

SCHEDULE 1

Consequential Amendments and Supplemental Provisions – Primary Legislation

Taxes Management Act 1970

34.—(1) Section 55 (recovery of tax not postponed)(1) is amended as follows.

(2) Subject to the following provisions of this paragraph for “Commissioners” (in each place) substitute “tribunal”.

(3) For subsection (3) substitute—

“(3) If the appellant has grounds for believing that the amendment or assessment overcharges the appellant to tax, or as a result of the conclusion stated in the closure notice the tax charged on the appellant is excessive, the appellant may—

- (a) first apply by notice in writing to HMRC within 30 days of the specified date for a determination by them of the amount of tax the payment of which should be postponed pending the determination of the appeal;
- (b) where such a determination is not agreed, refer the application for postponement to the tribunal within 30 days from the date of the document notifying HMRC’s decision on the amount to be postponed.

An application under paragraph (a) must state the amount believed to be overcharged to tax and the grounds for that belief.”.

(4) In subsection (3A) after “closure notice” insert “, or where the notice of appeal has been given after the relevant time limit (see section 49)”.

(5) For subsection (4) substitute—

“(4) If, after any determination of the amount of tax the payment of which should be so postponed—

- (a) there is a change in the circumstances of the case as a result of which either party has grounds for believing that the amount so determined has become excessive or, as the case may be, insufficient, and
 - (b) the parties cannot agree on a revised determination,
- the party mentioned in paragraph (a) may, at any time before the determination of the appeal, apply to the tribunal for a revised determination of that amount.”.

(6) For subsection (5) substitute—

“(5) Any such application is to be subject to the relevant provisions of Part 5 of this Act (see, in particular, section 48(2)(b)).”.

(7) In subsection (6) omit “to the Commissioners, having regard to the representations made and any evidence adduced.”

(8) For subsection (6A) substitute—

“(6A) Notwithstanding the provisions of sections 11 and 13 of the TCEA 2007, the decision of the tribunal shall be final and conclusive.”.

(9) For subsection (7) substitute—

(1) Section 55 has been relevantly amended as follows. It was substituted by section 45 of the [Finance \(No 2\) Act 1975 \(c. 45\)](#). Subsection (3A) was inserted by section 68(2) to (4) of the [Finance Act 1982 \(c. 39\)](#). Subsection (6) was amended by [S.I. 1994/1815](#). Subsection (6A) was inserted by paragraph 8 of Schedule 29 to the [Income and Corporation Taxes Act 1988 \(c. 1\)](#). Subsection (7) was amended by section 104(2) and (4) of the [Finance Act 1990 \(c. 29\)](#). Subsection (10B) was inserted by section 88 of, and paragraph 31 of Schedule 29 to, the [Finance Act 2001 \(c. 9\)](#).

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

“(7) If the appellant and HMRC reach an agreement as to the amount of tax the payment of which should be postponed pending the determination of the appeal, the agreement shall not have effect unless—

- (a) the agreement is in writing, or
- (b) the fact that the agreement has been reached, and the terms of the agreement, are confirmed by notice in writing given—
 - (i) by the appellant to HMRC, or
 - (ii) by HMRC to the appellant.”

(10) Omit subsection (8).

(11) After subsection (8) insert—

“(8A) Where an agreement is made which has effect under subsection (7), references in subsection (6)(a) and (b) above to the date of the determination shall be construed as references to the date that the agreement is confirmed in writing.”

(12) In subsection (9)(a)(i) for “the inspector issues” substitute “HMRC issue”.

(13) Omit subsection (10).

(14) For subsection (10B) substitute—

“(10B) References in this section to agreements between an appellant and HMRC, and to the giving of notices between the parties, include references to agreements, and the giving of notices, between a person acting on behalf of the appellant in relation to the appeal and HMRC.”

(15) Omit subsection (11).