
Status: Point in time view as at 17/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 5. (See end of Document for details)

SCHEDULES

SCHEDULE 33

ANNUAL TAX ON ENVELOPED DWELLINGS: RETURNS, ENQUIRIES, ASSESSMENTS AND APPEALS

PART 5

HMRC ASSESSMENTS

Assessment where loss of tax discovered

- 21 (1) Sub-paragraph (2) applies if an officer of Revenue and Customs discovers that—
- (a) an amount of tax that ought to have been assessed under this Part of this Act as tax chargeable on a person for a chargeable period with respect to a single-dwelling interest has not been assessed,
 - (b) an assessment of the tax chargeable on a person for a chargeable period in respect of a single-dwelling interest is or has become insufficient, or
 - (c) relief has been given that is or has become excessive.
- (2) An officer of Revenue and Customs may make an assessment (a “discovery assessment”) in the amount or further amount that ought in the officer's opinion to be charged in order to make good to the Crown the loss of tax.
- (3) The functions of an officer of Revenue and Customs under this paragraph are also exercisable by the Commissioners for Her Majesty's Revenue and Customs.

Assessment to recover excessive repayment of tax

- 22 (1) If an amount of tax has been, but ought not to have been, repaid to a person that amount may be assessed and recovered as if it were unpaid tax.
- (2) If the repayment was made with interest, the amount assessed and recovered may include the amount of interest that ought not to have been paid.

References to “the taxpayer”

- 23 In paragraphs 24 to 27 “taxpayer” means—
- (a) in relation to an assessment under paragraph 21, the chargeable person;
 - (b) in relation to an assessment under paragraph 22, the person mentioned in paragraph 22(1).

Conditions for making assessment where return has been delivered

- 24 (1) If the taxpayer has delivered a return in respect of the interest in question for the chargeable period in question, an assessment under paragraph 21 or 22 may only be

Status: Point in time view as at 17/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 5. (See end of Document for details)

made in the two cases specified in sub-paragraphs (2) and (3). See also the further restriction in sub-paragraph (7).

- (2) The first case is where the situation mentioned in paragraph 21(1) or 22(1) was brought about carelessly or deliberately by—
 - (a) the taxpayer,
 - (b) a person acting on behalf of the taxpayer, or
 - (c) a person who was a partner of the taxpayer at the relevant time.
- (3) The second case is where it could not reasonably have been expected that an officer of Revenue and Customs in possession of the information made available to HMRC before the relevant time would be aware at the relevant time of the situation mentioned in paragraph 21(1) or 22(1).
- (4) In sub-paragraph (3) “the relevant time” means the time HMRC—
 - (a) ceased to be entitled to give a notice of enquiry into the return, or
 - (b) completed their enquiries into the return.
- (5) For this purpose information is regarded as made available to HMRC if—
 - (a) it is contained in a return delivered by the taxpayer,
 - (b) it is contained in any documents produced or information provided to an officer of Revenue and Customs for the purposes of an enquiry into any such return,
 - (c) it is information the existence and relevance of which officers of Revenue and Customs could reasonably have been expected to infer from information made available as mentioned in paragraph (a) or (b), or
 - (d) it is information the existence and relevance of which was notified to an officer of Revenue and Customs by the taxpayer or a person acting on the taxpayer's behalf.
- (6) In sub-paragraph (5)(c) and (d) “relevance” means relevance as regards the situation mentioned in paragraph 21(1) or 22(1).
- (7) No assessment may be made under paragraph 21 or 22 if—
 - (a) the situation mentioned in paragraph 21(1) or 22(1) is attributable to a mistake in the return as to the basis on which the tax liability ought to have been calculated, and
 - (b) the return was in fact made on the basis prevailing, or in accordance with the practice generally prevailing, at the time it was made.

