraph applies where a person who has received a sum to which [F<sup>94</sup>section 257 of ITTOIA 2005] applies (election for carry-back) makes an election under that section requiring tax to be charged as if the sum were received on [F<sup>95</sup>the date of the cessation]; and in this paragraph—
- “the earlier year” means the year in which the sum is treated as received;
- “the later year” means the year in which the sum is received.
- (2) The claim shall relate to the later year.
- (3) Subject to sub-paragraph (4) below, the claim shall be for an amount equal to the difference between—
- (a) the amount in which the person is chargeable to tax for the earlier year (“amount A”); and
- (b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim in relation to that year (“amount B”).
- (4) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.
- (5) In computing amount B for the purposes of this paragraph, no further deduction or relief shall be made or given in respect of any loss or allowance deducted in pursuance of [F<sup>96</sup>section 254 of ITTOIA 2005].

*Status: Point in time view as at 22/07/2020.*

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(6) Effect shall be given to the claim in relation to the later year by an increase in the amount of tax payable.

**Textual Amendments**

- F94** Words in Sch. 1B para. 5(1) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 382\(6\)\(a\)\(i\)](#) (with Sch. 2)
- F95** Words in Sch. 1B para. 5(1) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 382\(6\)\(a\)\(ii\)](#) (with Sch. 2)
- F96** Words in Sch. 1B para. 5(5) substituted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 382\(6\)\(b\)](#) (with Sch. 2)

*Backward spreading of certain payments*

<sup>F97</sup>6 .....]

**Textual Amendments**

- F97** Sch. 1B para. 6 repealed (with effect in accordance with s. 71(3) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 33 Pt. 2\(6\)](#)

<sup>F98</sup>SCHEDULE 2

**Textual Amendments**

- F98** Sch. 2 repealed (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 22 para. 6, Sch. 41 Pt. 5\(12\)](#)

<sup>F99</sup>SCHEDULE 3

Section 44.

**Textual Amendments**

- F99** Sch. 3 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 59](#)

*Status: Point in time view as at 22/07/2020.*

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## <sup>F100</sup>SCHEDULE 3ZA

### DATE BY WHICH PAYMENT TO BE MADE AFTER AMENDMENT OR CORRECTION OF SELF-ASSESSMENT

#### Textual Amendments

**F100** Sch. 3ZA inserted (with effect and application in accordance with s. 88(3) Sch. 29 para. 16 of the amending Act) by [Finance Act 2001 \(c. 9\)](#), [Sch. 29 para. 15](#)

#### General

- 1 (1) This Schedule specifies the day by which tax has to be paid (or repaid) following the amendment or correction of a self-assessment <sup>F101</sup> ...
- (2) If in any case the general rules in section <sup>F102</sup>... 59B(3) and (4) of this Act give a later day, those rules apply instead.
- (3) The provisions of this Schedule have effect subject to section 55(6) and (9) of this Act (provisions as to postponement of payment, etc. in case of appeal).

#### Textual Amendments

**F101** Words in Sch. 3ZA para. 1(1) omitted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 25\(16\)\(a\)](#)

**F102** Words in Sch. 3ZA para. 1(2) omitted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 25\(16\)\(b\)](#)

#### Modifications etc. (not altering text)

**C21** Sch. 3ZA para. 1(2) modified (with effect in accordance with Sch. 2 para. 24(2) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 21\(2\)](#)

#### *Amendment of personal or trustee return by the taxpayer*

- 2 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 9ZA of this Act (amendment of personal or trustee return by taxpayer) <sup>F103</sup> ...
- (2) Subject to sub-paragraph (3) below, the amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice of amendment was given.
- (3) If section 9B(3) <sup>F104</sup>... of this Act applies (amendment of self-assessment <sup>F104</sup>... by taxpayer during enquiry: deferral of effect), then—
  - (a) if the amendment is taken into account as mentioned in paragraph (a)(i) of that subsection, paragraph 5 below (amendment of personal or trustee return by closure notice) applies accordingly; and
  - (b) if the amendment takes effect under paragraph (b) of that subsection on the issue of [<sup>F105</sup>a partial or final closure notice], the amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with [<sup>F106</sup>the relevant day].

*Status: Point in time view as at 22/07/2020.*

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- [ In sub-paragraph (3)(b), “the relevant day” means—
- <sup>F107</sup>(4) (a) in the case of an amount of tax that is payable, the day on which the partial or final closure notice was given;
- (b) in the case of an amount of tax that is repayable—
- (i) if the closure notice was a final closure notice, the day on which that notice was given, and
- (ii) if the closure notice was a partial closure notice, the day on which the final closure notice relating to the enquiry was given.]

#### Textual Amendments

- F103** Words in Sch. 3ZA para. 2(1) omitted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 25\(16\)\(c\)](#)
- F104** Words in Sch. 3ZA para. 2(3) omitted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 25\(16\)\(d\)](#)
- F105** Words in Sch. 3ZA para. 2(3)(b) substituted (with effect in accordance with Sch. 15 para. 44 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 15 para. 21\(2\)\(a\)](#)
- F106** Words in Sch. 3ZA para. 2(3)(b) substituted (with effect in accordance with Sch. 15 para. 44 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 15 para. 21\(2\)\(b\)](#)
- F107** Sch. 3ZA para. 2(4) inserted (with effect in accordance with Sch. 15 para. 44 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 15 para. 21\(3\)](#)

#### *Correction of personal or trustee return by Revenue*

- 3 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the correction of a self-assessment under section 9ZB <sup>F108</sup> ... of this Act (correction of personal or trustee return <sup>F108</sup> ... by the Revenue).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice of correction was given.

#### Textual Amendments

- F108** Words in Sch. 3ZA para. 3(1) omitted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 25\(16\)\(e\)](#)

#### *Amendment of personal or trustee return to prevent loss of tax*

- 4 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 9C of this Act (amendment of personal or trustee return by Revenue to prevent loss of tax).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice of amendment was given.

#### *Amendment of personal or trustee return by closure notice*

- 5 (1) This paragraph applies where an amount of tax [<sup>F109</sup>or an amount on account of capital gains tax] is payable or repayable as a result of the amendment of a self-assessment

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<sup>F110</sup> ... under section 28A of this Act (amendment of <sup>F111</sup> ... return by closure notice following enquiry).

- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the closure notice was given.

#### Textual Amendments

- F109** Words in Sch. 3ZA para. 5(1) inserted (with effect in accordance with Sch. 7 para. 60 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 7 para. 55\(5\)\(a\)](#)
- F110** Words in Sch. 3ZA para. 5(1) omitted (with effect in accordance with Sch. 2 para. 32(1) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 25\(16\)\(f\)](#)
- F111** Words in Sch. 3ZA para. 5(1) omitted (with effect in accordance with Sch. 7 para. 60 of the amending Act) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 7 para. 55\(5\)\(c\)](#)

#### *Amendment consequential on amendment of partnership return by taxpayer*

- 6 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 12ABA(3)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return amended by taxpayer).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 12ABA(3)(a) of this Act was given.

#### *Amendment consequential on correction of partnership return by Revenue [<sup>F112</sup> or tribunal determination of partnership dispute]*

#### Textual Amendments

- F112** Words in Sch. 3ZA para. 7 cross-heading inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 6 para. 10\(10\)\(a\)](#)

- 7 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under [<sup>F113</sup> section 12ABZB(8)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return corrected following reference to tribunal) or] section 12ABB(6)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return corrected by Revenue).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section [<sup>F114</sup> 12ABZB(8)(a) or] 12ABB(6)(a) of this Act was given.

#### Textual Amendments

- F113** Words in Sch. 3ZA para. 7(1) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 6 para. 10\(10\)\(b\)](#)
- F114** Words in Sch. 3ZA para. 7(2) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 6 para. 10\(10\)\(c\)](#)

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*Amendment consequential on amendment of partnership return by closure notice*

- 8 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 28B(4)(a) of this Act (consequential amendment of partner’s personal or trustee return where partnership return amended by closure notice).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 28B(4) (a) of this Act was given.

*Amendment consequential on amendment of partnership return to prevent loss of tax*

- 9 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 30B(2)(a) of this Act (consequential amendment of partner’s personal or trustee return where partnership return amended by Revenue to prevent loss of tax).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 30B(2) (a) of this Act was given.

*Amendment consequential on amendment of partnership return by way of error or mistake relief*

F115 10 .....

**Textual Amendments**  
**F115** Sch. 3ZA para. 10 omitted (with effect in accordance with s. 100(2) of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 52 para. 8** (with Sch. 52 para. 11)

*Amendment consequential on reduction or increase on appeal of amounts stated in partnership statement*

- 11 (1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 50(9)(a) of this Act (consequential amendment of partner’s personal or trustee return where partnership statement amended by Revenue following decision on appeal).
- (2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 50(9) (a) of this Act was given.]

