



Finance (No. 2) Act 1987

1987 CHAPTER 51

PART I

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER V

TAXES MANAGEMENT PROVISIONS

Company returns

82 Return of profits.

- (1) With respect to any notice served after the appointed day, section 11 of the Management Act (return of profits) shall be amended in accordance with this section.
- (2) In subsection (1) for the words from “within the time limited by the notice” to the end there shall be substituted “not later than the final day determined under subsection (4) below a return [^{F1}such information as may be required in pursuance of the notice together with such accounts, statements and reports as may be so required.
 - (1A) The information which a company may be required to supply under this section is information which is relevant to the application of the Corporation Tax Acts to the company; and the accounts, statements and reports which a company may be so required to supply are accounts, statements and reports which are so relevant.”]
- (3) For subsection (2) there shall be substituted the following subsection—
 - “(2) A notice under this section may require a return [^{F2}for] any period specified in the notice (in this subsection referred to as “the specified period”) but, if the specified period does not coincide with an accounting period of the company and the company is within the charge to corporation tax in the whole or some part of the specified period, then—

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- (a) if an accounting period of the company ends in or at the end of the specified period, the notice shall be taken to require a return for that accounting period or, if there is more than one, for each of them;
- (b) if no accounting period of the company ends in or at the end of the specified period but there is a part of the specified period which does not fall within an accounting period of the company, the notice shall be taken to require a return for that part of the specified period; and
- (c) if the specified period begins in or at the beginning of an accounting period of the company and ends before the end of that period, the notice shall be of no effect and, accordingly, the company shall not be required to make any return pursuant to it.”

(4) For subsections (4) to (6) there shall be substituted the following subsections—

“(4) Subject to subsection (5) below, the final day for the delivery of any return required by a notice under this section shall be whichever is the later of—

- (a) the first anniversary of the last day of the period to which the return relates;
- (b) the first anniversary of the last day of that period of account of the company in which falls the last day of the accounting period (if any) to which the return relates; and
- (c) the end of the period of three months beginning on the day following that on which the notice was served.

(5) In paragraph (b) of subsection (4) above “period of account” has the same meaning as in the principal Act, but for the purposes of that paragraph the last day of a period of account which is longer than eighteen months shall be treated as the day on which expires the period of eighteen months beginning on the first day of the period of account.

(6) In relation to a company which—

- (a) is resident in the United Kingdom throughout the period to which the return relates (in this subsection referred to as “the return period”); and
- (b) is required under the ^{M1}Companies Act 1985 to prepare accounts for a period consisting of or including the return period,

the reference to accounts in subsection (1) above is a reference only to such accounts, containing such particulars and having annexed to them such documents, as are required under that Act to be so prepared.

[^{F3}(7) The statements which may be required in pursuance of a notice under this section include statements showing the amount of tax (if any) chargeable.]

(8) Different information, accounts, statements and reports may be required in pursuance of a notice under this section in relation to different descriptions of company [^{F3}or different descriptions of profits and losses; and, in particular, information may be so required with respect to tax recoverable by virtue of section [^{F4}419] of the principal Act (loans to participators) as if it were corporation tax, to advance corporation tax and to corporation tax already paid.]

[^{F5}(8A) A return under this section shall be amended by the company delivering to the inspector a document in such form, containing such information and accompanied by such statements as the Board may require.]

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- (9) In the application of this section to a company registered in Northern Ireland, references to the Companies Act 1985 shall be construed as references to the ^{M2}Companies (Northern Ireland) Order 1986.”

