



Proceeds of Crime Act 2002

2002 CHAPTER 29

VALID FROM 24/02/2003

PART 6

REVENUE FUNCTIONS

General functions

317 Director's general Revenue functions

- (1) For the purposes of this section the qualifying condition is that the Director has reasonable grounds to suspect that—
 - (a) income arising or a gain accruing to a person in respect of a chargeable period is chargeable to income tax or is a chargeable gain (as the case may be) and arises or accrues as a result of the person's or another's criminal conduct (whether wholly or partly and whether directly or indirectly), or
 - (b) a company is chargeable to corporation tax on its profits arising in respect of a chargeable period and the profits arise as a result of the company's or another person's criminal conduct (whether wholly or partly and whether directly or indirectly).
- (2) If the qualifying condition is satisfied the Director may serve on the Commissioners of Inland Revenue (the Board) a notice which—
 - (a) specifies the person or the company (as the case may be) and the period, and
 - (b) states that the Director intends to carry out, in relation to the person or the company (as the case may be) and in respect of the period, such of the general Revenue functions as are specified in the notice.
- (3) Service of a notice under subsection (2) vests in the Director, in relation to the person or the company (as the case may be) and in respect of the period, such of the general Revenue functions as are specified in the notice; but this is subject to section 318.

Status: Point in time view as at 30/12/2002. This version of this part contains provisions that are not valid for this point in time.

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- (4) The Director—
- (a) may at any time serve on the Board a notice of withdrawal of the notice under subsection (2);
 - (b) must serve such a notice of withdrawal on the Board if the qualifying condition ceases to be satisfied.
- (5) A notice under subsection (2) and a notice of withdrawal under subsection (4) may be in respect of one or more periods.
- (6) Service of a notice under subsection (4) divests the Director of the functions concerned in relation to the person or the company (as the case may be) and in respect of the period or periods specified in the notice.
- (7) The vesting of a function in the Director under this section does not divest the Board or an officer of the Board of the function.
- (8) If—
- (a) apart from this section the Board’s authorisation would be required for the exercise of a function, and
 - (b) the function is vested in the Director under this section,
- the authorisation is not required in relation to the function as so vested.
- (9) It is immaterial whether a chargeable period or any part of it falls before or after the passing of this Act.

318 Revenue functions regarding employment

- (1) Subsection (2) applies if—
- (a) the Director serves a notice or notices under section 317(2) in relation to a company and in respect of a period or periods, and
 - (b) the company is an employer.
- (2) The general Revenue functions vested in the Director do not include functions relating to any requirement which—
- (a) is imposed on the company in its capacity as employer, and
 - (b) relates to a year of assessment which does not fall wholly within the period or periods.
- (3) Subsection (4) applies if—
- (a) the Director serves a notice or notices under section 317(2) in relation to an individual and in respect of a year or years of assessment, and
 - (b) the individual is a self-employed earner.
- (4) The general Revenue functions vested in the Director do not include functions relating to any liability to pay Class 2 contributions in respect of a period which does not fall wholly within the year or years of assessment.
- (5) In this section in its application to Great Britain—
- (a) “self-employed earner” has the meaning given by section 2(1)(b) of the Social Security Contributions and Benefits Act 1992 (c. 4);
 - (b) “Class 2 contributions” must be construed in accordance with section 1(2)(c) of that Act.

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- (6) In this section in its application to Northern Ireland—
- (a) “self-employed earner” has the meaning given by section 2(1)(b) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);
 - (b) “Class 2 contributions” must be construed in accordance with section 1(2)(c) of that Act.

319 Source of income

- (1) For the purpose of the exercise by the Director of any function vested in him by virtue of this Part it is immaterial that he cannot identify a source for any income.
- (2) An assessment made by the Director under section 29 of the Taxes Management Act 1970 (c. 9) (assessment where loss of tax discovered) in respect of income charged to tax under Case 6 of Schedule D must not be reduced or quashed only because it does not specify (to any extent) the source of the income.
- (3) If the Director serves on the Board a notice of withdrawal under section 317(4), any assessment made by him under section 29 of the Taxes Management Act 1970 is invalid to the extent that it does not specify a source for the income.
- (4) Subsections (2) and (3) apply in respect of years of assessment whenever occurring.

