



# Finance Act 1994

## 1994 CHAPTER 9

### PART IV

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

### CHAPTER III

#### MANAGEMENT: SELF-ASSESSMENT ETC.

#### *Income tax and capital gains tax*

#### **178 Personal and trustee's returns**

(1) For subsection (1) of section 8 of the Management Act (personal return) there shall be substituted the following subsections—

“(1) For the purpose of establishing the amounts in which a person is chargeable to income tax and capital gains tax for a year of assessment, he may be required by a notice given to him by an officer of the Board—

- (a) to make and deliver to the officer, on or before the day mentioned in subsection (1A) below, a return containing such information as may reasonably be required in pursuance of the notice, and
- (b) to deliver with the return such accounts, statements and documents, relating to information contained in the return, as may reasonably be so required.

(1A) The day referred to in subsection (1) above is—

- (a) the 31st January next following the year of assessment, or
- (b) where the notice under this section is given after the 31st October next following the year, the last day of the period of three months beginning with the day on which the notice is given.

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- (1B) In the case of a person who carries on a trade, profession, or business in partnership with one or more other persons, a return under this section shall include each amount which, in any relevant statement, is stated to be equal to his share of any income, loss or charge for the period in respect of which the statement is made.
- (1C) In subsection (1B) above “relevant statement” means a statement which, as respects the partnership, falls to be made under section 12AB of this Act for a period which includes, or includes any part of, the year of assessment or its basis period.”
- (2) For subsection (1) of section 8A of the Management Act (trustee’s return) there shall be substituted the following subsections—
- “(1) For the purpose of establishing the amounts in which a trustee of a settlement, and the settlors and beneficiaries, are chargeable to income tax and capital gains tax for a year of assessment, an officer of the Board may by a notice given to the trustee require the trustee—
- (a) to make and deliver to the officer, on or before the day mentioned in subsection (1A) below, a return containing such information as may reasonably be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts, statements and documents, relating to information contained in the return, as may reasonably be so required;
- and a notice may be given to any one trustee or separate notices may be given to each trustee or to such trustees as the officer thinks fit.
- (1A) The day referred to in subsection (1) above is—
- (a) the 31st January next following the year of assessment, or
  - (b) where the notice under this section is given after the 31st October next following the year, the last day of the period of three months beginning with the day on which the notice is given.”

## **179 Returns to include self-assessment**

For section 9 of the Management Act there shall be substituted the following section—

### **“9 Returns to include self-assessment**

- (1) Subject to subsection (2) below, every return under section 8 or 8A of this Act shall include an assessment (a self-assessment) of the amounts in which, on the basis of the information contained in the return, the person making the return is chargeable to income tax and capital gains tax for the year of assessment.
- (2) A person shall not be required to comply with subsection (1) above if he makes and delivers his return for a year of assessment—
  - (a) on or before the 30th September next following the year, or
  - (b) where the notice under section 8 or 8A of this Act is given after the 31st July next following the year, within the period of two months beginning with the day on which the notice is given.

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- (3) Where, in making and delivering a return, a person does not comply with subsection (1) above, an officer of the Board shall if subsection (2) above applies, and may in any other case—
- (a) make the assessment on his behalf on the basis of the information contained in the return, and
  - (b) send him a copy of the assessment so made;
- and references in the following provisions of this Act to a person's self-assessment include references to an assessment made on a person's behalf under this subsection.
- (4) Subject to subsection (5) below—
- (a) at any time before the end of the period of nine months beginning with the day on which a person's return is delivered, an officer of the Board may by notice to that person so amend that person's self-assessment as to correct any obvious errors or mistakes in the return (whether errors of principle, arithmetical mistakes or otherwise); and
  - (b) at any time before the end of the period of twelve months beginning with the filing date, a person may by notice to an officer of the Board so amend his self-assessment as to give effect to any amendments to his return which he has notified to such an officer.
- (5) No amendment of a self-assessment may be made under subsection (4) above at any time during the period—
- (a) beginning with the day on which an officer of the Board gives notice of his intention to enquire into the return, and
  - (b) ending with the day on which the officer's enquiries into the return are completed.
- (6) In this section and section 9A of this Act "the filing date" means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act."

