

*Status: Point in time view as at 20/07/2005.*

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## SCHEDULES

### SCHEDULE 18

Section 117(1).

#### COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

##### Modifications etc. (not altering text)

- C1** Sch. 18 restricted (31.7.1998) by 1988 c. 1, s. 754B(10) (as inserted (31.7.1998 with effect as mentioned in Sch. 17 para. 37 of 1998 c. 36) by 1998 c. 36, s. 113, Sch. 17 para. 11)
- C2** Sch. 18 modified (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 68(c); S.I. 2005/1126, art. 2(2)(h)
- C3** Sch. 18 applied (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), s. 61

### PART I

#### INTRODUCTION

##### *Meaning of “ta”x*

- 1 In this Schedule “tax” means corporation tax including, except as otherwise indicated, any amount assessable or chargeable as if it was corporation tax.

Amounts are assessable or chargeable as if they were corporation tax under—  
section 419(1) of the Taxes Act 1988 (tax on loan or advance made by close company to a participator),  
[<sup>F1</sup>section 501A(1) of that Act (supplementary charge in respect of ring fence trades), and]  
section 747(4)(a) of that Act (tax on profits of controlled foreign company).

##### Textual Amendments

- F1** Words in Sch. 18 para. 1 substituted (24.7.2002) by 2002 c. 23, s. 92(3)

##### *Duty to give notice of chargeability*

- 2 (1) A company which—  
(a) is chargeable to tax for an accounting period, and  
(b) has not received a notice requiring a company tax return,  
must give notice to [<sup>F2</sup>an officer of Revenue and Customs] that it is so chargeable.
- (2) The notice must be given within twelve months from the end of the accounting period.

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- (3) A company which fails to comply with this paragraph is liable to a penalty not exceeding the amount of tax payable for the accounting period in question that remains unpaid twelve months after the end of the period.
- (4) In computing the amount of unpaid tax for this purpose, no account shall be taken of any relief under section 419(4) of the Taxes Act 1988 (relief in respect of repayment, etc. of loan) which is deferred under subsection (4A) of that section.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

## PART II

### COMPANY TAX RETURN

#### *Company tax return*

- 3 (1) [<sup>F2</sup>An officer of Revenue and Customs] may by notice require a company to deliver a return (a “company tax return”) of such information, accounts, statements and reports—
- (a) relevant to the tax liability of the company, or
  - (b) otherwise relevant to the application of the Corporation Tax Acts to the company,
- as may reasonably be required by the notice.
- (2) Different information, accounts, statements and reports may be required from different descriptions of company.
- (3) A company tax return must include a declaration by the person making the return that the return is to the best of his knowledge correct and complete.
- (4) The return must be delivered to the officer of the Board by whom the notice was issued not later than the filing date.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

#### Modifications etc. (not altering text)

- C4** Sch. 18 para. 3 extended (31.7.1998) by [1988 c. 1, s. 488\(12\)\(a\)](#) (as inserted (31.7.1998) by [1998 c. 36, s. 117, Sch. 19 para. 48\(3\)](#))
- C5** Sch. 18 Pt. II para. 3(1) modified (24.7.2002 with application as mentioned in s. 96(4) of [2002 c. 23](#)) by [1988 c. 1, s. 349E\(6\)](#) (as inserted with application as mentioned by [s. 96\(4\)](#) of the amending Act) by [2002 c. 23, s. 96\(1\)](#))
- C6** Sch. 18 para. 3(1) modified (with effect in accordance with s. 97(5)(6) of the amending Act) by [Finance Act 2004 \(c. 12\), s. 101\(6\)](#) (with s. 106)

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#### *Meaning of delivery of return*

- 4 References in this Schedule to the delivery of a company tax return are to the delivery of all the information, accounts, statements and reports required to comply with the notice requiring the return.

#### *Period for which return required*

- 5 (1) A notice requiring a company tax return must specify the period to which the notice relates.
- (2) If an accounting period of the company ended during (or at the end of) the specified period, a return is required for that accounting period.
- If there is more than one, a separate company tax return is required for each of them.
- (3) If sub-paragraph (2) does not apply but an accounting period of the company began during the specified period, a company tax return is required for the part of the specified period before the accounting period began.
- (4) If the company was outside the charge to corporation tax for the whole of the specified period, a company tax return is required for the whole of the specified period.
- (5) If none of the above provisions applies, no company tax return is required in response to the notice.

#### *Notice relating to period beginning before appointed day*

- 6 (1) A notice requiring a company tax return may be given on or after the self-assessment appointed day in relation to a period beginning before that day.
- (2) Where the effect of such a notice is to require a return for an accounting period ending before that day, the provisions of the Tax Acts apply as if it were a notice under section 11 of the <sup>M1</sup>Taxes Management Act 1970.
- (3) The provisions of this Act relating to company tax returns, or amending other provisions of the Tax Acts so as to refer to such returns, do not affect the operation of those Acts in relation to such a notice.

#### **Marginal Citations**

**M1** 1970 c. 9.

#### *Return to include self-assessment*

- 7 (1) Every company tax return for an accounting period must include an assessment (a “self-assessment”) of the amount of tax which is payable by the company for that period—
- (a) on the basis of the information contained in the return, and
- (b) taking into account any relief or allowance for which a claim is included in the return or which is required to be given in relation to that accounting period.

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- (2) For this purpose a company tax return is regarded as a return for an accounting period if the period is treated in the return as an accounting period and is not longer than twelve months, even though it is not, or may not be, an accounting period.

*Calculation of tax payable*

- 8 (1) The amount of tax payable for an accounting period is calculated as follows.

*First step*

Calculate the corporation tax chargeable on the company's profits:

- 1 Take the amount of the company's profits for that period on which corporation tax is chargeable.
- 2 Apply the rate or rates of corporation tax applicable to the company.

*Second step*

Then give effect to any reliefs or set-offs available against corporation tax chargeable on profits:

- 1 Any reduction under section 13(2) [<sup>F3</sup>or 13AA(2)] of the Taxes Act 1988 (marginal small companies' relief).
- 1A [<sup>F4</sup>Any relief under Part V of Schedule 15 to the Finance Act 2000 (corporate venturing scheme: investment relief).]
- [<sup>F5</sup>(1B) Any relief under Part. 5 of Schedule 16 to the Finance Act 2002 (community investment tax relief)]
  - (2) Any double taxation relief under section 788 or 790 of that Act.
  - (3) Any set off for advance corporation tax under section 239 of that Act or under regulations made under section 32 of this Act.

*Third step*

Then add any amounts assessable or chargeable as if they were corporation tax (reduced by any reliefs specific to those amounts):

- 1 Any amount due under section 419(1) of the Taxes Act 1988 (tax on a loan or advance made by close company to a participator).
- [<sup>F6</sup>(1A) Any sum chargeable under section 501A(1) of that Act (supplementary charge in respect of ring fence trades).]
  - (2) Any sum chargeable under section 747(4)(a) of that Act (tax on profits of a controlled foreign company).

*Fourth step*

- (2) Except as otherwise provided, references in this Schedule to the amount of tax payable by a company for an accounting period are to the amount shown in the company's self-assessment as the amount payable.

**Textual Amendments**

- F3** Words in Sch. 18 Pt. II para. 8(1) inserted (27.7.1999 with effect as mentioned in s. 28(6)(7) of the amending Act) by 1999 c. 16, s. 28(5)
- F4** Words in Sch. 18 para. 8(1) inserted (28.7.2000 with application as mentioned in s. 63(4) of the amending Act) by 2000 c. 17, s. 63(2), Sch. 16 para. 5(2)
- F5** Words in Sch. 18 para. 8(1) inserted (24.7.2002 with effect as mentioned in s. 57(4)(c) of the amending Act) by 2002 c. 23, s. 57, Sch. 17 para. 5

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**F6** Words in Sch. 18 para. 8(1) inserted (24.7.2002) by 2002 c. 23, s. 92(4)

*Claims that cannot be made without a return*

- 9 (1) No claim to which this paragraph applies may be made by a company before it delivers a company tax return for the period to which the claim relates.
- (2) This paragraph applies to a claim by a company for any repayment of income tax called for by virtue of—
- (a) section 6(2) of the Taxes Act 1988 (exclusion of income tax charge in case of UK resident company or income within chargeable profits for corporation tax), or
  - (b) exemptions from income tax conferred by the Corporation Tax Acts.
- (3) This paragraph applies to a claim by a company for payment of a tax credit, unless—
- (a) the company is wholly exempt from corporation tax or is only not so exempt in respect of trading income, and
  - (b) the tax credit is not one in respect of which a payment on account may be claimed by the company under Schedule 19AB to the Taxes Act 1988 (pension business).
- [<sup>F7</sup>(4) This paragraph applies to a claim by a company for relief under Part V of Schedule 15 to the Finance Act 2000 (corporate venturing scheme: investment relief).]

**Textual Amendments**

**F7** Sch. 18 para. 9(4) inserted (28.7.2000 with application as mentioned in s. 63(4) of the amending Act) by 2000 c. 17, s. 63(2), **Sch. 16 para. 5(3)**

*Other claims and elections to be included in return*

- 10 (1) In Part VII of this Schedule (general provisions as to claims and elections) paragraphs 57 to 59 contain provisions as to the circumstances in which a claim or election may or must be made, or is to be treated as having been made, in a company tax return.
- [<sup>F8</sup>(2) A claim to which Part VIII, IX or IXA of this Schedule applies (claims for group relief, capital allowances or R&D tax credit) can only be made by being included in a company tax return (see paragraphs 67, 79 and 83B).]
- [<sup>F9</sup>(2A) A claim to which Part 9B of this Schedule applies (claims for land remediation tax credit and life assurance company tax credit) can only be made by being included in a company tax return (see paragraph 83H).]
- [<sup>F10</sup>(3) A claim to which Part 9C of this Schedule applies (claims for tax credits under Schedule 13 to the Finance Act 2002) can only be made by being included in a company tax return (see paragraph 83N).]

**Textual Amendments**

**F8** Sch. 18 para. 10(2) substituted (28.7.2000 with effect as mentioned in s. 69(1) of the amending Act) by 2000 c. 17, s. 69(2), **Sch. 21 para. 2**

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- F9** Sch. 18 para. 10(2A) inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s.70, **Sch. 23 para. 4**
- F10** Sch. 18 Pt. II para. 10(3) inserted (24.7.2002 with effect as mentioned in Sch. 14 para. 5 of the amending Act) by 2002 c. 23, s. 54, **Sch. 14 para. 2**

**Modifications etc. (not altering text)**

- C7** Sch. 18 para. 10 excluded (31.7.1998) by 1988 c. 1, s. 754(5), **Sch. 26 para. 3(6A)(a)** (as inserted (31.7.1998) by 1998 c. 36, s. 113, **Sch. 17 paras. 35(7), 37**)  
 Sch. 18 para. 10 excluded (31.7.1998) by 1988 c. 1, s. 749A(4)(a) (as substituted (31.7.1998) by 1998 c. 36, s. 113, **Sch. 17 paras. 4, 37**)  
 Sch. 18 para. 10 excluded (31.7.1998) by 1988 c. 1, s. 747(6), **Sch. 24 para. 9(7)** (as added (31.7.1998) by 1998 c. 36, s. 113, **Sch. 17 paras. 20(9), 37**)

*Accounts required in case of Companies Act company*

- 11 (1) In the case of a company which—
- (a) is required to deliver a company tax return for a period,
  - (b) is resident in the United Kingdom throughout that period, and
  - (c) is required under the <sup>M2</sup>Companies Act 1985 to prepare accounts for a period consisting of or including the whole of that period,
- the power to require the delivery of accounts as part of the return is limited to such accounts, containing such information and having annexed to them such documents, as are required to be prepared under that Act.
- (2) In relation to a company registered in Northern Ireland, for the reference in subparagraph (1) to the <sup>M3</sup>Companies Act 1985 substitute a reference to the <sup>M4</sup>Companies (Northern Ireland) Order 1986.

**Marginal Citations**

- M2** 1985 c. 6.  
**M3** 1985 c. 6.  
**M4** S.I. 1986/1032 (N.I. 6).

*Information about business carried on in partnership*

- 12 (1) A company tax return of a company which carries on a trade, profession or business in partnership must include any amount which in a relevant partnership statement is stated to be its share of any income, loss, consideration, tax, credit or charge.
- (2) A “relevant partnership statement” means a statement under section 12AB of the <sup>M5</sup>Taxes Management Act 1970 for the period for which the return is made or a period which includes that period or any part of it.

**Marginal Citations**

- M5** 1970 c. 9.

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### *Information about chargeable gains*

- 13 (1) A notice requiring a company tax return may require details of assets acquired by the company in the period specified in the notice.

The details required may include details of the person from whom the asset was acquired and the consideration for its acquisition.

- (2) The power in sub-paragraph (1) does not apply to —

- (a) assets exempted by —

section 121 of the <sup>M6</sup>Taxation of Chargeable Gains Act 1992 (government non-marketable securities), or  
section 263 of that Act (passenger vehicles); or

- (b) tangible movable property, unless—

(i) the amount or value of the consideration for its acquisition exceeded £6,000, or

(ii) it is within the exceptions in section 262(6) of the Taxation of Chargeable Gains Act 1992 (terminal markets and currency); or

- (c) assets acquired as trading stock, unless they are held for the purposes of <sup>F11</sup>long-term] business carried on by an insurance company.

- (3) In sub-paragraph (2)(c)—

“trading stock” has the meaning given by section 100(2) of the Taxes Act 1988, and

“ <sup>F12</sup>long-term] business” and “insurance company” have the meaning given by section 431(2) of that Act.

#### **Textual Amendments**

**F11** Words in Sch. 18 para. 13(2)(c) substituted (1.12.2001) by [S.I. 2001/3629, art. 103\(1\)\(2\)](#)

**F12** Words in Sch. 18 para. 13(3) substituted (1.12.2001) by [S.I. 2001/3629, art. 103\(1\)\(2\)](#)

#### **Marginal Citations**

**M6** 1992 c. 12.

### *Filing date*

- 14 (1) The filing date for a company tax return is the last day of whichever of the following periods is the last to end—

- (a) twelve months from the end of the period for which the return is made;  
(b) if the company’s relevant period of account is not longer than 18 months, twelve months from the end of that period;  
(c) if the company’s relevant period of account is longer than 18 months, 30 months from the beginning of that period;  
(d) three months from the date on which the notice requiring the return was served.

- (2) In sub-paragraph (1) “relevant period of account” means, in relation to a return for an accounting period, the period of account of the company in which the last day of that accounting period falls.

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F13  
 . . .

