

Status: Point in time view as at 11/05/2001.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 24. (See end of Document for details)

SCHEDULES

SCHEDULE 24

Section 138.

SELF-ASSESSMENT: ACCOUNTING PERIODS ETC.

PART I

AMENDMENTS OF THE TAXES MANAGEMENT ACT 1970

Introductory

- 1 The ^{M1}Taxes Management Act 1970 shall be amended in accordance with this Part of this Schedule.

Marginal Citations

M1 1970 c. 9.

- [^{F1}2 In section 11 (return of profits), after subsection (9) there shall be inserted the following subsection—

“(10) In the following provisions of this Act “section 11 notice” means a notice under this section.”]

Textual Amendments

F1 Sch. 24 para. 2 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(28), Note of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28)

Power to enquire into return for wrong period, etc.

- [^{F2}3 In section 11AA (return of profits to include self-assessment), after subsection (4) there shall be inserted the following subsections—

“(5) This section, except subsection (4) above, applies in relation to a return for a period—

- (a) which ends in or at the end of the period specified in the section 11 notice;
- (b) which in the return is treated as an accounting period; but
- (c) which is not, or may not be, an accounting period.

(6) In relation to such a return, “the filing date” means, in this section and section 11AB of this Act, the day which would be the day mentioned in section 11(4) of this Act if the period for which the return is made were an accounting period.”]

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Textual Amendments

F2 Sch. 24 para. 3 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(28), Note of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28)

- [^{F3}4 (1) In section 11AB(1) (power to enquire into return of profits), after paragraph (c) (which is inserted by paragraph 2 of Schedule 19 to this Act), there shall be inserted
 - (d) if it appears to the officer that a return delivered in response to a section 11 notice—
 - (i) is or may be a return for the wrong period, or
 - (ii) has become a return for the wrong period as a result of a direction under section 12(5A) of the principal Act, the period for which the return should have been made;”.
- (2) After subsection (3) of that section there shall be inserted the following subsections—
 - “(4) For the purposes of subsection (1)(d) above a return is a return for the wrong period in each of the cases set out below.
 - (5) The first case is where—
 - (a) the return is made for a period which ends in or at the end of the period specified in the section 11 notice and which in the return is treated as an accounting period; but
 - (b) the period for which the return is made is not an accounting period of the company.
 - (6) The second case is where—
 - (a) the return is made for a part of the period specified in the section 11 notice which in the return is treated as not falling within an accounting period of the company; but
 - (b) there is an accounting period ending in or at the end of the period specified in the section 11 notice.”]

Textual Amendments

F3 Sch. 24 para. 4 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(28), Note of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28)

^{F4}5

Textual Amendments

F4 Sch. 24 para. 5 repealed (11.5.2001 with effect as mentioned in Sch. 33 Pt. 2(13), Note of the amending Act) by 2001 c. 9, s. 110, Sch. 33 Pt. 2(13)

Amendment of return for wrong period

[^{F5}6 After section 28A there shall be inserted the following sections—

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“ Amendment of return of profits made for wrong period.

- (1) Where an officer of the Board gives notice under section 11AB(1) of this Act to a company of his intention to enquire into the period for which a return should have been made, the officer’s enquiries shall be treated as completed at such time as he by notice—
 - (a) informs the company that he has completed his enquiries; and
 - (b) states his conclusions on the subject of his enquiries.
- (2) Subsections (3) and (4) below apply where the officer in the conclusions stated under subsection (1) above designates a period, in accordance with subsections (6) to (8) below, as the accounting period for which the return should have been made.
- (3) At any time in the period of 30 days beginning with the day on which the officer’s enquiries are completed, the company may amend the return for the purpose of making it a return appropriate to the designated period.
- (4) At any time in the period of 30 days beginning immediately after the period mentioned in subsection (3) above, the officer may by notice to the company amend the return for the purpose of making it a return appropriate to the designated period.
- (5) The power under subsections (3) and (4) above to amend a return includes the power to amend a self-assessment so as to make clear that it is a self-assessment for the designated period.
- (6) If there is only one accounting period ending in or at the end of the period specified in the section 11 notice, the only period which the officer may designate is that period.
- (7) If there is more than one accounting period ending in or at the end of the period specified in the section 11 notice, the only period which the officer may designate is the earliest of those accounting periods for which no return has been delivered.
- (8) In designating a period, the officer must specify the dates on which the period begins and ends.

Provisions supplementary to section 28AA.