## **180 Power to enquire into returns**

After section 9 of the Management Act there shall be inserted the following section—

### **"9A Power to enquire into returns**

- (1) An officer of the Board may enquire into—
- (a) the return on the basis of which a person's self-assessment was made under section 9 of this Act, or
  - (b) any amendment of that return on the basis of which that assessment has been amended by that person,
- if, before the end of the period mentioned in subsection (2) below, he gives notice in writing to that person of his intention to do so.
- (2) The period referred to in subsection (1) above is—
- (a) in the case of a return delivered or amendment made on or before the filing date, the period of twelve months beginning with that date;
  - (b) in the case of a return delivered or amendment made after that date, the period ending with the quarter day next following the first anniversary of the day on which the return or amendment was delivered or made;

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and the quarter days for the purposes of this subsection are 31st January, 30th April, 31st July and 31st October.

- (3) A return or amendment which has been enquired into under subsection (1) above shall not be the subject of a further notice under that subsection.”

### *Corporation tax*

#### **181 Return of profits**

- (1) In subsection (1) of section 11 of the Management Act (return of profits), after the words “as may”, in both places where they occur, there shall be inserted the word “reasonably”.
- (2) In subsection (1A) of that section, after the words “a company may”, in both places where they occur, there shall be inserted the word “reasonably”.
- (3) After subsection (2) of that section there shall be inserted the following subsections—
- “(2A) In the case of a company which carries on a trade, profession or business in partnership with one or more other persons, a return under this section shall include each amount which, in any relevant statement, is stated to be equal to its share of any income, loss or charge for the period in respect of which the statement is made.
- (2B) In subsection (2A) above “relevant statement” means a statement which, as respects the partnership, falls to be made under section 12AB of this Act for a period which includes, or includes any part of, the period in respect of which the return is required.”

#### **182 Return of profits to include self-assessment**

After section 11 of the Management Act there shall be inserted the following section—

##### **“11AA Return of profits to include self-assessment**

- (1) Every return under section 11 of this Act for an accounting period shall include an assessment (a self-assessment) of the amount in which, on the basis of the information contained in the return, the company is chargeable to corporation tax for that period.
- (2) Subject to subsection (3) below—
- (a) at any time before the end of the period of nine months beginning with the day on which a company’s return is delivered, an officer of the Board may by notice to the company so amend the company’s self-assessment as to correct any obvious errors or mistakes in the return (whether errors of principle, arithmetical mistakes or otherwise); and
- (b) at any time before the end of the period of twelve months beginning with the filing date, a company may by notice to an officer of the Board so amend its self-assessment as to give effect to any amendments to its return which it has notified to such an officer.
- (3) No amendment of a self-assessment may be made under subsection (2) above at any time during the period—

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- (a) beginning with the day on which an officer of the Board gives notice of his intention to enquire into the return, and
- (b) ending with the day on which the officer's enquiries into the return are completed.

(4) In this section and section 11AB of this Act “the filing date” means the day mentioned in section 11(4) of this Act.”

### **183 Power to enquire into return of profits**

After section 11AA of the Management Act there shall be inserted the following section—

#### **“11AB Power to enquire into return of profits**

- (1) An officer of the Board may enquire into—
  - (a) the return on the basis of which a company's self-assessment was made under section 11AA of this Act, or
  - (b) any amendment of that return on the basis of which that assessment was amended under subsection (2)(b) of that section,if, before the end of the period mentioned in subsection (2) below, he gives notice in writing to the company of his intention to do so.
- (2) The period referred to in subsection (1) above is—
  - (a) in the case of a return delivered or amendment made on or before the filing date, the period of twelve months beginning with that date;
  - (b) in the case of a return delivered or amendment made after that date, the period ending with the quarter day next following the first anniversary of the day on which the return or amendment was delivered or made;and the quarter days for the purposes of this subsection are 31st January, 30th April, 31st July and 31st October.
- (3) A return or amendment which has been enquired into under subsection (1) above shall not be the subject of a further notice under that subsection.”

