



Finance Act 1985

1985 CHAPTER 54

PART I

CUSTOMS AND EXCISE AND VALUE ADDED TAX

CHAPTER I

CUSTOMS AND EXCISE

The rates of duty

1 Spirits, beer, wine, made-wine and cider.

- (1) In section 5 of the ^{M1}Alcoholic Liquor Duties Act 1979 (excise duty on spirits) for “£15.48” there shall be substituted “£15.77”.
- (2) In section 36 of that Act (excise duty on beer) for “£24.00” and “£0.80” there shall be substituted “£25.80” and “£0.86” respectively.
- (3) For the Table of rates of duty in Schedule 1 to that Act (wine and made-wine) there shall be substituted the Table in Schedule 1 to this Act.
- (4) With respect to wine or made-wine imported into or produced in the United Kingdom on or after 29th July 1985, Schedule 1 to this Act shall have effect with the substitution—
 - (a) for the words “of less than 15”, in each place where they occur, of the words “not exceeding 15”; and
 - (b) for the words “of not less than 15” of the words “exceeding 15”.
- (5) In section 62(1) of that Act (excise duty on cider) for “£14.28” there shall be substituted “£15.80”.
- (6) This section and Schedule 1 to this Act shall be deemed to have come into force on 20th March 1985.

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

Marginal Citations

M1 1979 c. 4.

2

F1

Textual Amendments

F1 S. 2 repealed by Finance Act 1986 (c. 41, SIF 40:1), s. 114, Sch. 23 Pt. I

3 Hydrocarbon oil.

- (1) In section 6(1) of the ^{M2}Hydrocarbon Oil Duties Act 1979 (rates of duty on hydrocarbon oil) for “£0.1716” (light oil) and “£0.1448” (heavy oil) there shall be substituted “£0.1794” and “£0.1515” respectively.
- (2) This section shall be deemed to have come into force at 6 o’clock in the evening of 19th March 1985.

Marginal Citations

M2 1979 c. 5.

4 Vehicles excise duty.

- (1) The ^{M3}Vehicles (Excise) Act 1971 and the ^{M4}Vehicles (Excise) Act (Northern Ireland) 1972 shall be amended as follows.
- (2) For the provisions of Part II of Schedules 1 to 5 to each of those Acts (annual rates of duty) there shall be substituted the provisions set out in Part I of Schedule 2 to this Act.
- (3) The provisions of Part I of Schedule 4 to each of those Acts (annual rates of duty on goods vehicles: general provisions) shall have effect subject to the amendments made by Part II of Schedule 2 to this Act.
- (4) In section 2(1)(b) of each of those Acts (six month licence for vehicles with annual rate exceeding £18) for “£18” there shall be substituted “£35”.
- (5) In section 16 of the Act of 1971 (rates of duty for trade licences) in subsection (5), including that subsection as set out in paragraph 12 of Part I of Schedule 7 to that Act, for “£44” there shall be substituted “£46”.
- (6) In section 16 of the Act of 1972 (rates of duty for trade licences) in subsection (6), including that subsection as set out in paragraph 12 of Part I of Schedule 9 to that Act, for “£44” there shall be substituted “£46”.
- (7) In the heading of Schedule 1 to each of those Acts and in paragraph 1 of Part I of each of those Schedules (annual rates of duty on certain vehicles not exceeding 425 kilograms) for “425 KG.” and “425 kilograms” there shall be substituted respectively “450KG.” and “450 kilograms”.

Status: Point in time view as at 30/09/1993.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

(8) This section applies in relation to licences taken out after 19th March 1985.

Marginal Citations

- M3** 1971 c. 10
M4 1972 c. 10 (N.I.).

Other provisions

5 Blending of certain wines to constitute production of wine.

(1) In section 54 of the ^{M5}Alcoholic Liquor Duties Act 1979 (charge of excise duty on wine) at the end of subsection (3) there shall be inserted the following subsections:—

“(3A) For the purposes of this Act, the process of blending or otherwise mixing two or more wines (in this subsection referred to as “the constituent wines”) constitutes the production of wine if—

- (a) the rate of duty applicable to one of the constituent wines is different from that applicable to the other or, as the case may be, at least one of the others; and
- (b) the rate of duty applicable to the wine which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent wines; and
- (c) the blending or other mixing is with a view to dealing wholesale in the wine is the product thereof;

and for the purposes of this subsection the rate of duty applicable to any wine is that which is or would be chargeable under subsection (1) above on its importation into the United Kingdom or, as the case may be, on its production as mentioned in paragraph (b) of that subsection.

(3B) Where, by virtue of subsection (3A) above, wine is produced in the United Kingdom, duty shall be chargeable on that wine by virtue of paragraph (b) of subsection (1) above whether or not duty was previously charged on all or any of the constituent wines by virtue of paragraph (a) or paragraph (b) of that subsection; but nothing in this subsection shall affect the operation of any regulations under section 56 below giving relief from duty on wine so produced by reference to duty charged on all or any of the constituent wines.”

(2) Subsection (1) above has effect in relation to the blending or otherwise mixing of wines on or after 26th March 1985.

Marginal Citations

- M5** 1979 c. 4.

6 Miscellaneous amendments relating to spirits and beer.

(1) The ^{M6}Alcoholic Liquor Duties Act 1979 shall have effect subject to the amendments in Schedule 3 to this Act (being amendments relating to spirits and beer).

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (2) Paragraphs 3 and 4 of Schedule 3 to this Act shall come into operation on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and a different day may be so appointed for each of those paragraphs.

Subordinate Legislation Made

- P1** Power of appointment conferred by s. 6(2) fully exercised: 29.10.1985 appointed by [S.I. 1985/1622](#), [art. 2](#)

Marginal Citations

- M6** 1979 c. 4.

7 Hydrocarbon oil: mixing etc.

- (1) Schedule 4 to this Act (which contains provisions about mixing hydrocarbon oil etc.) shall have effect.
- (2) That Schedule shall come into operation on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

Subordinate Legislation Made

- P2** Power of appointment conferred by s. 7(2) fully exercised: 15.10.1985 appointed by [S.I. 1985/1451](#), [art. 2](#)

8 Gaming machine licence duty.

- (1) The ^{M7}Betting and Gaming Duties Act 1981 (in this section referred to as “the 1981 Act”) shall have effect subject to the amendments in Part I of Schedule 5 to this Act, being amendments designed—
- (a) enable the type of gaming machine licence which may be granted and the amount of duty payable thereon to be determined by reference to the value of the maximum prize obtainable by a successful player of the machine; and
 - (b) to extend to Northern Ireland the provisions of the 1981 Act relating to gaming machine licence duty.
- (2) Part II of Schedule 5 to this Act shall have effect for the purpose of extending to Northern Ireland certain subordinate legislation made under the 1981 Act.
- (3) Nothing in Schedule 5 to this Act has effect with respect to licences granted or to be granted for any period beginning before 1st October 1985.
- (4) In consequence of the extension to Northern Ireland referred to in subsection (1)(b) above, no gaming machine licence shall be issued under Part V of the ^{M8}Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 in respect of any period beginning on or after 1st October 1985.

Marginal Citations

- M7** 1981 c. 63

Status: Point in time view as at 30/09/1993.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

M8 1972 c. 11 (N.I.).

9 Vehicles excise duty: fees.

- (1) In section 13 of the ^{M9}Vehicles (Excise) Act 1971 (temporary licences) the following subsection shall be inserted after subsection (2)—

“(2A) Where an application for a vehicle licence is made to a body authorised by the Secretary of State to act as his agent for the purpose of issuing licences, then, before the body issues a licence under subsection (1)(a) above, it may require the applicant to pay to it in connection with the issue a fee of £2 or such other sum as may be prescribed.”

- (2) In section 37(2) of that Act (cases where fees may be prescribed without Treasury approval) after “made by” there shall be inserted “section 13(2A) or”.

Marginal Citations

M9 1971 c. 10.

10 Computer records etc.

- (1) Any provision made by or under any enactment which requires a person, in connection with any assigned matter,—

- (a) to produce, furnish or deliver any document, or cause any document to be produced, furnished or delivered, or
- (b) to permit the Commissioners of Customs and Excise (in this section referred to as “the Commissioners”) or a person authorised by them—

- (i) to inspect any document, or

- (ii) to make or take extracts from or copies of or remove any document, shall have effect as if any reference in that provision to a document were a reference to a document within the meaning of Part I of the ^{M10}Civil Evidence Act 1968; and, accordingly, any reference in such a provision to a copy of a document shall be construed in accordance with section 10(2) of that Act.

- (2) In connection with any assigned matter, a person authorised by the Commissioners to exercise the powers conferred by this subsection—

- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with any document to which this subsection applies; and
- (b) may require—

- (i) the person by whom or on whose behalf the computer is or has been so used, or

- (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,

to afford him such reasonable assistance as he may require for the purposes of paragraph (a) above.

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (3) Subsection (2) above applies to any document, within the meaning of Part I of the ^{M11}Civil Evidence Act 1968, which, in connection with any assigned matter, a person is or may be required by or under any enactment—
- (a) to produce, furnish or deliver, or cause to be produced, furnished or delivered; or
 - (b) to permit the Commissioners or a person authorised by them to inspect, make or take extracts from or copies of or remove.
- (4) Any person who—
- (a) obstructs a person authorised under subsection (2) above in the exercise of his powers under paragraph (a) of that subsection, or
 - (b) without reasonable excuse fails to comply within a reasonable time with a requirement under paragraph (b) of that subsection,
- shall be liable on summary conviction to a penalty of level 4 on the standard scale (as defined in section 75 of the ^{M12}Criminal Justice Act 1982).
- (5) In each of the enactments mentioned in subsection (6) below (which create offences in relation, among other matters, to false documents) “document” shall have the same meaning as in Part I of the Civil Evidence Act 1968.
- (6) The enactments referred to in subsection (5) above are—
- (a) paragraph 4(1) of Schedule 1 to the ^{M13}Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 (false statements and documents in connection with pool betting duty);
 - (b) paragraph 8(1) of Schedule 2 to that Act (false statements and documents in connection with general betting duty);
 - (c) section 167 of the ^{M14}Customs and Excise Management Act 1979 (untrue declarations etc.);
 - (d) section 168 of that Act (counterfeit documents etc.);
 - (e) section 15 of the ^{M15}Customs and Excise Duties (General Reliefs) Act 1979 (false statements and documents in connection with reliefs);
 - (f) paragraph 13(3) of Schedule 1 to the ^{M16}Betting and Gaming Duties Act 1981 (false statements and documents in connection with betting duty);
 - (g) paragraph 7(3) of Schedule 2 to that Act (false statements and documents in connection with gaming licence duty);
 - (h) paragraph 8(2) of Schedule 1 to the ^{M17}Car Tax Act 1983 (false documents etc.).
- (7) In the application of this section to Scotland and Northern Ireland, references in this section to Part I of the ^{M18}Civil Evidence Act 1968 and section 10(2) of that Act shall be construed—
- (a) in the case of Scotland, as references to Part III of the ^{M19}Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 and section 17(4) of that Act respectively, and
 - (b) in the case of Northern Ireland, as references to Part I of the ^{M20}Civil Evidence Act (Northern Ireland) 1971 and section 6(2) of that Act respectively.
- (8) In this section “assigned matter” means any matter which is an assigned matter for the purposes of the ^{M21}Customs and Excise Management Act 1979.

Status: Point in time view as at 30/09/1993.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

Marginal Citations

- M10 1968 c.64.
- M11 1968 c.64.
- M12 1982 c.48.
- M13 1972 c. 11 (N.I.)
- M14 1979 c. 2.
- M15 1979 c. 3.
- M16 1981 c. 63.
- M17 1983 c. 53.
- M18 1968 c. 64
- M19 1968 c. 70.
- M20 1971 c. 36 (N.I.)
- M21 1979 c. 2

CHAPTER II

VALUE ADDED TAX

Modifications etc. (not altering text)

- C1 Pt. I Chapter II (ss. 11-13) modified by Finance Act 1988 (c. 39, SIF 40:2), s. 21(a)

Newspaper advertisements

11 Newspaper advertisements.

With respect to supplies made on or after 1st May 1985, Schedule 5 to the principal Act shall have effect with the omission of Group 5 (newspaper advertisements).

Offences etc.

12 Offences and penalties in criminal proceedings.

- (1) Section 39 of the principal Act (offences and penalties) shall be amended in accordance with the following provisions of this section; but any increased penalty provided for by those provisions does not apply to an offence committed on or before the date this Act is passed.
- (2) In subsections (1)(b), (2)(ii) and (3)(b) (maximum of 2 years imprisonment on indictment) for “2” there shall be substituted “7”.
- (3) After subsection (1) there shall be inserted the following subsection:—
 - “(1A) Any reference in subsection (1) above or subsection (3) below to the evasion of tax includes a reference to the obtaining of—
 - (a) a payment under section 14(5) above; or
 - (b) a refund under section 21 or section 22 above; or
 - (c) a repayment under section 23 above;

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and any reference in those subsections to the amount of the tax shall be construed,—

- (i) in relation to tax itself or a payment falling within paragraph (a) above, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated; and
- (ii) in relation to a refund or repayment falling within paragraph (b) or paragraph (c) above, as a reference to the amount falsely claimed by way of refund or repayment.”

(4) In subsection (2)(i) (penalty on summary conviction for certain offences relating to false documents or false information) after the words “statutory maximum” there shall be inserted “or, where subsection (2A) or subsection (2B) below applies, to the alternative penalty specified in that subsection if it is greater”.

(5) After subsection (2) there shall be inserted the following subsections:—

“(2A) In any case where—

- (a) the document referred to in subsection (2)(a) above is a return required under this Act, or
- (b) the information referred to in subsection (2)(b) above is contained in or otherwise relevant to such a return,

the alternative penalty referred to in subsection (2)(i) above is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated.

(2B) In any case where—

- (a) the document referred to in subsection (2)(a) above is a claim for a refund under section 21 or section 22 above or for a repayment under section 23 above, or
- (b) the information referred to in subsection (2)(b) above is contained in or otherwise relevant to such a claim,

the alternative penalty referred to in subsection (2)(i) above is a penalty equal to three times the amount falsely claimed.

(2C) The reference in subsection (2)(a) above to furnishing, sending or otherwise making use of a document which is false in a material particular, with intent to deceive, includes a reference to furnishing, sending or otherwise making use of such a document, with intent to secure that a machine will respond to the document as if it were a true document.

(2D) Any reference in subsection (2)(a) or subsection (2C) above to producing, furnishing or sending a document includes a reference to causing a document to be produced, furnished or sent.”

(6) After subsection (3) there shall be inserted the following subsection:—

“(3A) Where an authorised person has reasonable grounds for suspecting that an offence has been committed under the preceding provisions of this section, he may arrest anyone whom he has reasonable grounds for suspecting to be guilty of the offence.”