**Textual Amendments**

**F13** Words in Sch. 18 Pt. II para. 14(2) repealed (24.7.2002) by 2002 c. 23, s. 141, **Sch. 40 Pt. 3(16)**

*Amendment of return by company*

- 15 (1) A company may amend its company tax return by notice to [<sup>F2</sup>an officer of Revenue and Customs].
- (2) The notice must be in such form as [<sup>F2</sup>an officer of Revenue and Customs] may require.
- (3) The notice must contain such information and be accompanied by such statements as [<sup>F2</sup>an officer of Revenue and Customs] may reasonably require.
- (4) Except as otherwise provided, an amendment may not be made more than twelve months after—
- (a) the filing date, or
  - (b) in the case of a return for the wrong period, what would be the filing date if the period for which the return was made were an accounting period.

**Textual Amendments**

**F2** Words in Sch. 18 substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)

*Correction of return by Revenue*

- 16 (1) [<sup>F2</sup>An officer of Revenue and Customs] may amend a company tax return so as to correct obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise).
- (2) A correction under this paragraph is made by notice to the company concerned.
- (3) No such correction may be made more than nine months after—
- (a) the day on which the return was delivered, or
  - (b) if the correction is required in consequence of an amendment by the company under paragraph 15, the day on which that amendment was made.
- (4) A correction under this paragraph is of no effect if the company—
- (a) amends its return so as to reject the correction, or
  - (b) after the end of the period within which it may amend its return, but within three months from the date of issue of the notice of correction, gives notice rejecting the correction.
- (5) Notice under sub-paragraph (4)(b) must be given—
- (a) in writing,
  - (b) to the officer of the Board by whom notice of the correction was given.



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### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

#### *Failure to deliver return: flat-rate penalty*

- 17 (1) A company which is required to deliver a company tax return and fails to do so by the filing date is liable to a flat-rate penalty under this paragraph.

It may also be liable to a tax-related penalty under paragraph 18.

- (2) The penalty is—
- (a) £100, if the return is delivered within three months after the filing date, and
  - (b) £200, in any other case.
- (3) The amounts are increased to £500 and £1000 for a third successive failure, that is, where—
- (a) the company is within the charge to corporation tax for three consecutive accounting periods (and at no time between the beginning of the first of those periods and the end of the last is it outside the charge to corporation tax),
  - (b) a company tax return is required for each of those accounting periods,
  - (c) the company was liable to a penalty under this paragraph in respect of each of the first two of those periods, and
  - (d) the company is again liable to a penalty under this paragraph in respect of the third period.
- (4) The first or second period mentioned in sub-paragraph (3) may be a period ending before the self-assessment appointed day, in relation to which—
- (a) the reference in paragraph (b) to a company tax return shall be construed as a reference to a return under section 11 of the <sup>M7</sup>Taxes Management Act 1970, and
  - (b) the references in paragraphs (c) and (d) to a penalty under this paragraph shall be construed as a reference to a penalty under section 94 of that Act.

### Marginal Citations

- M7** 1970 c. 9.

#### *Failure to deliver return: tax-related penalty*

- 18 (1) A company which is required to deliver a company tax return for an accounting period and fails to do so—

- (a) within 18 months after the end of that period, or
- (b) if the filing date is later than that, by the filing date,

is liable to a tax-related penalty under this paragraph.

This is in addition to any flat-rate penalty under paragraph 17.

- (2) The penalty is—

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- (a) 10 per cent. of the unpaid tax, if the return is delivered within two years after the end of the period for which the return is required, and
  - (b) 20 per cent. of the unpaid tax, in any other case.
- (3) The “unpaid tax” means the amount of tax payable by the company for the accounting period for which the return was required which remains unpaid on the date when the liability to the penalty arises under sub-paragraph (1).
- (4) In determining that amount no account shall be taken of any relief under section 419(4) of the Taxes Act 1988 (relief in respect of repayment, etc. of loan) which is deferred under subsection (4A) of that section.

*Excuse for late delivery of return*

- 19 A company is not liable to a penalty under paragraph 17 (flat rate penalty) if—
- (a) the period for which the return is required is one for which the company is required to deliver accounts under the <sup>M8</sup>Companies Act 1985, and
  - (b) the return is delivered no later than the last day for the delivery of those accounts to the registrar of companies.

In relation to a company registered in Northern Ireland, for the reference in paragraph (a) to the <sup>M9</sup>Companies Act 1985 substitute a reference to the <sup>M10</sup>Companies (Northern Ireland) Order 1986.

**Marginal Citations**

- M8** 1985 c. 6.  
**M9** 1985 c. 6.  
**M10** S.I. 1986/1032 (N.I. 6).

*Penalty for incorrect or uncorrected return*

- 20 (1) A company which—
- (a) fraudulently or negligently delivers a company tax return which is incorrect, or
  - (b) discovers that a company tax return delivered by it (neither fraudulently nor negligently) is incorrect and does not remedy the error without unreasonable delay,
- is liable to a tax-related penalty.
- (2) The penalty is an amount not exceeding the amount of tax understated, that is, the difference between—
- (a) the amount of tax payable by the company for the period for which the return is made, and
  - (b) the amount which would have been so payable on the basis of the return delivered.
- (3) In computing for this purpose the amount of tax payable, no account shall be taken of any relief under section 419(4) of the Taxes Act 1988 (relief in respect of repayment, etc. of loan) which is deferred under subsection (4A) of that section.

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#### Modifications etc. (not altering text)

- C8** Sch. 18 Pt. II para. 20 modified (24.7.2002 with application as mentioned in s. 96(4) of 2002 c. 23) by 1998 c. 1, s. 349E(7) (as inserted by 2002 c. 23, s. 96(7))
- C9** Sch. 18 para. 20 restricted (22.7.2004 for specified purposes) by Finance Act 2004 (c. 12), ss. 313(4)(e), 319(1)(2) (with s. 314)
- C10** Sch. 18 para. 20 modified (with effect in accordance with s. 97(5)(6) of the amending Act) by Finance Act 2004 (c. 12), s. 101(7) (with s. 106)
- C11** Sch. 18 para. 20 modified (with effect in accordance with s. 33(1) of the amending Act) by Finance Act 2004 (c. 12), s. 33(5)(b)

#### [<sup>F14</sup>Voluntary returns

#### Textual Amendments

- F14** Sch. 18 para. 20A and cross-heading inserted (retrospectively) by Finance Act 2019 (c. 1), s. 87(2)(3) (with s. 87(4))

- 20A (1) This paragraph applies where—
- (a) a company delivers a purported return (“the relevant return”) for a period (“the relevant period”),
  - (b) no notice under paragraph 3 has been given to the company in respect of the relevant period, and
  - (c) Her Majesty’s Revenue and Customs treats the relevant return as a return made and delivered in pursuance of such a notice.
- (2) For the purposes of the Taxes Acts—
- (a) treat a relevant notice as having been given to the company on the day the relevant return was delivered, and
  - (b) treat the relevant return as having been made and delivered in pursuance of that notice (and, accordingly, treat it as if it were a company tax return under paragraph 3).
- (3) “Relevant notice” means a notice under paragraph 3 requiring the company to deliver a return for the relevant period.
- (4) In sub-paragraph (1)(a) “purported return” means anything that—
- (a) is in a form, and is delivered in a way, that a corresponding return could have been made and delivered had a relevant notice been given, and
  - (b) purports to be a company tax return.
- (5) Nothing in this paragraph affects paragraph 46 or any other provisions of the Taxes Acts specifying a time limit for the making of an assessment.]

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### PART III

#### DUTY TO KEEP AND PRESERVE RECORDS

##### *Duty to keep and preserve records*

- 21 (1) A company which may be required to deliver a company tax return for any period must—
- (a) keep such records as may be needed to enable it to deliver a correct and complete return for the period, and
  - (b) preserve those records in accordance with this paragraph.
- (2) The records must be preserved for six years from the end of the period for which the company may be required to deliver a company tax return.
- (3) If the company is required to deliver a company tax return by notice given before the end of that six year period, the records must be preserved until any later date on which—
- (a) any enquiry into the return is completed, or
  - (b) if there is no enquiry, [<sup>F2</sup>an officer of Revenue and Customs] no longer [<sup>F15</sup>has] power to enquire into the return.
- (4) If the company is required to deliver a company tax return by notice given after the end of that six year period and has in its possession at that time any records that may be needed to enable it to deliver a correct and complete return, it is under a duty to preserve those records until the date on which—
- (a) any enquiry into the return is completed, or
  - (b) if there is no enquiry, [<sup>F2</sup>an officer of Revenue and Customs] no longer [<sup>F15</sup>has] power to enquire into the return.
- (5) The records required to be kept and preserved under this paragraph include records of—
- (a) all receipts and expenses in the course of the company’s activities, and the matters in respect of which the receipts and expenses arise, and
  - (b) in the case of a trade involving dealing in goods, all sales and purchases made in the course of the trade.
- (6) The duty to preserve records under this paragraph includes a duty to preserve all supporting documents relating to the items mentioned in sub-paragraph (5)(a) and (b).
- “Supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.

#### Textual Amendments

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

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*Preservation of information instead of original records*

- 22 (1) The duty under paragraph 21 to preserve records may be satisfied by the preservation of the information contained in them, except in the case of records of the kinds specified in sub-paragraph (3) below.
- (2) Where information is so preserved a copy of any document forming part of the records is admissible in evidence in any proceedings before the Commissioners to the same extent as the records themselves.
- (3) The records excluded from sub-paragraph (1) are—
- (a) any statement in writing such as is mentioned in—
- (i) section 234(1) of the Taxes Act 1988 (amount of qualifying distribution and tax credit), or
- (ii) section 352(1) of that Act (gross amount, tax deducted and actual amount paid, in certain cases where payments are made under deduction of tax),
- provided by the company or person there mentioned whether after the making of a request or otherwise;
- [<sup>F16</sup>(b) any record (however described) which is required by regulations under section 70(1)(c) of the Finance Act 2004 to be given to a sub-contractor (within the meaning of section 58 of that Act) on the making of a payment to which section 61 of that Act (deductions on account of tax) applies;]
- (c) any record relating to an amount of tax—
- (i) paid under the law of a territory outside the United Kingdom, or
- (ii) which would have been so payable but for a relief to which section 788(5) of the Taxes Act 1988 applies (relief for promoting development or contemplated by double taxation arrangements).

**Textual Amendments**

**F16** Sch. 18 para. 22(3)(b) substituted (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 12 para. 16\(2\)](#)

*Penalty for failure to keep and preserve records*

- 23 (1) A company which fails to comply with paragraph 21 in relation to an accounting period is liable to a penalty not exceeding £3,000, subject to the following exceptions.
- (2) No penalty is incurred if the records which the company fails to keep or preserve are records which might have been needed only for the purposes of claims, elections or notices not included in the return.
- (3) No penalty is incurred if—
- (a) the records which the company fails to keep or preserve are statements in writing such as are mentioned in—
- (i) section 234(1) of the Taxes Act 1988 (amount of qualifying distribution and tax credit), or
- (ii) section 352(1) of that Act (gross amount, tax deducted and actual amount paid, in certain cases where payments are made under deduction of tax),

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provided by the company or person there mentioned whether after the making of a request or otherwise, and

- (b) [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>is] satisfied that any facts which [<sup>F15</sup>he] reasonably [<sup>F15</sup>requires] to be proved, and which would have been proved by the records, are proved by other documentary evidence furnished to [<sup>F15</sup>him].

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)
- F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(e)**; S.I. 2005/1126, art. 2(2)(h)

#### Modifications etc. (not altering text)

- C12** Sch. 18 para. 23 excluded (with effect in accordance with s. 33(1) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), s. 33(3)(b)

## PART IV

### ENQUIRY INTO COMPANY TAX RETURN

#### *Notice of enquiry*

- 24 (1) [<sup>F2</sup>An officer of Revenue and Customs] may enquire into a company tax return if [<sup>F15</sup>he gives] notice to the company of [<sup>F15</sup>his] intention to do so (“notice of enquiry”) within the time allowed.
- (2) If the return was delivered on or before the filing date, notice of enquiry may be given at any time up to twelve months from the filing date.
- (3) If the return was delivered after the filing date, notice of enquiry may be given at any time up to and including the 31st January, 30th April, 31st July or 31st October next following the first anniversary of the day on which the return was delivered.
- (4) If the company amends its return, notice of enquiry may be given at any time up to and including the 31st January, 30th April, 31st July or 31st October next following the first anniversary of the day on which the amendment was made.
- (5) A return which has been the subject of one notice of enquiry may not be the subject of another, except one given in consequence of an amendment (or another amendment) by the company of its return.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)
- F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(e)**; S.I. 2005/1126, art. 2(2)(h)

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### *Scope of enquiry*

- 25 (1) An enquiry into a company tax return extends to anything contained in the return, or required to be contained in the return, including—
- (a) any claim or election included in the return,
  - (b) any amount that affects or may affect—
    - (i) the tax payable by that company for another accounting period, or
    - (ii) the tax liability of another company for any accounting period,
- [<sup>F17</sup>and also extends to consideration of whether to give the company a transfer pricing notice under paragraph 5C of Schedule 28AA to the Taxes Act 1988 (provision not at arm's length: medium-sized enterprise) [<sup>F18</sup>or a notice under section 804ZA of the Taxes Act 1988 (schemes and arrangements designed to increase relief)] [<sup>F19</sup>or a notice under section 24 or 26 of the Finance (No. 2) Act 2005 (avoidance involving tax arbitrage)]. But this is subject to the following limitation.]
- (2) If the notice of enquiry is given—
- (a) as a result of an amendment by the company of its return, and
  - (b) at a time when it is no longer possible to give notice of enquiry under paragraph 24(2) or (3),
- the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.

#### **Textual Amendments**

- F17** Words in Sch. 18 para. 25(1) substituted (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 5 para. 10](#)
- F18** Words in Sch. 18 para. 25(1) inserted (with effect in accordance with s. 88(5) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), [s. 88\(3\)](#)
- F19** Words in Sch. 18 para. 25(1) inserted (with effect in accordance with s. 31 of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [s. 29\(1\)](#)

### *Enquiry into return for wrong period*

- 26 (1) In the case of a company tax return which it appears to [<sup>F2</sup>an officer of Revenue and Customs] —
- (a) is or may be a return for the wrong period, or
  - (b) has become a return for the wrong period as a result of a direction under section 12(5A) of the Taxes Act 1988 (power of Board to direct which accounting date to be used where company carries on several trades),
- the power to enquire into the return includes power to enquire into the period for which the return ought to have been made.
- (2) A return is a “return for the wrong period” in the following cases.
- (3) The first case is where the return is made for a period which is treated in the return as an accounting period, but which is not an accounting period of the company.
- (4) The second case is where the return is made on the basis that there is no accounting period ending in or at the end of the specified period, but there is such an accounting period.

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- (5) In relation to a return for the wrong period the references to the filing date in paragraph 24(2) and (3) (period within which notice of enquiry may be given) are to the date that would be the filing date if the period for which the return was made were a period of the kind it is treated as in the return.
- (6) In this paragraph “the specified period” means the period specified in the notice requiring a company tax return.