#### *Partnerships*

### **184 Partnership return**

After section 12 of the Management Act there shall be inserted the following section—

#### *“Partnerships*

##### **12AA Partnership return**

- (1) Where a trade, profession or business is carried on by two or more persons in partnership, for the purpose of facilitating—
  - (a) the assessment to income tax for a year of assessment, and
  - (b) the assessment to corporation tax for any period,

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of each partner who is liable to be so assessed, an officer of the Board may act under subsection (2) or (3) below (or both).

- (2) An officer of the Board may by a notice given to the partners require such person as is identified in accordance with rules given with the notice—
- (a) to make and deliver to the officer in respect of such period as may be specified in the notice, on or before such day as may be so specified, a return containing such information as may reasonably be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts and statements as may reasonably be so required.
- (3) An officer of the Board may by notice given to any partner require the partner—
- (a) to make and deliver to the officer in respect of such period as may be specified in the notice, on or before such day as may be so specified, a return containing such information as may reasonably be required in pursuance of the notice, and
  - (b) to deliver with the return such accounts and statements as may reasonably be so required;
- and a notice may be given to any one partner or separate notices may be given to each partner or to such partners as the officer thinks fit.
- (4) In the case of a partnership which includes one or more individuals, the day specified in a notice under subsection (2) or (3) above shall not be earlier than—
- (a) the 31st January next following the year of assessment concerned, or
  - (b) where the notice under this section is given after the 31st October next following the year, the last day of the period of three months beginning with the day on which the notice is given.
- (5) In the case of a partnership which includes one or more companies, the day specified in a notice under subsection (2) or (3) above shall not be earlier than—
- (a) the first anniversary of the end of the relevant period, or
  - (b) where the notice under this section is given more than nine months after the end of the relevant period, the last day of the period of three months beginning with the day on which the notice is given;
- and the relevant period for the purposes of this subsection and subsection (6) below is the period in respect of which the return is required.
- (6) Every return under this section shall include—
- (a) a declaration of the name, residence and tax reference of each of the persons who have been partners—
    - (i) for the whole of the relevant period, or
    - (ii) for any part of that period,
 and, in the case of a person falling within sub-paragraph (ii) above, of the part concerned; and
  - (b) a declaration by the person making the return to the effect that it is to the best of his knowledge correct and complete.
- (7) Every return under this section shall also include, if the notice under subsection (2) or (3) above so requires—
- (a) with respect to any disposal of partnership property during a period to which any part of the return relates, the like particulars as if the

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- partnership were liable to tax on any chargeable gain accruing on the disposal, and
- (b) with respect to any acquisition of partnership property, the particulars required under section 12(2) of this Act.
- (8) A notice under this section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.
- (9) Notices under this section may require different information, accounts and statements in relation to different descriptions of partnership.
- (10) In this section “residence”, in relation to a company, means its registered office.”

### **185 Partnership return to include partnership statement**

After section 12AA of the Management Act there shall be inserted the following section—

#### **“12AB Partnership return to include partnership statement**

- (1) Every return under section 12AA of this Act shall include a statement (a partnership statement) of the following amounts, namely—
- (a) in the case of each period of account ending within the period in respect of which the return is made—
    - (i) the amount of income or loss from each source which, on the basis of the information contained in the return, has accrued to or has been sustained by the partnership for that period, and
    - (ii) the amount of each charge which, on that basis, was a charge on the income of the partnership for that period; and
  - (b) in the case of each such period and each of the partners, the amount which, on that basis, is equal to his share of that income, loss or charge.
- (2) Subject to subsection (3) below—
- (a) at any time before the end of the period of nine months beginning with the day on which a person’s return is delivered, an officer of the Board may by notice to that person so amend that person’s partnership statement as to correct any obvious errors or mistakes in the return (whether errors of principle, arithmetical mistakes or otherwise); and
  - (b) at any time before the end of the period of twelve months beginning with the filing date, a person may by notice to an officer of the Board so amend his partnership statement as to give effect to any amendments to his return which he has notified to such an officer.
- (3) No amendment of a partnership statement may be made under subsection (2) above at any time during the period—
- (a) beginning with the day on which an officer of the Board gives notice of his intention to enquire into the return, and
  - (b) ending with the day on which the officer’s enquiries into the return are completed.

