



# Finance (No.2) Act 1987

## 1987 CHAPTER 51

### PART I

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

### CHAPTER I

#### PROFIT-RELATED PAY

#### *Administration*

#### **11 Recovery of tax from scheme employer.**

- (1) This section applies where—
  - (a) payments of profit-related pay are made to an employee in accordance with a registered scheme, and
  - (b) in consequence of the relief given by this Chapter in respect of registered schemes, less income tax is deducted from the payments in accordance with section 204 of the Taxes Act (pay as you earn) than would have been deducted if the scheme had not been registered, and
  - (c) the registration of the scheme is subsequently cancelled with effect from a time before that relevant for the purposes of the relief.
- (2) Where this section applies, an amount equal to the shortfall in the deductions made in accordance with section 204 shall be payable by the scheme employer to the Board; and regulations under that section may include provision as to the collection and recovery of any such amount.

#### **12 Annual returns etc.**

- (1) After every profit period of a registered scheme, the scheme employer shall, within the period allowed by subsection (2) below, send to the Board—

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- (a) a return in such form and containing such information as the Board may prescribe, and
  - (b) a report by an independent accountant in such form and containing such information as the Board may prescribe, and stating that in his opinion the terms of the scheme have been complied with in respect of the profit period.
- (2) Subject to subsection (3) below, the period allowed for complying with subsection (1) above is—
- (a) seven months from the end of the profit period if the employment unit to which the scheme relates is an undertaking or part of an undertaking of a public company, and
  - (b) ten months from the end of the profit period in any other case.
- (3) If before the end of the period allowed by subsection (2) above the scheme employer gives the Board written notice that an extension of three months has been allowed under section 242(3) of the Companies Act 1985, or under Article 250(3) of the Companies (Northern Ireland) Order 1986, in relation to a financial year of the employer which corresponds with the profit period in question, then the period allowed by subsection (2) above shall be correspondingly extended.
- (4) In subsection (2)(a) above, “public company” has the meaning given by section 1(3) of the Companies Act 1985 or Article 12(3) of the Companies (Northern Ireland) Order 1986.

### **13 Other information.**

- (1) The Board may by written notice require any person to give them, within a period of thirty days or such longer period as may be specified in the notice, any information which is so specified and which—
- (a) that person has or can reasonably be required to obtain, and
  - (b) the Board consider they need to have in order to perform their functions under this Chapter.
- (2) Without prejudice to the generality of subsection (1)(b) above, the Board may in particular require a person under subsection (1) to give them—
- (a) information to enable them to determine whether the registration of a scheme should be cancelled;
  - (b) information to enable them to determine the liability to tax of any person who is or has been an employee to whom a registered scheme relates or who pays or has paid emoluments to such an employee;
  - (c) information about the administration of a profit-related pay scheme which is or has been a registered scheme;
  - (d) information about any change of person paying emoluments to employees to whom a registered scheme relates.
- (3) The scheme employer of a registered scheme shall by written notice inform the Board without delay if he becomes aware of anything that is or may be a ground for cancellation of the registration of the scheme.

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**14 Information: penalties.**

- (1) At the end of the first column in the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to furnish information etc.) there shall be added—

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“Section 13(1) of the Finance (No. 2) Act 1987”.

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- (2) At the end of the second column of that Table there shall be added—

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“Section 12(1) of the Finance (No. 2) Act 1987”.

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**15 Appeals.**

- (1) An appeal to the Special Commissioners may be made by a scheme employer—
- (a) against a refusal by the Board under section 8(2) or (4) above of an application for registration of the scheme;
  - (b) against a refusal by the Board of an application under section 9 above;
  - (c) against the cancellation by the Board of the registration of the scheme.
- (2) An appeal under this section shall be made by written notice given to the Board within thirty days of the day on which the scheme employer was notified of the refusal or, as the case may be, the cancellation.