



# Finance (No. 2) Act 1975

## 1975 CHAPTER 45

### PART III

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

#### CHAPTER I

#### *General*

25— ..... F1  
43.

#### Textual Amendments

F1 Ss. 25–43 repealed (with savings) by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 844, [Sch. 31](#)

#### 44 **Payment of tax : general**

(1) ..... F2

(4) ..... F3

(5) In section 29(5) of the <sup>M1</sup>Taxes Management Act 1970 (notice of assessment), after the words “shall state” there shall be inserted the words “ the date on which it is issued and ”.

(6) ..... F2

(7) This section and sections 45 and 46 below shall not have effect in relation to tax charged by assessments notice of which was issued before the passing of this Act.

*Status: Point in time view as at 03/05/1994.*

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1975, Part III. (See end of Document for details)*

#### Textual Amendments

- F2** S. 44(1)–(3)(6) repealed by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 844, [Sch. 31](#)  
**F3** S. 44(4) repealed by [Capital Gains Tax Act 1979 \(c. 14, SIF 63:2\)](#), s. 158, [Sch. 8](#)

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

- C1** The text of ss. 44(5), 45, 46, 66, 67(2), 75(3) and Sch. 14 is in the form in which it was originally enacted: it was reproduced in Statutes in Force only in part and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

- M1** 1970 c. 9.

### 45 Payment of tax pending appeal.

- (1) For section 55 of the Taxes Management Act 1970 (recovery of tax not in dispute) there shall be substituted—

#### “55 Recovery of tax not postponed.

- (1) This section applies to an appeal to the Commissioners against—
- (a) an assessment to income tax under Schedule A, Schedule C or Schedule D,
  - (b) an assessment charging income tax at a rate other than the basic rate on income from which income tax has been deducted (otherwise than under section 204 of the principal Act) or from or on which income tax is treated as having been deducted or paid or income chargeable under Schedule F,
  - (c) an assessment to income tax made under Schedule 20 to the Finance Act 1972 (income tax on company payments) other than an assessment charging tax the time for the payment of which is given by paragraph 4(1) or 9 of that Schedule,
  - (d) an assessment to capital gains tax,
  - (e) an assessment to corporation tax other than an assessment made under Schedule 14 to the Finance Act 1972 (advance corporation tax) charging tax the time for the payment of which is given by paragraph 3(1) or 9 of that Schedule.
- (2) If no application is made under subsection (3) below, the tax charged by the assessment shall be due and payable as if it were charged by an assessment in respect of which no appeal was pending.
- (3) If the appellant has grounds for believing that he is overcharged to tax by the assessment, he may, by notice in writing given to the inspector within thirty days after the date of the issue of the notice of assessment, apply to the Commissioners for a determination of the amount of tax the payment of which should be postponed pending the determination of the appeal.

A notice of application under this subsection shall state the amount in which the appellant believes that he is overcharged to tax and his grounds for that belief.

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- (4) If, after any determination of the amount of tax the payment of which should be so postponed, there is a change in the circumstances of the case as a result of which either party has grounds for believing that the amount so determined has become excessive or, as the case may be, insufficient, he may, by notice in writing given to the other party at any time before the determination of the appeal, apply to the Commissioners for a further determination of that amount.

A notice of application under this subsection shall state the amount in which the applicant believes that the amount previously determined has become excessive or, as the case may be, insufficient and his grounds for that belief.

- (5) An application under subsection (3) or (4) above shall be heard and determined in the same way as the appeal ; and where any such application is heard and determined by any Commissioners, that shall not preclude them from hearing and determining the appeal or any application or further application under subsection (4) above.
- (6) The amount of tax the payment of which shall be postponed pending the determination of the appeal shall be the amount (if any) in which it appears to the Commissioners, having regard to the representations made and any lawful evidence adduced, that there are reasonable grounds for believing that the appellant is overcharged to tax ; and
- (a) in the case of a determination made on an application under subsection (3) above, any tax the payment of which is not so postponed shall be due and payable as if it were tax charged by an assessment notice of which was issued on the date of that determination and in respect of which no appeal was pending ; and
  - (b) in the case of a determination made on an application under subsection (4) above, any tax the payment of which ceases to be so postponed shall be due and payable as if it were tax charged by an assessment notice of which was issued on the date of that determination and in respect of which no appeal was pending, or any tax overpaid shall be repaid, as the case may require.
- (7) If the appellant and the inspector come to an agreement, whether in writing or otherwise, as to the amount of tax the payment of which should be postponed pending the determination of the appeal, the like consequences shall ensue as would have ensued if the Commissioners had made a determination to that effect under subsection (6) above on the date when the agreement was come to, but without prejudice to the making of a further agreement or of a further determination under that subsection.
- (8) Where an agreement is not in writing—
- (a) subsection (7) above shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the inspector to the appellant or by the appellant to the inspector, and
  - (b) the reference in that subsection to the time when the agreement was come to shall be construed as a reference to the time of the giving of the notice of confirmation.
- (9) On the determination of the appeal—

