



# Finance Act 1994

## 1994 CHAPTER 9

### PART IV

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

### CHAPTER III

#### MANAGEMENT: SELF-ASSESSMENT ETC.

#### *Payment of tax*

#### **192 Payments on account of income tax.**

After Part V of the Management Act there shall be inserted the following section—

#### **“PART VA**

#### PAYMENT OF TAX

#### **59A Payments on account of income tax.**

- (1) This section applies to any person (the taxpayer) as regards a year of assessment if as regards the immediately preceding year—
- (a) he has been assessed to income tax under section 9 of this Act in any amount, and
  - (b) that amount (the assessed amount) exceeds the amount of any income tax which has been deducted at source, and
  - (c) the amount of the excess (the relevant amount) is not less than such amount as may be prescribed by regulations made by the Board, and
  - (d) the proportion which the relevant amount bears to the assessed amount is not less than such proportion as may be so prescribed.

*Status: Point in time view as at 03/05/1994.*

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- (2) Subject to subsection (3) below, the taxpayer shall make two payments on account of his liability to income tax for the year of assessment—
- (a) the first on or before the 31st January in that year, and
  - (b) the second on or before the next following 31st July;
- and, subject to subsection (4) below, each of those payments on account shall be of an amount equal to 50 per cent. of the relevant amount.
- (3) If, at any time before the 31st January next following the year of assessment, the taxpayer makes a claim under this subsection stating—
- (a) his belief that he will not be assessed to income tax for that year, or that the amount in which he will be so assessed will not exceed the amount of income tax deducted at source, and
  - (b) his grounds for that belief,
- each of the payments on account shall not be, and shall be deemed never to have been, required to be made.
- (4) If, at any time before the 31st January next following the year of assessment, the taxpayer makes a claim under this subsection stating—
- (a) his belief that the amount in which he will be assessed to income tax for that year will exceed the amount of income tax deducted at source by a stated amount which is less than the relevant amount, and
  - (b) his grounds for that belief,
- the amount of each of the payments on account required to be made shall be, and shall be deemed always to have been, equal to 50 per cent. of the stated amount.
- (5) Where the taxpayer makes a claim under subsection (3) or (4) above, there shall be made all such adjustments, whether by the repayment of amounts paid on account or otherwise, as may be required to give effect to the provisions of that subsection.
- (6) Where the taxpayer fraudulently or negligently makes any incorrect statement in connection with a claim under subsection (3) or (4) above, he shall be liable to a penalty not exceeding the difference between—
- (a) the amount which would have been payable on account if he had made a correct statement, and
  - (b) the amount of the payment on account (if any) made by him.
- (7) The provisions of the Income Tax Acts as to the recovery of income tax shall apply to an amount falling to be paid on account of tax in the same manner as they apply to an amount of tax.
- (8) In this section any reference to income tax deducted at source is a reference to—
- (a) income tax deducted or treated as deducted from any income or treated as paid on any income, or
  - (b) any amount which, in respect of the year of assessment, is to be deducted at source under section 203 of the principal Act in a subsequent year, or is a tax credit to which section 231 of that Act applies.”

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## **193 Payment of income tax and capital gains tax.**

After section 59A of the Management Act there shall be inserted the following section—

### **“59B Payment of income tax and capital gains tax.**

- (1) Subject to subsection (2) below, the difference between—
  - (a) the amount of income tax and capital gains tax contained in a person’s self-assessment under section 9 of this Act for any year of assessment, and
  - (b) the aggregate of any payments on account made by him in respect of that year (whether under section 59A of this Act or otherwise) and any income tax which in respect of that year has been deducted at source,shall be payable by him or (as the case may be) repayable to him as mentioned in subsection (3) or (4) below.
- (2) The following, namely—
  - (a) any amount which, in the year of assessment, is deducted at source under section 203 of the principal Act in respect of a previous year, and
  - (b) any amount which, in respect of the year of assessment, is to be deducted at source under that section in a subsequent year, or is a tax credit to which section 231 of that Act applies,shall be respectively deducted from and added to the aggregate mentioned in subsection (1)(b) above.
- (3) In a case where the person—
  - (a) gave the notice required by section 7 of this Act within six months from the end of the year of assessment, but
  - (b) was not given notice under section 8 or 8A of this Act until after the 31st October next following that year,the difference shall be payable or repayable at the end of the period of three months beginning with the day on which the notice under section 8 or 8A was given.
- (4) In any other case, the difference shall be payable or repayable on or before the 31st January next following the year of assessment.
- (5) Where a person’s self-assessment under section 9 of this Act is amended under section 9(4), section 28A(2), (3) or (4) or section 30B(2) of this Act, any amount of tax which is payable or repayable by virtue of the amendment shall, subject to section 55(6) and (9) of this Act, be payable or (as the case may be) repayable—
  - (a) in a case where notice of the amendment is given after, or less than 30 days before, the day given by subsection (3) or (4) above, on or before the day following the end of the period of 30 days beginning with the day on which notice is given; and
  - (b) in any other case, on or before the day given by subsection (3) or (4) above.
- (6) Any amount of income tax or capital gains tax which is payable by virtue of an assessment made under section 29 of this Act shall be payable on the day following the end of the period of 30 days beginning with the day on which the notice of assessment is given.