#### Textual Amendments

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

#### *Notice to produce documents, etc. for purposes of enquiry*

- 27 (1) If [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>gives] a notice of enquiry to a company, [<sup>F15</sup>he] may by notice require the company—
- (a) to produce to [<sup>F15</sup>him] such documents in the company’s possession or power, and
  - (b) to provide [<sup>F15</sup>him] with such information, in such form,
- as [<sup>F15</sup>he] may reasonably require for the purposes of the enquiry.
- (2) A notice under this paragraph (which may be given at the same time as the notice of enquiry) must specify the time (which must not be less than 30 days) within which the company is to comply with it.
- (3) In complying with a notice under this paragraph copies of documents may be produced instead of originals, but—
- (a) the copies must be photographic or other facsimiles, and
  - (b) [<sup>F2</sup>an officer of Revenue and Customs] may by notice require the original to be produced for inspection.
- A notice under paragraph (b) must specify the time (which must not be less than 30 days) within which the company is to comply with it.
- (4) [<sup>F2</sup>An officer of Revenue and Customs] may take copies of, or make extracts from, any document produced to [<sup>F15</sup>him] under this paragraph.
- (5) A notice under this paragraph does not oblige the company to produce documents or provide information relating to the conduct of [<sup>F20</sup>—
- (a) any pending appeal by the company, or
  - (b) any pending referral to the Special Commissioners under paragraph 31A to which the company is a party.]

#### Textual Amendments

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)



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**F20** Sch. 18 para. 27(5)(a)(b) and preceding “-” substituted (11.5.2001 with effect as mentioned in s. 88(3) of the amending Act) for words in Sch. 18 para. 27(5) by 2001 c. 9, s. 88, **Sch. 29 para. 38(4)**

*Appeal against notice to produce documents, etc*

- 28 (1) An appeal may be brought against a requirement imposed by a notice under paragraph 27 to produce documents or provide information.
- (2) Notice of appeal must be given—
- (a) in writing,
  - (b) within 30 days after the notice was given to the company,
  - (c) to the officer of the Board by whom that notice was given.
- (3) An appeal under this paragraph shall be heard and determined in the same way as an appeal against an assessment.
- (4) On an appeal under this paragraph the Commissioners—
- (a) shall set aside the notice so far as it requires the production of documents, or the provision of information, which appears to them not reasonably required for the purposes of the enquiry, and
  - (b) shall confirm the notice so far as it requires the production of documents, or the provision of information, which appears to them reasonably required for the purposes of the enquiry.
- (5) A notice which is confirmed by the Commissioners (or so far as it is confirmed) has effect as if the period specified in it for complying was 30 days from the determination of the appeal.
- (6) The decision of the Commissioners on an appeal under this paragraph is final and conclusive.

*Penalty for failure to produce documents, etc*

- 29 (1) A company which fails to comply with a notice under paragraph 27 (notice to produce documents, etc. for purposes of enquiry) is liable—
- (a) to a penalty of £50, and
  - (b) if the failure continues after a penalty is imposed under paragraph (a) above, to a further penalty or penalties not exceeding the amount specified in sub-paragraph (2) below for each day on which the failure continues.
- (2) The amount referred to in sub-paragraph (1)(b) is—
- (a) £30 if the penalty is determined by an officer of the Board under section 100 of the <sup>M11</sup>Taxes Management Act 1970, and
  - (b) £150 if the penalty is determined by the Commissioners under section 100C of that Act.
- (3) An officer of the Board authorised by the Board for the purposes of section 100C of the <sup>M12</sup>Taxes Management Act 1970 may commence proceedings under that section for any penalty under sub-paragraph (1)(b) above.
- (4) No penalty shall be imposed under this paragraph in respect of a failure at any time after the failure has been remedied.

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### Marginal Citations

**M11** 1970 c. 9.

**M12** 1970 c. 9.

### *Amendment of self-assessment during enquiry to prevent loss of tax*

- 30 (1) If after notice of enquiry has been given and before the enquiry is completed [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>forms] the opinion—
- (a) that the amount stated in the company's self-assessment as the amount of tax payable is insufficient, and
  - (b) that unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,
- [<sup>F15</sup>he] may by notice to the company amend its self-assessment to make good the deficiency.
- (2) In the case of an enquiry which under paragraph 25(2) is limited to matters arising from an amendment of the return, sub-paragraph (1) above only applies so far as the deficiency is attributable to the amendment.
- (3) An appeal may be brought against an amendment of a company's self-assessment by [<sup>F2</sup>an officer of Revenue and Customs] under this paragraph.
- (4) Notice of appeal must be given—
- (a) in writing,
  - (b) within 30 days after the amendment was notified to the company,
  - (c) to the officer of the Board by whom the notice of amendment was given.
- (5) The appeal shall not be heard and determined before the completion of the enquiry.

### Textual Amendments

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

### *Amendment of return by company during enquiry*

- 31 (1) This paragraph applies if a company amends its company tax return at a time when an enquiry is in progress into the return.
- (2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.
- (3) So far as the amendment affects—
- (a) the amount stated in the company's self-assessment as the amount of tax payable, or
  - (b) any amount that affects or may affect—
    - (i) the tax payable by the company for another accounting period, or

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(ii) the tax liability of another company for any accounting period, it does not take effect until after the enquiry is completed.

This does not affect any claim by the company under section 59DA of the <sup>M13</sup>Taxes Management Act 1970 (claim for repayment in advance of liability being established).

- (4) An amendment whose effect is deferred under sub-paragraph (3) takes effect as follows—
- (a) if the conclusions in the closure notice state either—
    - (i) that the amendment was not taken into account in the enquiry, or
    - (ii) that no amendment of the return is required arising from the enquiry, the amendment takes effect on the completion of the enquiry;
  - (b) in any other case, the amendment shall be taken into account by the company in amending its return to accord with the conclusions stated in the closure notice and takes effect accordingly as part of those amendments.
- (5) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—
- (a) beginning with the day on which [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>gives notice of enquiry into the return, and
  - (b) ending with the day on which the enquiry is completed.

#### Textual Amendments

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

#### Marginal Citations

**M13** 1970 c. 9.

### <sup>F21</sup>Referral of questions to Special Commissioners during enquiry

#### Textual Amendments

**F21** Sch. 18 Pt. IV para. 31A-31D inserted (11.5.2001 with application as mentioned in [Sch. 29 para. 7\(2\)](#) of the amending Act) by [2001 c. 9, s. 88, Sch. 29 para. 7](#)

- 31A (1) At any time when an enquiry is in progress into a company's tax return any question arising in connection with the subject-matter of the enquiry may be referred to the Special Commissioners for their determination.
- (2) Notice of referral must be given—
- (a) jointly by the company and [<sup>F2</sup>an officer of Revenue and Customs],
  - (b) in writing,
  - (c) to the Special Commissioners.
- (3) The notice of referral must specify the question or questions being referred.

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- (4) More than one notice of referral may be given under this paragraph in relation to an enquiry.
- (5) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—
- (a) beginning with the day on which [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>gives] notice of enquiry into the return, and
  - (b) ending with the day on which the enquiry is completed.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

#### *Withdrawal of notice of referral*

- <sup>F22</sup>31B(1) [<sup>F2</sup>An officer of Revenue and Customs] or the company may withdraw a notice of referral under paragraph 31A by notice in accordance with this paragraph.
- (2) Notice of withdrawal must be given—
- (a) in writing,
  - (b) to the other party to the referral and to the Special Commissioners,
  - (c) before the first hearing by the Special Commissioners in relation to the referral.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F22** Sch. 18 Pt. IV para. 31A-31D inserted (11.5.2001 with application as mentioned in [Sch. 29 para. 7\(2\)](#) of the amending Act) by [2001 c. 9, s. 88, Sch. 29 para. 7](#)

#### *Effect of referral on enquiry*

- <sup>F23</sup>31C(1) While proceedings on a referral under paragraph 31A are in progress in relation to an enquiry—
- (a) no closure notice shall be given in relation to the enquiry, and
  - (b) no application may be made for a direction to give such a notice.
- (2) For the purposes of this paragraph proceedings on a referral are in progress where—
- (a) notice of referral has been given,
  - (b) the notice has not been withdrawn, and
  - (c) the questions referred have not been finally determined.
- (3) For the purposes of sub-paragraph (2)(c) a question referred is finally determined when—
- (a) it has been determined by the Special Commissioners, and

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- (b) there is no further possibility of that determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

#### Textual Amendments

**F23** Sch. 18 Pt. IV para. 31A-31D inserted (11.5.2001 with application as mentioned in [Sch. 29 para. 7\(2\)](#) of the amending Act) by [2001 c. 9, s. 88](#), [Sch. 29 para. 7](#)

#### *Effect of determination*

- <sup>F24</sup>31D(1) The determination of a question referred to the Special Commissioners under paragraph 31A is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.
- (2) The determination shall be taken into account by [<sup>F2</sup>an officer of Revenue and Customs] in reaching [<sup>F15</sup>his] conclusions on the enquiry.
- (3) Any right of appeal under paragraph 30 or 34(3) may not be exercised so as to reopen the question determined except to the extent (if any) that it could be reopened if it had been determined as a preliminary issue in that appeal.]

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)
- F24** Sch. 18 Pt. IV para. 31A-31D inserted (11.5.2001 with application as mentioned in [Sch. 29 para. 7\(2\)](#) of the amending Act) by [2001 c. 9, s. 88](#), [Sch. 29 para. 7\(1\)](#)

#### *Completion of enquiry*

- 32 (1) An enquiry is completed when [<sup>F2</sup>an officer of Revenue and Customs] by notice (a "closure notice") [<sup>F15</sup>informs] the company [<sup>F15</sup>he has] completed [<sup>F15</sup>his] enquiry and [<sup>F15</sup>states his] conclusions.

The notice takes effect when it is issued.

- (2) If [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>concludes] that the return was a return for the wrong period, the closure notice must designate the accounting period for which a return should have been made (specifying the dates on which the period begins and ends).
- (3) If there is more than one accounting period ending in or at the end of the period specified in the notice requiring a return, the closure notice shall only designate the first of those accounting periods for which no return has been delivered.

Paragraph 35 provides for a return to be delivered for any other outstanding accounting period.

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#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

#### *Direction to complete enquiry*

- 33 (1) The company may apply to the Commissioners for a direction that [<sup>F2</sup>an officer of Revenue and Customs] give a closure notice within a specified period.
- (2) Any such application shall be heard and determined in the same way as an appeal.
- (3) The Commissioners hearing the application shall give a direction unless they are satisfied that [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>has] reasonable grounds for not giving a closure notice within a specified period.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

#### *Amendment of return after enquiry*

- 34 (1) The company has 30 days beginning with the day on which the enquiry is completed in which—
- (a) to amend the return that was the subject of the enquiry—
- (i) to accord with the conclusions stated in the closure notice, and
- (ii) in the case of a return for the wrong period, to make it a return appropriate to the designated period, and
- (b) to make any amendments of other company tax returns delivered by it which are required to give effect to the conclusions stated in the closure notice.
- The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made under paragraph (a) or (b).
- (2) If after the end of that period of 30 days [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>is] not satisfied—
- (a) that the return that was the subject of the enquiry—
- (i) is correct and complete, and
- (ii) in the case of a return for the wrong period, is a return appropriate to the designated period, and
- (b) that any necessary amendments have been made to any other return delivered by the company that are required to give effect to the conclusions stated in the closure notice,
- [<sup>F15</sup>he] may, within the following period of 30 days, by notice to the company make such amendments of that return or those returns as [<sup>F15</sup>he considers] necessary.

*Status: Point in time view as at 20/07/2005.*

*Changes to legislation: Finance Act 1998, SCHEDULE 18 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) An appeal may be brought against any such amendment of a company's return.
- (4) Notice of appeal must be given—
  - (a) in writing,
  - (b) within 30 days after the amendment was notified to the company,
  - (c) to the officer of the Board by whom the notice of amendment was given.
- (5) In this paragraph “the designated period” means the period designated in the closure notice.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

#### *Further return for outstanding period*

- 35 (1) Where, following an enquiry into a company tax return—
- (a) it is finally determined—
    - (i) that the return is a return for the wrong period, and
    - (ii) what the period is for which the return should have been made, and
  - (b) the effect of the determination is that there is a further period (“the outstanding period”) for which a company tax return should have been made under the original notice requiring a return,
- then, if there is no such return delivered by the company which can be amended so as to become a return for the outstanding period, the original notice shall be taken to require the company to deliver a return in respect of that period.
- (2) The filing date for such a return for an outstanding period is whichever is the later of—
- (a) the original filing date, and
  - (b) the last day of the period of 30 days beginning with the day on which the matters mentioned in sub-paragraph (1)(a) are finally determined.

## PART V

### REVENUE DETERMINATIONS AND ASSESSMENTS

#### *Determination of tax payable if no return delivered in response to notice*

- 36 (1) If no return is delivered in response to a notice requiring a company tax return, [<sup>F2</sup>an officer of Revenue and Customs] may determine to the best of [<sup>F15</sup>his] information and belief the amount of tax payable by the company.
- (2) The power to make a determination under this paragraph becomes exercisable if no return is delivered on or before the following date—

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- (a) if the filing date for any return required by the notice can be ascertained, that date;
  - (b) if no such date can be ascertained, the later of—
    - (i) 18 months from the end of the period specified in the notice, or
    - (ii) three months from the day on which the notice was served.
- (3) The accounting period or periods for which a determination may be made are—
- (a) if there is only one accounting period ending in or at the end of the period specified in the notice, that period;
  - (b) if there is more than one accounting period ending in or at the end of the period specified in the notice, each of those periods;
  - (c) if [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>has] insufficient information to identify the accounting periods of the company, such period or periods ending in or at the end of the period specified in the notice as [<sup>F15</sup>he] may determine.
- (4) Notice of a determination under this paragraph must be served on the company, stating the date on which the determination is issued.
- (5) No determination under this paragraph may be made more than five years after the day on which the power becomes exercisable.
- (6) If the company shows—
- (a) that there is no accounting period of the company ending in or at the end of the period specified in the notice, or
  - (b) that it has delivered a return for the accounting period, or each accounting period, ending in or at the end of the period specified in the notice, or
  - (c) that no return is yet due for any such period,
- any determination under this paragraph is of no effect.