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- (4) Where a partnership statement is amended under subsection (2) above, the officer shall by notice to the partners so amend their self-assessments under section 9 or 11AA of this Act as to give effect to the amendments of the partnership statement.
- (5) In this section—
- “filing date” means the day specified in the notice under subsection (2) or, as the case may be, subsection (3) of section 12AA of this Act;
- “period of account”, in relation to a partnership, means any period for which accounts are drawn up.”

## **186 Power to enquire into partnership return**

After section 12AB of the Management Act there shall be inserted the following section—

### **“12AC Power to enquire into partnership return**

- (1) An officer of the Board may enquire into—
- (a) the return on the basis of which a person’s partnership statement was made under section 12AB of this Act, or
  - (b) any amendment of that return on the basis of which that statement has been amended by that person,
- if, before the end of the period mentioned in subsection (2) below, he gives notice in writing of his intention to do so to that person or any successor of that person.
- (2) The period referred to in subsection (1) above is—
- (a) in the case of a return delivered or amendment made on or before the filing date, the period of twelve months beginning with that date;
  - (b) in the case of a return delivered or amendment made after that date, the period ending with the quarter day next following the first anniversary of the day on which the return or amendment was delivered or made;
- and the quarter days for the purposes of this subsection are 31st January, 30th April, 31st July and 31st October.
- (3) The giving of notice under subsection (1) above at any time shall be deemed to include the giving of notice under section 9A(1) or, as the case may be, section 11AB(1) of this Act to each partner who—
- (a) at that time, has made a return under section 9 or 11 of this Act, or
  - (b) at any subsequent time, makes such a return.
- (4) A return or amendment which has been enquired into under subsection (1) above shall not be the subject of a further notice under that subsection.
- (5) In this section “the filing date” means the day specified in the notice under subsection (2) or, as the case may be, subsection (3) of section 12AA of this Act.
- (6) In this Act “successor”, in relation to a person who—
- (a) has made and delivered a return under section 12AA of this Act, but
  - (b) is no longer a partner or is otherwise no longer available,



means such other partner who may at any time be nominated for the purposes of this subsection by the majority of the partners at that time, and “predecessor” and “successor”, in relation to a person so nominated, shall be construed accordingly.”

*Enquiries: procedure*

**187 Power to call for documents**

Immediately before section 20 of the Management Act there shall be inserted the following section—

**“19A Power to call for documents for purposes of certain enquiries**

- (1) This section applies where an officer of the Board gives notice under section 9A(1), 11AB(1) or 12AC(1) of this Act to any person (the taxpayer) of his intention to enquire into—
  - (a) the return on the basis of which the taxpayer’s self-assessment or partnership statement was made, or
  - (b) any amendment of that return on the basis of which that assessment or statement has been amended by the taxpayer.
- (2) For the purpose of enquiring into the return or amendment, the officer may at the same or any subsequent time by notice in writing require the taxpayer, within such time (which shall not be less than 30 days) as may be specified in the notice—
  - (a) to produce to the officer such documents as are in the taxpayer’s possession or power and as the officer may reasonably require for the purpose of determining whether and, if so, the extent to which the return is incorrect or incomplete or the amendment is incorrect, and
  - (b) to furnish the officer with such accounts or particulars as he may reasonably require for that purpose.
- (3) To comply with a notice under subsection (2) above, copies of documents may be produced instead of originals; but—
  - (a) the copies must be photographic or otherwise by way of facsimile; and
  - (b) if so required by a notice in writing given by the officer, in the case of any document specified in the notice, the original must be produced for inspection by him within such time (which shall not be less than 30 days) as may be specified in the notice.
- (4) The officer may take copies of, or make extracts from, any document produced to him under subsection (2) or (3) above.
- (5) A notice under subsection (2) above does not oblige the taxpayer to produce documents or furnish accounts or particulars relating to the conduct of any pending appeal by him.
- (6) An appeal may be brought against any requirement imposed by a notice under subsection (2) above to produce any document or to furnish any accounts or particulars.

