



Finance Act 1988

1988 CHAPTER 39

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER V

MANAGEMENT

Assessment

119 Current year assessments.

- (1) Section 29 of the ^{M1}Taxes Management Act 1970 (assessment procedure) shall have effect subject to the following amendments.
- (2) In subsection (1), after paragraph (b) there shall be added—
 - “(c) where income tax is charged for a year of assessment in respect of income arising in that year, the inspector may make an assessment during that year to the best of his judgment, by reference to actual income or estimated income (whether from any particular source or generally) or partly by reference to one and partly by reference to the other.”
- (3) After subsection (1) there shall be inserted—
 - “(1A) Where an assessment is made by virtue of subsection (1)(c) above, any necessary adjustments shall be made after the end of the year (whether by way of assessment, repayment of tax or otherwise) to secure that tax is charged in respect of income actually arising in the year.”

Status: Point in time view as at 31/07/1998.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1988, chapter V. (See end of Document for details)

Marginal Citations

M1 1970 c. 9.

Returns of income and gains

120 Notice of liability to income tax.

(1) For section 7 of the Taxes Management Act 1970 there shall be substituted—

“7 Notice of liability to income tax.

- (1) Every person who is chargeable to income tax for any year of assessment and has neither—
- (a) delivered a return of his profits or gains or his total income for that year, nor
 - (b) received a notice under section 8 of this Act requiring such a return, shall, subject to subsections (2) to (5) below, within twelve months from the end of that year, give notice to the inspector that he is so chargeable, specifying each separate source of income.
- (2) A source of income is excluded for the purposes of subsection (1) above in relation to any year of assessment if—
- (a) all payments of, or on account of, income from it during that year, and
 - (b) all income from it for that year which does not consist of payments, have or has been taken into account in the making of deductions or repayments of tax under section 203 of the principal Act.
- (3) A source of income is excluded for the purposes of subsection (1) above in relation to any person and any year of assessment if all income from it for that year has been assessed or has been taken into account—
- (a) in determining that person’s liability to tax, or
 - (b) in the making of deductions or repayments of tax under section 203 of the principal Act.
- (4) A source of income is excluded for the purposes of subsection (1) above in relation to any person and any year of assessment if all income from it for that year is—
- (a) income from which income tax has been deducted;
 - (b) income from or on which income tax is treated as having been deducted or paid (not being income consisting of a payment to which section 559 of the principal Act applies); or
 - (c) income chargeable under Schedule F,
- and that person is not for that year liable to tax at a rate other than basic rate.
- (5) A person shall not be required to give notice under subsection (1) above in respect of a year of assessment if and to the extent that his total income for that year consists of income from sources—
- (a) which are excluded under subsections (2) to (4) above, or

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- (b) in respect of income from which he could not become liable to tax under assessments made more than twelve months after the end of that year.
- (6) If any person, for any year of assessment, fails to comply with subsection (1) above as respects any source of income, he shall be liable to a penalty not exceeding the amount of the tax for which he is liable, in respect of income from that source for that year, under assessments made more than twelve months after the end of that year.
- (7) In the case of a partner, the reference in subsection (6) above to the tax for which he is liable in respect of income from any source does not include a reference to tax assessable in the name of the partnership on so much of the income from that source as falls to be included in the total income of any other person.”
- (2) This section has effect with respect to notices required to be given for the year 1988-89 or any subsequent year of assessment.

^{F1}121

Textual Amendments

- ^{F1} S. 121 repealed (31.7.1998 with effect as mentioned in s. 117 of the repealing Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28), note

122 Notice of liability to capital gains tax.

- (1) Immediately before section 12 of the ^{M2}Taxes Management Act 1970 there shall be inserted—

“11A Notice of liability to capital gains tax.

- (1) Every person who is chargeable to capital gains tax for any year of assessment and has neither—
- (a) delivered a return of his chargeable gains for that year, nor
 - (b) received a notice under section 8 of this Act requiring such a return,
- shall, within twelve months from the end of that year, give notice to the inspector that he is so chargeable; but a person all of whose chargeable gains for a year of assessment have been assessed shall not be required to give notice under this subsection in respect of that year.
- (2) If any person, for any year of assessment, fails to comply with subsection (1) above, he shall be liable to a penalty not exceeding the amount of the tax for which he is liable, in respect of his chargeable gains for that year, under assessments made more than twelve months after the end of that year.
- (3) In this section references to a person’s chargeable gains for a year of assessment include, if section 45(1) of the Capital Gains Tax Act 1979 applies in relation to him and his wife in that year, her chargeable gains for that year.”