#### Textual Amendments

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

#### *Determination of tax payable if notice complied with in part*

- 37 (1) If a notice requiring a company tax return is served on a company and—
- (a) a return is delivered for an accounting period ending in or at the end of the period specified in the notice, but
  - (b) there is another period so ending (the “outstanding period”) which appears to [<sup>F2</sup>an officer of Revenue and Customs] is or may be an accounting period, [<sup>F2</sup>an officer of Revenue and Customs] may determine to the best of [<sup>F15</sup>his] information and belief the amount of corporation tax payable by the company for the outstanding period.
- (2) The power to make a determination under this paragraph becomes exercisable—



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- (a) if the filing date for the outstanding period can be ascertained and no return is delivered on or before that date;
  - (b) if no such date can be ascertained and no return for that period is delivered by the later of—
    - (i) 30 months from the end of the period specified in the notice, or
    - (ii) three months from the day on which the notice was served.
- (3) Notice of a determination under this paragraph must be served on the company, stating the date on which the determination is issued.
- (4) No determination under this paragraph may be made more than five years after the day on which the power first became exercisable.
- (5) If the company shows—
- (a) that the outstanding period is not an accounting period, or
  - (b) that it has delivered a return for that period,
- any determination under this paragraph is of no effect.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

#### *Extent of power to make determination*

- 38 (1) The power to make a determination under paragraph 36 or 37 includes power to determine—
- (a) any of the amounts mentioned in paragraph 8(1) (calculation of amount of tax payable), and
  - (b) any amount forming part of the calculation of any of those amounts.
- (2) Notice of a determination under either of those paragraphs may be accompanied by notice of any determination by [<sup>F2</sup>an officer of Revenue and Customs] relating to the dates on which amounts of tax become due and payable under section 59D or 59E of the <sup>M14</sup>Taxes Management Act 1970.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

#### Marginal Citations

- M14** 1970 c. 9.

#### *Determination to have effect as self-assessment*

- 39 (1) A determination under paragraph 36 or 37 has effect for enforcement purposes as if it were a self-assessment by the company.

*Status: Point in time view as at 20/07/2005.*

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- (2) In sub-paragraph (1) “for enforcement purposes” means for the purposes of—
- (a) the following Parts of the <sup>M15</sup>Taxes Management Act 1970—
    - Part VA (payment),
    - Part VI (collection and recovery),
    - Part IX (interest on overdue tax), and
    - Part XI (miscellaneous and supplementary provisions);
  - (b) the provisions of this Schedule imposing tax-related penalties; and
  - (c) the provisions of the Corporation Tax Acts enabling unpaid tax assessed on a company to be assessed on other persons.
- (3) For those purposes the period for which the determination is made shall be treated as an accounting period of the company, even though—
- (a) in the case of a determination under paragraph 36, [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>has] insufficient information to determine the accounting periods of the company and [<sup>F15</sup>exercises his] power under sub-paragraph (3) (c) of that paragraph, or
  - (b) in the case of a determination under paragraph 37, [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>has] insufficient information to determine whether the outstanding period is an accounting period.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

#### Marginal Citations

- M15** 1970 c. 9.

#### *Determination superseded by actual self-assessment*

- 40 (1) If after a determination has been made under paragraph 36—
- (a) the company delivers a company tax return for a period ending in or at the end of the period specified in the notice requiring a company tax return, and
  - (b) the period is, or is treated in the return as, an accounting period,
- the self-assessment included in that return supersedes the determination or, if there is more than one, the determination for the period which is, or most closely approximates to, the period for which the return is made.
- (2) If after a determination has been made under paragraph 37—
- (a) the company delivers a further company tax return for a period ending in or at the end of the period specified in the notice requiring a company tax return, and
  - (b) the period is, or is treated in the return as, an accounting period,
- the self-assessment included in that return supersedes the determination.

*Status: Point in time view as at 20/07/2005.*

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- (3) Sub-paragraphs (1) and (2) do not apply to a return made—
- (a) more than five years after the day on which the power to make the determination first became exercisable (see paragraph 36(2) or 37(2)), or
  - (b) more than twelve months after the date of the determination,
- whichever is the later.
- (4) Where—
- (a) [<sup>F25</sup>proceedings have been begun] for the recovery of any tax charged by a determination under paragraph 36 or 37, and
  - (b) before the proceedings are concluded the determination is superseded by a self-assessment,
- the 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.

#### Textual Amendments

- F25** Words in Sch. 18 para. 40(4) substituted (11.5.2001 with application as mentioned in Sch. 29 para 17(3) of the amending Act) by 2001 c. 9, s. 88, Sch. 29 para. 17(2)

#### *Assessment where loss of tax discovered or determination of amount discovered to be incorrect*

- 41 (1) If [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>discovers] as regards an accounting period of a company that—
- (a) an amount which ought to have been assessed to tax has not been assessed, or
  - (b) an assessment to tax is or has become insufficient, or
  - (c) relief has been given which is or has become excessive,
- [<sup>F15</sup>he] may make an assessment (a “discovery assessment”) in the amount or further amount which ought in [<sup>F15</sup>his] opinion to be charged in order to make good to the Crown the loss of tax.
- (2) If [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>discovers] that a company tax return delivered by a company for an accounting period incorrectly states—
- (a) an amount that affects, or may affect, the tax payable by that company for another accounting period, or
  - (b) an amount that affects, or may affect, the tax liability of another company,
- [<sup>F15</sup>he] may make a determination (a “discovery determination”) of the amount which in [<sup>F15</sup>his] opinion ought to have been stated in the return.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 68(a); S.I. 2005/1126, art. 2(2)(h)
- F15** Words in Sch. 18 substituted (18.4.2005) by virtue of Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 68(c); S.I. 2005/1126, art. 2(2)(h)

*Status: Point in time view as at 20/07/2005.*

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*Restrictions on power to make discovery assessment or determination*

- 42 (1) The power to make—
- (a) a discovery assessment for an accounting period for which the company has delivered a company tax return, or
  - (b) a discovery determination,
- is only exercisable in the circumstances specified in paragraph 43 or 44 and subject to paragraph 45 below.
- (2) Those restrictions do not apply to an assessment or determination which only gives effect to a discovery determination duly made with respect to an amount stated in another company's company tax return.
- [<sup>F26</sup>(2A) Those restrictions, other than the restriction in paragraph 45, do not apply so far as regards any income or chargeable gains of the company in relation to which the company has been given, after any enquiries have been completed into the return, a notice under section 804ZA of the Taxes Act 1988 [<sup>F27</sup>or section 24 or 26 of the Finance (No. 2) Act 2005].]
- (3) Any objection to a discovery assessment or determination on the ground that those paragraphs have not been complied with can only be made on an appeal against the assessment or determination.

**Textual Amendments**

- F26** Sch. 18 para. 42(2A) inserted (with effect in accordance with s. 88(5) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 88\(4\)](#)
- F27** Words in Sch. 18 para. 42(2A) inserted (with effect in accordance with s. 31 of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 29\(2\)](#)

*Fraudulent or negligent conduct*

- 43 A discovery assessment for an accounting period for which the company has delivered a company tax return, or a discovery determination, may be made if the situation mentioned in paragraph 41(1) or (2) is attributable to fraudulent or negligent conduct on the part of—
- (a) the company, or
  - (b) a person acting on behalf of the company, or
  - (c) a person who was a partner of the company at the relevant time.

*Situation not disclosed by return or related documents etc.*

- 44 (1) A discovery assessment for an accounting period for which the company has delivered a company tax return, or a discovery determination, may be made if at the time when [<sup>F2</sup>an officer of Revenue and Customs]—
- (a) ceased to be entitled to give a notice of enquiry into the return, or
  - (b) completed [<sup>F15</sup>his] enquiries into the return,
- [<sup>F15</sup>he] could not have been reasonably expected, on the basis of the information made available to [<sup>F15</sup>him] before that time, to be aware of the situation mentioned in paragraph 41(1) or (2).

*Status: Point in time view as at 20/07/2005.*

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- (2) For this purpose information is regarded as made available to [F<sup>2</sup>an officer of Revenue and Customs] if—
- (a) it is contained in a relevant return by the company or in documents accompanying any such return, or
  - (b) it is contained in a relevant claim made by the company or in any accounts, statements or documents accompanying any such claim, or
  - (c) it is contained in any documents, accounts or information produced or provided by the company to [F<sup>2</sup>an officer of Revenue and Customs] for the purposes of an enquiry into any such return or claim, or
  - (d) it is information the existence of which, and the relevance of which as regards the situation mentioned in paragraph 41(1) or (2)—
    - (i) could reasonably be expected to be inferred by [F<sup>2</sup>an officer of Revenue and Customs] from information falling within paragraphs (a) to (c) above, or
    - (ii) are notified in writing to [F<sup>2</sup>an officer of Revenue and Customs] by the company or a person acting on its behalf.
- (3) In sub-paragraph (2)—
- “relevant return” means the company’s company tax return for the period in question or either of the two immediately preceding accounting periods, and
- “relevant claim” means a claim made by or on behalf of the company as regards the period in question.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F15** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

#### Modifications etc. (not altering text)

- C13** Sch. 18 para. 44(2)(3) applied by 1988 c. 1, s. 804ZC(6)(b) (as inserted (with effect in accordance with s. 87(3) of the amending Act) by [Finance Act 2005 \(c. 7\)](#), s. [87\(1\)](#))
- C14** Sch. 18 para. 44(2)(3) applied (with effect in accordance with s. 31 of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), s. [28\(6\)](#)

#### *Return made in accordance with prevailing practice*

- 45 No discovery assessment for an accounting period for which the company has delivered a company tax return, or discovery determination, may be made if—
- (a) the situation mentioned in paragraph 41(1) or (2) is attributable to a mistake in the return as to the basis on which the company’s liability ought to have been computed, and
  - (b) the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.

*Status: Point in time view as at 20/07/2005.*

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*General time limits for assessments*

- 46 (1) Subject to any provision of the Taxes Acts allowing a longer period in any particular class of case no assessment may be made more than six years after the end of the accounting period to which it relates.
- (2) In a case involving fraud or negligence on the part of—
- (a) the company, or
  - (b) a person acting on behalf of the company, or
  - (c) a person who was a partner of the company at the relevant time,
- an assessment may be made up to 21 years after the end of the accounting period to which it relates.
- (3) Any objection to the making of an assessment on the ground that the time limit for making it has expired can only be made on an appeal against the assessment.

**Modifications etc. (not altering text)**

**C15** Sch. 18 para. 46(2)(3) applied (28.7.2000 with application as mentioned in s. 63(4) of the amending Act) by 2000 c. 17, s. 63(1), **Sch. 15 Pt. VI para. 62(3)**

*Assessment procedure*

- 47 (1) Notice of an assessment to tax on a company must be served on the company stating—
- (a) the date on which the notice is issued, and
  - (b) the time within which any appeal against the assessment may be made.
- (2) After that notice has been served on the company, the assessment may not be altered except in accordance with the express provisions of the Taxes Acts.

*Appeal against assessment*

- 48 (1) An appeal may be brought against any assessment to tax on a company which is not a self-assessment.
- (2) Notice of appeal must be given—
- (a) in writing,
  - (b) within 30 days after notice of the assessment was issued,
  - (c) to the officer of the Board by whom the notice of the assessment was given.

*Application of provisions to discovery determinations*

- 49 The provisions of paragraphs 46 to 48 (assessments: general provisions as to time limits, procedure and appeals) apply to a discovery determination as they apply to an assessment.

*Status: Point in time view as at 20/07/2005.*

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## PART VI

### EXCESSIVE ASSESSMENTS OR REPAYMENTS, ETC

#### *Relief in case of double assessment*

- 50 (1) A company which believes it has been assessed to tax more than once for the same cause and for the same accounting period may make a claim for relief—
- (a) by notice in writing,
  - (b) given to the Board.
- (2) If on a claim being made the Board are satisfied that the company has been assessed to tax more than once for the same cause and for the same accounting period, they shall amend the assessment or assessments concerned, or give relief by way of discharge or repayment of tax or otherwise, so as to eliminate the double charge.
- (3) An appeal against the Board's decision on a claim for relief under this paragraph may be brought to the Commissioners having jurisdiction to hear an appeal relating to the assessment, or the later of the assessments, to which the claim relates.

#### *Relief in case of mistake in return*

- 51 (1) A company which believes it has paid tax under an assessment which was excessive by reason of some mistake in a return may make a claim for relief—
- (a) by notice in writing,
  - (b) given to the Board,
  - (c) not more than six years after the end of the accounting period to which the return relates.
- (2) On receiving the claim the Board shall enquire into the matter and give by way of repayment such relief in respect of the mistake as is reasonable and just.
- (3) No relief shall be given under this paragraph—
- (a) in respect of a mistake as to the basis on which the liability of the claimant ought to have been computed when the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made, or
  - (b) in respect of a mistake in a claim or election which is included in the return.
- (4) In determining a claim under this paragraph the Board shall have regard to all the relevant circumstances of the case.

They shall, in particular, consider whether the granting of relief would result in amounts being excluded from charge to tax.

For that purpose they may take into consideration the liability of the claimant company, and assessments made on it, for accounting periods other than that to which the claim relates.

- (5) On an appeal against the Board's decision on the claim, the Special Commissioners shall hear and determine the claim in accordance with the same principles as apply to the determination by the Board of claims under this paragraph.

*Status: Point in time view as at 20/07/2005.*

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- (6) Neither the company nor the Board may appeal under section 56A of the <sup>M16</sup>Taxes Management Act 1970 against the determination of the Special Commissioners, except on a point of law arising in connection with the computation of—
- (a) the profits of the company for the purposes of corporation tax,
  - (b) any amount assessable under section 419(1) of the Taxes Act 1988 (tax on loan or advance made by close company to a participator), or
  - (c) any amount chargeable under section 747(4)(a) of that Act (tax on profits of controlled foreign company).

**Modifications etc. (not altering text)**

**C16** Sch. 18 para. 51 restricted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1994 c. 9, s. 118(7)(b) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 93(1)(2), **Sch. 11 para. 8**)

**Marginal Citations**

**M16** 1970 c. 9.

*Recovery of excessive repayments etc*

- 52 (1) The provisions of paragraphs 41 to 48 relating to discovery assessments apply to an amount to which this paragraph applies as if it were unpaid tax, unless—
- (a) it is assessable under those provisions apart from this paragraph, or
  - (b) it is recoverable under section 826(8A) of the Taxes Act 1988 (interest overpaid which is recoverable in same way as interest charged).
- (2) This paragraph applies to an amount paid to a company by way of—
- (a) repayment of tax (or income tax) or payment of a tax credit,
  - (b) repayment supplement under section 825 of the Taxes Act 1988,
  - <sup>F28</sup>(ba) R&D tax credit under Schedule 20 to the Finance Act 2000,]
  - <sup>F29</sup><sup>F30</sup>(bb) land remediation tax credit or life assurance company tax credit under Schedule 22 to the Finance Act 2001,]or
  - <sup>F30</sup>(bc) tax credit under Schedule 13 to the Finance Act 2002,]
  - (c) interest paid under section 826 of <sup>F31</sup>the Taxes Act 1988], to the extent that it ought not to have been paid.
- (3) For the purposes of this paragraph—
- (a) an amount is regarded as paid if it is allowed by way of set-off, and
  - (b) an amount is regarded as a repayment if it was intended as repayment but exceeds the amount paid by the company.
- (4) An assessment made by virtue of this paragraph shall be made under Case VI of Schedule D.
- (5) An assessment to recover—
- (a) an amount of tax repaid to a company in respect of an accounting period, or interest on any such repayment,
  - <sup>F32</sup>(ab) an amount of R&D tax credit paid to a company for an accounting period,]



*Status: Point in time view as at 20/07/2005.*

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- [<sup>F33</sup>(ac) an amount of land remediation tax credit or life assurance company tax credit paid to a company for an accounting period,]or  
[<sup>F34</sup>(ad) an amount of tax credit under Schedule 13 to the Finance Act 2002 paid to a company for an accounting period,]  
(b) an amount of income tax repaid to a company in respect of a payment received by the company in an accounting period, or interest on any such repayment,

shall be treated as an assessment to tax for the accounting period referred to in paragraph (a) [<sup>F35</sup>, (ab)][<sup>F36</sup>(ac)][<sup>F37</sup>, (ad)]or (b).