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- (7) An appeal under subsection (6) above must be brought within the period of 30 days beginning with the date on which the notice under subsection (2) above is given.
- (8) Subject to subsection (9) below, the provisions of this Act relating to appeals shall have effect in relation to an appeal under subsection (6) above as they have effect in relation to an appeal against an assessment to tax.
- (9) On an appeal under subsection (6) above section 50(6) to (8) of this Act shall not apply but the Commissioners may—
  - (a) if it appears to them that the production of the document or the furnishing of the accounts or particulars was reasonably required by the officer of the Board for the purpose mentioned in subsection (2) above, confirm the notice under that subsection so far as relating to the requirement; or
  - (b) if it does not so appear to them, set aside that notice so far as so relating.
- (10) Where, on an appeal under subsection (6) above, the Commissioners confirm the notice under subsection (2) above so far as relating to any requirement, the notice shall have effect in relation to that requirement as if it had specified 30 days beginning with the determination of the appeal.
- (11) Neither the taxpayer nor the officer of the Board shall be entitled to require a case to be stated under section 56 of this Act following the determination of an appeal under subsection (6) above.
- (12) Where this section applies by virtue of a notice given under section 12AC(1) of this Act, any reference in this section to the taxpayer includes a reference to any predecessor or successor of his.”

## **188 Amendment of self-assessment**

Immediately before section 29 of the Manageml be inserted the following section—

### **“28A Amendment of self-assessment where enquiries made**

- (1) This section applies where an officer of the Board gives notice under section 9A(1) or 11AB(1) of this Act to any person (the taxpayer) of his intention to enquire into—
  - (a) the return on the basis of which the taxpayer’s self-assessment was made, or
  - (b) any amendment of that return on the basis of which an amendment (the taxpayer’s amendment) of that assessment has been made by the taxpayer.
- (2) If, at any time before the officer’s enquiries are completed, the officer is of opinion that—
  - (a) the tax contained in the taxpayer’s self-assessment is insufficient and, in a case falling within subsection (1)(b) above, the deficiency is attributable (wholly or partly) to the taxpayer’s amendment, and
  - (b) unless the assessment is immediately so amended as to make good the deficiency or, as the case may be, so much of the deficiency as is so attributable, there is likely to be a loss of tax to the Crown,

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he may by notice to the taxpayer amend the assessment accordingly.

- (3) At any time in the period of 30 days beginning with the day on which the officer's enquiries are completed, the taxpayer may so amend his self-assessment—
  - (a) as to make good any deficiency or eliminate any excess which, on the basis of the conclusions stated in the officer's notice under subsection (5) below, is a deficiency or excess which could be made good or eliminated under subsection (4) below; or
  - (b) in a case falling within subsection (1)(a) above where the return was made before the end of the period of twelve months beginning with the filing date, as to give effect to any amendments to the return which he has notified to the officer.
- (4) If, at any time in the period of 30 days beginning immediately after the period mentioned in subsection (3) above, the officer is of opinion that—
  - (a) the tax contained in the taxpayer's self-assessment is insufficient or excessive, and
  - (b) in a case falling within subsection (1)(b) above, the deficiency or excess is attributable (wholly or partly) to the taxpayer's amendment,he may by notice to the taxpayer so amend the assessment as to make good or eliminate the deficiency or excess or, where paragraph (b) above applies, so much of the deficiency or excess as is so attributable.
- (5) Subject to subsection (6) below, the officer's enquiries shall be treated as completed at such time as he by notice—
  - (a) informs the taxpayer that he has completed his enquiries, and
  - (b) states his conclusions as to the amount of tax which should be contained in the taxpayer's self-assessment.
- (6) At any time before a notice is given under subsection (5) above the taxpayer may apply to the Commissioners for a direction that the officer shall give such a notice within such period as may be specified in the direction; and the Commissioners shall give such a direction unless they are satisfied that the officer has reasonable grounds for not giving such a notice.
- (7) Proceedings under subsection (6) above shall be heard and determined in the same way as an appeal.
- (8) In this section "filing date" means the day mentioned in section 8(1A), section 8A(1A) or, as the case may be, section 11(4) of this Act."