- (1) On an application made by the company, the Commissioners shall direct the officer to give a notice under section 28AA(1) of this Act within a period specified in the direction, unless they are satisfied that the officer has reasonable grounds for not giving such a notice.
- (2) Proceedings under subsection (1) above shall be heard and determined in the same way as an appeal.
- (3) An appeal may be brought against an amendment made under section 28AA(4) of this Act within the period of 30 days beginning with the date on which the notice of the amendment was issued.

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- (4) The provisions of this Act relating to appeals shall have effect in relation to an appeal under subsection (3) above as they have effect in relation to an appeal against an assessment to tax.
- (5) Subsection (6) below applies where—
- (a) a return is delivered in response to a section 11 notice;
 - (b) following a statement of conclusions under section 28AA of this Act, a period is finally determined to be the accounting period for which the return should have been made;
 - (c) the effect of the determination is that there is a period (“a further period”) which—
 - (i) before the determination was not an accounting period ending in or at the end of the period specified in the section 11 notice, and
 - (ii) as a result of the determination, becomes a period so ending;
- and
- (d) there is no return which can be amended under section 28AA of this Act so as to become a return for that further period.
- (6) Where this subsection applies, the section 11 notice shall be taken to require a return for the further period before the postponed final day.
- (7) The postponed final day is whichever is the later of—
- (a) the final day determined under section 11(4) of this Act; and
 - (b) the last day of the period of 30 days beginning with the day on which the accounting period for the return mentioned in subsection (5)(a) above is finally determined.
- (8) In relation to any return for the further period the provisions of this Act shall have effect as if any reference to the filing date in relation to that return were a reference to the postponed final day.”]

Textual Amendments

- F5** Sch. 24 para. 6 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(28), Note of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28)

Failure to deliver return: determinations

[^{F67} After section 28C there shall be inserted the following sections—

“ Determination of corporation tax where no return delivered.

- (1) Where—
- (a) a section 11 notice has been served on a company, and
 - (b) no return is delivered to an officer of the Board in response to the notice before the relevant day,
- the officer may make a determination of the amounts in which, to the best of his information and belief, the company is chargeable to corporation tax for the relevant period.

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- (2) In subsection (1) above “the relevant period” means—
- (a) if there is only one accounting period ending in or at the end of the period specified in the section 11 notice, that accounting period;
 - (b) if there is more than one accounting period ending in or at the end of the period so specified, each of those accounting periods;
 - (c) if the officer has insufficient information to identify the accounting periods of the company, such period or periods ending in or at the end of the period so specified as he may determine.
- (3) Subject to subsections (4) and (5) below, a determination under subsection (1) above shall have effect for the purposes of Parts VA, VI, IX and XI of this Act as if—
- (a) it were a self-assessment made under section 11AA of this Act; and
 - (b) (where subsection (2)(c) above applies) the period for which the determination is made were an accounting period of the company.
- (4) If—
- (a) the company delivers a return for a period ending in or at the end of the period specified in the section 11 notice,
 - (b) the period is, or is treated in the return as, an accounting period, and
 - (c) the return includes a self-assessment under section 11AA of this Act,
- the self-assessment shall supersede the determination under subsection (1) above or, if there is more than one determination under that subsection, the determination for the period which is, or most closely approximates to, the period for which the return is made.
- (5) If the company shows—
- (a) that there is no period ending in or at the end of the period specified in the section 11 notice which is an accounting period of the company, or
 - (b) that it has delivered a return containing a self-assessment for the accounting period, or each accounting period, ending in or at the end of the period specified in the section 11 notice,
- any determination under subsection (1) above shall be of no effect.

Determination of corporation tax where notice complied with in part.

- (1) Where—
- (a) a company delivers a return for an accounting period ending in or at the end of the period specified in a section 11 notice served on the company, but
 - (b) there is another period so ending (an “outstanding period”) which it appears to an officer of the Board is or may be an accounting period but for which no return has been delivered before the relevant day,
- the officer may make a determination of the amounts in which, to the best of his information and belief, the company is chargeable to corporation tax for the outstanding period.
- (2) Subject to subsections (3) and (4) below, a determination under subsection (1) above shall have effect for the purposes of Parts VA, VI, IX and XI of this Act as if—

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- (a) it were a self-assessment made under section 11AA of this Act; and
 - (b) where the officer has insufficient information to determine whether the outstanding period is an accounting period, the period for which the determination is made were an accounting period of the company.
- (3) If, after the determination is made—
- (a) the company delivers a further return for a period ending in or at the end of the period specified in the section 11 notice,
 - (b) the period is, or is treated in the return as, an accounting period, and
 - (c) the return includes a self-assessment under section 11AA of this Act,
- the self-assessment shall supersede the determination under subsection (1) above.
- (4) If the company shows that it has delivered a return containing a self-assessment for the accounting period, or each accounting period, ending in or at the end of the period specified in the section 11 notice, the determination under subsection (1) above shall be of no effect.