- (6) The sum assessed shall carry interest at the prescribed rate for the purposes of section 87A of the <sup>M17</sup>Taxes Management Act 1970 (interest on overdue corporation tax, etc.) from the date when the payment being recovered was made until payment.

#### Textual Amendments

- F28** Sch. 18 para. 52(2)(ba) inserted (28.7.2000 with effect as mentioned in s. 69(1) of the amending Act) by 2000 c. 17, s. 69(2), **Sch. 21 para. 3(a)**
- F29** Sch. 18 para. 52(2)(bb) inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 5(a)**
- F30** Sch. 18 Pt. VI para. 52(2)(bc) inserted (24.7.2002 with effect as mentioned in Sch. 14 para. 5 of the amending Act) by 2002 c. 23, s. 54, **Sch. 14 para. 3(a)**
- F31** Words in Sch. 18 para. 52(2)(C) substituted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 5(b)**
- F32** Sch. 18 para. 52(5)(ab) inserted (28.7.2000 with effect as mentioned in s. 69(1) of the amending Act) by 2000 c. 17, s. 69(2), **Sch. 21 para. 3(b)**
- F33** Sch. 18 para. 52(5)(ac) inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 5(c)**
- F34** Sch. 18 Pt. VI para. 52(5)(ad) inserted (24.7.2002 with effect as mentioned in Sch. 14 para. 5 of the amending Act) by 2002 c. 23, s. 54, **Sch. 14 para. 3(b)**
- F35** Words in Sch. 18 para. 52(5) inserted (28.7.2000 with effect as mentioned in s. 69(1) of the amending Act) by 2000 c. 17, s. 69(2), **Sch. 21 para. 3(c)**
- F36** Word in Sch. 18 para. 52(2)(c) inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 5(d)**
- F37** Words in Sch. 18 Pt. VI para. 52(5) inserted (24.7.2002 with effect as mentioned in Sch. 14 para. 5 of the amending Act) by 2002 c. 23, s. 54, **Sch. 14 para. 3(c)**

#### Marginal Citations

- M17** 1970 c. 9.

#### *Time limit for recovery of excessive repayments, etc.*

- 53 (1) An assessment made by virtue of paragraph 52 is not out of time under paragraph 46(1) (general six year time limit for assessments) if it is made—
- before the end of the accounting period following that in which the amount assessed was paid, or
  - if later, before the end of the period of three months beginning with the day on which [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>completes] an enquiry into a relevant company tax return by the company concerned.

*Status: Point in time view as at 20/07/2005.*

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(2) Sub-paragraph (1) above is without prejudice to paragraph 46(2) (time limit for assessment in case of fraud or negligence).

#### Textual Amendments

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

## PART VII

### GENERAL PROVISIONS AS TO CLAIMS AND ELECTIONS

#### *Claims must be quantified*

54 A claim under any provision of the Corporation Tax Acts for a relief, an allowance or a repayment of tax must be for an amount which is quantified at the time when the claim is made.

#### Modifications etc. (not altering text)

**C17** Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1990 c. 1, s. 59C\(7\)\(b\)](#) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1999 c. 16, s. 93\(1\)\(2\)](#), [Sch. 11 para. 6](#))  
 Sch. 18 paras. 54-60 excluded (28.7.2000) by [1990 c. 1, s. 76B\(5\)\(b\)](#) (as inserted (28.7.2000) by [2000 c. 17, s. 77\(1\)](#))  
 Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 3\(5\)\(6\)](#)  
 Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 201 \(5\)\(b\)](#) (with Sch. 3 Pt. 4 paras. 54, 55)  
 Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 227\(5\)\(b\)](#) (with Sch. 3 Pt. 4 paras. 54, 55)

#### *General time limit for making claims*

55 Subject to any provision prescribing a longer or shorter period, a claim for relief under any provision of the Corporation Tax Acts must be made within six years from the end of the accounting period to which it relates.

#### Modifications etc. (not altering text)

**C18** Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1990 c. 1, s. 59C\(7\)\(b\)](#) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1999 c. 16, s. 93\(1\)\(2\)](#), [Sch. 11 para. 6](#))  
 Sch. 18 paras. 54-60 excluded (28.7.2000) by [1990 c. 1, s. 76B\(5\)\(b\)](#) (as inserted (28.7.2000) by [2000 c. 17, s. 77\(1\)](#))  
 Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 3\(5\)\(6\)](#)  
 Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s.201\(5\)\(b\)](#) (with Sch. 3 Pt. IV paras. 54, 55)

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Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 227(5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)

### *Supplementary claim or election*

- 56 A company which has made a claim or election under any provision of the Corporation Tax Acts (by including it in a return or otherwise) and subsequently discovers that a mistake has been made in it may make a supplementary claim or election within the time allowed for making the original claim or election.

#### **Modifications etc. (not altering text)**

- C19** Sch. 18 para. 56 restricted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1994 c. 9, s. 118(7)(b) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 93(1)(2), Sch. 11 para. 8)
- Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1990 c. 1, s. 59C(7)(b) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 93(1)(2), Sch. 11 para. 6)
- Sch. 18 paras. 54-60 excluded (28.7.2000) by 1990 c. 1, s. 76B(5)(b) (as inserted (28.7.2000) by 2000 c. 17, s. 77(1))
- Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 3(5)(6)
- Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, s. 201(5)(b) (with Sch. 3 Pt. IV paras. 54, 55)
- Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 227(5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)

### *Claims or elections affecting a single accounting period*

- 57 (1) This paragraph applies to a claim or election for tax purposes which affects only one accounting period ("the relevant accounting period").
- (2) If notice has been given under paragraph 3 requiring a company to deliver a company tax return for the relevant accounting period, a claim or election by the company which can be made by being included in the return (as originally made or by amendment) must be so made.
- (3) If a company has delivered a company tax return for the relevant accounting period, a claim or election made by the company which could be made by amending the return is treated as an amendment of the return.

The provisions of paragraph 15 (amendment of return by company) apply.

- (4) Schedule 1A to the <sup>M18</sup>Taxes Management Act 1970 (claims and elections not included in returns) applies to a claim or election made by a company which cannot be included in a company tax return for the relevant accounting period.

This applies in particular to a claim or election made—

- (a) before any notice is given under paragraph 3 requiring a company tax return for the relevant accounting period, or
- (b) at a time when its return for the relevant accounting period cannot be amended.

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**Modifications etc. (not altering text)**

- C20** Sch. 18 paras. 57-60 excluded (31.7.1998) by 1988 c. 1, s. 438A, **Sch 19AB(1)(6)** (as substituted (31.7.1998) by 1998 c. 36, s. 117(3), **Sch. 19 para. 51(3)**)  
 Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1990 c. 1, s. 59C(7)(b) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 93(1)(2), **Sch. 11 para. 6**)  
 Sch. 18 paras. 54-60 excluded (28.7.2000) by 1990 c. 1, s. 76B(5)(b) (as inserted (28.7.2000) by 2000 c. 17, s. 77(1))  
 Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 3(5)(6)  
 Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, s. 201(5)(b) (with Sch. 3 Pt. IV paras. 54, 55)  
 Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 227(5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)

**Marginal Citations**

- M18** 1970 c. 9.

*Claims or elections involving more than one accounting period*

- 58 (1) This paragraph applies to a claim or election for tax purposes if—
- (a) the event or occasion giving rise to it occurs in one accounting period (the period to which it “relates”), and
  - (b) it affects one or more other accounting periods (whether or not it also affects the period to which it relates).
- (2) If a company makes a claim or election which—
- (a) relates to an accounting period for which the company has delivered a company tax return and could be made by amendment of the return, or
  - (b) affects an accounting period for which the company has delivered a company tax return and could be given effect by amendment of the return,
- the claim or election is treated as an amendment of the return.
- The provisions of paragraph 15 (amendment of return by company) apply.
- (3) Schedule 1A to the <sup>M19</sup>Taxes Management Act 1970 (claims and elections not included in returns) applies to a claim or election made by a company if or to the extent that it is not—
- (a) made by being included (by amendment or otherwise) in the company tax return for the accounting period to which it relates, and
  - (b) given effect by being included (by amendment or otherwise) in company tax returns for the accounting periods affected by it.

**Modifications etc. (not altering text)**

- C21** Sch. 18 paras. 57-60 excluded (31.7.1998) by 1988 c. 1, s. 438A, **Sch 19AB(1)(6)** (as substituted (31.7.1998) by 1998 c. 36, s. 117(3), **Sch. 19 para. 51(3)**)  
 Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1990 c. 1, s. 59C(7)(b) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 93(1)(2), **Sch. 11 para. 6**)

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Sch. 18 paras. 54-60 excluded (28.7.2000) by 1990 c. 1, s. 76B(5)(b) (as inserted (28.7.2000) by 2000 c. 17, s. 77(1))

Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 3(5)(6)

Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, s. 201(5)(b) (with Sch. 3 Pt. IV paras. 54, 55)

Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 227(5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)

#### Marginal Citations

M19 1970 c. 9.

#### Other claims and elections

- 59 (1) Schedule 1A to the Taxes Management Act 1970 applies to a claim or election for tax purposes which is not within paragraph 57 or 58, whether or not it is included (by amendment or otherwise) in a company tax return.
- (2) The provisions of this Schedule do not apply where or to the extent that the provisions of Schedule 1A apply.

#### Modifications etc. (not altering text)

C22 Sch. 18 paras. 57-60 excluded (31.7.1998) by 1988 c. 1, s. 438A, Sch 19AB(1)(6) (as substituted (31.7.1998) by 1998 c. 36, s. 117(3), Sch. 19 para. 51(3))

Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1990 c. 1, s. 59C(7)(b) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 93(1)(2), Sch. 11 para. 6)

Sch. 18 paras. 54-60 excluded (28.7.2000) by 1990 c. 1, s. 76B(5)(b) (as inserted (28.7.2000) by 2000 c. 17, s. 77(1))

Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 3(5)(6)

Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, s. 201(5)(b) (with Sch. 3 Pt. IV paras. 54, 55)

Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 227(5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)

#### Provisions supplementary to paragraphs 57 to 59

- 60 (1) Paragraphs 57 to 59 have effect subject to any express provision to the contrary.
- (2) Nothing in those paragraphs affects the time limit or any other conditions for making a claim or election.
- (3) Where Schedule 1A to the <sup>M20</sup>Taxes Management Act 1970 applies by virtue of any of those paragraphs and the claim or election results in an increase in the amount of tax payable, all such adjustments by way of assessment or otherwise shall be made as are necessary to give effect to it.

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#### Modifications etc. (not altering text)

- C23** Sch. 18 paras. 57-60 excluded (31.7.1998) by 1988 c. 1, s. 438A, **Sch 19AB(1)(6)** (as substituted (31.7.1998) by 1998 c. 36, s. 117(3), **Sch. 19 para. 51(3)**)
- Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1990 c. 1, s. 59C(7)(b) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 93(1)(2), **Sch. 11 para. 6**)
- Sch. 18 paras. 54-60 excluded (28.7.2000) by 1990 c. 1, s. 76B(5)(b) (as inserted (28.7.2000) by 2000 c. 17, s. 77(1))
- Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 3(5)(6)
- Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, s. 201(5)(b) (with Sch. 3 Pt. IV paras. 54, 55)
- Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 227(5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)

#### Marginal Citations

- M20** 1970 c. 9.

#### *Consequential claims, etc. arising out of certain Revenue amendments or assessments*

- 61 (1) Paragraphs 62 to 64 have effect to allow certain claims, elections, applications and notices to be made or given, or if previously given to be revoked or varied, where—
- (a) an amendment of a company tax return is made under paragraph 34(2)(b) (amendments of other returns required in consequence of closure notice) which has the effect of increasing the amount of tax payable by a company,
  - (b) a discovery assessment is made, or
  - (c) an assessment is made under paragraph 76 (recovery of excessive group relief).
- (2) Paragraphs 62 to 64 do not apply in relation to an assessment made in a case involving fraudulent or negligent conduct on the part of—
- (a) the company, or
  - (b) a person acting on behalf of the company, or
  - (c) a person who was a partner of the company at the relevant time.
- In such a case more limited provision is made by paragraph 65.
- (3) In paragraphs 62 to 64 “the relevant accounting period”, in relation to the time limit for making a consequential claim, election, application or notice, means—
- (a) in relation to an amendment of a company tax return under paragraph 34(2)
  - (b), the accounting period in which the closure notice was issued;
  - (b) in relation to an assessment, the accounting period in which the assessment was made.

#### *Consequential claims etc that may be made*

- 62 (1) A claim, election, application or notice to which this paragraph applies—
- (a) may be made or given at any time within one year from the end of the relevant accounting period, or
  - (b) if previously made or given may at any such time be revoked or varied—

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- (i) in the same manner as it was made or given, and
  - (ii) by or with the consent of the same person or persons who made, gave or consented to it (or, if a person has died, by or with the consent of his personal representatives),unless, by virtue of any enactment, it is irrevocable.
- (2) This paragraph applies to a claim, election, application or notice—
  - (a) relating to the accounting period in respect of which the amendment or assessment is made, or
  - (b) made or given by reference to an event occurring in that period,whose making, giving, revocation or variation has or could have the effect of reducing a relevant liability of the company.
- (3) The following are relevant liabilities of the company for this purpose—
  - (a) the increased liability to tax resulting from the amendment or assessment;
  - (b) any other liability to tax of the company—
    - (i) for the accounting period to which the amendment or assessment relates, or
    - (ii) for any subsequent accounting period ending not later than one year after the end of the relevant accounting period.
- (4) Where a claim, election, application or notice is made, given, revoked or varied by virtue of this paragraph, all such adjustments shall be made, whether by way of discharge or repayment of tax or the making of amendments, assessments or otherwise, as are required to take account of the effect of the taking of that action on any person's liability to tax for any chargeable period.
- (5) The provisions of the <sup>M21</sup>Taxes Management Act 1970 relating to appeals against decisions on claims apply with any necessary modifications to a decision on the revocation or variation of a claim by virtue of this paragraph.
- (6) This paragraph has effect subject to—
  - paragraph 63 (consequential claims etc. affecting tax liability of another person), and
  - paragraph 64 (consequential claims etc. not to give rise to reduction in liability).