*Status: Point in time view as at 03/05/1994.*

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- (a) any tax payable in accordance with that determination the payment of which had been postponed, or which had not been charged by the assessment, shall be due and payable as if it were tax charged by an assessment—
- (i) notice of which was issued on the date on which the inspector issues to the appellant a notice of the total amount payable in accordance with the determination, and
- (ii) in respect of which no appeal was pending, or
- (b) any tax overpaid shall be repaid,  
as the case may require.
- (10) In this section “inspector” means the inspector or other officer of the Board by whom the notice of assessment was issued ; and references in this section to an agreement being come to with an appellant and giving of notice to or by an appellant include references to an agreement being come to with, and the giving of notice to or by, a person acting on behalf of the appellant in relation to the appeal.
- (11) Section 45(2) above shall not apply to an application under subsection (3) or (4) above ; and the transfer of proceedings under this Act from one body of Commissioners to another body of Commissioners shall not affect the validity of a determination under subsection (6) above.”
- (2) Section 55 of the said Act of 1970 as substituted by subsection (1) above shall have effect in relation to tax charged for a year or other period of assessment ending before 6th April 1973 as if for subsection (1)(b) and (c) there were substituted—
- “(b) an assessment to surtax,
- (c) an assessment to income tax made under Schedule 9 to the principal Act (income tax on company distributions) other than an assessment charging tax the time for the payment of which is given by paragraph 2(3) of that Schedule.”
- (3) Section 56(9) (statement of case for opinion of the High Court) [<sup>F4</sup>and section 59(6) (election for county court in Northern Ireland)] of the said Act of 1970 shall [<sup>F4</sup>each] be amended by substituting for paragraph (b) of the proviso—
- “(b) if too little tax has been charged, the amount under-charged shall be due and payable at the expiration of a period of thirty days beginning with the date on which the inspector issues to the other party a notice of the total amount payable in accordance with the order or judgment of that Court.”
- (4) In section 48(2) of the said Act of 1970 (application to appeals and other proceedings), for the words “to the omission of section 56(9) below and to any other necessary modifications” there shall be substituted the words “to any necessary modifications, including (except in the case of applications under section 55 below) the omission of section 56(9) below”.

#### Textual Amendments

**F4** Word(s) repealed (*prosp.*) by [Finance Act 1988 \(c. 39, SIF 63:1, 2\)](#), s. 148, [Sch. 14 Pt. IX](#)

*Status: Point in time view as at 03/05/1994.*

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1975, Part III. (See end of Document for details)*

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

- C2** The text of ss. 44(5), 45, 46, 66, 67(2), 75(3) and Sch. 14 is in the form in which it was originally enacted: it was reproduced in Statutes in Force only in part and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**46 Interest on unpaid tax.**

- (1) For section 86 of the <sup>M2</sup>Taxes Management Act 1970 (interest on overdue tax) there shall be substituted—

**“86 Interest on overdue tax.**

- (1) Any tax charged by an assessment to which this section applies shall carry interest at the prescribed rate from the reckonable date until payment.
- (2) This section applies to—
- (a) an assessment to income tax under Schedule A, Schedule C, Schedule D or Schedule E,
  - (b) an assessment charging income tax at a rate other than the basic rate on income from which income tax has been deducted (otherwise than under section 204 of the principal Act) or from or on which income tax is treated as having been deducted or paid or income chargeable under Schedule F,
  - (c) an assessment to capital gains tax,
  - (d) an assessment to corporation tax other than an assessment made under Schedule 14 to the Finance Act 1972 (advance corporation tax).
- (3) In this section “reckonable date” means—
- (a) in relation to any tax the date for the payment of which is given by section 55 above and which, if there had been no appeal, would have become due and payable on an earlier date, that earlier date or the date mentioned in subsection (4) below, whichever is the later, and
  - (b) in relation to any tax not falling within paragraph (a) above, the date on which it becomes due and payable.
- (4) The date referred to in subsection (3)(a) above is the date on which the tax becomes due and payable or the date given by the following Table, whichever is the earlier.