(7) The following provisions shall cease to have effect—

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (a) in subsection (5), paragraph (a) and the words from “or, if greater” onwards;
 - (b) subsection (6); and
 - (c) subsection (7).
- (8) In subsection (8)—
- (a) for the words “the failure referred to in subsection (7) above” there shall be substituted “a person’s failure to comply with any regulations made under this Act”; and
 - (b) for the words from “that subsection” to “(if it is greater)” there shall be substituted “that person shall be liable on summary conviction to a penalty of level 3 on the standard scale, together with a penalty of whichever is the greater of £10 and”;
- but that subsection, as so amended, shall not apply to a failure which begins on or after such day as the Treasury may by order made by statutory instrument appoint.
- (9) In accordance with the provisions of subsections (1) to (7) above, section 39 of the principal Act, excluding subsection (8), shall have effect as set out in Schedule 6 to this Act.

Modifications etc. (not altering text)

C2 Power of appointment conferred by s. 12(8) fully exercised (1.10.1986): [S.I. 1986/969, art. 2](#)

Civil penalties

13 Tax evasion: conduct involving dishonesty.

- (1) In any case where,—
- (a) for the purpose of evading tax, a person does any act or omits to take any action, and
 - (b) his conduct involves dishonesty (whether or not it is such as to give rise to criminal liability),
- he shall be liable, subject to [F²subsection (7)] below, to a penalty equal to the amount of tax evaded or, as the case may be, sought to be evaded, by his conduct.
- (2) The reference in subsection (1)(a) above to evading tax includes a reference to obtaining any of the following sums,—
- (a) a payment under section 14(5) of the principal Act,
 - (b) a refund under [F³section 20A,] section 21 or section 22 of that Act, . . . F⁴
 - [F⁵(ba) a refund under any regulations made by virtue of section 8C(5) of that Act;]
 - (c) a repayment under section 23 of that Act, [F⁶and]
 - [F⁶(d) a refund under section 11 of the Finance Act 1990,]
- in circumstances where the person concerned is not entitled to that sum.
- (3) The reference in subsection (1) above to the amount of the tax evaded or sought to be evaded by a person’s conduct shall be construed,—
- (a) in relation to tax itself or a payment under section 14(5) of the principal Act, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated; and

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (b) in relation to the sums referred to in paragraphs (b), [^{F7}(ba)] and (c) of subsection (2) above, as a reference to the amount falsely claimed by way of refund or repayment.

^{F8}(4)

- (5) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (6) below by reason only that it has been drawn to his attention—

- (a) that, in relation to tax, the Commissioners may assess an amount due by way of a civil penalty instead of instituting criminal proceedings and, though no undertaking can be given as to whether the Commissioners will make such an assessment in the case of any person, it is their practice to be influenced by the fact that a person has made a full confession of any dishonest conduct to which he has been a party and has given full facilities for investigation, and
- (b) that the Commissioners or, on appeal, a value added tax tribunal [^{F9}have power under section 15A below to reduce a penalty under this section,]

and that he was or may have been induced thereby to make the statements or produce the documents.

- (6) The proceedings mentioned in subsection (5) above are—
- (a) any criminal proceedings against the person concerned in respect of any offence in connection with or in relation to tax, and
- (b) any proceedings against him for the recovery of any sum due from him in connection with or in relation to tax.
- (7) Where, by reason of conduct falling within subsection (1) above, a person is convicted of an offence (whether under the principal Act or otherwise), that conduct shall not also give rise to liability to a penalty under this section.

Textual Amendments

- F2** Words in s. 13(1) substituted (27.7.1993 with effect as mentioned in s. 3(3) of the amending Act) by 1993 c. 34, s. 49, **Sch. 2, para. 3(2)(a)(3)**
- F3** Words in s. 13(2)(b) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 77(1)(a)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, art. 3, **Sch.**
- F4** Word repealed by Finance Act 1990 (c. 26, SIF 40:2), ss. 11(12), 132, **Sch. 19 Pt. III**
- F5** S. 13(2)(ba) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 77(1)(b)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, art. 3, **Sch.**
- F6** Word “and” and s. 13(2)(d) inserted by Finance Act 1990 (c. 29, SIF 40:2), s. 11(12)
- F7** Words in S. 13(3)(b) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 77(2)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, art.3, **Sch.**
- F8** S. 13(4) repealed (27.7.1993 with effect as mentioned in ss. 3(3), 44(4) of the amending Act) by 1993 c. 34, ss. 49, 213, **Sch. 2, para. 3(2)(3)**, **Sch. 23**, Pt. II
- F9** Words in s. 13(5) substituted (27.7.1993 with effect as mentioned in s. 3(3) of the amending Act) by 1993 c. 34, s. 49, **Sch. 2, para. 3(2)(b)(3)**

Modifications etc. (not altering text)

- C3** S. 13 applied by Finance Act 1986 (c. 41, SIF 40:2), s. 14(3)

Status: Point in time view as at 30/09/1993.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

[^{F10}13A Incorrect certificates as to zero-rating etc.

- (1) Subject to subsections (3) and (4) below, where—
 - (a) a person to whom one or more supplies are, or are to be, made gives to the supplier—
 - (i) a certificate that the supply or supplies fall, or will fall, wholly or partly within Group 7, 8 or 8A of Schedule 5, or Group 1 of Schedule 6, to the principal Act; or
 - (ii) a certificate such as is mentioned in paragraph 13(4)(f) of Schedule 3 to the Finance Act 1989 relating to the supply or supplies; and
 - (b) the certificate is incorrect,the person giving the certificate shall be liable to a penalty.
- (2) The amount of the penalty shall be equal to the difference between the amount of the tax which would have been chargeable on the supply or supplies if the certificate had been correct and the amount of tax actually so chargeable.
- (3) The giving of a certificate shall not give rise to a penalty under this section if the person who gave it satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for his having given it.
- (4) Where by reason of giving a certificate a person is convicted of an offence (whether under the principal Act or otherwise), the giving of the certificate shall not also give rise to a penalty under this section.]

Textual Amendments

F10 S. 13A inserted by [Finance Act 1989 \(c. 26, SIF 40:2\)](#), s. **23(1)(2)**

14 Serious misdeclaration or neglect resulting in understatements or overclaims.

- (1) In any case where, for a prescribed accounting period beginning after the day appointed under subsection (8) below,—
 - (a) a return is made which understates a person's liability to tax or overstates his entitlement to a payment under section 14(5) of the principal Act, or
 - (b) an assessment is made which understates a person's liability to tax and, at the end of the period of thirty days beginning on the date of the assessment, he has not taken all such steps as are reasonable to draw the understatement to the attention of the Commissioners,and the circumstances are as set out in . . . ^{F11} subsection (2) below, the person concerned shall be liable, subject to subsections (6) and (7) below, to a penalty equal to [^{F12}15 per cent.] of the tax which would have been lost if the inaccuracy had not been discovered.
- [^{F13}(2) The circumstances referred to in subsection (1) above are that the tax for the period concerned which would have been lost if the inaccuracy had not been discovered—
 - (a) equals or exceeds 30 per cent. of the true amount of tax for that period, or
 - (b) equals or exceeds whichever is the greater of £10,000 and 5 per cent. of the true amount of tax for that period.]

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (4) [^{F14}Any reference in this section] to the tax for a prescribed accounting period which would have been lost if an inaccuracy had not been discovered is a reference to the aggregate of—
- (a) the amount (if any) by which credit for input tax for that period was overstated; and
 - (b) the amount (if any) by which output tax for that period was understated;
- but if for any period there is an understatement of credit for input tax or an overstatement of output tax, allowance shall be made for that error in determining the tax for that period which would have been so lost.
- (5) In [^{F15}this section] “the true amount of tax”, in relation to a prescribed accounting period, means the amount of tax which was due from the person concerned for that period or, as the case may be, the amount of the payment (if any) to which he was entitled under section 14(5) of the principal Act for that period.
- [^{F16}(5A) Where—
- (a) a return for any prescribed accounting period overstates or understates to any extent a person’s liability to tax or his entitlement to a payment under section 14(5) of the principal Act, and
 - (b) that return is corrected, in such circumstances and in accordance with such conditions as may be prescribed, by a return for a later such period which understates or overstates, to the corresponding extent, that liability or entitlement,
- it shall be assumed for the purposes of subsection (5) above that the statement made by each of those returns is a correct statement for the accounting period to which it relates.
- (5B) This section shall have effect in relation to a body which is registered and to which section 20 of the principal Act applies as if—
- (a) any reference to a payment under section 14(5) of that Act included a reference to a refund under the said section 20, and
 - (b) any reference to credit for input tax included a reference to tax chargeable on supplies, [^{F17}acquisitions] or importations which were not for the purposes of any business carried on by the body.]
- (6) Conduct falling within subsection (1) above shall not give rise to liability to a penalty under this section . . . ^{F18} if—
- (a) the person concerned satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the conduct, or
 - (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, so far as they relate to tax, the person concerned furnished to the Commissioners full information with respect to the inaccuracy concerned.
- (7) Where, by reason of conduct falling within subsection (1) above,—
- (a) a person is convicted of an offence (whether under the principal Act or otherwise), or
 - (b) a person is assessed to a penalty under section 13 above,
- that conduct shall not also give rise to liability to a penalty under this section . . . ^{F18}.
- (8) This section shall come into operation on such day as the Treasury may by order made by statutory instrument appoint.

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

Textual Amendments

- F11** Words repealed by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), s. 148, [Sch. 14 Pt. III](#)
- F12** Words in [s. 14\(1\)](#) substituted (16.3.1992 with effect as mentioned in [s. 7\(3\)\(4\)](#) of the amending Act) by [Finance Act 1992 \(c. 20\)](#), [s. 7\(1\)](#)
- F13** [S. 14\(2\)](#) substituted for [s. 14\(2\)\(3\)](#) by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 16\(2\)](#)
- F14** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 16\(3\)](#)
- F15** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 16\(4\)](#)
- F16** [S. 14\(5A\)\(5B\)](#) inserted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 16\(5\)](#)
- F17** Word in [s. 14\(5B\)\(b\)](#) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), [s. 14\(2\)](#), [Sch. 3 Pt. II para.78](#); [S.I. 1992/2979](#), [art.4](#), [Sch. Pt. II](#) and [S.I. 1992/3261](#), [art.3](#), [Sch.](#)
- F18** Words repealed by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), s. 148, [Sch. 14 Pt. III](#)

Modifications etc. (not altering text)

- C4** Power of appointment conferred by [s. 14\(8\)](#) fully exercised (31.3.1990): [S.I. 1989/2270](#), [art. 2](#)

[^{F19}14A Persistent misdeclaration resulting in understatements or overclaims.

- (1) In any case where—
- for a prescribed accounting period (including one beginning before the commencement of this section), a return has been made which understates a person's liability to tax or overstates his entitlement to a payment under [section 14\(5\)](#) of the principal Act; and
 - the tax for that period which would have been lost if the inaccuracy had not been discovered equals or exceeds whichever is the greater of £100 and 1 per cent. of the true amount of tax for that period,
- the inaccuracy shall be regarded, subject to subsections (5) and (6) below, as material for the purposes of this section.
- (2) Subsection (3) below applies in any case where—
- there is a material inaccuracy in respect of any two prescribed accounting periods; and
 - the last day of the later one of those periods falls on or before the second anniversary of the last day of the earlier one; and
 - after the coming into operation of this section, the Commissioners serve notice on the person concerned (in this section referred to as “a penalty liability notice”) specifying as a penalty period for the purposes of this section a period beginning on the date of the notice and ending on the second anniversary of that date.
- (3) If there is a material inaccuracy in respect of a prescribed accounting period ending within the penalty period specified in a penalty liability notice served on the person concerned, that person shall be liable to a penalty equal to 15 per cent. of the tax for that period which would have been lost if the inaccuracy had not been discovered.
- (4) Subsections (4) to (5B) of [section 14](#) above shall apply for the purposes of this section as they apply for the purposes of that section.
- (5) An inaccuracy shall not be regarded as material for the purposes of this section if—

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- (a) the person concerned satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the inaccuracy; or
 - (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, so far as they relate to tax, the person concerned furnished to the Commissioners full information with respect to the inaccuracy.
- (6) Where by reason of conduct falling within subsection (1) above—
- (a) a person is convicted of an offence (whether under the principal Act or otherwise); or
 - (b) a person is assessed to a penalty under section 13 or 14 above,
- the inaccuracy concerned shall not be regarded as material for the purposes of this section.
- (7) In any case where subsection (5) or (6) above applies, any penalty liability notice the service of which depended upon the inaccuracy concerned shall be deemed not to have been served.]

Textual Amendments

F19 S. 14A inserted by [Finance Act 1988 \(c. 39, SIF, 40:2\)](#), s. 17

[14B] ^{F20}Inaccuracies in EC sales statements.

- (1) Where—
- (a) an EC sales statement containing a material inaccuracy has been submitted by any person to the Commissioners;
 - (b) the Commissioners have, within six months of discovering the inaccuracy, issued that person with a written warning identifying that statement and stating that future inaccuracies might result in the service of a notice for the purposes of this section;
 - (c) another EC sales statement containing a material inaccuracy (“the second inaccurate statement”) has been submitted by that person to the Commissioners;
 - (d) the submission date for the second inaccurate statement fell within the period of two years beginning with the day after the warning was issued;
 - (e) the Commissioners have, within six months of discovering the inaccuracy in the second inaccurate statement, served that person with a notice identifying that statement and stating that future inaccuracies will attract a penalty under this section;
 - (f) yet another EC sales statement containing a material inaccuracy is submitted by that person to the Commissioners; and
 - (g) the submission date for the statement falling within paragraph (f) above is not more than two years after the service of the notice or the date on which any previous statement attracting a penalty was submitted by that person to the Commissioners,
- that person shall be liable to a penalty of £100 in respect of the statement so falling.
- (2) Subject to subsections (3) and (4) below, an EC sales statement shall be regarded for the purposes of this section as containing a material inaccuracy if, having regard to

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the matters required to be included in the statement, the inclusion or omission of any information from the statement is misleading in any material respect.

- (3) An inaccuracy contained in an EC sales statement shall not be regarded as material for the purposes of this section if—
- (a) the person who submitted the statement satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the inaccuracy; or
 - (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, that person furnished the Commissioners with full information with respect to the inaccuracy.
- (4) Where, by reason of the submission of a statement containing a material inaccuracy by any person, that person is convicted of an offence (whether under the principal Act or otherwise), the inaccuracy to which the conviction relates shall be regarded for the purposes of this section as not being material.
- (5) Where the only statement identified in a warning or notice served for the purposes of subsection (1)(b) or (e) above is one which (whether by virtue of either or both of subsections (3) and (4) above or otherwise) is regarded as containing no material inaccuracies, that warning or notice shall be deemed not to have been issued or served for those purposes.
- (6) In this section—

“EC sales statement” means any statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(2A) of Schedule 7 to the principal Act; and

“submission date”, in relation to such a statement, means whichever is the earlier of the last day for the submission of the statement to the Commissioners in accordance with those regulations and the day on which it was in fact submitted to the Commissioners.]