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## [<sup>F116</sup>SCHEDULE 3ZAA

Section 59BB

### CGT EXIT CHARGE PAYMENT PLANS

#### Textual Amendments

**F116** Sch. 3ZAA inserted (with effect in accordance with Sch. 7 para. 7 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 7 para. 2](#)

#### *Introduction*

- 1 (1) This Schedule makes provision for certain persons who are liable to pay an exit charge under section 25 or 80 of the 1992 Act to agree with HMRC to pay the charge in instalments.
- (2) An agreement under this Schedule is called a “CGT exit charge payment plan”.

#### *Eligibility*

- 2 (1) This paragraph applies where a person resident in an EEA state outside the United Kingdom is liable to pay an exit charge for a tax year by virtue of section 25(1) or (3) of the 1992 Act (deemed disposals by non-residents).
- (2) The person is eligible to enter into a CGT exit charge payment plan in relation to any one or more of the assets to which the exit charge relates if—
  - (a) at the time of the event giving rise to the exit charge, the person had a right to freedom of establishment, or
  - (b) at any time after that event, the person carries on a trade in an EEA state other than the United Kingdom through a branch or agency and the asset or assets is or are—
    - (i) used in or for the purposes of that trade, or
    - (ii) used or held for the purposes of the branch or agency.
- 3 (1) This paragraph applies where the relevant trustees of a settlement are liable to pay an exit charge for a tax year by virtue of section 80 of the 1992 Act (charge on ceasing to be resident in the UK).
- (2) The relevant trustees are eligible to enter into a CGT exit charge payment plan in relation to any one or more of the assets to which the exit charge relates if—
  - (a) at the time the trustees of the settlement ceased to be resident in the United Kingdom for the purposes of that section, they had a right to freedom of establishment,
  - (b) immediately before that time, the trustees of the settlement used the asset or assets for an economically significant activity carried on in the United Kingdom, and
  - (c) immediately after that time, those trustees—
    - (i) become resident in another EEA state for the purposes of the 1992 Act, and
    - (ii) use the asset or assets for an economically significant activity carried on there.



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*Tax to which a plan relates*

- 4 (1) A CGT exit charge payment plan may relate to—
- (a) the whole of the exit charge attributable to the asset or assets to which the plan relates (the “deferrable exit charge”), or
  - (b) only part of the deferrable exit charge.
- (2) In this Schedule—
- “deferred exit charge” means the amount of the exit charge to which a plan relates;
- “taxpayer”, in relation to a plan, means the person eligible under paragraph 2 or 3 to enter into the plan.
- (3) For the purposes of this Schedule the exit charge attributable to an asset is such proportion of the exit charge as any gain accruing to the taxpayer in respect of the asset by virtue of section 25(1) or (3) or 80 of the 1992 Act in the tax year bears to the total gains to which the exit charge relates.

*Payment by instalments*

- 5 A CGT exit charge payment plan must provide for the deferred exit charge to be payable in 6 equal instalments where—
- (a) the 1st instalment is due on the day on which payment of the exit charge is (apart from the plan) due and payable under section 59B, and
  - (b) the other 5 instalments are due one on each of the first 5 anniversaries of that day.

*Entering into a plan*

- 6 (1) To enter into a CGT exit charge payment plan, the taxpayer must apply to HMRC.
- (2) An application for a CGT exit charge payment plan must—
- (a) be made on or before the date specified in section 59B as the date by which the exit charge is payable, and
  - (b) contain details of all the matters which are required by this Schedule to be specified in the plan.
- (3) A CGT exit charge payment plan is entered into when—
- (a) the taxpayer agrees to pay the deferred exit charge, and any interest on it, in accordance with the plan, and
  - (b) an officer of Revenue and Customs agrees to accept payment of the deferred exit charge in accordance with the plan.
- (4) A CGT exit charge payment plan is void if—
- (a) an event giving rise to the exit charge is part of arrangements the main purpose of which, or one of the main purposes of which, is to defer the payment by the taxpayer of the exit charge, or
  - (b) any information furnished by the taxpayer in connection with the plan does not fully and accurately disclose all facts and considerations material to the decision of the officer of Revenue and Customs to accept payment in accordance with the plan.



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### *Contents of a plan*

- 7
- (1) If the taxpayer is eligible under paragraph 2, a CGT exit charge payment plan must specify—
    - (a) the EEA state in which the person entering into the plan is resident, and
    - (b) if the person has ceased to carry on a trade in the United Kingdom through a branch or agency there, the date on which the person ceased to do so.
  - (2) If the taxpayer is eligible under paragraph 3, a CGT exit charge payment plan must specify—
    - (a) the date on which the trustees of the settlement became not resident in the United Kingdom for the purposes of section 80 of the 1992 Act, and
    - (b) the EEA state in which those trustees became resident.
  - (3) A CGT exit charge payment plan must specify—
    - (a) the amount of the exit charge which, in the taxpayer's opinion, the taxpayer is liable to pay under section 25 or (as the case may be) section 80 of the 1992 Act in respect of the tax year, and
    - (b) the amount of the deferred exit charge.
  - (4) A CGT exit charge payment plan may contain appropriate provision regarding security for HMRC if an officer of Revenue and Customs considers that there would be a serious risk to collection of any amount of deferred exit charge without it.

### *Effect of a plan*

- 8
- (1) This paragraph applies where a CGT exit charge payment plan is entered into by the taxpayer.
  - (2) The deferred exit charge remains due and payable under section 59B (payment of income tax and capital gains tax: assessments other than simple assessments).
  - (3) However, the Commissioners for Her Majesty's Revenue and Customs—
    - (a) may not seek payment of any of the deferred exit charge otherwise than in accordance with the plan, and
    - (b) may make repayments in respect of any of the deferred exit charge paid, or any amount paid on account of the deferred exit charge, before the plan is entered into.
  - (4) The deferred exit charge carries interest in accordance with Part 9 as if the plan had not been entered into; and each time a payment is made under the plan, it is to be paid together with any interest payable on it.
  - (5) The taxpayer is liable to penalties for late payment of the deferred exit charge only if the taxpayer fails to make payments in accordance with the plan (see item 3C of the Table at the end of paragraph 1 of Schedule 56 to the Finance Act 2009).
  - (6) Any of the deferred exit charge which is for the time being unpaid may be paid at any time before it becomes payable under the plan together with interest payable on it to the date of payment.
  - (7) If—
    - (a) the taxpayer becomes bankrupt under the law of England and Wales or Northern Ireland or the taxpayer's estate is sequestrated under the law of Scotland,

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- (b) an event corresponding to an event in paragraph (a) occurs under the law of an EEA state outside the United Kingdom, or
- (c) the taxpayer becomes resident in a country or territory that is not an EEA state,

the outstanding balance of the deferred exit charge is payable on the date on which the next instalment would otherwise have been due under the plan.

### *Supplementary*

- 9 If, for the purposes of any double taxation arrangements, a person is treated at any time as resident in a territory other than an EEA state, the person is also to be treated as resident there at that time for the purposes of this Schedule.
- 10 In this Schedule—
- “deferrable exit charge” has the meaning given by paragraph 4(1)(a);
  - “deferred exit charge” has the meaning given by paragraph 4(2);
  - “double taxation arrangements” means arrangements made by two or more territories with a view to affording relief from double taxation;
  - “economically significant activity” has the meaning given by section 13A(4) of the 1992 Act (reading references to a company as references to trustees);
  - “exit charge” means—
    - (a) for the purposes of paragraph 2, any amount of capital gains tax which a person is liable to pay for a tax year which the person would not be liable to pay if gains arising by virtue of section 25 of the 1992 Act in the tax year were ignored;
    - (b) for the purposes of paragraph 3, any amount of capital gains tax which the relevant trustees are liable to pay for a tax year which they would not be liable to pay if gains arising by virtue of section 80 of the 1992 Act in the tax year were ignored;
  - “right to freedom of establishment” means a right protected by—
    - (a) Article 49 of the Treaty on the Functioning of the European Union, or
    - (b) Article 31 of the EEA agreement;
  - “taxpayer” has the meaning given by paragraph 4(2);
  - “trade” includes a profession or vocation.]

