TAXES MANAGEMENT ACT 1970

(1970 Chapter 9)

[*12th March 1970*]

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PART I – ADMINISTRATION

1 Responsibility for certain taxes

1 The Commissioners for Her Majesty's Revenue and Customs shall be responsible for the collection and management of–

(a) income tax,
(b) corporation tax, and
(c) capital gains tax.

History – S. 1 substituted by CRCA 2005, s. 50 and Sch. 4, para. 12 with effect from 18 April 2005, by virtue of SI 2005/1126, reg. 2(2). Previously the section read as follows:

"*Taxes under care and management of the Board*

1(1) Income tax, corporation tax and capital gains tax shall be under the care and management of the Commissioners of Inland Revenue (in this Act referred to as **"the Board"**), and the definition of "inland revenue" in section 39 of the Inland Revenue Regulation Act 1890 shall have effect accordingly.

1(2) The Board shall appoint inspectors and collectors of taxes who shall act under the direction of the Board.

1(2A) The Board may appoint a person to be an inspector or collector for general purposes or for such specific purposes as the Board think fit.

1(2B) Where in accordance with the Board's administrative practices a person is authorised to act as an inspector or collector for specific purposes, he shall be deemed to have been appointed to be an inspector or collector for those purposes.

1(3) Any legal proceedings or administration act relating to any tax begun by one inspector or collector may be continued by another inspector or, as the case may be, another collector; and any inspector or collector may act for any division or other area."

HMRC Manuals – IR, Business Income Manual, BIM75225: HMRC's view that the general/special commissioners do not have power to review the exercise of "care and management" powers. (See also Steibelt v Paling [1999] BTC 184).

2 General Commissioners

2(1) For the purpose of exercising such powers relating to appeals and other matters as are conferred on them by the Taxes Acts or by Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 there shall be "Commissioners for the general purposes of the income tax" (in the Taxes Acts referred to as **"General Commissioners"**) who shall act for the same separate areas in Great Britain as heretofore or for the separate areas in Northern Ireland defined by an order made by the Lord Chancellor (in the Taxes Acts referred to as **"divisions"**).

2(2) General Commissioners for divisions in England and Wales or Northern Ireland shall be appointed by, and shall hold office during the pleasure of, the Lord Chancellor.

2(3) General Commissioners for divisions in Scotland shall be appointed by, and shall hold office during the pleasure of, the Secretary of State.

2(4) In Scotland a sheriff shall be ex officio a General Commissioner for any division wholly or partly within his sheriffdom, and a salaried sheriff-substitute shall be ex officio a General Commissioner for any division wholly or partly within his district.

2(5) The Lord Chancellor or, in Scotland, the Secretary of State shall pay General Commissioners by way of travelling allowance or subsistence allowance sums of such amounts and in such circumstances as he may, with the approval of the Treasury, determine.

2(6) The Lord Chancellor or, in Scotland, the Secretary of State may by order create a new division or abolish an existing division or alter in any other respect the divisions or their boundaries; and any such order may contain such consequential and transitional provisions as the Lord Chancellor or the Secretary of State, as the case may be, thinks fit and may be revoked or varied by a subsequent order under this subsection.

2(6A) The Lord Chancellor must consult the Lord Chief Justice of England and Wales or, in Northern Ireland, the Lord Chief Justice of Northern Ireland before exercising any function conferred on him by subsection (1) or (6).

2(6B) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.

2(6C) The Lord Chief Justice of Northern Ireland may nominate one of the following to exercise his functions under this section–

(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

(b) a Lord Justice of Appeal (as defined in section 88 of that Act).

2(7) A General Commissioner shall not continue in office after he attains the age of seventy-five years.

2(8) The validity of any proceedings of General Commissioners shall not be affected by a defect in the appointment of any of them, or by a failure to observe the requirements of the last preceding subsection.

2(9) No action shall lie against a General Commissioner in respect of any act or omission of his–

(a) in the execution of his duty; and

(b) with respect to any matter within his jurisdiction.

2(10) No action shall lie against a General Commissioner in respect of any act or omission of his–

(a) in the purported execution of his duty; but

(b) with respect to any matter not within his jurisdiction,

unless it is proved that he acted in bad faith.

Prospective amendments – S. 2 ceases to have effect by virtue of TCEA 2007, s. 48(1) and Sch. 8, para. 1(2) and repealed by TCEA 2007, s. 146 and Sch. 23, Pt. 1, with effect in accordance with provision made by the Lord Chancellor by order (TCEA 2007, s. 148).

History – In s. 2(1), words "or by Part II of the Social Security (Transfer of Functions, etc.) Act 1999" inserted by Social Security Contributions (Transfer of Functions, etc.) Act 1999, s. 18 and Sch. 7, para. 1, with effect from 1 April 1999 by virtue of SI 1999/527 , art. 2(b) and Sch. 2, but from 4 March 1999 for purposes connected with the making of regulations (SI 1999/527, art. 2(a) and Sch. 1).
In s. 2(1), the words "or for the separate . . . Lord Chancellor", and in s. 2(2) the words "or Northern Ireland", were inserted by FA 1988, s. 134(1)(a), (b), (4), with effect from 3 April 1989 (SI 1989/473).
S. 2(3) amended by FA 1975, s. 57(1) and Sch. 13, Pt. II, with effect from 16 March 1975.
S. 2(5) substituted by F(No. 2)A 1992, s. 76 and Sch. 16, para. 2(1) with effect from 1 April 1994.
S. 2(6A) inserted by Constitutional Reform Act 2005, Sch. 4, para. 64, with effect from 3 April 2006 (by virtue of SI 2006/1014).
S. 2(6B) inserted by Constitutional Reform Act 2005, Sch. 4, para. 64, with effect from 3 April 2006 (by virtue of SI 2006/1014).
S. 2(6C) inserted by Constitutional Reform Act 2005, Sch. 4, para. 64, with effect from 3 April 2006 (by virtue of SI 2006/1014).
S. 2(7) only applies in respect of General Commissioners appointed on or before 31 December 1995. SI 1995/3192 (not reproduced) sets the retirement age at 70 for general commissioners appointed after that date.
S. 2(9), (10) inserted by Access to Justice Act 1999, s. 101, with effect from 1 April 2001 in so far as they extend to England and Wales and Northern Ireland only.

Cross references – TMA 1970, Pt.V: jurisdiction of and proceedings before the Commissioners
F(No. 2)A 1992 s. 75: powers of the Lord Chancellor to make regulations to re-name the General and Special Commissioners.
FA 1972, s. 130: regulations may be made for the purpose of compensating clerks to general commissioners for loss of office etc., by virtue of the exercise of the powers conferred by s. 2(6).
FA 1973, s. 41: division boundaries are not affected by changes in local government areas.
TCEA 2007, s. 30, 35, 36 and Sch. 6: General Commissioners are a "scheduled tribunal" for purposes of that Act.

Statutory instruments – SI 1995/3192: Retirement Age of General Commissioners Order 1995 (not reproduced).

2A General Commissioners: costs and expenses in legal proceedings

2A(1) A court may not order a General Commissioner to pay costs or (in Scotland) expenses in any proceedings in respect of any act or omission of his in the execution (or purported execution) of his duty as a General Commissioner.

2A(2) Subsection (1) above does not apply in relation to–

(a) any proceedings in which a General Commissioner is being tried for an offence or is appealing against a conviction; or

(b) any proceedings in which it is proved that a General Commissioner acted in bad faith in respect of the matters giving rise to the proceedings.

2A(3) Where a court is prevented by subsection (1) above from ordering a General Commissioner to pay costs or expenses in any proceedings, the court may instead order the making by the relevant Minister of a payment in respect of the costs or expenses of a person in the proceedings.

2A(4) The relevant Minister may by regulations made by statutory instrument make provision specifying–

(a) circumstances when a court shall or shall not exercise the power conferred on it by subsection (3) above; and

(b) how the amount of any payment ordered under that subsection is to be determined.

2A(5) No regulations may be made under subsection (4) above unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

2A(6) In this section **"relevant Minister"** means the Lord Chancellor or, in Scotland, the Secretary of State.

Prospective amendments – S. 2A repealed by TCEA 2007, s. 146 and Sch. 23, Pt. 1, with effect in accordance with provision made by the Lord Chancellor by order (TCEA 2007, s. 148).

History – S. 2A inserted by Access to Justice Act 1999, s. 102 with effect from 1 April 2001 in respect of England and Wales and Northern Ireland (SI 2001/916) and with effect from 31 March 2003 in respect of Scotland (SI 2003/207).

Statutory instruments – SI 2001/1304: General Commissioners of Income Tax (Costs) Regulations 2001.

3 Clerk to General Commissioners

3(1) The General Commissioners for every division shall appoint a clerk and, if they think it necessary, an assistant clerk, and persons appointed under this subsection shall hold office during the pleasure of the Commissioners and act under their direction.

3(2) The Lord Chancellor or, in Scotland, the Secretary of State shall pay a clerk such remuneration in respect of his services as the Lord Chancellor or Secretary of State may, with the approval of the Treasury, determine.

3(3) The Lord Chancellor or, in Scotland, the Secretary of State may, in such cases as he may in his discretion determine, pay to or in respect of any full-time clerk such pension allowance or gratuity, or make such provision for the payment of pension allowance or gratuity to or in respect of any full-time clerk, as he may, with the approval of the Treasury, determine.

In this subsection **"full-time clerk"** means a clerk as regards whom the Lord Chancellor or Secretary of State is satisfied that he is required to devote substantially the whole of his time to the duties of his office.

3(4) Without prejudice to the power of any General Commissioners to dismiss their clerk or assistant clerk, the Lord Chancellor or, in Scotland, the Secretary of State may, after consulting the General Commissioners for any division, dismiss their clerk or assistant clerk.

3(5) A clerk or assistant clerk shall not continue in office after he has attained the age of seventy years unless the General Commissioners for whom he acts think it desirable in the public interest and extend his term of office; and the term shall not be extended beyond the age of seventy-five years.

Prospective amendments – S. 3 ceases to have effect by virtue of TCEA 2007, s. 48(1) and Sch. 8, para. 1(2) and repealed by TCEA 2007, s. 146 and Sch. 23, Pt. 1, with effect in accordance with provision made by the Lord Chancellor by order (TCEA 2007, s. 148).

History – S. 3(2) substituted by F(No. 2)A 1992, s. 76 and Sch. 16, para. 2(3) with effect from 1 April 1994.
In s. 3(3), the words "The Lord Chancellor . . . in his discretion determine", the words "he may, with the approval of the Treasury, determine" and the words "the Lord Chancellor . . . is satisfied" substituted by F(No. 2)A 1992, s. 76 and Sch. 16, para. 2(4) with effect from 1 April 1994.
S. 3(3) amended by Superannuation Act 1972, s. 29 and Sch. 6, para. 77, with effect from 25 March 1972.

Cross references – FA 1972, s. 130: regulations may be made for the purpose of compensating clerks to general commissioners for loss of office etc.

3A General Commissioners and clerks: indemnity

3A(1) A General Commissioner or a clerk may be indemnified by the relevant Minister in respect of–

(a) any costs or (in Scotland) expenses which the General Commissioner or clerk reasonably incurs in or in connection with proceedings in respect of anything done or omitted in the exercise (or purported exercise) of his duty as a General Commissioner or clerk;
(b) any costs or expenses which he reasonably incurs in taking steps to dispute any claim which might be made in such proceedings;
(c) any damages awarded against him or costs or expenses ordered to be paid by him in any such proceedings; and
(d) any sums payable by him in connection with a reasonable settlement of any such proceedings or claim,

unless it is proved, in respect of matters giving rise to the proceedings or claim in question, that he acted in bad faith.

3A(2) A General Commissioner or a clerk shall be indemnified by the relevant Minister in respect of any such costs or expenses, damages or sums as are mentioned in subsection (1)(a) to (d) above

if, in respect of the matters giving rise to the proceedings or claim in question, he acted reasonably and in good faith.

3A(3) Any question whether, or to what extent, a person is to be indemnified under this section shall be determined by the relevant Minister.

3A(4) A determination under subsection (3) above with respect to any such costs or expenses or sums as are mentioned in subsection (1)(a), (b) or (d) above may, if the person claiming to be indemnified so requests, be made in advance before they are incurred or the settlement made.

3A(5) Any such determination in advance for indemnity in respect of costs or expenses to be incurred–

(a) shall be subject to such limitations, if any, as the relevant Minister thinks proper and to the subsequent determination of the amount of the costs or expenses reasonably incurred; and
(b) shall not affect any other determination which may fall to be made in connection with the proceedings or claim in question.

3A(6) In this section **"clerk"** means–

(a) any person appointed to be a clerk or assistant clerk to the General Commissioners for any division; or
(b) a person who assists any such person;

and **"relevant Minister"** means the Lord Chancellor or, in Scotland, the Secretary of State.

Prospective amendments – S. 3A repealed by TCEA 2007, s. 146 and Sch. 23, Pt. 1, with effect in accordance with provision made by the Lord Chancellor by order (TCEA 2007, s. 148).

History – S. 3A inserted by Access to Justice Act 1999, s. 103 with effect from 1 April 2001 in relation to England and Wales and Northern Ireland (SI 2001/916) and with effect from 31 March 2003 in respect of Scotland (SI 2003/207).

4 Special Commissioners

4(1) The Lord Chancellor shall, after consultation with the Secretary of State, appoint such persons as he thinks fit as "Commissioners for the special purposes of the Income Tax Acts" (in the Taxes Acts referred to as **"Special Commissioners"**) and shall designate one of the Special Commissioners as the Presiding Special Commissioner.

4(2) No person shall be appointed under subsection (1) above unless–

(a) he has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;
(b) he is an advocate or solicitor in Scotland of at least 10 years' standing; or
(c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.

4(3) If the Presiding Special Commissioner is temporarily absent or unable to act or there is a vacancy in his office, the Lord Chancellor may designate another Special Commissioner to act as deputy Presiding Special Commissioner and the Commissioner so designated shall, when so acting, have all the functions of the Presiding Special Commissioner.

4(3A) The Lord Chancellor may designate a person under subsection (3) only with the concurrence of all of the following–

(a) the Lord Chief Justice of England and Wales;
(b) the Lord President of the Court of Session;
(c) the Lord Chief Justice of Northern Ireland.

4(3A) A Special Commissioner–

(a) may resign his office at any time; and
(b) shall vacate his office on the day on which he attains the age of seventy years;

but paragraph (b) above is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).

4(4) The Lord Chancellor may, if he thinks fit, and after consultation with the Secretary of State, remove a Special Commissioner from office on the grounds of incapacity or misbehaviour.

4(4A) The Lord Chancellor may remove a Special Commissioner from office under subsection (4) only with the concurrence of the appropriate senior judge.

4(4B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless–

(a) the Special Commissioner exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session, or

(b) the Special Commissioner exercises functions wholly or mainly in Northern Ireland, in which case it is the Lord Chief Justice of Northern Ireland.

4(5) By virtue of their appointment the Special Commissioners shall have authority to execute such powers, and to perform such duties, as are assigned to them by any enactment.

4(6) Such sums shall be allowed to Special Commissioners in respect of salary and incidental expenses and such pensions (including allowances and gratuities) shall be paid to, or in respect of, them as the Lord Chancellor may, with the approval of the Treasury, determine.

4(6A) Subsection (6) above, so far as relating to pensions (including allowances and gratuities), shall not have effect in relation to a person to whom , Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.

4(7) Officers and staff may be appointed under section 2(1) of the Courts Act 2003 (court staff) for carrying out the administrative work of the Special Commissioners.

4(8) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsection (3A).

4(9) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under subsection (3A).

4(10) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (3A)–

(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

(b) a Lord Justice of Appeal (as defined in section 88 of that Act).

History – In s. 4(1), the reference to the Secretary of State was substituted for a reference to the Lord Advocate by SI 1999/678 with effect from 19 May 1999.
S. 4(2) amended by Courts and Legal Services Act 1990, s. 71 and Sch. 10, para. 30, with effect from 1 January 1991 by virtue of SI 1990/2484 (C 64), by substituting the word "unless–" and para. (a), (b), (c).
Another s. 4(3A) inserted by Constitutional Reform Act 2005, Sch. 4, para. 65(2), with effect from 3 April 2006 (by virtue of SI 2006/1014).
S. 4(3A) inserted by Judicial Pensions and Retirement Act 1993, s. 26 and Sch. 6, para. 36(1), with effect from 31 March 1995 (SI 1995/631 (c. 15)).
In s. 4(4), the reference to the Secretary of State was substituted for a reference to the Lord Advocate by SI 1999/678 with effect from 19 May 1999.
S. 4(4A) inserted by Constitutional Reform Act 2005, Sch. 4, para. 65(3), with effect from 3 April 2006 (by virtue of SI 2006/1014).
S. 4(4B) inserted by Constitutional Reform Act 2005, Sch. 4, para. 65(3), with effect from 3 April 2006 (by virtue of SI 2006/1014).
S. 4(6A) inserted by Judicial Pensions and Retirement Act 1993, s. 31 and Sch. 8, para. 8, with effect from 31 March 1995 (SI 1995/631 (C. 15)).
In s. 4(7) the words "section 2(1) of the Courts Act 2003" substituted for the words "section 27 of the Courts Act 1971" by the Courts Act 2003, Sch. 8, para. 39, with effect from 1 April 2005 (by virtue of SI 2005/547).
S. 4(8) inserted by Constitutional Reform Act 2005, Sch. 4, para. 65(4), with effect from 3 April 2006 (by virtue of SI 2006/1014).
S. 4(9) inserted by Constitutional Reform Act 2005, Sch. 4, para. 65(4), with effect from 3 April 2006 (by virtue of SI 2006/1014).
S. 4(10) inserted by Constitutional Reform Act 2005, Sch. 4, para. 65(4), with effect from 3 April 2006 (by virtue of SI 2006/1014).
S. 4 substituted by FA 1984, s. 127 and Sch. 22, para. 1, with effect from 1 January 1985, by virtue of SI 1984/1836.

Cross references – TMA 1970, Pt. V: jurisdiction of and proceedings before the Commissioners
TCEA 2007, s. 30, 35, 36 and Sch. 6: Special Commissioners are a "scheduled tribunal" for purposes of that Act.

4A Deputy Special Commissioners

4A(1) If it appears to the Lord Chancellor expedient to do so in order to facilitate the performance of any functions of the Special Commissioners, he may, after consultation with the Secretary of State, appoint a person to be a deputy Special Commissioner during such period or on such occasions as the Lord Chancellor thinks fit.

4A(2) A person shall not be qualified for appointment as a deputy Special Commissioner unless he is qualified for appointment as a Special Commissioner (and, accordingly, no appointment of a person as a deputy Special Commissioner shall be such as to extend beyond the day on which he attains the age of seventy years, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993).

4A(3) A deputy Special Commissioner while acting under this section shall have all the jurisdiction and functions of a Special Commissioner and any reference to a Special Commissioner in the following provisions of this Act or in any other enactment or any instrument made under any enactment (whenever passed or made) shall include a reference to a deputy Special Commissioner.

4A(4) The duty under section 6(1) below shall only apply to a deputy Special Commissioner on his first appointment to that office.

4A(5) [Repealed by Judicial Pensions and Retirement Act 1993, s. 31 and Sch. 9].

4A(6) The Lord Chancellor may pay to any person appointed under this section such remuneration and allowances as he may, with the approval of the Treasury, determine.

History – In s. 4A(1), the reference to the Secretary of State was substituted for a reference to the Lord Advocate by SI 1999/678 with effect from 19 May 1999.
In s. 4A(2), words in parentheses added by Judicial Pensions and Retirement Act 1993, s. 26 and Sch. 6, para. 36(2), with effect from 31 March 1995 (SI 1995/631).
S. 4A(5) repealed by Judicial Pensions and Retirement Act 1993, s. 31 and Sch. 9 with effect from 31 March 1995 (SI 1995/631)
S. 4A inserted by FA 1984, s. 127 and Sch. 22, para. 1, with effect from 1 January 1985, by virtue of SI 1984/1836.

5 General and Special Commissioners

5(1) No General Commissioner or Special Commissioner shall act as such in relation to any matter in which he has a personal interest, or is interested on behalf of another person, except with the express consent of the parties to the proceedings.

5(2) [Repealed by the Criminal Justice Act 1972, Sch. 6, Pt. I and, in Scotland, by the Law Reform (Miscellaneous Provisions) Act 1980, Sch. 3.]

Prospective amendments – In s. 5(1) the words "General Commissioner" repealed by TCEA 2007, s. 146 and Sch. 23, Pt. 1, with effect in accordance with provision made by the Lord Chancellor by order (TCEA 2007, s. 148).

History – S. 5(2) repealed by the Criminal Justice Act 1972, Sch. 6, Pt. I, with effect from 30 March 1974 and, in Scotland, by the Law Reform (Miscellaneous Provisions) Act 1980, Sch. 3 with effect from 22 December 1980.

6 Declarations on taking office

6(1) Every person who is appointed to be–

(a) a General Commissioner or a Special Commissioner, or
(b) [Repealed by FA 1982, Sch. 22, Pt. X.]
(c) a member of the tribunal established under section 706 of the principal Act (cancellation of tax advantages), or section 704 of ITA 2007

shall make a declaration in the form set out in Part I of Schedule 1 to this Act before another person holding the same office, or before a General Commissioner.

6(2) Every person who is appointed to be a clerk or assistant clerk to the General Commissioners for any division, or who assists any such clerk, shall make a declaration in the form set out in Part I of Schedule 1 to this Act.

A clerk or assistant clerk shall make the declaration before a General Commissioner for the division, and a person who assists any such clerk shall make the declaration before such a General Commissioner or the clerk.

6(3) [Repealed by CRCA 2005, s. 52 and Sch 5; see History note.]

6(4) [Repealed by CRCA 2005, s. 52 and Sch 5; see History note.]

6(5) A declaration under this section shall be made as soon as may be after first appointment to the office in question.

Prospective amendments – In s. 6(1) the words "a General Commissioner or" and the words ", or before a General Commissioner" and s. 6(2) repealed by TCEA 2007, s. 146 and Sch. 23, Pt. 1, with effect in accordance with provision made by the Lord Chancellor by order (TCEA 2007, s. 148).

History – S. 6(1)(b) repealed by FA 1982, Sch. 22, Pt. X .
In s. 6(1)(c), the words "or section 704 of ITA 2007" inserted by ITA 2007, s. 1027 and Sch. 1, para. 243, with effect from 6 April 2007.
In s. 6(1)(c), the reference to ICTA 1988, s. 707 substituted for the previous reference by ICTA 1988, Sch. 29, para. 32.
S. 6(3) and (4) ceased to have effect by virtue of CRCA 2005, s. 50, Sch. 4, para. 13 and repealed by CRCA 2005, s. 52 and Sch 5, with effect from 18 April 2005 (SI 2005/1126, reg. 2(2)).

Cross references – FA 1969, s. 58: disclosure for statistical purposes of information regarding employment.
FA 1972, s. 127: disclosure of information between revenue departments.
FA 1989, s. 182: offence of unlawful disclosure.
SSCTFA 1999, s. 3(5): in any declaration for the purposes of s. 6, reference to an offence relating to inland revenue is taken to include a reference to an offence relating to contributions, statutory sick pay or statutory maternity pay, or an offence under regulations made under Pension Schemes Act 1993, Pt. III, or pension schemes (Northern Ireland) Act 1993, Pt. III.
EA 2002, s. 5: reference in any declaration under s. 6 to an offence relating to Inland Revenue to be taken to include a reference to an offence relating to statutory paternity pay or statutory adoption pay.
TCA 2002, s. 2(6): in any declaration for the purposes of s. 6, reference to an offence relating to inland revenue is taken to include a reference to an offence relating to a tax credit.

PART II – RETURNS OF INCOME AND GAINS

INCOME TAX

7 Notice of liability to income tax and capital gains tax

7(1) Every person who–

(a) is chargeable to income tax or capital gains tax for any year of assessment, and
(b) has not received a notice under section 8 of this Act requiring a return for that year of his total income and chargeable gains,

shall, subject to subsection (3) below, within six months from the end of that year, give notice to an officer of the Board that he is so chargeable.

7(2) In the case of persons who are chargeable as mentioned in subsection (1) above as the relevant trustees of a settlement, that subsection shall have effect as if the reference to a notice under section 8 of this Act were a reference to a notice under section 8A of this Act.

7(3) A person shall not be required to give notice under subsection (1) above in respect of a year of assessment if for that year his total income consists of income from sources falling within subsections (4) to (7) below and he has no chargeable gains.

7(4) A source of income falls within this subsection in relation to a year of assessment if–

(a) all payments of, or on account of, income from it during that year, and
(b) all income from it for that year which does not consist of payments,

have or has been taken into account in the making of deductions or repayments of tax under PAYE regulations.

7(5) A source of income falls within this subsection in relation to any person and any year of assessment if all income from it for that year has been or will be taken into account–

(a) in determining that person's liability to tax, or
(b) in the making of deductions or repayments of tax under PAYE regulations.

7(6) A source of income falls within this subsection in relation to any person and any year of assessment if all income from it for that year is–

(a) income from which income tax has been deducted;
(b) income from or on which income tax is treated as having been deducted or paid; or
(c) income chargeable under Chapter 3 of Part 4 of ITTOIA 2005 (dividends etc. from UK resident companies etc.),

and that person is not for that year liable to tax at a rate other than the basic rate, the dividend ordinary rate, the savings rate or the starting rate.

7(7) A source of income falls within this subsection in relation to any person and any year of assessment if all income from it for that year is income on which he could not become liable to tax under a self-assessment made under section 9 of this Act in respect of that year.

7(8) If any person, for any year of assessment, fails to comply with subsection (1) above, he shall be liable to a penalty not exceeding the amount of the tax–

(a) in which he is assessed under section 9 or 29 of this Act in respect of that year, and
(b) which is not paid on or before the 31st January next following that year.

7(9) For the purposes of this Act the relevant trustees of a settlement are–

(a) in relation to income (other than gains treated as arising under Chapter 9 of Part 4 of ITTOIA 2005, the persons who are trustees when the income arises and any persons who subsequently become trustees; and
(aa) in relation to gains treated as arising under Chapter 9 of Part 4 of ITTOIA 2005, the persons who are trustees in the year of assessment in which the gains arise and any persons who subsequently become trustees; and
(b) in relation to chargeable gains, the persons who are trustees in the year of assessment in which the chargeable gains accrue and any persons who subsequently become trustees.

History – In s. 7(2), the words "persons who are" and the words "the relevant trustees" substituted for the previous words by FA 1995, s. 103(1), 115(1), with effect as respects the year 1996–97 and subsequent years of assessment.
In s. 7(4), the words "PAYE regulations" substituted for the previous words by ITEPA 2003, Sch. 6, para. 124 for the tax year 2003–04 and subsequent tax years.
In s. 7(5), the words "PAYE regulations" substituted for the previous words by ITEPA 2003, Sch. 6, para. 124 for the tax year 2003–04 and subsequent tax years.

In s. 7(6), the words "savings rate" substituted for the words "lower rate" by ITA 2007, s. 1027 and Sch. 1, para. 244, with effect from 6 April 2007.
In s. 7(6), the reference in sub-para (c) to Chapter 3 of Part 4 of ITTOIA 2005 substituted for "Schedule F" by ITTOIA 2005, s. 882(1) and Sch. 1, para. 358(2)(a); effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)); the words ", the lower rate or the starting rate" substituted by FA 1999, s. 22(11)(a) for the year 1999–2000 and subsequent years of assessment; the words ", the Schedule F ordinary rate" inserted by F(No. 2)A 1997, s. 34 and Sch. 4, para. 1(1), with effect for the year 1999–2000 and subsequent years. The word "dividend" substituted for "Schedule F" in that phrase by ITTOIA 2005, s. 882(1) and Sch. 1, para. 358(2)(b); effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
In s. 7(7) the words "income on which" substituted for the previous words "income from which", and s. 7(9) inserted, by FA 1995, s. 103(2), with effect as respects the year 1996–97 and subsequent years of assessment.
In s. 7(9), the words "(other than gains treated as arising under Chapter II of Part XIII of the principal Act)" in para (a); and the whole of para. (aa) inserted by FA 1998, s. 86 and Sch. 14, para. 5, in relation to chargeable events happening on or after 6 April 1998. References to Chapter 9 of Part 4 of ITTOIA 2005 substituted for references to ICTA 1988, Pt. XIII, Ch. II by ITTOIA 2005, s. 882(1) and Sch. 1, para. 358(3); effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
S. 7 substituted by FA 1994, s. 196 and Sch. 19, para. 1(1) with effect as respects the year 1995–96 and subsequent years of assessment.

Cross references – S. 59B(3): payment of income tax and capital gains tax under self-assessment.
S. 59C: surcharges on unpaid income tax and capital gains tax under self-assessment.
S. 100B: appeals against penalty determinations.
S. 102 Board's power to mitigate penalties.
FA 2004, s. 108(3) and s. 109(4): special withholding tax to be treated as income tax deducted at source for the purposes of this section.

HMRC Manuals – Enquiry Manual EM6052: Board's policy on abatement of tax-geared penalties.

8 Personal return

8(1) For the purpose of establishing the amounts in which a person is chargeable to income tax and capital gains tax for a year of assessment, and the amount payable by him by way of income tax for that year, he may be required by a notice given to him by an officer of the Board–

(a) to make and deliver to the officer, a return containing such information as may reasonably be required in pursuance of the notice, and
(b) to deliver with the return such accounts, statements and documents, relating to information contained in the return, as may reasonably be so required.

8(1A) [Omitted by FA 2007, s. 88(3) and repealed by s. 114 and Sch. 27, Pt. 5(3).]

8(1AA) For the purposes of subsection (1) above–

(a) the amounts in which a person is chargeable to income tax and capital gains tax are net amounts, that is to say, amounts which take into account any relief or allowance a claim for which is included in the return; and
(b) the amount payable by a person by way of income tax is the difference between the amount in which he is chargeable to income tax and the aggregate amount of any income tax deducted at source and any tax credits to which section 397(1) of ITTOIA 2005 applies.

8(1B) In the case of a person who carries on a trade, profession, or business in partnership with one or more other persons, a return under this section shall include each amount which, in any relevant statement, is stated to be equal to his share of any income, loss, tax, credit or charge for the period in respect of which the statement is made.

8(1C) In subsection (1B) above **"relevant statement"** means a statement which, as respects the partnership, falls to be made under section 12AB of this Act for a period which includes, or includes any part of, the year of assessment or its basis period.

8(1D) A return under this section for a year of assessment (Year 1) must be delivered–

(a) in the case of a non-electronic return, on or before 31st October in Year 2, and
(b) in the case of an electronic return, on or before 31st January in Year 2.

8(1E) But subsection (1D) is subject to the following two exceptions.

8(1F) Exception 1 is that if a notice in respect of Year 1 is given after 31st July in Year 2 (but on or before 31st October), a return must be delivered–

(a) during the period of 3 months beginning with the date of the notice (for a non-electronic return), or
(b) on or before 31st January (for an electronic return).

8(1G) Exception 2 is that if a notice in respect of Year 1 is given after 31st October in Year 2, a return (whether electronic or not) must be delivered during the period of 3 months beginning with the date of the notice.

8(1H) The Commissioners–

(a) shall prescribe what constitutes an electronic return, and
(b) may make different provision for different cases or circumstances.

8(2) Every return under this section shall include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.

8(3) A notice under this section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.

8(4) Notices under this section may require different information, accounts and statements in relation to different descriptions of person.

8(5) In this section and sections 8A, 9 and 12AA of this Act, any reference to income tax deducted at source is a reference to income tax deducted or treated as deducted from any income or treated as paid on any income.

