

Status: Point in time view as at 01/02/1991.

Changes to legislation: Income and Corporation Taxes Act 1988, PART II is up to date with all changes known to be in force on or before 12 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 19

APPORTIONMENT OF INCOME OF CLOSE COMPANIES

PART II

PROCEDURE

Notice of amount to be apportioned

- 13 (1) *Where in the case of any company the inspector proposes to apportion an amount under section 423 he shall serve on the company a notice showing the amount to be apportioned and, subject to any appeal under this paragraph and to paragraph 15 below, that notice shall be treated as conclusively establishing, both in relation to the company and for the purposes of any assessment under section 426, that an apportionment can be made in respect of that amount.*
- (2) *After a notice under sub-paragraph (1) above has been served on the company it shall not be altered except on appeal or in accordance with paragraph 15 below.*
- (3) *The company may by giving notice of appeal to the inspector within 30 days of the date of any notice under sub-paragraph (1) above appeal against that notice; and any notice under that sub-paragraph shall state the time within which notice of appeal may be given under this sub-paragraph.*
- (4) *Subject to paragraph 18(2) below, any appeal under this paragraph shall be to the General Commissioners except that the company may elect (in accordance with section 46(1) of the Management Act) to bring the appeal before the Special Commissioners instead of the General Commissioners.*
- (5) *The notice of appeal shall specify the grounds of appeal, but on the hearing of the appeal the Commissioners may allow the appellant to put forward any ground not specified in the notice, and take it into consideration if satisfied that the omission was not wilful or unreasonable.*
- (6) *If a company fails or refuses, on being required to do so under paragraph 17 below, to furnish a statement of any amount which in the case of that company could be apportioned under section 423, or renders a statement with which the inspector is not satisfied, the inspector may make an estimate of that amount to the best of his judgment, and any relevant decision taken by the inspector under this sub-paragraph may be reviewed on appeal under this paragraph.*
- (7) *Sections 113(1B) and (3) and 114(2) of the Management Act (supplementary provisions as to assessments and notices of assessment) shall apply to any notice*

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under sub-paragraph (1) above as if the determination of the amount to be shown therein were the making of an assessment and the notice were a notice of assessment.

Marginal Citations

M1 Source—[1972 Sch. 16 15-20; 1976 s.44(3); 1987 (No.2) s.61(5), (6)]

Notice of manner of apportionment

- 14 (1) *Where notice has been served on a company under paragraph 13 above showing an amount to be apportioned, the inspector shall serve on the company a notice showing the manner in which that amount is apportioned, (that is to say, the sum apportioned or sub-apportioned to each participator or, if the inspector thinks fit, to each class of share) and, subject to any appeal under this paragraph and to paragraph 15 below, that notice shall be treated, in relation to the company, as conclusively establishing the manner of apportionment.*
- (2) *Paragraph 13(2) to (5) and (7) above shall apply also to a notice under this paragraph, but any appeal against such a notice by virtue of this sub-paragraph shall be to the Special Commissioners.*
- (3) *The manner of apportionment shown in a notice under this paragraph may also be questioned on an appeal against any assessment made under section 426; and any relevant decision taken by the inspector under section 425(2) or (3) may be reviewed on an appeal under this paragraph or on an appeal against any such assessment.*

Revision of apportionment

- 15 (1) *If the inspector discovers that the amount apportioned in the case of any company is or has become insufficient, he shall serve on the company a further notice under paragraph 13(1) above showing the further amount which ought in his opinion to be apportioned, and a further notice relating to that amount shall then be served under paragraph 14 above.*
- (2) *Where the amount shown in a notice under sub-paragraph (1) of paragraph 13 above is excessive because the company's distributable income is smaller than it was taken to be for the purposes of that notice or because the company's distributions were greater than they were taken to be for those purposes, the inspector shall serve on the company a further notice under that sub-paragraph showing a reduced amount; and where such a notice is served—*
- (a) *a further notice shall also be served under paragraph 14 above making such amendments in any previous notice under that paragraph as may be required to take account of the reduction in the amount apportioned; and*
- (b) *there shall be made such adjustments by repayment or discharge of tax as may be required to secure that liabilities to tax under sections 426 to 430 are what they would have been if the notices originally served under paragraphs 13 and 14 above had been as amended by further notices served by virtue of this paragraph.*