## [<sup>F117</sup>SCHEDULE 3ZB

### [<sup>F118</sup>CT EXIT CHARGE PAYMENT PLANS]

#### **Textual Amendments**

**F117** Sch. 3ZB inserted (with effect in accordance with Sch. 49 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 49 para. 6](#)

**F118** Words in Sch. 3ZB substituted (12.2.2019) by [Finance Act 2019 \(c. 1\)](#), [Sch. 7 para. 6\(1\)\(c\)](#)

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## PART 1

### COMPANY CEASING TO BE RESIDENT IN UK

*Circumstances in which [F119]CT exit charge payment plan] may be entered into*

#### Textual Amendments

**F119** Words in Sch. 3ZB substituted (12.2.2019) by Finance Act 2019 (c. 1), Sch. 7 para. 6(1)(b)

- 1 (1) This Part of this Schedule and Part 3 of this Schedule apply where an eligible company—
  - (a) ceases to be resident in the United Kingdom,
  - (b) on ceasing to be so resident, becomes resident in [F120]a relevant]EEA state, and
  - (c) is liable to pay qualifying corporation tax in respect of the migration accounting period.
- (2) The company may defer payment of some or all of the qualifying corporation tax if it enters into [F121]a CT exit charge payment plan] in respect of it in accordance with this Schedule.
- (3) The company may enter into [F121]a CT exit charge payment plan] only if conditions A to C are met.
- (4) Condition A is that before the end of the period of 9 months beginning immediately after the migration accounting period—
  - (a) an application to enter into the [F119]CT exit charge payment plan] is made to Her Majesty's Revenue and Customs, and
  - (b) the application contains details of all the matters which are required by Part 3 of this Schedule to be specified in the plan.
- (5) Condition B is that on ceasing to be resident in the United Kingdom, the company carries on a business in [F122]a relevant]EEA state.
- (6) Condition C is that, on becoming resident in the [F123]relevant]EEA state, the company is not treated as resident in a territory outside the European Economic Area for the purposes of any double taxation arrangements.
- (7) In this paragraph—

“double taxation arrangements” means arrangements which are made by two or more territories with a view to affording relief from double taxation and which have effect at the time when the company ceases to be resident in the United Kingdom;

“eligible company” means a company that has a right to freedom of establishment protected by Article 49 of the Treaty on the functioning of the European Union or established by Article 31 of the Agreement on the European Economic Area;

[F124]“relevant EEA state” means an EEA state that is—

  - (a) a member of the European Union, or

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- (b) a party to an agreement with the United Kingdom that provides for mutual assistance equivalent to that provided for by Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes.]
- (8) In this Part of this Schedule—
  - (a) references to the migration accounting period are to—
    - (i) in a case where an accounting period comes to an end on the company ceasing to be resident in the United Kingdom, that accounting period, and
    - (ii) in a case not falling within sub-paragraph (i), the accounting period during which the company ceases to be resident in the United Kingdom,
  - (b) references to a Part 1 company are to a company in relation to which this Part of this Schedule applies, and
  - (c) references to Part 3 of this Schedule are to Part 3 of this Schedule as it applies to a Part 1 company.

**Textual Amendments**

**F120** Words in *Sch. 3ZB para. 1(1)(b)* substituted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by *Finance Act 2019 (c. 1), Sch. 8 para. 2(a)*

**F121** Words in *Sch. 3ZB* substituted (12.2.2019) by *Finance Act 2019 (c. 1), Sch. 7 para. 6(1)(a)*

**F122** Words in *Sch. 3ZB para. 1(5)* substituted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by *Finance Act 2019 (c. 1), Sch. 8 para. 2(b)*

**F123** Word in *Sch. 3ZB para. 1(6)* substituted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by *Finance Act 2019 (c. 1), Sch. 8 para. 2(c)*

**F124** Words in *Sch. 3ZB para. 1(7)* inserted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by *Finance Act 2019 (c. 1), Sch. 8 para. 2(d)*

*Qualifying corporation tax*

- 2 (1) The company is liable to pay qualifying corporation tax in respect of the migration accounting period if CT1 is greater than CT2 where—
  - CT1 is the corporation tax which the company is liable to pay for the accounting period, and
  - CT2 is the corporation tax which the company would be liable to pay for the accounting period if any income, profits, gains, losses or debits arising only by virtue of the exit charge provisions were ignored,

(CT2 will be zero if the company would not be liable to pay any corporation tax for the period).
- (2) The amount of qualifying corporation tax which the company is liable to pay is the difference between CT1 and CT2.
- (3) “Exit charge provisions” means—
  - (a) section 185 of the 1992 Act,
  - <sup>F125</sup>(b) .....
  - (c) section 162 of CTA 2009, where that section applies by virtue of section 41(2)(b) of that Act,
  - (d) section 333 of that Act,

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- (e) section 609 of that Act, [<sup>F126</sup>and]
  - (f) section 859 of that Act, where that section applies by virtue of section 859(2)
    - (a), <sup>F127</sup>...
    - <sup>F127</sup>(g) .....
- (4) References in this Part of this Schedule and Part 3 of this Schedule to qualifying corporation tax are to be read in accordance with this paragraph.

**Textual Amendments**

**F125** Sch. 3ZB para. 2(3)(b) omitted (with effect in accordance with Sch. 8 para. 9(5) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), **Sch. 8 para. 9(4)(a)**

**F126** Word in [Sch. 3ZB para. 2\(3\)\(e\)](#) inserted (with effect in accordance with Sch. 8 para. 10(5) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), **Sch. 8 para. 10(4)(a)(i)**

**F127** [Sch. 3ZB para. 2\(3\)\(g\)](#) and preceding word omitted (with effect in accordance with Sch. 8 para. 10(5) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), **Sch. 8 para. 10(4)(a)(ii)**

*Interpretation: exit charge assets and liabilities*

- 3 (1) This paragraph applies for the purposes of this Part of this Schedule and Part 3 of this Schedule.
- (2) “Exit charge assets” and “exit charge liabilities” means assets or liabilities (as the case may be) in respect of which income, profits or gains arise in the migration accounting period by virtue of the exit charge provisions, and in particular—
- (a) “TCGA or trading stock exit charge assets” means those exit charge assets, other than pre-FA 2002 intangible fixed assets, in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 2(3)(a) <sup>F128</sup>... or (c),
  - (b) “financial exit charge assets or liabilities” means those exit charge assets or liabilities in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 2(3)(d) or (e),
  - (c) “intangible exit charge assets” means—
    - (i) those exit charge assets in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 2(3)(f) <sup>F129</sup>... , and
    - (ii) those exit charge assets which are pre-FA 2002 intangible fixed assets in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 2(3)(a) <sup>F130</sup>... .
- (3) In sub-paragraph (2)—
- (a) “exit charge provisions” has the meaning given in paragraph 2(3);
  - (b) “pre-FA 2002 intangible fixed asset” means an intangible fixed asset which is a pre-FA 2002 asset (as defined in section 881 of CTA 2009).

**Textual Amendments**

**F128** Word in [Sch. 3ZB para. 3\(2\)\(a\)](#) omitted (with effect in accordance with Sch. 8 para. 9(5) of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), **Sch. 8 para. 9(4)(b)(i)**

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**F129** Words in Sch. 3ZB para. 3(2)(c)(i) omitted (with effect in accordance with Sch. 8 para. 10(5) of the amending Act) by virtue of Finance Act 2019 (c. 1), Sch. 8 para. 10(4)(b)

**F130** Words in Sch. 3ZB para. 3(2)(c)(ii) omitted (with effect in accordance with Sch. 8 para. 9(5) of the amending Act) by virtue of Finance Act 2019 (c. 1), Sch. 8 para. 9(4)(b)(ii)

## PART 2

### NON-UK RESIDENT COMPANIES WITH UK PERMANENT ESTABLISHMENTS

*Circumstances in which [F119CT exit charge payment plan] may be entered into*

- 4 (1) This Part of this Schedule and Part 3 of this Schedule apply where—
- (a) at any time during an accounting period (“the migration accounting period”) an eligible company which is not resident in the United Kingdom carries on a trade in the United Kingdom through a permanent establishment there,
  - (b) one or more PE qualifying events occurs in respect of any assets or liabilities of the company as mentioned in sub-paragraph (4), and
  - (c) the company is liable to pay qualifying corporation tax in respect of the migration accounting period.
- (2) The company may defer payment of some or all of the qualifying corporation tax if it enters into [F121a CT exit charge payment plan] in respect of it in accordance with this Schedule.
- (3) The company may enter into [F121a CT exit charge payment plan] only if before the end of the period of 9 months beginning immediately after the migration accounting period—
- (a) an application to enter into the [F119CT exit charge payment plan] is made to Her Majesty's Revenue and Customs, and
  - (b) the application contains details of all the matters which are required by Part 3 of this Schedule to be specified in the plan.
- (4) For the purposes of this Part of this Schedule, a “PE qualifying event” occurs in respect of an asset or liability of a company if—
- (a) an event occurs which triggers—
    - (i) a deemed disposal and reacquisition of the asset or liability under the exit charge provision mentioned in paragraph 5(3)(a), (c), (d) or (e), or
    - (ii) a valuation of the asset under the exit charge provision mentioned in paragraph 5(3)(b),
  - (b) the event—
    - (i) occurs during the migration accounting period, or
    - (ii) causes the migration accounting period to come to an end, F131 ...
  - (c) at the time of the event, the company is not treated as resident in a territory outside the European Economic Area for the purposes of any double taxation arrangements[F132], and
  - (d) immediately after the event—

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- (i) the asset or liability is held or owed by the company for the purposes of a permanent establishment of the company in a relevant EEA state, or
  - (ii) the asset or liability is held or owed by the company otherwise than for the purposes of a permanent establishment of the company and the company is resident in a relevant EEA state].
- (5) In this Part of this Schedule, references to a PE qualifying asset or liability are to an asset or liability in respect of which a PE qualifying event occurs.
- (6) In this paragraph “double taxation arrangements”<sup>[F133]</sup>, “eligible company”<sup>[F134]</sup> and “relevant EEA state”] have the meanings given in paragraph 1(7).
- (7) In this Part of this Schedule—
  - (a) references to the migration accounting period are to be read in accordance with this paragraph;
  - (b) references to a Part 2 company are to a company in relation to which this Part of this Schedule applies,
  - (c) references to Part 3 of this Schedule are to Part 3 of this Schedule as it applies to a Part 2 company, and
  - (d) “permanent establishment”, in relation to a company, is to be read in accordance with Chapter 2 of Part 24 of CTA 2010.