History – In s. 8(1)(a), former words ", on or before the day mentioned in subsection (1A) below" which followed "to make and deliver to the officer" omitted by FA 2007, s. 88(2) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(3), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007.
S. 8(1A) omitted by FA 2007, s. 88(3) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(3), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007. Former s. 8(1A) read as follows:
"**8(1A)** The day referred to in subsection (1) above is–
(a) the 31st January next following the year of assessment, or
(b) where the notice under this section is given after the 31st October next following the year, the last day of the period of three months beginning with the day on which the notice is given."
S. 8(1)–(1C) substituted for s. 8(1) by FA 1994, s. 178(1).
S. 8(1A), (1B) amended and s. 8(5) inserted by FA 1995, s. 104(1)–(3), and s. 8(1), (1A) amended, and s. 8(1AA) inserted, by FA 1996, s. 121(1)–(3), s. 205 and Sch. 41, Pt. V(6) as respects the year 1996–97 and subsequent years of assessment.
S. 8(1D)–(1H) inserted by FA 2007, s. 88(4), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007.
In s. 8(1AA)(b) the reference to s. 397(1) ITTOIA 2005 substituted for a reference to ICTA 1988, s. 231 by ITTOIA 2005, s. 882(1) and Sch. 1, para.359; effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
S. 8 substituted by FA 1990, s. 90(1), (5), effective where a notice to deliver a return was, or fell to be, given after 5 April 1990.

Cross references – S. 9(1): a return must include a self-assessment.
S. 12(2): a return to include particulars in relation to capital gains tax.
S. 9ZA: amendment of personal or trustee return by taxpayer and s. 9ZB: amendment of personal or trustee return by Revenue.
S. 12ABA: amendment of partnership return by taxpayer.
S. 12ABB: correction of partnership return by Revenue.
S. 28A: "Filing date" for the purpose of s. 28A (amendment of self-assessment where enquiries made) is the date mentioned in s. 8(1A) or 8A(1A) as the case may be.
S. 28B(4): where partnership return is amended under s. 28B, officer shall by notice to partners amend the partners' returns under s. 8 or s. 8A.
S. 28C: determination of tax under self-assessment where no return delivered.
S. 29: where self assessment found to be insufficient following submission of return under this section.
S. 30B: amendment of partnership return where loss of tax is discovered.
S. 33A: error or mistake in partnership return.
S. 50(9): where amounts in partnership statement are reduced or increased, officer shall by notice to partners amend the partners' self-assessments under s. 8 or s. 8A.
S. 59B: payment or repayment of income tax and capital gains tax following amendment or correction of return.
S. 93: penalties for failure to make return for income tax and capital gains tax.
S. 95: penalties for fraudulent or negligent delivery of incorrect returns under s. 8.
FA 1974, s. 24: particulars of income may be required from an overseas employer under s. 8.
ICTA 1988, s. 62A(3): time limit for giving notice of a change in basis period.
ICTA 1988, s. 379A(3): amendment to any prior s. 8 or s. 8A self-assessment may be required with a Sch. A loss claim.
TCGA 1992, s. 3A(1): in relation to the years 2003–04 and subsequent years, a statement to the effect that a person's chargeable gains do not exceed their annual exemption and the aggregate disposal consideration does not exceed four times that exemption is sufficient compliance with TMA 1970 s. 8 insofar as it relates to establishing that person's capital gains tax liability for the year.
FA 2002, s. 98: time limit for election to carry back gift aid donations.
TCA 2002, s. 19(4): enquiry window for Revenue enquiries into awards of working tax credit and child tax credit.
ITEPA 2003, s. 711(1): right to make a personal return.
FA 2004, s. 108(3) and s. 109(4): special withholding tax to be treated as income tax deducted at source for the purposes of this section.
SI 2003/282: regulations governing electronic delivery of information to or by the Board under s. 8.

Statements of practice – A13: completion of return forms by attorneys.
SP 1/97: the electronic lodgment service.

Other material – IR press release, 4 April 1996: Under self-assessment, HMRC will, if requested, issue a tax return before the end of the tax year in which death occurred.
Tax Bulletin TB01/02-5: HMRC change of policy on use of provisional figures in returns: they will no longer send back a return that does not adequately explain why provisional figures are needed or does not give a date for the supply of final figures, but the omission of that information will be a factor to be taken into account in deciding whether to open an enquiry into the return.
Law Society's Gazette, 18 March 1992, p. 14 (not reproduced): HMRC accept there will be circumstances where taxpayer will not be able to sign return and are prepared in principle to accept the signature of an attorney in cases of physical incapacity to sign and mental incapacity.

8A Trustee's return

8A(1) For the purpose of establishing the amounts in which the relevant trustees of a settlement, and the settlors and beneficiaries, are chargeable to income tax and capital gains tax for a year of assessment, and the amount payable by him by way of income tax for that year, an officer of the Board may by a notice given to any relevant trustee require the trustee–

(a) to make and deliver to the officer, a return containing such information as may reasonably be required in pursuance of the notice, and

(b) to deliver with the return such accounts, statements and documents, relating to information contained in the return, as may reasonably be so required;

and a notice may be given to any one trustee or separate notices may be given to each trustee or to such trustees as the officer thinks fit.

8A(1A) [Omitted by FA 2007, s. 89(3) and repealed by s. 114 and Sch. 27, Pt. 5(3).]

8A(1AA) For the purposes of subsection (1) above–

(a) the amounts in which a person is chargeable to income tax and capital gains tax are net amounts, that is to say, amounts which take into account any relief or allowance a claim for which is included in the return; and

(b) the amount payable by a person by way of income tax is the difference between the amount in which he is chargeable to income tax and the aggregate amount of any income tax deducted at source and any tax credits to which section 397(1) of ITTOIA 2005 applies.

8A(1B) A return under this section for a year of assessment (Year 1) must be delivered–

(a) in the case of a non-electronic return, on or before 31st October in Year 2, and

(b) in the case of an electronic return, on or before 31st January in Year 2.

8A(1C) But subsection (1B) is subject to the following two exceptions.

8A(1D) Exception 1 is that if a notice in respect of Year 1 is given after 31st July in Year 2 (but on or before 31st October), a return must be delivered–

(a) during the period of 3 months beginning with the date of the notice (for a non-electronic return), or

(b) on or before 31st January (for an electronic return).

8A(1E) Exception 2 is that if a notice in respect of Year 1 is given after 31st October in Year 2, a return (whether electronic or not) must be delivered during the period of 3 months beginning with the date of the notice.

8A(1F) The Commissioners–

(a) shall prescribe what constitutes an electronic return, and

(b) may make different provision for different cases or circumstances.

8A(2) Every return under this section shall include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete.

8A(3) A notice under this section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.

8A(4) Notices under this section may require different information, accounts and statements in relation to different descriptions of settlement.

8A(5) The following references, namely–

(a) references in section 9 or 28C of this Act to a person to whom a notice has been given under this section being chargeable to tax; and

(b) references in section 29 of this Act to such a person being assessed to tax,

shall be construed as references to the relevant trustees of the settlement being so chargeable or, as the case may be, being so assessed.

History – In s. 8A(1)(a), former words ", on or before the day mentioned in subsection (1A) below" which followed "to make and deliver to the officer" omitted by FA 2007, s. 89(2) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(3), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007.

S. 8A(1A) omitted by FA 2007, s. 89(3) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(3), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007. Former s. 8A(1A) read as follows

"**8A(1A)** The day referred to in subsection (1) above is–

(a) the 31st January next following the year of assessment, or

(b) where the notice under this section is given after the 31st October next following the year, the last day of the period of three months beginning with the day on which the notice is given."

S. 8A(1), (1A) amended by FA 1995, s. 103(3), (4) and 104(1), and s. 8A(1) and (1A) amended, by FA 1996, s. 121(1)–(3), s. 205 and Sch. 41, Pt. V(6), as respects the year 1996–97 and subsequent years of assessment.

S. 8A(1) and (1A) substituted for s. 8A(1) by FA 1994, s. 178(2).

In s. 8A(1AA)(b) the reference to ITTOIA 2005 s. 397(1) substituted for a reference to ICTA 1988, s. 231 by ITTOIA 2005, s. 882(1) and Sch. 1, para. 360; effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)).

S. 8A(1AA) inserted by FA 1995, s. 103(3), (4) by FA 1996, s. 121(1)–(3), s. 205 and Sch. 41, Pt. V(6), as respects the year 1996–97 and subsequent years of assessment.

S. 8A(1B)–(1F) inserted by FA 2007, s. 89(4), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007.

S. 8A(5) inserted by FA 1995, s. 103(3), (4) by FA 1996, s. 121(1)–(3), s. 205 and Sch. 41, Pt. V(6), as respects the year 1996–97 and subsequent years of assessment.

S. 8A inserted by FA 1990, s. 90(1), (5), effective where a notice to deliver a return was, or falls to be, given after 5 April 1990.

Cross references – S. 9(1): a return must include a self-assessment.

S. 9ZA: amendment of personal or trustee return by taxpayer and s. 9ZB: amendment of personal or trustee return by Revenue.

S. 12(2): a return to include particulars in relation to capital gains tax.
S. 12ABA: amendment of partnership return by taxpayer.
S. 12ABB: correction of partnership return by Revenue.
S. 28A: "Filing date" for the purpose of s. 28A (amendment of self-assessment where enquiries made) is the date mentioned in s. 8(1A) or 8A(1A) as the case may be.
S. 28B(4): where partnership return is amended under s. 28B, officer shall by notice to partners amend the partners' returns under s. 8 or s. 8A.
S. 28C: determination of tax under self-assessment where no return delivered.
S. 29: where self assessment found to be insufficient following submission of return under this section.
S. 30B: amendment of partnership return where loss of tax is discovered.
S. 33A: error or mistake in partnership return.
S. 50(9): where amounts in partnership statement are reduced or increased, officer shall by notice to partners amend the partners' self-assessments under s. 8 or s. 8A.
S. 59B: payment or repayment of income tax and capital gains tax following amendment or correction of return.
S. 93: penalties for failure to make return for income tax and capital gains tax.
S. 95: penalties for fraudulent or negligent delivery of incorrect returns under s. 8A.
ICTA 1988, s. 379A(3): amendment to any prior s. 8 or s. 8A self-assessment may be required with a Sch. A loss claim.
TCGA 1992, Sch. 1, paras. 1(5A) and 2(6A) (modification of annual exemption and reporting limits for trustees): references to TMA 1970, s. 8 in s. 3A(1) should be read as references to TMA 1970, s. 8A.
FA 2002, Sch. 22, para. 17(2): a return under s. 8A is a relevant return for the purposes of determining the extent to which change of basis period provisions of FA 2002, Sch. 22 apply to periods of account ending before 1 August 2002.
FA 2004, s. 108(3) and s. 109(4): special withholding tax to be treated as income tax deducted at source for the purposes of this section.
SI 2003/282: regulations governing electronic delivery of information to or by the Board under this section .

Statements of practice – SP 1/97: the electronic lodgment service.

9 Returns to include self-assessment

9(1) Subject to subsections (1A) and (2) below, every return under section 8 or 8A of this Act shall include a self-assessment, that is to say–

(a) an assessment of the amounts in which, on the basis of the information contained in the return and taking into account any relief or allowance a claim for which is included in the return, the person making the return is chargeable to income tax and capital gains tax for the year of assessment; and

(b) an assessment of the amount payable by him by way of income tax, that is to say, the difference between the amount in which he is assessed to income tax under paragraph (a) above and the aggregate amount of any income tax deducted at source and any tax credits to which section 397(1) of ITTOIA 2005 applies

but nothing in this subsection shall enable a self-assessment to show as repayable any income tax treated as deducted or paid by virtue of section 246D(1) of the principal Act, section 626 of ITEPA 2003 or section 399(2), 400(2), 414(1), 421(1) or 530(1) of ITTOIA 2005.

9(1A) The tax to be assessed on a person by a self-assessment shall not include any tax which–

(a) is chargeable on the scheme administrator of a registered pension scheme under Part 4 of the Finance Act 2004, or

(b) is chargeable on the person who is (or persons who are) the responsible person in relation to an employer-financed retirement benefits scheme under section 394(2) of ITEPA 2003.

9(2) A person shall not be required to comply with subsection (1) above if he makes and delivers his return for a year of assessment–

(a) on or before the 31st October next following the year, or

(b) where the notice under section 8 or 8A of this Act is given after the 31st August next following the year, within the period of two months beginning with the day on which the notice is given.

9(3) Where, in making and delivering a return, a person does not comply with subsection (1) above, an officer of the Board shall if subsection (2) above applies, and may in any other case–

(a) make the assessment on his behalf on the basis of the information contained in the return, and

(b) send him a copy of the assessment so made;

9(3A) An assessment under subsection (3) above is treated for the purposes of this Act as a self-assessment and as included in the return.

9(4) [Omitted by FA 2001, s. 88 and Sch. 29, para. 2.]

9(5) [Omitted by FA 2001, s. 88 and Sch. 29, para. 2.]

9(6) [Omitted by FA 2001, s. 88 and Sch. 29, para. 2.]

History – In s. 9(1), the words "or 547(5) of the principal Act or section 626 of ITEPA 2003" substituted for the words "547(5) or 599A(5) of the principal Act" by ITEPA 2003, Sch. 6, para. 125(2) which has effect for the tax year 2003–04 and subsequent tax years. The reference in para. (b) to ITTOIA 2005, s. 397(1) substituted for a reference to ICTA 1988, s. 231 by ITTOIA 2005, s. 882(1) and Sch. 1, para. 361(a); effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)). References to ICTA 1988,

s. 233(1), 249(4), 421(1) and 547(5) omitted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 361(b) and repealed by ITTOIA 2005, s. 884, Sch. 3; effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)). References to ITTOIA 2005, s. 399(2), 400(2), 414(1), 421(1) and 530(1) inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 361; effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
In s. 9(1A) the words after "any tax" substituted by FA 2004, s. 281 and Sch. 35, para. 1 with effect from 6 April 2006. Former wording read as follows: "which, under Chapter I or IV of Part XIV of the principal Act or under section 394(2) of ITEPA 2003, is charged on the administrator of a scheme (within the meaning of section 658A of that Act) and is assessable by the Board in accordance with that section."
In s. 9(1A), the words "or under section 394(2) of ITEPA 2003" inserted by ITEPA 2003, Sch. 6, para. 125(3) which has effect for the tax year 2003–04 and subsequent tax years.
S. 9(1A) and reference to it in s. 9(1) inserted by FA 1998, s. 98(2) with effect for 1998–99 and subsequent years and with deemed effect for 1996–97 and 1997–98.
In s. 9(2), the words "31st October" substituted for "30th September" and the words "31st August" substituted for "31st July" by FA 2007, s. 91(1), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007.
In s. 9(3) the words "and references in this Act to a person's self-assessment include references to an assessment made on a person's behalf under this subsection" omitted by FA 2001, s. 88 and Sch. 29, para. 1, with effect from 11 May 2001 in relation to returns–
(a) whether made before or after 11 May 2001, and
(b) whether relating to periods before or after 11 May 2001.
S. 9(3A) inserted by FA 2001, s. 88 and Sch. 29, para. 1, with effect from 11 May 2001 in relation to returns–
(a) whether made before or after 11 May 2001, and
(b) whether relating to periods before or after 11 May 2001.
S. 9(4)–(6) omitted by FA 2001, s. 88 and Sch. 29, para. 2, with effect from 11 May 2001 in relation to returns–
(a) whether made before or after 11 May 2001, and
(b) whether relating to periods before or after 11 May 2001.
S. 9 substituted by FA 1994, s. 179 and amended by FA 1995, s. 104(4), 115(2), 162 and Sch. 29, Pt. VIII(14), and by FA 1996, s. 121(4), 122(1) as respects the year 1996–97 and subsequent years of assessment. S. 9 previously substituted by FA 1990, s. 90(1), (5), effective where a notice to deliver a return was, or falls to be, given after 5 April 1990.

Cross references – TMA 1970, s. 28C(3): determination under s. 28C has effect as if it were a self-assessment until such time as it is superseded by a self-assessment under s. 9.
TMA 1970, s. 59A: payments on account of income tax.
TMA 1970, s. 65: recovery of tax due under s. 9 via the magistrates' court.
FA 1994, s. 197(1): references in the Tax Acts and Gains Tax Acts to a person being assessed include tax assessed or charged by self-assessment under s. 9.
SI 2003/282: regulations governing electronic delivery of information to or by the Board under this section.
FA 2004, s. 108(3) and s. 109(4): special withholding tax to be treated as income tax deducted at source for the purposes of this section.

9ZA Amendment of personal or trustee return by taxpayer

9ZA(1) A person may amend his return under section 8 or 8A of this Act by notice to an officer of the Board.

9ZA(2) An amendment may not be made more than twelve months after the filing date.

9ZA(3) In this section "the filing date", in respect of a return for a year of assessment (Year 1), means–

(a) 31st January of Year 2, or
(b) if the notice under section 8 or 8A is given after 31st October of Year 2, the last day of the period of three months beginning with the date of the notice.

History – S. 9ZA(3) substituted by FA 2007, s. 91(2), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007. Former s. 9ZA(3) read as follows:
"**9ZA(3)** In this section "the filing date" means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act."
See s. 8 or s. 8A History note as appropriate.
S. 9ZA inserted by FA 2001, S. 88 and Sch. 29, para. 2, with effect from 11 May 2001 in relation to returns–
(a) whether made before or after 11 May 2001, and
(b) whether relating to periods before or after 11 May 2001.

Cross references – TCA 2002, s. 20(2)(a): revisions of decisions on working tax credit and child tax credit on an amendment under this section taking effect.

HMRC interpretations – IRInt. 186: amending a self assessment return under what is now s. 9ZA does not preclude penalty action by Revenue if taxpayer has acted negligently or fraudulently in original submission of return.

9ZB Correction of personal or trustee return by Revenue

9ZB(1) An officer of the Board may amend a return under section 8 or 8A of this Act so as to correct obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise).

9ZB(2) A correction under this section is made by notice to the person whose return it is.

9ZB(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 of the return under section 9ZA of this Act, the day on which that amendment was made.

9ZB(4) A correction under this section is of no effect if the person whose return it is gives notice rejecting the correction.

9ZB(5) Notice of rejection under subsection (4) above must be given–

(a) to the officer of the Board by whom the notice of correction was given,
(b) before the end of the period of 30 days beginning with the date of issue of the notice of correction.

History – S. 9ZB inserted by FA 2001, s. 88 and Sch. 29, para. 2 with effect from 11 May 2001 in relation to returns–
(a) whether made before or after 11 May 2001, and
(b) whether relating to periods before or after 11 May 2001.

Cross references – TCA 2002, s. 20(2)(b): revisions of decisions on working tax credit and child tax credit following issue of a notice of correction.

9A Notice of enquiry

9A(1) An officer of the Board may enquire into a return under section 8 or 8A of this Act if he gives notice of his intention to do so (**"notice of enquiry"**)–

(a) to the person whose return it is (**"the taxpayer"**),
(b) within the time allowed.

9A(2) The time allowed is–

(a) if the return was delivered on or before the filing date, up to the end of the period of twelve months after the day on which the return was delivered;
(b) if the return was delivered after the filing date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;
(c) if the return is amended under section 9ZA of this Act, up to and including the quarter day next following the first anniversary of the day on which the amendment was made.

For this purpose the quarter days are 31st January, 30th April, 31st July and 31st October.

9A(3) 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) of the return under section 9ZA of this Act.

9A(4) An enquiry extends to–

(a) anything contained in the return, or required to be contained in the return, including any claim or election included in the return,
(b) consideration of whether to give the taxpayer a transfer pricing notice under paragraph 5C of Schedule 28AA to the principal Act (provision not at arm's length: medium-sized enterprise), but this is subject to the following limitation.
(c) consideration of whether to give the taxpayer a notice under section 804ZA of the principal Act (schemes and arrangements designed to increase relief).

9A(5) If the notice of enquiry is given as a result of an amendment of the return under section 9ZA of this Act–

(a) at a time when it is no longer possible to give notice of enquiry under subsection (2)(a) or (b) above, or
(b) after an enquiry into the return has been completed,

the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.

9A(6) In this section **"the filing date"** means, in relation to a return, the last day for delivering it in accordance with section 8 or 8A.

History – In s. 9A(2)(a), the words "after the day on which the return was delivered" substituted for the words "after the filing date" by FA 2007, s. 96(1) and applicable to returns which relate to the tax year 2007–08 or a later tax year.
S. 9A(4)(c) inserted by FA 2005, s. 88(1) with effect from 10 February 2005 (where credit for foreign tax is affected by a scheme to which ICTA 1988, Sch. 28AB, para. 5 applies) or 16 March 2005 (where that credit is affected by any other scheme or arrangement prescribed by ICTA 1988, Sch. 28AB.)
S. 9A(4) substituted by FA 2004 s. 30 and Sch. 5, para. 1, with effect in relation to chargeable periods beginning on or after 1 April 2004.
In s. 9A(6), the words "means, in relation to a return, the last day for delivering it in accordance with section 8 or 8A" substituted for "means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act" by FA 2007, s. 91(3), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007. See s. 8 or s. 8A History note as appropriate.
S. 9A substituted by FA 2001, s. 88 and Sch. 29, para. 4, with effect from 11 May 2001 in relation to returns–
(a) whether made before or after 11 May 2001, and
(b) whether relating to periods before or after 11 May 2001.
Former s. 9A inserted by FA 1994, s. 180, with effect for the year 1996–97 and subsequent years of assessment.

Cross references – TCA 2002, s. 19(7): effect of s. 9A enquiry on timescale for enquiries into awards of working tax credit and child tax credit.
SI 2003/282: regulations governing electronic delivery of information to or by the Board under this section.

Statements of practice – SP 1/99: where enquiries remain open after expiry of period within which notice of enquiry may be issued solely because of an unagreed capital gains tax valuation, Revenue will not normally raise further enquiries into matters unrelated to the valuation or the CGT computation unless the circumstances are such that, had the enquiry already been completed, the Revenue could have made a section 29 discovery.

HMRC Manuals – Enquiry Manual EM1551: Instructions on opening an enquiry.
Enquiry Manual EM1601: inspectors may give early confirmation that no enquiry is proposed into a return of a deceased taxpayer.

Other material – Code of Practice 11 (COP 11): 'enquiries into tax returns by local tax offices'
Taxline 2000/3 (not reproduced): time limits for enquiries (based on case law).

9B Amendment of return by taxpayer during enquiry

9B(1) This section applies if a return is amended under section 9ZA of this Act (amendment of personal or trustee return by taxpayer) at a time when an enquiry is in progress into the return.

9B(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.

9B(3) So far as the amendment affects the amount stated in the self-assessment included in the return as the amount of tax payable, it does not take effect while the enquiry is in progress and–

(a) if the officer states in the closure notice that he has taken the amendment into account and that–
  (i) the amendment has been taken into account in formulating the amendments contained in the notice, or
  (ii) his conclusion is that the amendment is incorrect,
  the amendment shall not take effect;
(b) otherwise, the amendment takes effect when the closure notice is issued.

9B(4) For the purposes of this section the period during which an enquiry is in progress is the whole of the period–

(a) beginning with the day on which notice of enquiry is given, and
(b) ending with the day on which the enquiry is completed.

History – S. 9B substituted with s. 9A, 9C and 9D for former s. 9A by FA 2001, s. 88, Sch. 29, para. 4, with effect from 11 May 2001 in relation to returns–
(a) whether made before or after 11 May 2001, and
(b) whether relating to periods before or after 11 May 2001.

9C Amendment of self-assessment during enquiry to prevent loss of tax

9C(1) This section applies where an enquiry is in progress into a return as a result of notice of enquiry by an officer of the Board under section 9A(1) of this Act.

9C(2) If the officer forms the opinion–

(a) that the amount stated in the self-assessment contained in the return 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,

he may by notice to the taxpayer amend the assessment to make good the deficiency.

9C(3) In the case of an enquiry which under section 9A(5) of this Act is limited to matters arising from an amendment of the return, subsection (2) above only applies so far as the deficiency is attributable to the amendment.

9C(4) For the purposes of this section the period during which an enquiry is in progress is the whole of the period–

(a) beginning with the day on which notice of enquiry is given, and
(b) ending with the day on which the enquiry is completed.

History – S. 9C substituted with s. 9A, 9B and 9D for former s. 9A by FA 2001, s. 88, Sch. 29, para. 4, with effect from 11 May 2001 in relation to returns–
(a) whether made before or after 11 May 2001, and
(b) whether relating to periods before or after 11 May 2001.

Cross references – TMA 70, s. 31: right of appeal.
TCA 2002, s. 20(2)(c),(k): revisions of decisions on working tax credit and child tax credit following amendment of an assessment, or determination or settlement of an appeal.

Other material – Taxline 2000/3 (not reproduced): in cases of leap years the Revenue will still apply the 28 day rule and any surcharge due will be calculated from 29 February and not 1 March.

9D Choice between different Cases of Schedule D

9D [S. 9D omitted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 362 and repealed by ITTOIA 2005, s. 884 and Sch. 3.]

History – S. 9D omitted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 362 and repealed by ITTOIA 2005, s. 884 and Sch. 3; effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)).

CORPORATION TAX

10 Notice of liability to corporation tax

10 [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27, Pt. III(28).]

History – S. 10 repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27 Pt. III(28) as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78). The repealed provisions of s. 10 are superseded by FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and which is construed and has effect as if it were contained in TMA 1970 (FA 1998, 117(2)).

11 Return of profits

11 [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27, Pt. III(28).]

History – S. 11 repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27 Pt. III(28) as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78). The repealed provisions of s. 11 are superseded by FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and which is construed and has effect as if it were contained in TMA 1970 (FA 1998, 117(2)).

11AA Return of profits to include self-assessment

11AA [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27, Pt. III(28).]

History – S. 11AA repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27 Pt. III(28) as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78). The repealed provisions of s. 11AA are superseded by FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and which is construed and has effect as if it were contained in TMA 1970 (FA 1998, 117(2)).

11AB Power to enquire into return of profits

11AB [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27, Pt. III(28).]

History – S. 11AB repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27 Pt. III(28) as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78). The repealed provisions of s. 11AB are superseded by FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and which is construed and has effect as if it were contained in TMA 1970 (FA 1998, 117(2)).

11AC Modifications of sections 11AA and 11AB in relation to non-annual accounting of general insurance business

11AC [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27, Pt. III(28).]

History – S. 11AC repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27 Pt. III(28) as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78). The repealed provisions of s. 11AC are superseded by FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and which is construed and has effect as if it were contained in TMA 1970 (FA 1998, 117(2)).

11AD Modifications of sections 11AA and 11AB for insurance companies with non-annual actuarial investigations

11AD [Repealed by FA 1998, s. 117(3) and Sch. 19 para. 1, s. 165 and Sch. 27 Pt. III(28).]

History – S. 11AD repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27 Pt. III(28) as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78). The repealed provisions of s. 11AD are superseded by FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and which is construed and has effect as if it were contained in TMA 1970 (FA 1998, 117(2)).

11AE Modifications of sections 11AA and 11AB for friendly societies with non-annual actuarial investigations

11AE [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27, Pt. III(28).]

History – S. 11AE repealed by FA 1998, s. 117(3) and Sch. 19, para. 1, s. 165 and Sch. 27 Pt. III(28) as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78). The repealed provisions of s. 11AE are superseded by FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and which is construed and has effect as if it were contained in TMA 1970 (FA 1998, 117(2)).

CAPITAL GAINS

11A Notice of liability to capital gains tax

11A [Repealed by FA 1995, s. 115(3), 162 and Sch. 29, Pt. VIII(14).]

History – S. 11A repealed by FA 1995, s. 115(3), 162 and Sch. 29, Pt. VIII(14) as respects the year 1996–97 and subsequent years of assessment.

12 Information about chargeable gains

12(1) [Repealed by FA 1994, s. 258 and Sch. 26, Pt. V(23).]

12(2) A notice under section 8 or section 8A of this Act may require particulars of any assets acquired by the person on whom the notice was served (or if the notice relates to income or chargeable gains of some other person, of any assets acquired by that other person) in the period specified in the notice (being a period beginning not earlier than 6th April 1965) but excluding–

(a) any assets exempted by the following provisions of the 1992 Act, namely–

(i) section 51(1) (rights to winnings from pool betting, lotteries or games with prizes),

(ii) section 121 (government non-marketable securities),

(iii) section 263, 268 or 269 (passenger vehicles, decorations for valour or gallant conduct and foreign currency for personal expenditure),

(b) unless the amount or value of the consideration for its acquisition exceeded £6,000, any asset which is tangible movable property and is not within the exceptions in section 262(6) of the said Act (terminal markets and currency), or

(c) any assets acquired as trading stock.

12(3) The particulars required under this section may include particulars of the person from whom the asset was acquired, and of the consideration for the acquisition.

12(4) [Repealed by FA 1994, s. 258 and Sch. 26, Pt. V(23).]

12(5) In this section **"trading stock"** has the meaning given by section 100(2) of the principal Act.

History – S. 12(1) repealed by FA 1994, s. 258 and Sch. 26, Pt. V(23) as respects 1996–97 and subsequent years of assessment, and in relation to corporation tax as respects accounting periods ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78)).
In s. 12(2) references to TMA 1970, s. 8A inserted by FA 1990, s. 90(2)(a), (b), effective for notices given (or falling to be given) after 5 April 1990.
S. 12(2)(b) amended by FA 1989, s. 123(1)(b), (2), substituting £6,000 for assets acquired after 5 April 1989.
S. 12(4) repealed by FA 1994, s. 258 and Sch. 26, Pt. V(23) as respects 1996–97 and subsequent years of assessment, and in relation to corporation tax as respects accounting periods ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78)).
Reference to provisions of the principal Act substituted by ICTA 1988, Sch. 29, para. 32, that Act becoming the principal Act (TMA 1970, s. 118(1)).
References to provisions of the 1992 Act substituted by TCGA 1992, s. 290 and Sch. 10, para. 2(3).

Cross references – Sch. 1A, para 2(5)(c): claims etc. not included in returns – claim may require such particulars of assets as is required by s. 12.
TCGA 1992, s. 3A: statement that chargeable gains and total consideration for the year do not exceed de minimis amounts is sufficient compliance with notice under TMA 1970, s. 8, as extended by this section.

PARTNERSHIPS

12AA Partnership return

12AA(1) Where a trade, profession or business is carried on by two or more persons in partnership, for the purpose of facilitating the establishment of the following amounts, namely–

(a) the amount in which each partner chargeable to income tax for any year of assessment is so chargeable and the amount payable by way of income tax by each such partner, and

(b) the amount in which each partner chargeable to corporation tax for any period is so chargeable,

an officer of the Board may act under subsection (2) or (3) below (or both).

12AA(1A) For the purposes of subsection (1) above–

(a) the amount in which a partner is chargeable to income tax or corporation tax is a net amount, that is to say, an amount which takes into account any relief or allowance for which a claim is made; and

(b) the amount payable by a partner by way of income tax is the difference between the amount in which he is chargeable to income tax and the aggregate amount of any income tax deducted at source and any tax credits to which section 397(1) of ITTOIA 2005 applies.

12AA(2) An officer of the Board may by a notice given to the partners require such person as is identified in accordance with rules given with the notice or a successor of his–

(a) to make and deliver to the officer in respect of such period as may be specified in the notice, on or before such day as may be so specified, a return containing such information as may reasonably be required in pursuance of the notice, and

(b) to deliver with the return such accounts, statements and documents, relating to information contained in the return, as may reasonably be so required.

12AA(3) An officer of the Board may by notice given to any partner require the partner or a successor of his–

(a) to make and deliver to the officer in respect of such period as may be specified in the notice, on or before such day as may be so specified, a return containing such information as may reasonably be required in pursuance of the notice, and

(b) to deliver with the return such accounts and statements as may reasonably be so required;

and a notice may be given to any one partner or separate notices may be given to each partner or to such partners as the officer thinks fit.

12AA(4) In the case of a partnership which includes one or more individuals, a notice under subsection (2) or (3) above may specify different days depending on whether a return in respect of a year of assessment (Year 1) is electronic or non-electronic.

12AA(4A) The day specified for a non-electronic return must not be earlier than 31st October of Year 2.

12AA(4B) The day specified for an electronic return must not be earlier than 31st January of Year 2.

12AA(4C) But subsections (4A) and (4B) are subject to the following two exceptions.

12AA(4D) Exception 1 is that if the notice is given after 31st July in Year 2 (but on or before 31st October)–

(a) the day specified for a non-electronic return must be after the end of the period of three months beginning with the date of the notice, and

(b) the day specified for an electronic return must not be earlier than 31st January.

12AA(4E) Exception 2 is that if the notice is given after 31st October in Year 2, the day specified for a return (whether or not electronic) must be after the end of the period of three months beginning with the date of the notice.