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(2) For subsection (1) of section 12 of that Act (information about chargeable gains) there shall be substituted—

“(1) Section 8 of this Act shall apply in relation to capital gains tax as it applies in relation to income tax, and subject to any necessary modifications.”

(3) This section has effect with respect to notices required to be given for the year 1988-89 or any subsequent year of assessment.

Marginal Citations

M2 1970 c. 9.

Other returns and information

123 Three year time limit.

(1) At the end of section 13 of the ^{M3}Taxes Management Act 1970 (returns by persons in receipt of taxable income belonging to others) there shall be added—

“(3) A notice under this section shall not require information as to any money, value, profits or gains received in a year of assessment ending more than three years before the date of the giving of the notice.”

(2) In section 17(1) of that Act (interest paid or credited by banks etc. without deduction of income tax) after the words “during a year” there shall be inserted the words “ of assessment ”.

(3) In section 18 of that Act (particulars of interest paid without deduction of income tax) after subsection (3) there shall be inserted—

“(3A) A notice under this section shall not require information with respect to interest paid in a year of assessment ending more than three years before the date of the giving of the notice.”

(4) At the end of section 19 of that Act (information for the purposes of Schedule A etc.) there shall be added—

“(4) A notice under this section shall not require information with respect to—

- (a) the terms applying to the lease, occupation or use of the land, or
- (b) consideration given, or
- (c) payments arising,

in a year of assessment ending more than three years before the date of the giving of the notice.”

(5) This section has effect with respect to notices given after the passing of this Act.

Marginal Citations

M3 1970 c. 9.

Status: Point in time view as at 31/07/1998.

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124 Returns of fees, commissions etc.

- (1) At the end of section 16 of the Taxes Management Act 1970 (fees, commissions etc.) there shall be added—

“(8) In subsection (2) above references to a body of persons include references to any department of the Crown, any public or local authority and any other public body.”

- (2) This section has effect with respect to payments made in the year 1988-89 or any subsequent year of assessment.

125 Other payments and licences etc.

After section 18 of the Taxes Management Act 1970 there shall be inserted—

“18A Other payments and licences etc.

- (1) Any person by whom any payment out of public funds is made by way of grant or subsidy shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice—
- (a) the name and address of the person to whom the payment has been made or on whose behalf the payment has been received, and
 - (b) the amount of the payment so made or received,
- and any person who receives any such payment on behalf of another person shall on being so required furnish to the inspector the name and address of the person on whose behalf the payment has been received, and its amount.
- (2) Any person by whom licences or approvals are issued or a register is maintained shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice—
- (a) the name and address of any person who is or has been the holder of a licence or approval issued by the first-mentioned person, or to whom an entry in that register relates or related; and
 - (b) particulars of the licence or entry.
- (3) The persons to whom this section applies include any department of the Crown, any public or local authority and any other public body.
- (4) A notice is not to be given under this section unless (in the inspector's reasonable opinion) the information required is or may be relevant to any tax liability to which a person is or may be subject, or the amount of any such liability.
- (5) A notice under this section shall not require information with respect to a payment which was made, or to a licence, approval or entry which ceased to subsist—
- (a) before 6th April 1988; or
 - (b) in a year of assessment ending more than three years before the date of the giving of the notice.
- (6) For the purposes of this section a payment is a payment out of public funds if it is provided directly or indirectly by the Crown, by any Government, public

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or local authority whether in the United Kingdom or elsewhere or by any Community institution.”

Production of accounts, books etc.

126 Production of documents relating to a person’s tax liability.

^{F2}(1)

(2) In subsection (7) of that section, for the words “this section”, in the first place where they occur, there shall be substituted the words “ subsection (1) or (3) above ”.

(3) After subsection (8) of that section there shall be inserted—

“(8A) If, on an application made by an inspector and authorised by order of the Board, a Special Commissioner gives his consent, the inspector may give such a notice as is mentioned in subsection (3) above but without naming the taxpayer to whom the notice relates; but such a consent shall not be given unless the Special Commissioner is satisfied—

- (a) that the notice relates to a taxpayer whose identity is not known to the inspector or to a class of taxpayers whose individual identities are not so known;
- (b) that there are reasonable grounds for believing that the taxpayer or any of the class of taxpayers to whom the notice relates may have failed or may fail to comply with any provision of the Taxes Acts;
- (c) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax; and
- (d) that the information which is likely to be contained in the documents to which the notice relates is not readily available from another source.