Textual Amendments

F20 S. 14B inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 79**; S.I. 1992/2979, art.4, **Sch. Pt. II** and S.I. 1992/3261, art.3, **Sch.**

15 Failures to notify and unauthorised issue of invoices.

- (1) In any case where—
- (a) a person fails to comply with any of paragraphs 3, 4 and 11(2) ^[F21]and (3) of Schedule 1 to the principal Act ^[F22]with paragraph 3 of Schedule 1A to that Act or with paragraph 3 or 8(2) of Schedule 1B to that Act] (duty to notify liability for registration or change in nature of supplies etc. by a person exempted from registration), or
 - ^[F23](aa) a person fails to comply with a requirement of regulations under paragraph 2(2B) of Schedule 7 to the principal Act (notification of acquisition of excise duty goods or new means of transport), or]
 - (b) an unauthorised person issues ^[F24]one or more invoices] showing an amount as being tax or as including an amount attributable to tax.

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he shall be liable, subject to subsections (4) and (5) below, to a penalty equal to [^{F25}the specified percentage] of the relevant tax or, if it is greater or the circumstances are such that there is no relevant tax, to a penalty of £50.

- (2) In subsection (1)(b) above, “an unauthorised person” means anyone other than—
- (a) a person registered under the principal Act; or
 - (b) a body corporate treated for the purposes of section 29 of that Act as a member of a group; or
 - (c) a person treated as a taxable person under regulations made under section 31(4) of that Act; or
 - (d) a person authorised to issue an invoice under regulations made under paragraph 2(6) of Schedule 7 to that Act; or
 - (e) a person acting on behalf of the Crown.
- (3) In subsection (1) above “relevant tax” means [^{F26}(subject to subsections (3B) and (3C) below)],—
- (a) in relation to a person’s failure to comply with paragraph 3 or paragraph 4 of Schedule 1 to the principal Act [^{F27}with paragraph 3 of Schedule 1A to that Act or with paragraph 3 of Schedule 1B to that Act], the tax (if any) for which he is liable for the period beginning on the date with effect from which he is, in accordance with that paragraph, required to be registered and ending on that date on which the Commissioners received notification of, or otherwise [^{F28}became fully aware of], his liability to be registered; and
 - (b) in relation to a person’s failure to comply with subparagraph (2) [^{F29}or (3)] of paragraph 11 of Schedule 1 to the principal Act [^{F27}or with subparagraph (2) of paragraph 8 of Schedule 1B to that Act], the tax (if any) for which, but for any exemption from registration, he would be liable for the period beginning on the date of the change or alteration referred to in that subparagraph and ending on the date on which the Commissioners received notification of, or otherwise [^{F30}became fully aware of], that change or alteration; and
 - [^{F31}(ba) in relation to a person’s failure to comply with a requirement of regulations under paragraph 2(2B) of Schedule 7 to the principal Act, the tax on the acquisition to which the failure relates; and]
 - (c) in relation to the issue of [^{F32}one or more such invoices as are] referred to in subsection (1)(b) above, [^{F33}the amount which is, or the aggregate of the amounts which are—
 - (i) shown on the invoice or invoices as tax, or
 - (ii) to be taken as representing tax].

[^{F34}(3A) For the purposes of subsection (1) above the specified percentage is—

- (a) 10 per cent. where the relevant tax is given by paragraph (a) or (b) of subsection (3) above and the period referred to in that paragraph does not exceed nine months [^{F35}or where the relevant tax is given by paragraph (ba) of that subsection and the failure in question did not continue for more than three months];
- (b) 20 per cent. where that tax is [^{F36}given by paragraph (a) or (b) of subsection (3) above] and the period referred to exceeds nine months but does not exceed eighteen months [^{F35}or where that tax is given by paragraph (ba) of that subsection and the failure in question continued for more than three months but did not continue for more than six months]; and
- (c) 30 per cent. in any other case.]

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[^{F37}(3B) Where—

- (a) the amount of tax which (apart from this subsection) would be treated for the purposes of subsection (1) above as the relevant tax in relation to a failure mentioned in subsection (3)(a) above includes tax on an acquisition of goods from another member State; and
- (b) the Commissioners are satisfied that value added tax has been paid under the law of another member State on the supply in pursuance of which those goods were acquired,

then, in the determination of the amount of the relevant tax in relation to that failure, an allowance shall be made for the value added tax paid under the law of that member State; and the amount of the allowance shall not exceed the amount of tax due on the acquisition but shall otherwise be equal to the amount of value added tax which the Commissioners are satisfied has been paid on that supply under the law of that member State.

(3C) Where—

- (a) the amount of tax which (apart from this subsection) would be treated for the purposes of subsection (1) above as the relevant tax in relation to a failure mentioned in subsection (3)(a) above includes tax chargeable by virtue of section 6(2B) of the principal Act on any supply; and
- (b) the Commissioners are satisfied that value added tax has been paid under the law of another member State on that supply,

then, in the determination of the amount of the relevant tax in relation to that failure, an allowance shall be made for the tax paid under the law of the other member State; and the amount of the allowance shall not exceed the amount of tax chargeable by virtue of section 6(2B) on that supply but shall otherwise be equal to the amount of tax which the Commissioners are satisfied has been paid on that supply under the law of that other member State.]

[^{F38}(3D) This section shall have effect in relation to any invoice which—

- (a) for the purposes of any provision made under subsection (3) of section 37B of the principal Act shows an amount as included in the consideration for any supply; and
- (b) either—
 - (i) fails to comply with the requirements of any regulations under that section; or
 - (ii) is issued by a person who is not for the time being authorised to do so for the purposes of that section,

as if the person issuing the invoice were an unauthorised person and that amount were shown on the invoice as an amount attributable to tax.]

- (4) Conduct falling within subsection (1) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for his conduct.
- (5) Where, by reason of conduct falling within subsection (1) above,—
 - (a) a person is convicted of an offence (whether under the principal Act or otherwise), or
 - (b) a person is assessed to a penalty under section 13 above,that conduct shall not also give rise to liability to a penalty under this section.

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- (6) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this subsection was exercised, they may by order made by statutory instrument substitute for the sum for the time being specified in subsection (1) above such other sum as appears to them to be justified by the change.
- (7) An order under subsection (6) above shall not apply in relation to a failure to comply which ended on or before the date on which the order comes into force.
- (8) A statutory instrument under subsection (6) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

Textual Amendments

- F21** Words inserted by Finance Act 1988 (c. 39, SIF 40:2), **s. 18(1)(a)**
- F22** Words in s. 15(1)(a) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 80(1)(a)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, art. 3, **Sch.**
- F23** S. 15(1)(aa) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 80(1)(b)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, art. 3, **Sch.**
- F24** Words substituted by Finance Act 1988 (c. 39, SIF 40:2), **s. 18(1)(b)(6)**
- F25** Words substituted by Finance Act 1988 (c. 39, SIF 40:2), **s. 18(1)(c)(6)**
- F26** Words in s. 15(3) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 80(2)(a)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, art. 3, **Sch.**
- F27** Words in s. 15(3)(a)(b) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 80(2)(b)(c)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, **art. 3 Sch.**
- F28** Words substituted by Finance Act 1988 (c. 39, SIF 40:2), **s. 18(2)(a)**
- F29** Words inserted by Finance Act 1988 (c. 39, SIF 40:2), **s. 18(2)(b)**
- F30** Words substituted by Finance Act 1988 (c. 39, SIF 40:2), **s. 18(2)(b)**
- F31** S. 15(3)(ba) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 80(2)(d)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, **art. 3 Sch.**
- F32** Words substituted by Finance Act 1988 (c. 39, SIF 40:2), **s. 18(2)(c)**
- F33** Words and s. 15(3)(c)(i)(ii) substituted by Finance Act 1988 (c. 39, SIF 40:2), **s. 18(2)(c)**
- F34** S. 15(3A) inserted by Finance Act 1988 (c. 39, SIF 40:2), **s. 18(3)**
- F35** Words in s. 15(3A)(a)(b) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 80(3)(a)(b)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, **art. 3 Sch.**
- F36** Words in s. 15(3A)(b) substituted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 80(3)(b)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, **art. 3 Sch.**
- F37** S. 15(3B)(3C) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 80(4)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, art. 3, **Sch.**
- F38** S. 15(3D) inserted (1.1.1993) by Finance (No. 2) Act 1992 (c. 48), **s. 16(5)**; S.I. 1992/3261, **art. 3, Sch.**

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[^{F39}15A Mitigation of penalties under sections 13, 14, 14A and 15.

- (1) Where a person is liable to a penalty under any of sections 13, 14, 14A and 15 above, the Commissioners or, on appeal, a value added tax tribunal may reduce the penalty to such amount (including nil) as they think proper.
- (2) In the case of a penalty reduced by the Commissioners under subsection (1) above, a value added tax tribunal, on an appeal relating to the penalty, may cancel the whole or any part of the reduction made by the Commissioners.
- (3) None of the matters specified in subsection (4) below shall be matters which the Commissioners or any value added tax tribunal shall be entitled to take into account in exercising their powers under this section.
- (4) Those matters are—
 - (a) the insufficiency of the funds available to any person for paying any tax due or for paying the amount of the penalty;
 - (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of tax;
 - (c) the fact that the person liable to the penalty or a person acting on his behalf has acted in good faith.]

Textual Amendments

F39 S. 15A inserted (27.7.1993 with effect as mentioned in Sch. 2 para. 3(3) of the amending Act) by 1993 c. 34, s. 49, Sch. 2, para. 3(1)

16 Breaches of walking possession agreements.

- (1) This section applies where—
 - (a) in accordance with regulations under paragraph 6(4) of Schedule 7 to the principal Act, a distress is authorised to be levied on the goods and chattels of a person (in this section referred to as a “person in default”) who has refused or neglected to pay any tax due or any amount recoverable as if it were tax due; and
 - (b) the person levying the distress and the person in default have entered into a walking possession agreement, as defined in subsection (2) below.
- (2) In this section a “walking possession agreement” means an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default—
 - (a) acknowledges that the property specified in the agreement is under distraint and held in walking possession; and
 - (b) undertakes that, except with the consent of the Commissioners and subject to such conditions as they may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.
- (3) Subject to subsection (4) below, if the person in default is in breach of the undertaking contained in a walking possession agreement, he shall be liable to a penalty equal to half of the tax or other amount referred to in subsection (1)(a) above.

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- (4) The person in default shall not be liable to a penalty under subsection (3) above if he satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the breach in question.
- (5) This section does not extend to Scotland.

17 Breaches of regulatory provisions.

- (1) If any person fails to comply with a requirement imposed under—
- (a) paragraph 7 [^{F40}or 7A] of Schedule 1 to the principal Act [^{F41}paragraph 5 of Schedule 1A to that Act or paragraph 5 of Schedule 1B to that Act][^{F42}(notification of end of liability or entitlement to be registered etc.)], or
 - [^{F43}(aa) any regulations made under section 32A of the principal Act requiring a tax representative, for the purposes of registration, to notify the Commissioners that his appointment has taken effect or has ceased to have effect, or]
 - (b) paragraph 7(1) or paragraph 8 of Schedule 7 to that Act (records and information, etc.), or
 - (c) any regulations or rules made under that Act, other than rules made under paragraph 9 of Schedule 8 thereto (procedural rules for tribunals), [^{F44}or]
 - [^{F44}(d) any order made by the Treasury under that Act; or
 - (e) any regulations made under the European Communities Act 1972 and relating to value added tax]

he shall be liable, subject to subsections (9) and (10) and section 21(6) below, [^{F45}to a penalty equal to the prescribed rate multiplied by the number of days on which the failure continues (up to a maximum of 100) or, if it is greater, to a penalty of £50.]

- (2) If any person fails to comply with a requirement to preserve records imposed under paragraph 7(2) of Schedule 7 to the principal Act, he shall be liable, subject to the following provisions of this section, to a penalty of £500.
- (3) Subject to subsection (4) below, in relation to a failure to comply with any such requirement as is referred to in subsection (1) above, the prescribed rate shall be determined by reference to the number of occasions in the period of two years preceding the beginning of the failure in question on which the person concerned has previously failed to comply with that requirement and, subject to the following provisions of this section, the prescribed rate shall be,—
- (a) if there has been no such previous occasion in that period, [^{F46}£5];
 - (b) if there has been only one such occasion in that period, [^{F46}£10]; and
 - (c) in any other case, [^{F46}£15].
- (4) For the purposes of subsection (3) above—
- (a) a failure to comply with any such requirement as is referred to in subsection (1) above shall be disregarded if, as a result of the failure, the person concerned became liable for a surcharge under section 19 below;
 - (b) a previous failure to comply with any such requirement shall be disregarded if it occurred before the passing of this Act [^{F47}or, in the case of a requirement falling within paragraph (d) or paragraph (e) of subsection (1) above, before the passing of the Finance Act 1986];
 - (c) a continuing failure to comply with any such requirement shall be regarded as one occasion of failure occurring on the date on which the failure began;

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- (d) if the same omission gives rise to a failure to comply with more than one such requirement, it shall nevertheless be regarded as the occasion of only one failure; and
 - (e) in relation to a failure to comply with a requirement imposed by regulations as to the furnishing of a return or as to the payment of tax, a previous failure to comply with such a requirement as to either of those matters shall be regarded as a previous failure to comply with the requirement in question.
- (5) Where the failure referred to in subsection (1) above consists—
- (a) in not paying the tax due in respect of any period within the time required by regulations under section 14(1) of the principal Act, or
 - (b) in not furnishing a return in respect of any period within the time required by regulations under paragraph 2(1) of Schedule 7 to that Act,
- the failure shall be disregarded for the purposes of that subsection and subsections (3) and (4) above unless it begins on or after the day appointed under section 12(8) above but, subject to that, in relation to such a failure the prescribed rate shall be whichever is the greater of that which is appropriate under paragraphs (a) to (c) of subsection (3) above and an amount equal to onesixth, onethird or onehalf of 1 per cent. of the tax due in respect of that period, the appropriate fraction being determined according to whether paragraph (a), paragraph (b) or paragraph (c) of subsection (3) above is applicable.
- (6) For the purposes of subsection (5) above, the tax due,—
- (a) if the person concerned has furnished a return, shall be taken to be the tax shown in the return as that for which he is accountable in respect of the period in question, and
 - (b) in any other case, shall be taken to be such tax as has been assessed for that period and notified to him under paragraph 4(1) of Schedule 7 to the principal Act.
- (7) If it appears to the Treasury that there has been a change in the value of money since the passing of this Act or, as the case may be, the last occasion when the power conferred by this subsection was exercised, they may by order made by statutory instrument substitute for the sums for the time being specified in subsection (2) and paragraphs (a) to (c) of subsection (3) above such other sums as appear to them to be justified by the change; but an order under this subsection shall not apply to a failure which began before the date on which the order comes into force.
- (8) A statutory instrument made under subsection (7) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (9) A failure by any person to comply with any such requirement as is referred to in subsection (1) or subsection (2) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a value added tax tribunal that there is a reasonable excuse for the failure; and a failure in respect of which the Commissioners or tribunal have been so satisfied shall be disregarded for the purposes of subsection (3) above.
- (10) Where, by reason of conduct falling within subsection (1) or subsection (2) above,—
- (a) a person is convicted of an offence (whether under the principal Act or otherwise), or
 - (b) a person is assessed to a penalty under section 13 or section 14 above, or
 - (c) a person is assessed to a surcharge under section 19 below,

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that conduct shall not also give rise to liability to a penalty under this section.