TABLE

| Description of tax  | Date applicable  |
|---|--|
| 1. Tax charged by an assessment to income tax under Schedule A or an assessment to income tax under Schedule D other than an assessment made under Part III of Schedule 5 to the principal Act (machinery for assessment, charge and payment of income tax under Schedule C and, in certain cases, Schedule D). | 1. The 1st July following the end of the year of assessment. |

*Status: Point in time view as at 03/05/1994.*

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|---|---|
| <p>2. Tax charged by an assessment to income tax under Schedule C or an assessment to income tax under Schedule D made under Part III of Schedule 5 to the principal Act.</p> | <p>2. The last day of the six months following the end of thirty days mentioned in paragraph 9 of the said Schedule 5.</p>  |
| <p>3. Tax charged by an assessment charging income tax as mentioned in subsection (2) (b) above.</p>  | <p>3. The 1st January following the end of the year of assessment.</p>  |
| <p>4. Tax charged by an assessment to capital gains tax.</p>  | <p>4. The 1st January following the end of the year of assessment.</p>  |
| <p>5. Tax charged by an assessment to corporation tax other than an assessment made under Schedule 14 to the Finance Act 1972.</p>  | <p>5. The last day of the six months following—</p> <p style="margin-left: 20px;">(a) in a case where section 243(4) of the principal Act applies, the end of the nine months there mentioned ;</p> <p style="margin-left: 20px;">(b) in a case where section 244(1) of that Act applies, the end of the interval there mentioned from the end of the accounting period to which the assessment relates ; or</p> <p style="margin-left: 20px;">(c) in a case where section 344 of that Act applies, the last day on which the tax could have been paid within the limit imposed by subsection (2)(a) of that section.</p> |
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- (5) Tax charged by an assessment to which this section applies shall carry interest from the reckonable date even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.
- (6) Where the amount of interest payable under this section on the tax charged by any assessment does not exceed £10, that interest may, if the Board think fit, be remitted.”
- (2) Section 86 of the said Act of 1970 as substituted by subsection (1) above shall have effect in relation to tax charged for the year 1972-73 or an earlier year of assessment as if—
- (a) for subsection (2)(b) there were substituted—
- “(b) an assessment to surtax”, and
- (b) in subsection (3)(a) after the word “or” there were inserted the words “ (except in the case of surtax) ”.
- (3) Section 87 of the said Act of 1970 (which, in relation to interest on overdue income tax on company distributions, has effect as originally enacted and, in relation to interest on overdue advance corporation tax and overdue income tax on company payments, has effect as substituted by paragraph 10 of Schedule 24 to the <sup>M3</sup>Finance Act 1972) shall be amended as follows—
- (a) ..... <sup>F5</sup>
- (b) at the end of the section there shall be added as subsection (8)—

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“(8) Tax assessable as mentioned in subsection (1) above shall carry interest from the date when it becomes due and payable even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.”

(4) At the end of section 88 of the said Act of 1970 (interest on tax recovered to make good loss due to taxpayer’s fault) there shall be added as subsection (6)—

“(6) Tax charged by an assessment mentioned in subsection (1) above shall carry interest from the date when it ought to have been paid even if that date was a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.”

(5) Section 109 of the said Act of 1970 (which, in relation to tax charged in connection with loans and other payments made and shortfalls occurring before 6th April 1973, has effect as originally enacted and, in relation to tax charged in connection with loans made on or after that date, has effect as substituted by paragraph 13 of Schedule 24 to the <sup>M4</sup>Finance Act 1972) shall be amended as follows—

- (a) in subsection (4) as originally enacted, for the words “subsection (2) and paragraph (a) of subsection (3)” there shall be substituted the words “subsection (4) and the words “or the date mentioned in subsection (4) below, whichever is the later” in subsection (3)(a) ”,
- (b) in subsection (2) as so substituted, for the words “subsections (2) and (3)(a) of the said section 86 were omitted” there shall be substituted the words “ the date given by the Table in subsection (4) of the said section 86 were the last day of the three months following the end of the financial year in which the loan or advance was made ”, and
- (c) in subsection (3) as so substituted, for the words “year of assessment” there shall be substituted the words “ financial year ”.

(6) ..... F6

**Textual Amendments**

- F5 S. 46(3)(a) repealed (with savings) by Finance Act 1980 (c. 48), s. 122, Sch. 20 Pt. IX
- F6 S. 46(6) repealed by Income and Corporation Taxes Act 1988 (c. 1), s. 844, Sch. 31

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

- C3 The text of ss. 44(5), 45, 46, 66, 67(2), 75(3) and Sch. 14 is in the form in which it was originally enacted: it was reproduced in Statutes in Force only in part and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

- M2 1970 c. 9.
- M3 1972 c. 41.
- M4 1972 c. 41.

F7 47 .....

