



Finance Act 1998

1998 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

INCOME TAX AND CORPORATION TAX

Transfer pricing, FOREX and financial instruments

111 Notice to potential claimants

- (1) Where—
 - (a) a relevant notice is given to any person,
 - (b) that notice, or anything contained in it, takes account of a determination of an amount falling to be brought into account for tax purposes in respect of any assumption made by virtue of paragraph 1(2) of Schedule 28AA to the Taxes Act 1988 (provision not at arm's length), and
 - (c) it appears to an officer of the Board that there is a person who is or may be a disadvantaged person by reference to the subject-matter of that determination,the officer shall give a notice under this section to the person who so appears to him.
- (2) A notice under this section is a notice containing particulars of the determination by reference to which the person to whom the notice is given appears to an officer of the Board to be a person who is or may be a disadvantaged person.
- (3) Where, in any case, there is a contravention of subsection (1) above or the notice required by that subsection is given after the giving of the relevant notice, the Board—
 - (a) shall consider whether, as a result of the contravention, any person has been prejudiced with respect to the making or amendment of a claim for the

Status: This is the original version (as it was originally enacted).

- purposes of paragraph 6 of Schedule 28AA to the Taxes Act 1988 (claim for relief by party disadvantaged by transfer pricing adjustment), and
- (b) may, if they think fit, treat the period for the making or amendment of such a claim in that case as extended by such further period as appears to them to be appropriate.
- (4) Where, in a case in which a relevant notice is given to any person, there is a contravention of this section, that contravention shall not affect the validity of that notice or of any determination to which that notice relates.
- (5) For the purposes of this section a person is a disadvantaged person by reference to the subject-matter of a determination such as is mentioned in subsection (1)(b) above if, and only if—
- (a) he is entitled, in consequence of the making of the determination, to make a claim for the purposes of paragraph 6 of Schedule 28AA to the Taxes Act 1988;
- (b) he is entitled, in consequence of the making of the determination, to amend such a claim; or
- (c) he will be entitled, by virtue of paragraph 12(3) of that Schedule, to appear and be heard by the Special Commissioners in any proceedings on an appeal relating to that determination.
- (6) In this section “relevant notice” means any of the following, that is to say—
- (a) a notice under section 28A(5) or 28B(5) of the Taxes Management Act 1970 stating the conclusions of an officer of the Board in relation to any self-assessment, partnership statement, claim or election;
- (b) a closure notice under paragraph 32 of Schedule 18 to this Act in relation to an enquiry into a company tax return;
- (c) a notice of assessment under section 29 of that Act of 1970;
- (d) a notice of any discovery assessment or discovery determination under paragraph 41 of Schedule 18 to this Act (including any notice of an assessment by virtue of paragraph 52 of that Schedule);
- (e) a notice under section 30B(1) of that Act of 1970 amending a partnership statement.
- (7) This section applies to notices given at any time after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).