(8B) A person to whom there is given a notice under subsection (8A) above may, by notice in writing given to the inspector within thirty days after the date of the notice under that subsection, object to that notice on the ground that it would be onerous for him to comply with it; and if the matter is not resolved by agreement, it shall be referred to the Special Commissioners, who may confirm, vary or cancel that notice.”

(4) In section 20B of that Act—

- (a) in subsection (1), for the words “section 20(1) or (3)” there shall be substituted the words “ section 20(1), (3) or (8A) ” and for the words “section 20(7)” there shall be substituted the words “ section 20(7) or (8A) ”; and
- (b) in subsections (2), (4), (8) ^{F3} . . . , after the words “section 20(3)”, in each place where they occur, there shall be inserted the words “ or (8A) ”.

(5) In consequence of the amendment made by subsection (1) above, at the end of section 12(3) of the ^{M4}National Savings Bank Act 1971 (provisions which override prohibition on disclosure of information) there shall be added the words “ and of section 20(4)(b) of that Act (persons who may be required to produce documents relating to liability of taxpayer arising from business) ”.

(6) The amendments made by this section have effect with respect to notices given after the passing of this Act.

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Textual Amendments

- F2** S. 126(1) repealed(*with respect to notices given, or warrants issued on or after 27.07.1989*) by Finance Act 1989 (c. 26, SIF 63:1), s. 187(1), **Sch. 17 Pt. VIII** Note 2.
- F3** Words in s. 126(4)(b) repealed(*with respect to notices given, or warrants issued on or after 27.07.1989*) by Finance Act 1989 (c. 26, SIF 63:1), s. 187(1), **Sch. 17 Pt. VIII** Note 2.

Marginal Citations

- M4** 1971 c. 29.

127 Production of computer records etc.

- (1) Any provision made by or under the Taxes Acts which requires a person—
- (a) to produce, furnish or deliver any document or cause any document to be produced, furnished or delivered; or
 - (b) to permit the Board, or an inspector or other officer of the Board—
 - (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 [^{F4} were a reference to anything in which information of any description is recorded and any reference to a copy of a document were a reference to anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly].
- (2) In connection with tax, a person authorised by the Board 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.
- (3) Subsection (2) above applies to any document [^{F5}, within the meaning given by subsection (1) above,] which a person is or may be required by or under any provision of the Taxes Acts—
- (a) to produce, furnish or deliver, or cause to be produced, furnished or delivered; or
 - (b) to permit the Board, or an inspector or other officer of the Board, 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) fails to comply within a reasonable time with a requirement under paragraph (b) of that subsection,

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shall be liable to a penalty not exceeding £500.

^{F6}(5)

(6) This section shall be construed as if it were contained in the ^{M5}Taxes Management Act 1970.

Textual Amendments

- F4** Words in s. 127(1) substituted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para. 13(2)** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**
- F5** Words in s. 127(3) substituted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para. 13(3)** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**
- F6** S. 127(5) repealed (31.1.1997) by 1995 c. 38, s. 15, Sch. 1 para. 13(4), **Sch. 2** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

Marginal Citations

- M5** 1970 c. 9.

Interest and penalties

128 Interest on overdue or overpaid PAYE.

(1) In subsection (2) of section 203 of the Taxes Act 1988 (pay as you earn), for paragraph (d) there shall be substituted—

- “(d) for requiring the payment of interest on sums due to the Board which are not paid by the due date, for determining the date (being not less than 14 days after the end of the year of assessment in respect of which the sums are due) from which such interest is to be calculated and for enabling the repayment or remission of such interest;
- (dd) for requiring the payment of interest on sums due from the Board and for determining the date (being not less than one year after the end of the year of assessment in respect of which the sums are due) from which such interest is to be calculated;”

(2) At the end of that section there shall be added—

- “(9) Interest required to be paid by regulations under subsection (2) above shall be paid without any deduction of income tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.”

129 Two or more tax-geared penalties in respect of same tax.

(1) After section 97 of the Taxes Management Act 1970 there shall be inserted—

“97A Two or more tax-geared penalties in respect of same tax.

Where two or more penalties—

- (a) are incurred by any person and fall to be determined by reference to any income tax or capital gains tax with which he is chargeable for a year of assessment; or

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- (b) are incurred by any company and fall to be determined by reference to any corporation tax with which it is chargeable for an accounting period,

each penalty after the first shall be so reduced that the aggregate amount of the penalties, so far as determined by reference to any particular part of the tax, does not exceed whichever is or, but for this section, would be the greater or greatest of them, so far as so determined.”