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Protection by transmission of accounts

- 16 (1) *A close company may, at any time after the general meeting at which the accounts for any period of account are adopted, forward to the inspector a copy of those accounts, together with a copy of the report (if any) of the directors for that period and such further information (if any) as it may think fit, and may request the inspector to proceed under this paragraph in relation to any accounting period comprised in that period of account.*
- (2) *Sub-paragraph (1) above shall not apply if the company is neither a trading company nor a member of a trading group and has no estate or trading income.*
- (3) *Where the inspector receives a request made in accordance with sub-paragraph (1) above in relation to any accounting period, then, subject to sub-paragraph (4) below, he shall, within three months after receipt of the request, intimate to the company whether or not he proposes to make an apportionment in respect of the company for the accounting period under section 423.*
- (4) *On receiving a request made in accordance with sub-paragraph (1) above the inspector may, not later than three months after the receipt of the request, call on the company to furnish him with such further particulars as he may reasonably require; and, if the inspector does so, the time for giving the intimation required by sub-paragraph (3) above shall not expire before three months after he has been furnished with those particulars.*
- (5) *Where the inspector receives a request made in accordance with sub-paragraph (1) above in relation to any accounting period, and does not within the time limited by sub-paragraphs (3) and (4) above intimate his intention to make an apportionment in respect of the period, no such apportionment shall be made unless either—*
- (a) *the information accompanying the request, and any further particulars furnished to the inspector in connection therewith, are not such as to make full and accurate disclosure of all facts and considerations which are material to be known to him, or*
 - (b) *within 12 months of the end of the period any of the provisions of paragraph 10 above have effect in relation to the company.*

Information

- 17 (1) *The inspector may, by notice, require any company which is, or appears to him to be, a close company to furnish him within such time (not being less than 30 days) as may be specified in the notice with such particulars as he thinks necessary for the purposes of this Chapter.*
- (2) *If for those purposes any person in whose name any shares are registered is so required by notice by the inspector, he shall state whether or not he is the beneficial owner of the shares and, if not the beneficial owner of the shares or any of them, shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name.*
- (3) *Sub-paragraph (2) above shall apply in relation to loan capital as it applies in relation to shares.*

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- (4) *The inspector may, for the purposes of this Chapter, by notice require—*
- (a) *any company which appears to him to be a close company to furnish him with particulars of any bearer securities issued by the company, and the names and addresses of the persons to whom the securities were issued and the respective amounts issued to each person; and*
 - (b) *any person to whom securities were so issued, or to or through whom such securities were subsequently sold or transferred, to furnish him with such further information as he may require with a view to enabling him to ascertain the names and addresses of the persons beneficially interested in the securities.*

In this sub-paragraph “securities” includes shares, stocks, bonds, debentures and debenture stock and also any promissory note or other instrument evidencing indebtedness to a loan creditor of the company.

- (5) *Any power which the inspector may exercise under this paragraph for the purposes of this Chapter may also be exercised for the purposes of sections 419 to 422^{F1}.*

Textual Amendments

F1 *Sch.19 repealed by 1989 s.187 and Sch.17 Part V in relation to accounting periods beginning after 31 March 1989 (except paragraph 17 which repeal has effect on and after 27 July 1989).*

Exercise of functions by the Board

- 18 (1) *Any functions conferred by this Chapter on the inspector may also be exercised by the Board; and references in this Chapter to the inspector shall be construed accordingly.*
- (2) *Where by virtue of this paragraph a notice is served by the Board under paragraph 13(1) above any appeal under that paragraph shall be to the Special Commissioners^{F2}.*

Textual Amendments

F2 *Sch.19 repealed by 1989 s.187 and Sch.17 Part V in relation to accounting periods beginning after 31 March 1989 (except paragraph 17 which repeal has effect on and after 27 July 1989).*

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