*Status: Point in time view as at 03/05/1994.*

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1975, Part III. (See end of Document for details)*

**Textual Amendments**

**F7** S. 47 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch.12** (with s. 201(3), [Sch. 11 paras. 22, 26\(2\), 27](#))

**48** ..... **F8**

**Textual Amendments**

**F8** S. 48 repealed by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 844, **Sch. 31**

**49** ..... **F9**

**Textual Amendments**

**F9** S. 49 repealed by [Capital Allowances Act 1990 \(c. 1, SIF 63:1\)](#), ss. 82, 164(4)(5), **Sch. 2**

**50—** ..... **F10**  
**53.**

**Textual Amendments**

**F10** Ss. 50–53 repealed by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 844, **Sch. 31**

**54** ..... **F11**

**Textual Amendments**

**F11** S. 54 repealed (with savings) by [Finance Act 1981 \(c. 35, SIF 40:1\)](#), s. 139(6), **Sch. 19 Pt. VII**

**55** ..... **F12**

**Textual Amendments**

**F12** S. 55 repealed by [Finance Act 1978 \(c. 42\)](#), s. 80(5), **Sch. 13 Pt. IV**

**56** ..... **F13**



*Status: Point in time view as at 03/05/1994.*

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1975, Part III. (See end of Document for details)*

**Textual Amendments**

**F13** S. 56 repealed by Finance Act 1976 (c. 40), ss. 76(7), 132(5), Sch. 11 para. 6, **Sch. 15 Pt. III**

**57** ..... **F14**

**Textual Amendments**

**F14** S. 57 repealed (with savings) by Capital Gains Tax Act 1979 (c. 14), ss. 157(1), 158, Sch. 6 para. 10(2)(b), **Sch. 8**

**F15** **58** .....

**Textual Amendments**

**F15** S. 58 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

**59**— ..... **F16**  
**64.**

**Textual Amendments**

**F16** Ss. 59–64 repealed (with savings) by Capital Gains Tax Act 1979 (c. 14), ss. 157(1), 158, Sch. 6 para. 10(2)(b), **Sch. 8**

**65** ..... **F17**

**Textual Amendments**

**F17** S. 65 repealed by Finance Act 1976 (c. 40), ss. 49(2), 132(5), **Sch. 15 Pt. III**

**66 Assignment of proceedings to Commissioners.**

- (1) Schedule 3 to the <sup>M5</sup>Taxes Management Act 1970 (rules for assigning proceedings to Commissioners) shall be amended as follows.
- (2) For rule 5 there shall be substituted—

“5. An appeal against an assessment under Schedule A or under Schedule D, other than Cases I and II.

If the appellant or other party to the proceedings (not being an inspector or the Board) is carrying on a trade, profession or vocation, then, subject (in the case of an appeal) to the right of election for place

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An appeal against an assessment charging income tax at a rate on income from which income tax has been deducted (otherwise than under section 204 of the principal Act) or from or on which income tax is treated as having been deducted or paid or income chargeable under Schedule F.

of residence, the place in which the trade, profession or vocation is carried on, or in which the head office or principal place of business is situated.

If the appellant or other party is employed and does not carry on a trade, profession or vocation, then, subject (in the case of an appeal) to the right of election for place of residence, the place of employment.

An appeal against an assessment to capital gains tax.

In any other case, the place where the appellant or other party ordinarily resides.

Proceedings for a penalty under section 100(4) of this Act.”

(3) Rule 6 and paragraph beginning “Where under rules 3 and 5” shall each be amended by substituting for the words “resided in the year of assessment to which the proceedings relate” the word “resides ”.

(4) After the said paragraph beginning “Where under rules 3 and 5” there shall be inserted—

“If the place given by any of the rules in this Schedule is outside the United Kingdom, the Board may give directions, which may be either general or addressed to a particular occasion, to meet the case.”

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

**C4** The text of ss. 44(5), 45, 46, 66, 67(2), 75(3) and Sch. 14 is in the form in which it was originally enacted: it was reproduced in Statutes in Force only in part and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M5** 1970 c. 9.

**67 Appeals.**

<sup>F18</sup>(1) .....

(2) Section 50 of that Act (procedure on appeal) shall have effect, and be deemed always to have had effect, as if after subsection (7) there were added as subsection (8)—

“(8) Where, on an appeal against an assessment which—

- (a) assesses an amount which is chargeable to tax, and
- (b) charges tax on the amount assessed,

it appears to the Commissioners as mentioned in subsection (6) or (7) above, they may, unless the circumstances of the case otherwise require, reduce or, as the case may be, increase only the amount assessed ; and where any appeal is so determined the tax charged by the assessment shall be taken to have been reduced or increased accordingly.”

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*Status: Point in time view as at 03/05/1994.*

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1975, Part III. (See end of Document for details)*

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(3) Nothing in subsection (2) above shall affect the judgement of any court given in proceedings which were commenced before 29th April 1975.

**Textual Amendments**

**F18** S. 67(1) repealed (3.5.1994 with effect as mentioned in s. 199(2) of the repealing Act) by 1994 c. 9, ss. 199(2), 258, **Sch. 26 Pt. V(23)** note 4

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

**C5** The text of ss. 44(5), 45, 46, 66, 67(2), 75(3) and Sch. 14 is in the form in which it was originally enacted: it was reproduced in Statutes in Force only in part and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Status:**

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**Changes to legislation:**

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