Textual Amendments

- F40** Words inserted by Finance Act 1988 (c. 39, SIF 40:2), s. 19(1)(a)
- F41** Words in s. 17(1)(a) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), Sch. 3 Pt. II para. 81(a); S.I. 1992/2979, art. 4, Sch. Pt. II and S.I. 1992/3261, art. 3, Sch.
- F42** Words substituted by Finance Act 1988 (c. 39, SIF 40:2), s. 19(1)(a)
- F43** S. 17(1)(aa) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance Act (No. 2) 1992 (c. 48), s. 14(2), Sch. 3 Pt. II para. 81(b); S.I. 1992/2979, art.4, Sch. Pt. II and S.I. 1992/3261, art. 3, Sch.
- F44** Word “or” and s. 17(1)(d)(e) inserted by Finance Act 1986 (c. 41, SIF 40:2), s. 15(1)
- F45** Words substituted by Finance Act 1988 (c. 39, SIF 40:2), s. 19(1)(b)(5)
- F46** “£5”, “£10” and “£15” substituted respectively for “£10”, “£20” and “£30” by Finance Act 1988 (c. 39, SIF 40:2), s. 19(2)(4)(5)
- F47** Words added by Finance Act 1986 (c. 41, SIF 40:2), s. 15(2)

[17A] ^{F48}Penalties for failure to submit EC sales statement.

- (1) If by the last day on which a person is required in accordance with regulations under the principal Act to submit an EC sales statement for any prescribed period to the Commissioners, the Commissioners have not received that statement, that person shall be regarded for the purposes of this section as being in default in relation to that statement until it is submitted.
- (2) Where any person is in default in respect of any EC sales statement the Commissioners may serve notice on him stating—
 - (a) that he is in default in relation to the statement specified in the notice;
 - (b) that (subject to the liability mentioned in paragraph (d) below) no action will be taken if he remedies the default before the end of the period of fourteen days beginning with the day after the service of the notice;
 - (c) that if the default is not so remedied, that person will become liable in respect of his default to penalties calculated on a daily basis from the end of that period in accordance with the following provisions of this section; and
 - (d) that that person will become liable, without any further notices being served under this section, to penalties under this section if he commits any more defaults before a period of twelve months has elapsed without his being in default.
- (3) Where a person has been served with a notice under subsection (2) above, he shall become liable under this section—
 - (a) if the statement to which the notice relates is not submitted before the end of the period of fourteen days beginning with the day after the service of the notice, to a penalty in respect of that statement; and
 - (b) whether or not that statement is so submitted, to a penalty in respect of any EC sales statement the last day for the submission of which is after the service and before the expiry of the notice and in relation to which he is in default.
- (4) For the purposes of this section a notice served on any person under subsection (2) above shall continue in force—

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (a) except in a case falling within paragraph (b) below, until the end of the period of twelve months beginning with the day after the service of the notice; and
 - (b) where at any time in that period of twelve months that person is in default in relation to any EC sales statement other than one in relation to which he was in default when the notice was served, until a period of twelve months has elapsed without that person becoming liable to a penalty under this section in respect of any EC sales statement.
- (5) The amount of any penalty to which a person who has been served with a notice under subsection (2) above is liable under this section shall be whichever is the greater of £50 and—
- (a) in the case of a liability in respect of the statement to which the notice relates, a penalty of £5 for every day for which the default continues after the end of the period of fourteen days mentioned in subsection (3)(a) above, up to a maximum of one hundred days; and
 - (b) in the case of a liability in respect of any other statement, a penalty of the relevant amount for every day for which the default continues, up to a maximum of one hundred days.
- (6) In subsection (5)(b) above “the relevant amount”, in relation to a person served with a notice under subsection (2) above, means—
- (a) £5, where (that person not having been liable to a penalty under this section in respect of the statement to which the notice relates) the statement in question is the first statement in respect of which that person has become liable to a penalty while the notice has been in force;
 - (b) £10, where the statement in question is the second statement in respect of which he has become so liable while the notice has been in force (counting the statement to which the notice relates where he has become liable in respect of that statement); and
 - (c) £15, in any other case.
- (7) If a person who, apart from this subsection, would be liable to a penalty under this section satisfies the Commissioners or, on appeal a value added tax tribunal, that—
- (a) an EC sales statement has been submitted at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners within the appropriate time limit; or
 - (b) there is a reasonable excuse for such a statement not having been dispatched,
- he shall be treated for the purposes of this Act as not having been in default in relation to that statement and, accordingly, he shall not be liable to any penalty under this section in respect of that statement and any notice served under subsection (2) above exclusively in relation to the failure to submit that statement shall have no effect for the purposes of this section.
- (8) If it appears to the Treasury that there has been a change in the value of money since the coming into force of this section or, as the case may be, the last occasion when the sums specified in subsections (5) and (6) above were varied, they may by order substitute for the sums for the time being specified in those subsections such other sums as appear to them to be justified by the change; but an order under this section shall not apply to any default in relation to a statement the last day for the submission of which was before the order comes into force.
- (9) A statutory instrument containing an order under subsection (8) above shall be subject to annulment in pursuance of a resolution of the House of Commons.

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (10) In this section “EC sales statement” means any statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(2A) of Schedule 7 to the principal Act.]

Textual Amendments

F48 S. 17A inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para.82**; S.I. 1992/2979, art.4, **Sch. Pt. II** and S.I. 1992/3261, art.3, **Sch.**

Interest, surcharges and supplements

18 Interest on tax etc. recovered or recoverable by assessment.

- (1) Subject to section 21(6) below, where an assessment is made under any provision of paragraph 4 of Schedule 7 to the principal Act and, in the case of an assessment under subparagraph (1) of that paragraph, at least one of the following conditions is fulfilled, namely,—

- (a) the assessment relates to a prescribed accounting period in respect of which either—
 - (i) a return has previously been made, or
 - (ii) an earlier assessment has already been notified to the person concerned,
- (b) the assessment relates to a prescribed accounting period which exceeds three months and begins on the date with effect from which the person concerned was, or was required to be, registered,
- (c) the assessment relates to a prescribed accounting period at the beginning of which the person concerned was, but should no longer have been, exempted from registration under [^{F49}paragraph 11(1)] of Schedule 1 to the principal Act [^{F50}or under paragraph 8 of Schedule 1B to that Act],

the [^{F51}whole of the amount assessed shall carry interest at the prescribed rate from the reckonable date] until payment.

- (2) ^{F52}

- (3) [^{F53}In any case where]—

- (a) the circumstances are such that an assessment falling within subsection (1) above could have been made, but
- (b) before such an assessment was made the tax due or other amount concerned was paid (so that no such assessment was necessary),

[^{F54}the whole of the amount paid shall carry interest at the prescribed rate from the reckonable date] until the date on which it was paid.

- (4) ^{F55}

- (6) Where an unauthorised person, as defined in section 15(2) above, issues an invoice showing an amount as being tax or as including an amount attributable to tax, the amount which is shown as tax or, as the case may be, is to be taken as representing tax shall carry interest at the prescribed rate from the date of the invoice until payment.

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (7) The references in subsections [^{F56}(1) and (3)] above to the reckonable date shall be construed as follows—
- (a) where the amount assessed or paid is such an amount as is referred to in subparagraph (2)(a) or subparagraph (2)(b) of paragraph 4 of Schedule 7 to the principal Act (incorrect repayment of tax or payment in respect of excess credit), the reckonable date is the seventh day after the day on which a written instruction was issued by the Commissioners directing the making of the payment of the amount which ought not to have been repaid or paid to the person concerned; and
 - (b) in all other cases the reckonable date is the latest date on which (in accordance with regulations under the principal Act) a return is required to be made for the prescribed accounting period to which the amount assessed or paid relates; and
 - (c) in the case of an amount assessed under paragraph 4(6) of Schedule 7 to the principal Act (assessments in respect of goods which cannot be accounted for) the sum assessed shall be taken for the purposes of paragraph (b) above to relate to the period for which the assessment was made;
- and interest under this section shall run from the reckonable date even if that date is a nonbusiness day, within the meaning of section 92 of the ^{M22}Bills of Exchange Act 1882.
- (8) In this section “the prescribed rate” means such rate as may be prescribed by order made by the Treasury; and such an order—
- (a) may prescribe different rates for different purposes;
 - (b) shall apply to interest for periods beginning on or after the date when the order is expressed to come into force, whether or not interest runs from before that date; and
 - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (9) Interest under this section shall be paid without any deduction of income tax.
- (10) This section shall come into operation on such day as the Treasury may by order made by statutory instrument appoint and any reference in this section to a prescribed accounting period is a reference to a period which begins on or after the day so appointed.

Subordinate Legislation Made

- P3** S. 18 : for previous exercises of this power see Index to Government Orders
- P4** S. 18(8): s. 18(8) power exercised by [S.I. 1991/348](#)
S. 18(8): s. 18(8) power exercised by [S.I. 1991/1078](#)
S. 18(8): s. 18(8) power exercised by [S.I. 1991/1472](#).
S. 18(8): S. 18(8) power exercised by [S.I. 1991/2195](#)

Textual Amendments

- F49** Words substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [s. 14\(8\)\(b\)](#)
- F50** Words in [s. 18\(1\)\(c\)](#) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), [s. 14\(2\)](#), [Sch. 3 Pt. II para. 83](#); [S.I. 1992/2979](#), [art. 4](#), [Sch. Pt. II](#) and [S.I. 1992/3261](#), [art. 3](#), [Sch.](#)
- F51** Words substituted by [Finance Act 1990 \(c. 29, SIF 40:2\)](#), [s. 16\(2\)\(6\)](#)
- F52** S. 18(2) repealed by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), [ss. 18\(4\)\(a\)](#), [148](#), [Sch. 14 Pt. III](#)

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- F53** Words substituted by Finance Act 1988 (c. 39, SIF 40:2), s. 18(4)(b)
F54 Words substituted by Finance Act 1990 (c. 29, SIF 40:2), s. 16(3)(6)
F55 S. 18(4)(5) repealed by Finance Act 1990 (c. 29, SIF 40:2), ss. 16(4)(6), 132, Sch. 19 Pt. III Note 2
F56 Words substituted by Finance Act 1990 (c. 29, SIF 40:2), s. 16(5)(6)

Modifications etc. (not altering text)

- C5** Power of appointment conferred by s. 18(10) fully exercised (1.4.1990): S.I. 1989/2270, art. 3

Marginal Citations

- M22** 1882 c. 61.

19 The default surcharge.

- (1) If, by the last day on which a taxable person is required in accordance with regulations under the principal Act to furnish a return for the prescribed accounting period, being a day falling on or after the day appointed under subsection (10) below,—
- (a) the Commissioners have not received that return, or
 - (b) the Commissioners have received that return but have not received the amount of tax shown on the return as payable by him in respect of that period,
- then that person shall be regarded for the purposes of this section as being in default in respect of that period.
- (2) Subject to subsections (8) and (9) below, subsection (4) below applies in any case where—
- (a) a taxable person is in default in respect of any two prescribed accounting periods; and
 - (b) the last day of the later one of those periods falls on or before the first anniversary of the last day of the earlier one; and
 - (c) the Commissioners serve notice on the taxable person (in this section referred to as a “surcharge liability notice”) specifying as a surcharge period for the purposes of this section a period ending on the first anniversary of the last day of the later period referred to in paragraph (b) above and beginning, subject to subsection (3) below, on the date of the notice.
- (3) If a surcharge liability notice is served by reason of defaults in respect of two prescribed accounting periods and the second of those periods ends at or before the expiry of an existing surcharge period already notified to the taxable person concerned, the surcharge period specified in that notice shall be expressed as a continuation of the existing surcharge period and, accordingly, for the purposes of this section, that existing period and its extension shall be regarded as a single surcharge period.
- [^{F57}(4) Subject to subsections (6) to (9) below, if a taxable person on whom a surcharge liability notice has been served—
- (a) is in default in respect of a prescribed accounting period ending within the surcharge period specified in (or extended by) that notice, and
 - (b) has outstanding tax for that prescribed accounting period,
- he shall be liable to a surcharge equal to whichever is the greater of the following, namely, the specified percentage of his outstanding tax for that prescribed accounting period and £30.]
- (5) Subject to subsections (6) to (9) below, the specified percentage referred to in [^{F58}subsection (4) above] shall be determined in relation to a prescribed accounting

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

period by reference to the number of such periods in respect of which the taxable person is in default during the surcharge period [^{F59}and for which he has outstanding tax], so that,—

- (a) in relation to the first such prescribed accounting period, the specified percentage is 5 per cent.;
- (b) in relation to the second such period, the specified percentage is 10 per cent.; [^{F60}and]
- [^{F61}(c) in relation to each such period after the second, the specified percentage is 15 per cent.]

[^{F62}(5A) For the purposes of subsections (4) and (5) above a person has outstanding tax for a prescribed accounting period if some or all of the tax for which he is liable in respect of that period has not been paid by the last day on which he is required (as mentioned in subsection (1) above) to make a return for that period; and the reference in subsection (4) above to a person's outstanding tax for a prescribed accounting period is to so much of the tax for which he is so liable as has not been paid by that day.]

- (6) If a person who, apart from this subsection, would be liable to a surcharge under subsection (4) above satisfies the Commissioners or, on appeal, a value added tax tribunal that, in the case of a default which is material to the surcharge,—
 - (a) the return or, as the case may be, the tax shown on the return was despatched at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners within the appropriate time limit, or
 - (b) there is a reasonable excuse for the return or tax not having been so despatched,

he shall not be liable to the surcharge and for the purposes of the preceding provisions of this section he shall be treated as not having been in default in respect of the prescribed accounting period in question (and, accordingly, any surcharge liability notice the service of which depended upon that default shall be deemed not to have been served).

- (7) For the purposes of subsection (6) above, a default is material to a surcharge if—
 - (a) it is the default which, by virtue of subsection (4) above, gives rise to the surcharge; or
 - (b) it is a default which was taken into account in the service of the surcharge liability notice upon which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a prescribed accounting period ending within the surcharge period specified in or extended by that notice.

- (8) In any case where—
 - (a) the conduct by virtue of which a person is in default in respect of a prescribed accounting period is also conduct falling within subsection (1) of section 17 above, and
 - (b) by reason of that conduct, the person concerned is assessed to a penalty under that section,

the default shall be left out of account for the purposes of subsections (2) to (5) above.

- (9) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a prescribed accounting period specified in the direction shall be left out of account for the purposes of subsections (2) to (5) above.

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (10) This section shall come into operation on such day as the Treasury may by order made by statutory instrument appoint.