Textual Amendments

- F1** Finance Act 1990, s. 91(2)(9) with respect to any notice served after the appointed day. Previously “of the profits and losses of the company containing such information and accompanied by such accounts, statements and reports as, subject to subsection (6) below, may be required in pursuance of the notice.”—See [Finance \(No. 2\) Act 1987 \(c. 51, SIF 63:1\), s. 95](#)
- F2** Finance Act 1990, s. 91(3)(9) with respect to any notice served after the appointed day—see Finance (No. 2) Act 1987, s. 95. Previously “of profits and losses arising in”.
- F3** [S. 82\(7\)](#) and words “or different” to the end of s. 82(8) to be repealed by Finance Act 1990 s. 91(5)(6) (9), s. 132, Sch. 19 Pt V with respect to any notice served after the appointed day—see [Finance \(No. 2\) Act 1987 \(c. 51, SIF 63:1\), s. 95](#)
- F4** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\), s. 844, Sch. 29 para. 10\(2\)](#) from a day to be appointed. Previously “286”
- F5** Finance Act 1990, s. 91(7)(9) with respect to any notice served after the appointed day see Finance (No. 2) Act 1987 (c. 51 SIF 63:1), s. 95

Modifications etc. (not altering text)

- C1** The day appointed for the purposes of s. 82 is 31.12.1993, see [S.I. 1992/3066, art. 3\(2\)](#)

Marginal Citations

- M1** [1985 c. 6.](#)
- M2** [S.I. 1986/1032 \(N.I. 6\).](#)

83 Failure to make return for corporation tax.

With respect to failures to deliver returns required by notices served under section 11 of the Management Act after the appointed day, for section 94 of that Act (failure to make return for corporation tax) there shall be substituted the following section—

“94 Failure to make return for corporation tax.

- (1) If a company has been required by a notice served under section 11 of this Act (or under that section as extended by section 12 of this Act) to deliver a return for any period (in this section referred to as “the return period”) and the company fails to make proper delivery of the return, then, subject to subsections (3) and (5) below, the company shall be liable to a penalty which,—
- (a) if the return is delivered before the expiry of the period of three months beginning on the day following the final day for the delivery of the return, shall be £100; and
- (b) in any other case, shall be £200.
- (2) In relation to a return required by such a notice as is referred to in subsection (1) above,—
- (a) any reference in this section (however expressed) to the delivery of the return is a reference to its delivery together with the accompanying accounts, statements and reports referred to in section 11(1) of this Act; and

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- (b) any reference in this section to making proper delivery of the return is a reference to the delivery of the return on or before the day which (in accordance with section 11(4) of this Act) is the final day for the delivery of the return.
- (3) In a case where—
- (a) a company is required to deliver a return for a return period, and
 - (b) the return period is a period for which, under the ^{M3}Companies Act 1985, the company is required to deliver accounts to the Registrar of Companies,
- the company shall not be liable to a penalty under subsection (1) above by reason of a failure to make proper delivery of the return if the return is delivered on or before the day which is the last day for the delivery to the Registrar of the accounts referred to in paragraph (b) above.
- (4) In the application of this section to a company registered in Northern Ireland, the reference in subsection (3) above to the Companies Act 1985 shall be construed as a reference to the ^{M4}Companies (Northern Ireland) Order 1986 and references to the Registrar of Companies shall be construed accordingly.
- (5) In any case where—
- (a) a company is within the charge to corporation tax for three consecutive accounting periods, each of which is a return period, and
 - (b) at no time between the beginning of the first of those periods and the end of the last is the company outside the charge to corporation tax, and
 - (c) the company fails to make proper delivery of the return for the third of those periods, and
 - (d) the company was liable to a penalty under this section in respect of each of the first two of those periods,
- subsection (1) above shall have effect in relation to the failure referred to in paragraph (c) above as if for “£100” there were substituted “£500” and for “£200” there were substituted “£1,000”.
- (6) If a company which has been required as mentioned in subsection (1) above to deliver a return fails to deliver the return before the expiry of the period of eighteen months beginning on the day following the last day of the return period, then (without prejudice to any penalty under the preceding provisions of this section) the company shall be liable to a penalty which,—
- (a) if the return is delivered before the expiry of the period of two years beginning on the day following that last day, shall be 10 per cent. of the tax unpaid at the end of the eighteen months referred to above; and
 - (b) in any other case, shall be 20 per cent. of the tax unpaid at the end of those eighteen months.
- (7) In subsection (6) above “the tax unpaid” at any time means the amount by which the corporation tax chargeable on the profits of the company for the return period which then remains unpaid exceeds any income tax borne by deduction from payments included in those profits.
- (8) In determining for the purposes of subsection (7) above how much of the corporation tax chargeable on the profits of a company for the return period remains unpaid at any time, no account shall be taken of the discharge of any liability for that tax which, pursuant to a claim under subsection (3) of

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[^{F6}section 239(3) of the principal Act], is attributable to an amount of surplus advance corporation tax, as defined in that subsection, unless it is a surplus for an accounting period ending not later than two years after the end of the return period.”

