



Capital Transfer Tax Act 1984

1984 CHAPTER 51

PART VIII

ADMINISTRATION AND COLLECTION

Penalties

245 Failure to provide information

(1) A person who—

- (a) fails to deliver an account under section 216 or 217 above, or
- (b) fails to make a return under section 218 above, or
- (c) fails to comply with a notice under section 219 above, or
- (d) fails to comply with a notice under section 224(2) above,

shall be liable to a penalty not exceeding £50 and, if the failure continues after it has been declared by a court or the Special Commissioners, to a further penalty not exceeding £10 for each day on which it continues.

(2) A person shall not be liable to a penalty under this section for a failure which is remedied before proceedings in which the failure could be declared are commenced; and where a person has a reasonable excuse for the failure he shall not be liable to a penalty under this section unless he fails to remedy it without unreasonable delay after the excuse has ceased.

246 Failure to appear before Special Commissioners, etc.

A person who, after being duly summoned under section 224(3) above, neglects or refuses to appear before the Special Commissioners at the time and place appointed for that purpose, or refuses to be sworn or to answer any lawful question concerning the matters under consideration, shall be liable to a penalty not exceeding £50.

247 Provision of incorrect information

- (1) If any person liable for any tax on the value transferred by a chargeable transfer fraudulently or negligently delivers, furnishes or produces to the Board any incorrect account, information or document, he shall be liable, in the case of fraud, to a penalty not exceeding the aggregate of £50 and twice the difference mentioned in subsection (2) below and, in the case of negligence, to a penalty not exceeding the aggregate of £50 and that difference.
- (2) The difference referred to in subsection (1) above is the amount by which the tax for which that person is liable exceeds what would be the amount of that tax if the facts were as shown in the account, information or document.
- (3) Any person not liable for tax on the value transferred by a chargeable transfer who fraudulently or negligently furnishes or produces to the Board any incorrect information or document in connection with the transfer shall be liable, in the case of fraud, to a penalty not exceeding £500 and, in the case of negligence, to a penalty not exceeding £250.
- (4) Any person who assists in or induces the delivery, furnishing or production in pursuance of this Part of this Act of any account, information or document which he knows to be incorrect shall be liable to a penalty not exceeding £500.

248 Failure to remedy errors

- (1) If after any account, information or document has been delivered, furnished or produced by any person without fraud or negligence it comes to his notice that it was incorrect in any material respect it shall be treated for the purposes of section 247 above as having been negligently delivered, furnished or produced unless the error is remedied without unreasonable delay.
- (2) If after any account, information or document has been delivered, furnished or produced by any person in pursuance of this Part of this Act it comes to the notice of any other person that it contains an error whereby tax for which that other person is liable has been or might be underpaid, that other person shall inform the Board of the error; and if he fails to do so without unreasonable delay he shall be liable to the penalty to which he would be liable under section 247 above if the account, information or document had been delivered, furnished or produced by him and the case were one of negligence.

249 Recovery of penalties

- (1) All proceedings for the recovery of penalties under this Part of this Act shall be commenced by the Board or, in Scotland, by the Board or the Lord Advocate.
- (2) Any such proceedings may be commenced either before the Special Commissioners or in the High Court or the Court of Session and shall, if brought in the High Court, be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947 or, as the case may be, that Part as for the time being in force in Northern Ireland.
- (3) Where any such proceedings are brought before the Special Commissioners, an appeal shall lie from their decision to the High Court or, as the case may be, the Court of Session—
 - (a) by either party, on a question of law, and

(b) by the defendant (or, in Scotland, defender) against the amount of any penalty awarded ;

and on an appeal under paragraph (b) above the Court may either confirm the decision or reduce or increase the sum awarded.

(4) Proceedings under this section before the Special Commissioners shall be by way of information in writing made to them, and upon summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons, and they shall hear and determine each case in a summary way.

(5) References in this section to the Court of Session are references to that Court as the Court of Exchequer in Scotland.

250 Time limit for recovery

(1) No proceedings for the recovery of a penalty under this Part of this Act shall be brought after the end of the period of three years beginning with the date on which the amount of the tax properly payable in respect of the chargeable transfer concerned was notified by the Board to the person or one of the persons liable for the tax or any part of it.

(2) Where the person who has incurred any such penalty has died, any proceedings for the recovery of the penalty which have been or could have been commenced against him may be continued or commenced against his personal representatives, and any penalty awarded in proceedings so continued or commenced shall be a debt due from and payable out of his estate.

251 Summary award

(1) Any penalty incurred by a person for a failure to comply with a notice under section 224(2) above or incurred under section 246 above may be awarded summarily by the Special Commissioners, notwithstanding that no proceedings for its recovery have been commenced.

(2) An appeal shall lie to the High Court or the Court of Session against any award of a penalty under this section and on such an appeal the Court may either confirm or reverse the decision of the Special Commissioners or reduce or increase the sum awarded.

252 Effect of award by Special Commissioners

Any penalty awarded by the Special Commissioners shall be recoverable by the Board as a debt due to the Crown.

253 Mitigation of penalties

The Board may in their discretion mitigate any penalty, or stay or compound any proceedings for recovery of any penalty, and may also, after judgment, further mitigate or entirely remit the penalty.