12AA(5) In the case of a partnership which includes one or more companies, a notice may specify different dates depending on whether a notice in respect of a relevant period is electronic or non-electronic.

12AA(5A) The day specified for a non-electronic return must not be earlier than the end of the period of nine months beginning at the end of the relevant period.

12AA(5B) The day specified for an electronic return must not be earlier than the first anniversary of the end of the relevant period.

12AA(5C) But where the notice is given more than nine months after the end of the relevant period, the day specified for a return (whether or not electronic) must be after the end of the period of three months beginning with the date of the notice.

12AA(5D) For the purposes of this section **"relevant period"** means the period in respect of which the return is required.

12AA(5E) The Commissioners–

(a) shall prescribe what constitutes an electronic return for the purposes of this section, and

(b) may make different provision for different cases or circumstances.

12AA(6) Every return under this section shall include–

(a) a declaration of the name, residence and tax reference of each of the persons who have been partners–

  (i) for the whole of the relevant period, or

  (ii) for any part of that period,

  and, in the case of a person falling within sub-paragraph (ii) above, of the part concerned; and

(b) a declaration by the person making the return to the effect that it is to the best of his knowledge correct and complete.

12AA(7) Every return under this section shall also include, if the notice under subsection (2) or (3) above so requires–

(a) with respect to any disposal of partnership property during a period to which the return relates, the like particulars as if the partnership were liable to tax on any chargeable gain accruing on the disposal, and

(b) with respect to any acquisition of partnership property, the particulars required under section 12(2) of this Act or paragraph 13 of Schedule 18 to the Finance Act 1998.

12AA(8) A notice under this section may require different information, accounts and statements for different periods or in relation to different descriptions of source of income.

12AA(9) Notices under this section may require different information, accounts and statements in relation to different descriptions of partnership.

12AA(10) In this section **"residence"**, in relation to a company, means its registered office.

12AA(10A) In this Act a **"partnership return"** means a return in pursuance of a notice under subsection (2) or (3) above.

12AA(11) In this Act **"successor"**, in relation to a person who is required to make and deliver, or has made and delivered, a partnership return , but is no longer available, means–

(a) where a partner is for the time being nominated for the purposes of this subsection by a majority of the relevant partners, that partner; and

(b) where no partner is for the time being so nominated, such partner as–

(i) in the case of a notice under subsection (2) above, is identified in accordance with rules given with that notice; or

(ii) in the case of a notice under subsection (3) above, is nominated for the purposes of this subsection by an officer of the Board;

and **"predecessor"** and **"successor"**, in relation to a person so nominated or identified, shall be construed accordingly.

12AA(12) For the purposes of subsection (11) above a nomination under paragraph (a) of that subsection, and a revocation of such a nomination, shall not have effect in relation to any time before notice of the nomination or revocation is given to an officer of the Board.

12AA(13) In this section **"relevant partner"** means a person who was a partner at any time during the period for which the return was made or is required, or the personal representatives of such a person.

History – In s. 12AA(1A)(b) the reference to ITTOIA 2005 substituted for a reference to ICTA 1988, s. 231 by ITTOIA 2005, s. 882(1) and Sch. 1, para. 363; effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)).

S. 12AA(4)–(4E) substituted for s. 12AA(4) by FA 2007, s. 90(1), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007. Former s. 12AA(4) read as follows:

"**12AA(4)** In the case of a partnership which includes one or more individuals, the day specified in a notice under subsection (2) or (3) above shall not be earlier than–

(a) the 31st January next following the year of assessment concerned, or

(b) where the notice under this section is given after the 31st October next following the year, the last day of the period of three months beginning with the day on which the notice is given."

S. 12AA(5)–(5E) substituted for s. 12AA(5) by FA 2007, s. 90(2), with effect in respect of a return for a period in respect of which a return is required (a "relevant period") beginning on or after 6 April 2007. Former s. 12AA(5) read as follows:

"**12AA(5)** In the case of a partnership which includes one or more companies, the day specified in a notice under subsection (2) or (3) above shall not be earlier than–

(a) the first anniversary of the end of the relevant period, or

(b) where the notice under this section is given more than nine months after the end of the relevant period, the last day of the period of three months beginning with the day on which the notice is given;

and the relevant period for the purposes of this subsection and subsection (6) below is the period in respect of which the return is required."

In s. 12AA(7)(b), reference to FA 1998, Sch. 18, para. 13 inserted by FA 1998, s. 117(3) and Sch. 19 para. 3, with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day (see note above).

S. 12AA(10A) inserted by FA 2001, s. 88 and Sch. 29, para. 18, with effect from 11 May 2001 in relation to returns–

(a) whether made before or after 11 May 2001, and

(b) whether relating to periods before or after 11 May 2001.

S. 12AA(11) amended by FA 2001, s. 88 and Sch. 29, para. 18, substituting the words "a partnership return" for the previous words with effect from 11 May 2001 in relation to returns–

(a) whether made before or after 11 May 2001, and

(b) whether relating to periods before or after 11 May 2001.

S. 12AA inserted by FA 1994, s. 184 and amended by FA 1995, s. 104(6), 115(4), and by FA 1996, s. 121(6), (7) , 123 and 205 and Sch. 41, Pt. V(6), in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78).

Cross references – S. 12AB: a return under s. 12 includes a partnership statement.

S. 93A: penalties for failure to deliver return.

S. 95: penalties for incorrect return.

ICTA 1988, s. 62A(3): time limit for giving notice of a change in basis period.

CAA 2001, s. 201: references to return in relation to elections under CAA 2001, s. 198 and s. 199 by persons in partnership mean a return under s. 12AA.

SI 2003/282: regulations governing electronic delivery of information to or by the Board under this section .

Statements of practice – SP 1/97: the electronic lodgment service.

Other material – Taxline 1997/43 (not reproduced): HMRC confirmation that there is no formal procedure to follow in the appointment of a successor to a partner nominated to handle the partnership's tax affairs.

12AB Partnership return to include partnership statement

12AB(1) Every partnership return shall include a statement (a partnership statement) of the following amounts, namely–

(a) in the case of the period in respect of which the return is made and each period of account ending within that period–

(i) the amount of income or loss from each source which, on the basis of the information contained in the return and taking into account any relief or allowance a section 42(7) claim for which is included in the return, has accrued to or has been sustained by the partnership for the period in question,

(ia) the amount of the consideration which, on that basis, has accrued to the partnership in respect of each disposal of partnership property during that period,

(ii) each amount of income tax which, on that basis, has been deducted or treated as deducted from any income of the partnership, or treated as paid on any such income, for that period, and

(iii) the amount of each tax credit which, on that basis, has accrued to the partnership for that period,

(iv) [omitted by ITA 2007, s. 1027 and Sch. 1, para. 245(2)(b) and repealed by s. 1031 and Sch. 3, Pt. 1]

(b) in the case of each such period as is mentioned in paragraph (a) above and each of the partners, the amount which, on that basis and (where applicable) taking into account any such relief or allowance, is equal to his share of that income, loss, consideration, tax or credit.

12AB(2) [Omitted by FA 2001, s. 88 and Sch. 29, para. 3.]

12AB(3) [Omitted by FA 2001, s. 88 and Sch. 29, para. 3.]

12AB(4) [Omitted by FA 2001, s. 88 and Sch. 29, para. 3.]

12AB(5) In this section–

"section 42(7) claim" means a claim under any of the provisions mentioned in section 42(7) of this Act;

"tax credit" means a tax credit to which section 231 of the principal Act applies in the case of corporation tax and section 397(1) of ITTOIA 2005.

History – In s. 12AB(1) the words "partnership return" substituted for "return under section 12AA of this Act" by FA 2001, s. 88 and Sch. 29, para. 19 with effect from 11 May 2001.
In s. 12AB(1)(a) the word "and" inserted in sub-paragraph (ii) and deleted from sub-paragraph (iii) by ITA 2007, Sch. 1, para. 245(2)(a) and (b) and s. 12AB(1)(a)(iv) omitted by ITA 2007, s. 1027 and Sch. 1, para. 245(2)(b), and repealed by s. 1031 and Sch. 3, Pt. 1 and in s. 12AB(1)(b), the words "tax or credit" substituted for the words "tax, credit or charge" by ITA 2007, s. 1027 and Sch. 1, para. 245(3), all with effect from 6 April 2007.
S. 12AB(2)–(4) omitted by FA 2001, s. 88 and Sch. 29, para. 3 with effect from 11 May 2001.
In s. 12AB(5), the words "in the case of corporation tax and section 397(1) of ITTOIA 2005 applies in the case of income tax" inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 364; effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
S. 12AB inserted by FA 1994 s. 185, and amended by FA 1995, s. 104(7), (8), and by FA 1996, s. 123(5), (6), in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day (FA 1994, s. 199(2), (3)).

Cross references – FA 1998, Sch. 18 para. 12(2): a "relevant partnership statement" means a statement returned under s. 12AB.
SI 2003/282: regulations governing electronic delivery of information to or by the Board under this section.

12ABA Amendment of partnership return by taxpayer

12ABA(1) A partnership return may be amended by the partner who made and delivered the return, or his successor, by notice to an officer of the Board.

12ABA(2) An amendment may not be made more than twelve months after the filing date.

12ABA(3) Where a partnership return is amended under this section, the officer shall by notice to each of the partners amend–

(a) the partner's return under section 8 or 8A of this Act, or

(b) the partner's company tax return,

so as to give effect to the amendment of the partnership return.

12ABA(4) In this section **"the filing date"** means–

(a) in the case of a partnership which includes one or more individuals, in respect of a return for a year of assessment (Year 1)–

(i) 31st January of Year 2, or

(ii) if the notice under section 12AA is given after 31st October of Year 2, the last day of the period of three months beginning with the date of the notice, and

(b) in the case of a partnership which includes one or more companies, the end of the period specified in section 12AA(5B) or (5C).

History – S. 12ABA(4) substituted by FA 2007, s. 91(4), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007 (for a partnership which includes one or more individuals) and in respect of a return for a period in respect of which a return is required (a "relevant period") beginning on or after 6 April 2007 (for a partnership which includes one or more companies). Former s. 12ABA(4) read as follows:
"**12ABA(4)** In this section "the filing date" means the day specified in the notice under section 12AA(2) of this Act or, as the case may be, subsection (3) of that section."
S. 12ABA inserted by FA 2001, s. 88 and Sch. 29, para. 3 with effect from 11 May 2001.

Cross references – TCA 2002, s. 20(2)(d): revisions of decisions on working tax credit and child tax credit following amendment of a partnership return.

HMRC interpretations – IRInt. 186: amending a self assessment return under what is now s. 12ABA does not preclude penalty action by Revenue if taxpayer has acted negligently or fraudulently in original submission of return.

12ABB Correction of partnership return by Revenue

12ABB(1) An officer of the Board may amend a partnership return so as to correct obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise).

12ABB(2) A correction under this section is made by notice to the partner who made and delivered the return, or his successor.

12ABB(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 of the return under section 12ABA of this Act, the day on which that amendment was made.

12ABB(4) A correction under this section is of no effect if the person to whom the notice of correction was given, or his successor, gives notice rejecting the correction.

12ABB(5) Notice of rejection under subsection (4) above must be given–

(a) to the officer of the Board by whom the notice of correction was given,
(b) before the end of the period of 30 days beginning with the date of issue of the notice of correction.

12ABB(6) Where a partnership return is corrected under this section, the officer shall by notice to each of the partners amend–

(a) the partner's return under section 8 or 8A of this Act, or
(b) the partner's company tax return,

so as to give effect to the correction of the partnership return.

Any such amendment shall cease to have effect if the correction is rejected.

History – S. 12ABB inserted by FA 2001, s. 88 and Sch. 29, para. 3 with effect from 11 May 2001.

Cross references – TCA 2002, s. 20(2)(e): revisions of decisions on working tax credit and child tax credit following amendment of a return under this section.

12AC Notice of enquiry

12AC(1) An officer of the Board may enquire into a partnership return if he gives notice of his intention to do so (**"notice of enquiry"**)–

(a) to the partner who made and delivered the return, or his successor,
(b) within the time allowed.

12AC(2) The time allowed is–

(a) if the return was delivered on or before the filing date, up to the end of the period of twelve months after the day on which the return was delivered;
(b) if the return was delivered after the filing date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;
(c) if the return is amended under section 12ABA of this Act, up to and including the quarter day next following the first anniversary of the day on which the amendment was made.

For this purpose the quarter days are 31st January, 30th April, 31st July and 31st October.

12AC(3) 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) of the return under section 12ABA of this Act.

12AC(4) An enquiry extends to anything contained in the return, or required to be contained in the return, including any claim or election included in the return, subject to the following limitation.

12AC(5) If the notice of enquiry is given as a result of an amendment of the return under section 12ABA of this Act–

(a) at a time when it is no longer possible to give notice of enquiry under subsection (2)(a) or (b) above, or
(b) after an enquiry into the return has been completed,

the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.

12AC(6) The giving of notice of enquiry under subsection (1) above at any time shall be deemed to include the giving of notice of enquiry–

(a) under section 9A(1) of this Act to each partner who at that time has made a return under section 8 or 8A of this Act or at any subsequent time makes such a return, or
(b) under paragraph 24 of Schedule 18 to the Finance Act 1998 to each partner who at that time has made a company tax return or at any subsequent time makes such a return.

12AC(7) In this section **"the filing date"** means the day specified in the notice under section 12AA(2) of this Act or, as the case may be, subsection (3) of that section.

History – In s. 12AC(2)(a), the words "after the day on which the return was delivered" substituted for the words "after the filing date" by FA 2007, s. 96(2) and applicable to returns which relate to the tax year 2007–08 or a later tax year.
Former s. 12AC(3) substituted by FA 1998, s. 117(3) and Sch. 19 para. 5 with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of SI 1998/3173 (FA 1998, s. 117(4), (5) and FA 1994, s. 199(2)).
S. 12AC substituted (together with s. 12AD and 12AE) for former s. 12AC by FA 2001, s. 88 and Sch. 29, para. 5, with effect from 11 May 2001.

Cross references – SI 2003/282: regulations governing electronic delivery of information to or by the Board under this section.

Statements of practice – SP 1/99: where enquiries remain open after expiry of period within which notice of enquiry may be issued solely because of an unagreed capital gains tax valuation, Revenue will not normally raise further enquiries into matters unrelated to the valuation or the CGT computation unless the circumstances are such that, had the enquiry already been completed, the Revenue could have made a section 29 discovery.

HMRC Manuals – Enquiry Manual EM1551: instructions on opening enquiries.

12AD Amendment of partnership return by taxpayer during enquiry

12AD(1) This section applies if a partnership return is amended under section 12ABA of this Act (amendment of partnership return by taxpayer) at a time when an enquiry is in progress into the return.

12AD(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.

12AD(3) So far as the amendment affects any amount stated in the partnership statement included in the return, it does not take effect while the enquiry is in progress and–

(a) if the officer states in the closure notice that he has taken the amendment into account and that–
  (i) the amendment has been taken into account in formulating the amendments contained in the notice, or
  (ii) his conclusion is that the amendment is incorrect,
  the amendment shall not take effect;
(b) otherwise, the amendment takes effect when the closure notice is issued.

12AD(4) Where the effect of an amendment is deferred under subsection (3) above–

(a) no amendment to give effect to that amendment (**"the deferred amendment"**) shall be made under section 12ABA(3) of this Act (consequential amendment of partners' returns) while the enquiry is in progress;
(b) if the deferred amendment does not take effect but is taken into account as mentioned in subsection (3)(a)(i) above, section 28B(4) of this Act (amendment of partners' returns consequential on amendment of partnership return by closure notice) applies accordingly; and
(c) if the deferred amendment takes effect under subsection (3)(b) above, any necessary amendment under section 12ABA(3) of this Act may then be made.

12AD(5) For the purposes of this section the period during which an enquiry is in progress is the whole of the period–

(a) beginning with the day on which notice of enquiry is given, and
(b) ending with the day on which the enquiry is completed.

History – S. 12AD substituted (together with 12AC and 12AE) for former s. 12AC by FA 2001, s. 88 and Sch. 29, para. 5 with effect from 11 May 2001.

Cross references – SI 2003/282: regulations governing electronic delivery of information to or by the Board under this section.

12AE Choice between different Cases of Schedule D

12AE(1) Where in the case of a partnership return–

(a) alternative methods are allowed by the Tax Acts for bringing amounts into charge to tax,
(b) the return is made using one of those methods but could have been made using an alternative method, and
(c) an officer of the Board determines which of the alternative methods is to be used,

the officer's determination is final and conclusive, for the purposes of any enquiry into the return, as to the basis of charge to be used.

12AE(2) For the purposes of this section the cases where the Tax Acts allow alternative methods for bringing amounts into charge to tax are those specified–

(a) [omitted by ITTOIA 2005, s. 882(1), Sch. 1, para. 365 and repealed by ITTOIA 2005, s. 884, Sch. 3;]
(b) for corporation tax purposes, in paragraph 84(2) or (3) of Schedule 18 to the Finance Act 1998.

History – In s. 12AE(2), para. (a) omitted by ITTOIA 2005, s. 882(1), Sch. 1, para. 365 and repealed by ITTOIA 2005, s. 884, Sch. 3; effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
S. 12AE substituted (together with s. 12AC and s. 12AD) for former s. 12AC by FA 2001, s. 88 and Sch. 29, para. 5 with effect from 11 May 2001.

Cross references – SI 2003/282: regulations governing electronic delivery of information to or by the Board under this section.

12A European Economic Interest Groupings

12A(1) In this section **"grouping"** means a European Economic Interest Grouping formed in pursuance of Council Regulation (EEC) No. 2137/85 of 25th July 1985 (**"the Council Regulation"**), whether registered in Great Britain, in Northern Ireland, or elsewhere.

12A(2) For the purposes of securing that members of a grouping are assessed to income tax and capital gains tax or (as the case may be) corporation tax, an inspector may act under subsection (3) or (4) below.

12A(3) In the case of a grouping which is registered in Great Britain or Northern Ireland or has an establishment registered in Great Britain or Northern Ireland, an inspector may by a notice given to the grouping require the grouping–

(a) to make and deliver to the inspector within the time limited by the notice a return containing such information as may be required in pursuance of the notice, and
(b) to deliver with the return such accounts and statements as may be required in pursuance of the notice.

12A(4) In the case of any other grouping, an inspector may by a notice given to any member of the grouping resident in the United Kingdom, or if none is to any member of the grouping, require the member–

(a) to make and deliver to the inspector within the time limited by the notice a return containing such information as may be required in pursuance of the notice, and
(b) to deliver with the return such accounts and statements as may be required in pursuance of the notice,

and a notice may be given to any one of the members concerned or separate notices may be given to each of them or to such of them as the inspector thinks fit.

12A(5) Every return under this section shall include a declaration by the grouping or member making the return to the effect that the return is to the best of the maker's knowledge correct and complete.

12A(6) A notice under this section may require different information, accounts and statements for different periods, in relation to different descriptions of income or gains or in relation to different descriptions of member.

12A(7) Notices under this section may require different information, accounts and statements in relation to different descriptions of grouping.

12A(8) Subject to subsection (9) below, where a notice is given under subsection (3) above, everything required to be done shall be done by the grouping acting through its manager or, where there is more than one, any of them; but where the manager of a grouping (or each of them) is a person other than an individual, the grouping shall act through the individual, or any of the

individuals, designated in accordance with the Council Regulation as the representative of the manager (or any of them).

12A(9) Where the contract for the formation of a grouping provides that the grouping shall be validly bound only by two or more managers acting jointly, any declaration required by subsection (5) above to be included in a return made by a grouping shall be given by the appropriate number of managers.

History – S. 12A(2) amended by FA 1994, s. 196 and Sch. 19, para. 2, substituting the words "securing that members . . . (as the case may be) corporation tax", in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
S. 12A inserted by FA 1990, s. 69 and Sch. 11, para. 2, 5, deemed to have effect from 1 July 1989.

Cross references – S. 98B(2): failure of European Economic Interest Grouping, or member of such a grouping, to comply with a notice under s. 12A.

European material – For Council Regulation 2137/85, see OJ 1985 L199/1.

HMRC Manuals – European Economic Interest Groupings EEIG191ff.: revenue procedures regarding returns under this section.

Other material – HMRC press release, 9 February 1994: from 1 January 1994 these provisions extended to all EEIGs established within the European Economic Area (currently all EU member states, Iceland, Norway and Liechtenstein).

RECORDS

12B Records to be kept for purposes of returns

12B(1) Any person who may be required by a notice under section 8, 8A or 12AA of this Act (or under any of those sections as extended by section 12 of this Act) to make and deliver a return for a year of assessment or other period shall–

(a) keep all such records as may be requisite for the purpose of enabling him to make and deliver a correct and complete return for the year or period; and

(b) preserve those records until the end of the relevant day, that is to say, the day mentioned in subsection (2) below or, where a return is required by a notice given on or before that day, whichever of that day and the following is the latest, namely–

(i) where enquiries into the return are made by an officer of the Board, the day on which, by virtue of section 28A(1) or 28B(1) of this Act, those enquiries are completed; and

(ii) where no enquiries into the return are so made, the day on which such an officer no longer has power to make such enquiries.

12B(2) The day referred to in subsection (1) above is–

(a) in the case of a person carrying on a trade, profession or business alone or in partnership or a company, the fifth anniversary of the 31st January next following the year of assessment or (as the case may be) the sixth anniversary of the end of the period;

(b) in any other case, the first anniversary of the 31st January next following the year of assessment.

12B(2A) Any person who–

(a) is required, by such a notice as is mentioned in subsection (1) above given at any time after the end of the day mentioned in subsection (2) above, to make and deliver a return for a year of assessment or other period; and

(b) has in his possession at that time any records which may be requisite for the purpose of enabling him to make and deliver a correct and complete return for the year or period,

shall preserve those records until the end of the relevant day, that is to say, the day which, if the notice had been given on or before the day mentioned in subsection (2) above, would have been the relevant day for the purposes of subsection (1) above.

12B(3) In the case of a person carrying on a trade, profession or business alone or in partnership–

(a) the records required to be kept and preserved under subsection (1) or (2A) above shall include records of the following, namely–

(i) all amounts received and expended in the course of the trade, profession or business and the matters in respect of which the receipts and expenditure take place, and

(ii) in the case of a trade involving dealing in goods, all sales and purchases of goods made in the course of the trade; and

(b) the duty under that subsection shall include a duty to preserve until the end of the relevant day all supporting documents relating to such items as are mentioned in paragraph (a)(i) or (ii) above.

12B(4) Except in the case of records falling within subsection (4A) below, the duty under subsection (1) or (2A) above to preserve records may be discharged by the preservation of the information contained in them; and where information is so preserved a copy of any document forming part of the records shall be admissible in evidence in any proceedings before the Commissioners to the same extent as the records themselves.

12B(4A) The records which fall within this subsection are–

(a) any statement in writing such as is mentioned in–

(i) subsection (1) of section 234 of the principal Act (amount of qualifying distribution and tax credit), or

(ii) section 495(1) or 975(2) or (4) of ITA 2007 (statements about deduction of income tax),

which is furnished by the company or person there mentioned, whether after the making of a request or otherwise;

(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 such record as may be requisite for making a correct and complete claim in respect of, or otherwise requisite for making a correct and complete return so far as relating to, an amount of tax–

(i) which has been paid under the laws of a territory outside the United Kingdom, or

(ii) which would have been payable under the law of such a territory but for a relief to which section 788(5) of the principal Act (relief for promoting development and relief contemplated by double taxation arrangements) applies.

12B(5) Subject to subsections (5A) and (5B) below, any person who fails to comply with subsection (1) or (2A) above in relation to a year of assessment or accounting period shall be liable to a penalty not exceeding £3,000.

12B(5A) Subsection (5) above does not apply where the records which the person fails to keep or preserve are records which might have been requisite only for the purposes of claims, elections or notices which are not included in the return.

12B(5B) Subsection (5) above also does not apply where–

(a) the records which the person fails to keep or preserve are records falling within paragraph (a) of subsection (4A) above; and

(b) an officer of the Board is satisfied that any facts which he reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence furnished to him.

12B(6) For the purposes of this section–

(a) a person engaged in the letting of property shall be treated as carrying on a trade; and

(b) **"supporting documents"** includes accounts, books, deeds, contracts, vouchers and receipts.

History – In s. 12B(1)(b)(i) the words "or any amendment of the return" and "treated as" omitted and "28A(1) or 28B(1)" substituted for "28A(5) or 28B(5)" by FA 2001, s. 88 and Sch. 29, para. 20 with effect from 11 May 2001.
In s. 12B(1)(b)(ii) the words "or any amendment of the return" omitted by FA 2001, s. 88 and Sch. 29, para. 20 with effect from 11 May 2001.
In s. 12B(1) reference to section 11 omitted by FA 1998, s. 117(3), Sch. 19, para. 6, s. 165 and Sch. 27, Pt. III(28), with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78).
S. 12B(4A)(a)(ii) substituted by ITA 2007, s. 1027 and Sch. 1, para. 246, with effect from 6 April 2007.
S. 12B(4A)(b) substituted by FA 2004, s. 76 and Sch. 12, para. 1, from 6 April 2007 (FA 2004, s. 77).
S. 12B inserted by FA 1994, s. 196 and Sch. 19, para. 3 and amended by FA 1995, s. 105, 162 and Sch. 29, Pt. VIII(14), and by FA 1996, s. 124(2)–(5), in so far as it relates to income tax or capital gains tax, as respects the year 1996–97 and subsequent years of assessment.

Cross references – S. 102: Board's power to mitigate penalties.
S. 100B: appeals against penalty determinations.
FA 2004, s. 33(3): s. 12B(5) not to apply to records relating to an arm's length provision (for the purposes of ICTA 1988, Sch. 28AA) until 2006–07.
Sch. 1A, para. 2A(3), (5): preservation of records for the purposes of claims, etc. not included in returns.

HMRC Manuals – Enquiry Manual EM4650: Revenue's approach to penalties for failure to preserve records.

PART III – OTHER RETURNS AND INFORMATION

Cross references – S. 98: penalties for failure to make a return under this Part.

Notes – For returns by underwriting agents of syndicate profits or losses and apportioning between syndicate members the syndicate profits or losses as determined by an inspector, see FA 1993, s. 173 and Sch. 19, para. 2, 6.

13 Persons in receipt of taxable income belonging to others

13(1) Every person who, in whatever capacity, is in receipt of any money or value, or of any profits or gains from any of the sources mentioned in the Income Tax Acts, of or belonging to another person who is chargeable to income tax in respect thereof, or who would be so chargeable if he were resident in the United Kingdom and not an incapacitated person, shall, whenever required to do so by a notice given to him by an inspector, prepare and deliver, within the time mentioned in the notice, a return, signed by him, containing–

(a) a statement of all such money, value, profits or gains, and
(b) the name and address of every person to whom the same belong, and
(c) a declaration whether every such person is of full age, or is resident in the United Kingdom or is an incapacitated person.

13(2) If any person described above is acting jointly with any other person, he shall, in like manner, deliver a return of the names and addresses of all persons joined with him at the time of delivery of the return mentioned in subsection (1) above.

13(3) A notice under this section shall not require information as to any money, value, profits or gains received in a year of assessment ending more than three years before the date of the giving of the notice.

History – S. 13(1) amended by FA 1970, Sch. 8, Pt. VII.
S. 13(1)(c) amended by FA 1988, s. 148 and Sch. 14, Pt. VIII by omitting the words, "or is a married woman,", with effect from 1990–91.
S. 13(3) inserted by FA 1988, s. 123(1), (5) with regard to notices given after 29 July 1988.

Cross references – S. 76: protection for certain returns of trusteees, agents and receivers under s. 13.
S. 118(1): definition of "incapacitated person".
FA 1973, Sch. 15, para. 2: particulars which may be required from a licence-holder under Petroleum (Production) Act 1934.

Other material – Law Society's Gazette, 29 May 1991: Revenue should be discriminating in issuing s. 13 notices to solicitors, and should not normally send them to those who provide the necessary information satisfactorily in another manner. Following a nil return for two years, inspectors may use their discretion to dispense with returns altogether.

14 Return of lodgers and inmates

14 Every person, when required to do so by a notice served on him by an inspector, shall, within the time limited by the notice, prepare and deliver to the inspector a return, in writing, containing to the best of his belief–

(a) the name of every lodger or inmate resident in his dwelling-house, and
(b) the name and ordinary place of residence of any such lodger or inmate who has any ordinary place of residence elsewhere at which he can be assessed and who desires to be assessed at such ordinary place of residence.

15 Return of employees' earnings etc.

History – In the heading to s. 15, the words "Return of employees' earnings etc." substituted for the words "Return of employees' emoluments etc." by ITEPA 2003, Sch. 6, para. 126(2) which has effect for the tax year 2003–04 and subsequent tax years.

15(1) Every employer, when required to do so by notice from an officer of the Board, shall, within the time limited by the notice, prepare and deliver to the officer a return relating to persons who are or have been employees of his, containing the information required under the following provisions of this section.

15(2) An employer shall not be required to include in his return information relating to any year of assessment if the notice is given more than five years after the 31st January next following that year.

15(3) A notice under subsection (1) above–

(a) shall specify the employees for whom a return is to be made and may, in particular, specify individuals (by name or otherwise) or all employees of an employer or all his employees who are or have been in employment which, for the purposes of the benefits code in ITEPA 2003, is a taxable employment under Part 2 of that Act (see section 66) but is not an excluded employment (see section 63 of that Act); and

(b) shall specify the years of assessment or other periods with respect to which the information is to be provided.

15(4) A notice under subsection (1) above may require the return to state the name and place of residence of an employee to whom it relates.

15(5) A notice under subsection (1) above may require the return to contain, in respect of an employee to whom it relates, the following particulars–

(a) in the case of relevant payments made by the employer, particulars of the payments;
(b) in the case of relevant payments not falling within paragraph (a) above the making of which by another person has been arranged by the employer–
  (i) particulars of the payments; and
  (ii) the name and business address of the other person; and
(c) in the case of relevant payments not falling within either of the preceding paragraphs, the name and business address of any person who has, to the employer's knowledge, made the payments.

15(6) Any payments made to an employee in respect of his employment are **relevant payments** for the purposes of this section, including–

(a) payments to him in respect of expenses (including sums put at his disposal and paid away by him);
(b) payments made on his behalf and not repaid; and
(c) payments to him for services rendered in connection with a trade or business, whether the services were rendered in the course of his employment or not.

15(7) Where, for the purposes of his return, an employer apportions expenses incurred partly in or in connection with a particular matter and partly in or in connection with other matters–

(a) the return shall contain a statement that the sum included in the return is the result of such an apportionment; and
(b) if required to do so by notice from an officer of the Board, the employer shall prepare and deliver to the officer, within the time limited by the notice, a return containing full particulars as to the amount apportioned and the manner in which, and the grounds on which, the apportionment has been made.

15(8) A notice under subsection (1) above may require the return–

(a) to state in respect of an employee to whom it relates whether any benefits are or have been provided for him (or for any other person) by reason of his employment, such as may give rise to charges to tax under the relevant provisions, that is to say, Chapters 4 to 10 of Part 3 and sections 222 and 223 of ITEPA 2003 (miscellaneous benefits in cash or in kind); and
(b) if such benefits are or have been provided, to contain such particulars of those benefits as may be specified in the notice.

15(9) Where such benefits are provided the notice may, without prejudice to subsection (8)(b) above, require the return to contain the following particulars–

(a) in the case of benefits which are or have been provided by the employer, particulars of the amounts which may be chargeable to tax by virtue of the relevant provisions;
(b) in the case of benefits not falling within paragraph (a) above the provision of which by another person is or has been arranged by the employer–
  (i) particulars of the amounts which may be so chargeable; and
  (ii) the name and business address of the other person; and
(c) in the case of benefits not falling within either of the preceding paragraphs, the name and business address of any person who has, to the employer's knowledge, provided the benefits.

