



Taxes Management Act 1970

1970 CHAPTER 9

PART IV

ASSESSMENT AND CLAIMS

[^{F1}29 Assessment where loss of tax discovered.

- (1) If an officer of the Board or the Board discover, as regards any person (the taxpayer) and a [^{F2}year of assessment]—
- (a) that any [^{F3}income which ought to have been assessed to income tax, or chargeable gains which ought to have been assessed to capital gains tax,] have not been assessed, or
 - (b) that an assessment to tax is or has become insufficient, or
 - (c) that any relief which has been given is or has become excessive,
- the officer or, as the case may be, the Board may, subject to subsections (2) and (3) below, make an assessment in the amount, or the further amount, which ought in his or their opinion to be charged in order to make good to the Crown the loss of tax.

(2) Where—

- (a) the taxpayer has made and delivered a return under [^{F4}section 8 or 8A] of this Act in respect of the relevant [^{F2}year of assessment], and
- (b) the situation mentioned in subsection (1) above is attributable to an error or mistake in the return as to the basis on which his liability ought to have been computed,

the taxpayer shall not be assessed under that subsection in respect of the [^{F2}year of assessment] there mentioned if the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.

- (3) Where the taxpayer has made and delivered a return under [^{F4}section 8 or 8A] of this Act in respect of the relevant [^{F2}year of assessment], he shall not be assessed under subsection (1) above—

- (a) in respect of the [^{F2}year of assessment] mentioned in that subsection; and
- (b) ^{F5}... in the same capacity as that in which he made and delivered the return,

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unless one of the two conditions mentioned below is fulfilled.

- (4) The first condition is that the situation mentioned in subsection (1) above [^{F6}was brought about carelessly or deliberately by] the taxpayer or a person acting on his behalf.
- (5) The second condition is that at the time when an officer of the Board—
- (a) ceased to be entitled to give notice of his intention to enquire into the taxpayer's return under [^{F7}section 8 or 8A] of this Act in respect of the relevant [^{F2}year of assessment]; or
 - [^{F8}(b) in a case where a notice of enquiry into the return was given—
 - (i) issued a partial closure notice as regards a matter to which the situation mentioned in subsection (1) above relates, or
 - (ii) if no such partial closure notice was issued, issued a final closure notice,]
 the officer could not have been reasonably expected, on the basis of the information made available to him before that time, to be aware of the situation mentioned in subsection (1) above.
- (6) For the purposes of subsection (5) above, information is made available to an officer of the Board if—
- (a) it is contained in the taxpayer's return under [^{F9}section 8 or 8A] of this Act in respect of the relevant [^{F2}year of assessment] (the return), or in any accounts, statements or documents accompanying the return;
 - (b) it is contained in any claim made as regards the relevant [^{F2}year of assessment] by the taxpayer acting in the same capacity as that in which he made the return, or in any accounts, statements or documents accompanying any such claim;
 - (c) it is contained in any documents, accounts or particulars which, for the purposes of any enquiries into the return or any such claim by an officer of the Board, are produced or furnished by the taxpayer to the officer ^{F10}... ; or
 - (d) it is information the existence of which, and the relevance of which as regards the situation mentioned in subsection (1) above—
 - (i) could reasonably be expected to be inferred by an officer of the Board from information falling within paragraphs (a) to (c) above; or
 - (ii) are notified in writing by the taxpayer to an officer of the Board.
- (7) In subsection (6) above—
- (a) any reference to the taxpayer's return under [^{F11}section 8 or 8A] of this Act in respect of the relevant [^{F2}year of assessment] includes—
 - (i) a reference to any return of his under that section for either of the two immediately preceding chargeable periods; ^{F12}...
 - ^{F13}(ia)
 - (ii) where the return is under section 8 and the taxpayer carries on a trade, profession or business in partnership, a reference to [^{F14}any partnership return with respect to the partnership] for the relevant [^{F2}year of assessment] or either of those periods; and
 - (b) any reference in paragraphs (b) to (d) to the taxpayer includes a reference to a person acting on his behalf.

[^{F15}(7A) The requirement to fulfil one of the two conditions mentioned above does not apply so far as regards any income or chargeable gains of the taxpayer in relation to which the

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taxpayer has been given, after any enquiries have been completed into the taxpayer's return, a notice under ^{F16}section 81(2) of TIOPA 2010 (notice to counteract scheme or arrangement designed to increase double taxation relief)].]