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- (7) In this section any reference to income tax deducted at source is a reference to income tax deducted or treated as deducted from any income or treated as paid on any income.”

#### 194 **Surcharges on unpaid income tax and capital gains tax.**

After section 59B of the Management Act there shall be inserted the following section—

**“59C Surcharges on unpaid income tax and capital gains tax.**

- (1) This section applies in relation to any income tax or capital gains tax which has become payable by a person (the taxpayer) in accordance with section 55 or 59B of this Act.
- (2) Where any of the tax remains unpaid on the day following the expiry of 28 days from the due date, the taxpayer shall be liable to a surcharge equal to 5 per cent. of the unpaid tax.
- (3) Where any of the tax remains unpaid on the day following the expiry of 6 months from the due date, the taxpayer shall be liable to a further surcharge equal to 5 per cent. of the unpaid tax.
- (4) Where the taxpayer has incurred a penalty under section 7, 93(5) or 95 of this Act, no part of the tax by reference to which that penalty was determined shall be regarded as unpaid for the purposes of subsection (2) or (3) above.
- (5) An officer of the Board may impose a surcharge under subsection (2) or (3) above; and notice of the imposition of such a surcharge—
  - (a) shall be served on the taxpayer, and
  - (b) shall state the day on which it is issued and the time within which an appeal against the imposition of the surcharge may be brought.
- (6) A surcharge imposed under subsection (2) or (3) above shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the end of the period of 30 days beginning with the day on which the surcharge is imposed until payment.
- (7) An appeal may be brought against the imposition of a surcharge under subsection (2) or (3) above within the period of 30 days beginning with the date on which the surcharge is imposed.
- (8) Subject to subsection (9) below, the provisions of this Act relating to appeals shall have effect in relation to an appeal under subsection (7) above as they have effect in relation to an appeal against an assessment to tax.
- (9) On an appeal under subsection (7) above section 50(6) to (8) of this Act shall not apply but the Commissioners may—
  - (a) if it appears to them that, throughout the period of default, the taxpayer had a reasonable excuse for not paying the tax, set aside the imposition of the surcharge; or
  - (b) if it does not so appear to them, confirm the imposition of the surcharge.

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- (10) Inability to pay the tax shall not be regarded as a reasonable excuse for the purposes of subsection (9) above.
- (11) The Board may in their discretion—
- (a) mitigate any surcharge under subsection (2) or (3) above, or
  - (b) stay or compound any proceedings for the recovery of any such surcharge,
- and may also, after judgment, further mitigate or entirely remit the surcharge.
- (12) In this section—
- “the due date”, in relation to any tax, means the date on which the tax becomes due and payable;
  - “the period of default”, in relation to any tax which remained unpaid after the due date, means the period beginning with that date and ending with the day before that on which the tax was paid.”

## **195 Payment of corporation tax.**

After section 59C of the Management Act there shall be inserted the following section—

### **“59D Payment of corporation tax.**

- (1) Corporation tax for an accounting period shall be due and payable on the day following the expiry of nine months from the end of that period.
- (2) If, with respect to any accounting period—
- (a) a company has paid an amount of corporation tax; and
  - (b) at any time before an assessment to corporation tax for the period becomes final, the company has grounds for believing that, by reason of a change in the circumstances of the case since the tax was paid, the amount paid exceeds the company’s probable liability for corporation tax,
- the company may, by notice given to an officer of the Board on or after the date which, under section 826 of the principal Act, is the material date in relation to that tax, make a claim for the repayment to the company of the amount of that excess.
- (3) A notice under subsection (2) above shall state the amount which the company considers should be repaid and the grounds referred to in paragraph (b) of that subsection.
- (4) If, apart from this subsection, a claim would fall to be made under subsection (2) above at a time when—
- (a) the company has appealed against, or against an amendment of, such an assessment as is referred to in paragraph (b) of that subsection, but
  - (b) that appeal has not been finally determined,
- that subsection shall have effect as if, for the words from “make a claim” to “excess”, there were substituted the words “apply to the Commissioners to whom the appeal stands referred for a determination of the amount which

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should be repaid to the company pending a determination of the company's liability for the accounting period in question'.

- (5) An application under subsections (2) and (4) above shall be determined in the same way as an appeal.
- (6) Where on an appeal against, or against an amendment of, an assessment to corporation tax a company makes an application under section 55(3) or (4) of this Act, that application may be combined with an application under subsections (2) and (4) above (relating to tax which was paid prior to the assessment)."

**Status:**

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