Textual Amendments

F6 Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), s. 844, **Sch. 29 para 10(7)**

Modifications etc. (not altering text)

C2 The day appointed for the purposes of s. 83 is 31.12.1993, see S.I. 1992/3066, art. 3(2)

Marginal Citations

M3 1985 c. 6.

M4 S.I. 1986/1032 (N.I. 6).

84

(1) ^{F7}

(4) At the end of section 70 of the Management Act (evidential certificates) there shall be inserted the following subsection—

“(5) Where an amount has been assessed by way of penalty under section 94 of this Act and either no appeal has been brought against that assessment or the amount assessed has been confirmed or varied on appeal,—

(a) a certificate of an inspector or other officer of the Board that an amount is due by way of penalty under that section, and

(b) a certificate of a collector that payment of that amount has not been made to him or, to the best of his knowledge and belief, to any other collector, or to a person acting on his behalf or on behalf of another collector,

shall be sufficient evidence that the amount mentioned in the certificates is unpaid and is due to the Crown; and any document purporting to be such a certificate as is mentioned in this subsection shall be deemed to be such a certificate unless the contrary is proved.”

(5) ^{F8}

(9) This section has effect with respect to penalties incurred after the appointed day.

Textual Amendments

F7 S. 84(1)–(3) repealed by Finance Act 1989, s. 187, Sch. 17 Pt. VIII

F8 S. 84(5)–(8) repealed by Finance Act 1989, s. 187, Sch. 17 Pt. VIII

Modifications etc. (not altering text)

C3 Taxes Management Act 1970 (c. 9, SIF 63:1), s. 70(5) repealed by Finance Act 1989, s. 187, Sch. 17 Pt. VIII

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85 Interest on overdue corporation tax etc.

With respect to accounting periods ending after the appointed day, after section 87 of the Management Act there shall be inserted the following section—

“87A Interest on overdue corporation tax etc.

- (1) Corporation tax shall carry interest at the [^{F9}rate applicable under section 178 of the Finance Act 1989] from the date when the tax becomes due and payable (in accordance with section [^{F10}10] of the principal Act) until payment.
- (2) Subsection (1) above applies even if the date when the tax becomes due and payable (as mentioned in that subsection) is a non-business day within the meaning of section 92 of the ^{M5}Bills of Exchange Act 1882.
- (3) In relation to corporation tax assessed by virtue of section [^{F11}346(2) or 347(1) of the principal Act, section 267(3C) or 278(5) of the Income and Corporation Taxes Act 1970][^{F12}, section 96(8) of the Finance Act 1990] or section 87(4) of the ^{M6}Capital Gains Tax Act 1979 (which enable unpaid corporation tax assessed on a company to be assessed on other persons in certain circumstances), the reference in subsection (1) above to the date when the tax becomes due and payable is a reference to the date when it became due and payable by the company.
- (4) In any case where—
 - (a) there is in any accounting period of a company (in this subsection referred to as “the later period”) an amount of surplus advance corporation tax, as defined in subsection (3) of section [^{F13}239 of the principal Act], and
 - (b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is treated for the purposes of the said section [^{F13}239] as discharging liability for an amount of corporation tax for an earlier accounting period (in this subsection referred to as “the earlier period”), and
 - (c) disregarding the effect of the said subsection (3), an amount of corporation tax for the earlier period would carry interest in accordance with this section,

then, in determining the amount of interest payable under this section on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax which results from the said subsection (3) except so far as concerns interest for any time after the date on which any corporation tax for the later period became due and payable (as mentioned in subsection (1) above).
- (5) A sum assessed on a company by such an assessment as is referred to in [^{F14}section 252(5) of the principal Act] (recovery of payment of tax credit or interest on such a payment) shall carry interest at the [^{F15}rate applicable under section 178 of the Finance Act 1989] from the date when the payment of tax credit or interest was made until the sum assessed is paid.”