15(10) Where it appears to an officer of the Board that a person has, in any year of assessment, been concerned in making relevant payments to, or providing benefits to or in respect of, employees of another, the officer may at any time up to five years after the 31st January next following that year by notice require that person–

(a) to deliver to the officer, within the time limited by the notice, such particulars of those payments or benefits, or of the amounts which may be chargeable to tax in respect of the benefits, as may be specified in the notice (so far as known to him); and
(b) to include with those particulars the names and addresses (so far as known to him) of the employees concerned.

15(11) In determining, in pursuance of a notice under subsection (1) or (10) above, amounts which may be chargeable to tax by virtue of the relevant provisions, a person–

(a) shall not make–

(i) any deduction or other adjustment which he is unable to show, by reference to information in his possession or otherwise available to him, is authorised or required by the relevant provisions; or

(ii) any deduction authorised by section 328(1), 362, 363, 364 or 365 of ITEPA 2003; but

(b) subject to that, shall make all such deductions and other adjustments as may be authorised or required by the relevant provisions.

15(12) Where the employer is a body of persons, the secretary of the body or other officer (by whatever name called) performing the duties of secretary shall be treated as the employer for the purposes of this section.

Where the employer is a body corporate, that body corporate, as well as the secretary or other officer, shall be liable to a penalty for failure to comply with this section.

15(13) In this section–

"arranged" includes guaranteed and in any way facilitated;
"employee" means an office holder or employee whose earnings are within the charge to tax under ITEPA 2003, and related expressions are to be construed accordingly;
"relevant payments" has the meaning given by subsection (6) above; and
"the relevant provisions" has the meaning given by section (8)(a) above.

History – In s. 15(3)(a), the words "employment which . . . (see section 63 of that Act)" substituted for the words "employment to which Chapter II of Part V of the principal Act applies" by ITEPA 2003, Sch. 6, para. 126(3) which has effect for the tax year 2003–04 and subsequent tax years.
In s. 15(8)(a), the words "the relevant provisions, that is to say, Chapters 4 to 10 of Part 3 and sections 222 and 223 of ITEPA 2003" substituted for the words "the relevant sections, that is to say, sections 141, 142, 143, 144A, 145, 146 and 154 to 165 of the principal Act" by ITEPA 2003, Sch. 6, para. 126(4) which has effect for the tax year 2003–04 and subsequent tax years.
In s. 15(9)(a), the words "the relevant provisions" substituted for the words "the relevant sections" by ITEPA 2003, Sch. 6, para. 126(5) which has effect for the tax year 2003–04 and subsequent tax years.
In s. 15(11), the words "the relevant provisions" substituted in each place for the words "the relevant sections" by ITEPA 2003, Sch. 6, para. 126(6)(a) which has effect for the tax year 2003–04 and subsequent tax years.
In s. 15(11)(a)(ii), the words "section 328(1), 362, 363, 364 or 365 of ITEPA 2003" substituted for the words "section 141(3), 142(2), 145(3) or 156(8) of the principal Act" by ITEPA 2003, Sch. 6, para. 126(6)(b) which has effect for the tax year 2003–04 and subsequent tax years.
In s. 15(13), in the definition of "employee", the words "whose earnings are within the charge to tax under ITEPA 2003" substituted for the words "whose emoluments fall to be assessed under Schedule E" by ITEPA 2003, Sch. 6, para. 126(7)(a) which has effect for the tax year 2003–04 and subsequent tax years.
In s. 15(13), the definition of "the relevant provisions" substituted for the definition of "the relevant sections" by ITEPA 2003, Sch. 6, para. 126(7)(b) which has effect for the tax year 2003–04 and subsequent tax years.
S. 15 substituted by FA 1995, s. 106, with effect for payments made or benefits provided on or after 6 April 1996.

Cross references – FA 1974, s. 24: s. 15 applies to returns of persons treated as employees of non-resident employers.
SI 2003/2682: PAYE regulations under which returns are required in respect of most employees.

16 Fees, commissions, etc.

16(1) Every person carrying on a trade or business shall, if required to do so by notice from an inspector, make and deliver to the inspector a return of all payments of any kind specified in the notice made during a period so specified, being–

(a) payments made in the course of the trade or business, or of such part of the trade or business as may be specified in the notice, for services rendered by persons not employed in the trade or business, or

(b) payments for services rendered in connection with the formation, acquisition, development or disposal of the trade or business, or any part of it, by persons not employed in the trade or business, or

(c) periodical or lump sum payments made in respect of any copyright, public lending right, right in a registered design or design right.

16(2) Every body of persons carrying on any activity which does not constitute a trade or business shall, if required to do so by notice from an inspector, make and deliver to the inspector a return of all payments of a kind specified in the notice made during a period so specified, being–

(a) payments made in the course of carrying on the activity, or such part of the activity as may be specified in the notice, for services rendered by persons not employed by the said body of persons, or

(b) periodical or lump sum payments made in respect of any copyright, public lending right, right in a registered design or design right.

16(3) A return required under either of the preceding subsections shall, if the trade or business or other activity is carried on by an unincorporated body of persons (other than a company), be made and delivered by the person who is or performs the duties of secretary of the body, and the notice shall be framed accordingly.

16(4) A return under the preceding provisions of this section shall give the name of the person to whom each payment was made, the amount of the payment and such other particulars (including particulars as to the services or rights in respect of which the payment was made, the period over which any services were rendered and any business name and any business or home address of the person to whom payment was made) as may be specified in the notice.

16(5) No person shall be required under the preceding provisions of this section to include in a return–

(a) particulars of any payment from which income tax is deductible, or
(b) particulars of payments made to any one person where the total of the payments to that person which would otherwise fall to be included in the return does not exceed £15, or
(c) particulars of any payment made in a year of assessment ending more than three years before the service of the notice requiring him to make the return.

16(6) [Repealed by FA 1989, s. 163(6) and Sch. 17, Pt. VIII.]

16(7) In this section–

(a) references to payments for services include references to payments in the nature of commission of any kind and references to payments in respect of expenses incurred in connection with the rendering of services, and
(b) references to the making of payments include references to the giving of any valuable consideration,

and the requirement imposed by subsection (4) above to state the amount of a payment shall, in relation to any consideration given otherwise than in the form of money, be construed as a requirement to give particulars of the consideration.

16(8) In subsection (2) above references to a **body of persons** include references to any department of the Crown, any public or local authority and any other public body.

History – In s. 16(1)(c), (2)(b), the words ", public lending right . . . design right" were substituted by Copyright, Designs and Patents Act 1988, s. 303(1) and Sch. 7, para. 13, with effect from 1 August 1989 (SI 1989/816).
S. 16(6) repealed by FA 1989, s. 163(6) and Sch. 17, Pt. VIII, in relation to offences on or after 27 July 1989.
S. 16(8) added by FA 1988, s. 124, in respect of payments made in 1988–89 and subsequent years.

16A Agency workers

16A(1) This section applies where–

(a) any services which an individual provides or is obliged to provide under an agency contract are treated under section 44(2) of ITEPA 2003 as the duties of an office or employment held by him with the agency, or
(b) any remuneration receivable under or in consequence of arrangements falling within section 45 of that Act is treated as earnings from an office or employment held by an individual with the agency.

16A(2) Where this section applies–

(a) section 15 above shall apply as if the individual were employed by the agency, and
(b) section 16 above shall not apply to any payments made to the individual under or in consequence of the agency contract or the arrangements.

16A(3) In this section **"agency contract"** and **"remuneration"** have the same meaning as in Chapter 7 of Part 2 of ITEPA 2003.

History – S. 16A substituted by ITEPA 2003, Sch. 6, para. 127 which has effect for the tax year 2003–04 and subsequent tax years.

17 Interest paid or credited by banks, building societies etc. without deduction of income tax

History – In the heading, the words ", building societies" inserted by ITA 2007, s. 1027 and Sch. 1, para. 247(5), with effect from 6 April 2007.

17(1) Every person carrying on a trade or business who, in the ordinary course of the operations thereof, receives or retains money in such circumstances that interest becomes payable thereon which is paid or credited without deduction of income tax or after deduction of income tax, and, in particular, every such person who is a bank or building society, shall, if required to do so by notice

from an inspector, make and deliver to the inspector, within the time specified in the notice, a return of all interest paid or credited by him as aforesaid during a year of assessment specified in the notice in the course of his trade or business or any such part of his trade or business as may be so specified, giving the names and addresses of the persons to whom the interest was paid or credited and stating, in each case, the amount of the interest actually paid or credited and (where the interest was paid or credited after deduction of income tax) the amount of the interest from which the tax was deducted and the amount of the tax deducted:

Provided that–

(a) [omitted by FA 1990, s. 92(2)(c), 132 and Sch. 19, Pt. V.]

(b) the years specified in a notice under this subsection shall not be a year ending more than three years before the date of the service of the notice.

17(1A) In this section **"bank"** has the meaning given by section 991of ITA 2007.

17(2) Without prejudice to the generality of so much of subsection (1) above as enables different notices to be served thereunder in relation to different parts of a trade or business, separate notices may be served under that subsection as respects the transactions carried on at any branch or branches respectively specified in the notices, and any such separate notice shall, if served on the manager or other person in charge of the branch or branches in question, be deemed to have been duly served on the person carrying on the trade or business; and where such a separate notice is so served as respects the transactions carried on at any branch or branches, any notice subsequently served under the said subsection (1) on the person carrying on the trade or business shall not be deemed to extend to any transaction to which the said separate notice extends.

17(3) This section shall, with any necessary adaptations, apply in relation to the National Savings Bank as if it were a trade or business carried on by the Director of Savings.

17(4) This section shall apply only to money received or retained in the United Kingdom.

17(4A) If a person to whom any interest is paid or credited in respect of any money received or retained in the United Kingdom by notice in writing served on the person paying or crediting the interest–

(a) has declared that the person beneficially entitled to the interest is a company not resident in the United Kingdom, and

(b) has requested that the interest shall not be included in any return under this section,

the person paying or crediting the interest shall not be required to include the interest in any such return.

17(4B) [Repealed by FA 2000, s. 145(1) and Sch. 40, Pt. V.]

17(4C) [Repealed by FA 2000, s. 145(1) and Sch. 40, Pt. V.]

17(5) The Board may by regulations provide as mentioned in all or any of the following paragraphs–

(a) that a return under subsection (1) above shall contain such further information as is prescribed if the notice requiring the return specifies the information and requires it to be contained in the return;

(b) that a person required to make and deliver a return under subsection (1) above shall furnish with the return such further information as is prescribed if the notice requiring the return specifies the information and requires it to be so furnished;

(c) that if a person is required–

  (i) to make and deliver a return under subsection (1) above;

  (ii) to include information in such a return under any provision made under paragraph (a) above; or

  (iii) to furnish information under any provision made under paragraph (b) above, and the notice under subsection (1) above specifies the form in which the return is to be made and delivered, or the information is to be included or furnished, the person shall make and deliver the return, or include or furnish the information, in that form;

(d) that a notice under subsection (1) above shall not require prescribed information;

and in this subsection **"prescribed"** means prescribed by the regulations.

The further information required as mentioned in paragraph (a) or (b) above may include, in prescribed cases, the name and address of the person beneficially entitled to the interest paid or credited.

17(6) Regulations under subsection (5) above–

(a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons,

(aa) may make provision with respect to the furnishing of information by persons required–

(i) to make and deliver a return under subsection (1) above;

(ii) to include information in such a return under any provision made under subsection (5)(a) above; or

(iii) to furnish information under any provision made under subsection (5)(b) above,

including the inspection of books, documents and other records on behalf of the Board;

(b) may make different provision in relation to different cases or descriptions of case, and

(c) may include such supplementary, incidental, consequential or transitional provisions as appear to the Board to be necessary or expedient.

17(7) In the application of this section in relation to building societies, references to interest include references to dividends.

For this purpose **"dividend"** includes any distribution (whether or not described as a dividend).

History – In s. 17(1) the words "or building society" inserted by ITA 2007, s. 1027 and Sch. 1, para. 247(2), with effect from 6 April 2007.
In s. 17(1), the words "such person who is a bank" substituted by FA 1996, s. 198 and Sch. 37, para. 11(3), with effect in relation to interest paid on or after 29 April 1996.
In s. 17(1), the words "or after deduction of income tax" and "actually paid or credited . . . amount of the tax deducted" inserted and para. (a) of the proviso omitted by FA 1990, s. 92(1)–(3), 132 and Sch. 19, Pt. V, as regards a case where interest is paid or credited in the year 1991–92 or a subsequent year of assessment.
S. 17(1) amended by FA 1988, s. 123(2), (5) with respect to notices given after 29 July 1988 by inserting the words "of assessment".
In s. 17(1A), the words "section 991 of ITA 2007" substituted for the words "section 840A of the principal Act" by ITA 2007, s. 1027 and Sch. 1, para. 247(3), with effect from 6 April 2007.
S. 17(1A) inserted by FA 1996, s. 198 and Sch. 37, para. 11(1), (2), with effect in relation to interest paid on or after 29 April 1996.
In s. 17(4), words at the end of that subsection repealed by F(No. 2)A 1992, s. 29(1) and s. 82 and Sch. 18, Pt. VII (3) with effect in relation to interest paid or credited after 16 July 1992.
S. 17(4A)–(4C) substituted by F(No. 2)A 1992, s. 29(1), in relation to interest paid or credited after 16 July 1992.
S. 17(4B), (4C) repealed by FA 2000, s. 145(1) and Sch. 40, Pt. V, with effect in relation to amounts paid, credited or received on or after 6 April 2001.
S 17(5), (6) inserted, by FA 1990, s. 92(1)–(3), 132 and Sch. 19, Pt. V, as regards a case where interest is paid or credited in the year 1991–92 or a subsequent year of assessment.
S. 17(5)(c), (5) respectively substituted, and amended by FA 2000, s. 145(2)(a), (b), with effect in relation to amounts paid, credited or received on or after 6 April 2001.
S. 17(6)(aa) inserted by FA 2000, s. 145(3), with effect in relation to amounts paid, credited or received on or after 6 April 2001.
S. 17(7) inserted by ITA 2007, Sch. 1, para. 247(4), with effect from 6 April 2007.

Cross references – FA 2003, s. 199(4): regulations in respect of Community obligations for the taxation of savings income may provide for notices under those regulations to be combined with notices under TMA 1970 s. 17.
FA 2005, Sch. 2, para. 2: references in s. 17 to interest paid to include references to alternative finance return or profit share return.
National Savings Bank Act 1971, s. 12(3): provisions concerning secrecy in that Act have effect subject to s. 17(3).
SI 1990/2231, reg. 12: modifications of s. 17 in its application to a building society after 5 April 1991.
SI 2003/3297, reg. 15: combination of notice under s. 17 with that under the Savings Income regulations with effect from date to be specified by the Treasury (no earlier than 1 January 2005).

Statutory instruments – SI 1992/15: made under s. 17(5) and (6).

18 Interest paid without deduction of income tax

18(1) Any person by or through whom any interest is paid in the year 1969–70 or any subsequent year of assessment without deduction of income tax or after deduction of income tax shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice–

(a) the name and address of the person to whom the interest has been paid or on whose behalf the interest has been received, and

(b) the amount of the interest actually paid or received and (where the interest has been paid or received after deduction of income tax) the amount of the interest from which the tax has been deducted and the amount of the tax deducted,

and any person by whom any such interest is received on behalf of another person shall on being so required furnish to the inspector the name and address of the person on whose behalf the interest has been received, and the amount actually received and (where the interest has been received after deduction of income tax) the amount of the interest from which the tax has been deducted and the amount of the tax deducted.

18(2) The persons to whom subsection (1) above applies include any officer in any public office or in any department of the Crown.

18(3) [Repealed by FA 2000, s. 145(5) and Sch. 40, Pt. V.]

18(3AA) [Repealed by FA 2000, s. 145(5) and Sch. 40, Pt. V.]

18(3A) A notice under this section shall not require information with respect to interest paid or received in a year of assessment ending more than three years before the date of the giving of the notice.

18(3B) The Board may by regulations provide as mentioned in all or any of the following paragraphs–

(a) that a person required to furnish information under subsection (1) above shall furnish at the same time such further information as is prescribed if the notice concerned specifies the information and requires it to be so furnished;

(b) that if a person is required to furnish information under subsection (1) above or under any provision made under paragraph (a) above, and the notice concerned specifies the form in which the information is to be furnished, the person shall furnish the information in that form;

(c) that a notice under subsection (1) above shall not require prescribed information;

and in this subsection **"prescribed"** means prescribed by the regulations.

The further information required as mentioned in paragraph (a) above may include, in prescribed cases, the name and address of the person beneficially entitled to the interest paid or received.

18(3C) Regulations under subsection (3B) above–

(a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons,

(aa) may make provision with respect to the furnishing of information by persons required to furnish information under subsection (1) above, or under any provision made under subsection (3B)(a) above, including the inspection of books, documents and other records on behalf of the Board;

(b) may make different provision in relation to different cases or descriptions of case, and

(c) may include such supplementary, incidental, consequential or transitional provisions as appear to the Board to be necessary or expedient.

18(3D) For the purposes of this section interest shall be treated as received by any person if it is received by another person at his direction or with his consent.

18(3E) For the purposes of this section the following shall be treated as interest–

(a) any dividend in respect of a share in a building society;

(b) any amount to which a person holding a deeply discounted security is entitled on the redemption of that security; and

(c) any foreign dividend.

18(3F) In subsection (3E)(b) above "deeply discounted security" has the same meaning as in Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) (see section 430 of that Act).

18(3G) In subsection (3E)(c) above **"foreign dividend"** means any annual payment, interest or dividend payable out of, or in respect of the stocks, funds, shares or securities of–

(a) a body of persons that is not resident in the United Kingdom, or

(b) a government or public or local authority in a country outside the United Kingdom.

18(4) [Repealed by FA 1988, s. 148 and Sch. 14, Pt. IV.]

History – In s. 18(1) the words "or after deduction of income tax" inserted, and the words "actually paid or received . . . amount of the tax deducted" in para. (b) and "the amount actually received . . . amount of the tax deducted" substituted, by FA 1990, s. 92(4), (5), as regards a case where interest is paid in 1991–92 or a subsequent year of assessment.

In s. 18(1) the words "by or through whom" and "by whom any such interest is received" substituted by FA 2000, s. 145(4), with effect in relation to amounts paid, credited or received on or after 6 April 2001.

S. 18(2) amended by ICTA 1988, s. 844 and Sch. 29, para. 7(2) in relation to tax for 1988–89 and subsequent years of assessment, and for companies' accounting periods ending after 5 April 1988 by substituting the words "subsection (1) above" for "this section".

S. 18(3), (3AA) repealed by FA 2000, s. 145(5) and Sch. 40, Pt. V, with effect in relation to amounts paid, credited or received on or after 6 April 2001.

S. 18(3A) inserted by FA 1988, s. 123(3), (5) with respect to notices given after 29 July 1988.

In s. 18(3A) the words "or received" inserted by FA 2000, s. 145(6) with effect in relation to amounts paid, credited or received on or after 6 April 2001.

S. 18(3B) inserted by FA 1990, s. 92(4), (6), as regards a case where interest is paid in 1991–92 or a subsequent year of assessment.

In s. 18(3B) the final paragraph inserted by FA 2000, s. 145(7) with effect in relation to amounts paid, credited or received on or after 6 April 2001.

S. 18(3C) inserted by FA 1990, s. 92(4), (6), as regards a case where interest is paid in 1991–92 or a subsequent year of assessment.
S. 18(3C)(aa) inserted by FA 2000, s. 145(8), with effect in relation to amounts paid, credited or received on or after 6 April 2001.
S. 18(3D), (3E), (3F) and (3G) substituted for the previous (3D) by FA 2000, s. 145(9), with effect in relation to amounts paid, credited or received on or after 6 April 2001.
In s. 18(3E)(b) "deeply" substituted for "relevant" by ITTOIA 2005, s. 882(1) and Sch. 1, para. 366(2); effective for for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
S. 18(3F) substituted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 366(3); effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1A)). Previous version of the sub-section defined "relevant discounted security" by reference to FA 1996, Sch. 13, para. 3.
S. 18(4) repealed by FA 1988, s. 148 and Sch. 14, Pt. IV, with effect for 1988–89 and later years of assessment.

Cross references – FA 2005, Sch. 2, para. 2: references in s. 18 to interest paid to include references to alternative finance return or profit share return.
FA 2003, s. 199(4): regulations in respect of Community obligations for the taxation of savings income may provide for notices under those regulations to be combined with notices under TMA 1970, s. 18.
SI 2003/3297, reg. 15: combination of notice under s. 18 with that under the Savings Income regulations with effect from date to be specified by the Treasury (no earlier than 1 January 2005).

Statutory instruments – SI 1992/15: made under s. 18(3B) and (3C).

18A Other payments and licences etc.

18A(1) Any person by whom any payment out of public funds is made by way of grant or subsidy shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice–

(a) the name and address of the person to whom the payment has been made or on whose behalf the payment has been received, and
(b) the amount of the payment so made or received,

and any person who receives any such payment on behalf of another person shall on being so required furnish to the inspector the name and address of the person on whose behalf the payment has been received, and its amount.

18A(2) Any person by whom licences or approvals are issued or a register is maintained shall, on being so required by a notice given to him by an inspector, furnish to the inspector, within the time limited by the notice–

(a) the name and address of any person who is or has been the holder of a licence or approval issued by the first-mentioned person, or to whom an entry in that register relates or related; and
(b) particulars of the licence or entry.

18A(3) The persons to whom this section applies include any department of the Crown, any public or local authority and any other public body.

18A(4) A notice is not to be given under this section unless (in the inspector's reasonable opinion) the information required is or may be relevant to any tax liability to which a person is or may be subject, or the amount of any such liability.

18A(5) A notice under this section shall not require information with respect to a payment which was made, or to a licence, approval or entry which ceased to subsist–

(a) before 6th April 1988; or
(b) in a year of assessment ending more than three years before the date of the giving of the notice.

18A(6) For the purposes of this section a payment is a payment out of public funds if it is provided directly or indirectly by the Crown, by any Government, public or local authority whether in the United Kingdom or elsewhere or by any Community institution.

History – S. 18A inserted by FA 1988, s. 125.

19 Information for purposes of charge on profits of UK property businesses or under Schedule A

History – In heading to s. 19 the words "charge on profits of UK property businesses or under" inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 367(3); effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).

Notes – ITTOIA 2005 amends s. 19 for 2005–06 onwards and for accounting periods ending after 5 April 2005; see History notes for details.

19(1) For the purpose of obtaining particulars of profits or gains chargeable to tax under Chapter 3 of Part 3 of ITTOIA 2005 as the profits of a UK property business or under Schedule A (or, for chargeable periods ending before 6th April 1970, under Case VIII of Schedule D), the inspector may by notice in writing require–

(a) any lessee, occupier or former lessee or occupier of land (including any person having, or having had, the use of land) to give such information as may be prescribed by the Board as to the terms applying to the lease, occupation or use of the land, and where any of those terms are established by any written instrument, to produce the instrument to the inspector,
(b) any lessee or former lessee of land to give such information as may be so prescribed as to any consideration given for the grant or assignment to him of the tenancy,
(c) any person who as agent manages land or is in receipt of rent or other payments arising from land to furnish the inspector with such particulars relating to payments arising therefrom as may be specified in the notice.

19(2) Subsection (1) above shall apply in relation to sums chargeable to tax under Case VI of Schedule D by virtue of any provision of sections 34 to 36 of the principal Act as it applies to profits or gains chargeable to tax under Schedule A or Case VIII of Schedule D.

19(3) In this section–

(a) **"lease"** includes an agreement for a lease, and any tenancy, but does not include a mortgage or heritable security, and **"lessee"** shall be construed accordingly but shall include the successor in title of a lessee,
(b) in relation to Scotland **"assignment"** means an assignation.

19(4) A notice under this section shall not require information with respect to–

(a) the terms applying to the lease, occupation or use of the land, or
(b) consideration given, or
(c) payments arising,

in a year of assessment ending more than three years before the date of the giving of the notice.

History – In s. 19(1) the words "under Chapter 3 of Part 3 of ITTOIA 2005 as the profits of a UK property business or" inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 367(2); effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
S. 19(4) inserted by FA 1988, s. 123(4), (5) with respect to notices given after 29 July 1988.
Reference to provisions of the principal Act substituted by ICTA 1988, Sch. 29, para. 32, that Act becoming the principal Act (TMA 1970, s. 118(1)).

Cross references – ICTA 1988, s. 34–36: treatment of premiums etc. as rent or profits, charge on assignment of lease granted at an undervalue and charge on sale of land with right to reconveyance.

PRODUCTION OF ACCOUNTS, BOOKS AND OTHER INFORMATION

19A Power to call for documents for purposes of certain enquiries

19A(1) This section applies where an officer of the Board gives notice of enquiry under section 9A(1) or 12AC(1) of this Act to a person (**"the taxpayer"**).

19A(2) For the purpose of the enquiry, the officer may at the same or any subsequent time by notice in writing require the taxpayer, within such time (which shall not be less than 30 days) as may be specified in the notice–

(a) to produce to the officer such documents as are in the taxpayer's possession or power and as the officer may reasonably require for the purpose of determining whether and, if so, the extent to which–
  (i) the return is incorrect or incomplete, or
  (ii) in the case of an enquiry which is limited under section 9A(5) or 12AC(5) of this Act, the amendment to which the enquiry relates is incorrect, and
(b) to furnish the officer with such accounts or particulars as he may reasonably require for that purpose.

19A(2A) The officer of the Board may also (whether or not he imposes a requirement under subsection (2) above), by a notice in writing, require the taxpayer, within such time (which shall not be less than 30 days) as may be specified in the notice–

(a) to produce to the officer such documents as are in the taxpayer's possession or power and as the officer may reasonably require for the purpose of making a determination for the purposes of section 9D(1)(c) or 12AE(1)(c) of this Act, and
(b) to furnish the officer with such accounts or particulars as he may reasonably require for that purpose.

19A(3) To comply with a notice under subsection (2) or (2A) above, copies of documents may be produced instead of originals; but–

(a) the copies must be photographic or otherwise by way of facsimile; and

(b) if so required by a notice in writing given by the officer, in the case of any document specified in the notice, the original must be produced for inspection by him within such time (which shall not be less than 30 days) as may be specified in the notice.

19A(4) The officer may take copies of, or make extracts from, any document produced to him under subsection (2), (2A) or (3) above.

19A(5) A notice under subsection (2) or (2A) above does not oblige the taxpayer to produce documents or furnish accounts or particulars relating to the conduct of–

(a) any pending appeal by him, or
(b) any pending referral to the Special Commissioners under section 28ZA of this Act to which he is a party.

19A(6) An appeal may be brought against any requirement imposed by a notice under subsection (2) above to produce any document or to furnish any accounts or particulars.

19A(7) An appeal under subsection (6) above must be brought within the period of 30 days beginning with the date on which the notice under subsection (2) or (2A) above is given.

19A(8) Subject to subsection (9) below, the provisions of this Act relating to appeals shall have effect in relation to an appeal under subsection (6) above as they have effect in relation to an appeal against an assessment to tax.

19A(9) On an appeal under subsection (6) above section 50(6) to (8) of this Act shall not apply but the Commissioners may–

(a) if it appears to them that the production of the document or the furnishing of the accounts or particulars was reasonably required by the officer of the Board for the purpose mentioned in subsection (2) or (2A) above, confirm the notice under that subsection so far as relating to the requirement; or
(b) if it does not so appear to them, set aside that notice so far as so relating.

19A(10) Where, on an appeal under subsection (6) above, the Commissioners confirm the notice under subsection (2) or (2A) above so far as relating to any requirement, the notice shall have effect in relation to that requirement as if it had specified 30 days beginning with the determination of the appeal.

19A(11) The determination of the Commissioners of an appeal under subsection (6) above shall be final and conclusive (notwithstanding any provision having effect by virtue of section 56B of this Act).

19A(12) Where this section applies by virtue of a notice given under section 12AC(1) of this Act, any reference in this section to the taxpayer includes a reference to any predecessor or successor of his.

History – S. 19A(1) substituted by FA 2001, s. 88 and Sch. 29, para. 21, with effect from 11 May 2001.
In s. 19A(2) the words "the enquiry" substituted for "enquiring into the return or amendment" and in para. (a) the words in sub-para. (i) and (ii) substituted by FA 2001, s. 88 and Sch. 29, para. 21, with effect from 11 May 2001.
In s. 19A(2A)(a) the words "9D(1)(c) or 12AE(1)(c)" substituted by FA 2001, s. 88 and Sch. 29, para. 21, with effect from 11 May 2001.
In s. 19A(5) the words in para. (a) and (b) substituted by FA 2001, s. 88 and Sch. 29, para. 21, with effect from 11 May 2001
S. 19A inserted by FA 1994, s. 187, and amended by FA 1996, s. 133 and Sch. 19, para. 2, 3(1)–(3), and s. 136 and Sch. 22, para. 2, with effect, in so far as it relates to income tax and capital gains tax, for 1996–97 and subsequent years.

Cross references – S. 97AA(1): penalty for failure to comply with notice.

HMRC Manuals – Enquiry Manual EM2210: taxpayer to be given the opportunity to give the information in response to an informal request before notice under s. 19A is issued.
Enquiry Manual EM2213, Enquiry Manual EM2218: guidance to inspectors on what information can and cannot be required to be produced in a s. 19A notice.
Enquiry Manual EM2220–2223: Revenue view on relevance of private bank accounts, etc.

Other material – HMRC Working Together Bulletin, Issue 8 (not reproduced): results of joint review of income tax self-assessment enquiries by Inland Revenue and Chartered Institute of Taxation, with new guidelines on conduct of enquiries by Revenue staff and taxpayers' advisers.
Taxline 2000/3 (not reproduced): advice to accountants worried about breaching the ICAEW ethical rule when requested to provide documents by the Revenue.
Taxline 2000/12 (not reproduced): case note deconstruction/interpretation, Accountant v Inspector of Taxes.
Taxline 2000/12 (not reproduced): for a notice to be valid it must be addressed to the nominated partner and not the partnership as a whole.
Taxline 2005/2 (not reproduced): in the first instance a revenue notice demanding records of personal expenditure will not be tolerated by the courts (Sp C 448).

20 Power to call for documents of taxpayer and others

20(1) Subject to this section, an inspector may by notice in writing require a person–

(a) to deliver to him such documents as are in the person's possession or power and as (in the inspector's reasonable opinion) contain, or may contain, information relevant to–

(i) any tax liability to which the person is or may be subject, or
(ii) the amount of any such liability, or

(b) to furnish to him such particulars as the inspector may reasonably require as being relevant to, or to the amount of, any such liability.

20(2) Subject to this section, the Board may by notice in writing require a person–

(a) to deliver to a named officer of the Board such documents as are in the person's possession or power and as (in the Board's reasonable opinion) contain, or may contain, information relevant to–

(i) any tax liability to which the person is or may be subject, or
(ii) the amount of any such liability, or

(b) to furnish to a named officer of the Board such particulars as the Board may reasonably require as being relevant to, or to the amount of, any such liability.

20(3) Subject to this section, an inspector may, for the purpose of enquiring into the tax liability of any person (**"the taxpayer"**), by notice in writing require any other person to deliver to the inspector or, if the person to whom the notice is given so elects, to make available for inspection by a named officer of the Board, such documents as are in his possession or power and as (in the inspector's reasonable opinion) contain, or may contain, information relevant to any tax liability to which the taxpayer is or may be, or may have been, subject, or to the amount of any such liability; and the persons who may be required to deliver or make available a document under this subsection include the Director of Savings.

20(4), (5) [Repealed by FA 1989, s. 142(1), (5), (10) and Sch. 17, Pt. VIII.]

20(6) The persons who may be treated as **"the taxpayer"** for the purposes of this section include a company which has ceased to exist and an individual who has died.

20(7) Notices under subsection (1) or (3) above are not to be given by an inspector unless he is authorised by the Board for its purposes; and–

(a) a notice is not to be given by him except with the consent of a General or Special Commissioner; and

(b) the Commissioner is to give his consent only on being satisfied that in all the circumstances the inspector is justified in proceeding under this section.

20(7A) A notice under subsection (2) above is not to be given unless the Board have reasonable grounds for believing–

(a) that the person to whom it relates may have failed or may fail to comply with any provision of the Taxes Acts; and

(b) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax.