Textual Amendments

- F57** S. 19(4) substituted (30.9.1993 with effect as mentioned in Sch. 2 para. 6(4)(b) of the amending Act) by 1993 c. 34, s. 49, **Sch. 2 para. 6(1)(4)**
- F58** Words in s. 19(5) substituted (30.9.1993 with effect as mentioned in Sch. 2 para. 6(4)(b) of the amending Act) by 1993 c. 34, s. 49, **Sch. 2 para. 6(2)(a)(4)**
- F59** Words in s. 19(5) inserted (30.9.1993 with effect as mentioned in Sch. 2 para. 6(4)(b) of the amending Act) by 1993 c. 34, s. 49, **Sch. 2 para. 6(2)(b)(4)**
- F60** Word in s. 19(5)(b) inserted (shall retrospectively apply in relation to any liability to a surcharge arising on or after 1.4.1993) by 1993 c. 34, s. 49, **Sch. 2 para. 7(1)(a)(2)**
- F61** S. 19(5)(c) substituted for s. 19(5)(c)(d) (shall retrospectively apply in relation to any liability to a surcharge arising on or after 1.4.1993) by 1993 c. 34, s. 49, **Sch. 2 para. 7(1)(b)(2)**
- F62** S. 19(5A) inserted (30.9.1993 with effect as mentioned in Sch. 2 para. 6(4)(b) of the amending Act) by 1993 c. 34, s. 49, **Sch. 2 para. 6(3)(4)**

Modifications etc. (not altering text)

- C6** Power of appointment conferred by s. 19(10) fully exercised (1.10.1986): S.I. 1986/968, **art. 2**

[^{F63}20] **Repayment supplement in respect of certain delayed payments or refunds.**

- (1) In any case where—
- (a) a person is entitled to a payment under section 14(5) of the principal Act, or
 - (b) a body which is registered and to which section 20 of that Act applies is entitled to a refund under that section,
- and the conditions mentioned in subsection (2) below are satisfied, the amount which, apart from this section, would be due by way of that payment or refund shall be increased by the addition of a supplement equal to 5 per cent. of that amount or £30, whichever is the greater.
- (2) The said conditions are—
- (a) that the requisite return or claim is received by the Commissioners not later than one month after the last day on which it is required to be furnished or made, and
 - (b) that a written instruction directing the making of the payment or refund is not issued by the Commissioners within the period of thirty days beginning on the date of the receipt by the Commissioners of that return or claim, and
 - (c) that the amount shown on that return or claim as due by way of payment or refund does not exceed the payment or refund which was in fact due by more than 5 per cent. of that payment or refund or £250, whichever is the greater.
- (3) Regulations may provide that, in computing the period of thirty days referred to in subsection (2)(b) above, there shall be left out of account periods determined in accordance with the regulations and referable to—
- (a) the raising and answering of any reasonable inquiry relating to the requisite return or claim,
 - (b) the correction by the Commissioners of any errors or omissions in that return or claim, and

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (c) in the case of a payment, the following matters, namely—
 - (i) any such continuing failure to submit returns as is referred to in section 14(7) of the principal Act, and
 - (ii) compliance with any such condition as is referred to in paragraph 5(1) of Schedule 7 to that Act (production of documents or giving of security as a condition of payment).

[In determining for the purposes of regulations under subsection (3) above whether any^{F64}(3A) period is referable to the raising and answering of such an inquiry as is mentioned in that subsection, there shall be taken to be so referable any period which—

- (a) begins with the date on which the Commissioners first consider it necessary to make such an inquiry, and
- (b) ends with the date on which the Commissioners—
 - (i) satisfy themselves that they have received a complete answer to the inquiry, or
 - (ii) determine not to make the inquiry or, if they have made it, not to pursue it further,

but excluding so much of that period as may be prescribed; and it is immaterial whether any inquiry is in fact made or whether it is or might have been made of the person or body making the requisite return or claim or of an authorised person or of some other person.]

- (4) Except for the purpose of determining the amount of the supplement—
 - (a) a supplement paid to any person under subsection (1)(a) above shall be treated as an amount due to him by way of credit under section 14(5) of the principal Act, and
 - (b) a supplement paid to any body under subsection (1)(b) above shall be treated as an amount due to it by way of refund under section 20 of that Act.
- (5) In this section “requisite return or claim” means—
 - (a) in relation to a payment, the return for the prescribed accounting period concerned which is required to be furnished in accordance with regulations under the principal Act, and
 - (b) in relation to a refund, the claim for that refund which is required to be made in accordance with the Commissioners’ determination under section 20 of that Act.
- (6) Subsection (1)(a) above shall have effect with respect to any prescribed accounting period ending, and subsection (1)(b) above shall have effect with respect to any claim made, on or after such day as the Treasury may by order made by statutory instrument appoint.
- (7) If the Treasury by order made by statutory instrument so direct, any period specified in the order shall be disregarded for the purpose of calculating the period of thirty days referred to in subsection (2)(b) above.]

Textual Amendments

F63 S. 20 substituted by [Finance Act 1988 \(c. 39, SIF 40:2\)](#), s. 20

F64 S. 20(3A) inserted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 15(1)(3).

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

Modifications etc. (not altering text)

C7 Power of appointment conferred by s. 20(6) fully exercised (29.7.1988): [S.I. 1988/354](#), [arts. 2, 3](#)

Assessments, records and information

21 Assessment of amounts due by way of penalty, interest or surcharge.

(1) Where any person is liable—

- (a) to a penalty under any of sections 13 to [F⁶⁵17A] above, or
- (b) for interest under section 18 above, or
- (c) to a surcharge under section 19 above,

the Commissioners may [F⁶⁶subject to subsection (1A) below] assess the amount due by way of penalty, interest or surcharge, as the case may be, and notify it to him accordingly; and the fact that any conduct giving rise to a penalty under any of sections 13 to [F⁶⁵17A] above may have ceased before an assessment is made under this section shall not affect the power of the Commissioners to make such an assessment.

[F⁶⁷(1A) Where a person is liable to a penalty under section 17 above for any failure to comply with such a requirement as is referred to in subsection (1)(b) to (e) of that section, no assessment shall be made under this section of the amount due from him by way of such penalty unless, within the period of two years preceding the assessment, the Commissioners have issued him with a written warning of the consequences of a continuing failure to comply with that requirement.]

(2) In the case of the penalties, interest and surcharge referred to in the following paragraphs, the assessment under this section shall be of an amount due in respect of the prescribed accounting period which in the paragraph concerned is referred to as “the relevant period”,—

- (a) in the case of a penalty under section 13 above relating to the evasion of tax, the relevant period is the prescribed accounting period for which the tax evaded was due;
- (b) in the case of a penalty under section 13 above relating to the obtaining of a payment under section 14(5) of the principal Act, the relevant period is the prescribed accounting period in respect of which the payment was obtained;
- (c) in the case of a penalty under section 14 above, the relevant period is the prescribed accounting period for which liability to tax was understated or, as the case may be, for which entitlement to a payment under section 14(5) of the principal Act was overstated;
- (d) in the case of interest under section 18 above, the relevant period is the prescribed accounting period in respect of which the tax (or amount assessed as tax) was due; and
- (e) in the case of a surcharge under section 19 above, the relevant period is the prescribed accounting period in respect of which the taxable person is in default and in respect of which the surcharge arises.

(3) In any case where the amount of any penalty, interest or surcharge falls to be calculated by reference to tax which was not paid at the time it should have been and that tax (or the supply which gives rise to it) cannot be readily attributed to any one or more prescribed accounting periods, it shall be treated for the purposes of the principal Act and this Part of this Act as tax due for such period or periods as the Commissioners

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

may determine to the best of their judgment and notify to the person liable for the tax and penalty, interest or surcharge.

- (4) Where a person is assessed under this section to an amount due by way of any penalty, interest or surcharge falling within subsection (2) above and is also assessed under subparagraph (1), subparagraph (2) or subparagraph (6) of paragraph 4 of Schedule 7 to the principal Act for the prescribed accounting period which is the relevant period under subsection (2) above, the assessments may be combined and notified to him as one assessment, but the amount of the penalty, interest or surcharge shall be separately identified in the notice.

^{F68}(4A) An assessment to a penalty under section 15 above by virtue of subsection (1)(aa) of that section may be combined with an assessment under paragraph 4A of Schedule 7 to the principal Act and the two assessments notified together but the amount of the penalty shall be separately identified in the notice.]

- (5) In the case of an amount due by way of penalty under section 17 [^{F69}or section 17A] or interest under section 18 above—

- (a) a notice of assessment under this section shall specify a date, being not later than the date of the notice, to which the aggregate amount of the penalty or, as the case may be, the amount of interest which is assessed is calculated; and
- (b) if the penalty or interest continues to accrue after that date, a further assessment or assessments may be made under this section in respect of amounts which so accrue.

- (6) If, within such period as may be notified by the Commissioners to the person liable to a penalty under section 17 [^{F70}or section 17A] above or for interest under section 18 above,—

- (a) a failure [^{F71}or default falling within section 17(1) or section 17A(1) above] is remedied, or
- (b) the tax or other amount referred to in section 18(1) above is paid,

it shall be treated for the purposes of section 17 [^{F70}section 17A] or, as the case may be, section 18 above is remedied or paid on the date specified as mentioned in subsection (5)(a) above.

- (7) If an amount is assessed and notified to any person under this section, then unless, or except to the extent that, the assessment is withdrawn or reduced, that amount shall be recoverable as if it were tax due from him.

- (8) Subparagraph (10) of paragraph 4 of Schedule 7 to the principal Act (notification to personal representatives etc.) shall apply for the purposes of this section as it applies for the purposes of that paragraph.

Textual Amendments

F65 Words in s. 21(1) substituted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 84(1)**; S.I. 1992/2979, art.4, **Sch. Pt. II** and S.I. 1992/3261, art.3, **Sch.**

F66 Words inserted by Finance Act 1988 (c. 39, SIF 40:2), s. 19(3)(5)

F67 S. 21(1A) inserted by Finance Act 1988 (c. 39, SIF, 40:2), s. 19(3)(5)

F68 S. 21(4A) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 84(2)**; S.I. 1992/2979, art.4, **Sch. Pt. II** and S.I. 1992/3261, art. 3, **Sch.**

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- F69** Words in s. 21(5) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 84(3)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, art. 3, **Sch.**
- F70** Words in s. 21(6) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 84(4)(a)(c)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, art. 3, **Sch.**
- F71** Words in 21(6)(a) substituted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 84(4)(b)**; S.I. 1992/2979, art. 4, **Sch. Pt. II** and S.I. 1992/3261, art. 3, **Sch.**

Modifications etc. (not altering text)

- C8** S. 21 extended by Finance Act 1986 (c. 41, SIF 40:2), s. 14(3)

22 Assessments: time limits and supplementary assessments.

- (1) Subject to the following provisions of this section, an assessment—
- (a) under any provision of paragraph 4 [^{F72}or paragraph 4A] of Schedule 7 to the principal Act, or
 - (b) under section 21 above,
- shall not be made more than six years after the end of the prescribed accounting period or importation [^{F72}or acquisition] concerned or, in the case of an assessment under section 21 above of an amount due by way of a penalty which is not among those referred to in subsection (2) of that section, six years after the event giving rise to the penalty.
- (2) Subject to subsection (5) below, an assessment under section 21 above of an amount due by way of any penalty, interest or surcharge referred to in subsection (2) of that section may be made at any time before the expiry of the period of two years beginning [^{F73}(a) in the case of a penalty under section 14B or section 17A above, with the time when facts sufficient in the opinion of the Commissioners to indicate, as the case may be—
- (i) that the statement in question contained a material inaccuracy; or
 - (ii) that there had been a default within the meaning of section 17A(1) above,
- came to the Commissioners knowledge; and
- (b) in any other case, with the time]
- when the amount of tax due for the prescribed accounting period concerned has been finally determined.
- (4) Subject to subsection (5) below, if tax has been lost—
- (a) as a result of conduct falling within section 13(1) above or for which a person has been convicted of fraud, or
 - (b) in circumstances giving rise to liability to a penalty under section 15 above,
- an assessment may be made as if, in subsection (1) above, each reference to six years were a reference to twenty years.
- (5) Where, after a person's death, the Commissioners propose to assess a sum as due by reason of some conduct (howsoever described) of the deceased, including a sum due by way of penalty, interest or surcharge,—
- (a) the assessment shall not be made more than three years after the death; and

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (b) if the circumstances are as set out in subsection (4) above, the modification of subsection (1) above contained in that subsection shall not apply but any assessment which (from the point of view of time limits) could have been made immediately after the death may be made at any time within three years after it.
- (6) Subparagraphs (7) and (8) of paragraph 4 of Schedule 7 to the principal Act (which are superseded by the preceding provisions of this section) shall cease to have effect.
- (7) If, otherwise than in circumstances falling within subparagraph (5)(b) of paragraph 4 [F74 or sub-paragraph (2)(b) of paragraph 4A] of Schedule 7 to the principal Act (further evidence relating to an assessment under F75 . . . that paragraph), it appears to the Commissioners that the amount which ought to have been assessed in an assessment under any provision of that paragraph or under section 21 above exceeds the amount which was so assessed, then,—
- (a) under the like provision as that assessment was made, and
- (b) on or before the last day on which that assessment could have been made, the Commissioners may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

Textual Amendments

- F72** Words in s. 22(1)(a) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 85(1)(a)(b)**; S.I. 1992/2979, art.4, **Sch. Pt. II** and S.I. 1992/3261, art. 3, **Sch.**
- F73** S. 22(2)(a)(b) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance Act (No. 2) 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 85(2)**; S.I. 1992/2979, art.4, **Sch. Pt. II** and S.I. 1992/3261, art.3, **Sch.**
- F74** Words in s. 22(7) inserted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. II para. 85(3)**; S.I. 1992/2979, art.4, **Sch. Pt. II** and S.I. 1992/3261, art. 3, **Sch.**
- F75** Words in s. 22(7) repealed (16.7.1992 subject as mentioned below) by Finance (No. 2) Act 1992 (c. 48), s. 14(3), **Sch. 18 Pt.V** (by the note at the end of Sch. 18 Pt. V it is provided that the repeals in Pt. V come into force in accordance with s. 14(3) of that 1992 Act).

23 Amendments of Schedule 7 to the principal Act.

Schedule 7 to the principal Act (administration, collection and enforcement) shall be amended in accordance with Schedule 7 to this Act.

Appeals

24 Amendments of section 40 of the principal Act.

- (1) In section 40 of the principal Act (appeals), at the end of subsection (1) (decisions which are appealable) there shall be added the following paragraphs—
- “(o) any liability to a penalty or surcharge by virtue of any of sections 13 to 17 and 19 of the Finance Act 1985;
- (p) the amount of any penalty, interest or surcharge specified in an assessment under section 21 of that Act;

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (q) the making of an assessment on the basis set out in section 22(4) of that Act.”
- (2) After subsection (1) of that section there shall be inserted the following subsection—
- “(1A) Without prejudice to section 13(4) of the Finance Act 1985, nothing in subsection (1)(p) above shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty, interest or surcharge except in so far as it is necessary to reduce it to the amount which is appropriate under sections 13 to 19 of that Act.”
- (3) In subsection (2) of that section (appeals not to be entertained unless all required returns have been made and the amounts payable have been paid) after the word “and” there shall be inserted “except in the case of an appeal against a decision with respect to the matter mentioned in subsection (1)(n) above, unless he”.
- (4) In subsection (3) of that section, for the words “paragraph (b) or (m)” there shall be substituted “any of paragraphs (b), (m), (o) and (p)”.
- (5) After subsection (3) of that section there shall be inserted the following subsection—
- “(3A) Where, on an appeal against a decision with respect to any of the matters mentioned in paragraph (m) above,—
- (a) it is found that the amount specified in the assessment is less than it ought to have been, and
- (b) the tribunal gives a direction specifying the correct amount,
- the assessment shall have effect as an assessment of the amount specified in the direction and that amount shall be deemed to have been notified to the appellant.”