#### Textual Amendments

- F121** Words in Sch. 3ZB substituted (12.2.2019) by [Finance Act 2019 \(c. 1\), Sch. 7 para. 6\(1\)\(a\)](#)
- F131** Word in Sch. 3ZB para. 4(4)(b) omitted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by virtue of [Finance Act 2019 \(c. 1\), Sch. 8 para. 3\(2\)\(a\)](#)
- F132** Sch. 3ZB para. 4(4)(d) and preceding word inserted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 8 para. 3\(2\)\(b\)](#)
- F133** Comma in Sch. 3ZB para. 4(6) substituted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 8 para. 3\(3\)\(a\)](#)
- F134** Words in Sch. 3ZB para. 4(6) inserted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 8 para. 3\(3\)\(b\)](#)

#### *Qualifying corporation tax*

- 5 (1) The company is liable to pay qualifying corporation tax in respect of the migration accounting period if CT1 is greater than CT2 where—
- CT1 is the corporation tax which the company is liable to pay for the accounting period, and
  - CT2 is the corporation tax which the company would be liable to pay for the accounting period if any income, profits, gains, losses or debits arising as a result of any PE qualifying events, and arising only by virtue of the exit charge provisions, were ignored,
- (CT2 will be zero if the company would not be liable to pay any corporation tax for the period).
- (2) The amount of qualifying corporation tax which the company is liable to pay is the difference between CT1 and CT2.
  - (3) Exit charge provisions means—

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- (a) section 25 of the 1992 Act,
  - (b) section 162 of CTA 2009, where that section applies by virtue of section 41(2)(b) of that Act,
  - (c) section 334 of that Act,
  - (d) section 610 of that Act, and
  - (e) section 859 of that Act, where that section applies by virtue of section 859(2)(b).
- (4) References in this Part of this Schedule and Part 3 of this Schedule to qualifying corporation tax are to be read in accordance with this paragraph.

*Interpretation: exit charge assets and liabilities*

- 6 (1) This paragraph applies for the purposes of this Part of this Schedule and Part 3 of this Schedule.
- (2) “Exit charge assets” and “exit charge liabilities” means any PE qualifying assets or liabilities (as the case may be) in respect of which income, profits or gains arise in the migration accounting period by virtue of the exit charge provisions, and in particular—
- (a) “TCGA or trading stock exit charge assets” means those exit charge assets, other than pre-FA 2002 intangible fixed assets, in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 5(3)(a) or (b);
  - (b) “financial exit charge assets or liabilities” means those exit charge assets or liabilities in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 5(3)(c) or (d);
  - (c) “intangible exit charge assets” means—
    - (i) those exit charge assets in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 5(3)(e), and
    - (ii) those exit charge assets which are pre-FA 2002 intangible fixed assets in respect of which income, profits or gains arise by virtue of the exit charge provision mentioned in paragraph 5(3)(a).
- (3) In sub-paragraph (2)—
- (a) “exit charge provisions” has the meaning given in paragraph 5(3);
  - (b) “pre-FA 2002 intangible fixed asset” means an intangible fixed asset which is a pre-FA 2002 asset (as defined in section 881 of CTA 2009).

### PART 3

#### ENTERING INTO [F121A CT EXIT CHARGE PAYMENT PLAN]

##### *Introduction*

- 7 (1) As to when this Part of this Schedule applies, see—
- (a) Part 1 of this Schedule (companies ceasing to be resident in the United Kingdom), and



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- (b) Part 2 of this Schedule (companies with permanent establishments in the United Kingdom).
- (2) In this Part of this Schedule, as it applies to a company in relation to which Part 1 of this Schedule applies, terms and expressions which are used in this Part and in that Part have the same meanings in this Part as in that Part.
- (3) In this Part of this Schedule, as it applies to a company in relation to which Part 2 of this Schedule applies, terms and expressions which are used in this Part and in that Part have the same meanings in this Part as in that Part.

*Entering into [F121] a CT exit charge payment plan]*

- 8
- (1) A Part 1 company or a Part 2 company enters into [F121] a CT exit charge payment plan] in respect of qualifying corporation tax in accordance with this Schedule if—
    - (a) the company agrees to pay, and an officer of Revenue and Customs agrees to accept payment of, the tax in accordance with [F135] paragraphs 11 to 14],
    - (b) the company agrees to pay interest on the tax in accordance with paragraph 9(3), and
    - (c) the plan meets the requirements set out in [F136] paragraph 10] as to the matters that must be specified in it.
  - (2) The [F119] CT exit charge payment plan] may, in the circumstances mentioned in subparagraph (3), contain appropriate provision regarding security for Her Majesty's Revenue and Customs in respect of the deferred payment of the tax.
  - (3) Those circumstances are where an officer of Her Majesty's Revenue and Customs considers that agreeing to accept payment of qualifying corporation tax in accordance with the plan would present a serious risk as to collection of the tax in the absence of provision regarding security in respect of that tax.
  - (4) [F121] A CT exit charge payment plan] is void if any information furnished by the company in connection with the plan does not fully and accurately disclose all facts and considerations material to the decision of the officer of Revenue and Customs to accept payment of qualifying corporation tax in accordance with the plan.

**Textual Amendments**

**F119** Words in Sch. 3ZB substituted (12.2.2019) by [Finance Act 2019 \(c. 1\), Sch. 7 para. 6\(1\)\(b\)](#)

**F135** Words in [Sch. 3ZB para. 8\(1\)\(a\)](#) substituted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 8 para. 4\(a\)](#)

**F136** Words in [Sch. 3ZB para. 8\(1\)\(c\)](#) substituted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\), Sch. 8 para. 4\(b\)](#)

*Effect of [F119] CT exit charge payment plan]*

- 9
- (1) This paragraph applies where [F121] a CT exit charge payment plan] is entered into by a company in respect of qualifying corporation tax in accordance with this Schedule.
  - (2) As regards when the tax is payable—
    - (a) the plan does not prevent the tax becoming due and payable under section 59D or 59E, but

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- (b) the Commissioners for Her Majesty's Revenue and Customs—
  - (i) may not seek payment of the tax otherwise than in accordance with the plan;
  - (ii) may make repayments in respect of any amount of the tax paid, or any amount paid on account of the tax, before the plan is entered into.
- (3) As regards interest—
  - (a) the tax carries interest in accordance with Part 9 as if the plan had not been entered into, and
  - (b) each time a payment is made under the plan, it is to be paid together with any interest payable on it.
- (4) As regards penalties, the company will be liable to penalties for late payment of the tax only if it fails to make payments in accordance with the plan (see item 6ZA of the Table at the end of paragraph 1 of Schedule 56 to the Finance Act 2009).
- (5) Qualifying corporation tax payable in accordance with [F121a CT exit charge payment plan] which is for the time being unpaid may be paid at any time before it becomes payable under the plan together with interest payable on it to the date of payment.

*Content of [F119 CT exit charge payment plan]*

- 10 (1) [F121A CT exit charge payment plan] entered into by a Part 1 company must specify—
  - (a) the date on which the company ceased to be resident in the United Kingdom, and
  - (b) the [F137relevant]EEA state in which the company has become resident.
- (2) [F121A CT exit charge payment plan] entered into by a Part 2 company must specify—
  - (a) the EEA state in which the company is resident, and
  - (b) if the company has ceased to carry on a trade in the United Kingdom through a permanent establishment there, the date on which it ceased to do so.

[ In either case a CT exit charge payment plan entered into by a company must specify F138(2A) requirements as to the ongoing provision of information by the company to Her Majesty's Revenue and Customs in relation to the exit charge assets and liabilities.]

- (3) In either case [F121a CT exit charge payment plan] entered into by a company must also specify—
  - (a) the amount of qualifying corporation tax which, in the company's opinion, is payable by it in respect of the migration accounting period,
  - (b) the amount of that qualifying corporation tax which the company wishes to defer paying under the [F119CT exit charge payment plan] (“ECPP tax”), and
  - [F139(c) the amount of ECPP tax attributable to each exit charge asset or liability.]