**Marginal Citations**

**M21** 1970 c. 9.

*Consequential claims etc. affecting tax liability of another person*

- 63
- (1) If the effect of the exercise by any person of a power conferred by paragraph 62 would be to alter the liability to tax of another person, the power may not be exercised except with the consent in writing of that other person or, if he has died, of his personal representatives.
  - (2) Where such a power is exercised so as to increase the liability to tax of another person, neither paragraph 61 above nor section 43A of the <sup>M22</sup>Taxes Management Act 1970 (which makes corresponding provision in relation to income tax or capital gains tax) applies in relation to any amendment or assessment made because of that increased liability.

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(3) In this paragraph “tax” includes income tax or capital gains tax.

**Marginal Citations**

**M22** 1970 c. 9.

*Consequential claims etc. not to give rise to reduction in liability*

- 64 (1) If in any case—
- (a) one or more claims, elections, applications or notices are made, given, revoked or varied under paragraph 62 in consequence of an amendment or assessment, and
  - (b) the total of the reductions in liability to tax resulting from that action would exceed the additional liability to tax resulting from the amendment or assessment,
- the excess is not available to reduce any liability to tax.
- (2) Where sub-paragraph (1) has the effect of limiting either—
- (a) the reduction in a person’s liability to tax for more than one period, or
  - (b) the reduction in the liability to tax of more than one person,
- the limited amount shall be apportioned between the periods or persons concerned.
- (3) The apportionment shall be made in such manner as [<sup>F2</sup>an officer of Revenue and Customs] may specify by notice in writing to the person or persons concerned, unless notice is given under the following provision.
- (4) If the person concerned gives (or the persons concerned jointly give) notice in writing to [<sup>F2</sup>an officer of Revenue and Customs] within the period of 30 days beginning with—
- (a) the day on which notice under sub-paragraph (3) is given to the person concerned, or
  - (b) where more than one person is concerned, the latest date on which such notice is given to any of them,
- the apportionment shall be made in such manner as may be specified in the notice given by the person or persons concerned.
- (5) In this paragraph “tax” includes income tax or capital gains tax.

**Textual Amendments**

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

*Consequential claims in case of fraud or negligence*

- 65 (1) This paragraph applies where an assessment is made on a company in a case involving fraudulent or negligent conduct on the part of—
- (a) the company, or
  - (b) a person acting on behalf of the company, or



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- (c) a person who was a partner of the company at the relevant time.
- (2) If the company so requires, effect shall be given in determining the amount of the tax charged by the assessment to any relief or allowance to which the company would have been entitled for that accounting period on a claim or application made within the time allowed by the Taxes Acts.

## PART VIII

### CLAIMS FOR GROUP RELIEF

#### Modifications etc. (not altering text)

- C24** Sch. 18 Pt. VIII (except paras. 70(4), 71(4)) applied (with modifications) (23.11.1999) by [S.I. 1999/2975, reg. 10\(3\)](#)  
Sch. 18 Pt. VIII (except para. 77) applied (28.7.2000) by [2000 c. 17, s. 82, Sch. 22 Pt. IX para. 81\(3\)](#)

#### *Introduction*

- 66 This Part of this Schedule applies to claims for relief under Chapter IV of Part X of the Taxes Act 1988 (group relief).

#### *Claim to be included in company tax return*

- 67 (1) A claim for group relief must be made by being included in the claimant company's company tax return for the accounting period for which the claim is made.
- (2) It may be included in the return originally made or by amendment.

#### Modifications etc. (not altering text)

- C25** Sch. 18 para. 67 applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the amending S.I.) by [S.I. 2001/1163, regs. 1, 8](#)

#### *Content of claims*

- 68 (1) A claim for group relief must specify—
- the amount of relief claimed, and
  - the name of the surrendering company.
- (2) The amount specified must be an amount which is quantified at the time the claim is made.
- [<sup>F38</sup>(3) A claim for group relief must also state whether or not there is a company mentioned in sub-paragraph (4) that was not resident in the United Kingdom in either or both of the following periods—
- the accounting period of the surrendering company to which the surrender relates,
  - the corresponding accounting period of the claimant company.

*Status: Point in time view as at 20/07/2005.*

*Changes to legislation: Finance Act 1998, SCHEDULE 18 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- <sup>F38</sup>(4) Those companies are the claimant company, the surrendering company and any other company by reference to which—
- (a) the claimant company and the surrendering company are members of the same group, or
  - (b) the conditions specified in section 402(3) of the Taxes Act 1988 for the making of the claim are satisfied in the case of the claimant company and the surrendering company.]

**Textual Amendments**

**F38** Sch. 18 para. 68(3)(4) inserted (28.7.2000 with effect as mentioned in [Sch. 27 para. 12\(1\)](#) of the amending Act) by [2000 c. 17, s. 97](#), [Sch. 27 Pt. II para. 11](#)

**Modifications etc. (not altering text)**

**C26** Sch. 18 para. 68 applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the amending S.I.) by [S.I. 2001/1163, regs. 1, 8](#)

*Claims for more or less than the amount available for surrender*

- 69 (1) A claim for group relief may be made for less than the amount available for surrender at the time the claim is made.
- (2) A claim is ineffective if the amount claimed exceeds the amount available for surrender at the time the claim is made.
- (3) For these purposes the amount available for surrender at any time is calculated as follows.
- First step*
- Determine the total amount available for surrender under section 403 of the Taxes Act 1988—
- (a) on the basis of the information in the company's company tax return, and
  - (b) disregarding any amendments whose effect is deferred under paragraph 31(3).
- Second step*
- Then deduct the total of all amounts for which notices of consent have been given by the company and not withdrawn.
- (4) Where one or more claims are withdrawn on the same day as one or more claims are made, the withdrawals are given effect first.
- (5) Where more than one claim is made on the same day, and the claims together take the amount claimed over the limit of what is available for surrender, [<sup>F2</sup>an officer of Revenue and Customs] may determine which of the claims is to be ineffective.
- (6) The power under sub-paragraph (5) shall not be exercised to any greater extent than is necessary to bring the total amount claimed within the amount available for surrender.

*Status: Point in time view as at 20/07/2005.*

*Changes to legislation: Finance Act 1998, SCHEDULE 18 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

### *Consent to surrender*

- 70 (1) A claim for group relief requires the consent of the surrendering company.
- (2) A consortium claim also requires the consent of each member of the consortium.
- (3) The necessary consent or consents must be given—
- (a) by notice in writing,
  - (b) to the officer of the Board to whom the surrendering company makes its company tax returns,
  - (c) at or before the time the claim is made.
- Otherwise the claim is ineffective.
- (4) A claim for group relief is ineffective unless it is accompanied by a copy of the notice of consent to surrender given by the surrendering company.
- (5) A consortium claim is ineffective unless it is also accompanied by a copy of the notice of consent to surrender given by each member of the consortium.

### Modifications etc. (not altering text)

- C27** Sch. 18 para. 70(1)(3)(4) applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the amending S.I.) by [S.I. 2001/1163](#), [regs. 1, 8](#)

### *Notice of consent*

- 71 (1) Notice of consent by the surrendering company must contain all the following details—
- (a) the name of the surrendering company;
  - (b) the name of the company to which relief is being surrendered;
  - (c) the amount of relief being surrendered;
  - (d) the accounting period of the surrendering company to which the surrender relates;
  - (e) the tax district references of the surrendering company and the company to which relief is being surrendered.
- Otherwise the notice is ineffective.
- (2) Notice of consent may not be amended, but it may be withdrawn and replaced by another notice of consent.
- (3) Notice of consent may be withdrawn by notice to the officer of the Board to whom the notice of consent was given.
- (4) Except where the consent is withdrawn under paragraph 75 (withdrawal in consequence of reduction of amount available for surrender), the notice of

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withdrawal must be accompanied by a notice signifying the consent of the claimant company to the withdrawal.

Otherwise the notice is ineffective.

- (5) The claimant company must, so far as it may do so, amend its company tax return for the accounting period for which the claim was made so as to reflect the withdrawal of consent.

**Modifications etc. (not altering text)**

**C28** Sch. 18 para. 71 applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the amending S.I.) by [S.I. 2001/1163](#), [regs. 1, 8](#)

*Notice of consent requiring amendment of return*

- 72 (1) Where notice of consent by the surrendering company is given after the company has made a company tax return for the period to which the surrender relates, the surrendering company must at the same time amend its return so as to reflect the notice of consent.
- (2) Where notice of consent by the surrendering company relates to a loss in respect of which relief has been given under section 393(1) of the Taxes Act 1988 (carry forward of trading losses), the surrendering company must at the same time amend its company tax return for the period or, if more than one, each of the periods in which relief for that loss has been given under section 393(1) so as to reflect the new notice of consent.
- For this purpose relief under section 393(1) is treated as given for losses incurred in earlier accounting periods before losses incurred in later accounting periods.
- (3) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made under sub-paragraph (1) or (2).
- (4) If the surrendering company fails to comply with sub-paragraph (1) or (2), the notice of consent is ineffective.

**Modifications etc. (not altering text)**

**C29** Sch. 18 para. 72(1)(4) applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the amending S.I.) by [S.I. 2001/1163](#), [regs. 1, 8](#)

*Withdrawal or amendment of claim*

- 73 (1) A claim for group relief may be withdrawn by the claimant company only by amending its company tax return.
- (2) A claim for group relief may not be amended, but must be withdrawn and replaced by another claim.

*Status: Point in time view as at 20/07/2005.*

*Changes to legislation: Finance Act 1998, SCHEDULE 18 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### **Modifications etc. (not altering text)**

**C30** Sch. 18 para. 73 applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the commencing Regulations) by [S.I. 2001/1163](#), [regs. 1, 8](#)

#### *Time limit for claims*

- 74 (1) A claim for group relief may be made or withdrawn at any time up to whichever is the last of the following dates—
- (a) the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made;
  - (b) if notice of enquiry is given into that return, 30 days after the enquiry is completed;
  - (c) if after such an enquiry [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>amends] the return under paragraph 34(2), 30 days after notice of the amendment is issued;
  - (d) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.

(2) A claim for group relief may be made or withdrawn at a later time if [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>allows] it.

(3) The time limits otherwise applicable to amendment of a company tax return do not apply to an amendment to the extent that it makes or withdraws a claim for group relief within the time allowed by or under this paragraph.

(4) The references in sub-paragraph (1) to an enquiry into a company tax return do not include an enquiry restricted to a previous amendment making or withdrawing a claim for group relief.

An enquiry is so restricted if—

- (a) the scope of the enquiry is limited as mentioned in paragraph 25(2), and
- (b) the amendment giving rise to the enquiry consisted of the making or withdrawing of a claim for group relief.

#### **Textual Amendments**

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); [S.I. 2005/1126](#), art. 2(2)(h)

#### **Modifications etc. (not altering text)**

**C31** Sch. 18 para. 74 applied by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), Sch. 19B para. 15(3) (as inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 38](#))

#### *Reduction in amount available for surrender*

- 75 (1) This paragraph applies if, after the surrendering company has given one or more notices of consent to surrender, the [<sup>F39</sup>total amount available for surrender] is reduced to less than the amount stated in the notice, or the total of the amounts stated in the notices, as being surrendered.

*Status: Point in time view as at 20/07/2005.*

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- (2) The company must within 30 days withdraw the notice of consent, or as many of the notices as is necessary to bring the total amount surrendered within the new <sup>F40</sup>total amount available for surrender, and may give one or more new notices of consent.
- (3) The company must give notice in writing of the withdrawal of consent, and send a copy of any new notice of consent—
  - (a) to each of the companies affected, and
  - (b) to <sup>F2</sup>an officer of Revenue and Customs].
- (4) If the surrendering company fails to act in accordance with sub-paragraph (2), <sup>F2</sup>an officer of Revenue and Customs] may by notice to the surrendering company give such directions as <sup>F15</sup>he thinks] fit as to which notice or notices are to be ineffective or are to have effect in a lesser amount.

This power shall not be exercised to any greater extent than is necessary to secure that the total amount stated in the notice or notices is consistent with the <sup>F40</sup>total amount available for surrender.

- (5) <sup>F2</sup>An officer of Revenue and Customs] must at the same time send a copy of the notice to the claimant company, or each claimant company, affected by <sup>F15</sup>his] action.
- (6) A claimant company which receives—
  - (a) notice of the withdrawal of consent, or a copy of a new notice of consent, under sub-paragraph (3), or
  - (b) a copy of a notice containing directions by <sup>F2</sup>an officer of Revenue and Customs] under sub-paragraph (4),
 must, so far as it may do so, amend its company tax return for the accounting period for which the claim is made so that it is consistent with the new position with regard to consent to surrender.
- (7) An appeal may be brought by the surrendering company against any directions given by <sup>F2</sup>an officer of Revenue and Customs] under sub-paragraph (4).
- (8) Notice of appeal must be given—
  - (a) in writing,
  - (b) within 30 days after the notice containing the directions was issued,
  - (c) to the officer of the Board by whom the notice was given.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F39** Words in Sch. 18 para. 75(1) substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1999 c. 16, s. 92\(2\)\(a\)\(7\)](#)
- F40** Words in Sch. 18 para. 75(2)(4) inserted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1999 c. 16, s. 92\(2\)\(b\)\(7\)](#)

#### Modifications etc. (not altering text)

- C32** Sch. 18 para. 75 applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the commencing Regulations) by [S.I. 2001/1163, regs. 1, 8](#)

*Status: Point in time view as at 20/07/2005.*

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<sup>F41</sup>[Assessment on other claimant companies]

**Textual Amendments**

**F41** Sch. 18 para. 75A and crossheading inserted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 92(3)(7)

- <sup>F42</sup>75A(1) This paragraph applies where, after the surrendering company has given notice of consent to surrender, a claimant company (“the chargeable company”) has become liable to tax in consequence of receiving—
- (a) notice of the withdrawal of consent, or a copy of a new notice of consent, under paragraph 75(3), or
  - (b) a copy of a notice containing directions by <sup>F2</sup>an officer of Revenue and Customs] under paragraph 75(4).
- (2) If any of the tax is unpaid six months after the chargeable company’s time limit for claims, <sup>F2</sup>an officer of Revenue and Customs] may make an assessment to tax in the name of the chargeable company on any other company that has obtained group relief as a result of the surrender.
- (3) The assessment may not be made more than two years after that time limit.
- (4) The amount of the assessment must not exceed—
- (a) the amount of the unpaid tax, or
  - (b) if less, the amount of tax which the other company saves by virtue of the surrender.
- (5) A company assessed to an amount of tax under sub-paragraph (2) is entitled to recover from the chargeable company—
- (a) a sum equal to that amount, and
  - (b) any interest on that amount which it has paid under section 87A of the <sup>M23</sup>Taxes Management Act 1970 (interest on unpaid corporation tax).
- (6) For the purposes of this paragraph the chargeable company’s time limit for claims is the last of the dates mentioned in paragraph 74(1) on which the chargeable company could make or withdraw a claim for group relief for the accounting period for which the claim in question is made.]