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Textual Amendments

- F9** Finance Act 1989, s. 179(1)(b) and **S.I. 1989/1298**. Previously “prescribed rate”. And see **S.I. 1989/1297** for regulations made, and interest rate set, under Finance Act 1989, s. 178
- F10** **Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)**, s. 844, **Sch. 29 para. 10(4)(a)**. Previously “243(4)”
- F11** **Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)**, s. 844, **Sch. 29 para. 10(4)(b)**. Previously “266(2), section 267(3C), section 277(1) or section 278(5) of the Taxes Act”.
- F12** Finance Act 1990, s. 96(12)
- F13** **Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)**, s. 844, **Sch. 29 para. 10(4)(c)(d)**. Previously “85 of the Finance Act 1972” and “85” respectively.
- F14** **Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1)**, s. 844, **Sch. 29 para. 10(4)(d)**. Previously “subsection (2) of section 102 of the Finance Act 1972”
- F15** Finance Act 1989, s. 179(1)(b), **S.I. 1989/1298**. Previously “prescribed rate”. And see **S.I. 1989/1297** for regulations made and interest rate set under Finance Act 1989, s. 178

Modifications etc. (not altering text)

- C4** The appointed day for the purposes of s. 85 is 30.9.1993, see **S.I. 1992/3066**, art. 2(2)(a)

Marginal Citations

- M5** 1882 c. 61.
M6 1979 c. 14.

86 Supplementary provisions as to interest on overdue tax.

- (1) At the end of section 69 of the Management Act (recovery of interest on tax) there shall be added the words “or, if it is interest on tax which is not in fact assessed, as if it were tax charged and due and payable under an assessment”.
- (2) In section 86 of the Management Act (interest on overdue tax), subsection (2)(d) and paragraph 5 of the Table (which relate to assessed corporation tax) shall be omitted.
- (3) References to section 86 of the Management Act in—
 - (a) sections 70(2) and 92 of that Act (evidence, and remission of interest in certain cases), and
 - (b) paragraph 4 of Schedule 15 to the ^{M7}Finance Act 1973 (territorial extension of tax),shall include a reference to section 87A of the Management Act.
- (4) In section 88 of the Management Act (interest on tax recovered to make good loss due to taxpayer’s fault)—
 - (a) in subsection (2) (exclusion of certain non-assessed tax) after the words “in relation to” there shall be inserted “corporation tax or”; and
 - (b) in subsection (5), paragraph (e) (which relates to corporation tax) shall be omitted.
- (5) In section 91 of the Management Act (effect on interest of reliefs) after subsection (1) there shall be inserted the following subsections—

“(1A) Where interest is payable under section 87A of this Act in respect of an amount of corporation tax for an accounting period, and relief from tax is given by a discharge of any of that corporation tax—

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- (a) such adjustment shall be made of the amount of interest payable under that section in respect of corporation tax for that accounting period, and
 - (b) such repayment shall be made of any amounts of interest previously paid under that section in respect of that corporation tax,
- as are necessary to secure that the total sum (if any) paid or payable under that section in respect of corporation tax for that accounting period is the same as it would have been if the tax discharged had never been charged.

(1B) Subsection (1A) above has effect subject to section 87A(4) of this Act.”

(6) At the beginning of subsection (2) of that section there shall be inserted the words “Subject to subsection (2A) below” and at the end of that subsection there shall be added the following subsection—

“(2A) In any case where—

- (a) relief from corporation tax is given to any person by repayment, and
- (b) that tax was paid for an accounting period ending after the day which is the appointed day for the purposes of section [F16]10 of the principal Act],

that person shall be entitled to require that the amount repaid shall be treated for the purposes of this section, so far as it will go, as if it were a discharge of the corporation tax charged on him for that period.”