- (2) Section 97A(a) of that Act has effect with respect to the year 1988-89 or any subsequent year of assessment; and section 97A(b) has effect with respect to accounting periods ending after 31st March 1989.

Company migration

130 Provisions for securing payment by company of outstanding tax.

- (1) The requirements of subsections (2) and (3) below must be satisfied before a company ceases to be resident in the United Kingdom otherwise than in pursuance of a Treasury consent.
- (2) The requirements of this subsection are satisfied if the company gives to the Board—
 - (a) notice of its intention to cease to be resident in the United Kingdom, specifying the time (“the relevant time”) when it intends so to cease;
 - (b) a statement of the amount which, in its opinion, is the amount of the tax which is or will be payable by it in respect of periods beginning before that time; and
 - (c) particulars of the arrangements which it proposes to make for securing the payment of that tax.
- (3) The requirements of this subsection are satisfied if—
 - (a) arrangements are made by the company for securing the payment of the tax which is or will be payable by it in respect of periods beginning before the relevant time; and
 - (b) those arrangements as so made are approved by the Board for the purposes of this subsection.
- (4) If any question arises as to the amount which should be regarded for the purposes of subsection (3) above as the amount of the tax which is or will be payable by the company in respect of periods beginning before the relevant time, that question shall be referred to the Special Commissioners, whose decision shall be final.
- (5) If any information furnished by the company for the purpose of securing the approval of the Board under subsection (3) above does not fully and accurately disclose all facts and considerations material for the decision of the Board under that subsection, any resulting approval of the Board shall be void.
- (6) In this section “Treasury consent” means a consent under section 765 of the Taxes Act 1988 (restrictions on the migration etc. of companies) given for the purposes of subsection (1)(a) of that section.
- (7) In this section and sections 131 and 132 below any reference to the tax payable by a company includes a reference to—
 - (a) any amount of tax which it is liable to pay under regulations made under section 203 of the Taxes Act 1988 (PAYE);

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- (b) any income tax which it is liable to pay in respect of payments to which section 350(4)(a) of that Act (company payments which are not distributions) applies;
 - (c) any amount representing income tax which it is liable to pay under—
 - (i) regulations made under section 476(1) of that Act (building societies);
 - (ii) section 479 of that Act (interest paid on deposits with banks etc.); or
 - (iii) section 555 of that Act (entertainers and sportsmen);
 - (d) any amount which it is liable to pay under section 559(4) of that Act (sub-contractors in the construction industry); and
 - (e) any amount which it is liable to pay under paragraph 4 of Schedule 15 to ^{M6}Finance Act 1973 (territorial extension of charge of tax).
- (8) In this section and section 132 below any reference to the tax payable by a company in respect of periods beginning before any particular time includes a reference to any interest on the tax so payable, or on tax paid by it in respect of such periods, which it is liable to pay in respect of periods beginning before or after that time.
- (9) In this section and sections 131 and 132 below any reference to a provision of the Taxes Act 1988 shall be construed, in relation to any time before 6th April 1988, as a reference to the corresponding enactment repealed by that Act.
- (10) This section and sections 131 and 132 below shall be deemed to have come into force on 15th March 1988.

Modifications etc. (not altering text)

C1 S. 130(1)-(6) excluded (3.5.1994 with application as mentioned in s. 249(5) of the amending Act) by 1994 c. 9, ss. 249, 250(1)

Marginal Citations

M6 1973 c. 51.

131 Penalties for failure to comply with section 130.

- (1) If a company fails to comply with section 130 above at any time, it shall be liable to a penalty not exceeding the amount of tax which is or will be payable by it in respect of periods beginning before that time and which has not been paid at that time.
- (2) If, in relation to a company (“the migrating company”), any person does or is party to the doing of any act which to his knowledge amounts to or results in, or forms part of a series of acts which together amount to or result in, or will amount to or result in, the migrating company failing to comply with section 130 above at any time and either—
- (a) that person is a person to whom subsection (3) below applies; or
 - (b) the act in question is a direction or instruction given (otherwise than by way of advice given by a person acting in a professional capacity) to persons to whom that subsection applies,
- that person shall be liable to a penalty not exceeding the amount of tax which is or will be payable by the migrating company in respect of periods beginning before that time and which has not been paid at that time.
- (3) This subsection applies to the following persons, namely—