25 Settling appeals by agreement.

- (1) Subject to the provisions of this section, where a person gives notice of appeal under section 40 of the principal Act and, before the appeal is determined by a value added tax tribunal, the Commissioners and the appellant come to an agreement (whether in writing or otherwise) under the terms of which the decision under appeal is to be treated—
- (a) as upheld without variation, or
- (b) as varied in a particular manner, or
- (c) as discharged or cancelled,
- the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, a tribunal had determined the appeal in accordance with the terms of the agreement (including any terms as to costs).
- (2) Subsection (1) above shall not apply where, within thirty days from the date when the agreement was come to, the appellant gives notice in writing to the Commissioners that he desires to repudiate or resile from the agreement.
- (3) Where an agreement is not in writing—
- (a) the preceding provisions of this section 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 Commissioners to the appellant or by the appellant to the Commissioners; and

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (b) references in those provisions to the time when the agreement was come to shall be construed as references to the time of the giving of that notice of confirmation.
- (4) Where—
- (a) a person who has given a notice of appeal notifies the Commissioners, whether orally or in writing, that he desires not to proceed with the appeal; and
- (b) thirty days have elapsed since the giving of the notification without the Commissioners giving to the appellant notice in writing indicating that they are unwilling that the appeal should be treated as withdrawn,
- the preceding provisions of this section shall have effect as if, at the date of the appellant's notification, the appellant and the Commissioners had come to an agreement, orally or in writing, as the case may be, that the decision under appeal should be upheld without variation.
- (5) References in this section to an agreement being come to with an appellant and the giving of notice or notification to or by an appellant include references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant in relation to the appeal.

Modifications etc. (not altering text)

- C9** S. 25 amended (1.7.1994) by 1994 c. 9, s. 7(4) (with s. 19(3)); S.I. 1994/1690, art. 2
S. 25 extended (1.10.1994) by 1994 c. 9, ss. 60(10), 61; S.I. 1994/1773, art. 2

26 Certain appeals to lie directly to the Court of Appeal.

- (1) The Lord Chancellor may by order provide that—
- (a) in such classes of appeal as may be prescribed by the order, and
- (b) subject to the consent of the parties and to such other conditions as may be so prescribed,
- an appeal from a value added tax tribunal shall lie to the Court of Appeal.
- (2) An order under this section—
- (a) may provide that [^{F76}section 11 of the Tribunals and Inquiries Act 1992] (which provides for appeals to the High Court from, among other tribunals, a value added tax tribunal) shall have effect, in relation to any appeal to which the order applies, with such modifications as may be specified in the order; and
- (b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) This section does not extend to Scotland.

Textual Amendments

- F76** Words in s. 26(2)(a) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), Sch. 3 para. 17

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

27 Procedural rules governing appeals.

- (1) On an appeal against an assessment to a penalty under section 13 above, the burden of proof as to the matters specified in paragraphs (a) and (b) of subsection (1) of that section shall lie upon the Commissioners.
- (2) Paragraph 9 of Schedule 8 to the principal Act (rules with respect to procedure to be followed on appeals to value added tax tribunals) shall be amended as follows—
 - (a) after the words “on appeals to” there shall be inserted “and in other proceedings before”;
 - (b) in paragraph (d) the words “and produce documents” shall be omitted;
 - (c) at the end of paragraph (d) there shall be inserted the following paragraph—
 - “(dd) for discovery and for requiring persons to produce documents”, and
 - (d) at the end of paragraph (e) there shall be added the words “or producing documents”.
- (3) On and after such day as the Lord Chancellor may by order made by statutory instrument appoint—
 - (a) the power to make rules under paragraph 9 of Schedule 8 to the principal Act shall be exercisable by the Lord Chancellor, after consultation with the Lord Advocate, instead of by the Commissioners;
 - (b) any rules under that paragraph which are in force immediately before the day appointed under this subsection shall have effect as if made as mentioned in paragraph (a) above; and
 - (c) a statutory instrument by which the power referred to in paragraph (a) above is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In section 45 of the principal Act (orders, rules and regulations) in subsection (2) (statutory instruments to be subject to annulment by the Commons House of Parliament) after the words “subsection (3) below” there shall be inserted “and section 27(3)(c) of the Finance Act 1985”.

Modifications etc. (not altering text)

C10 Power of appointment conferred by s. 27(3) fully exercised (1.7.1986): [S.I. 1986/934](#), [art. 2](#)

Miscellaneous

28 Penalty for failure to comply with directions etc. of tribunal.

At the end of paragraph 9 of Schedule 8 to the principal Act (procedural rules for tribunals) there shall be added the following paragraph—

- “10 (1) A person who fails to comply with a direction or summons issued by a value added tax tribunal under rules made under paragraph 9 above shall be liable to a penalty not exceeding £1000.

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (2) A penalty for which a person is liable by virtue of subparagraph (1) above may be awarded summarily by a tribunal notwithstanding that no proceedings for its recovery have been commenced.
- (3) An appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, from the award of a penalty under this paragraph, and on such an appeal the court may either confirm or reverse the decision of the tribunal or reduce or increase the sum awarded.
- (4) A penalty awarded by virtue of this paragraph shall be recoverable as if it were tax due from the person liable for the penalty.”

29 Enforcement of certain decisions of tribunal.

- (1) If the decision of a value added tax tribunal in England and Wales on an appeal under section 40 of the principal Act is registered by the Commissioners in accordance with rules of court, payment of—
 - (a) any amount which, as a result of the decision, is, or is recoverable as, tax due from any person, and
 - (b) any costs awarded to the Commissioners by the decision,may be enforced by the High Court as if that amount or, as the case may be, the amount of those costs were an amount due to the Commissioners in pursuance of a judgment or order of the High Court.
- (2) If the decision of a value added tax tribunal in Scotland on an appeal under section 40 of the principal Act—
 - (a) confirms or varies an amount which is, or is recoverable as, tax due from any person, or
 - (b) awards costs to the Commissioners,the decision may be recorded for execution in the Books of Council and Session and shall be enforceable accordingly.
- (3) Subsection (4) below shall apply in relation to the decision of a value added tax tribunal in Northern Ireland on an appeal under section 40 of the principal Act where—
 - (a) any amount is, or is recoverable as, tax due from any person, as a result of the decision, whether with or without an award of costs to the Commissioners; or
 - (b) any costs are awarded to the Commissioners by the decision.
- (4) Where this subsection applies—
 - (a) payment of the amount mentioned in paragraph (a) of subsection 3 above or, as the case may be, the amount of the costs mentioned in paragraph (b) of that subsection may be enforced by the Enforcement of Judgments Office; and
 - (b) a sum equal to any such amount shall be deemed to be payable under a money judgment within the meaning of Article 2(2) of the ^{M23}Judgments Enforcement (Northern Ireland) Order 1981, and the provisions of that order shall apply accordingly.
- (5) Any reference in this section to a decision of a value added tax tribunal includes a reference to an order (however described) made by a tribunal for giving effect to a decision.

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

Modifications etc. (not altering text)

- C11** S. 29 amended (1.7.1994) by 1994 c. 9, s. 7(4) (with s. 19(3)); S.I. 1994/1690, art. 2
 S. 29 extended (1.10.1994) by 1994 c. 9, ss. 60(10), 61; S.I. 1994/1773, art. 2

Marginal Citations

- M23** S.I. 1981/226 (N.I. 6).

30 Appointments to and administration of tribunals.

- (1) Schedule 8 to this Act shall have effect with respect to appointments to and the administration of value added tax tribunals.
- (2) This section shall come into operation on such day as the Lord Chancellor may by order made by statutory instrument appoint.
- (3) No provision of Schedule 8 to this Act shall affect the appointment of any person who, immediately before that provision comes into operation, holds office as President, or as a chairman or other member of value added tax tribunals.

Modifications etc. (not altering text)

- C12** Power of appointment conferred by s. 30(2) fully exercised (1.4.1986): S.I. 1986/365, art. 2

31 Insolvency.

At the end of subsection (4) of section 31 of the principal Act (power by regulations to make provisions for persons who carry on a business of a taxable person who has become bankrupt or incapacitated etc.) there shall be added the following subsection—

“(5) In relation to a company which is a taxable person, the reference in subsection (4) above to the taxable person having become bankrupt or incapacitated shall be construed as a reference to its being in liquidation or receivership or to an administration order being in force in relation to it.”

32 ^{F77}

Textual Amendments

- F77** S. 32 repealed by Finance Act 1990 (c. 29, SIF 40:2), s. 132, Sch. 19 Pt. III Note 1 and is expressed to be repealed (1.9.1994 with effect as mentioned in s. 101(1) of the amending Act) by 1994 c. 23, ss. 100(2), Sch. 15

33 Interpretation and construction of Chapter II.

- (1) In this Chapter “the principal Act” means the ^{M24}Value Added Tax Act 1983.
- (2) For the purpose of any provision of this Chapter which refers to a reasonable excuse for any conduct,—

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (a) an insufficiency of funds to pay any tax due is not a reasonable excuse; and
 - (b) where reliance is placed on any other person to perform any task, neither the fact of that reliance nor any dilatoriness or inaccuracy on the part of the person relied upon is a reasonable excuse.
- (3) In relation to a prescribed accounting period, any reference in this Chapter to credit for input tax includes a reference to any sum which, in a return for that period, is claimed as a deduction from tax due.
- (4) F78
- (5) This Chapter shall be construed as one with the principal Act except that—
- (a) references in section 39(9) of that Act (application of certain provisions to offences and penalties) to penalties do not include references to penalties under sections 13 to [F79 17A] above; and
 - (b) section 45 of that Act (orders, rules and regulations) does not apply in relation to orders under any provision of this Chapter.

Textual Amendments

F78 S. 33(4) repealed by Finance Act 1988 (c. 39, SIF 40:2), s. 148, Sch. 14 Pt. III

F79 Words in s. 33(5)(a) substituted (1.12.1992 for certain purposes and 1.1.1993 insofar as not already in force) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), Sch. 3 Pt. II para. 86; S.I. 1992/2979, art.4, Sch. Pt. II and S.I. 1992/3261, art.3, Sch.

Marginal Citations

M24 1983 c. 55.

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

34— F80
49.

Textual Amendments

F80 Ss. 34–49, 73–77, Schs. 9–13, 18, 22, 23, 25 paras. 7–9 repealed by Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 844, Sch. 31

50 Agents acting for non-residents.

- (1) Section 78 of the ^{M25}Taxes Management Act 1970 (method of charging non-residents) shall be amended in accordance with subsection (2) and (3) below, and the amendments made by those subsections shall have effect—

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (a) for the year 1985-86 and subsequent years of assessment, in the case of profits or gains chargeable to income tax; and
 - (b) for accounting periods ending on or after 1st April 1985, in the case of profits or gains chargeable to corporation tax.
- (2) After the words “Subject to” there shall be inserted “subsection (2) below and”.
- (3) At the end of the section there shall be inserted the following subsections—
- “(2) Subject to the following provisions of this section, a person who is not resident in the United Kingdom shall not, by virtue of this section, be chargeable in the name of an agent in respect of profits or gains arising from investment transactions carried out by the agent if—
- (a) the agent is carrying on a business of providing investment management services to a number of clients of whom the non-resident person is one; and
 - (b) the investment transactions concerned were carried out in the ordinary course of the business referred to in paragraph (a) above; and
 - (c) the remuneration which the agent receives for the provision of investment management services to the non-resident person is at a rate which is not less than that which is customary for that class of business; and
 - (d) in the case of profits or gains which are chargeable to tax as the profits or income of the non-resident person from carrying on a trade in the United Kingdom through a branch or agency, the agent carrying out the investment transaction is also the agency through which the trade is carried on;
- and in the case of an agent who provides investment management services as part only of a business, paragraphs (a) to (d) above shall apply as if that part were a separate business.
- (3) In subsection (2) above ‘investment transactions’ means—
- (a) transactions in shares, stock or securities of any other description, excluding commodity or financial futures,
 - (b) transactions on a recognised futures exchange, within the meaning of the Capital Gains Tax Act 1979, and
 - (c) the placing of money at interest,
- and for the purposes of that subsection an agent carries out such a transaction on behalf of his client whether he undertakes the transaction himself or by giving instructions to another person.
- (4) Subsection (2) above does not apply to profits or gains which constitute income of an offshore fund, within the meaning of Chapter VII of Part II of the Finance Act 1984.
- (5) Subsection (2) above does not apply if the non-resident person and the agent are connected with each other, within the terms of section 533 of the principal Act.”

Marginal Citations

M25 1970 c. 9.

Status: Point in time view as at 30/09/1993.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

51—53 F81

Textual Amendments

F81 Ss. 51–53 repealed by [Income and Corporation Taxes Act 1988 \(c.1, SIF 1\)](#), s. 844, [Sch. 31](#)

[^{F82}54] Withdrawal of right of certain non-resident companies to payment of tax credits.

- (1) This section applies to a company which has, or is an associated company of a company which has, a qualifying presence in a unitary state and, at any time when it or its associated company has such a qualifying presence, is entitled by virtue of arrangements having effect under section 497(1) of the Taxes Act (relief by agreement with other countries) to a tax credit under section 86 of the ^{M26}Finance Act 1972 (tax credit for certain recipients of qualifying distributions) in respect of qualifying distributions made to it by companies which are resident in the United Kingdom which is equal to one half of the tax credit to which an individual resident in the United Kingdom would be entitled in respect of such distributions.
- (2) Schedule 13 to this Act has effect to supplement the provisions of this section.
- (3) Notwithstanding anything to the contrary in the arrangements referred to above and subject to paragraph 2 of the said Schedule, a company to which this section applies shall not be entitled to claim under subsection (4) of the said section 86 to have the tax credit referred to in subsection (1) above set against the income tax chargeable on its income for the year of assessment in which the distribution is made or, where the credit exceeds that income tax, to have the excess paid to it.
- (4) A company shall be treated as having a qualifying presence in a unitary state if it is a member of a group and, in any period for which members of the group make up their accounts ending after the relevant date, 7½ per cent or more in value of the property, payroll or sales of such members situated in, attributable to or derived from the territory outside the United Kingdom, of which that state is a province, state or other part, are situated in, attributable to or derived from that state.
- (5) For the purposes of subsection (4) above—
 - (a) 7½ per cent or more in value of such property, payroll or sales as are referred to in that subsection shall be treated as being situated in, attributable to or derived from the state there referred to, unless, on making any claim under subsection (4) of the said section 86, the claimant proves otherwise to the satisfaction of the Board, and
 - (b) the value of the property, payroll or sales of a company shall be taken to be the value as shown in its accounts for the period in question and for this purpose the value of any property consisting of an interest in another member of the group or of any sales made to another such member shall be disregarded.
- (6) In this section “the relevant date” means the date on which this section comes into force or, if earlier, the earliest date on which a distribution could have been made in relation to which the provisions of this section are applied by an order made under this section.
- (7) This section shall come into force on such date as the Treasury may by order made by statutory instrument appoint and the Treasury may in addition by order made by statutory instrument—

Status: Point in time view as at 30/09/1993.