F140(4) .....

F141(5) .....

- (6) The amount of ECPP tax attributable to each exit charge asset or liability is—

$$A B \times T$$

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where—

“A” is the income, profits or gains arising in respect of the asset or liability in the migration accounting period by virtue of the relevant exit charge provision only,

“B” is the total income, profits or gains arising in respect of all the exit charge assets and liabilities in the migration accounting period by virtue of the exit charge provisions only, and

“T” is the ECPP tax.

#### Textual Amendments

- F137** Word in [Sch. 3ZB para. 10\(1\)\(b\)](#) inserted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 8 para. 5\(2\)](#)
- F138** [Sch. 3ZB para. 10\(2A\)](#) inserted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 8 para. 5\(3\)](#)
- F139** [Sch. 3ZB para. 10\(3\)\(c\)](#) substituted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 8 para. 5\(4\)](#)
- F140** [Sch. 3ZB para. 10\(4\)](#) omitted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), [Sch. 8 para. 5\(5\)](#)
- F141** [Sch. 3ZB para. 10\(5\)](#) omitted (with effect in accordance with Sch. 8 para. 8 of the amending Act) by virtue of [Finance Act 2019 \(c. 1\)](#), [Sch. 8 para. 5\(5\)](#)

#### *<sup>F142</sup>The payment method*

#### Textual Amendments

- F142** [Sch. 3ZB paras. 11-14](#) and cross-headings substituted for [Sch. 3ZB paras. 11-17](#) (with effect in accordance with Sch. 8 para. 8 of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 8 para. 6](#)

- 11 (1) Where a CT exit charge payment plan is entered into the ECPP tax is due in 6 instalments of equal amounts as follows—
- (a) the first instalment is due on the first day after the period of 9 months beginning immediately after the end of the migration accounting period, and
  - (b) the other 5 instalments are due one on each of the first 5 anniversaries of that day.
- (2) But see paragraphs 12, 13 and 14 for circumstances in which all or part of the outstanding balance of the ECPP tax becomes due otherwise than by those instalments.

#### *All of outstanding balance due*

- 12 (1) Where an event mentioned in subparagraph (2) occurs, the outstanding balance of the ECPP tax is due on the date on which the next instalment of that tax would otherwise have been due.
- (2) The events are—
- (a) the company becoming insolvent or entering administration,
  - (b) the appointment of a liquidator,

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- (c) an event under the law of a country or territory outside the United Kingdom corresponding to an event specified in paragraph (a) or (b),
- (d) the company ceasing to be resident in a relevant EEA state and, on so ceasing, not becoming resident in another relevant EEA state, or
- (e) the company failing to pay any amount of the ECPP tax for a period of 12 months after the date on which the amount becomes due.

*All of outstanding balance attributable to particular exit charge asset or liability due*

- 13 (1) This paragraph applies where—
- (a) a trigger event occurs in relation to an exit charge asset or liability during the instalments period, and
  - (b) a trigger event has not previously occurred in relation to that asset or liability during that period.
- (2) A trigger event occurs in relation to a TCGA or trading stock exit charge asset or an intangible exit charge asset if the company—
- (a) disposes of the asset, or
  - (b) ceases to hold the asset for the purposes of a business carried on by the company in a relevant EEA state and, on so ceasing, does not begin to hold it for the purposes of another such business.
- (3) A trigger event occurs in relation to a financial exit charge asset or liability if the company—
- (a) ceases to be a party to the loan relationship or derivative contract in question, or
  - (b) ceases to be a party to the loan relationship or derivative contract in question for the purposes of a business carried on by the company in a relevant EEA state and, on so ceasing, does not begin to be a party to it for the purposes of another such business.
- (4) On the occurrence of the trigger event an amount of the ECPP tax is due.
- (5) The amount due is—

$$(A - B) \times O T$$

Where—

“A” is the amount of ECPP tax attributable to the exit charge asset or liability (see paragraph 10(6)),

“B” is the amount of ECPP tax that has previously become due under paragraph 14 by reason of a partial trigger event occurring in relation to the exit charge asset or liability,

“O” is the amount of ECPP tax that is outstanding at the time of the trigger event, and

“T” is the amount of ECPP tax.

- (6) In this paragraph and paragraph 14 “the instalments period” means the period—
- (a) beginning immediately after—
    - (i) the company ceases to be resident in the United Kingdom (in the case of a Part 1 company), or

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- (ii) the occurrence of the PE qualifying event in respects of the asset or liability concerned (in the case of a Part 2 company), and
- (b) ending with the day on which the final instalment of the ECPP tax is due under paragraph 11.

*Part of outstanding balance attributable to particular exit charge asset or liability due*

- 14 (1) This paragraph applies if—
- (a) a partial trigger event occurs in relation to an exit charge asset or liability during the instalments period, and
  - (b) a trigger event has not previously occurred in relation to that asset or liability during that period.
- (2) A partial trigger event occurs in relation to a TCGA or trading stock exit charge asset if the company disposes of part (but not all) of the asset.
- (3) A partial trigger event occurs in relation to a financial exit charge asset or liability if there is a disposal of a right or liability under the loan relationship or derivative contract in question which amounts to a related transaction (as defined in section 304 or 596 of CTA 2009 as the case may be).
- (4) A partial trigger event occurs in relation to an intangible exit charge asset if there is a transaction which results in a reduction in the accounting value of the asset but not in the asset ceasing to be recognised in the company's balance sheet.
- (5) On the occurrence of the partial trigger event an amount of the outstanding ECPP tax is due.
- (6) The amount due is the amount that is just and reasonable having regard to the amount that would have been due had a trigger event occurred in relation to the exit charge asset or liability instead.
- (7) In this paragraph “trigger event” has the same meaning as in paragraph 13.]]

[<sup>F143</sup>SCHEDULE 3ZC

Section 59FB

CT PAYMENT PLANS FOR TAX ON CERTAIN TRANSACTIONS WITH EEA RESIDENTS

**Textual Amendments**

**F143** Sch. 3ZC inserted (retrospective and with effect in accordance with [Sch. 7 para. 4\(1\)\(a\)](#) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [Sch. 7 para. 2](#)

*Introduction*

- 1 This Schedule makes provision enabling a company that is liable to pay qualifying corporation tax for an accounting period to defer payment of the tax by entering into a CT payment plan.

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### *Qualifying corporation tax*

- 2 (1) For the purposes of this Schedule a company is liable to pay qualifying corporation tax for an accounting period if CT1 is greater than CT2 where—
- CT1 is the corporation tax which the company is liable to pay for the accounting period, and
- CT2 is the corporation tax which the company would be liable to pay for the accounting period if any gains, credits, losses or debits arising in respect of qualifying transactions of the company were ignored.
- (CT2 will be zero if the company would not be liable to pay any corporation tax for the period).
- (2) The amount of qualifying corporation tax which the company is liable to pay is the difference between CT1 and CT2.

### *Qualifying transactions*

- 3 (1) For the purposes of this Schedule each of the following is a qualifying transaction of a company (“the company concerned”)—
- (a) a disposal within sub-paragraph (2),
  - (b) a transaction within sub-paragraph (3),
  - (c) a transaction within sub-paragraph (4), and
  - (d) a transfer within sub-paragraph (5).
- (2) A disposal is within this sub-paragraph if—
- (a) it is a disposal by the company concerned of an asset,
  - (b) it is a disposal to a company (“the transferee”) that at the time of the disposal is resident outside the United Kingdom in an EEA state, and
  - (c) it is a disposal to which section 139 or 171 of TCGA 1992 would apply were the transferee resident at the time of the disposal in the United Kingdom instead.
- (3) A transaction is within this sub-paragraph if—
- (a) it is a transaction, or the first in a series of transactions, as a result of which the company concerned is directly or indirectly replaced as a party to a loan relationship by another company (“the transferee”),
  - (b) at the time of the transaction the transferee is resident outside the United Kingdom in an EEA state, and
  - (c) it is a transaction to which section 340(3) of CTA 2009 would apply were the transferee resident at the time of the transaction in the United Kingdom instead.
- (4) A transaction is within this sub-paragraph if—
- (a) it is a transaction, or the first in a series of transactions, as a result of which the company concerned is directly or indirectly replaced as a party to a derivative contract by another company (“the transferee”),
  - (b) at the time of the transaction the transferee is resident outside the United Kingdom in an EEA state, and
  - (c) it is a transaction to which section 625(3) of CTA 2009 would apply were the transferee resident at the time of the transaction in the United Kingdom instead.

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- (5) A transfer is within this sub-paragraph if—
- (a) it is a transfer from the company concerned of an intangible fixed asset,
  - (b) it is a transfer to a company (“the transferee”) that immediately after the transfer is resident outside the United Kingdom in an EEA state, and
  - (c) it is a transfer to which section 775(1) of CTA 2009 would apply were the transferee resident immediately after the transfer in the United Kingdom instead.
- (6) In this Schedule “transferee”, in relation to a qualifying transaction of a company, means the transferee referred to in sub-paragraph (2), (3), (4) or (5) (as the case may be).