## **189 Amendment of partnership statement**

After section 28A of the Management Act there shall be inserted the following section—

### **"28B Amendment of partnership statement where enquiries made**

- (1) This section applies where an officer of the Board gives notice under section 12AC(1) of this Act to any person (the taxpayer) of his intention to enquire into—

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- (a) the return on the basis of which the taxpayer's partnership statement was made, or
  - (b) any amendment of that return on the basis of which an amendment (the taxpayer's amendment) of that statement has been made by the taxpayer.
- (2) At any time in the period of 30 days beginning with the day on which the officer's enquiries are completed, the taxpayer may so amend his partnership statement—
  - (a) as to make good any deficiency or eliminate any excess which, on the basis of the conclusions stated in the officer's notice under subsection (5) below, is a deficiency or excess which could be made good or eliminated under subsection (3) below; or
  - (b) in a case falling within subsection (1)(a) above where the return made before the end of the period of twelve months beginning with the filing date, as to give effect to any amendments to the return which he has notified to the officer.
- (3) If, at any time in the period of 30 days beginning immediately after the period mentioned in subsection (2) above, the officer is of opinion that—
  - (a) any amount contained in the taxpayer's partnership statement is insufficient or excessive, and
  - (b) in a case falling within subsection (1)(b) above, the deficiency or excess is attributable (wholly or partly) to the taxpayer's amendment,he may by notice to the taxpayer so amend the statement as to make good or eliminate the deficiency or excess or, where paragraph (b) above applies, so much of the deficiency or excess as is so attributable.
- (4) Where a partnership statement is amended under this section, the officer shall by notice to each of the partners so amend his self-assessment under section 9 or 11AA of this Act as to give effect to the amendments of the partnership statement.
- (5) Subject to subsection (6) below, the officer's enquiries shall be treated as completed at such time as he by notice—
  - (a) informs the taxpayer that he has completed his enquiries, and
  - (b) states his conclusions as to the amounts which should be contained in the taxpayer's partnership statement.
- (6) Subsections (6) and (7) of section 28A of this Act apply for the purposes of subsection (5) above as they apply for the purposes of subsection (5) of that section.
- (7) In this section "filing date" means the day specified in the notice under subsection (2) or, as the case may be, subsection (3) of section 12AA of this Act.
- (8) Any reference in this section to the taxpayer includes a reference to any predecessor or successor of his."

*Determinations and assessments to protect revenue*

**190 Determination of tax where no return delivered**

After section 28B of the Management Act there shall be inserted the following section—

**“28C Determination of tax where no return delivered**

- (1) Where—
- (a) a notice has been given to any person under section 8, 8A or 11 of this Act (the relevant section), and
  - (b) the required return is not delivered on or before the filing date,
- an officer of the Board may make a determination of the amounts in which, to the best of his information and belief, the person who should have made the return is chargeable to income tax and capital gains tax for the year of assessment or (as the case may be) is chargeable to corporation tax for the accounting period.
- (2) Notice of any determination under this section shall be served on the person in respect of whom it is made and shall state the date on which it is issued.
- (3) Until such time (if any) as it is superseded by a self-assessment made under section 9 or 11AA of this Act (whether by the taxpayer or an officer of the Board) on the basis of information contained in a return under the relevant section, a determination under this section shall have effect for the purposes of Parts VA, VI, IX and XI of this Act as if it were such a self-assessment.
- (4) Where—
- (a) an officer of the Board has commenced any proceedings for the recovery of any tax charged by a determination under this section; and
  - (b) before those proceedings are concluded, the determination is superseded by such a self-assessment as is mentioned in subsection (3) above,
- those proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not been paid.
- (5) No determination under this section, and no self-assessment superseding such a determination, shall be made otherwise than—
- (a) before the end of the period of five years beginning with the filing date; or
  - (b) in the case of such a self-assessment, before the end of the period of twelve months beginning with the date of the determination.
- (6) In this section “the filing date” means the day mentioned in section 8(1A), section 8A(1A) or, as the case may be, section 11(4) of this Act.”