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- (a) any company which has control of the migrating company; and
 - (b) any person who is a director of the migrating company or of a company which has control of the migrating company.
- (4) In any proceedings against any person to whom subsection (3) above applies for the recovery of a penalty under subsection (2) above—
- (a) it shall be presumed that he was party to every act of the migrating company unless he proves that it was done without his consent or connivance; and
 - (b) it shall, unless the contrary is proved, be presumed that any act which in fact amounted to or resulted in, or formed part of a series of acts which together amounted to or resulted in, or would amount to or result in, the migrating company failing to comply with section 130 above was to his knowledge such an act.
- (5) References in this section to a company failing to comply with section 130 above are references to the requirements of subsections (2) and (3) of that section not being satisfied before the company ceases to be resident in the United Kingdom otherwise than in pursuance of a Treasury consent; and in this subsection “Treasury consent” has the same meaning as in that section.
- (6) In this section and section 132 below “director”, in relation to a company—
- (a) has the meaning given by subsection (8) of section 168 of the Taxes Act 1988 (read with subsection (9) of that section); and
 - (b) includes any person falling within subsection (5) of section 417 of that Act (read with subsection (6) of that section);
- and any reference to a person having control of a company shall be construed in accordance with section 416 of that Act.

Modifications etc. (not altering text)

C2 S. 131(1)-(5) excluded (3.5.1994 with application as mentioned in s. 249 of the amending Act) by 1994 c. 9, ss. 249, 250(1)

132 Liability of other persons for unpaid tax.

- (1) This section applies where—
- (a) a company (“the migrating company”) ceases to be resident in the United Kingdom at any time; and
 - (b) any tax which is payable by the migrating company in respect of periods beginning before that time is not paid within six months from the time when it becomes payable.
- (2) The Board may, at any time before the end of the period of three years beginning with the time when the amount of the tax is finally determined, serve on any person to whom subsection (3) below applies a notice—
- (a) stating particulars of the tax payable, the amount remaining unpaid and the date when it became payable; and
 - (b) requiring that person to pay that amount within thirty days of the service of the notice.
- (3) This subsection applies to the following persons, namely—

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- (a) any company which is, or within the relevant period was, a member of the same group as the migrating company; and
 - (b) any person who is, or within the relevant period was, a controlling director of the migrating company or of a company which has, or within that period had, control over the migrating company.
- (4) Any amount which a person is required to pay by a notice under this section may be recovered from him as if it were tax due and duly demanded of him; and he may recover any such amount paid by him from the migrating company.
- (5) A payment in pursuance of a notice under this section shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.
- (6) In this section—
- “controlling director”, in relation to a company, means a director of the company who has control of it;
 - “group” has the meaning which would be given by section [F7170 of the Taxation of Chargeable Gains Act 1992] if in that section references to residence in the United Kingdom were omitted and for references to 75 per cent. subsidiaries there were substituted references to 51 per cent. subsidiaries;
 - “the relevant period” means—
 - (a) where the time when the migrating company ceases to be resident in the United Kingdom is less than twelve months after 15th March 1988, the period beginning with that date and ending with that time;
 - (b) in any other case, the period of twelve months ending with that time.

Textual Amendments

F7 Words in s. 132(6) substituted (6.3.1992 with effect as mentioned in s. 289 of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 16(6)** (with ss. 60, 101(1), 171, 201(3))

Appeals etc.

133 Jurisdiction of General Commissioners.

^{F8}(1)

(2) For subsection (2) of that section there shall be substituted—

“(2) Where—

- (a) the parties to any proceedings under the Taxes Acts which are to be heard by any General Commissioners have agreed, whether before or after the institution of the proceedings, that the proceedings shall be brought before the General Commissioners for a division specified in the agreement; and
- (b) in the case of an agreement made before the time of the institution of the proceedings, neither party has determined that agreement by a notice served on the other party before that time,

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the proceedings shall be brought before the General Commissioners for the division so specified, notwithstanding the said rules and any direction under subsection (1A) above.”

- (3) The amendment made by subsection (1) above shall have effect in relation to proceedings instituted on or after 1st January 1989; and the amendment made by subsection (2) above shall have effect in relation to proceedings instituted after the passing of this Act.