*Eligibility to enter a CT payment plan*

- 4 (1) A company that is liable to pay qualifying corporation tax for an accounting period may enter into a CT payment plan in respect of the tax in accordance with this Schedule.
- (2) The CT payment plan may relate to—
- (a) all of the qualifying corporation tax that the company is liable to pay for the accounting period, or
  - (b) only part of the qualifying corporation tax that the company is liable to pay for the accounting period.
- (3) In this Schedule “deferred tax”, in relation to a CT payment plan, means the qualifying corporation tax to which the plan relates.

*Application to enter a CT payment plan*

- 5 A company that is liable to pay qualifying corporation tax for an accounting period may enter into a CT payment plan in respect of the tax only if—
- (a) an application to enter into the plan is made to HMRC before the end of the period of 9 months beginning immediately after the accounting period, and
  - (b) the application contains details of all the matters which are required by paragraph 7 to be specified in the plan.

**Modifications etc. (not altering text)**

**C22** Sch. 3ZC para. 5(a) modified (retrospective and with effect in accordance with Sch. 7 para. 4(1)(a) of the amending Act) by Finance Act 2020 (c. 14), Sch. 7 para. 4(2)

*Entering into a CT payment plan*

- 6 (1) A company enters into a CT payment plan if—
- (a) the company agrees to pay, and an officer of Revenue and Customs agrees to accept payment of, the deferred tax in accordance with paragraphs 9 to 12,
  - (b) the company agrees to pay interest on the deferred tax in accordance with paragraph 8(3) and (5), and
  - (c) the plan meets the requirements of paragraph 7 as to the matters that must be specified in it.

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- (2) The CT payment plan may, in the circumstances mentioned in sub-paragraph (3), contain appropriate provision regarding security for HMRC in respect of the payment of the deferred tax.
- (3) Those circumstances are where an officer of Revenue and Customs considers that agreeing to accept payment of the deferred tax in accordance with paragraphs 9 to 12 would present a serious risk as to collection of the tax in the absence of provision regarding security in respect of its payment.
- (4) A CT payment plan is void if any information furnished by the company in connection with the plan does not fully and accurately disclose all facts and considerations material to the decision of the officer of Revenue and Customs to accept payment of the deferred tax in accordance with paragraphs 9 to 12.

*Content of CT payment plan*

- 7 (1) A CT payment plan entered into by a company must—
  - (a) specify the accounting period to which the plan relates (“the accounting period concerned”),
  - (b) specify the amount of qualifying corporation tax which, in the company's opinion, is payable by it in respect of the accounting period concerned,
  - (c) specify the amount of the deferred tax,
  - (d) identify each qualifying transaction of the company in respect of which gains or credits arose in the accounting period concerned, and
  - (e) specify in relation to each of those qualifying transactions—
    - (i) the name of the transferee,
    - (ii) the EEA state in which the transferee was resident at the time of the transaction, and
    - (iii) the amount of the deferred tax that is attributable to the transaction.
- (2) The amount of the deferred tax that is attributable to a qualifying transaction of the company in respect of which a gain or credit arose in the accounting period concerned is—

$$A B \times T$$

where—

A is the gain or credit that arose in the accounting period concerned in respect of the qualifying transaction,

B is the total gains or credits that arose in the accounting period concerned in respect of all qualifying transactions of the company,

T is the amount of the deferred tax.

*Effect of CT payment plan*

- 8 (1) This paragraph applies where a CT payment plan is entered into by a company in accordance with this Schedule.
- (2) As regards when the deferred tax is payable—
  - (a) the CT payment plan does not prevent the deferred tax becoming due and payable under section 59D or 59E, but



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- (b) the Commissioners for Her Majesty's Revenue and Customs—
  - (i) may not seek payment of the deferred tax otherwise than in accordance with paragraphs 9 to 12;
  - (ii) may make repayments in respect of any amount of the deferred tax paid, or any amount paid on account of the deferred tax, before the CT payment plan is entered into.
- (3) As regards interest—
  - (a) the deferred tax carries interest in accordance with Part 9 as if the CT payment plan had not been entered into, and
  - (b) each time a payment is made in accordance with paragraphs 9 to 12, it is to be paid together with any interest payable on it.
- (4) As regards penalties, the company will be liable to penalties for late payment of the deferred tax only if it fails to make payments in accordance with paragraphs 9 to 12 (see item 6ZAA of the Table at the end of paragraph 1 of Schedule 56 to the Finance Act 2009).
- (5) Any of the deferred tax which is for the time being unpaid may be paid at any time before it becomes payable under paragraphs 9 to 12 together with interest payable on it to the date of payment.

*The payment method: instalments*

- 9 (1) Where a CT payment plan is entered into by a company, the deferred tax is due in 6 instalments of equal amounts as follows—
  - (a) the first instalment is due on the first day after the period of 9 months beginning immediately after the end of the accounting period to which the plan relates, and
  - (b) the other 5 instalments are due one on each of the first 5 anniversaries of that day.
- (2) But see paragraphs 10 to 12 for circumstances in which all or part of the outstanding balance of the deferred tax becomes due otherwise than by those instalments.

*The payment method: all of outstanding balance due*

- 10 (1) Where at any time after a CT payment plan is entered into by a company an event mentioned in sub-paragraph (2) occurs the outstanding balance of the deferred tax is due on the date on which the next instalment of that tax would otherwise be due.
- (2) The events are—
  - (a) the company becoming insolvent or entering administration;
  - (b) the appointment of a liquidator in respect of the company;
  - (c) an event under the law of a country or territory outside the United Kingdom corresponding to an event in paragraph (a) or (b);
  - (d) the company failing to pay any amount of the deferred tax for a period of 12 months after the date on which the amount becomes due;
  - (e) the company ceasing to be within the charge to corporation tax.

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*All of outstanding balance attributable to particular qualifying transaction due*

- 11 (1) This paragraph applies where—
- (a) a CT payment plan is entered into by a company,
  - (b) during the instalments period a trigger event occurs in relation to a qualifying transaction identified in the plan, and
  - (c) a trigger event has not previously occurred in relation to that qualifying transaction during the instalments period.
- (2) A trigger event occurs in relation to a qualifying transaction if the transferee ceases to be resident in an EEA state and, on so ceasing, does not become resident another EEA state.
- (3) A trigger event occurs in relation to a qualifying transaction if the company and the transferee cease to be members of the same group as one another.
- (4) A trigger event occurs in relation to a qualifying transaction within sub-paragraph (2) or (5) of paragraph 3 if the transferee disposes of the asset that is the subject of the transaction.
- (5) A trigger event occurs in relation to a qualifying transaction within sub-paragraph (3) or (4) of paragraph 3 if the transferee ceases to be a party to the loan relationship or derivative contract concerned.
- (6) On the occurrence of the trigger event an amount of the deferred tax is due.
- (7) The amount due is—
- $$(A - B) \times O T$$
- where—
- “A” is the amount of the deferred tax that is attributable to the qualifying transaction (see paragraph 7(2)),
- “B” is the amount of the deferred tax that has previously become due under paragraph 12 by reason of a partial trigger event occurring in relation to the qualifying transaction,
- “O” is the amount of the deferred tax that is outstanding at the time of the trigger event, and
- “T” is the amount of the deferred tax.
- (8) In this paragraph “the instalments period” means the period—
- (a) beginning with the time the CT payment plan is entered into, and
  - (b) ending with the day on which the final instalment of the deferred tax is due under paragraph 9.

*Part of outstanding balance attributable to particular qualifying transaction due*

- 12 (1) This paragraph applies where—
- (a) a CT payment plan is entered into by a company,
  - (b) during the instalments period a partial trigger event occurs in relation to a qualifying transaction listed in the plan, and

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- (c) a trigger event has not previously occurred in relation to that qualifying transaction during the instalments period.
- (2) A partial trigger event occurs in relation to a qualifying transaction within sub-paragraph (2) of paragraph 3 if the transferee disposes of part (but not all) of the asset that is the subject of the transaction.

Section 21(2)(b) of TCGA 1992 (meaning of part disposal of an asset) applies for the purposes of this sub-paragraph as it applies for the purposes of that Act.

- (3) A partial trigger event occurs in relation to a qualifying transaction within sub-paragraph (3) or (4) of paragraph 3 if there is a disposal by the transferee of a right or liability under the loan relationship or derivative contract concerned which amounts to a related transaction (as defined in section 304 or 596 of CTA 2009 as the case may be).
- (4) A partial trigger event occurs in relation to a qualifying transaction within sub-paragraph (5) of paragraph 3 if the transferee enters into a subsequent transaction which results in a reduction in the accounting value of the intangible fixed asset that is the subject of the qualifying transaction but does not result in the intangible fixed asset ceasing to be recognised in the transferee's balance sheet.
- (5) In relation to an intangible fixed asset that has no balance sheet value (or no longer has a balance sheet value) sub-paragraph (4) applies as if, immediately before the subsequent transaction, it did have a balance sheet value.
- (6) On the occurrence of the partial trigger event an amount of the deferred tax is due.
- (7) The amount due is the amount that is just and reasonable having regard to the amount that would have been due had a trigger event occurred in relation to the qualifying transaction instead.
- (8) In this paragraph “the instalments period” and “trigger event” have the same meaning as in paragraph 11.]