Time limit for assessments

- 25 (1) The general rule is that no assessment may be made more than 4 years after the end of the chargeable period to which the assessment relates.
- (2) An assessment of a person to tax in a case involving a loss of tax brought about carelessly by the taxpayer or a related person may be made up to 6 years after the end of the chargeable period to which the assessment relates.
- (3) An assessment to which this sub-paragraph applies may be made up to 20 years after the end of the chargeable period to which the assessment relates.
- (4) Sub-paragraph (3) applies to an assessment of a person in any case involving a loss of tax—

Status: Point in time view as at 17/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 5. (See end of Document for details)

- (a) brought about deliberately by the taxpayer or a related person,
 - (b) attributable to a failure by the taxpayer to comply with obligations under section 159(1) or 160(1) (duty to make annual tax on enveloped dwellings return or return of adjusted chargeable amount), ^{F1}...
 - (c) attributable to arrangements in respect of which the person has failed to comply with an obligation under section 309, 310 or 313 of FA 2004 (obligation of parties to tax avoidance schemes to provide information to HMRC).
- [^{F2}, or
- (d) attributable to arrangements which were expected to give rise to a tax advantage in respect of which the person was under an obligation to notify the Commissioners for Her Majesty's Revenue and Customs under section 253 of FA 2014 (duty to notify Commissioners of promoter reference number) but failed to do so.]
- (5) An assessment under paragraph 22 (assessment to recover excessive repayment of tax) is not out of time if it is made—
- (a) while an enquiry is in progress into a relevant return, or
 - (b) within the period of one year beginning with the date on which the repayment in question was made.
- (6) In sub-paragraph (5)—
- “in progress” is to be read in accordance with paragraph 11(4);
 - “relevant return” means a return delivered by the taxpayer and relating to the chargeable period and the interest in question.
- (7) If the taxpayer has died—
- (a) any assessment on the personal representatives must be made within 4 years after the death, and
 - (b) an assessment is not to be made by virtue of sub-paragraph (2) in respect of a chargeable period that ended more than 6 years before the death.
- (8) 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.
- (9) In this paragraph “related person”, in relation to the taxpayer, means—
- (a) a person acting on the taxpayer's behalf, or
 - (b) a person who was the partner of the taxpayer at the relevant time.

Textual Amendments

F1 Word in Sch. 33 para. 25(4) omitted (17.7.2014) by virtue of Finance Act 2014 (c. 26), s. 277(6)(a) (with ss. 269-271)

F2 Sch. 33 para. 25(4)(d) and word inserted (17.7.2014) by Finance Act 2014 (c. 26), s. 277(6)(b) (with ss. 269-271)

Losses brought about carelessly or deliberately

- 26 (1) This paragraph applies for the purposes of paragraphs 24 and 25.

Status: Point in time view as at 17/07/2014.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 2013, PART 5. (See end of Document for details)*

- (2) A loss of tax is brought about carelessly by a person if the person fails to take reasonable care to avoid bringing about that loss.
- (3) Sub-paragraph (4) applies where—
 - (a) information is provided to HMRC,
 - (b) the person who provided the information, or the person on whose behalf the information was provided, discovers some time later that the information was inaccurate, and
 - (c) that person fails to take reasonable steps to inform HMRC.
- (4) Any loss of tax brought about by the inaccuracy is to be treated as having been brought about carelessly by that person.
- (5) References to a loss of tax brought about deliberately by a person include a loss of tax brought about as a result of a deliberate inaccuracy in a document given to HMRC by or on behalf of that person.

Assessment procedure

- 27
- (1) Notice of an assessment must be served on the taxpayer.
 - (2) The notice must state—
 - (a) the tax due,
 - (b) the date on which the notice is issued, and
 - (c) the time within which any appeal against the assessment must be made.
 - (3) After notice of the assessment has been served on the taxpayer, the assessment may not be altered except in accordance with the express provisions of this Part of this Act.
 - (4) Where an officer of Revenue and Customs has decided to make an assessment to tax, and has taken all other decisions needed for arriving at the amount of the assessment, the officer may entrust to some other officer of Revenue and Customs the responsibility for completing the assessing procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the assessment.

Status:

Point in time view as at 17/07/2014.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2013, PART 5.