Textual Amendments

- F8** S. 133(1) repealed (29.4.1996 with effect as mentioned in Sch. 41 Pt. V(12) of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(12)**, note

134 General Commissioners for Northern Ireland.

- (1) In section 2 of the ^{M7}Taxes Management Act 1970 (General Commissioners)—
- (a) in subsection (1), after the words “who shall act for the same separate areas in Great Britain as heretofore” there shall be inserted the words “or for the separate areas in Northern Ireland defined by an order made by the Lord Chancellor”, and
 - (b) in subsection (2), after the words “England and Wales” there shall be inserted the words “or Northern Ireland”.
- (2) Section 58(1) of that Act (references in Taxes Acts to General Commissioners to be taken in relation to proceedings in Northern Ireland as references to Special Commissioners or, where section 59 applies, a county court) and section 59 of that Act (right in Northern Ireland to bring before a county court certain proceedings which in Great Britain may be brought before General Commissioners) shall cease to have effect.
- (3) In sections 260(3) and 281(4) of the Taxes Act 1988 (and the corresponding enactments repealed by that Act) and in section 11(4) of the Taxes Act 1970 (Special Commissioners to act instead of General Commissioners where taxpayers not resident in Great Britain) for the words “Great Britain” there shall be substituted the words “the United Kingdom”.
- (4) This section and section 135 below shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint.
- (5) Subject to the following provisions of this section, the preceding provisions of this section and section 135(2) below shall not affect any proceedings instituted before the day appointed under subsection (4) above.
- (6) Subject to subsection (8) below, where—
- (a) before the day appointed under subsection (4) above proceedings in Northern Ireland have been instituted before the Special Commissioners but not determined by them, and
 - (b) the proceedings might have been instituted before the General Commissioners if they had been proceedings in Great Britain,
- they shall be transferred to the General Commissioners; and subsection (3) of section 58 of the ^{M8}Taxes Management Act 1970 shall apply for the purposes of this

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subsection as for those of that section (the reference to proceedings in Great Britain being construed accordingly).

(7) Section 44 of that Act shall apply in relation to proceedings transferred to the General Commissioners under subsection (6) above as it applies to proceedings instituted before them; and in the case of an appeal so transferred a notice of election under rule 3 or 5 of Schedule 3 to that Act may be given at any time before the end of the period of thirty days beginning with the day appointed under subsection (4) above.

(8) Subsection (6) above shall not apply in relation to proceedings if—

- (a) before the end of that period an election that the proceedings be not transferred is made by any of the parties to the proceedings and written notice of the election is given to the other parties to the proceedings, or
- (b) they are proceedings under section 100 of the Taxes Management Act 1970 (recovery of penalties);

but subsections (5A) to (5E) of section 31 of that Act shall apply in relation to an election under paragraph (a) of this subsection in respect of an appeal against an assessment or the decision of an inspector on a claim as they apply in relation to an election under subsection (4) of that section.

(9) The Lord Chancellor may by order made by statutory instrument make provision supplementing or modifying the effect of subsections (5) to (8) above; and an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Subordinate Legislation Made

P1 S. 134(4) power fully exercised: 03.04.1989 appointed by S.I. 1989/473, art. 2.

Commencement Information

II S. 134 wholly in force at 03.04.1989 see s. 134(4) and S.I. 1989/473, art. 2.

Marginal Citations

M7 1970 c. 9.

M8 1970 c. 9.

135 Cases stated in Northern Ireland.

^{F9}(1)

(2) For subsection (3) of that section there shall be substituted—

“(3) For the purposes of this section—

- (a) “proceedings in Northern Ireland” means proceedings as respects which the place given by the rules in Schedule 3 to this Act is in Northern Ireland;
- (b) proceedings under section 102, 113(5), 260(3), 281(4), 343(10) or 783(9) of the principal Act (or the corresponding enactments repealed by that Act), section 11 of or paragraph 22 of Schedule 7 to the Income and Corporation Taxes Act 1970 or section 81 of the Capital Allowances Act 1968 (proceedings to which more than one taxpayer is a party) shall be proceedings in Northern Ireland if the place given

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by the rules in Schedule 3 to this Act in relation to each of the parties concerned in the proceedings is in Northern Ireland,
and sections 21 and 22 of the Interpretation Act (Northern Ireland) 1954 shall apply as if references in those provisions to any enactment included a reference to this section.”

Textual Amendments

F9 S. 135(1) repealed (1.9.1994) by S.I. 1994/1813, reg. 2(2), **Sch. 2 Pt. I**

Commencement Information

I2 S. 135 wholly in force at 03.04.1989 see s. 134(4) and S.I. 1989/473, **art. 2.**

Status:

Point in time view as at 31/07/1998.

Changes to legislation:

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