## [<sup>F144</sup>SCHEDULE 3A

### ELECTRONIC LODGEMENT OF TAX RETURNS, ETC.

#### Textual Amendments

**F144** Sch. 3A inserted (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), [Sch. 28 para. 2](#)

#### Modifications etc. (not altering text)

- C23** Sch. 3A applied (N.I.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/128\)](#), regs. 1(1), **9(6)**
- C24** Sch. 3A applied (E.W.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations 2009 \(S.I. 2009/470\)](#), regs. 1(1), **13(6)** (with reg. 1(4)(6))
- C25** Sch. 3A applied (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\)](#), regs. 1, **20**
- C26** [Sch. 3A](#) applied (with application in accordance with reg. 1 of the amending S.I.) by [The Education \(Postgraduate Masters Degree Loans\) Regulations 2016 \(S.I. 2016/606\)](#), regs. 1(1), **24(6)**

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## PART I

### TAX RETURNS: GENERAL

#### *The basic rule*

- 1 (1) Sub-paragraph (2) below applies where a person is—
- (a) required by a notice to which this Schedule applies, or
  - (b) subject to any other requirement to which this Schedule applies, to deliver or make a return to an officer of the Board or to the Board.
- (2) The requirement to deliver or make the return shall be treated as fulfilled by the person subject to the requirement if—
- (a) information is transmitted electronically in response to that requirement; and
  - (b) each of the conditions in Part III of this Schedule is met with respect to that transmission.
- (3) Sub-paragraphs (4) and (5) below apply where the requirement to deliver or make the return is fulfilled by virtue of sub-paragraph (2) above.
- (4) Any requirement—
- (a) under any provision of Part II of this Act [<sup>F145</sup>or Schedule 18 to the Finance Act 1998] that the return include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete, or
  - (b) under or by virtue of any other provision of the Taxes Acts that the return be signed or include any description of declaration or certificate,
- shall not apply.
- (5) The time at which the requirement to deliver or make the return is fulfilled is the end of the day during which the last of the conditions in Part III of this Schedule to be met with respect to the transmission is met.
- (6) In sub-paragraph (2)(a) above “information” includes any self-assessment, partnership statement, particulars or claim.

#### **Textual Amendments**

**F145** Words in Sch. 3A para. 1(4)(a) inserted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 43\(2\)](#); [S.I. 1998/3173](#), art. 2

#### *Returns to which Schedule applies*

- 2 (1) This Schedule applies to a notice requiring a return to be delivered or made if—
- (a) the notice is given under any provision of the Taxes Acts or of regulations made under the Taxes Acts;
  - (b) the provision is specified for the purposes of this Schedule by an order made by the Treasury; and
  - (c) the notice is given after the day appointed by the order in relation to notices under the provision so specified.
- (2) This Schedule applies to any other requirement to deliver or make a return if—

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- (a) the requirement is imposed by any provision of the Taxes Acts or of regulations made under the Taxes Acts;
  - (b) the provision is specified for the purposes of this Schedule by an order made by the Treasury; and
  - (c) the requirement is required to be fulfilled within a period beginning after the day appointed by the order in relation to the specified provision.
- (3) The power to make an order under this paragraph shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (4) For the purposes of this Schedule, any reference to a requirement to deliver a return includes, in relation to regulations made under the principal Act [<sup>F146</sup>or under ITEPA 2003][<sup>F147</sup>or ITTOIA 2005], a reference to a requirement to render a return.

#### Textual Amendments

**F146** Words in Sch. 3A para. 2(4) inserted (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), [Sch. 6 para. 143](#) (with [Sch. 7](#))

**F147** Words in Sch. 3A para. 2(4) inserted (with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 384](#) (with [Sch. 2](#))

## PART II

### DOCUMENTS SUPPORTING CERTAIN TAX RETURNS

- 3 (1) This paragraph applies where—
  - (a) a person is required by a notice to which this Schedule applies to deliver a return to an officer of the Board;
  - (b) the notice also requires any document other than the return (“a supporting document”) to be delivered;
  - (c) the provision under which the notice is given requires the supporting document to be delivered with the return;
  - (d) the notice states that the supporting document may be transmitted electronically; and
  - (e) the requirement to deliver the return is fulfilled by virtue of paragraph 1(2) of this Schedule.
- (2) The requirement to deliver the supporting document shall be treated as fulfilled by the person subject to the requirement if—
  - (a) information is transmitted electronically in response to that requirement; and
  - (b) each of the conditions in Part III of this Schedule is met with respect to that transmission.
- (3) If information is not transmitted electronically in response to the requirement to deliver the supporting document, that requirement shall have effect as a requirement to deliver the document on or before the day which is the last day for the delivery of the return.
- (4) For the purposes of sub-paragraph (1)(b) above the reference to a document includes in particular a reference to any accounts, statements or reports.

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- (5) Where the requirement to deliver the supporting document is fulfilled by virtue of sub-paragraph (2) above, the time at which it is fulfilled is the end of the day during which the last of the conditions in Part III of this Schedule to be met with respect to the transmission is met.

### PART III

#### THE CONDITIONS

##### *Approved persons*

- 4 (1) The first condition is that the transmission must be made by a person approved by the Board.
- (2) A person seeking approval under this paragraph shall be given notice of the grant or refusal of approval.
- (3) A person may be approved for the purpose of transmitting the information—
- (a) on behalf of another person or other persons; or
  - (b) on his own behalf.
- (4) An approval under this paragraph may be withdrawn by notice with effect from such date as may be specified in the notice.
- (5) A notice refusing or withdrawing an approval shall state the grounds for the refusal or withdrawal.
- (6) A person who is refused approval or whose approval is withdrawn may appeal <sup>F148</sup> ... against the refusal or withdrawal.
- (7) The appeal shall be made by notice given to the Board before the end of the period of 30 days beginning with the day on which notice of the refusal or withdrawal was given to the appellant.
- (8) [<sup>F149</sup>If an appeal is notified to the tribunal under section 49D, 49G or 49H, the tribunal] shall not allow the appeal unless it appears <sup>F150</sup> ... that, having regard to all the circumstances, it is unreasonable for the approval to be refused or (as the case may be) withdrawn.
- (9) If the [<sup>F151</sup>tribunal allows] an appeal by a person who has been refused approval, [<sup>F152</sup>it] shall specify the date from which the approval is to have effect.

#### **Textual Amendments**

**F148** Words in Sch. 3A para. 4(6) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 61(2)**

**F149** Words in Sch. 3A para. 4(8) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 61(3)(a)**

**F150** Words in Sch. 3A para. 4(8) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 61(3)(b)**

**F151** Words in Sch. 3A para. 4(9) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 61(4)(a)**

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**F152** Word in Sch. 3A para. 4(9) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 61\(4\)\(b\)](#)

#### *Approved manner of transmission*

- 5
- (1) The second condition applies if the person who makes the transmission is notified by the Board of any requirements for the time being applicable to him as to the manner in which transmissions are to be made by him or as to the manner in which any description of transmission is to be made by him.
  - (2) The second condition is that the transmission must comply with the requirements so notified.
  - (3) The requirements referred to include in particular requirements as to—
    - (a) the hardware or type of hardware, or
    - (b) the software or type of software,to be used to make transmissions or a description of transmissions.

#### *Content of transmission*

- 6
- The third condition is that the transmission must signify, in a manner approved by the Board, that before the transmission was made a hard copy of the information proposed to be transmitted was made and authenticated in accordance with Part IV of this Schedule.

#### *Procedure for accepting electronic transmissions*

- 7
- (1) The fourth condition is that the information transmitted must be accepted for electronic lodgement.
  - (2) For the purposes of this Schedule, information is accepted for electronic lodgement if it is accepted under a procedure selected by the Board for the purposes of this Schedule.
  - (3) The selected procedure may in particular consist of or include the use of specially designed software.

### **PART IV**

#### **HARD COPIES OF INFORMATION TRANSMITTED**

#### *Provisions about making of hard copies*

- 8
- (1) A hard copy is made in accordance with this Part of this Schedule if it is made under arrangements designed to ensure that the information contained in the hard copy is the information in fact transmitted.
  - (2) A hard copy is authenticated in accordance with this Part of this Schedule if—
    - (a) where the transmission is made in response to a requirement imposed by a notice under Part II of this Act [<sup>F153</sup>or Schedule 18 to the Finance Act 1998] to deliver a return, the hard copy is endorsed with a declaration by

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the relevant person that the hard copy is to the best of his knowledge correct and complete; and

(b) in any other case, if the hard copy is signed by the relevant person.