320 Appeals

- (1) An appeal in respect of the exercise by the Director of general Revenue functions shall be to the Special Commissioners.
- (2) The Presiding Special Commissioner may nominate one or more assessors to assist the Special Commissioners in any appeal to be heard by them in respect of the exercise by the Director of any of his Revenue functions.
- (3) An assessor nominated under subsection (2)—
 - (a) must have special knowledge and experience of the matter to which the appeal relates, and
 - (b) must be selected from a panel of persons appointed for the purposes of this section by the Lord Chancellor after consultation with the Scottish Ministers.
- (4) Regulations made under section 56B of the Taxes Management Act 1970 may include provision as to the manner in which an assessor nominated under subsection (2) is to assist the Special Commissioners.
- (5) The remuneration of an assessor nominated under subsection (2) must be paid by the Lord Chancellor and must be at such rate as he decides.

Inheritance tax functions

321 Director’s functions: transfers of value

- (1) For the purposes of this section the qualifying condition is that the Director has reasonable grounds to suspect that—
 - (a) there has been a transfer of value within the meaning of the Inheritance Tax Act 1984 (c. 51), and

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- (b) the value transferred by it is attributable (in whole or part) to criminal property.
- (2) If the qualifying condition is satisfied the Director may serve on the Board a notice which—
 - (a) specifies the transfer of value, and
 - (b) states that the Director intends to carry out the Revenue inheritance tax functions in relation to the transfer.
- (3) Service of a notice under subsection (2) vests in the Director the Revenue inheritance tax functions in relation to the transfer.
- (4) The Director—
 - (a) may at any time serve on the Board a notice of withdrawal of the notice under subsection (2);
 - (b) must serve such a notice of withdrawal on the Board if the qualifying condition ceases to be satisfied.
- (5) Service of a notice under subsection (4) divests the Director of the Revenue inheritance tax functions in relation to the transfer.
- (6) The vesting of a function in the Director under this section does not divest the Board or an officer of the Board of the function.
- (7) It is immaterial whether a transfer of value is suspected to have occurred before or after the passing of this Act.

322 Director's functions: certain settlements

- (1) For the purposes of this section the qualifying condition is that the Director has reasonable grounds to suspect that—
 - (a) all or part of the property comprised in a settlement is relevant property for the purposes of Chapter 3 of Part 3 of the Inheritance Tax Act 1984 (settlements without interest in possession), and
 - (b) the relevant property is (in whole or part) criminal property.
- (2) If the qualifying condition is satisfied the Director may serve on the Board a notice which—
 - (a) specifies the settlement concerned,
 - (b) states that the Director intends to carry out the Revenue inheritance tax functions in relation to the settlement, and
 - (c) states the period for which he intends to carry them out.
- (3) Service of a notice under subsection (2) vests in the Director the Revenue inheritance tax functions in relation to the settlement for the period.
- (4) The Director—
 - (a) may at any time serve on the Board a notice of withdrawal of the notice under subsection (2);
 - (b) must serve such a notice of withdrawal on the Board if the qualifying condition ceases to be satisfied.
- (5) Service of a notice under subsection (4) divests the Director of the Revenue inheritance tax functions in relation to the settlement for the period.

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- (6) The vesting of a function in the Director under this section does not divest the Board or an officer of the Board of the function.
- (7) It is immaterial whether the settlement is commenced or a charge to tax arises or a period or any part of it falls before or after the passing of this Act.

General

323 Functions

- (1) The general Revenue functions are such of the functions vested in the Board or in an officer of the Board as relate to any of the following matters—
 - (a) income tax;
 - (b) capital gains tax;
 - (c) corporation tax;
 - (d) national insurance contributions;
 - (e) statutory sick pay;
 - (f) statutory maternity pay;
 - (g) statutory paternity pay;
 - (h) statutory adoption pay;
 - (i) student loans.
- (2) The Revenue inheritance tax functions are such functions vested in the Board or in an officer of the Board as relate to inheritance tax.
- (3) But the general Revenue functions and the Revenue inheritance tax functions do not include any of the following functions—
 - (a) functions relating to the making of subordinate legislation (within the meaning given by section 21(1) of the Interpretation Act 1978 (c. 30));
 - (b) the function of the prosecution of offences;
 - (c) the function of authorising an officer for the purposes of section 20BA of the Taxes Management Act 1970 (c. 9) (orders for delivery of documents);
 - (d) the function of giving information under that section;
 - (e) the function of approving an officer's application for the purposes of section 20C of the Taxes Management Act 1970 (warrant to enter and search premises);
 - (f) the function of applying under that section.
- (4) For the purposes of this section in its application to Great Britain—
 - (a) national insurance contributions are contributions payable under Part 1 of the Social Security Contributions and Benefits Act 1992 (c. 4);
 - (b) "statutory sick pay" must be construed in accordance with section 151(1) of that Act;
 - (c) "statutory maternity pay" must be construed in accordance with section 164(1) of that Act;
 - (d) "statutory paternity pay" must be construed in accordance with section 171ZA of that Act;
 - (e) "statutory adoption pay" must be construed in accordance with section 171ZL of that Act;