(7) This section has effect with respect to accounting periods ending after the appointed day.

Textual Amendments

F16 [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, **Sch. 29 para. 10(6)**. Previously “90 of the Finance (No. 2) Act 1987”.

Modifications etc. (not altering text)

C5 The appointed day for the purposes of s. 86 is 30.9.1993, see [S.I. 1992/3066](#), art. 2(2)(a)

Marginal Citations

M7 [1973 c. 51](#).

87 Interest on tax overpaid.

F17

Textual Amendments

F17 [S. 87](#) repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, **Sch. 31**

88 Recovery of overpayment of tax etc.

(1) In section 30 of the Management Act (recovery of overpayment of tax etc.) after subsection (2) there shall be inserted the following subsection—

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“(2A) In any case where—

- (a) interest has been paid under section [F¹⁸826 of the principal Act] on a repayment of tax, and
- (b) the whole or any part of that repayment has been paid to any person but ought not to have been paid to him, and
- (c) interest ought not to have been paid on that repayment, either at all or to any extent,

then the amount of the repayment assessed under subsection (1) above may include an amount equal to the interest that ought not to have been paid.”

(2) After subsection (3) of that section there shall be inserted the following subsection—

“(3A) If, in a case not falling within subsection (2A) above,—

- (a) interest has been paid under section [F¹⁸826 of the principal Act] on a repayment of tax, and
 - (b) that interest ought not to have been paid, either at all or to any extent,
- then an amount equal to the interest that ought not to have been paid may be assessed and recovered as if it were unpaid corporation tax.”

(3) At the end of subsection (4) of that section there shall be added the words “and an assessment to recover—

- (a) an amount of corporation tax repaid to a company in respect of an accounting period, or
- (b) an amount of income tax repaid to a company in respect of a payment received by the company in any accounting period, or
- (c) interest on any such repayment of tax,

shall be treated as an assessment to corporation tax for the accounting period referred to in paragraph (a) or (b) above, as the case may be, and the sum assessed shall carry interest at the prescribed rate for the purposes of section 87A of this Act from the date when the payment being recovered was made until payment.”

(4) After subsection (4) of that section there shall be inserted the following subsection—

“(4A) Where an assessment is made under this section to recover—

- (a) corporation tax repaid to a company in respect of an accounting period, or
- (b) income tax repaid to a company in respect of payments received by the company in an accounting period,

and more than one repayment of that tax has been made in respect of that period, any sum recovered in respect of income tax or corporation tax repaid shall as far as possible be treated as relating to a repayment of that tax made later rather than to a repayment made earlier.”

(5) F19

(7) Subsections (1) to (4) above have effect with respect to the recovery of—

- (a) repayments of corporation tax paid for accounting periods ending after the appointed day,
- (b) repayments of income tax on payments received by a company in any such accounting period, and
- (c) interest on such repayments;

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..... F20

Textual Amendments

- F18** [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, **Sch. 29 para. 10(3)**. Previously “87 of the Finance (No. 2) Act 1987”.
- F19** [S. 88\(5\)\(6\)](#) repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, **Sch. 31**
- F20** Words repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, **Sch. 31**.

Modifications etc. (not altering text)

- C6** The appointed day for the purposes of s. 88 is 30.9.1993, see [S.I. 1992/3066](#), art. 2(2)(a)
- C7** [S. 88\(1\)-\(4\)](#) extended (2.10.1992) by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 438A, **Sch. 19AB para. 5(7)** (as inserted by [Finance Act 1991 \(c. 31\)](#), s. 49, **Sch 8**); [SI 1992/1746](#) art. 2).
- C8** [S. 88\(7\)](#) modified (2.10.1992) by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 438A, **Sch. 19AB para. 5(8)** (as inserted by [Finance Act 1991 \(c. 31\)](#), s. 49, **Sch. 8**); [SI 1992/1746](#) art.2.

89

..... F21

Textual Amendments

- F21** [S. 89](#) repealed by [Finance Act 1989 \(c. 26\)](#) s. 187(1), Sch. 17, Pt X

Status:

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Changes to legislation:

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