20(7AB) A Commissioner who has given his consent under subsection (7) above shall neither take part in, nor be present at, any proceedings on, or related to, any appeal brought–

(a) in the case of a notice under subsection (1) above, by the person to whom the notice applies, or

(b) in the case of a notice under subsection (3) above, by the taxpayer concerned,

if the Commissioner has reason to believe that any of the required information is likely to be adduced in evidence in those proceedings.

20(7AC) In subsection (7AB) above **"required information"** means any document or particulars which were the subject of the proposed notice with respect to which the Commissioner gave his consent.

20(8) Subject to subsection (8A) below, a notice under subsection (3) above shall name the taxpayer with whose liability the inspector (or, where section 20B(3) below applies, the Board) is concerned.

20(8A) If, on an application made by an inspector and authorised by order of the Board, a Special Commissioner gives his consent, the inspector may give such a notice as is mentioned in subsection (3) above but without naming the taxpayer to whom the notice relates; but such a consent shall not be given unless the Special Commissioner is satisfied–

(a) that the notice relates to a taxpayer whose identity is not known to the inspector or to a class of taxpayers whose individual identities are not so known;

(b) that there are reasonable grounds for believing that the taxpayer or any of the class of taxpayers to whom the notice relates may have failed or may fail to comply with any provision of the Taxes Acts;
(c) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax; and
(d) that the information which is likely to be contained in the documents to which the notice relates is not readily available from another source.

20(8B) A person to whom there is given a notice under subsection (8A) above may, by notice in writing given to the inspector within thirty days after the date of the notice under that subsection, object to that notice on the ground that it would be onerous for him to comply with it; and if the matter is not resolved by agreement, it shall be referred to the Special Commissioners, who may confirm, vary or cancel that notice.

20(8C) In this section references to documents do not include–

(a) personal records (as defined in section 12 of the Police and Criminal Evidence Act 1984), or
(b) journalistic material (as defined in section 13 of that Act),

and references to particulars do not include particulars contained in such personal records or journalistic material.

20(8D) Subject to subsection (8C) above, references in this section to documents and particulars are to those specified or described in the notice in question; and–

(a) the notice shall require documents to be delivered (or delivered or made available), or particulars to be furnished, within such time (which, except in the case of a notice under subsection (2) above, shall not be less than thirty days after the date of the notice) as may be specified in the notice; and
(b) the person to whom they are delivered, made available or furnished may take copies of them or of extracts from them.

20(8E) An inspector who gives a notice under subsection (1) or (3) above shall also give to–

(a) the person to whom the notice applies (in the case of a notice under subsection (1) above), or
(b) the taxpayer concerned (in the case of a notice under subsection (3) above),

a written summary of his reasons for applying for consent to the giving of the notice.

20(8F) Subsection (8E) above does not apply, in the case of a notice under subsection (3) above, if by virtue of section 20B(1B) a copy of that notice need not be given to the taxpayer.

20(8G) Subsection (8E) above does not require the disclosure of any information–

(a) which would, or might, identify any person who has provided the inspector with any information which he took into account in deciding whether to apply for consent; or
(b) if the Commissioner giving the required consent has given a direction that that information is not to be subject to the obligation imposed by that subsection.

20(8H) A General or Special Commissioner shall not give a direction under subsection (8G) above unless he is satisfied that the inspector has reasonable grounds for believing that disclosure of the information in question would prejudice the assessment or collection of tax.

20(9) To the extent specified in section 20B below, the above provisions are subject to the restrictions of that section.

History – In s. 20(1), para. (a) and (b) substituted by FA 1989, s. 142(2) in respect of notices given on or after 27 July 1989.
In s. 20(2), para. (a) and (b) substituted by FA 1989, s. 142(3) in respect of notices given on or after 27 July 1989.
In s. 20(3), the words "other person" and "and the persons who may be required to deliver or make available a document under this subsection include the Director of Savings" substituted by FA 1989 s. 142(4) in respect of notices given on or after 27 July 1989.
S. 20(4) repealed by FA 1989, s. 142 and Sch. 17, Pt. VIII, in respect of notices given on or after 27 July 1989.
In s. 20(6), the words "for the purposes of this section" substituted by FA 1989, s. 142(6) in respect of notices given on or after 27 July 1989.
In s. 20(7), the words "subsection (1) or (3) above substituted by FA 1988, s. 126(2) in respect of notices given after 29 July 1988."
S. 20(7A) inserted by FA 1990, s. 93, in respect of notices given on or after 26 July 1990.
S. 20(7AB), (7AC) inserted by FA 1994, s. 255(2), in respect of notices given on or after 3 May 1994.
S. 20(8) substituted by FA 1989, s. 142(7), in respect of notices given on or after 27 July 1989.
S. 20(8A) inserted by FA 1988, s. 126(3) in respect of notices given after 29 July 1988.
S. 20(8B) inserted by FA 1988, s. 126(3) in respect of notices given after 29 July 1988.
S. 20(8C) inserted by FA 1989, s. 142(8) in respect of notices given on or after 27 July 1989.
S. 20(8D) inserted by FA 1989, s. 142(8)in respect of notices given on or after 27 July 1989.
S. 20(8E)–(8H) inserted by FA 1994, s. 255(3), in respect of notices given on or after 3 May 1994.
S. 20 substituted by FA 1976, Sch. 6, effective from 1976–77.

Cross references – FA 1990, s. 125: S. 20 to have effect as if reference to tax liability included a reference to a liability to income tax of another EU Member State..

FA 1988, s. 127(2)–(4): ancillary rights of access to computer hardware.
ICTA 1988, s. 767C(8): application of s. 20(1), (3) and (8C) to the Board's powers to obtain information where company ownership changes.
Police and Criminal Evidence Act 1984, s. 12: "personal records" (see s. 20(8C)(a)) defined as documentary and other records concerning an individual relating to his physical or mental health, spiritual counselling etc. given to him, or counselling etc. given to him for the purposes of his personal welfare by any voluntary organisation or certain individuals.
Police and Criminal Evidence Act 1984, s. 13: "journalistic material" (see s. 20(8C)(b)) defined as material acquired or created for the purposes of journalism which is in the possession of the person who so acquired or created it.
FA 2000, s. 146(3), (4)): references to tax liability in s. 20 to have effect as if they were references to a tax liability under the law of an overseas territory with which an agreement is in force providing for the obtaining and disclosure of information relative to that liability.
TCA 2002, s. 25(3): s. 20 applies in relation to an employer's compliance with regulations under TCA 2002, s. 26 (payments of working tax credits by employers) as it does in relation to a person's tax liability.
FA 2006, s. 174(1): modification of s. 20(1)–(8) and (8C)–(9) for international tax arrangements.

Statements of practice – SP 5/90: explanation of how HMRC use powers to call for accountants' working papers.

HMRC Manuals – Capital Gains, CG 20224: although no statutory authority exists an inspector may request (where he believes such a list may have been made) a copy of a list of investments and assets held at a particular date. Note, such requests should not be routinely made nor the impression given that there is authority for such a request.
Enquiry Manual EM2400ff.: use of s. 20 notices generally
Enquiry Manual EM2488: obtaining information from spouses and partners.
Enquiry Manual EM2575: Revenue's approach to seeking accountant's working papers.

Other material – Tax Bulletin TB06/03-1: access to link papers.

20A Power to call for papers of tax accountant

20A(1) Where after the passing of the Finance Act 1976 a person–

(a) is convicted of an offence in relation to tax (whenever committed) by or before any court in the United Kingdom; or
(b) has a penalty imposed on him (whether before or after the passing of that Act) under section 99 of this Act,

and he has stood in relation to others as tax accountant, an inspector authorised by the Board for the purpose of this section may by notice in writing require the person to deliver to him such documents as are in his possession or power and as (in the inspector's reasonable opinion) contain information relevant to any tax liability to which any client of his is or has been, or may be or have been, subject, or to the amount of any such liability.

20A(1A) The reference to documents in subsection (1) above does not include–

(a) personal records (as defined in section 12 of the Police and Criminal Evidence Act 1984), or
(b) journalistic material (as defined in section 13 of that Act).

20A(1B) Subject to subsection (1A) above, the reference to documents in subsection (1) above is to those specified or described in the notice in question; and

(a) the notice shall require documents to be delivered within such time (which shall not be less than thirty days after the date of the notice) as may be specified in the notice; and
(b) the inspector may take copies of them or of extracts from them.

20A(2) Subsection (1) above does not have effect in relation to a person convicted or penalised as there mentioned for so long as an appeal is pending against the conviction or penalty; and–

(a) for this purpose an appeal is to be treated as pending (where one is competent but has not been brought) until the expiration of the time for bringing it or, in the case of a conviction in Scotland, until the expiration of 28 days from the date of conviction; and
(b) references here to appeal include further appeal but, in relation to the imposition of a penalty, do not include appeal against the amount of the penalty.

20A(3) A notice is not to be given to any person under this section unless with the consent of the appropriate judicial authority; and that authority is to give his consent only on being satisfied that in all the circumstances the inspector is justified in so proceeding.

20A(4) The power to give a notice under this section, by reference to a person's conviction or the imposition on him of a penalty, ceases at the expiration of the period of 12 months beginning with the date on which it was first exercisable in his case by virtue of that conviction or penalty.

20A(5) To the extent specified in section 20B below, the above provisions are subject to the restrictions of that section.

History – S. 20A(1)(b), (2), (4) amended by FA 1989, s. 168(1), (2), by substituting "a penalty imposed on", "penalty" (as it first appears in s. 20A(2)), "imposition", "imposition on" and "penalty" (in s. 20A(4)), consequent to amendments to s. 100 permitting an inspector etc. to determine a penalty rather than take proceedings for the award of a penalty.
S. 20A(1A), (1B) substituted for final sentence of s. 20A(1) by FA 1989, s. 143, effective for notices given on or after 27 July 1989.
S. 20A inserted by FA 1976, Sch. 6, with effect from 1976–77.

Cross references – FA 1988, s. 127(2)–(4): ancillary rights of access to computer hardware.

Police and Criminal Evidence Act 1984, s. 12: "personal records" (see s. 20A(1A)(a)) defined as documentary and other records concerning an individual relating to his physical or mental health, spiritual counselling etc. given to him, or counselling etc. given to him for the purposes of his personal welfare by any voluntary organisation or certain individuals.
Police and Criminal Evidence Act 1984, s. 13: "journalistic material" (see s. 20A(1A)(b)) defined as material acquired or created for the purposes of journalism which is in the possession of the person who so acquired or created it.

HMRC Manuals – Capital Gains Manual CG 20224: although no statutory authority exists an inspector may request (where he believes such a list may have been made) a copy of a list of investments and assets held at a particular date. Note, such requests should not be routinely made nor the impression given that there is authority for such a request.

20B Restrictions on powers under ss. 20 and 20A

20B(1) Before a notice is given to a person by an inspector under section 20(1), (3) or (8A), or under section 20A, the person must have been given a reasonable opportunity to deliver (or, in the case of section 20(3), to deliver or make available) the documents in question, or to furnish the particulars in question; and the inspector must not apply for consent under section 20(7) or (8A) or, as the case may be, section 20A(3), until the person has been given that opportunity.

20B(1A) Subject to subsection (1B) below, where a notice is given to any person under section 20(3) the inspector shall give a copy of the notice to the taxpayer to whom it relates.

20B(1B) If, on an application by the inspector, a General or Special Commissioner so directs, a copy of a notice under section 20(3) need not be given to the taxpayer to whom it relates; but such a direction shall not be given unless the Commissioner is satisfied that the inspector has reasonable grounds for suspecting the taxpayer of fraud.

20B(2) A notice under section 20(1) does not oblige a person to deliver documents or furnish particulars relating to the conduct of any pending appeal by him; a notice under section 20(3) or (8A) does not oblige a person to deliver or make available documents relating to the conduct of a pending appeal by the taxpayer; and a notice under section 20A does not oblige a person to deliver documents relating to the conduct of a pending appeal by the client.

"Appeal" means appeal relating to tax.

20B(3) An inspector cannot under section 20(1) or (3) or under section 20A(1), give notice to a barrister, advocate or solicitor, but the notice must in any such case be given (if at all) by the Board; and accordingly in relation to a barrister, advocate or solicitor for references in section 20(3) and (4) and section 20A to the inspector, there are substituted references to the Board.

20B(4) To comply with a notice under section 20(1) or section 20A(1), and as an alternative to delivering documents to comply with a notice under section 20(3) or (8A), copies of documents may be delivered instead of the originals; but–

(a) the copies must be photographic or otherwise by way of facsimile; and
(b) if so required by the inspector (or, as the case may be, the Board) in the case of any documents specified in the requirement, the originals must be made available for inspection by a named officer of the Board (failure to comply with this requirement counting as failure to comply with the notice).

20B(5) A notice under section 20(3) does not oblige a person to deliver or make available any document the whole of which originates more than 6 years before the date of the notice.

20B(6) But subsection (5) does not apply where the notice is so expressed as to exclude the restrictions of that subsection; and it can only be so expressed where–

(a) the notice being given by an inspector with consent under section 20(7), the Commissioner giving consent has also given approval to the exclusion;
(b) the notice being given by the Board, they have applied to a General or Special Commissioner for, and obtained, that approval.

For this purpose the Commissioner gives approval only if satisfied, on the inspector's or the Board's application, that there is reasonable ground for believing that tax has, or may have been, lost to the Crown owing to the fraud of the taxpayer.

20B(7) A notice under section 20(3) in relation to a taxpayer who has died cannot be given if more than 6 years have elapsed since the death.

20B(8) A notice under section 20(3) or (8A) or section 20A(1) does not oblige a barrister, advocate or a solicitor to deliver or make available, without his client's consent, any document with respect to which a claim to professional privilege could be maintained.

20B(9) Subject to subsections (11) and (12) below, a notice under section 20(3) or (8A)–

(a) does not oblige a person who has been appointed as an auditor for the purposes of any enactment to deliver or make available documents which are his property and were created

by him or on his behalf for or in connection with the performance of his functions under that enactment, and

(b) does not oblige a tax adviser to deliver or make available documents which are his property and consist of relevant communications.

20B(10) In subsection (9) above **"relevant communications"** means communications between the tax adviser and–

(a) a person in relation to whose tax affairs he has been appointed, or

(b) any other tax adviser of such a person,

the purpose of which is the giving or obtaining of advice about any of those tax affairs; and in subsection (9) above and this subsection **"tax adviser"** means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that other person or by another tax adviser of his).

20B(11) Subject to subsection (13) below, subsection (9) above shall not have effect in relation to any document which contains information explaining any information, return, accounts or other document which the person to whom the notice is given has, as tax accountant, assisted any client of his in preparing for, or delivering to, the inspector or the Board.

20B(12) Subject to subsection (13) below, in the case of a notice under section 20(8A) subsection (9) above shall not have effect in relation to any document which contains information giving the identity or address of any taxpayer to whom the notice relates or of any person who has acted on behalf of any such person.

20B(13) Subsection (9) above is not disapplied by subsection (11) or (12) above in the case of any document if–

(a) the information within subsection (11) or (12) is contained in some other document, and

(b) either–

(i) that other document, or a copy of it, has been delivered to the inspector or the Board, or

(ii) that other document has been inspected by an officer of the Board.

20B(14) Where subsection (9) above is disapplied by subsection (11) or (12) above in the case of a document, the person to whom the notice is given either shall deliver the document to the inspector or make it available for inspection by an officer of the Board or shall–

(a) deliver to the inspector (or, where subsection (3) above applies, the Board) a copy (which is photographic or otherwise by way of facsimile) of any parts of the document which contain the information within subsection (11) or (12), and

(b) if so required by the inspector (or, as the case may be, the Board), make available for inspection by a named officer of the Board such parts of the document as contain that information;

and failure to comply with any requirement under paragraph (b) above shall constitute a failure to comply with the notice.

History – In s. 20B(1), the words "section 20(1), (3) or (8A)" and "section 20(7) or (8A)" substituted by FA 1988, s. 126(4)(a) in respect of notices given on or after 29 July 1988.
In s. 20B(1), the words ", or to furnish the particulars in question" inserted by FA 1989, s. 144(2) in respect of notices given on or after 27 July 1989.
Ss. 20B(1A) and (1B) inserted by FA 1989, s. 144(3) in respect of notices given on or after 27 July 1989.
In s. 20B(2), references to s. 20(8A) substituted by FA 1988, s. 126(4)(b) in respect of notices given on or after 20 July 1988.
In s. 20B(2), the words "or furnish particulars" inserted by FA 1989, s. 144(4) in respect of notices given on or after 27 July 1989.
In s. 20B(4), references to s. 20(8A) substituted by FA 1988, s. 126(4)(b) in respect of notices given on or after 20 July 1988.
In s. 20B(5), the words "does not oblige a person" substituted by FA 1989, s. 144(5) in respect of notices given on or after 27 July 1989.
In s. 20B(7), words omitted by FA 1989, s. 144(6) in respect of notices given on or after 27 July 1989.
In s. 20B(8), references to s. 20(8A) substituted by FA 1988, s. 126(4)(b) in respect of notices given on or after 20 July 1988.
Ss. 20B(9)–(14) substituted for the original s. 20B(9) by FA 1989, s. 144(7) in respect of notices given on or after 27 July 1989.
S. 20B inserted by FA 1976, Sch. 6, with effect from 1976–77.

Cross references – FA 1988, s. 127(2)–(4): ancillary rights of access to computer hardware.
ICTA 1988, s. 767C(8): application of s. 20B(4) and (8)–(14) to the Board's powers to obtain information where company ownership changes.
FA 1990, s. 125(2)(b), (c): construction of s. 20B(2), (6) where, by virtue of s. 125(1), Revenue use powers under s. 20 to obtain information on behalf of the tax authorities of an EU member state.
FA 2000, s. 146(4)(b), (c): application of s. 20B(2), (6) to proceedings etc. or loss of tax under the law of any territory outside the UK.
SI 1994/1811, reg. 5(9), (10); SI 1994/1812, reg. 4(9), (10): where a document is protected by s. 20B(9)–(13) it need not be produced in response to a witness summons in proceedings before the general or special commissioners. Where only parts of a document need be shown under 20B(14), only those parts need be produced in obedience to a witness summons.
FA 2006, s. 174(1): modification of s. 20B for international tax arrangements.

20BA Orders for the delivery of documents

20BA(1) The appropriate judicial authority may make an order under this section if satisfied on information on oath given by an authorised officer of the Board–

(a) that there is reasonable ground for suspecting that an offence involving serious fraud in connection with, or in relation to, tax is being, has been or is about to be committed, and

(b) that documents which may be required as evidence for the purposes of any proceedings in respect of such an offence are or may be in the power or possession of any person.

20BA(2) An order under this section is an order requiring the person who appears to the authority to have in his possession or power the documents specified or described in the order to deliver them to an officer of the Board within–

(a) ten working days after the day on which notice of the order is served on him, or

(b) such shorter or longer period as may be specified in the order.

For this purpose a **"working day"** means any day other than a Saturday, Sunday or public holiday.

20BA(3) Where in Scotland the information mentioned in subsection (1) above relates to persons residing or having places of business at addresses situated in different sheriffdoms–

(a) an application for an order may be made to the sheriff for the sheriffdom in which any of the addresses is situated, and

(b) where the sheriff makes an order in respect of a person residing or having a place of business in his own sheriffdom, he may also make orders in respect of all or any of the other persons to whom the information relates (whether or not they have an add[r]ess within the sheriffdom).

20BA(4) Schedule 1AA to this Act contains provisions supplementing this section.

History – S. 20BA inserted by FA 2000, s. 149(1).

Cross references – Criminal Justice and Police Act 2001, s. 59(7)(b)(iii): enhanced powers of seizure: applications to "appropriate judicial authority".
TCA 2002, s. 36(1): application of s. 20BA in relation to tax credits fraud.

20BB Falsification etc. of documents

20BB(1) Subject to subsections (2) to (4) below, a person shall be guilty of an offence if he intentionally falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, a document which–

(a) he has been required by a notice under section 20 or 20A above or an order under section 20BA above, or

(b) he has been given an opportunity in accordance with section 20B(1) above,

to deliver, or to deliver or make available for inspection.

20BB(2) A person does not commit an offence under subsection (1) above if he acts–

(a) with the written permission of a General or Special Commissioner, the inspector or an officer of the Board,

(b) after the document has been delivered or, in a case within section 20(3) or (8A) above, inspected, or

(c) after a copy has been delivered in accordance with section 20B(4) or (14) above and the original has been inspected.

20BB(3) A person does not commit an offence under subsection (1)(a) above if he acts after the end of the period of two years beginning with the date on which the notice is given or the order is made, unless before the end of that period the inspector or an officer of the Board has notified the person in writing that the notice or order has not been complied with to his satisfaction.

20BB(4) A person does not commit an offence under subsection (1)(b) above if he acts–

(a) after the end of the period of six months beginning with the date on which an opportunity to deliver the document was given, or

(b) after an application for consent to a notice being given in relation to the document has been refused.

20BB(5) A person guilty of an offence under subsection (1) above shall be liable–

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

History – In s. 20BB(1)(a) words "or an order under section 20BA above" inserted by FA 2000, s. 149(3)(a).
In s. 20BB(3) words "or the order is made" and "or order" inserted by FA 2000, s. 149(3)(b), (c) respectively.

S. 20BB inserted by FA 1989, s. 145 for any falsification, concealment, destruction or disposal on or after 27 July 1989.

Cross references – TCA 2002, s. 36(1): application of s. 20BB in relation to tax credits fraud.
FA 2006, s. 174(1): modification of s. 20BB for international tax arrangements.

20C Entry with warrant to obtain documents

20C [Omitted by FA 2007, s. 84(4) and Sch. 22, para. 4(a); repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(1).]

History – S. 20C omitted by FA 2007, s. 84(4) and Sch. 22, para. 4(a) with effect from 1 December 2007 by virtue of SI 2007/3166, art. 3(a), and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(1) with effect from 8 November 2007 by virtue of SI 2007/3166, art. 2(c) in accordance with FA 2007, s. 84(5).
Previously, in s. 20C(1), the words "serious fraud" and "is being, has been or is about to be" substituted by FA 1989, s. 146(2) for warrants issued on or after 27 July 1989.
S. 20C(1AA) inserted by FA 2000, s. 150(2) with effect from 28 July 2000.
Ss. 20C(1A) and (1B) inserted by FA 1989, s. 146(3) in respect of warrants issued on or after 27 July 1989.
S. 20C(3) substituted by FA 1989, s. 146(4) in respect of warrants issued on or after 27 July 1989.
S. 20C(3A) inserted by FA 2000, s. 150(3) with effect from 28 July 2000.
In s. 20C(3A), the words "stored in any electronic form" substituted and "or from which it can readily be produced in a visible and legible form" inserted by the Criminal Justice and Police Act 2001, Sch. 2, para. 13(1) and (2)(d) with effect from 6 April 2003 (SI 2003/708, art. 2(k)).
S. 20C(4), (4A) and (4B) substituted by FA 2000, s. 150(4) with effect from 28 July 2000.
S. 20C(5)–(8) substituted by FA 1989, s. 146(4) in respect of warrants issued after 27 July 1989.
S. 20C(9) inserted by FA 2000, s. 150(5).
S. 20C inserted by FA 1976, Sch. 6, with effect from 1976–77.

Cross references – CRCA 2005, s. 13(3)(b); s. 14(2)(b): Board's power to approve an application for a search warrant is not able to be delegated.
Criminal Justice and Police Act 2001, s. 63(2)(e): power to obtain hard copies of information which is stored in electronic form to be treated as a power of seizure for the purposes of certain provisions of Pt. II of that Act.
Criminal Justice and Police Act 2001, Sch. 1, para. 13: power of seizure conferred by s. 20C is a power to which s. 50 of that Act applies.
TCA 2002, s. 36(2), (3): application of s. 20C in relation to tax credits fraud.

20CC Procedure where documents etc. are removed

20CC [Omitted by FA 2007, s. 84(4) and Sch. 22, para. 4(a); repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(1).]

History – S. 20CC omitted by FA 2007, s. 84(4) and Sch. 22, para. 4(a) with effect from 1 December 2007 by virtue of SI 2007/3166, art. 3(a), and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(1) with effect from 8 November 2007 by virtue of SI 2007/3166, art. 2(c) in accordance with FA 2007, s. 84(5).
S. 20CC previously inserted by FA 1989, s. 147(1) for warrants issued on or after 27 July 1989.

Cross references – CJPA 2001, s. 57(1)(c): enhanced powers of seizure under s. 50, 51 of that Act.
TCA 2002, s. 36(2): application of s. 20CC in relation to tax credits fraud.

20D Interpretation of s. 20 to 20C

20D(1) For the purposes of sections 20A and 20BA above, **"the appropriate judicial authority"** is–

(a) in England and Wales, a Circuit judge;
(b) in Scotland, a sheriff; and
(c) in Northern Ireland, a county court judge.

20D(2) For the purposes of sections 20 and 20A, a person stands in relation to another as tax accountant at any time when he assists the other in the preparation or delivery of any information, return, accounts or other document which he knows will be, or is or are likely to be, used for any purpose of tax; and his clients are all those to whom he stands or has stood in that relationship.

20D(3) Without prejudice to section 127 of the Finance Act 1988, in sections 20 to 20CC above **"document"** means, subject to sections 20(8C) and 20A(1A), anything in which information of any description is recorded.

History – In s. 20D(1), the words "sections 20A and 20BA" substituted for the words "sections 20A, 20BA and 20C" by FA 2007, s. 84 and Sch. 22, para. 1 with effect from 1 December 2007, by virtue of SI 2007/3166, art. 3(a) in accordance with s. 84(4).
In s. 20D(1) reference to s. 20BA inserted by FA 2000, s. 149(4)with effect from 28 July 2000.
S. 20(D)(2) amended by FA 1989, s. 148 by substituting the words "or delivery . . . likely to be, used" in respect of warrants issued on or after 27 July 1989.
S. 20D(3) substituted by Civil Evidence Act 1995, Sch. 1, para. 6, with effect from 31 January 1997 by virtue of SI 1996/3217 (C. 101).

Cross references – FA 1988, s. 127(1): construction of references in Taxes Acts to "document" and "copy of a document".
FA 1988, s. 127(2)–(4): ancillary rights of access to computer hardware.

FA 2006, s. 174(1): modification of s. 20D for international tax arrangements.

21 Transactions in securities etc.

Notes – Section heading amended by CCH to reflect altered content (originally "Stock jobbers' transactions").

21(1) The Board may exercise the powers conferred by this section as respects, and in connection with, any business consisting in or involving dealings in securities; and for the purposes of this section it shall be immaterial whether those dealings are or, as the case may be, were–

(a) on behalf of persons other than the person carrying on the business;
(b) by that person on his own behalf; or
(c) a mixture of the two.

21(2) With a view to obtaining information about securities transactions in the course of a business within subsection (1) above, the Board may serve on the person by whom the business is or has been carried on a notice requiring him to make available within a time specified in the notice, for inspection by an inspector or other officer of the Board, all such books, accounts and other documents in his possession or power as may be specified or described in the notice, being books, accounts or other documents which in the opinion of the Board contain or may contain information directly or indirectly relating to any such transactions.

21(3) The Board may serve on any broker a notice requiring him to make available within a time specified in the notice, for inspection by an inspector or other officer of the Board, all such books, accounts or other documents in his possession or power as may be specified or described in the notice, being books, accounts or other documents which in the opinion of the Board contain or may contain information relating directly or indirectly to securities transactions in the course of any business of a person other than the broker which is a business within subsection (1) above.

21(4) Where a person (**"the recipient"**) who is not a broker has directly or indirectly received from another person any payment which–

(a) is made by that other person in the course of a business within subsection (1) above, and
(b) is a payment treated by that other person as made in respect of interest on securities,

the Board may by notice in writing require the recipient to state, within a time specified in the notice, whether the amount received is in whole or in part received on behalf of, or for payment on to, a third person and (if it is) to furnish the name and address of that third person.

21(4A) Where a person (**"the payer"**) has directly or indirectly paid to another person any sum which–

(a) constitutes a receipt by that other person in the course of a business within subsection (1) above, and
(b) is a receipt treated by that other person as accruing in respect of interest on securities,

the Board may by notice in writing require the payer to state, within a time specified in the notice, whether the amount paid is in whole or in part received from, or paid on account of, a third person and (if it is) to furnish the name and address of that third person.

21(5) If, for the purpose of obtaining (from any persons at all) information directly or indirectly relating to any securities transactions in the course of a business within subsection (1) above, any person in whose name any securities are registered is so required by notice in writing by the Board, he shall state whether or not he is the beneficial owner of those securities, and, if not the beneficial owner of those securities or any of them, shall furnish the name and address of the person or persons on whose behalf the securities are registered in his name.

21(5A) Where it appears to the Board that a person may have incurred a liability to pay or account for tax under Chapter 2 of Part 11 or Chapter 9 of Part 15 of ITA 2007 (manufactured payments), the Board may by notice served on that person require him, within such period (not being less than 28 days) as may be specified in the notice, to provide the Board with information which–

(a) is available to that person; and
(b) is or may be relevant to whether that person has incurred such a liability, or to the extent of such liability.

21(6) The Board may not exercise their powers under the preceding provisions of this section for the purpose of obtaining information relating to transactions in any year of assessment ending more than six years before the service of the notice.

21(7) In this section–

"broker" means any person who is a member of a recognised investment exchange, within the meaning given by section 285(1)(a) of the Financial Services and Markets Act 2000;
"interest" includes dividends;
"securities" includes shares and stock; and
"securities transaction" means–
(a) any transaction in securities;
(b) any transaction under which a payment which is representative of any interest on a security has been, is to be or may be made; or
(c) the making or receipt of such a payment.

History – S. 21(1) substituted by FA 1997, s. 76 and Sch. 10, para. 14(1), (2), with effect, by virtue of SI 1997/991, from 1 July 1997.
In s. 21(2), words "securities transactions" and "person" substituted by FA 1997, s. 76 and Sch. 10, para. 14(3) with effect, by virtue of SI 1997/991, from 1 July 1997.
In s. 21(3) the words "securities transactions . . . broker which is" substituted by FA 1997, s. 76 and Sch. 10, para. 14(4), with effect, by virtue of SI 1997/991, from 1 July 1997.
S. 21(4), (4A) substituted for former s. 21(4) by FA 1997, s. 76 and Sch. 10, para. 14(5), with effect, by virtue of SI 1997/991, from 1 July 1997.
In s. 21(5), words "at all" and "securities transactions" substituted by FA 1997, s. 76 and Sch. 10, para. 14(1), (6), (7), with effect by virtue of SI 1997/991, from 1 July 1977.
In s. 21(5A), the words "Chapter 2 of Part 11 or Chapter 9 of Part 15 of ITA 2007" substituted for the words "Schedule 23A to the principal Act" by ITA 2007, s. 1027 and Sch. 1, para. 248, with effect from 6 April 2007.
S. 21(5A) inserted by FA 1997, s. 76 and Sch. 10, para. 14(1), (6), (7), with effect, by virtue of SI 1997/991, from 1 July 1997.
In s. 21(7), in the definition of "broker", the words "given by section 285(1)(a) of the Financial Services and Markets Act 2000" substituted for "of the Financial Services Act 1986", by SI 2001/3629, art. 3 with effect from 1 December 2001.
S. 21(7) substituted by FA 1997, s. 76 and Sch. 10, para. 14(1), (8), with effect, by virtue of SI 1997/991, from 1 July 1997.

Cross references – CRCA 2005, s. 16 and Sch 2(2): power under this section may be exercised only in connection with functions relating to matters to which CRCA 2005, s. 6 applies.
Financial Services and Markets Act 2000, s. 285(1)(a) defines a "recognised investment exchange" as an investment exchange in relation to which a recognition order under s. 290 of that Act is in force.

SURTAX

22 Additional particulars for surtax

22 The Board may by notice in writing require any individual to furnish to them within such time as they may prescribe, not being less than twenty-eight days, such particulars as to the several sources of his income and the amount arising from each source, and as to the nature and the amount of any deductions claimed to be allowed therefrom, as they consider necessary.

History – S. 22 amended by FA 1971, Sch. 6, Pt. II.

Notes – Surtax as such was abolished in 1973. However this provision remains in force although it adds little to the taxpayer's obligations to notify liability to tax and to submit returns.