- (8) An objection to the making of an assessment under this section on the ground that neither of the two conditions mentioned above is fulfilled shall not be made otherwise than on an appeal against the assessment.
- (9) Any reference in this section to the relevant ^{F2}year of assessment] is a reference to—
- (a) in the case of the situation mentioned in paragraph (a) or (b) of subsection (1) above, the ^{F2}year of assessment] mentioned in that subsection; and
 - (b) in the case of the situation mentioned in paragraph (c) of that subsection, the ^{F2}year of assessment] in respect of which the claim was made.

^{F17}(10)]

Textual Amendments

- F1** S. 29 substituted (with effect in accordance with ss. 191(2), 199(2)(3) of the amending Act) by [Finance Act 1994 \(c. 9\), s. 191\(1\)](#); S.I. 1998/3173, art. 2
- F2** Words in s. 29 substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(3\)](#); S.I. 1998/3173, art. 2
- F3** Words in s. 29(1) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(2\)](#); S.I. 1998/3173, art. 2
- F4** Words in s. 29(2)(3) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(4\)](#); S.I. 1998/3173, art. 2
- F5** Words in s. 29(3)(b) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(5\), Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2
- F6** Words in s. 29(4) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 118\(2\), Sch. 39 para. 3](#); S.I. 2009/403, art. 2(2) (with art. 10)
- F7** Words in s. 29(5)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(4\)](#); S.I. 1998/3173, art. 2
- F8** S. 29(5)(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. 14](#)
- F9** Words in s. 29(6)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(4\)](#); S.I. 1998/3173, art. 2
- F10** Words in s. 29(6)(c) omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\), s. 113\(2\), Sch. 36 para. 71](#) (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 3)
- F11** Words in s. 29(7)(a) substituted (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(4\)](#); S.I. 1998/3173, art. 2
- F12** Word in s. 29(7)(a)(i) 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. 46](#)
- F13** S. 29(7)(a)(ia) 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\(6\)](#)
- F14** Words in s. 29(7)(a)(ii) substituted (with effect in accordance with s. 88(3) of the amending Act) by [Finance Act 2001 \(c. 9\), Sch. 29 para. 22](#)
- F15** S. 29(7A) inserted (with effect in accordance with s. 88(5) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 88\(2\)](#)
- F16** Words in s. 29(7A) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 5](#) (with Sch. 9 paras. 1-9, 22)
- F17** S. 29(10) repealed (with effect in accordance with s. 117(4)(5) of the amending Act) by [Finance Act 1998 \(c. 36\), Sch. 19 para. 12\(6\), Sch. 27 Pt. 3\(28\)](#); S.I. 1998/3173, art. 2

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Modifications etc. (not altering text)

- C1** S. 29 excluded (16.7.1992) by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), [Sch. 3 para. 6E](#) (which was inserted (16.7.1992 having effect in relation to transactions effected on or after 1.10.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 63, [Sch. 11 paras. 2\(2\), 6](#))
- C2** S. 29 modified (24.2.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), [ss. 319](#), 458(1); [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4)
- C3** S. 29 modified (with effect in accordance with [Sch. 2 para. 24\(2\)](#) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 23](#)
- C4** S. 29(1) applied (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), [Sch. 13 para. 44\(6\)](#)
- C5** S. 29(1)(a) applied (with modifications) (6.4.2006) by [The Registered Pension Schemes \(Accounting and Assessment\) Regulations 2005 \(S.I. 2005/3454\)](#), regs. 1, [9](#)
- C6** S. 29(1)(c): power to apply conferred by [Finance Act 1995 \(c. 4\)](#), [s. 73\(4\)\(a\)](#) (as amended (with effect in accordance with [Sch. 18 para. 17](#) of the amending Act) by [Finance Act 1996 \(c. 8\)](#), [Sch. 18 para. 16\(a\)](#))
- C7** S. 29(2)(3) excluded (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), [Sch. 22 para. 11\(1\)\(3\)](#)
- C8** S. 29(3)(c) (as it stood before [Finance Act 1994 \(c. 9\)](#), s. 191(1) had effect): power to apply conferred (1.5.1995) by [Finance Act 1995 \(c. 4\)](#), [s. 73\(4\)\(a\)](#)
- C9** S. 29(6)(7) applied by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 804ZC(6)(a) (as inserted (with effect in accordance with s. 87(3) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 87\(1\)](#))

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