



Taxes Management Act 1970

1970 CHAPTER 9

PART IV

ASSESSMENT AND CLAIMS

[^{F1}28A Amendment of self-assessment where enquiries made.

- (1) This section applies where an officer of the Board gives notice under section 9A(1) or 11AB(1) of this Act to any person (the taxpayer) of his intention to enquire into—
 - (a) the return on the basis of which the taxpayer's self-assessment was made, or
 - (b) any amendment of that return on the basis of which an amendment (the taxpayer's amendment) of that assessment has been made by the taxpayer [^{F2}or
 - (c) any claim or election included in the return (by amendment or otherwise)].
- (2) If, at any time before the officer's enquiries are completed, the officer is of opinion that—
 - (a) the tax contained in the taxpayer's self-assessment is insufficient and, in a case falling within [^{F3}subsection (1)(b) or (c) above], the deficiency is attributable (wholly or partly) to the taxpayer's amendment, and
 - (b) unless the assessment is immediately so amended as to make good the deficiency or, as the case may be, so much of the deficiency as is so attributable, there is likely to be a loss of tax to the Crown,he may by notice to the taxpayer amend the assessment accordingly.
- (3) At any time in the period of 30 days beginning with the day on which the officer's enquiries are completed, the taxpayer may so amend his self-assessment—
 - (a) as to make good any deficiency or eliminate any excess which, on the basis of the conclusions stated in the officer's notice under subsection (5) below, is a deficiency or excess which could be made good or eliminated under subsection (4) below; or
 - (b) in a case falling within subsection (1)(a) above where the return was made before the end of the period of twelve months beginning with the filing date,

Status: Point in time view as at 31/07/1997. This version of this provision has been superseded.

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as to give effect to any amendments to the return which he has notified to the officer.

- (4) If, at any time in the period of 30 days beginning immediately after the period mentioned in subsection (3) above, the officer is of opinion that—
- (a) [^{F4}any amount set out in the return] is insufficient or excessive, and
 - (b) in a case falling within [^{F5}subsection (1)(b) or (c) above], the deficiency or excess is attributable (wholly or partly) to the taxpayer's amendment,
- he may by notice to the taxpayer so amend the assessment as to make good or eliminate the deficiency or excess or, where paragraph (b) above applies, so much of the deficiency or excess as is so attributable.
- [If—
- ^{F6}(4A) (a) any claim or election is included in the return,
- (b) the officer is of opinion that the claim or election should be disallowed in whole or in part but that its disallowance to the extent he thinks appropriate would not require any amendment of the taxpayer's self-assessment, and
 - (c) the claim or election, so far as the officer thinks it should be disallowed, is not, before the end of the period mentioned in subsection (3) above, amended to the officer's satisfaction or withdrawn,
- the officer shall, before the end of the period mentioned in subsection (4) above, give notice to the taxpayer of the extent to which he is disallowing the claim or election.
- (4B) Subsection (4A)(c) above is without prejudice to any provision by virtue of which any claim or election is irrevocable or unamendable.]
- (5) Subject to subsection (6) below, the officer's enquiries shall be treated as completed at such time as he by notice—
- (a) informs the taxpayer that he has completed his enquiries, and
 - (b) states his conclusions as to the amount of tax which should be contained in the taxpayer's self-assessment [^{F7}and as to any claims or elections into which he has enquired].
- [^{F8}(6) At any time before a notice is given under subsection (5) above, the taxpayer may apply for a direction that the officer shall give such a notice within such period as may be specified in the direction.
- (6A) Subject to subsection (7) below, an application under subsection (6) above shall be heard and determined in the same way as an appeal against an amendment of a self-assessment under subsection (2) or (4) above.
- (7) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that the officer has reasonable grounds for not giving the notice.]
- [Where, in the case of any return made in respect of any chargeable period—
- ^{F9}(7A) (a) alternative methods are allowed by the Tax Acts for bringing amounts into account in that return,
- (b) the return is made or amended using one of those methods,
 - (c) a return could have been made in that case using an alternative method, and
 - (d) an officer of the Board determines which of the alternative methods is to be used by the Board in relation to the taxpayer for that period,

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

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

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

and

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

(7C) In subsection (7B) above—

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

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

(8) In this section “filing date” means the day mentioned in section 8(1A), section 8A(1A) or, as the case may be, section 11(4) of this Act.]

Textual Amendments

- F1** S. 28A inserted (with effect in accordance with s. 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 188](#); [S.I. 1998/3173](#), art. 2
- F2** S. 28A(1)(c) and preceding word inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 19 para. 2](#)
- F3** Words in s. 28A(2)(a) substituted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 19 para. 4\(1\)\(a\)](#)
- F4** Words in s. 28A(4)(a) substituted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 19 para. 4\(1\)\(b\)](#)
- F5** Words in s. 28A(4)(b) substituted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 19 para. 4\(1\)\(a\)](#)
- F6** S. 28A(4A)(4B) inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 19 para. 4\(2\)](#)
- F7** Words in s. 28A(5)(b) inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 19 para. 4\(1\)\(c\)](#)
- F8** S. 28A(6)(6A)(7) substituted for s. 28A(6)(7) (with effect in accordance with Sch. 22 para. 12 of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 22 para. 3](#)
- F9** S. 28A(7A)-(7C) inserted (with effect in accordance with Sch. 19 para. 1 of the amending Act) by [Finance Act 1996 \(c. 8\), Sch. 19 para. 4\(3\)](#)

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Modifications etc. (not altering text)

- C1** S. 28A(2)(4) applied by Income and Corporation Taxes Act 1988 (c. 1), Sch. 13A para. 14(8) (as inserted (with effect in accordance with Sch. 25 para. 3 of the amending Act) by [Finance Act 1996](#) (c. 8), [Sch. 25 para. 2](#); S.I. 1998/3173, art. 2)

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