23 Power to obtain copies of registers of securities

23(1) The Board may cause to be served upon any body corporate a notice requiring them to deliver to the Board within a specified time, being not less than twenty-one days, a copy, certified by a duly authorised officer of such body, of the whole of, or any specified class of entries in, any register containing the names of the holders of any securities issued by them.

23(2) On delivery of the copy in accordance with the notice payment shall be made therefor at the rate of 25 pence in respect of each one hundred entries.

23(3) In this section, **"security"** includes shares, stock, debentures and debenture stock, and **"entry"** means, in relation to any register, so much thereof as relates to the securities held by any one person.

History – S. 23(2) amended by Decimal Currency Act 1969, s. 10, 16(1), inserting the decimalised amount.

Cross references – CRCA 2005, s. 16 and Sch. 2(2): power under this section may be exercised only in connection with functions relating to matters to which CRCA 2005, s. 6 applies.

24 Power to obtain information as to income from securities

24(1) The Board may by notice in writing require–

(a) any person, being a registered or inscribed holder of any United Kingdom securities, who, in any year of assessment, has received on behalf of any other person any income arising from any such securities, or
(b) any person by or through whom, in any year of assessment, any income in respect of United Kingdom securities has been paid in any case where–
  (i) the registered or inscribed holder of the securities is not the person to whom the income was paid or,
  (ii) the securities are bearer securities,

to furnish them, within such time as may be specified in the notice (not being less than twenty-eight days) with particulars of the amounts so received or, as the case may be, paid in that year (other than amounts received or paid in that year on behalf of or to any one person which did not exceed in the aggregate the sum of £15), the securities to which those amounts respectively relate, and the names and addresses of the persons on whose behalf or to whom those amounts were respectively received or paid.

24(2) The Board may similarly require any person who acts or has acted, directly or indirectly, as an intermediary or as one of a series of intermediaries between any such person as is specified in subsection (1)(a) or (b) above and the person or persons beneficially entitled to the income in question to furnish such information as the Board may require for the purpose of enabling them to ascertain the names and addresses of the person or persons beneficially entitled to the income and the respective amounts to which those persons were beneficially entitled.

24(3) Nothing in this section shall impose on any bank the obligation to disclose any particulars relating to income from securities in cases where the person beneficially entitled to the income is not resident in the United Kingdom.

24(3A) In this section **"bank"** has the meaning given by section 991 of ITA 2007.

24(4) In this section–

"securities" includes shares, stocks, bonds, debentures and debenture stock, and

"United Kingdom securities" means any securities issued by or on behalf of Her Majesty's Government in the United Kingdom or the Government of Northern Ireland and any securities of a body corporate incorporated in any part of the United Kingdom.

History – In s. 24(3A), the words "section 991 of ITA 2007" substituted for the words "section 840A of the principal Act" by ITA 2007, s. 1027 and Sch. 1, para. 249, with effect from 6 April 2007.
S. 24(3A) inserted by FA 1996, s. 198 and Sch. 37, para. 11(1), (2), (5), with effect in relation to requirements imposed on or after 29 April 1996.

Cross references – CRCA 2005, s. 16 and Sch. 2(2): power under this section may be exercised only in connection with functions relating to matters to which CRCA 2005, s. 6 applies.
ICTA 1988, s. 816(3): banks have an overriding duty to make disclosures in cases where double taxation treaties apply.

CHARGEABLE GAINS

25 Issuing houses, stockbrokers, auctioneers, etc.

25(1) For the purpose of obtaining particulars of chargeable gains an inspector may by notice in writing require a return under any of the provisions of this section.

25(2) An issuing house or other person carrying on a business of effecting public issues of shares or securities in any company, or placings of shares or securities in any company, either on behalf of the company, or on behalf of holders of blocks of shares or securities which have not previously been the subject of a public issue or placing, may be required to make a return of all such public issues or placings effected by that person in the course of the business in the period specified in the notice requiring the return, giving particulars of the persons to or with whom the shares or securities are issued, allotted or placed, and the number or amount of the shares or securities so obtained by them respectively.

25(3) A person not carrying on such a business may be required to make a return as regards any such public issue or placing effected by that person and specified in the notice, giving particulars of the persons to or with whom the shares or securities are issued, allotted, or placed and the number or amount of the shares or securities so obtained by them respectively.

25(4) A member of a stock exchange in the United Kingdom, other than a market maker, may be required to make a return giving particulars of any transactions effected by him in the course of his business in the period specified in the notice requiring the return and giving particulars of–

(a) the parties to the transactions,
(b) the number or amount of the shares or securities dealt with in the respective transactions, and
(c) the amount or value of the consideration.

25(5) A person (other than a member of a stock exchange in the United Kingdom) who acts as an agent or broker in the United Kingdom in transactions in shares or securities may be required to make a return giving particulars of any such transactions effected by him after 5th April 1968 and in the period specified in the notice, and giving particulars of–

(a) the parties to the transactions,
(b) the number or amount of the shares or securities dealt with in the respective transactions, and
(c) the amount or value of the consideration.

25(6) The committee or other person or body of persons responsible for managing a clearing house for any terminal market in commodities may be required to make a return giving particulars of any transactions effected through the clearing house in the period specified in the notice requiring the return and giving particulars of–

(a) the parties to the transactions,
(b) the amounts dealt with in those transactions respectively, and
(c) the amount or value of the consideration.

25(7) An auctioneer, and any person carrying on a trade of dealing in any description of tangible movable property, or of acting as an agent or intermediary in dealings in any description of tangible movable property, may be required to make a return giving particulars of any transactions effected by or through him in which any asset which is tangible movable property is disposed of for a consideration the amount or value of which, in the hands of the recipient, exceeds £6,000.

25(8) No person shall be required under this section to include in a return particulars of any transaction effected more than three years before the service of the notice requiring him to make the return.

25(9) In this section **"company"** and **"shares"** shall be construed in accordance with sections 99 and 288(1) of the 1992 Act.

25(10) In this section **"market maker"**, in relation to shares or securities, means a person who–

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell shares or securities of the kind concerned at a price specified by him, and
(b) is recognised as doing so by the Council of The Stock Exchange.

History – S.25(4) amended by FA 1986, Sch. 18, para. 8(1) in relation to transactions after 26 October 1986, by substituting "market maker" for "jobber" and s. 25(10) accordingly inserted by para. 8(2).
S. 25(7) amended by FA 1989, s. 123(1)(c), (2) by substituting "£6,000" in relation to disposals after 5 April 1989.
References to provisions of the 1992 Act substituted by TCGA 1992, s. 290 and Sch. 10, para. 2(4).

Cross references – FA 1986, Sch. 18, para. 8(4): the Board has power to make regulations concerning the interpretation of "The Stock Exchange" and "The Council of the Stock Exchange".
TCGA 1992, s. 99: application of tax on chargeable gains as if unit trust schemes were companies.
TCGA 1992, s. 288(1): "company" includes any body corporate or unincorporated association but not a partnership.

HMRC Manuals – Capital Gains CG10370: internal guidance refers to a limit under s. 25(7) of £20,000 per transaction.

26 Nominee shareholders

26(1) If, for the purpose of obtaining particulars of chargeable gains, any person in whose name any shares of a company are registered is so required by notice in writing by the Board or an inspector, he shall state whether or not he is the beneficial owner of those shares and, if not the beneficial owner of those shares or any of them, shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name.

26(2) In this section references to shares include references to securities and loan capital.

27 Settled property

27(1) The Board may by notice in writing require any person, being a party to a settlement, to furnish them within such time as they may direct (not being less than twenty-eight days) with such particulars as they think necessary for the purposes of the 1992 Act.

27(2) In this section **"settlement"** has the meaning given by section 620 of ITTOIA 2005.

History – In s. 27(2) references to ICTA 1988, s. 660G(1), (2) substituted by FA 1995, s. 74 and Sch. 17, para. 21, with effect for the year 1995–96 and subsequent years of assessment and replaced with a reference to ITTOIA 2005, s. 620 by ITTOIA 2005, s. 882(1) and Sch. 1, para. 368; effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
Reference to provisions of the principal Act substituted by ICTA 1988, Sch. 29, para. 32, that Act becoming the principal Act (TMA 1970, s. 118(1)).
References to the 1992 Act substituted by TCGA 1992, s. 290 and Sch. 10, para. 2(2).

Cross references – ICTA 1988, s. 660G(1): definition of settlement by inclusion of any disposition, trust, covenant, agreement or transfer of assets arrangement.
TCGA 1992, s. 98: special powers to obtain information for the purposes of the attribution of gains of non-resident or dual resident settlements etc. to beneficiaries.

28 Non-resident companies and trusts

28(1) A person holding shares or securities in a company which is not resident or ordinarily resident in the United Kingdom may be required by a notice by the Board to give such particulars as the Board may consider are required to determine whether the company or trust falls within section 13 of the 1992 Act, and whether any chargeable gains have accrued to that company in

respect of which the person to whom the notice is given is liable to capital gains tax under that section.

28(2) For the purposes of this section **"company"** and **"shares"** shall be construed in accordance with sections 99 and 288(1) of the 1992 Act.

History – S. 28 substituted by TCGA 1992, s. 290 and Sch. 10, para. 2(5), in relation to tax for the year 1992–93 and subsequent years of assessment.

Cross references – TCGA 1992, s. 13: attribution of gains of certain non-resident companies, which would be close companies if UK-resident, to their members.
TCGA 1992, s. 68: any property held in trust except in relation to certain nominee or bare trusts and subject to rules governing insolvents' assets and unit trusts.
TCGA 1992, s. 99(1) and 288: shares include stock, application also to unit trust schemes and inclusion of any body corporate or unincorporated association but not a partnership.

PART 3A – REFERRAL OF QUESTIONS DURING ENQUIRY

History – Pt. 3A inserted by FA 2001, s. 88 and Sch. 29, para. 6. It applies:
(a) where the notice of enquiry is given after 11 May 2001, or
(b) where the enquiry is in progress immediately before 11 May 2001.
For the purposes of paragraph (b) an enquiry is in progress until the officer's enquiries fall to be treated as completed under section 28A(5) or, as the case may be, section 28B(5) of the Taxes Management Act 1970 (as those provisions had effect apart from the amendments made by FA 2001, sch. 29).

28ZA Referral of questions during enquiry

28ZA(1) At any time when an enquiry is in progress under section 9A(1) or 12AC(1) of this Act, any question arising in connection with the subject-matter of the enquiry may be referred to the Special Commissioners for their determination.

28ZA(2) Notice of referral must be given–

(a) jointly by the taxpayer and an officer of the Board,
(b) in writing,
(c) to the Special Commissioners.

28ZA(3) The notice of referral must specify the question or questions being referred.

28ZA(4) More than one notice of referral may be given under this section in relation to an enquiry.

28ZA(5) For the purposes of this section the period during which an enquiry is in progress is the whole of the period–

(a) beginning with the day on which notice of enquiry is given, and
(b) ending with the day on which the enquiry is completed.

28ZA(6) In this section **"the taxpayer"** means–

(a) in relation to an enquiry under section 9A(1) of this Act, the person to whom the notice of enquiry was given;
(b) in relation to an enquiry under section 12AC(1) of this Act, the person to whom the notice of enquiry was given or his successor.

History – S. 28ZA inserted by FA 2001, s. 88 and Sch. 29, para. 6. It applies:
(a) where the notice of enquiry is given after 11 May 2001, or
(b) where the enquiry is in progress immediately before 11 May 2001.
For the purposes of para. (b) an enquiry is in progress until the officer's enquiries fall to be treated as completed under section 28A(5) or, as the case may be, section 28B(5) of the Taxes Management Act 1970 (as those provisions had effect apart from the amendments made by FA 2001, Sch. 29).

Cross references – SI 2001/4024 (not reproduced): referrals under s. 28ZA.

28ZB Withdrawal of notice of referral

28ZB(1) Either party may withdraw a notice of referral under section 28ZA of this Act by notice in accordance with this section.

28ZB(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.

History – S. 28ZB inserted by FA 2001, s. 88 and Sch. 29, para. 6. It applies:
(a) where the notice of enquiry is given after 11 May 2001, or
(b) where the enquiry is in progress immediately before 11 May 2001.

For the purposes of paragraph (b) an enquiry is in progress until the officer's enquiries fall to be treated as completed under section 28A(5) or, as the case may be, section 28B(5) of the Taxes Management Act 1970 (as those provisions had effect apart from the amendments made by FA 2001, Sch. 29).

28ZC Regulations with respect to referrals

28ZC(1) The Lord Chancellor may make provision by regulations with respect to referrals to the Special Commissioners under–

(a) section 28ZA of this Act, or
(b) paragraph 31A of Schedule 18 to the Finance Act 1998.

28ZC(2) Regulations under subsection (1) above may, in particular–

(a) make provision with respect to any of the matters dealt with in the following provisions of this Act–
  (i) section 50 (procedure before the Special Commissioners),
  (ii) section 56 (statement of case for opinion of the High Court),
  (iii) section 56A (appeals from the Special Commissioners), and
  (iv) section 58 (proceedings in Northern Ireland), or
(b) provide for any of those provisions to apply, with such modifications as may be specified in the regulations, in relation to a referral to the Special Commissioners under the provisions mentioned in subsection (1) above.

28ZC(3) Regulations under subsection (1) above may–

(a) make different provision for different cases or different circumstances, and
(b) contain such supplementary, incidental, consequential and transitional provision as the Lord Chancellor thinks appropriate.

28ZC(4) Regulations under subsection (1) above shall–

(a) be made by statutory instrument, and
(b) be subject to annulment in pursuance of a resolution of either House of Parliament.

28ZC(5) In the following provisions any reference to an appeal includes a reference to a referral under section 28ZA of this Act or paragraph 31A of Schedule 18 to the Finance Act 1998–

(a) sections 56B, 56C and 56D of this Act (power of the Lord Chancellor to make regulations about the practice and procedure to be followed in connection with appeals to the Special Commissioners); and
(b) section 57 of this Act (power of the Board to make regulations about appeals relating to chargeable gains).

28ZC(6) Any regulations under section 56B or 57 of this Act which are in force immediately before the commencement of subsection (1) above shall apply in relation to referrals under section 28ZA of this Act or paragraph 31A of Schedule 18 to the Finance Act 1998, subject to any necessary modifications, as they apply in relation to appeals to the Special Commissioners.

28ZC(7) Regulations under this section relating to proceedings in Scotland shall not be made except with the consent of the Scottish Ministers.

History – S. 28ZC inserted by FA 2001, s. 88 and Sch. 29, para. 6. It applies:
(a) where the notice of enquiry is given after 11 May 2001, or
(b) where the enquiry is in progress immediately before 11 May 2001.

For the purposes of paragraph (b) an enquiry is in progress until the officer's enquiries fall to be treated as completed under section 28A(5) or, as the case may be, section 28B(5) of the Taxes Management Act 1970 (as those provisions had effect apart from the amendments made by FA 2001, Sch. 29).

Statutory instruments – SI 2001/4024 (not reproduced).

28ZD Effect of referral on enquiry

28ZD(1) While proceedings on a referral under section 28ZA of this Act 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.

28ZD(2) For the purposes of this section 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.

28ZD(3) For the purposes of subsection (2)(c) above a question referred is finally determined when–

(a) it has been determined by the Special Commissioners, and

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

History – S. 28ZD inserted by FA 2001, s. 88 and Sch. 29, para. 6. It applies:
(a) where the notice of enquiry is given after 11 May 2001, or
(b) where the enquiry is in progress immediately before 11 May 2001.
For the purposes of paragraph (b) an enquiry is in progress until the officer's enquiries fall to be treated as completed under section 28A(5) or, as the case may be, section 28B(5) of the Taxes Management Act 1970 (as those provisions had effect apart from the amendments made by FA 2001, Sch. 29).

28ZE Effect of determination

28ZE(1) The determination of a question referred to the Special Commissioners under section 28ZA of this Act 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.

28ZE(2) The determination shall be taken into account by an officer of the Board–

(a) in reaching his conclusions on the enquiry, and
(b) in formulating any amendments of the return required to give effect to those conclusions.

28ZE(3) Any right of appeal under section 31(1)(a), (b) or (c) of this Act 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.

History – S. 28ZE inserted by FA 2001, s. 88 and Sch. 29, para. 6. It applies:
(a) where the notice of enquiry is given after 11 May 2001, or
(b) where the enquiry is in progress immediately before 11 May 2001.
For the purposes of paragraph (b) an enquiry is in progress until the officer's enquiries fall to be treated as completed under section 28A(5) or, as the case may be, section 28B(5) of the Taxes Management Act 1970 (as those provisions had effect apart from the amendments made by FA 2001, Sch. 29).

PART IV – ASSESSMENT AND CLAIMS

Cross references – SI 1993/743, reg. 14(2): application of Pt. IV to assessments under reg. 14(1).
SI 2002/2172, reg. 14(4): application of Pt. IV to determinations of working tax credit funding to be repaid by employers.

28A Completion of enquiry into personal or trustee return

28A(1) An enquiry under section 9A(1) of this Act is completed when an officer of the Board by notice (a **"closure notice"**) informs the taxpayer that he has completed his enquiries and states his conclusions.

In this section **"the taxpayer"** means the person to whom notice of enquiry was given.

28A(2) A closure notice must either–

(a) state that in the officer's opinion no amendment of the return is required, or
(b) make the amendments of the return required to give effect to his conclusions.

28A(3) A closure notice takes effect when it is issued.

28A(4) The taxpayer may apply to the Commissioners for a direction requiring an officer of the Board to issue a closure notice within a specified period.

28A(5) Any such application shall be heard and determined in the same way as an appeal.

28A(6) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that there are reasonable grounds for not issuing a closure notice within a specified period.

History – s. 28A substituted by FA 2001, s. 88, Sch. 29, para. 8(1) with effect where the notice of enquiry is given after 11 May 2001, or where the enquiry is in progress immediately before that date (for these purposes, an "enquiry is in progress" until the officer's enquiries fall to be treated as completed under former s. 28A(5) prior to amendment). For the purposes of these commencement provisions and where the substituted provisions continue to apply prior to commencement, the former wording of s. 28A is reproduced below:

"*Amendment of self-assessment where enquiries made*

28A(1) This section applies where an officer of the Board gives notice under section 9A(1) of this Act to any person (**the taxpayer**) of his intention to enquire into–
(a) the return on the basis of which the taxpayer's self-assessment was made, or
(b) any amendment of that return on the basis of which an amendment (**the taxpayer's amendment**) of that assessment has been made by the taxpayer, or
(c) any claim or election included in the return (by amendment or otherwise).

28A(2) If, at any time before the officer's enquiries are completed, the officer is of opinion that–
(a) the tax contained in the taxpayer's self-assessment is insufficient and, in a case falling within subsection (1)(b) or (c) above, the deficiency is attributable (wholly or partly) to the taxpayer's amendment, and
(b) unless the assessment is immediately so amended as to make good the deficiency or, as the case may be, so much of the deficiency as is so attributable, there is likely to be a loss of tax to the Crown,

he may by notice to the taxpayer amend the assessment accordingly.

(3) At any time in the period of 30 days beginning with the day on which the officer's enquiries are completed, the taxpayer may so amend his self-assessment–

(a) as to make good any deficiency or eliminate any excess which, on the basis of the conclusions stated in the officer's notice under subsection (5) below, is a deficiency or excess which could be made good or eliminated under subsection (4) below; or

(b) in a case falling within subsection (1)(a) above where the return was made before the end of the period of twelve months beginning with the filing date, as to give effect to any amendments to the return which he has notified to the officer.

(4) If, at any time in the period of 30 days beginning immediately after the period mentioned in subsection (3) above, the officer is of opinion that–

(a) any amount set out in the return is insufficient or excessive, and

(b) in a case falling within subsection (1)(b) or (c) above, the deficiency or excess is attributable (wholly or partly) to the taxpayer's amendment,

he may by notice to the taxpayer so amend the assessment as to make good or eliminate the deficiency or excess or, where paragraph (b) above applies, so much of the deficiency or excess as is so attributable.

(4A) If–

(a) any claim or election is included in the return,

(b) the officer is of opinion that the claim or election should be disallowed in whole or in part but that its disallowance to the extent he thinks appropriate would not require any amendment of the taxpayer's self-assessment, and

(c) the claim or election, so far as the officer thinks it should be disallowed, is not, before the end of the period mentioned in subsection (3) above, amended to the officer's satisfaction or withdrawn,

the officer shall, before the end of the period mentioned in subsection (4) above, give notice to the taxpayer of the extent to which he is disallowing the claim or election.

(4B) Subsection (4A)(c) above is without prejudice to any provision by virtue of which any claim or election is irrevocable or unamendable.

(5) Subject to subsection (6) below, the officer's enquiries shall be treated as completed at such time as he by notice–

(a) informs the taxpayer that he has completed his enquiries, and

(b) states his conclusions as to the amount of tax which should be contained in the taxpayer's self-assessment and as to any claims or elections into which he has enquired.

(6) At any time before a notice is given under subsection (5) above, the taxpayer may apply for a direction that the officer shall give such a notice within such period as may be specified in the direction.

(6A) Subject to subsection (7) below, an application under subsection (6) above shall be heard and determined in the same way as an appeal against an amendment of a self-assessment under subsection (2) or (4) above.

(7) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that the officer has reasonable grounds for not giving the notice.

(7A) Where, in the case of any return made in respect of any chargeable period–

(a) alternative methods are allowed by the Tax Acts for bringing amounts into account in that return,

(b) the return is made or amended using one of those methods,

(c) a return could have been made in that case using an alternative method, and

(d) an officer of the Board determines which of the alternative methods is to be used by the Board in relation to the taxpayer for that period,

any enquiry into that return or into an amendment of it shall be conducted, and this section shall have effect, as if the only method allowed for the purposes of the Tax Acts were the method determined by the officer.

(7B) For the purposes of subsection (7A) above the cases where the Tax Acts allow alternative methods for bringing amounts into account in a return are–

(a) the case where those amounts may be brought into account either–

(i) in making a computation for the purposes of Case I or II of Schedule D; or

(ii) in making a computation for the purposes of any of Cases III to V of that Schedule.

(8) In this section **"filing date"** means the day mentioned in section 8(1A) or section 8A(1A) of this Act, as the case may be."

Cross references – S. 12B(1): period for which records must be preserved.
Pt. 3A (referral of questions during enquiry): application if enquiry in progress, where completion under former s. 28A(5) (not made.
S. 31–31D (appeals): application to closure notices under s. 28A(1).
S. 43C: application of other provisions following amendment of tax return.
S. 46B–46D: questions to be determined by special commissioners; jurisdiction of special commissioners over certain claims included in returns; questions to be determined by Lands Tribunal.
S. 50(7A): procedure on appeals.
S. 59B(4A)(a): repayment postponed pending completion of enquiries.
Sch. 3ZA, para. 5: tax payable or repayable following amendment of a self assessment in personal or trustee return by closure notice following enquiry.
ICTA 1988, Sch. 13A, para. 14: standard provisions about enquiries into self-assessments.
ICTA 1988, Sch. 28AA, para. 6:"relevant notice" includes a notification given to a taxpayer of an enquiry's completion and conclusions under s. 28A(5).
FA 1998, s. 110(9): meaning of "closure notice" applies s. 28A(1).
FA 1998, s. 111(6): meaning of "relevant notice" applies s. 28A(1).
FA 2001, Sch. 29, para. 8(2): application of s. 28A, if enquiry in progress, where completion under former s. 28A(5) not made.
TCA 2002, s. 20(2): revisions of decisions on working tax credit and child tax credit following issue of a closure notice, or determination or settlement of an appeal.

28AA Amendment of return of profits made for wrong period

28AA [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 9, s. 165 and Sch. 27, Pt. III(28).]

History – S. 28AA repealed by FA 1998, s. 117(3) and Sch. 19, para. 9, s. 165 and Sch. 27, Pt. III(28) with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78).
It was originally inserted by FA 1994, s. 138 and Sch. 24, para. 6, also in relation to accounting periods ending on or after the self-assessment appointed day.
These repealed provisions are superseded by FA 1998, Sch. 18 which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, s. 117(2)).

28AB Provisions supplementary to section 28AA

28AB [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 9, s. 165 and Sch. 27, Pt. III(28).]

History – S. 28AB repealed by FA 1998, s. 117(3) and Sch. 19, para. 9, s. 165 and Sch. 27, Pt. III(28), with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78).

Former s. 28AB inserted by FA 1994, s. 138 and Sch. 24, para. 6 , also in relation to accounting periods ending on or after the self-assessment appointed day.

These repealed provisions are superseded by FA 1998, Sch. 18 which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, s. 117(2)).

28B Completion of enquiry into partnership return

28B(1) An enquiry under section 12AC(1) of this Act is completed when an officer of the Board by notice (a **"closure notice"**) informs the taxpayer that he has completed his enquiries and states his conclusions.

In this section **"the taxpayer"** means the person to whom notice of enquiry was given or his successor.

28B(2) A closure notice must either–

(a) state that in the officer's opinion no amendment of the return is required, or
(b) make the amendments of the return required to give effect to his conclusions.

28B(3) A closure notice takes effect when it is issued.

28B(4) Where a partnership return is amended under subsection (2) above, the officer shall by notice to each of the partners amend–

(a) the partner's return under section 8 or 8A of this Act, or
(b) the partner's company tax return,

so as to give effect to the amendments of the partnership return.

28B(5) The taxpayer may apply to the Commissioners for a direction requiring an officer of the Board to issue a closure notice within a specified period.

28B(6) Any such application shall be heard and determined in the same way as an appeal.

28B(7) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that there are reasonable grounds for not issuing a closure notice within a specified period.

History – S. 28B substituted by FA 2001, s. 88, Sch. 29, para. 9(1) with effect where the notice of enquiry is given after 11 May 2001, or where the enquiry is in progress immediately before that date (for these purposes, an "enquiry is in progress" until the officer's enquiries fall to be treated as completed under former s. 28B(5) prior to amendment). For the purposes of these commencement provisions and where the substituted provisions continue to apply prior to commencement, the former wording of s. 28B is reproduced below:

"*Amendment of partnership statement where enquiries made*

28B(1) This section applies where an officer of the Board gives notice under section 12AC(1) of this Act to any person (the taxpayer) of his intention to enquire into–

(a) the return on the basis of which the taxpayer's partnership statement was made, or
(b) any amendment of that return on the basis of which an amendment (the taxpayer's amendment) of that statement has been made by the taxpayer, or
(c) any claim or election included in the return (by amendment or otherwise).

28B(2) At any time in the period of 30 days beginning with the day on which the officer's enquiries are completed, the taxpayer may so amend his partnership statement–

(a) as to make good any deficiency or eliminate any excess which, on the basis of the conclusions stated in the officer's notice under subsection (5) below, is a deficiency or excess which could be made good or eliminated under subsection (3) below; or
(b) in a case falling within subsection (1)(a) above where the return [was] made before the end of the period of twelve months beginning with the filing date, as to give effect to any amendments to the return which he has notified to the officer.

28B(3) If, at any time in the period of 30 days beginning immediately after the period mentioned in subsection (2) above, the officer is of opinion that–

(a) any amount contained in the taxpayer's partnership statement is insufficient or excessive, and
(b) in a case falling within subsection (1)(b) or (c) above, the deficiency or excess is attributable (wholly or partly) to the taxpayer's amendment,

he may by notice to the taxpayer so amend the statement as to make good or eliminate the deficiency or excess or, where paragraph (b) above applies, so much of the deficiency or excess as is so attributable.

(4) Where a partnership statement is amended under this section, the officer shall by notice to each of the partners amend–

(a) the partner's self-assessment under section 9 of this Act, or
(b) the partner's company tax return,

so as to give effect to the amendments of the partnership statement.

(5) Subject to subsection (6) below, the officer's enquiries shall be treated as completed at such time as he by notice–

(a) informs the taxpayer that he has completed his enquiries, and
(b) states his conclusions as to the amounts which should be contained in the taxpayer's partnership statement and as to any claims or elections into which he has enquired.

(6) Subsections (6) and (7) of section 28A of this Act apply for the purposes of subsection (5) above as they apply for the purposes of subsection (5) of that section.

(6A) Where, in the case of any return made in relation to any period of account–

(a) alternative methods are allowed by the Tax Acts for bringing amounts into account in that return,
(b) the return is made or amended using one of those methods,
(c) a return could have been made in that case using an alternative method, and
(d) an officer of the Board determines which of the alternative methods is to be used by the Board in relation to the partnership for that period,

any enquiry into that return or into an amendment of it shall be conducted, and this section shall have effect, as if the only method allowed for the purposes of the Tax Acts were the method determined by the officer.

(6B) For the purposes of subsection (6A) above–
(a) **"period of account"** has the same meaning as in section 12AB of this Act, and
(b) the cases where alternative methods are allowed by the Tax Acts are those specified in section 28A(7B) of this Act or paragraph 84(2) or (3) of Schedule 18 to the Finance Act 1998.

(7) In this section **"filing date"** means the day specified in the notice under subsection (2) or, as the case may be, subsection (3) of section 12AA of this Act.

(8) Any reference in this section to the taxpayer includes a reference to any predecessor or successor of his."

Former s. 28B originally inserted by FA 1994, s. 189, and amended by FA 1996, s. 133 and Sch. 19, para. 2, 5, in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and, in its original form (i.e. including the corporation tax provisions in former s. 28B(4), (6B)), as respects corporation tax accounting periods ending on or after the self-assessment appointed day (FA 1994, s. 199(2), (3)).

Former s. 28B(4), (6B) substituted by FA 1998, Sch. 19 para. 10(2), (3) with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C.78). Those corporation tax provisions were superseded by provisions in FA 1998, Sch. 18 for accounting periods ending on or after 1 July 1999.

Cross references – S. 12B(1): period for which records must be preserved.
S. 12AB(5): source of the meaning of the term " period of account".
Pt. 3A (referral of questions during enquiry): application if enquiry in progress, where completion under former s. 28B(5) not made.
S. 31–31D (appeals): application to closure notices under s. 28B(1) .
S. 43C: application of other provisions following amendment of tax return.
S. 46B–46D: questions to be determined by special commissioners; jurisdiction of special commissioners over certain claims included in returns; questions to be determined by Lands Tribunal.
Sch. 3ZA, para. 8: tax payable or repayable following amendment of a self assessment in partnership return by closure notice following enquiry.
FA 1998, s. 110(9): meaning of "closure notice" applies s. 28B(1).
FA 1998, s. 111(6): meaning of "relevant notice" applies s. 28B(1).
FA 2001, Sch. 29, para. 9(2): application of s. 28B, if enquiry in progress, where completion under former s. 28B(5) not made.
TCA 2002, s. 20(2): revisions of decisions on working tax credit and child tax credit following amendment of return.

Notes – In former TMA 1970, s. 28B(2)(b) (as inserted) the word "was" appears to have been omitted after the word "return" in the Queen's Printer's version.

28C Determination of tax where no return delivered

28C(1) This section applies where–

(a) a notice has been given to any person under section 8 or 8A of this Act (the relevant section), and
(b) the required return is not delivered on or before the filing date.

28C(1A) An officer of the Board may make a determination of the following amounts, to the best of his information and belief, namely–

(a) the amounts in which the person who should have made the return is chargeable to income tax and capital gains tax for the year of assessment; and
(b) the amount which is payable by him by way of income tax for that year;

and subsection (1AA) of section 8 or, as the case may be, section 8A of this Act applies for the purposes of this subsection as it applies for the purposes of subsection (1) of that section.

28C(2) Notice of any determination under this section shall be served on the person in respect of whom it is made and shall state the date on which it is issued.

28C(3) Until such time (if any) as it is superseded by a self-assessment made under section 9 of this Act (whether by the taxpayer or an officer of the Board) on the basis of information contained in a return under the relevant section, a determination under this section shall have effect for the purposes of Parts VA, VI, IX and XI of this Act as if it were such a self-assessment.

28C(4) Where–

(a) proceedings have been commenced for the recovery of any tax charged by a determination under this section; and
(b) before those proceedings are concluded, the determination is superseded by such a self-assessment as is mentioned in subsection (3) above,

those 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.