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- (f) “student loans” must be construed in accordance with the Education (Student Loans) (Repayment) Regulations 2000 (S.I. 2000/944).
- (5) For the purposes of this section in its application to Northern Ireland—
 - (a) national insurance contributions are contributions payable under Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7);
 - (b) “statutory sick pay” must be construed in accordance with section 147(1) of that Act;
 - (c) “statutory maternity pay” must be construed in accordance with section 160(1) of that Act;
 - (d) “statutory paternity pay” must be construed in accordance with any Northern Ireland legislation which corresponds to Part 12ZA of the Social Security Contributions and Benefits Act 1992;
 - (e) “statutory adoption pay” must be construed in accordance with any Northern Ireland legislation which corresponds to Part 12ZB of that Act;
 - (f) “student loans” must be construed in accordance with the Education (Student Loans) (Repayment) Regulations (Northern Ireland) 2000 (S.R. 2000/121).

324 Exercise of Revenue functions

- (1) This section applies in relation to the exercise by the Director of—
 - (a) general Revenue functions;
 - (b) Revenue inheritance tax functions.
- (2) Paragraph (b) of section 1(6) does not apply.
- (3) The Director must apply—
 - (a) any interpretation of the law which has been published by the Board;
 - (b) any concession which has been published by the Board and which is available generally to any person falling within its terms.
- (4) The Director must also take account of any material published by the Board which does not fall within subsection (3).
- (5) The Director must provide the Board with such documents and information as they consider appropriate.
- (6) “Concession” includes any practice, interpretation or other statement in the nature of a concession.

325 Declarations

- (1) As soon as practicable after the appointment of a person as the Director he must make a declaration in the form set out in Schedule 8 before a member of the Board.
- (2) Every member of the staff of the Agency who is authorised under section 1(6)
 - (a) to carry out any of the functions of the Director under this Part must, as soon as practicable after being so authorised, make a declaration in the form set out in Schedule 8 before a person nominated by the Director for the purpose.

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326 Interpretation

- (1) Criminal conduct is conduct which—
 - (a) constitutes an offence in any part of the United Kingdom, or
 - (b) would constitute an offence in any part of the United Kingdom if it occurred there.
- (2) But criminal conduct does not include conduct constituting an offence relating to a matter under the care and management of the Board.
- (3) In applying subsection (1) it is immaterial whether conduct occurred before or after the passing of this Act.
- (4) Property is criminal property if it constitutes a person's benefit from criminal conduct or it represents such a benefit (in whole or part and whether directly or indirectly); and it is immaterial—
 - (a) who carried out the conduct;
 - (b) who benefited from it.
- (5) A person benefits from conduct if he obtains property as a result of or in connection with the conduct.
- (6) If a person obtains a pecuniary advantage as a result of or in connection with conduct, he is to be taken to obtain as a result of or in connection with the conduct a sum of money equal to the value of the pecuniary advantage.
- (7) References to property or a pecuniary advantage obtained in connection with conduct include references to property or a pecuniary advantage obtained in both that connection and some other.
- (8) If a person benefits from conduct his benefit is the property obtained as a result of or in connection with the conduct.
- (9) Property is all property wherever situated and includes—
 - (a) money;
 - (b) all forms of property, real or personal, heritable or moveable;
 - (c) things in action and other intangible or incorporeal property.
- (10) The following rules apply in relation to property—
 - (a) property is obtained by a person if he obtains an interest in it;
 - (b) references to an interest, in relation to land in England and Wales or Northern Ireland, are to any legal estate or equitable interest or power;
 - (c) references to an interest, in relation to land in Scotland, are to any estate, interest, servitude or other heritable right in or over land, including a heritable security;
 - (d) references to an interest, in relation to property other than land, include references to a right (including a right to possession).
- (11) Any reference to an officer of the Board includes a reference to—
 - (a) a collector of taxes;
 - (b) an inspector of taxes.
- (12) Expressions used in this Part and in the Taxes Acts have the same meaning as in the Taxes Acts (within the meaning given by section 118 of the Taxes Management Act 1970 (c. 9)).

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(13) This section applies for the purposes of this Part.

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