Corporation tax determinations: supplementary.

- (1) Notice of any determination under section 28D or 28E of this Act shall be served on the person in respect of whom it is made and shall state the date on which it is issued.
- (2) No determination may be made under section 28D or 28E of this Act after the end of the period of five years beginning with the relevant day.
- (3) A self-assessment shall not supersede a determination under section 28D or 28E of this Act if it is made after whichever is the later of—
- (a) the end of the period of five years beginning with the relevant day; and
 - (b) the end of the period of twelve months beginning with the date of the determination.
- (4) Where—
- (a) an officer of the Board has commenced any proceedings for the recovery of any tax charged by a determination under section 28D or 28E of this Act, and
 - (b) before those proceedings are concluded, the determination is superseded by a self-assessment,
- 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) In sections 28D and 28E of this Act and this section “the relevant day” means, in relation to a section 11 notice—
- (a) if the final day for the delivery of any return required by the notice can be ascertained in accordance with section 11(4) of this Act, that day;
 - (b) in any other case, the day determined in accordance with subsection (6) below.

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- (6) The day is whichever is the later of—
- (a) the last day of the period of 30 months from the end of the period specified in the section 11 notice; and
 - (b) the last day of the period of three months from the day on which the section 11 notice was served.”]

Textual Amendments

- F6** Sch. 24 para. 7 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(28), Note of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28)

Commencement

- 8 (1) Paragraphs 3 to 6 above have effect in relation to returns made for periods ending on or after the day appointed under section 199 of the ^{M2}Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment).
- [^{F7}(2) Paragraph 7 above has effect in relation to notices under section 11 of the ^{M3}Taxes Management Act 1970 specifying a period ending on or after the day so appointed.]

Textual Amendments

- F7** Sch. 24 para. 8(2) repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(28), Note of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28)

Marginal Citations

- M2** 1994 c. 9.
M3 1970 c. 9.

PART II

OTHER AMENDMENTS

General

- 9 In this Part of this Schedule “the appointed day” means the day appointed as mentioned in paragraph 8(1) above.

Repeal of section 8A of the Taxes Act 1988

- 10 Section 8A of the Taxes Act 1988 (resolutions to reduce corporation tax) shall cease to have effect.

Determination of accounting date

- 11 (1) Section 12 of the Taxes Act 1988 (basis of, and periods for, assessment) shall be amended as follows.
- (2) In subsection (5)—

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- (a) at the beginning there shall be inserted “ Subject to subsection (5A) below ”; and
 - (b) for the words “as the Board may determine” there shall be substituted “ as the company may determine ”.
- (3) After subsection (5) there shall be inserted the following subsection—
- “(5A) If the Board is of the opinion, on reasonable grounds, that a date determined by a company for the purposes of subsection (5) above is inappropriate, they may by notice direct that the accounting date of such other of the trades referred to in that subsection as appears to them to be appropriate shall be used instead.”
- (4) This paragraph has effect where each of the different dates referred to in section 12(5) of the Taxes Act 1988 occurs on or after the appointed day.

Companies in liquidation

- 12 (1) Section 342 of the Taxes Act 1988 (companies in liquidation) shall be amended as follows.
- (2) In subsection (5) (assumption as to commencement date of final accounting period where company being wound up), for the words “the inspector may, with the concurrence of the liquidator” there shall be substituted “ the liquidator may ”.
 - (3) In subsection (6) for the words from “as if” to the end there shall be substituted “ as if the winding-up had commenced with the beginning of that new accounting period ”.
 - (4) This paragraph has effect in relation to the winding up of a company if the date on which the affairs of the company are completely wound up does not occur before the appointed day.

Construction of references to assessments

- [^{F8}13 In section 197(1) of the ^{M4}Finance Act 1994 (construction of certain references), in paragraph (b) after “28C” there shall be inserted “ , 28D or 28E ”.]

Textual Amendments

F8 Sch. 24 para. 13 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(28), Note of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28)

Marginal Citations

M4 1994 c. 9.

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