**191 Assessment where loss of tax discovered**

- (1) For section 29 of the Management Act there shall be substituted the following section—

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### **“29 Assessment where loss of tax discovered**

- (1) If an officer of the Board or the Board discover, as regards any person (the taxpayer) and a chargeable period—
- (a) that any profits which ought to have been assessed to tax have not been assessed, or
  - (b) that an assessment to tax is or has become insufficient, or
  - (c) that any relief which has been given is or has become excessive,
- the officer or, as the case may be, the Board may, subject to subsections (2) and (3) below, make an assessment in the amount, or the further amount, which ought in his or their opinion to be charged in order to make good to the Crown the loss of tax.
- (2) Where—
- (a) the taxpayer has made and delivered a return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period, and
  - (b) the situation mentioned in subsection (1) above is attributable to an error or mistake in the return as to the basis on which his liability ought to have been computed,
- the taxpayer shall not be assessed under that subsection in respect of the chargeable period there mentioned if the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.
- (3) Where the taxpayer has made and delivered a return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period, he shall not be assessed under subsection (1) above—
- (a) in respect of the chargeable period mentioned in that subsection; and
  - (b) in the case of a return under section 8 or 8A, in the same capacity as that in which he made and delivered the return,
- unless one of the two conditions mentioned below is fulfilled.
- (4) The first condition is that the situation mentioned in subsection (1) above is attributable to fraudulent or negligent conduct on the part of the taxpayer or a person acting on his behalf.
- (5) The second condition is that at the time when an officer of the Board—
- (a) ceased to be entitled to give notice of his intention to enquire into the taxpayer’s return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period; or
  - (b) informed the taxpayer that he had completed his enquiries into that return,
- the officer could not have been reasonably expected, on the basis of the information made available to him before that time, to be aware of the situation mentioned in subsection (1) above.
- (6) For the purposes of subsection (5) above, information is made available to an officer of the Board if—
- (a) it is contained in the taxpayer’s return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period (the return), or in any accounts, statements or documents accompanying the return;

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- (b) it is contained in any claim made as regards the relevant chargeable period by the taxpayer acting in the same capacity as that in which he made the return, or in any accounts, statements or documents accompanying any such claim;
  - (c) it is contained in any documents, accounts or particulars which, for the purposes of any enquiries into the return or any such claim by an officer of the Board, are produced or furnished by the taxpayer to the officer, whether in pursuance of a notice under section 19A of this Act or otherwise; or
  - (d) it is information the existence of which, and the relevance of which as regards the situation mentioned in subsection (1) above—
    - (i) could reasonably be expected to be inferred by an officer of the Board from information falling within paragraphs (a) to (c) above; or
    - (ii) are notified in writing by the taxpayer to an officer of the Board.
- (7) In subsection (6) above—
- (a) any reference to the taxpayer's return under section 8, 8A or 11 of this Act in respect of the relevant chargeable period includes—
    - (i) a reference to any return of his under that section for either of the two immediately preceding chargeable periods; and
    - (ii) where the return is under section 8 and the taxpayer carries on a trade, profession or business in partnership, a reference to any return with respect to the partnership under section 12AA of this Act for the relevant chargeable period or either of those periods; and
  - (b) any reference in paragraphs (b) to (d) to the taxpayer includes a reference to a person acting on his behalf.
- (8) An objection to the making of an assessment under this section on the ground that neither of the two conditions mentioned above is fulfilled shall not be made otherwise than on an appeal against the assessment.
- (9) Any reference in this section to the relevant chargeable period is a reference to—
- (a) in the case of the situation mentioned in paragraph (a) or (b) of subsection (1) above, the chargeable period mentioned in that subsection; and
  - (b) in the case of the situation mentioned in paragraph (c) of that subsection, the chargeable period in respect of which the claim was made.
- (10) In this section “profits”—
- (a) in relation to income tax, means income,
  - (b) in relation to capital gains tax, means chargeable gains, and
  - (c) in relation to corporation tax, means profits as computed for the purposes of that tax.”
- (2) This section, so far as it relates to partnerships whose trades, professions or businesses are set up and commenced before 6th April 1994, has effect as respects the year 1997-98 and subsequent years of assessment.