(3) In sub-paragraph (2) above “the relevant person” means—

(a) where the transmission is made as mentioned in sub-paragraph (2)(a) above, the person who, but for paragraph 1(4)(a) of this Schedule, would have been required to make the declaration there mentioned;

(b) in any other case, the person subject to the requirement to deliver or make the return or, in the case of a document other than a return, deliver the document.

#### **Textual Amendments**

**F153** Words in Sch. 3A para. 8(2)(a) inserted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\)](#), [Sch. 19 para. 43\(3\)](#); [S.I. 1998/3173](#), art. 2

#### *Meaning of “hard copy”*

9 In this Part of this Schedule “hard copy”, in relation to information held electronically, means a printed out version of that information.

### **PART V**

#### STATUS OF INFORMATION

#### *Exercise of powers*

10 (1) Sub-paragraphs (2) to (5) below apply where information transmitted in response to a requirement to deliver or make a return is accepted for electronic lodgement.

(2) An officer of the Board shall have all the powers that he would have had if the information accepted had been contained in a return delivered by post.

(3) The Board shall have all the powers that they would have had if the information accepted had been contained in a return delivered by post.

(4) Where the information is transmitted in response to a notice given under any provision of Part II of this Act, any power which, if the information had been contained in a return delivered by post, a person would have had under this Act to amend the return—

(a) by delivering a document, or

(b) by notifying amendments,

to an officer of the Board, shall have effect as if the power enabled that person to deliver a statement of amended information to the officer.

(5) Any right that a person would have had, if the information transmitted had been contained in a return delivered by post, to claim that tax charged under an assessment was excessive by reason of some mistake or error in the return shall have effect as far as the claimant is concerned as if the information transmitted had been contained in a return delivered by post.



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- (6) Where information transmitted in response to a requirement to deliver a document other than a return is accepted for electronic lodgement, an officer of the Board shall have all the powers that he would have had if the information had been contained in a document delivered by post.
- (7) This paragraph is subject to paragraph 11 of this Schedule.

### *Proceedings*

- 11 (1) Sub-paragraphs (2) to (4) below apply where—
- (a) a person is required by a notice to which this Schedule applies, or subject to any other requirement to which this Schedule applies, to deliver or make a return; and
  - (b) that requirement is fulfilled by virtue of paragraph 1(2) of this Schedule.
- (2) A hard copy shown to have been made and authenticated in accordance with Part IV of this Schedule for the purposes of the transmission in question shall be treated for the purposes of any proceedings as if it were a return delivered or made in response to the requirement.
- (3) Sub-paragraph (4) below applies if no hard copy is shown to have been made and authenticated in accordance with Part IV of this Schedule for the purposes of the transmission in question.
- (4) A hard copy certified by an officer of the Board to be a true copy of the information transmitted shall be treated for the purposes of any proceedings in relation to which the certificate is given as if it—
- (a) were a return delivered or made in response to the requirement in question, and
  - (b) contained any declaration or signature which would have appeared on a hard copy made and authenticated in accordance with Part IV of this Schedule for the purposes of the transmission.
- (5) Where—
- (a) a person is required by a notice to which this Schedule applies to deliver any document other than a return, and
  - (b) that requirement is fulfilled by virtue of paragraph 3(2) of this Schedule,
- sub-paragraphs (2) to (4) above shall apply as if any reference to a return delivered in response to the requirement were a reference to a document delivered in response to the requirement.
- (6) In this paragraph—
- “hard copy” has the same meaning as in Part IV of this Schedule; and
  - “proceedings” includes proceedings before <sup>F154</sup>... any tribunal having jurisdiction by virtue of any provision of the Taxes Acts.]

#### **Textual Amendments**

**F154** Words in Sch. 3A para. 11(6) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 62](#)

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## SCHEDULE 4

### SAVINGS AND TRANSITORY PROVISIONS

#### *Declaration of secrecy*

- 1 (1) Section 6(4) of this Act shall not apply to a person who, before 10th July 1964, made a declaration in any of the forms set out in Schedule 2 to the Income Tax Act 1952, or a declaration of secrecy in a form approved by the Board.
- (2) General or Special Commissioners or other persons who made declarations in the form in Part I of Schedule 1 to the Income Tax Management Act 1964, or in the form in Schedule 2 to the Income Tax Act 1952, before the coming into force of paragraph 16 of Schedule 10 to the Finance Act 1965 (which included in the form of declaration a reference to the new taxes imposed by that Act) shall be subject to the same obligations as to secrecy with respect to those taxes as they are subject to with respect to income tax.
- (3) The repeals made by the principal Act shall not alter the effect or validity of any declaration made before the commencement of this Act.

#### *Information about interest paid or credited without deduction of tax by banks, etc.*

- 2 A notice served under section 29 of the Income Tax Act 1952 (re-enacted in section 17 of this Act) on the Postmaster General before 1st October 1969 shall, if it has not been complied with before that date, be deemed to have been served on the Director of Savings; and section 17(1) of this Act shall, in its application to the National Savings Bank, have effect as if the reference to interest paid or credited by the Director of Savings included, as regards any period before the said date, a reference to interest paid or credited by the Postmaster General to depositors.

#### *Assessments*

- 3 (1) Section 36 of this Act shall not apply to tax for any year before the year 1936—37.
- (2) Section 41 of this Act shall not apply to any assessment signed before 6th April 1965.

#### *Claims*

- 4 (1) This paragraph has effect as respects relief under any enactment repealed by the principal Act, or repealed or terminated by any Act passed before that Act, so far as it remains in force after the commencement of this Act.
- (2) Section 42 of this Act shall apply to any such relief in like manner as section 9 of the Income Tax Management Act 1964 would have applied but for the passing of this Act, and nothing in the repeals made by the principal Act shall affect any enactment determining whether the claim is made to the inspector or the Board, or the Commissioners to whom an appeal lies on the claim.
- 5 An appeal, or other proceedings in the nature of an appeal, instituted on a claim, or proceedings in the nature of a claim, made before 6th April 1965 shall be continued before the same Commissioners notwithstanding that, under Schedule 2 to this Act or Schedule 2 to the Income Tax Management Act 1964, an appeal on the claim should have been made to some other Commissioners.

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F155<sup>6</sup> .....

**Textual Amendments**

F155 Sch. 4 para. 6 repealed (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 26 Pt. 5\(22\)](#)

*Choice of Commissioners to hear proceedings*

7 Neither section 44 of this Act nor any other provision in this Act shall apply to an appeal against an assessment signed, claim made, or other proceedings instituted, before 6th April 1965 so as to require the proceedings to be heard by Commissioners other than those who would have heard the proceedings if the Income Tax Management Act 1964 had not passed.

*Settling of appeals by agreement*

F156<sup>8</sup> .....

**Textual Amendments**

F156 Sch. 4 para. 8 repealed by [Finance Act 1982 \(c. 39\)](#), s.157, [Sch.22 Part X](#).

*Interest on tax*

9 F157(1) .....

(2) For the purposes of section 88 of this Act the due date for payment of so much of any surtax for the year 1965—66 as is attributable to subsection (1) of the said section 15 shall be taken to be 1st September 1967, instead of 1st January 1967.

**Textual Amendments**

F157 Sch. 4 para. 9(1) repealed by [Finance \(No.2\) Act 1975 \(c. 45\)](#), s. 75, [Sch.14 Part III](#) in relation to tax charged by assessments notice of which was issued after 31 July 1975.

*Penalties, etc.*

10 Section 98 of this Act shall have effect as if the Table contained in it (columns 1 and 2 of which correspond respectively to columns 2 and 3 of Schedule 6 to the Finance Act 1960) included, in the appropriate column, so far as they remained in force, the enactments and regulations mentioned in or added to the said Schedule 6 which were repealed or terminated by any Act passed before this Act.

11 Section 103(2) of this Act shall not apply to tax for any year before the year 1936—37.

12 The repeals made by the principal Act shall not affect proceedings for any offence punishable under section 505 of the Income Tax Act 1952 and committed before the repeal of the said section 505 by the Theft Act 1968, or, in Northern Ireland, by the Theft Act (Northern Ireland) 1969.

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*Northern Ireland*

F158 13 .....

**Textual Amendments**

**F158** Sch. 4 para. 13 repealed by [Judicature \(Northern Ireland\) Act 1978 \(c.23\)](#), s.122, [Sch.7](#) on and after 18 April 1979; [S.I. 1978/422](#).

14 Part V of this Act, and the repeal by the principal Act of the provisions corresponding to Part V of this Act, shall not apply to proceedings falling within paragraph 10(1) of Schedule 5 to the Income Tax Management Act 1964 (assessments, etc. for 1964—65 and earlier years).

**Status:**

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**Changes to legislation:**

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