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- (a) prescribe that the provisions of this section shall apply in relation to distributions made on or after a date before that on which the order bringing them into force is made, being a date not earlier than 1st April 1985,
- (b) prescribe those provinces, states or other parts of a territory outside the United Kingdom which are to be treated as unitary states for the purposes of this section, and
- (c) prescribe that for subsections (4) and (5) of this section (or for those subsections as they have effect at any time) there shall be substituted either the following provisions—

“(4) A company shall be treated as having a qualifying presence in a unitary state if it is subject to tax in such a state for any period ending after the relevant date for which that state charges tax.

(5) For the purposes of subsection (4) above a company shall be regarded as subject to tax in a unitary state if it is liable there to a tax charged on its income or profits by whatever name called and shall be treated as so charged unless it proves otherwise to the satisfaction of the Board”

or the following provisions—

“(4) A company shall be treated as having a qualifying presence in a unitary state if it has its principal place of business in such a state at any time after the relevant date.

(5) For the purposes of subsection (4) above—

- (a) a company shall be treated as having its principal place of business in a unitary state unless it proves otherwise to the satisfaction of the Board, and
- (b) the principal place of business of a company shall include both the place where the central management and control of the company is exercised and the place where the immediate day-to-day management of the company as a whole is exercised.”

(8) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of the Commons House of Parliament.]

Textual Amendments

F82 S. 54 repealed by [Income and Corporation Taxes Act 1988 \(c.1\)](#), s. 844, [Sch. 31](#) (with saving in [Sch. 30 para. 20](#))

Marginal Citations

M26 1972 c. 41.

CHAPTER II

CAPITAL ALLOWANCES

Status: Point in time view as at 30/09/1993.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

Textual Amendments

F83 Ss. 55–59, 61–66 and Schs. 14–17 repealed by [Capital Allowance Act 1990 \(c. 1\)](#), s. 164(4)(5), **Sch. 2**

60 **F84**

Textual Amendments

F84 Ss. 51–53 repealed by [Income and Corporation Taxes Act 1988 \(c.1, SIF 1\)](#), s. 844, **Sch. 31**

61–66 **F85**

Textual Amendments

F85 Ss. 55–59, 61–66 and Schs. 14–17 repealed by [Capital Allowance Act 1990 \(c. 1\)](#), s. 164(4)(5), **Sch. 2**

CHAPTER III

CAPITAL GAINS

F86 **67**

Textual Amendments

F86 **S. 67** repealed (6.3.1992 with effect as mentioned in s. 289(1) of the 1992 repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289(1)(2), 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

F87 **68**

Textual Amendments

F87 **S. 68** repealed (6.3.1992 with effect as mentioned in s. 289(1) of the 1992 repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289(1)(2), 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

F88 **69**

Status: Point in time view as at 30/09/1993.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

Textual Amendments

F88 S. 69 repealed (6.3.1992 with effect as mentioned in s. 289(1) of the 1992 repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289(1)(2), 290, [Sch.12](#) (with s. 201(3), [Sch. 11](#) paras. 22, 26(2), 27)

F89 **70**

Textual Amendments

F89 S. 70 repealed (6.3.1992 with effect as mentioned in s. 289(1) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289(1)(2), 290, [Sch.12](#) (with s. 201(3), [Sch. 11](#) paras. 20, 26(2), 27)

F90 **71**

Textual Amendments

F90 S. 71 repealed (6.3.1992 with effect as mentioned in s. 289(1) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289(1)(2), 290, [Sch.12](#) (with s. 201(3), [Sch. 11](#) paras. 22, 26(2), 27)

72 ^{F91}

Textual Amendments

F91 S. 72 repealed (6.3.1992 with effect as mentioned in s. 289(1) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289(1)(2), 290, [Sch.12](#) (with s. 201(3), [Sch. 11](#) paras. 22, 26(2), 27)

CHAPTER IV

SECURITIES

73— ^{F92}
77.

Textual Amendments

F92 Ss. 34–49, 73–77, [Schs. 9–13](#), 18, 22, 23, 25 paras. 7–9 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, [Sch. 31](#)

Status: Point in time view as at 30/09/1993.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

PART III

STAMP DUTY

78— F93
80.

Textual Amendments

F93 Ss. 78, 79 and 80 repealed by Finance Act 1986 (c. 41, SIF 114), ss. 73, 74(1)(c)(3), 114, Sch. 23 Pt. IX(1) Note 1

81 Renounceable letters of allotment etc.

- (1) Subsection (2) below applies where there is an arrangement whereby—
 - (a) rights under an instrument are renounced in favour of a person (A),
 - (b) the rights are rights to shares in a company (company B), and
 - (c) A, or a person connected with A, or A and such a person together, has or have control of company B or will have such control in consequence of the arrangement.
- (2) The instrument shall not be exempt by virtue of section 65(1) of the Finance Act 1963^{F94} (renounceable letters of allotment etc.) or section 14(1) of the Finance Act (Northern Ireland) 1963^{F95} (corresponding provision for Northern Ireland) from stamp duty under or by reference to the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891^{F96}.
- (3) References in this section to shares in company B include references to its loan capital to which section 126(1) of the Finance Act 1976^{F97} does not apply by virtue of section 126(2) or (3) (convertible loan capital and excessive return capital).
- (4) In this section “ shares” includes stock.
- (5) For the purposes of this section a person has control of company B if he has power to control company B's affairs by virtue of holding shares in, or possessing voting power in relation to, company B or any other body corporate.
- (6) For the purposes of this section one person is connected with another if he would be so connected for the purposes of the [^{F98}Taxation of Chargeable Gains Act 1992].
- (7) This section applies to instruments if rights are renounced under them on or after 1st August 1985, except where the arrangement concerned includes an offer for the rights and on or before 27th June 1985 the offer became unconditional as to acceptances.

Textual Amendments

F94 1963 c. 25.
F95 1963 c. 22 (N. I.).
F96 1891 c. 39.
F97 1976 c. 40.
F98 Words in s. 81 substituted (6.4.1992) by 1992 (c. 12), s. 290, {Sch. 10 para. 9}

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

82 Gifts inter vivos.

- (1) The stamp duty chargeable by virtue of section 74 of the ^{M27}Finance (190910) Act 1910 (gifts inter vivos) is abolished.
- (2) In section 58(7) of the Stamp Act 1891 (valuation by reference to value for purposes of section 74 of 1910 Act) for the words from “the value” to the end there shall be substituted “the value at any time of any property, that value shall be taken to be the price which the property might reasonably be expected to fetch on a sale at that time in the open market.”
- (3) In section 90(5) of the ^{M28}Finance Act 1965 (which relates to valuation for the purposes of subsection (1) of that section and of section 74 of the 1910 Act) for “either of those provisions” there shall be substituted “that subsection”; and in section 4(5) of the ^{M29}Finance Act (Northern Ireland) 1965 (which makes similar provision) for “either of those provisions” there shall be substituted “that subsection”.
- (4) In section 15(1) of the ^{M30}Finance (No. 2) Act 1983 (relief from duty under section 74 of the 1910 Act for local constituency associations) for the words from “7 above” to the end there shall be substituted “7 above, section 57 of the ^{M31}Stamp Act 1891 shall not apply in relation to a conveyance or transfer by which the disposal or, in the case of paragraph (b), either of the disposals referred to in that paragraph is effected.”
- (5) An instrument—
 - (a) in respect of which stamp duty would be chargeable by virtue of section 74 of the 1910 Act apart from this section, and
 - (b) on which stamp duty is not chargeable under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891,
 shall not be deemed to be duly stamped unless it has, in accordance with section 12 of the 1891 Act, been stamped with a particular stamp denoting that it is duly stamped or that it is not chargeable with any duty.
- (6) This section applies to—
 - (a) instruments executed on or after 26th March 1985, and
 - (b) instruments executed on or after 19th March 1985 which are stamped on or after 26th March 1985.
- (7) For the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within subsection (6)(b) above shall be deemed to be that as varied in accordance with this section.
- (8) The preceding provisions of this section shall be deemed to have come into operation on 26th March 1985.
- (9) Subsection (5) above does not apply to an instrument which is required by regulations under section 87(1) or (2) below to be certified.

Modifications etc. (not altering text)

C13 Ss. 82(5), 84(9) restricted by S.I. 1987/516, reg. 5

Marginal Citations

M27 1910 c. 8.

Status: Point in time view as at 30/09/1993.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

M28 1965 c. 25.
M29 1965 c. 16 (N.I.)
M30 1983 c. 49.
M31 1891 c. 39.

83 Part III Transfers in connection with divorce etc.

- (1) Stamp duty under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the ^{M32}Stamp Act 1891 shall not be chargeable on an instrument by which property is conveyed or transferred from one party to a marriage to the other if the instrument—
 - (a) is executed in pursuance of an order of a court made on granting in respect of the parties of a decree of divorce, nullity of marriage or judicial separation, or
 - (b) is executed in pursuance of an order of a court which is made in connection with the dissolution or annulment of the marriage or the parties’ judicial separation and which is made at any time after the granting of such a decree, or
 - (c) is executed at any time in pursuance of an agreement of the parties made in contemplation of or otherwise in connection with the dissolution or annulment of the marriage or their judicial separation.
- (2) An instrument in respect of which stamp duty is not chargeable under the heading mentioned in subsection (1) above by virtue only of that subsection shall be chargeable under this subsection with stamp duty of 50p.
- (3) This section applies to instruments executed on or after 26th March 1985 and shall be deemed to have come into operation on that date.

Modifications etc. (not altering text)

C14 Ss. 83(2), 84(8) excluded by S.I. 1987/516, reg. 2(1)(2)(b)

Marginal Citations

M32 1891 c. 39.

84 Death: varying dispositions, and appropriations.

- (1) Where, within the period of two years after a person’s death, any of the dispositions (whether effected by will, under the law relating to intestacy or otherwise) of the property of which he was competent to dispose are varied by an instrument executed by the persons or any of the persons who benefit or would benefit under the dispositions, stamp duty under the heading “Conveyance or Transfer on Sale” in Schedule 1 to the Stamp Act 1891 shall not be chargeable on the instrument.
- (2) Subsection (1) above does not apply where the variation is made for any consideration in money or money’s worth other than consideration consisting of the making of a variation in respect of another of the dispositions.
- (3) Subsection (1) above applies whether or not the administration of the estate is complete or the property has been distributed in accordance with the original dispositions.
- (4) Where property is appropriated by a personal representative in or towards satisfaction of a general legacy of money, stamp duty under the heading mentioned in

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.
- (5) Where on an intestacy property is appropriated by a personal representative in or towards satisfaction of any interest of a surviving husband or wife in the intestate's estate, stamp duty under the heading mentioned in subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.
- (6) The reference in subsection (5) above to an interest in the intestate's estate—
- (a) includes a reference to the capital value of a life interest which the surviving husband or wife has under the ^{M33}Intestates' Estates Act 1952 elected to have redeemed, and
 - (b) in Scotland, includes a reference to prior rights (within the meaning of the ^{M34}Succession (Scotland) Act 1964) but, without prejudice to subsection (7) below, not to such rights as are mentioned in that subsection.
- (7) Where in Scotland, on an intestacy or otherwise, property is appropriated by a personal representative in or towards satisfaction of the right of a husband *tojus relictii*, of a wife *tojus relictiae* or of issue *tolegitim*, stamp duty under the heading mentioned in subsection (1) above shall not be chargeable on an instrument giving effect to the appropriation.
- (8) An instrument in respect of which stamp duty is not chargeable under the heading mentioned in subsection (1) above by virtue only of subsection (1), (4), (5) or (7) above shall be chargeable under this subsection with stamp duty of 50p.
- (9) But an instrument which is chargeable under subsection (8) above shall not be treated as duly stamped unless it has, in accordance with section 12 of the ^{M35}Stamp Act 1891, been stamped with a particular stamp denoting that it is duly stamped.
- (10) Subject to subsection (11) below, this section applies to instruments executed on or after 26th March 1985 and shall be deemed to have come into operation on that date.
- (11) Subsections (5) to (7) above and, so far as it relates to subsection (5) or (7), subsection (8) above apply to instruments executed on or after 1st August 1985.

Modifications etc. (not altering text)

C15 Ss. 83(2), 84(8) excluded by S.I. 1987/516, **reg. 2(1)(2)(b)**

C16 Ss. 82(5), 84(9) restricted by S.I. 1987/516, **reg. 5**

Marginal Citations

M33 1952 c. 64.

M34 1964 c. 41.

M35 1891 c. 39.

85 Repeal of certain fixed duties.

- (1) The headings which are specified in Schedule 1 to the Stamp Act 1891 and are mentioned in Schedule 24 to this Act shall be omitted.
- (2) In section 7 of the ^{M36}Finance Act 1907 (stamping of hirepurchase agreements) for the words from “shall only be charged” to the end there shall be substituted “shall not be charged with any stamp duty.”

Status: Point in time view as at 30/09/1993.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (3) This section and that Schedule apply to—
- (a) instruments executed on or after 26th March 1985, and
 - (b) instruments executed on or after 19th March 1985 which are not stamped before 26th March 1985.
- (4) For the purposes of section 14(4) of the ^{M37}Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution), the law in force at the time of execution of an instrument falling within subsection (3) (b) above shall be deemed to be that as varied in accordance with this section.
- (5) This section and that Schedule shall be deemed to have come into operation on 26th March 1985.

Marginal Citations

M36 1907 c. 13.

M37 1891 c. 39.

86 Abolition of duty on contract notes.

- (1) Subsections (1) and (2) of section 77 of the ^{M38}Finance (1909-10) Act 1910 (duty on contract notes) shall cease to have effect.
- (2) This section applies to contract notes made and executed on or after 26th March 1985, and shall be deemed to have come into operation on that date.

Marginal Citations

M38 1910 c. 8.

87 Certificates.

- (1) The Commissioners may make regulations providing that an instrument which is of a kind specified in them—
- (a) shall be certified to be an instrument of that kind, and
 - (b) shall not be treated as duly stamped if it is not so certified.
- (2) The Treasury may make regulations providing that an instrument which is of a kind specified in them, and which would apart from this subsection be chargeable with stamp duty of a fixed amount under any provision so specified, shall not be charged with such duty under that provision if it is certified to be an instrument of that kind.
- (3) Certification under this section shall be by such method as the regulations may specify, and in particular they may provide for a certificate to be borne by or attached to or otherwise associated with an instrument in such manner as they may specify.
- (4) A certificate under this section shall be in such form and signed by such person as the regulations may specify.
- (5) Regulations under this section may contain such incidental or consequential provisions as the Commissioners or Treasury (as the case may be) think fit.

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (6) Regulations under this section may make different provision for different cases or descriptions of case.
- (7) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

88 Exchange rates.

Section 12 of the ^{M39}Finance Act 1899 (fixed exchange rate for foreign currency) shall not apply to instruments executed on or after 1st August 1985, and section 6 of the ^{M40}Stamp Act 1891 (exchange rate at date of instrument) shall apply to instruments to which section 12 of the 1899 Act would apply if this Act had not been passed.

Marginal Citations

M39 1899 c. 9.

M40 1891 c. 39.