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### *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.
- (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.



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- (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.”

### **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—

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- (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.
  - (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.

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- (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.
- (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—

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- (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 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).”

*Miscellaneous and supplemental*

**196 Management: other amendments**

Schedule 19 to this Act (which makes other amendments relating to the management of tax) shall have effect.

**197 Construction of certain references**

- (1) In the Tax Acts and the Gains Tax Acts, any reference (however expressed) to a person being assessed to tax, or being charged to tax by an assessment, shall be construed as including a reference to his being so assessed, or being so charged—
  - (a) by a self-assessment under section 9 or 11AA of the Management Act, or
  - (b) by a determination under section 28C of that Act (which, until superseded by such a self-assessment, has effect as if it were one).

- (2) In this section “the Gains Tax Acts” means the Taxation of Chargeable Gains Act 1992 and all other enactments relating to capital gains tax.

### **198 Transitional provisions**

- (1) Section 59A of the Management Act shall have effect as regards the year 1996-97 as if—
- (a) the reference in subsection (1)(a) to a person being assessed to income tax under section 9 of that Act were a reference to his being assessed to income tax under section 29 of that Act;
  - (b) the reference in subsection (1)(b) to the assessed amount were a reference to the difference between that amount and the amount of any income tax charged at a rate other than the basic rate on any income—
    - (i) from which tax has been deducted otherwise than under section 203 of the Taxes Act 1988,
    - (ii) from or on which income tax is treated as having been deducted or paid, or
    - (iii) which is chargeable under Schedule F;
  - (c) subsection (2) required—
    - (i) the first payment on account to be of an amount equal to the aggregate of the relevant proportion of the relevant amount and 50 per cent. of the difference between the relevant amount and that proportion of that amount, and
    - (ii) the second payment on account to be of an amount equal to 50 per cent. of that difference; and
  - (d) subsection (4) provided that, in the circumstances there mentioned—
    - (i) the amount of the first payment on account required to be made should be, and should be deemed always to have been, equal to the aggregate of the relevant proportion of the stated amount and 50 per cent. of the difference between the stated amount and that proportion of that amount, and
    - (ii) the amount of second payment on account required to be made should be, and should be deemed always to have been, equal to 50 per cent. of that difference.
- (2) In subsection (1) above “relevant proportion” means the proportion which the amount of tax charged under Schedule A or any of Cases III to VI of Schedule D for the year 1995-96 bears to the assessed amount.
- (3) In the case of a partnership whose trade, profession or business is set up and commenced before 6th April 1994, section 59B of the Management Act shall have effect, as respects each partner and the year 1996-97, as if his share of any income tax to which the partnership is assessed for that year were income tax which in respect of that year had been deducted at source.

### **199 Interpretation and commencement of Chapter III**

- (1) In this Chapter “the Management Act” means the Taxes Management Act 1970.
- (2) Unless the contrary intention appears, this Chapter—

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- (a) so far as it relates to income tax and capital gains tax, has effect as respects the year 1996-97 and subsequent years of assessment, and
  - (b) so far as it relates to corporation tax, has effect as respects accounting periods ending on or after the appointed day.
- (3) For the purposes of this Chapter the appointed day is such day, not earlier than 1st April 1996, as the Treasury may by order appoint.