28C(5) No determination under this section, and no self-assessment superseding such a determination, shall be made otherwise than–

(a) before the end of the period of five years beginning with the filing date; or

(b) in the case of such a self-assessment, before the end of the period of twelve months beginning with the date of the determination.

28C(6) In this section "the filing date" in respect of a return for a year of assessment (Year 1) means either–

(a) 31st January of Year 2, or
(b) if the notice under section 8 or 8A was given after 31st October of Year 2, the last day of the period of three months beginning with the day on which the notice is given.

History – In s. 28C(4)(a) the words "proceedings have been commenced" substituted by FA 2001, s. 88, Sch. 29, para. 17(1) with effect in relation to proceedings begun after 11 May 2001.
S. 28C(6) substituted by FA 2007, s. 91(5), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007. Former s. 28C(6) read as follows:
"**28C(6)** In this section "the filing date" means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act."
See s. 8 or s. 8A History note as appropriate.

Cross references – S. 59B(5A): payment/repayment of tax where a determination under s. 28C which has effect as a person's self-assessment is superseded by his self-assessment under s. 9.

Other material – Tax Bulletin TB08/95–7: equitable liability may apply where time limit has passed for displacing a determination with a self-assessment but there is acceptable evidence of a lower and correct liability.

28D Determination of corporation tax where no return delivered

28D [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 11, s. 165 and Sch. 27, Pt. III(28).]

History – S. 28D repealed by FA 1998, s. 117(3) and Sch. 19, para. 11, s. 165 and Sch. 27, Pt. III(28) with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173.
Former s. 28D inserted by FA 1994, s. 138 and Sch. 24, para. 7 , also in relation to accounting periods ending on or after the self-assessment appointed day.
These repealed provisions are superseded by FA 1998, Sch. 18 which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, s. 117(2)).

28E Determination of corporation tax where notice complied with in part

28E [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 11, s. 165 and Sch. 27, Pt. III(28).]

History – S. 28E repealed by FA 1998, s. 117(3) and Sch. 19, para. 11, s. 165 and Sch. 27, Pt. III(28) as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173.
Former s. 28E inserted by FA 1994, s. 138 and Sch. 24, para. 7 , in relation to accounting periods ending on or after the self-assessment appointed day.
These repealed provisions are superseded by FA 1998, Sch. 18 which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, s. 117(2)).

28F Corporation tax determinations: supplementary

28F [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 11, s. 165 and Sch. 27, Pt. III(28).]

History – S. 28F repealed by FA 1998, s. 117(3) and Sch. 19, para. 11, s. 165 and Sch. 27, Pt. III(28) with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173.
Former s. 28F inserted by FA 1994, s. 138 and Sch. 24, para. 7 , also in relation to accounting periods ending on or after the self-assessment appointed day.
These repealed provisions are superseded by FA 1998, Sch. 18 which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, s. 117(2)).

29 Assessment where loss of tax discovered

29(1) If an officer of the Board or the Board discover, as regards any person (**the taxpayer**) and a year of assessment–

(a) that any income which ought to have been assessed to income tax, or chargeable gains which ought to have been assessed to capital gains tax, have not been assessed, or
(b) that an assessment to tax is or has become insufficient, or
(c) that any relief which has been given is or has become excessive,

the officer or, as the case may be, the Board may, subject to subsections (2) and (3) below, make an assessment in the amount, or the further amount, which ought in his or their opinion to be charged in order to make good to the Crown the loss of tax.

29(2) Where–

(a) the taxpayer has made and delivered a return under section 8 or 8A of this Act in respect of the relevant year of assessment, and
(b) the situation mentioned in subsection (1) above is attributable to an error or mistake in the return as to the basis on which his liability ought to have been computed,

the taxpayer shall not be assessed under that subsection in respect of the year of assessment there mentioned if the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.

29(3) Where the taxpayer has made and delivered a return under section 8 or 8A of this Act in respect of the relevant year of assessment, he shall not be assessed under subsection (1) above–

(a) in respect of the year of assessment mentioned in that subsection; and
(b) in the same capacity as that in which he made and delivered the return,

unless one of the two conditions mentioned below is fulfilled.

29(4) The first condition is that the situation mentioned in subsection (1) above is attributable to fraudulent or negligent conduct on the part of the taxpayer or a person acting on his behalf.

29(5) The second condition is that at the time when an officer of the Board–

(a) ceased to be entitled to give notice of his intention to enquire into the taxpayer's return under section 8 or 8A of this Act in respect of the relevant year of assessment; or
(b) informed the taxpayer that he had completed his enquiries into that return,

the officer could not have been reasonably expected, on the basis of the information made available to him before that time, to be aware of the situation mentioned in subsection (1) above.

29(6) For the purposes of subsection (5) above, information is made available to an officer of the Board if–

(a) it is contained in the taxpayer's return under section 8 or 8A of this Act in respect of the relevant year of assessment (the return), or in any accounts, statements or documents accompanying the return;
(b) it is contained in any claim made as regards the relevant year of assessment by the taxpayer acting in the same capacity as that in which he made the return, or in any accounts, statements or documents accompanying any such claim;
(c) it is contained in any documents, accounts or particulars which, for the purposes of any enquiries into the return or any such claim by an officer of the Board, are produced or furnished by the taxpayer to the officer, whether in pursuance of a notice under section 19A of this Act or otherwise; or
(d) it is information the existence of which, and the relevance of which as regards the situation mentioned in subsection (1) above–
    (i) could reasonably be expected to be inferred by an officer of the Board from information falling within paragraphs (a) to (c) above; or
    (ii) are notified in writing by the taxpayer to an officer of the Board.

29(7) In subsection (6) above–

(a) any reference to the taxpayer's return under section 8 or 8A of this Act in respect of the relevant year of assessment includes–
    (i) a reference to any return of his under that section for either of the two immediately preceding years of assessment; and
    (ii) where the return is under section 8 and the taxpayer carries on a trade, profession or business in partnership, a reference to any partnership return with respect to the partnership for the relevant year of assessment or either of those periods; and
(b) any reference in paragraphs (b) to (d) to the taxpayer includes a reference to a person acting on his behalf.

29(7A) The requirement to fulfil one of the two conditions mentioned above does not apply so far as regards any income or chargeable gains of the taxpayer in relation to which the taxpayer has been given, after any enquiries have been completed into the taxpayer's return, a notice under section 804ZA of the principal Act.

29(8) An objection to the making of an assessment under this section on the ground that neither of the two conditions mentioned above is fulfilled shall not be made otherwise than on an appeal against the assessment.

29(9) Any reference in this section to the relevant year of assessment is a reference to–

(a) in the case of the situation mentioned in paragraph (a) or (b) of subsection (1) above, the year of assessment mentioned in that subsection; and

(b) in the case of the situation mentioned in paragraph (c) of that subsection, the year of assessment in respect of which the claim was made.

29(10) [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 12(6), s. 165 and Sch. 27, Pt. III(28).]

History – In s. 29(1), words "income which ought . . . capital gains tax" substituted by FA 1998, s. 117(3) and Sch. 19 para. 12(2) with effect from 1 July 1999 (see note above).
In s. 29(2), (3), (5)(a), (6)(a) and (7)(a), words "section 8 or 8A" substituted by FA 1998, Sch. 19, para. 12(4) with effect from 1 July 1999 (see note above).
In s. 29(3)(b), words "in the case of a return under section 8 or 8A" repealed by FA 1998, s. 117(3), Sch. 19, para. 12(5), s. 165 and Sch. 27, Pt. III(28), with effect from 1 July 1999 (see note above).
In s. 29(7)(a)(ii), the words "any partnership return with respect to the partnership" substituted by FA 2001, s. 88, Sch. 29, para. 22 with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
S. 29(7A) inserted by FA 2005, s. 88(2) with effect from 10 February 2005 where credit for foreign tax is affected by a scheme to which ICTA 1988, Sch. 28AB, para. 5 applies or 16 March 2005 where that credit is affected by any other scheme or arrangement prescribed by ICTA 1988, Sch. 28AB (FA 2005, s. 87(3), (5)).
S. 29(10) repealed by FA 1998, s. 117(3) and Sch. 19, para. 12(6), s. 165 and Sch. 27, Pt. III(28), with effect from 1 July 1999 (see note above).
In s. 29, "year of assessment" substituted for "chargeable period", wherever it occured, by FA 1998, s. 117(3) and Sch. 19 para. 12(3) with effect from 1 July 1999 (see note above).
S. 29 substituted by FA 1994, s. 191(1), (2) with effect for income tax and capital gains tax from 1996–97 in respect of partnerships trading before 6 April 1994 and from 1997–98 in all other cases. (It was also to have had effect for corporation tax purposes for accounting periods ending on or after 1 July 1999, but was superseded by FA 1998, Sch. 18, para. 41. Consequential amendments were made to s. 29 with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173.)

Cross references – S. 7(8): penalty for failure to comply with s. 7(1) will not exceed tax assessed in respect of the year under this section or TMA 1970 s. 9.
S. 43A: time limits for certain discovery assessments.
S. 46(2): save as provided in this section, determination of commissioners final and conclusive.
S. 55(1): recovery of tax not postponed.
S. 59A(4B): payments on account of income tax.
S. 59B(6): income tax or capital gains tax due by virtue of assessment under s. 29 is payable 30 days from date of notice of assessment.
S. 113(1B): delegation of responsibility by officer of the Board for completing assessment procedure.
S. 114: want of form not to invalidate assessment.
ICTA 1988, s. 588(5): application of s. 29 to employers incurring training costs.
ICTA 1988, s. 804ZA: notices in respect of certain prescribed tax-avoidance schemes and arrangements designed to increase relief for foreign tax.
ICTA 1988, Sch. 3, para. 6E(1): disapplication of s. 29(1)–(4), (7), (8) in relation to assessments under ICTA 1988, Sch. 3, para. 6D (paying and collecting agents in respect of foreign dividends etc.).
ICTA 1988, Sch. 14, para. 7(3): s. 29 applicable to excess relief claim in relation to life assurance premiums.
ICTA 1988, Sch. 28AA, para. 6:"relevant notice" includes a notice of assessment under s. 29.
FA 1995, s. 73(4): power of Treasury to make regulations concerning tax credits on distributions from venture capital trusts, applying s. 29(1)(c) to repayments of income tax.
FA 1998, s. 110(9):Board approval required in transfer pricing cases for issue of a discovery assessment under s. 29 .
FA 1998, s. 111(6): a "relevant notice" includes assessments issued under s. 29.
FA 1998, Sch. 18, para. 44: time limit for making discovery assessments and determinations in respect of companies.
ITEPA 2003, s. 312(2): recovery of tax where exemption for retraining expenses withdrawn.
TCA 2002, s. 20(2): revisions of decisions on working tax credit and child tax credit following making of an assessment under s. 29(1), or determination or settlement of an appeal.
SI 1995/351, reg. 5, 6: assessment in respect of amount payable under stop-loss insurance to an individual or corporate member of Lloyd's is not out of time if made before end of underwriting year following the underwriting year in which amount received.

Statements of practice – SP 8/91: principles applied by HMRC in determining whether "discovery" assessment should be made.

HMRC Manuals – Enquiry Manual EM3260: Revenue's view on when information is "made available."
Enquiry Manual EM3265: operational restriction on making discovery assessments.

Other material – Tax Bulletin TB06/96-1: discovery and disclosure under self assessment.
Tax Bulletin TB08/01-6: guidance on when HMRC will raise a "discovery" assessment without opening an enquiry.
Taxline 1996/124 (not reproduced): Revenue clarification that for self-assessment purposes the relevance of any accounts or computations submitted with a return does not need to be indicated, and it is to be assumed that the Revenue has received the information contained therein.

30 Recovery of overpayment of tax, etc.

30(1) Where an amount of income tax or capital gains tax has been repaid to any person which ought not to have been repaid to him, that amount of tax may be assessed and recovered as if it were unpaid tax.

30(1A) Subsection (1) above shall not apply where the amount of tax which has been repaid is assessable under section 29 of this Act.

30(1B) Subsections (2) to (8) of section 29 of this Act shall apply in relation to an assessment under subsection (1) above as they apply in relation to an assessment under subsection (1) of that section; and subsection (4) of that section as so applied shall have effect as if the reference to the loss of tax were a reference to the repayment of the amount of tax which ought not to have been repaid.

30(2) In any case where–

(a) a repayment of tax has been increased in accordance with section 824 of the principal Act or section 283 of the 1992 Act (supplements added to repayments of tax, etc.); and

(b) the whole or any part of that repayment has been paid to any person but ought not to have been paid to him; and

(c) that repayment ought not to have been increased either at all or to any extent;

then the amount of the repayment assessed under subsection (1) above may include an amount equal to the amount by which the repayment ought not to have been increased.

30(2A) [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 13(4), s. 165 and Sch. 27, Pt. III(28), as respects accounting periods ending on or after 1 July 1999, the appointed day.]

30(3) In any case where–

(a) a payment, other than a repayment of tax to which subsection (2) above applies, is increased in accordance with section 824 or 825 of the principal Act or section 283 of the 1992 Act; and

(b) that payment ought not to have been increased either at all or to any extent;

then an amount equal to the amount by which the payment ought not to have been increased may be assessed and recovered as if it were unpaid income tax.

30(3A) [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 13(6), s. 165 and Sch. 27, Pt. III(28) as respects accounting periods ending on or after 1 July 1999, the appointed day.]

30(4) [Omitted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 369 and repealed by ITTOIA 2005, s. 884 and Sch. 3.]

30(4A) [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 13(8), s. 165 and Sch. 27, Pt. III(28) as respects accounting periods ending on or after 1 July 1999, the appointed day.]

30(5) An assessment under this section shall not be out of time under section 34 of this Act if it is made before the end of whichever of the following ends the later, namely–

(a) the year of assessment following that in which the amount assessed was repaid or paid as the case may be, or

(b) where a return delivered by the person concerned is enquired into by an officer of the Board, the period ending with the day on which, by virtue of section 28A(1) of this Act, the enquiry is completed.

30(6) Subsection (5) above is without prejudice to section 36 of this Act.

30(7) In this section any reference to an amount repaid or paid includes a reference to an amount allowed by way of set-off.

History – In s. 30(1), the words "income tax or capital gains tax" substituted for the word "tax" by FA 1998, s. 117(3) and Sch. 19, para. 13(2) with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78).

The above amendment to s. 30(1), and the amendments by FA 1998 detailed in the notes below, effectively disapply s. 30 for the purposes of corporation tax for accounting periods ending on and after 1 July 1999, the appointed day. FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970, contains equivalent provisions for corporation tax under self-assessment (FA 1998, s. 117(2)).

S. 30(1A) inserted by FA 1990, s. 105 in relation to amounts of tax repaid on or after 26 July 1990.

S. 30(1B) inserted by FA 1994, s. 196 and Sch. 19, para. 4, for income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and originally also for corporation tax as respects accounting periods ending on or after 1 July 1999 (the appointed day: see above), but for corporation tax self-assessment see now FA 1998, Sch. 18.

In s. 30(2)(a), reference to ICTA 1988, s. 825 omitted by FA 1998, s. 117(3) and Sch. 19, para. 13(3), s. 165 and Sch. 27, Pt. III(28) as respects accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day (see above).

In s. 30(2)(a) and (3)(a), references to "section 283 of the 1992 Act", substituted by TCGA 1992, s. 290 and Sch. 10, para. 2(6).

S. 30(2A) and (3A) repealed by FA 1998, s. 117(3) and Sch. 19, para. 13(4) , (6) and (8), with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day (see above).

S. 30(4) omitted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 369 and repealed by ITTOIA 2005, s. 884 and Sch. 3; effective for 2005–06 onwards.

S. 30(4A) repealed by FA 1998, s. 117(3) and Sch. 19, para. 13(4) , (6) and (8), with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day (see above).

In s. 30(3), the words "or corporation tax" omitted by FA 1998, s. 117(3) and Sch. 19, para. 13(5), s. 165 and Sch. 27, Pt. III(27), with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day (see above).

S. 30(4) substituted by FA 1998, s. 117(3) and Sch. 19, para. 13(5), with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day (see above).

In s. 30(5)(b), the words ", or an amendment of such a return," (which appeared after the words "the person concerned") omitted, "28A(1)" substituted for "28A(5)" and "the enquiry is" substituted for "the officer's enquiries are treated as", by FA 2001, s. 88, Sch. 29, para. 23, and the words omitted repealed by s. 110, Sch. 33, Pt. II(13), all with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.

S. 30(6) amended by FA 1989, s. 149(3)(a) omitting reference to s. 37 and 39 consequent to the repeal (with saving) of those sections.

S. 30 substituted by FA 1982, s. 149(1) in relation to any amount repaid or paid from 6 April 1982.

Cross references – S. 107A: relevant trustees may be liable for payment under s. 30.

ICTA 1988, s. 252(2)–(4): recovery of overpaid interest on payments of tax credit.

ICTA 1988, s. 369(7): s. 30 applies to any overpayment to a MIRAS lender of tax deducted by a borrower and thus treated as paid by the lender as if it were income tax which ought not to have been repaid, or a relief which was not due.

ICTA 1988, s. 813(3): where tax credits have been incorrectly paid the amounts recoverable may be assessed and recovered as if they were unpaid tax, and s. 30 applies accordingly.
ICTA 1988, Sch. 14, para. 7(3): s. 30 applies to life assurance premium relief.
ICTA 1988, Sch. 19AB, para. 3(1): excess of provisional repayments of income tax borne by deduction or tax credit in respect of pension business of a life insurance company, over actual entitlement, treated as excessive repayment of corporation tax to the insurance company. See also para. 3(1ZA): modification of time limit where assessment made under s. 30 by virtue of para. 3(1) (pre-corporation tax self-assessment).
FA 1989, s. 57(3): s. 30 applies to excess relief for medical insurance payments.
FA 1991, s. 33(3)(b): application of s. 30 where the recipient of a payment in respect of a qualifying course of vocational training claims from the Board the amount of tax deducted by the payer, but is not entitled to do so.
FA 1995, s. 73(4): s. 30 may be applied where repayment of income tax made in respect of tax credits on distributions of venture capital trusts.
FA 2000, s. 46(2)(a): exemption under that section (small charitable trades) denied in respect of income which is chargeable to tax under s. 30.
SI 1987/1749, reg. 11(1): s. 30 applies in relation to certain payments by the Board under Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987.
SI 1988/1012, reg. 6(1): similar provisions to those of s. 30 are applied to erroneous payments made by the Secretary of State by way of minimum contributions under SSA 1986.
SI 1988/1013, reg. 13(1): similar provisions to those of s. 30 are applied to certain excessive and erroneous payments made to a scheme administrator.
SI 1992/734, reg. 6: adaptation of s. 30 in relation to recovery of tax from training provider for purposes of vocational training relief.
SI 1994/1518, reg. 5: s. 30 modified as respects recovery of tax from payee of medical insurance premium.
SI 1995/351, reg. 5, 6: assessment in respect of amount payable under stop-loss insurance to an individual or corporate member of Lloyd's is not out of time if made before end of underwriting year following the underwriting year in which amount received.
SI 2001/56, reg. 3, 4, 5: application of s. 30 to incentive payments for electronic communication of individual and employer returns.
SI 2003/2495, reg. 4: recovery of overpaid incentives for PAYE filing.

Extra-statutory concessions – B41: repayments of tax will be made outside the statutory six-year time limit where an overpayment of tax has arisen because of an error by the Revenue or another government department, and where there is no dispute or doubt as to the facts.

Statements of practice – SP 8/91: principles applied by Revenue in deciding whether "discovery" assessment should be made.

30A Assessing procedure

30A(1) Except as otherwise provided, all assessments to tax which are not self-assessments shall be made by an officer of the Board.

30A(2) All income tax which falls to be charged by an assessment which is not a self-assessment may, notwithstanding that it was chargeable under more than one Part or Chapter of ITEPA 2003 or ITTOIA 2005, be included in one assessment.

30A(3) Notice of any such assessment shall be served on the person assessed and shall state the date on which it is issued and the time within which any appeal against the assessment may be made.

30A(4) After the notice of any such assessment has been served on the person assessed, the assessment shall not be altered except in accordance with the express provisions of the Taxes Acts.

30A(5) Assessments to tax which under any provision in the Taxes Acts are to be made by the Board shall be made in accordance with this section.

History – In s. 30A(2) the words "Part or Chapter of ITEPA 2003 or ITTOIA 2005" substituted for the former word "Schedule" by ITTOIA 2005, s. 882(1) and Sch. 1, para. 370; effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
S. 30A inserted by FA 1994, s. 196 and Sch. 19, para. 5(1) in respect of the year 1997–98 and subsequent years of assessment for partnerships whose trades, professions or businesses were set up or commenced before 6 April 1994 (FA 1994, Sch. 19, para. 5(2)) and otherwise in respect of the year 1996–97 and subsequent years of assessment (FA 1994, s. 199(2) and SI 1998/3173).

30B Amendment of partnership statement where loss of tax discovered

30B(1) Where an officer of the Board or the Board discover, as regards a partnership statement made by any person (**the representative partner**) in respect of any period–

(a) that any profits which ought to have been included in the statement have not been so included, or
(b) that an amount of profits so included is or has become insufficient, or
(c) that any relief or allowance claimed by the representative partner is or has become excessive,

the officer or, as the case may be, the Board may, subject to subsections (3) and (4) below, by notice to that partner so amend the partnership return as to make good the omission or deficiency or eliminate the excess.

30B(2) Where a partnership return is amended under subsection (1) above, the officer shall by notice to each of the relevant partners amend–

(a) the partner's return under section 8 or 8A of this Act, or
(b) the partner's company tax return,

so as to give effect to the amendments of the partnership return.

30B(3) Where the situation mentioned in subsection (1) above is attributable to an error or mistake as to the basis on which the partnership statement ought to have been made, no amendment shall be made under that subsection if that statement was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.

30B(4) No amendment shall be made under subsection (1) above unless one of the two conditions mentioned below is fulfilled.

30B(5) The first condition is that the situation mentioned in subsection (1) above is attributable to fraudulent or negligent conduct on the part of–

(a) the representative partner or a person acting on his behalf, or
(b) a relevant partner or a person acting on behalf of such a partner.

30B(6) The second condition is that at the time when an officer of the Board–

(a) ceased to be entitled to give notice of his intention to enquire into the representative partner's partnership return; or
(b) informed that partner that he had completed his enquiries into that return,

the officer could not have been reasonably expected, on the basis of the information made available to him before that time, to be aware of the situation mentioned in subsection (1) above.

30B(7) Subsections (6) and (7) of section 29 of this Act apply for the purposes of subsection (6) above as they apply for the purposes of subsection (5) of that section; and those subsections as so applied shall have effect as if–

(a) any reference to the taxpayer were a reference to the representative partner;
(b) any reference to the taxpayer's return under section 8 or 8A were a reference to the representative partner's partnership return; and
(c) sub-paragraph (ii) of paragraph (a) of subsection (7) were omitted.

30B(8) An objection to the making of an amendment under subsection (1) above on the ground that neither of the two conditions mentioned above is fulfilled shall not be made otherwise than on an appeal against the amendment.

30B(9) In this section–

"profits"
(a) in relation to income tax, means income,
(b) in relation to capital gains tax, means chargeable gains, and
(c) in relation to corporation tax, means profits as computed for the purposes of that tax;

"relevant partner" means a person who was a partner at any time during the period in respect of which the partnership statement was made.

30B(10) Any reference in this section to the representative partner includes, unless the context otherwise requires, a reference to any successor of his.

History – In s. 30B(1), the words "amend the partnership return" substituted for the words "amend the statement" by FA 2001, s. 88, Sch. 29, para. 24(2) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
S. 30B(2) substituted by FA 2001, s. 88, Sch. 29, para. 24(3) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then. The effect of the amendment was to replace in para. (a) the reference to "the partner's self-assessment under section 9 of this Act" with the present wording and to replace the word "statement" with the word "return". S. 30B(2) had been substituted previously by FA 1998, s. 117(3) and Sch. 19, para. 14(2) as respects accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78).
In s. 30B(6)(a) and (7)(b) the words "partnership return" substituted for "return under section 12AA of this Act" by FA 2001, s. 88, Sch. 29, para. 24(4) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
In s. 30B(7)(b), reference to TMA 1970, s. 11 omitted by FA 1998, s. 117(3) and Sch. 19, para. 14(3) as respects accounting periods ending on or after 1 July 1999 – the corporation tax self-assessment appointed day (see above).
In s. 30B(9), the definition of "profits" substituted as respects accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day (see above).
S. 30B inserted by FA 1994, s. 196 and Sch. 19, para. 6, and amended by FA 1995, s. 115(5), for income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and originally also for corporation tax as respects accounting periods ending on or after the self-assessment appointed day (FA 1994, s. 199(2), (3)), but now superseded by FA 1998, Sch. 18 for corporation tax self-assessment provisions.

Cross references – s. 31–31D (appeals) (as substituted by FA 2001, Sch. 29, para. 11): application to amendments of partnership returns under s. 30B(1) (as amended by FA 2001) where notice of the amendment is issued after 11 May 2001.
S. 46B–46D: questions to be determined by special commissioners; jurisdiction of special commissioners over certain claims included in returns; questions to be determined by Lands Tribunal.
Sch. 3ZA, para. 9: tax payable or repayable on consequential amendment under s. 30B(2)(a) of self assessment in partner's return.

31 Appeals: right of appeal

31(1) An appeal may be brought against–

(a) any amendment of a self-assessment under section 9C of this Act (amendment by Revenue during enquiry to prevent loss of tax),

(b) any conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act (amendment by Revenue on completion of enquiry into return),

(c) any amendment of a partnership return under section 30B(1) of this Act (amendment by Revenue where loss of tax discovered), or

(d) any assessment to tax which is not a self-assessment.

31(2) An appeal under subsection (1)(a) above against an amendment of a self-assessment made while an enquiry is in progress shall not be heard and determined until the enquiry is completed.

31(3) A determination under or 12AE of this Act (choice between different Cases of Schedule D) may not be questioned on an appeal under this section.

31(4) This section has effect subject to any express provision in the Taxes Acts, including in particular any provision making one kind of assessment conclusive in an appeal against another kind of assessment.

History – In s. 31(3) the reference to TMA 1970, s. 9D omitted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 371; effective 2005–06 onwards (ITTOIA 2005, s. 883(1)).
S. 31–31D substituted for former s. 31 by FA 2001, Sch. 29, para. 11(1) with effect in relation to–

(a) amendments of a self assessment under s. 9C (as inserted by FA 2001, Sch. 29, para. 4, with effect from 11 May 2001);
(b) closure notices issued under s. 28A(1) or 28B(1) (as substituted by FA 2001, Sch. 29, para. 8 and 9, with effect from 11 May 2001);
(c) amendments of partnership returns under s. 30B(1) where notice of the amendment is issued after 11 May 2001, and
(d) assessments to tax which are not self assessments where the notice of the assessment is issued after 11 May 2001.

Cross references – ICTA 1988, s. 350, 445, 740, 743(1) and 747(4)(a): deduction of income tax at source; charge on investment income of overseas life insurance companies; liability of non-transferor on transfer of assets abroad; liability of transferor on transfer of assets abroad; and charge on profits of controlled foreign companies.
ICTA 1988, s. 830 (and FA 1973, s. 38): extended charge to tax in relation to the territorial sea of the UK and designated areas.
ICTA 1988, Sch. 27, para. 17: no appeal may be brought on the ground that an offshore fund should have been certified as a distributing fund.
FA 1988, s. 134(8): an election that certain proceedings in Northern Ireland instituted in front of special commissioners should not be transferred to general commissioners may be disregarded by virtue of former s. 31(5A)–(5E).
TCGA 1992, s. 276: extended charge to tax on chargeable gains in relation to the territorial sea of the UK and designated areas.
FA 1993, s. 173 and Sch. 19, para. 4(3): for 1992–93 and subsequent years of assessment former s. 31(5)–(5E) apply for the purposes of an election in respect of underwriters' agents' appeals against inspectors' determinations of Lloyd's syndicate profits and losses in the same way as for the purposes of s. 31(4).
FA 1993, s. 173 and Sch. 19, para. 7(2)(a): modified application of former s. 31 for 1992–93 and subsequent years of assessment where determination of a Lloyd's syndicate's profit or loss is varied or modified after issue of a notice of assessment on any syndicate member.
SSCTFA 1999, s. 12(5): former s. 31(5A)–(5E) have effect in relation to an election under SSCTFA 1999, s. 12(4) (election to bring appeal against a decision of an officer of the Board on certain contributions questions before the Special Commissioners) as they do in relation to an appeal under former s. 31(4).
SI 1993/2004, reg. 11(10): application of former s. 31 to an appeal against an assessment under reg. 11 (manufactured overseas dividends).
TCA 2002, s. 39(4): s. 31D(2) to (7) have effect for purposes of an election under TCA 2002, s. 39(3) (election to bring tax credits appeal before the Special Commissioners) but see also TCA 2002, s. 63 for transitional arrangements.

Notes – Express provisions requiring appeals against assessments to be made to the special commissioners:

- S. 47(3) (chargeable gains regarding the value of unquoted shares or securities in UK-resident companies);
- ICTA 1988, s. 75(5) (expenses of management);
- ICTA 1988, s. 584(9) (relief for unremittable overseas income).

For jurisdiction in appeals on claims see s. 42 and Sch. 2.

31A Appeals: notice of appeal

31A(1) Notice of an appeal under section 31 of this Act must be given–

(a) in writing,

(b) within 30 days after the specified date,

(c) to the relevant officer of the Board.

31A(2) In relation to an appeal under section 31(1)(a) or (c) of this Act–

(a) the specified date is the date on which the notice of amendment was issued, and

(b) the relevant officer of the Board is the officer by whom the notice of amendment was given.

31A(3) In relation to an appeal under section 31(1)(b) of this Act–

(a) the specified date is the date on which the closure notice was issued, and

(b) the relevant officer of the Board is the officer by whom the closure notice was given.

31A(4) In relation to an appeal under section 31(1)(d) of this Act–

(a) the specified date is the date on which the notice of assessment was issued, and

(b) the relevant officer of the Board is the officer by whom the notice of assessment was given.

31A(5) The notice of appeal must specify the grounds of appeal.

31A(6) 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.

History – S. 31–31D substituted for former s. 31 by FA 2001, Sch. 29, para. 11(1) with effect in relation to–
(a) amendments of a self assessment under s. 9C (as inserted by FA 2001, Sch. 29, para. 4);
(b) closure notices issued under s. 28A(1) or 28B(1) (as substituted by FA 2001, Sch. 29, para. 8 and 9);
(c) amendments of partnership returns under s. 30B(1) where notice of the amendment is issued after 11 May 2001, and
(d) assessments to tax which are not self assessments where the notice of the assessment is issued after that date.

Cross references – FA 1993, s. 173 and Sch. 19, para. 4(3): s. 31A(5) and (6) and 31D(2)–(7) apply for the purposes of an election in respect of underwriters' agents' appeals against inspectors' determinations of Lloyd's syndicate profits and losses in the same way as for the purposes of s. 31D(1).
FA 1993, s. 173 and Sch. 19, para. 7(2)(a): modified application of s. 31A where determination of a Lloyd's syndicate's profit or loss is varied or modified after issue of a notice of assessment on any syndicate member.
FA 1998, Sch. 18, para. 27(5)(b): notice to produce documents for purposes of enquiry into company return does not oblige company to produce documents or information for any pending referral under s. 31A to which the company is a party.

31B Appeals: appeals to General Commissioners

31B(1) An appeal under section 31(1) of this Act shall be to the General Commissioners, subject to–

(a) section 31C of this Act (appeals to be brought to Special Commissioners),
(b) any provision made by or under Part V of this Act, and
(c) any other provision of the Taxes Acts providing for an appeal to be brought to the Special Commissioners to the exclusion of the General Commissioners.

31B(2) Subsection (1) above has effect subject to any election under section 31D of this Act (election to take appeal to Special Commissioners).

History – S. 31–31D substituted for former s. 31 by FA 2001, Sch. 29, para. 11(1) with effect in relation to–
(a) amendments of a self assessment under s. 9C (as inserted by FA 2001, Sch. 29, para. 4);
(b) closure notices issued under s. 28A(1) or 28B(1) (as substituted by FA 2001, Sch. 29, para. 8 and 9);
(c) amendments of partnership returns under s. 30B(1) where notice of the amendment is issued after 11 May 2001, and
(d) assessments to tax which are not self assessments where the notice of the assessment is issued after that date.