**Textual Amendments**

**F2** Words in Sch. 18 substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 68(a); S.I. 2005/1126, art. 2(2)(h)

**F42** Sch. 18 Pt. VIII para. 75A inserted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 92(3)(7)

**Modifications etc. (not altering text)**

**C33** Sch. 18 para. 75A applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the commencing Regulations) by S.I. 2001/1163, regs. 1, 8

**Marginal Citations**

**M23** 1970 c.9.

*Status: Point in time view as at 20/07/2005.*

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*Assessment to recover excessive group relief*

- 76 (1) If [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>discovers] that any group relief which has been given is or has become excessive, [<sup>F15</sup>he] may make an assessment to tax in the amount which in [<sup>F15</sup>his] opinion ought to be charged.
- (2) This power is without prejudice to—
- (a) the power to make a discovery assessment under paragraph 41(1);
  - (b) the making of all such adjustments by way of discharge or repayment of tax or otherwise as may be required where a claimant company has obtained too much relief, or a surrendering company has forgone relief in respect of a corresponding amount.
- <sup>F43</sup>(3) If an assessment under this paragraph is made because a claimant company fails, or is unable, to amend its company tax return under paragraph 75(6), the assessment is not out of time if it is made within one year from—
- (a) the date on which the surrendering company gives notice of the withdrawal of consent, or (if later) sends a copy of a new notice of consent, to the claimant company under paragraph 75(3), or
  - (b) the date on which [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>sends] the claimant company a copy of a notice containing [<sup>F15</sup>his] directions under paragraph 75(4).]

**Textual Amendments**

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); [S.I. 2005/1126](#), art. 2(2)(h)
- F43** Sch. 18 para. 76(3) added (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1999 c. 16, s. 92\(4\)\(7\)](#)

**Modifications etc. (not altering text)**

- C34** Sch. 18 para. 76 applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the amending S.I.) by [S.I. 2001/1163](#), [regs. 1, 8](#)

*Joint amended returns*

- 77 (1) The Treasury may by regulations make provision for arrangements under which—
- (a) a claim for group relief may be made without being accompanied by a copy of the notice of consent to surrender given by the surrendering company [<sup>F44</sup>, provided authority for the claim being so made is given by a company which is authorised in relation to the claimant company as mentioned in paragraph (b)], and
  - (b) one company may be authorised to act on behalf of two or more companies in the same group in amending their company tax returns for the purpose of claiming or surrendering group relief or revising the amounts of group relief claimed or surrendered by them.
- (2) Regulations under this paragraph may add to, exclude or modify the operation of any provisions of this Part of this Schedule to such extent as the Treasury think necessary or expedient for the purpose of, or in connection with, such arrangements.
- (3) Provision may in particular be made—



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- (a) altering the conditions for making and withdrawing claims for group relief, and
- (b) giving [<sup>F2</sup>an officer of Revenue and Customs] power to recover from the authorised company or another company in the group any amount which might be recovered from the claimant company by an assessment under paragraph 76.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F44** Words in Sch. 18 para. 77(1)(a) inserted (28.7.2000) by [2000 c. 17, s. 99](#)

## PART IX

### CLAIMS FOR CAPITAL ALLOWANCES

#### Modifications etc. (not altering text)

- C35** Sch. Pt. IX applied (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 135\(5\)](#) (with [Sch. 3 Pt. IV paras. 54, 55](#))

#### *Introduction*

- [<sup>F45</sup>78 This Part of this Schedule applies to claims for allowances under the Capital Allowances Act which—
- (a) are made for corporation tax purposes, and
  - (b) are required under section 3 of that Act to be included in a tax return.]

#### Textual Amendments

- F45** Sch. 18 para. 78 substituted (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, ss. 578, 579, Sch. 2 para. 103\(1\)](#)

#### *Claim to be included in company tax return*

- [<sup>F46</sup>79 (1) A claim for capital allowances must be included in the claimant company's company tax return for the accounting period for which the claim is made.]
- (2) It may be included in the return originally made or by amendment.

#### Textual Amendments

- F46** Sch. 18 para. 79(1) substituted (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, ss. 578, 579, Sch. 2 para. 103\(2\)](#)

*Status: Point in time view as at 20/07/2005.*

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### *Content of claims*

- 80 A claim for capital allowances must specify the amount claimed, which must be an amount which is quantified at the time the claim is made.

### *Amendment or withdrawal of claim*

- 81 A claim for capital allowances may be amended or withdrawn by the claimant company only by amending its company tax return.

### *Time limit for claims*

- 82 (1) A claim for capital allowances may be made, amended or withdrawn at any time up to whichever is the last of the following dates—
- (a) the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made;
  - (b) if notice of enquiry is given into that return, 30 days after the enquiry is completed;
  - (c) if after such an enquiry [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>amends] the return under paragraph 34(2), 30 days after notice of the amendment is issued;
  - (d) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.
- (2) A claim for capital allowances may be made, amended or withdrawn at a later time if [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>allows] it.
- (3) The time limits otherwise applicable to amendment of a company tax return do not apply to an amendment to the extent that it makes, amends or withdraws a claim for capital allowances within the time allowed by or under this paragraph.
- (4) The references in sub-paragraph (1) to an enquiry into a company tax return do not include an enquiry restricted to a previous amendment making, amending or withdrawing a claim for capital allowances.

An enquiry is so restricted if—

- (a) the scope of the enquiry is limited as mentioned in paragraph 25(2), and
- (b) the amendment giving rise to the enquiry consisted of the making, amending or withdrawing of a claim for capital allowances.

#### **Textual Amendments**

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

### *Consequential amendment of return for another accounting period*

- 83 (1) This paragraph applies if the effect of a claim for capital allowances is to reduce the amount available by way of capital allowances for another accounting period of the company for which a company tax return has been delivered.
- (2) The company has 30 days within which to make any necessary amendments of the company tax return for that other period.

*Status: Point in time view as at 20/07/2005.*

*Changes to legislation: Finance Act 1998, SCHEDULE 18 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) If it does not do so, [<sup>F2</sup>an officer of Revenue and Customs] may by notice in writing to the company amend the return to make it consistent with the amount available by way of capital allowances.
- (4) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made under sub-paragraph (2) or (3).
- (5) An appeal may be brought by the company against any such amendment.
- (6) Notice of appeal must be given—
  - (a) in writing,
  - (b) within 30 days after notice of the amendment was issued,
  - (c) to the officer of the Board by whom the notice of amendment was issued.

#### Textual Amendments

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

## [<sup>F47</sup>PART IXA

### CLAIMS FOR R&D TAX CREDIT

#### Textual Amendments

**F47** [Sch. 18 Pt. 9A](#) (paras. 83A-83F) inserted (28.7.2000 with effect as mentioned in s. 69(1) of the amending Act) by [2000 c. 17, s. 69\(2\)](#), [Sch. 21 para. 4](#)

#### *Introduction*

- 83A This Part of this Schedule applies to claims for R&D tax credits under Schedule 20 to the Finance Act 2000.

#### *Claim to be included in company tax return*

- 83B (1) A claim for an R&D tax credit must be made by being included in the claimant company's company tax return for the accounting period for which the claim is made.
- (2) It may be included in the return originally made or by amendment.

#### *Content of claim*

- 83C A claim for an R&D tax credit must specify the amount of the relief claimed, which must be an amount quantified at the time the claim is made.

#### *Amendment or withdrawal of claim*

- 83D A claim for an R&D tax credit may be amended or withdrawn by the claimant company only by amending its company tax return.

*Status: Point in time view as at 20/07/2005.*

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### *Time limit for claims*

- 83E (1) A claim for an R&D tax credit may be made, amended or withdrawn at any time up to the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made.
- (2) The claim may be made, amended or withdrawn at a later date if [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>allows] it.

#### **Textual Amendments**

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

### *Penalty*

- 83F (1) The company is liable to a penalty where it—
- (a) fraudulently or negligently makes a claim for an R&D tax credit which is incorrect, or
  - (b) discovers that a claim for an R&D tax credit made by it (neither fraudulently or negligently) is incorrect and does not remedy the error without unreasonable delay.
- (2) The penalty is an amount not exceeding the excess R&D tax credit claimed, that is, the difference between—
- (a) the amount of the R&D tax credit to which the company is entitled for the accounting period to which the claim relates, and
  - (b) the amount of the R&D tax credit claimed by the company for that period.]

## [<sup>F48</sup>PART 9B

### CLAIMS RELATING TO REMEDIATION OF CONTAMINATED LAND

#### **Textual Amendments**

**F48** Sch. 18 Pt. 9B inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by virtue of 2001 c. 9, s.70, [Sch. 23 para. 6](#)

### *Introduction*

- <sup>F49</sup>83G This Part of this Schedule applies to claims for—
- (a) land remediation tax credits under paragraph 14 of Schedule 22 to the Finance Act 2001 (“land remediation tax credits”), and
  - (b) life assurance company tax credits under paragraph 24 of that Schedule (“life assurance company tax credits”).

*Status: Point in time view as at 20/07/2005.*

*Changes to legislation: Finance Act 1998, SCHEDULE 18 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F49** Sch. 18 Pt. 9B para. 83G inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 6**

#### *Claim to be included in company tax return*

<sup>F50</sup>83H(1) A claim for a land remediation tax credit or a life assurance company tax credit must be made by being included in the claimant company's company tax return for the accounting period for which the claim is made.

(2) It may be included in the return originally made or by amendment.

#### Textual Amendments

**F50** Sch. 18 Pt. 9B para. 83H inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 6**

#### *Content of claim*

<sup>F51</sup>83I A claim for a land remediation tax credit or a life assurance company tax credit must specify the amount of the tax credit claimed, which must be an amount quantified at the time the claim is made.

#### Textual Amendments

**F51** Sch. 18 Pt. 9B para. 83I inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 6**

#### *Amendment or withdrawal of claim*

<sup>F52</sup>83J A claim for a land remediation tax credit or a life assurance company tax credit may be amended or withdrawn by the claimant company only by amending its company tax return.

#### Textual Amendments

**F52** Sch. 18 Pt. 9B para. 83J inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 6**

#### *Time limit for claims*

<sup>F53</sup>83K(1) A claim for a land remediation tax credit or a life assurance company tax credit may be made, amended or withdrawn at any time up to the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made.

(2) The claim may be made, amended or withdrawn at a later date if [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>allows] it.

*Status: Point in time view as at 20/07/2005.*

*Changes to legislation: Finance Act 1998, SCHEDULE 18 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F53** Sch. 18 Pt. 9B para. 83K inserted (11.5.2001 with effect as mentioned in [s. 70](#) of the amending Act) by [2001 c. 9, s. 70, Sch. 23 para. 6](#)

*Penalty*

- <sup>F54</sup>83L(1) The company is liable to a penalty where it—
- (a) fraudulently or negligently makes a claim for a land remediation tax credit or a life assurance company tax credit and that claim is incorrect, or
  - (b) discovers that such a claim made by it (neither fraudulently nor negligently) is incorrect and does not remedy the error without unreasonable delay.
- (2) The penalty is an amount not exceeding the excess land remediation tax credit or excess life assurance company tax credit claimed, that is, the difference between—
- (a) the amount of the land remediation tax credit or the life assurance company tax credit claimed by the company for the accounting period to which the claim relates, and
  - (b) the amount of the land remediation tax credit or the life assurance company tax credit to which the company is entitled for that period.]

**Textual Amendments**

- F54** Sch. 18 Pt. 9B para. 83L inserted (11.5.2001 with effect as mentioned in [s. 70](#) of the amending Act) by [2001 c. 9, s. 70, Sch. 23 para. 6](#)

[<sup>F55</sup>PART 9C

CLAIMS FOR TAX CREDIT UNDER SCHEDULE 13 TO THE FINANCE ACT 2002

**Textual Amendments**

- F55** Sch. 18 Pt. 9C inserted (24.7.2002 with effect as mentioned in [Sch. 14 para. 5](#) of the amending Act) by [2002 c. 23, s. 54, Sch. 14 para. 4](#)

*Introduction*

- 83M This Part of this Schedule applies to claims for tax credits under Schedule 13 to the Finance Act 2002 (vaccine research etc).

*Claim to be included in company tax return*

- 83N (1) A claim to which this Part of this Schedule applies must be made by being included in the claimant company's company tax return for the accounting period for which the claim is made.
- (2) It may be included in the return originally made or by amendment.

*Status: Point in time view as at 20/07/2005.*

*Changes to legislation: Finance Act 1998, SCHEDULE 18 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *Content of claim*

- 83O A claim to which this Part of this Schedule applies must specify the amount of the relief claimed, which must be an amount quantified at the time the claim is made.

### *Amendment or withdrawal of claim*

- 83P A claim to which this Part of this Schedule applies may be amended or withdrawn by the claimant company only by amending its company tax return.

### *Time limit for claims*

- 83Q (1) A claim to which this Part of this Schedule applies may be made, amended or withdrawn at any time up to the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made.

- (2) The claim may be made, amended or withdrawn at a later date if [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>allows] it.

#### **Textual Amendments**

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

### *Penalty*

- 83R (1) The company is liable to a penalty where it—
- (a) fraudulently or negligently makes a claim to which this Part of this Schedule applies which is incorrect, or
  - (b) discovers that such a claim made by it (neither fraudulently nor negligently) is incorrect and does not remedy the error without unreasonable delay.
- (2) The penalty is an amount not exceeding the excess credit claimed, that is, the difference between—
- (a) the amount of the credit to which the company is entitled under Schedule 13 to the Finance Act 2002 for the accounting period to which the claim relates, and
  - (b) the amount of such credit claimed by the company for that period.]

## **PART X**

### **SPECIAL PROVISIONS**

#### *Choice between different Cases of Schedule D*

- 84 (1) This paragraph applies in the following cases.
- (2) The first case is where amounts may be brought into charge to tax either—
- (a) in computing profits chargeable to tax under Case I of Schedule D, or
  - (b) as amounts within Case III or V of that Schedule.

*Status: Point in time view as at 20/07/2005.*

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- (3) The second case is where amounts may be brought into charge to tax either—
- (a) in computing profits charged to tax under Case I of Schedule D, or
  - (b) for the purpose of applying the basis commonly called the I minus E basis under which a company carrying on life assurance business is charged to tax on that business otherwise than under Case I of Schedule D.

In paragraph (b) “life assurance business” includes annuity business within the meaning of Chapter I of Part XII of the Taxes Act 1988.

- (4) Where this paragraph applies, [<sup>F2</sup>an officer of Revenue and Customs] may by notice require a company—
- (a) to produce to [<sup>F15</sup>him] such documents in the company’s power or possession, and
  - (b) to provide [<sup>F15</sup>him] with such information, in such form,
- as [<sup>F15</sup>he] may reasonably require for the purpose of determining which basis of charge is to be used for an accounting period.