89 Exemption from section 28 of Finance Act 1931.

- (1) Section 28 of the ^{M41}Finance Act 1931 (production to Commissioners of instruments transferring land and furnishing of particulars) shall not apply in relation to any instrument (an “exempt instrument”) which falls within any class prescribed for the purposes of this section by regulations made by the Commissioners.
- (2) Regulations under this section may—
 - (a) provide that the particulars mentioned in Schedule 2 to the 1931 Act shall be furnished to the Commissioners, in accordance with the requirements of the regulations, in respect of exempt instruments or such descriptions of exempt instruments as may be prescribed by the regulations;
 - (b) make different provision in relation to different cases or kinds of case and in respect of different parts of Great Britain.
- (3) Any person who fails to comply with any requirement imposed by regulations made under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (as defined in section 75 of the ^{M42}Criminal Justice Act 1982).
- (4) The power to make regulations under this section shall be exercisable by statutory instrument; and a statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Section 35(x) of the 1931 Act (which gives power by regulations to exempt certain instruments in Scotland where particulars are obtained through the General Register of Sasines and which is superseded by the power given by this section) shall cease to have effect.
- (6) Regulations made under section 35(x) shall have effect after the commencement of this section as if they were made under this section and as if they imposed on the Keeper of the Registers of Scotland the duty mentioned in section 35(x).

Status: Point in time view as at 30/09/1993.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

Marginal Citations

M41 1931 c. 28.

M42 1982 c. 48.

PART IV

OIL TAXATION

90 Limitations on relief for exploration and appraisal expenditure.

- (1) With respect to expenditure incurred on or after 19th March 1985, section 5A of the ^{M43}Oil Taxation Act 1975 (allowance of exploration and appraisal expenditure) shall be amended in accordance with subsections (3) to (5) below.
- (2) with respect to expenditure incurred on or after 1st April 1986, in subsection (2) of the said section 5A (the purposes for which expenditure is to be incurred to qualify for relief), for the words “the United Kingdom, the territorial sea thereof”, in each place where they occur, there shall be substituted “the territorial sea of the United Kingdom”.
- ^{X1}(3) After subsection (2) there shall be inserted the following subsection—
- “(2A) Any reference in subsection (2) above to a designated area does not include a sector which, by virtue of subsection (3)(b) of section 107 of the Finance Act 1980 (transmedian fields), is deemed to be a designated area”
- ^{X1}(4) In subsection (5) (which modifies the application of certain provisions of section 5 of the ^{M44}Oil Taxation Act 1975 in relation to section 5A) in paragraph (c) (which excludes certain receipts from being taken into account under subsection (6) of section 5 of that Act and thereby prevents the expenditure which qualifies for relief being reduced on account of those receipts) for the words from “does not include” onwards there shall be substituted—
- “(i) includes a reference to a sum received, or treated by virtue of subsection (5A) below as received, from the disposal of oil won in the course of operations carried out for any of the purposes in paragraphs (a) to (c) of subsection (2) of this section; but
- (ii) does not include a reference to a sum received for the assignment of any of the rights conferred by a licence or of any interest in a licensed area”
- ^{X1}(5) After subsection (5) there shall be inserted the following subsections—
- “(5A) Subsection (5B) below applies in any case where—
- (a) oil which is won as mentioned in paragraph (c)(i) of subsection (5) above is either disposed of otherwise than in sales at arm’s length or appropriated to refining or to any use except for production purposes of an oil field, and
- (b) if that oil had been disposed of in a sale at arm’s length, then, by virtue of section 5(6) of this Act as applied by subsection (5) above, certain expenditure would have been reduced by reference to the receipt of a sum from that disposal.

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (5B) Where this subsection applies, the oil concerned shall be treated for the purposes of subsection (5)(c)(i) above and section 5(6) of this Act as having been disposed of for a sum equal to its market value at the material time in the calendar month in which it was disposed of or appropriated as mentioned in subsection (5A)(a) above and, accordingly, for those purposes—
- (a) a sum equal to that market value shall be treated as having been received from that disposal; and
 - (b) no account shall be taken of any sum actually received from the disposal of any of that oil.
- (5C) In the application of Schedule 3 to this Act for the purpose of ascertaining the market value of oil as mentioned in subsection (5B) above,—
- (a) in paragraph 2, in paragraph (c) of sub-paragraph (2) for the words from the beginning to “paragraph in question” there shall be substituted “the contract is for the sale of the whole quantity of oil whose market value falls to be ascertained for the purposes of section 5A(5B) of this Act”;
 - (b) sub-paragraph (3) and (4) of paragraph 2 shall be omitted; and
 - (c) any reference in paragraphs 2 and 2A to oil being relevantly appropriated shall be construed as a reference to its being appropriated as mentioned in subsection (5A)(a) above”

Editorial Information

- X1** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2) (3), 2(2), 3(3), 5(5)(a), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

Marginal Citations

- M43** 1975 c. 22.
M44 1975 c. 22.

91 Chargeable periods relevant to limit on tax payable and expenditure supplement.

- ^{x2}(1) In subsection (1A) of section 9 of the ^{M45}Oil Taxation Act 1975 (the chargeable periods in respect of which the tax payable is limited under that section) in paragraph (b) (chargeable periods after the net profit period), for the words “included in paragraph (a) above” there shall be substituted “which are included in paragraph (a) above and in which the amount of oil won and saved from the field exceeds 1,000 metric tonnes”; and at the end of that subsection there shall be added the words “and for the purposes of paragraph (b) above 1,100 cubic metres of gas at a temperature of 15 degrees centigrade and pressure of one atmosphere shall be counted as equivalent to one metric tonne”.
- (2) The amendments made by subsection (1) above has effect with respect to any oil field in respect of which the first chargeable period ends after 30th June 1985.
- ^{x2}(3) In section 111 of the Finance Act 1981 (restriction of expenditure supplement by reference to net profit period), in subsection (1) for the words from “in which” onwards

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there shall be substituted “which is the earliest chargeable period ending after a development decision has been made for the field in which—

- (a) the amount of oil won and saved from the field exceeds 1,000 metric tonnes (counting 1,100 cubic metres of gas at a temperature of 15 degrees centigrade and pressure of one atmosphere as equivalent to one metric tonne); and
- (b) a net profit from the field accrues to the participator;

and subsection (7) of section 5A of the principal Act (time when development decision is made) shall apply for the purposes of this subsection as it applies for the purposes of subsection (1)(c) of that section.”

- (4) The amendment made by subsection (3) above has effect with respect to chargeable periods ending after 30th June 1985.

Editorial Information

X2 Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2) (3), 2(2), 3(3), 5(5)(a), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

Marginal Citations

M45 1975 c. 22.

92 Qualifying asset; exclusion of land and certain buildings etc.

- (1) In subsection (1) of section 8 of the ^{M46}Oil Taxation Act 1983 (meaning of “qualifying asset”) after the word “means” there shall be inserted “subject to subsection (1A) below”.

^{X3}(2) After subsection (1) of that section there shall be inserted the following subsection—

- “(1A) Notwithstanding anything in subsection (1) above, the following assets are not qualifying assets for the purposes of this Act, namely,—
- (a) land or an interest in land; and
 - (b) a building or structure which is situated on land and which does not fall within any of sub-paragraphs (i) to (iv) of paragraph (c) of subsection (4) of section 3 of the principal Act.”

- (3) In section 15(3) of the Oil Taxation Act 1983 (interpretation) in the definition of “qualifying asset” for the words “section 8(1)” there shall be substituted “section 8”.

^{X3}(4) In paragraph 4 of Schedule 2 to that Act (cases where all the oil is exempt gas) at the end of sub-paragraph (2) (modifications of section 8(1)) there shall be inserted the following subparagraph—

- “(2A) In any case where this paragraph applies, paragraph (b) of subsection (1A) of section 8 of this Act shall have effect in relation to the participator as if—
- (a) for the words “does not” there were substituted “would not”; and
 - (b) at the end there were added the words “even if section 10(2) of the principal Act were disregarded””

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (5) This section has effect for determining whether any consideration which is received or receivable after 19th March 1985 constitutes tariff receipts or disposal receipts within the meaning of the ^{M47}Oil Taxation Act 1983.

Editorial Information

- X3** Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2) (3), 2(2), 3(3), 5(5)(a), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

Marginal Citations

- M46** 1983 c. 56.
M47 1983 c. 56.

PART V

MISCELLANEOUS AND SUPPLEMENTARY

93 Abolition of development land tax and tax on development gains.

- (1) Development land tax shall not be charged in respect of any disposal taking place on or after 19th March 1985; and for this purpose “disposal” includes a deemed disposal within the meaning of the ^{M48}Development Land Tax Act 1976 (in this section referred to as “the 1976 Act”) and any other event which, but for the repeals effected by Part X of Schedule 27 to this Act, would constitute a disposal of an interest in land for the purposes of that Act.
- (2) Without prejudice to subsection (1) above, no realised development value, within the meaning of the 1976 Act, shall accrue to any person on or by reason of any event occurring on or after 19th March 1985.
- (3) In any case where, immediately before 19th March 1985, liability for development land tax stands for the time being deferred as mentioned in section 27 of the 1976 Act, that liability shall be extinguished with effect from that date.
- (4) In any case where—
- (a) by virtue of paragraph 52 of Schedule 8 to the 1976 Act (postponement of tax on incorporation disposal) an amount of tax is not payable until a time determined in accordance with sub-paragraphs (4) to (6) of that paragraph, and
 - (b) that amount of tax has not become payable before 19th March 1985,
- that amount of tax shall be remitted with effect from that date.
- (5) Part I of Schedule 25 to this Act shall have effect for supplementing the preceding provisions of this section.
- (6) No part of a chargeable gain which accrues to any person on the disposal of an interest in land on or after 19th March 1985 shall be a development gain by virtue of Chapter 1 of Part III of the ^{M49}Finance Act 1974; and for this purpose “disposal of an interest in land” means any event which, but for the repeals effected by Part X of Schedule 27

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to this Act, would be (or be deemed to be) a disposal of an interest in land to which section 38 of that Act would apply.

- (7) In consequence of the preceding provisions of this section and of the repeals effected by Part X of Schedule 27 to this Act, the enactments specified in Part II of Schedule 25 to this Act shall have effect subject to the amendments in that Part; but those amendments do not affect the operation of the enactments concerned in relation to—
- (a) a disposal, as defined in subsection (1) above, taking place before 19th March 1985; or
 - (b) a disposal of an interest in land, as defined in subsection (6) above, taking place before that date.

Marginal Citations

- M48 1976 c. 24.
- M49 1974 c. 30.

94 Capital transfer tax: conditional exemption.

- (1) Schedule 26 to this Act (which contains amendments about conditional exemption) shall have effect.
- (2) Those amendments have effect in relation to events on or after 19th March 1985.

95 The national heritage: transfer of Treasury functions to Board.

- (1) The functions of the Treasury under—
 - (a) Part II, and section 76 of, and Schedules 3 to 5 to, the ^{M50}Capital Transfer Tax Act 1984 (exempt transfers);
 - ^{F99}(b)
 - (c) the enactments re-enacted by those provisions;and the corresponding functions of the Treasury under any earlier enactments relating to capital transfer tax or estate duty, are hereby transferred to the Commissioners of Inland Revenue (“the Board”).
- (2) This section shall not affect the validity of anything done by or in relation to the Treasury before the passing of this Act ; and anything which at that date is in the process of being done by or in relation to the Treasury may, if it relates to functions transferred by this section to the Board, be continued by or in relation to the Board.
- (3) Any authorisation, designation, direction, approval, determination, or other thing given, made or done by the Treasury in connection with functions transferred by this section shall have effect as if given, made or done by the Board in so far as that is required for continuing its effect after the passing of this Act.
- (4) Any enactment passed or instrument or other document made before the coming into operation of this section shall have effect, so far as may be necessary, for the purpose or in consequence of the transfer of functions affected by this section as if any reference to the Treasury were or included a reference to the Board.

Status: Point in time view as at 30/09/1993.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

Textual Amendments

F99 S. 95(1)(b) repealed (6.3.1992 with effect as mentioned in s. 289(1) of the repealing Act) by **Taxation of Chargeable Gains Act 1992** (c. 12), ss. 289(1)(2), 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 22, 26(2), 27)

Marginal Citations

M50 1984 C. 51

96 European Communities and Investment Bank: exemptions.

^{X4}(1) In section 126 of the ^{M51}Finance Act 1984 (tax exemptions in relation to designated international organisations) the following shall be inserted after subsection (3)—

“(4) The Treasury may, by order made by statutory instrument, designate any of the Communities or the European Investment Bank for the purposes of this section, and references in subsections (2) and (3) above to an organisation designated for the purposes of this section include references to a body so designated by virtue of this sub-section.

(5) Subsection (3) above, as it applies by virtue of subsection (4) above, shall be read as if the words “under the heading “Bearer Instrument” in Schedule 1 to the Stamp Act 1891” were omitted.”

(2) An order made by virtue of subsection (4) of section 126 of the Finance Act 1984 may revoke or vary the ^{M52}European Communities (Loan Stock) (Stamp Duties) Order 1972 (which provides for exemption from stamp duty in respect of issues and transfers of loan stock of the bodies referred to in that subsection, other than the Economic Community).

Editorial Information

X4 Part of the text of ss. 67(2), 72(6), 90(3)-(5), 91(1) and (3), 92(2)(4), 96(1), Sch. 19 paras. 1(2) (3), 2(2), 3(3), 5(5)(a), 20(2), Sch. 27 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals that may have been made prior to 1.2.1991

Marginal Citations

M51 1984 c. 43.

M52 S.I. 1972/1589.

97 Extension of Provisional Collection of Taxes Act 1968 to reduced and composite rates.

In section 1 of the ^{M53}Provisional Collection of Taxes Act 1968, after subsection (1) there shall be inserted the following subsection—

“(1A) The reference in subsection (1) above to income tax includes a reference to any amount payable as representing income tax—

(a) under section 343 of the Income and Corporation Taxes Act 1970 (dividends and interest payable by building societies); or

Status: Point in time view as at 30/09/1993.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1985. (See end of Document for details)

- (b) under section 27 of the Finance Act 1984 (interest paid on deposits with banks etc.).”

Marginal Citations

M53 1968 c. 2.

98 Short title interpretation, construction and repeals.

- (1) This Act may be cited as the Finance Act 1985.
- (2) In this Act “the Taxes Act” means the Income and Corporation Taxes Act [1988 ^{F100}].
- (3) Part II of this Act, so far as it relates to income tax, shall be construed as one with the Income Tax Acts, so far as it relates to Corporation Tax Act and, so far as it relates to capital gains tax, shall be construed as one with the ^{M54}Capital Gains Tax Act 1979.
- (4) Part III of this Act shall be construed as one with the Stamp Act 1891.
- (5) Part IV of this Act shall be construed as one with Part I of the ^{M55}Oil Taxation Act 1975.
- (6) The enactments specified in Schedule 27 to this Act are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

Textual Amendments

F100 Income and Corporation Taxes Act 1988 Sch. 29 para. 32

Marginal Citations

M54 1979 c. 14.

M55 1975 c. 22.

Status:

Point in time view as at 30/09/1993.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1985.