The provisions of paragraphs 27 to 29 (notice to produce documents, etc. for purposes of enquiry: supplementary provisions and penalty) apply in relation to such a notice.

- (5) A determination by [<sup>F2</sup>an officer of Revenue and Customs] under this paragraph is final and conclusive as to the basis of charge to be used for the accounting period concerned.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

#### *Non-annual accounting of general insurance business*

- 85 (1) This paragraph applies where a company carrying on insurance business delivers a company tax return based wholly or partly on accounts drawn up using the method described in paragraph 52 of Schedule 9A to the <sup>M24</sup>Companies Act 1985.

That paragraph provides for a technical provision to be made in the accounts which is later replaced by a provision for estimated claims outstanding.

- (2) Where this paragraph applies—
- (a) the company may make any amendments of its return arising from the replacement of the technical provision at any time within twelve months from the date on which the provision was replaced, and
  - (b) [<sup>F2</sup>an officer of Revenue and Customs] may give notice of enquiry into the return at any time up to two years from that date.
- (3) Nothing in this paragraph prevents notice of enquiry being given at any later time in accordance with the general rule in paragraph 24(3).



*Status: Point in time view as at 20/07/2005.*

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#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

#### Marginal Citations

- M24** 1985 c. 6.

#### *Insurance companies with non-annual actuarial investigations*

- 86 (1) This paragraph applies where a company tax return is delivered by an insurance company which is permitted by [<sup>F56</sup>a direction under section 148 of the Financial Services and Markets Act 2000] to cause investigations to be made into its financial condition less frequently than is required by section 18 of that Act.
- (2) Where this paragraph applies—
- (a) the company may make any amendments of its return arising from the relevant investigation at any time within twelve months from the date as at which that investigation is carried out, and
- (b) [<sup>F2</sup>an officer of Revenue and Customs] may give notice of enquiry into the return at any time up to two years from that date.
- (3) “The relevant investigation” means—
- (a) if the return is for a period as at the end of which there is carried out an investigation under section [<sup>F57</sup>9.4 of the Prudential Sourcebook (Insurers)] into the financial condition of the company, that investigation;
- (b) if the return is not for such a period, the first such investigation to be made into the financial condition of the company as at the end of a subsequent period.
- [<sup>F58</sup>(4) In sub-paragraph (1) “the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000.]

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F56** Words in Sch. 18 para. 86(1) substituted (1.12.2001) by S.I. 2001/3629, [art. 103\(1\)\(3\)\(a\)](#)
- F57** Words in Sch. 18 para. 86(3) substituted (1.12.2001 with effect as mentioned in art. 103(5) of the amending S.I.) by S.I. 2001/3629, [art. 103\(1\)\(3\)\(b\)\(5\)](#)
- F58** Sch. 18 para. 86(4) inserted (1.12.2001 with effect as mentioned in art. 103(5) of the amending S.I.) by S.I. 2001/3629, [art. 103\(3\)\(c\)\(5\)](#)

#### *Friendly societies with non-annual actuarial investigations*

- 87 (1) This paragraph applies where a company tax return is delivered by a friendly society which is required by section [<sup>F59</sup>5.2 of the Prudential Sourcebook (Friendly Societies)] to cause an investigation to be made into its financial condition at least once in every period of three years.

*Status: Point in time view as at 20/07/2005.*

*Changes to legislation: Finance Act 1998, SCHEDULE 18 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Where this paragraph applies—
- (a) the society may make any amendments of its return arising from the relevant investigation at any time within 15 months from the date as at which that investigation is carried out, and
  - (b) [<sup>F2</sup>an officer of Revenue and Customs] may give notice of enquiry into the return at any time up to 27 months from that date.
- (3) “The relevant investigation” means—
- (a) if the return is for a period as at the end of which there is carried out an investigation under section [<sup>F59</sup>5.2 of the Prudential Sourcebook (Friendly Societies)] into the financial condition of the society, that investigation;
  - (b) if the return is not for such a period, the first such investigation to be made into the financial condition of the company as at the end of a subsequent period.
- [<sup>F60</sup>(4) In this paragraph “the Prudential Sourcebook (Friendly Societies)” means the Interim Prudential Sourcebook for Friendly Societies made by the Financial Services Authority under the Financial Services and Markets Act 2000 <sup>F61</sup>.]

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F59** Words in Sch. 18 paras. 87(1)(3) substituted (1.12.2001 with effect as mentioned in art. 103(5) of the amending S.I.) by [S.I. 2001/3629, art. 103\(4\)\(a\)\(5\)](#)
- F60** Sch. 18 para. 87(4) inserted (1.12.2001 with effect as mentioned in art. 103(5) of the amending S.I.) by [S.I. 2001/3629, art. 103\(4\)\(b\)\(5\)](#)
- F61** This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at [www.fsa.gov.uk](http://www.fsa.gov.uk).

## PART XI

### SUPPLEMENTARY PROVISIONS

#### *Conclusiveness of amounts stated in return*

- 88 (1) This paragraph applies to an amount stated in a company tax return for an accounting period which is required to be included in the return and which affects or may affect—
- (a) the tax payable by the company making the return for another accounting period, or
  - (b) the tax liability of another company for any accounting period.
- (2) If such an amount can no longer be altered it is taken to be conclusively determined for the purposes of the Corporation Tax Acts in relation to that other period or other company.
- Sub-paragraphs (3) to (5) explain what is meant by can no longer be altered.
- (3) An amount is regarded as one that can no longer be altered if—

*Status: Point in time view as at 20/07/2005.*

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- (a) the period specified in paragraph 15(4) (general period for amendment by company) has ended,
  - (b) any enquiry into the return has been completed and the period specified in paragraph 34(1) (period for amendment by company after enquiry) has ended,
  - (c) if [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>amends] the return under paragraph 34(2), the period within which an appeal may be brought against that amendment has ended, and
  - (d) if an appeal is brought, the appeal has been finally determined.
- (4) If the return is amended by the company under a provision that allows an amendment after the end of the period specified in paragraph 15(4), an amount affected by the amendment ceases to be regarded as one that can no longer be altered until after whichever is the last of the following—
- (a) the end of the period within which notice of enquiry into the return may be given in consequence of the amendment;
  - (b) if such a notice is given, the end of the period specified in paragraph 34(1);
  - (c) if [<sup>F2</sup>an officer of Revenue and Customs][<sup>F15</sup>amends] the return under paragraph 34(2), the end of the period within which an appeal against that amendment may be brought;
  - (d) if an appeal is brought, the date on which the appeal is finally determined.
- (5) If the return is amended by [<sup>F2</sup>an officer of Revenue and Customs] under paragraph 83(3) (consequential amendment of return where amount available by way of capital allowances is reduced), an amount affected by the amendment ceases to be regarded as one that can no longer be altered until after—
- (a) the end of the period within which an appeal against that amendment may be brought, or
  - (b) if an appeal is brought, the date on which the appeal is finally determined.
- (6) For the purposes of this paragraph an amount carried forward from a period for which a return was made under section 11 of the <sup>M25</sup>Taxes Management Act 1970 is not regarded as one required to be included in a company tax return for a later period.
- (7) Nothing in this paragraph affects any power to make an assessment other than a self-assessment or the power to make a discovery determination.

#### Textual Amendments

**F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); [S.I. 2005/1126](#), art. 2(2)(h)

#### Modifications etc. (not altering text)

**C36** Sch. 18 para. 88 excluded (24.7.2002 with effect as mentioned in s. 80(2) of 2002 c. 23) by [1993 c. 34, ss. 94AA\(7\), 94AB\(4\)](#) (as substituted by [2002 c. 23, s. 80, Sch. 24 paras. 5, 6](#))

#### Marginal Citations

**M25** [1970 c. 9](#).

*Status: Point in time view as at 20/07/2005.*

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*Penalty for fraud or negligence*

- 89 (1) A company which fraudulently or negligently—
- (a) makes any incorrect return, statement or declaration in connection with a claim for any allowance, deduction or relief in respect of tax, or
  - (b) submits to [<sup>F2</sup>an officer of Revenue and Customs], or to the Special or General Commissioners, any incorrect accounts in connection with ascertainment of the company's tax liability,
- is liable to a tax-related penalty.
- (2) The penalty is an amount not exceeding the amount of tax understated, that is, the difference between—
- (a) the amount of tax payable by the company for the accounting period or periods to which the claim or accounts relate, and
  - (b) the amount which would have been so payable on the basis of the return, statement or declaration made, or the accounts submitted.
- (3) In computing for this purpose the amount of tax payable, no account shall be taken of any relief under section 419(4) of the Taxes Act 1988 (relief in respect of repayment, etc. of loan) which is deferred under subsection (4A) of that section.
- (4) For the purposes of this paragraph any accounts submitted on behalf of a company shall be taken to be submitted by it unless the company proves that they were submitted without its consent or connivance.

**Textual Amendments**

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

*Multiple tax-related penalties in respect of same accounting period*

- 90 (1) This paragraph applies where a company incurs more than one penalty whose amount falls to be determined by reference to the tax payable by it for an accounting period.
- (2) Each penalty after the first shall be reduced so that the total 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 paragraph would be, the greater or greatest of them, so far as so determined.

*European Economic Interest Groupings*

- 91 An act or omission such as is mentioned in section 98B of the <sup>M26</sup>Taxes Management Act 1970 (European Economic Interest Groupings: acts or omissions attracting penalties) on the part of a grouping, or a member of a grouping, is treated as the act or omission of each member of the grouping for the purposes of—
- paragraphs 43 and 46(2) (assessment in case of fraud or negligence), and
  - paragraphs 61(2) and 65(1) (consequential claims in case of such an assessment).

*Status: Point in time view as at 20/07/2005.*

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#### Marginal Citations

M26 1970 c. 9.

#### *Notices of appeal*

- 92 (1) This paragraph applies in relation to any appeal under this Schedule.
- (2) The notice of appeal shall specify the grounds of appeal.
- (3) On the hearing of the appeal the Commissioners may allow the appellant to put forward grounds not specified in the notice, and take them into consideration, if satisfied that the omission was not wilful or unreasonable.

#### *General jurisdiction of Special or General Commissioners*

- 93 (1) This paragraph applies in relation to an appeal against—
- (a) an amendment of a self-assessment under paragraph 30, or
  - (b) an amendment of a company tax return under paragraph 34(2), or
  - (c) an assessment to tax other than a self-assessment, or
  - (d) a discovery determination.
- (2) An appeal against a decision of the Board shall be to the Special Commissioners.
- [<sup>F62</sup>(2A) Unless the Special Commissioners otherwise direct, an appeal under paragraph 30 or 34(3) shall be to the Special Commissioners if—
- (a) the appeal relates to a return in relation to which notice of enquiry has been given under paragraph 24, and
  - (b) notice has been given under paragraph 31A referring a question relating to the subject-matter of that enquiry to the Special Commissioners.
- This applies even if the notice of referral was subsequently withdrawn.]
- (3) Any other appeal shall be to the General Commissioners, subject—
- (a) to any provision made by or under Part V of the <sup>M27</sup>Taxes Management Act 1970, and
  - (b) to any election under paragraph 94 below.

#### Textual Amendments

**F62** Sch. 18 Pt. XI para. 93(2A) inserted (11.5.2001 with effect as mentioned in s. 88(3) of the amending Act) by 2001 c. 9, s. 88, **Sch. 29 para. 13(2)**

#### Marginal Citations

M27 1970 c. 9.

#### *Election to take appeal to Special Commissioners*

- 94 (1) The appellant may elect (in accordance with section 46(1) of the <sup>M28</sup>Taxes Management Act 1970) to bring an appeal to which paragraph 93(3) would otherwise apply before the Special Commissioners.

*Status: Point in time view as at 20/07/2005.*

*Changes to legislation: Finance Act 1998, SCHEDULE 18 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Such an election shall be disregarded if—
- (a) the appellant and [<sup>F2</sup>an officer of Revenue and Customs] agree in writing, at any time before the determination of the appeal, that it is to be disregarded, or
  - (b) the General Commissioners have given a direction under sub-paragraph (4) and have not revoked it.
- (3) At any time before the determination of an appeal in respect of which an election has been made, the inspector or other officer of the Board for the time being concerned with the proceedings, after giving notice to the appellant, may refer the election to the General Commissioners.
- (4) On any such reference the Commissioners shall, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the [<sup>F63</sup>merits of the appeal], direct that the election be disregarded.
- (5) If, at any time [<sup>F64</sup>after the giving] of such a direction (but before the determination of the appeal) the General Commissioners are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, they shall revoke the direction.
- (6) Any decision to give or revoke such a direction shall be final.

#### Textual Amendments

- F2** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F63** Words in Sch. 18 para. 94(4) substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1999 c. 16](#), s. 93(1)(2), [Sch. 11 para. 9\(a\)](#)
- F64** Words in Sch. 18 para. 94(5) substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1999 c. 16](#), s. 93(1)(2), [Sch. 11 para. 9\(b\)](#)

#### Marginal Citations

- M28** [1970 c. 9](#).

### *Meaning of “the Inland Revenue”*

<sup>F65</sup>95 .....

#### Textual Amendments

- F65** Sch. 18 para. 95 repealed (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(b\)](#), [Sch. 5](#); S.I. 2005/1126, art. 2(2)(h)(i)

### *The self-assessment appointed day*

96 In this Schedule “the self-assessment appointed day” means the day appointed by the Treasury under section 199 of the <sup>M29</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

*Status: Point in time view as at 20/07/2005.*

**Changes to legislation:** Finance Act 1998, SCHEDULE 18 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Marginal Citations

M29 1994 c. 9.

### *Construction of references to assessment*

- 97 Any reference in the Tax Acts (however expressed) to a person being assessed to tax, or being charged to tax by an assessment, include a reference to his being so assessed, or being so charged—
- (a) by a self-assessment under this Schedule, or an amendment of such a self-assessment, or
  - (b) by a determination under paragraph 36 or 37 of this Schedule (which, until superseded by a self-assessment, has effect as if it were one).

### *Index of defined expressions*

- 98 In this Schedule the expressions listed below are defined or otherwise explained by the provisions indicated—

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the Board	paragraph 95(6)
closure notice	paragraph 32(1)
company tax return	paragraph 3(1)
delivery (in relation to company tax return)	paragraph 4
discovery assessment	paragraph 41(1)
discovery determination	paragraph 41(2)
filing date	paragraph 14
Inland Revenue	paragraph 95
notice of enquiry	paragraph 24(1)
notice requiring company tax return	paragraph 3(1)
self-assessment	paragraph 7
self-assessment appointed day	paragraph 96
tax	paragraph 1 (and see paragraphs 63(3) and 64(5))
tax payable	paragraph 8
wrong period (return for)	paragraph 26(2) to (4)]

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**Status:**

Point in time view as at 20/07/2005.

**Changes to legislation:**

Finance Act 1998, SCHEDULE 18 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.