31C Appeals: appeals to Special Commissioners

31C(1) Unless the Special Commissioners otherwise direct, an appeal under section 31(1)(a), (b) or (c) of this Act 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 section 9A(1) or 12AC(1) of this Act, and
(b) notice has been given under section 28ZA of this Act 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.

31C(2) An appeal under section 31(1)(d) of this Act (appeal against assessment other than self-assessment) shall be to the Special Commissioners if the assessment was made–

(a) by the Board, or
(b) under section 963(3) of ITA 2007.

History – In s. 31C(2)(b), the words "section 963(3) of ITA 2007" substituted for the words "section 350 of the principal Act" by ITA 2007, s. 1027 and Sch. 1, para. 250, with effect from 6 April 2007.
S. 31–31D substituted for former s. 31 by FA 2001, Sch. 29, para. 11(1) with effect in relation to–
(a) amendments of a self assessment under s. 9C (as inserted by FA 2001, Sch. 29, para. 4);
(b) closure notices issued under s. 28A(1) or 28B(1) (as substituted by FA 2001, Sch. 29, para. 8 and 9);
(c) amendments of partnership returns under s. 30B(1) where notice of the amendment is issued after 11 May 2001, and
(d) assessments to tax which are not self assessments where the notice of the assessment is issued after that date.

31D Appeals: election to bring appeal before Special Commissioners

31D(1) The appellant may elect (in accordance with section 46(1) of this Act) to bring before the Special Commissioners an appeal under section 31(1) of this Act that would otherwise be to the General Commissioners.

31D(2) Any such election above shall be disregarded if–

(a) the appellant and the inspector or other officer of the Board 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 subsection (5) below and have not revoked it.

31D(3) Where an election has been made under subsection (1) above, the inspector or other officer of the Board may refer the election to the General Commissioners.

31D(4) A reference under subsection (3) above must be made–

(a) after giving notice to the appellant, and
(b) before the determination of the appeal in respect of which the election has been made.

31D(5) On a reference under subsection (3) above the Commissioners shall, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, direct that the election be disregarded.

31D(6) If at any time after giving a direction under subsection (5) above (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.

31D(7) A decision to give or revoke a direction under subsection (5) above shall be final.

History – S. 31–31D substituted for former s. 31 by FA 2001, Sch. 29, para. 11(1) with effect in relation to–
(a) amendments of a self assessment under s. 9C (as inserted by FA 2001, Sch. 29, para. 4);
(b) closure notices issued under s. 28A(1) or 28B(1) (as substituted by FA 2001, Sch. 29, para. 8 and 9);
(c) amendments of partnership returns under s. 30B(1) where notice of the amendment is issued after 11 May 2001, and
(d) assessments to tax which are not self assessments where the notice of the assessment is issued after that date.

Cross references – FA 1993, s. 173 and Sch. 19, para. 4(3): s. 31A(5) and (6) and 31D(2)–(7) apply for the purposes of an election in respect of underwriters' agents' appeals against inspectors' determinations of Lloyd's syndicate profits and losses in the same way as for the purposes of s. 31D(1).
SSCTFA 1999, s. 12(5): s. 31D(2)–(7) have effect in relation to an election under Social Security Contributions (Transfer of Functions, etc.) Act 1999, s. 12(4) (election to bring appeal against a decision of an officer of the Board on certain contributions questions before the Special Commissioners) as they do in relation to an appeal under s. 31D(1).

RELIEF FOR EXCESSIVE ASSESSMENTS

32 Double assessment

32(1) If on a claim made to the Board it appears to their satisfaction that a person has been assessed to tax more than once for the same cause and for the same chargeable period, they shall direct the whole, or such part of any assessment as appears to be an overcharge, to be vacated, and thereupon the same shall be vacated accordingly.

32(2) An appeal on a claim under this section shall lie to any of the bodies of Commissioners having jurisdiction to hear an appeal against the assessment, or the later of the assessments, to which the claim relates.

History – S. 32(1) amended by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985 to remove references to development land tax.

Cross references – FA 1995, Sch. 21, para. 3(2): modification of s. 32, as respects each partner for 1996–97, in case of partnership whose trade etc. was set up and commenced before 6 April 1994.
TCA 2002, s. 20(2): revisions of decisions on working tax credit and child tax credit following vacation of an assessment, or determination or settlement of appeal.

Extra-statutory concessions – B41: repayments of tax will be made outside the statutory six-year time limit where an overpayment of tax has arisen because of an error by the Revenue or another government department, and where there is no dispute or doubt as to the facts.

33 Error or mistake

33(1) If a person who has paid income tax or capital gains tax under an assessment (whether a self-assessment or otherwise) alleges that the assessment was excessive by reason of some error or mistake in a return, he may by notice in writing at any time not later than five years after the 31st January next following the year of assessment to which the return relates, make a claim to the Board for relief.

33(2) On receiving the claim the Board shall inquire into the matter and shall, subject to the provisions of this section, give by way of repayment such relief in respect of the error or mistake as is reasonable and just.

33(2A) No relief shall be given under this section in respect of–

(a) an error or mistake as to the basis on which the liability of the claimant ought to have been computed where 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) an error or mistake in a claim which is included in the return.

33(3) In determining the claim the Board shall have regard to all the relevant circumstances of the case, and in particular shall consider whether the granting of relief would result in the exclusion from charge to tax of any part of the profits of the claimant, and for this purpose the Board may

take into consideration the liability of the claimant and assessments made on him in respect of chargeable periods other than that to which the claim relates.

33(4) If any appeal is brought from the decision of the Board on the claim the Special Commissioners shall hear and determine the appeal in accordance with the principles to be followed by the Board in determining claims under this section; and neither the appellant nor the Board shall be entitled to appeal under section 56A of this Act against the determination of the Special Commissioners except on a point of law arising in connection with the computation of profits.

33(4A) [Repealed by FA 1985, s. 98 and Sch. 27, Pt. X, with effect from 19 March 1985.]

33(5) In this section **"profits"**–

(a) in relation to income tax, means income, and

(b) in relation to capital gains tax, means chargeable gains.

(c) [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 15(3), s. 165 and Sch. 27, Pt. III(28).]

History – S. 33(1) substituted by FA 1998, s. 117(3) and Sch. 19, para. 15(2), with effect in relation to accounting periods ending on or after 1 July 1999, the appointed day for corporation tax self-assessment by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78).
The equivalent provisions under corporation tax self-assessment are to be found in FA 1998, Sch. 18, para. 51, which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, 115(2)).
Former s. 33(1) amended, by the insertion of the words "(whether under section 9 or 11A of this Act or otherwise)" and the substitution of para. (a) and (b) for the previous words "six years after the end of the year of assessment (or, if the assessment is to corporation tax, the end of the accounting period) in which the assessment was made", and s. 33(2A) inserted, by FA 1994, s. 196 and Sch. 19, para. 8 and the proviso to s. 33(2) repealed by FA 1994, s. 196 and Sch. 19, para. 8(2) and s. 258 and Sch. 26, Pt. V(23), in so far as it relates to income tax and capital gains tax as respects the year 1996–97 and subsequent years of assessment, and originally for corporation tax accounting periods ending on or after 1 July 1999 (see notes above).
S. 33(2) amended by FA 1971, s. 37 and Sch. 14, Pt. II, from 1973–74.
In s. 33(4), the words "appeal under section 56A . . . Special Commissioners except" substituted by SI 1994/1813, Sch. 1, para. 2, with effect from 1 September 1994.
S. 33(4A) dealt with development land tax.
S. 33(5)(c) repealed by FA 1998, s. 117(3) and Sch. 19, para. 15(3), s. 165 and Sch. 27, Pt. III(28), with effect in relation to accounting periods ending on or after 1 July 1999, the appointed day for corporation tax self assessment (see history note to s. 33(1) above).
The equivalent provisions under corporation tax self-assessment are to be found in FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, 117(2)).
S. 33(5) amended by FA 1985, s. 98 and Sch. 27, Pt. X, with effect from 19 March 1985 to remove references to development land tax.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 33 applies with modifications to oil taxation.
FA 1994, s. 118(7)(a): in relation to claims for first-year allowances for machinery or plant, a claim for relief under s. 33 cannot be made where the error or mistake arises from a failure to meet the "relevant condition" (FA 1994, s. 118(3), (4)).
TCA 2002, s. 20(2): revisions of decisions on working tax credit and child tax credit following giving of relief under s. 33, or a decision on relief.
1994/1813, reg. 1(2): in s. 33(4) the words "Special Commissioners" shall be construed in accordance with TMA 1970, s. 4(1), with effect from 1 September 1994.
SI 1995/352, reg. 14, 15, Schedule: extended time limit under s. 33(1) for Lloyd's underwriters.

Extra-statutory concessions – B41: repayments of tax will be made outside the statutory six-year time limit where an overpayment of tax has arisen because of an error by the Revenue or another government department, and where there is no dispute or doubt as to the facts.

HMRC interpretations – IRInt. 64: relief under s. 33 will not be available where the substantive point was squarely in issue in the process of reaching agreement and determining the appeal under s. 54.

HMRC Manuals – Inspector's Manual, vol. II, IM 3751: guidance on scope of relief and procedural aspects, see also Taxline 1999/156 on what Revenue understands to comprise "all relevant circumstances" in s. 33(3).
Taxline 1993/111 (not reproduced): Revenue take the view that s. 33 does not extend to errors of judgment or errors arising from actions deliberately adopted by the taxpayer.

33A Error or mistake in partnership return

33A(1) This section applies where, in the case of a trade, profession or business carried on by two or more persons in partnership, those persons allege that the tax charged by self-assessments of theirs was excessive by reason of some error or mistake in a partnership return for a year of assessment (Year 1), or for a relevant period which ends in Year 1.

33A(2) One of those persons (**the representative partner**) may, not later than 31st January of Year 6, by notice in writing make a claim to the Board for relief.

33A(3) On receiving the claim the Board shall inquire into the matter and shall, subject to subsection (5) below, so amend the partnership return so as to give such relief in respect of the error or mistake as is reasonable or just.

33A(4) Where a partnership return is amended under subsection (3) above, the Board shall by notice to each of the relevant partners amend–

(a) the partner's return under section 8 or 8A of this Act, or

(b) the partner's company tax return,

so as to give effect to the amendments of the partnership return.

33A(5) No relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the partners ought to have been computed where the partnership return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.

33A(6) In determining the claim the Board–

(a) shall have regard to all the relevant circumstances of the case, and

(b) in particular shall consider whether the granting of relief would result in the exclusion from charge to tax of any part of the profits of any of the partners;

and for the purposes of this subsection the Board may take into consideration the liability of the partners and their self-assessments in respect of chargeable periods other than that to which the claim relates.

33A(7) If any appeal is brought from the decision of the Board on the claim, the Special Commissioners shall hear and determine the appeal in accordance with the principles to be followed by the Board in determining claims under this section.

33A(8) Subject to subsection (8A) below, the determination of the Special Commissioners of an appeal under subsection (6) above shall be final and conclusive (notwithstanding any provision having effect by virtue of section 56B of this Act).

33A(8A) Subsection (8) above does not apply in relation to a point of law arising in connection with the computation of profits.

33A(9) In this section–

"profits" has the same meaning as in section 33 of this Act;

"relevant partner" means a person who was a partner at any time during the period in respect of which the partnership return was made;

"relevant period" means a period in respect of which a return is required.

33A(10) Any reference in this section to the representative partner includes, unless the context otherwise requires, a reference to any successor of his.

History – In s. 33A(1), the words "for a year of assessment (Year 1), or for a relevant period which ends in Year 1" inserted by FA 2007, s. 91(6)(a), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007 (for a partnership which includes one or more individuals) and in respect of a return for a period in respect of which a return is required (a "relevant period") beginning on or after 6 April 2007 (for a partnership which includes one or more companies).
In s. 33A(1), former references to s. 9, s. 11AA omitted by FA 1998, s. 117(3) and Sch. 19, para. 16(2), s. 165 and Sch. 27, Pt. III(28), with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173(C. 78).
The equivalent provisions under corporation tax self-assessment are to be found in FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, 117(2)).
In s. 33A(2), the words "31st January of Year 6" substituted for "five years after the filing date" by FA 2007, s. 91(6)(b), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007 (for a partnership which includes one or more individuals) and in respect of a return for a period in respect of which a return is required (a "relevant period") beginning on or after 6 April 2007 (for a partnership which includes one or more companies).
In s. 33A(4), the words "partnership return" substituted for the words "partnership statement", where they appeared in the sidenote and subs. (1), (3), (5) and (9), by FA 2001, s. 88, Sch. 29, para. 25(2) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
S. 33A(4) substituted by FA 2001, s. 88, Sch. 29, para. 25(3) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then. S. 33A(4) had been substituted previously by FA 1998, s. 117(3) and Sch. 19, para. 16(3), with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day (see above).
In s. 33A(9), the words ""filing date" has the same meaning as in section 12AC of this Act;" omitted by FA 2007, s. 91(6)(c) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(3) and the definition of "relevant period" inserted by FA 2007, s. 91(6)(d), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007 (for a partnership which includes one or more individuals) and in respect of a return for a period in respect of which a return is required (a "relevant period") beginning on or after 6 April 2007 (for a partnership which includes one or more companies).
S. 33A inserted by FA 1994, s. 196 and Sch. 19, para. 9, and amended by FA 1996, s. 136 and Sch. 22, para. 5, in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in its original form, for corporation tax accounting periods ending on or after the self-assessment appointed day by virtue of FA 1994, s. 199(2), (3)) (see above).

Cross references – Sch. 3ZA, para. 10: tax payable or repayable on consequential amendment under s. 33A(4)(a) of self assessment in partner's return.

TIME LIMITS

34 Ordinary time limit of six years

34(1) Subject to the following provisions of this Act, and to any other provisions of the Taxes Acts allowing a longer period in any particular class of case, an assessment to income tax or capital gains tax may be made at any time not later than five years after the 31st January next following the year of assessment to which it relates.

34(2) An objection to the making of any assessment on the ground that the time limit for making it has expired shall only be made on an appeal against the assessment.

History – In s. 34(1), the words from "an assessment to tax may be made" to the end of the subsection substituted by FA 1998, s. 117(3) and Sch. 19, para. 17(1), with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78).
The equivalent provisions under corporation tax self-assessment are to be found in FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, 117(2)).
S. 34(1) formerly amended by FA 1994, s. 196 and Sch. 19, para. 10, in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and originally also for corporation tax accounting periods ending on or after 1 July 1999, the appointed day (see notes above).
S. 34(1) formerly amended by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985, removing a reference to development land tax.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 34(2) applies for the purposes of oil taxation.
ICTA 1988, s. 246Q(10): disapplication of reference to s. 34 in ICTA 1988, s. 252(5) where it is applied by virtue of s. 246Q.
ICTA 1988, Sch. 3, para. 6E(2): for the purposes of s. 34, an assessment under ICTA 1988, Sch. 3, para. 6D (paying and collecting agents in respect of foreign dividends, etc.) is taken to relate to the year of assessment in which the quarter, to which the assessment relates, ends.
TCGA 1992, s. 248(2): assessment to withdraw roll-over on replacement of land compulsorily acquired where the dwelling-house in point becomes subject to principal private residence relief can be made at any time.
TCGA 1992, s. 256(2): gain crystallising where property ceasing to be subject to charitable trusts represents prior disposal consideration can ordinarily be assessed up to three years after the tax year in which it so ceases.
FA 1993, s. 178(3)(a): extension of ordinary six-year time limit where inspector not notified in time of an amount payable to a member of Lloyd's under a stop-loss insurance, or out of the High Level Stop Loss Fund, in respect of a loss in his underwriting business.
FA 1994, s. 225(1): allocation of stop-loss insurance recovery by corporate underwriter to later accounting period where inspector would otherwise be prevented from making an assessment by s. 34.
SI 1982/1236, reg. 19(6): assessments giving effect to a notice under ICTA 1988, s. 375(6) that interest is not "relevant loan interest".
SI 1995/352, reg. 6(2)(a): modifications applying to assessment of Lloyd's underwriters for 1992–93.
SI 1995/352, reg. 7(2)(a): modifications applying to assessment of Lloyd's underwriters for 1993–94 and 1994–95.

35 Time limit: income received after year for which they are assessable

35(1) Where income to which this section applies is received in a year of assessment subsequent to that for which it is assessable, an assessment to income tax as respects that income may be made at any time within six years after the year of assessment in which it was received.

35(2) This section applies to–

(a) employment income,
(b) pension income, and
(c) social security income.

History – S. 35 substituted by FA 2004, s. 92 and Sch. 17, para 3(1) in relation to income assessable for 2004–05 and subsequent years of assessment. The previous version of the section had been repealed by FA 1998, s. 165 and Sch. 27, Pt. III(9) with effect from 6 April 1998.

36 Fraudulent or negligent conduct

36(1) An assessment on any person (in this section referred to as **"the person in default"**) for the purpose of making good to the Crown a loss of income tax or capital gains tax attributable to his fraudulent or negligent conduct or the fraudulent or negligent conduct of a person acting on his behalf may be made at any time not later than 20 years after the 31st January next following the year of assessment to which it relates.

36(2) Where the person in default carried on a trade, profession or business with one or more other persons at any time in the period for which the assessment is made, an assessment in respect of the profits or gains of the trade, profession or business for the purpose mentioned in subsection (1) above may be made not only on the person in default but also on his partner or any of his partners.

36(3) If the person on whom the assessment is made so requires, in determining the amount of the tax to be charged for any chargeable period in any assessment made for the purpose mentioned in subsection (1) above, effect shall be given to any relief or allowance to which he would have been entitled for that chargeable period on a claim or application made within the time allowed by the Taxes Acts.

36(3A) In subsection (3) above, **"claim or application"** does not include an election under section 257BA of the principal Act or any of sections 47 to 49 of ITA 2007 (tax reductions for married couples and civil partners: elections to transfer relief).

36(4) Any act or omission such as is mentioned in section 98B below on the part of a grouping (as defined in that section) or member of a grouping shall be deemed for the purposes of subsection (1) above to be the act or omission of each member of the grouping.

History – In s. 36(1) the words "income tax or capital gains tax" substituted for "tax", and words from "not later than" to the end of the subsection substituted, by FA 1998, s. 117(3) and Sch. 19 para. 18(1), with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C.78).
The equivalent provisions under corporation tax self-assessment are to be found in FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, 117(2)).
S. 36(1) formerly amended and s. 36(2) substituted, by FA 1994, s. 196 and Sch. 19, para. 11, in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and originally also for corporation tax accounting periods ending on or after the self-assessment appointed day (see notes above).
In s. 36(3A), the words "or any of sections 47 to 49 of ITA 2007" inserted by ITA 2007, s. 1027 and Sch. 1, para. 251(a) and the words "(tax reductions for married couples and civil partners: elections to transfer relief)" substituted for the words "(elections as to transfer of married couple's allowance)" by ITA 2007, s. 1027 and Sch. 1, para. 251(b), with effect from 6 April 2007.
In s. 36(3A) the words "or under Schedule 13B to that Act (elections as to transfer of children's tax credit)" inserted by FA 1999, s. 30(4)(a) with effect for the year 2001–02 and subsequent years of assessment but then repealed by TCA 2002 s. 60 and Sch. 6 with effect from 6 April 2003 (SI 2003/962).
S. 36(3A) inserted, in relation to tax for 1993–94 and subsequent years of assessment, by F(No. 2)A 1992, s. 20 and Sch. 5, para. 9(1), (2).
S. 36(4) inserted by FA 1990, s. 69 and Sch. 11, para. 4(1), 5, deemed to have effect from 1 July 1989.
S. 36 substituted by FA 1989, s. 149(1), (7), with effect from 27 July 1989 but not affecting the making of assessments for any year before 1983–84 or for accounting periods which ended before 1 April 1983. Former s. 36, as it continues to apply, reads as follows:

> "Subject to section 41 below, where any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to tax, assessments on that person to tax may, for the purpose of making good to the Crown any loss of tax attributable to the fraud or wilful default, be made at any time.".

Cross references – S. 43C(1): application of s. 36(3) following amendment of tax return due to negligent or fraudulent conduct.
S. 98B: failure to deliver a return or document and fraudulent or negligent delivery of incorrect return etc. in respect of European Economic Interest Grouping.
S. 118(3): partnership assessment treated as made on individual partners.
OTA 1975, Sch. 2, para. 1(1): s. 36 applies with modifications for the purposes of oil taxation.
ICTA 1988, s. 307(5): assessments made for the purpose of withdrawing relief under the business expansion scheme (in relation to shares issued on or before 31 December 1993) or the enterprise investment scheme (in relation to shares issued on or after 1 January 1994) may, without prejudice to s. 36, be made within six years.
Former ICTA 1988, Sch. 3, para. 6E(2): for the purposes of s. 36(1), an assessment under ICTA 1988, Sch. 3, para. 6D (paying and collecting agents in respect of foreign dividends, etc.) is taken to relate to the year of assessment in which the quarter, to which the assessment relates, ends.
Former ICTA 1988, Sch. 3, para. 6E(3): modification of s. 36(2) in relation to an assessment under ICTA 1988, Sch. 3, para. 6D (paying and collecting agents in respect of foreign dividends, etc.).
ICTA 1988, Sch. 13, para. 10(1) and Sch. 16, para. 10(1): s. 36 applies to assessments to ACT and of income tax deductible at source on company payments which are not distributions.
FA 1993, s. 178(3)(b): modified application of s. 36 in relation to payments made to a member of Lloyd's under a stop-loss insurance or out of the High Level Stop Loss Fund in respect of an underwriting loss.
FA 1993, s. 173 and Sch. 19, para. 8: for 1992–93 and subsequent years, for the purposes of s. 36, acts or omissions of a Lloyd's underwriters' syndicate are attributable to each member of the syndicate (see ICTA 1988, s. 450 and Sch. 19A, para. 9 for prior years (from 1988–89)).
FA 1994, s. 225(3): allocation of stop-loss insurance recovery by corporate underwriter to later accounting period where inspector would otherwise be prevented from making an assessment by s. 36.
SI 1987/530, reg. 11(2)(b): application of s. 36 to non-resident entertainers and sportsmen.
SI 1995/352, reg. 6(2)(a): modifications applying to assessment of Lloyd's underwriters for 1992–93.
SI 1995/352, reg. 7(2)(a): modifications applying to assessment of Lloyd's underwriters for 1993–94 and 1994–95.

HMRC interpretations – IRInt. 148: confirmation that under self assessment s. 36(2) does not preserve composite assessment mechanism, merely allows HMRC to make individual assessments on each of the partners who have additional tax to pay on their revised share of partnership profit.

HMRC Manuals – Capital Allowances, CA2099b: HMRC guidance on consequences of claiming capital allowances which would have been due had a claim been made within the time limits where a further or discovery assessment is raised to recover tax which would have been lost through fraud or neglect.

37 Neglect: income tax and capital gains tax

37 [Repealed by FA 1989, s. 149(2) and Sch. 17, Pt. VIII.]

History – S. 37 repealed by FA 1989, s. 149(2) and Sch. 17, Pt. VIII from 27 July 1989 but not affecting the making of assessments for years before 1983–84 or for accounting periods which ended before 1 April 1983. Former s. 37, as it continues to apply, reads as follows:
"**37(1)** Where, for the purpose of making good to the Crown a loss of tax wholly or partly attributable to the fraud, wilful default or neglect of any person, an assessment for any year (in this section referred as "the normal year") has been made on him not later than six years after the end of that year, assessments to tax for earlier years may, to the extent provided by the following provisions of this section, be made on him notwithstanding that, but for this section, they would be out of time.
37(2) No assessment under this section shall be made on any person except for the purpose of making good to the Crown a loss of tax attributable to his neglect.
37(3) An assessment under this section for any year ending not earlier than six years before the end of the normal year may, subject to section 41 below, be made at any time not later than the end of the year of assessment following that in which the tax covered by the assessment mentioned in subsection (1) of this section is finally determined.
37(4) An assessment under this section for any year ending earlier than six years before the end of the normal year may only be made with the leave of the General or Special Commissioners, given under the following provisions of this section.
37(5) Where an assessment for any year (in this section referred to as "the earlier year") has been made on any person more than six years after the end of that year–
(a) under this section, or
(b) (in the circumstances mentioned in subsection (6) below) under section 36 above,

and it appears to the General or Special Commissioners, on an application made to them not later than the end of the year of assessment following that in which the tax covered by the assessment for the earlier year is finally determined, that there are reasonable grounds for believing that tax for a year ending not earlier than six years before the end of the earlier year was or

may have been lost to the Crown owing to the neglect of that person, they may give leave for the making on him of an assessment under this section for that year.

(6) The circumstances referred to in subsection (5)(b) above are that the assessment for the earlier year was one of a number of assessments made on that person for the purpose mentioned in subsection (1) above and that of the years for which those assessments were made–

(a) the latest, apart from the normal year, ended not more than six years before the end of the normal year,

(b) the next, if any, ended not more than six years before the end of the said latest year,

and so on for any earlier years.

(7) An application for leave under this section may be made by the inspector or the Board, and on any such application the person to be assessed shall be entitled to appear and be heard.

(8) In determining the amount of the tax to be charged for any year in any assessment made under this section effect shall be given, if the person to be assessed so requires, to any relief or allowance to which he would have been entitled for that year on a claim or application made within the time allowed by the Taxes Acts.

(9) In this section and section 38 below "tax" does not include corporation tax, and this section shall apply separately to income tax and to capital gains tax, so that the making of an assessment to one of those taxes shall not affect the time allowed for the making of an assessment to the other tax.

(10) [Repealed by FA 1985, s. 98 and Sch. 27, Pt. X, with effect from 19 March 1985.]"

S. 37(10) dealt with development land tax.

Cross references – F(No. 2)A 1987, s. 84(7): s. 37 does not apply to assessments made under s. 84 of that Act (amounts due by way of penalty).

ICTA 1988, s. 307(5): assessments made for the purpose of withdrawing relief under the business expansion scheme may, without prejudice to s. 37, be made within six years.

ICTA 1988, Sch. 16, para. 10(1): s. 37 applies to assessments in respect of income tax deductible at source on company payments which are not distributions.

ICTA 1988, Sch. 19A, para. 9; FA 1973, Sch. 16A, para. 9: for the purposes of s. 37, acts or omissions of a Lloyd's underwriting agent are attributable to each member of the syndicate.

37A Effect of assessment where allowances transferred

37A Where an assessment is made on any person for the purpose of making good a loss of tax wholly or partly attributable to fraudulent or negligent conduct, the fact that the person's liability to income tax or total income for any year of assessment is assessed as greater than it was previously taken to be shall not affect the validity of any deduction from net income or tax reduction made in the case of that person's spouse or civil partner by virtue of section 257BB or 265 of the principal Act or section 39, 51 or 52 of ITA 2007; and the entitlement in that case of the first-mentioned person for the year in question to any deduction from net income or tax reduction shall be treated as correspondingly reduced.

History – In s. 37A the words "deduction from net income or tax reduction" were substituted for the words"income tax reduction or deduction from total income", in both places where the phrase occurred, by ITA 2007, s. 1027 and Sch. 1, para. 252(2), with effect from 6 April 2007; the words "or civil partner" inserted by ITA 2007, s. 1027 and Sch. 1, para. 252(3), with effect from 6 April 2007 and the words "or section 39, 51 or 52 of ITA 2007" inserted by ITA 2007, s. 1027 and Sch. 1, para. 252(4) with effect from 6 April 2007.

S. 37A amended by FA 1999, s. 30(4)(b) (inserting the words "or partner" and "or paragraph 4 of Schedule 13B to that Act") and by s. 139 and Sch. 20, Pt. III(3) (repealing a reference to 257D which appeared after "section 257BB"), all with effect for the year 2001–02 and subsequent years of assessment. The words "or partner" and "or paragraph 4 of Schedule 13B to that Act" being subsequently repealed by TCA 2002 s. 60 and Sch. 6 with effect from 6 April 2003 (SI 2003/962).

In s. 37A, the words "liability to income tax or" inserted; the words "any income tax reduction . . . that person's spouse" substituted for the words "any deduction made from the total income of the person's spouse" and the words "and the entitlement . . . treated as correspondingly reduced" substituted for the words "and where any such deduction has been made in such a case, the total amount which the first-mentioned person is entitled to deduct from total income for the year in question shall be correspondingly reduced" by FA 1994, s. 77 and Sch. 8, para. 13, with effect for 1994–95 and subsequent years of assessment (FA 1994, s. 77(7)).

"257BB" substituted for "257B", in relation to tax for 1993–94 and subsequent years of assessment, by F(No. 2)A 1992, s. 20 and Sch. 5, para. 9(1), (3).

S. 37A inserted by FA 1988, s. 35 and Sch. 3, para. 30, with effect from 1990–91; the amendment was made by FA 1989, s. 149(4)(a)(i), substituting "fraudulent or negligent conduct".

38 Modification of s. 37 in relation to partnerships

38 [Repealed by FA 1989, s. 149(2) and Sch. 17, Pt. VIII.]

History – S. 38 repealed by FA 1989, s. 149(2) and Sch. 17, Pt. VIII, with effect from 27 July 1989 but not affecting the making of assessments for years before 1983–84 or for accounting periods which ended before 1 April 1983. As it continues to apply as aforementioned, s. 38 reads as follows:

"**38(1)** The following provisions of this section shall have effect where such an assessment to tax as is mentioned in section 37(1) above was made on any person who at any time carried on a trade, profession or vocation in partnership with any other person (whether the assessment was made in respect of the profits or gains thereof or not).

38(2) In this section–

"the business" means the trade, profession or vocation mentioned in subsection (1) of this section,

"the normal year" has the same meaning as in section 37 above,

"the person in default" means the person mentioned in section 37(1) above.

38(3) Subject to subsection (5) of this section, an assessment in respect of the profits or gains of the business may be made under section 37 above not only on the person in default but on any person who carried on the business at any time in the year for which the assessment is made and either–

(a) then carried it on in partnership with the person in default or with a person who at any time in the normal year carried it on in partnership with the person in default; or

(b) at any time in the normal year carried on the business in partnership with the person in default;

and may be made for the purpose of making good to the Crown a loss of tax attributable to the neglect of any person who carried on the business at any time in the year for which the assessment is made.

(3A) [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985.]

(4) For the purpose of determining whether leave may be given for the making of such an assessment on two or more persons who carried on the business in partnership subsections (5) and (6) of section 37 above shall have effect as if the neglect referred to therein were the neglect of any of those persons and as if the assessments referred to therein were assessments made on any one of those persons.
(5) Where such an assessment is made on two or more persons who carried on the business in partnership and those persons include any person (in this subsection referred to as "the exempted partner") who was not charged in any such assessment as is mentioned in subsection (1) of this section, the tax charged in the assessment–
(a) shall not include tax on so much of the profits or gains as would fall to be included in the exempted partner's total income; and
(b) shall not be recoverable from the exempted partner;

and where a person who was not charged as aforesaid carried on the business otherwise than in partnership no such assessment shall be made on him."
S. 38(3A) dealt with development land tax.

39 Neglect: corporation tax

39 [Repealed by FA 1989, s. 149(2) and Sch. 17, Pt. VIII.]

History – S. 39 repealed by FA 1989, s. 149(2) and Sch. 17, Pt. VIII from 27 July 1989 but not affecting the making of assessments for years before 1983–84 or for accounting periods which ended before 1 April 1983. As it continues to apply as aforementioned, s. 39 reads as follows:
"**39(1)** Where, for the purpose of making good to the Crown a loss of tax wholly or partly attributable to the fraud, wilful default or neglect of any person, an assessment to corporation tax for any accounting period (in this section referred to as **"the normal accounting period"**) has been made on him not later than six years after the end of that accounting period, assessments to corporation tax, income tax and the profits tax for earlier accounting periods, years of assessment and chargeable accounting periods may, to the extent provided by the following provisions of this section, be made on him notwithstanding that, but for this section, they would be out of time.
39(2) No assessment under this section shall be made on any person except for the purpose of making good to the Crown a loss of tax attributable to his neglect.
39(3) An assessment under this section for any accounting period, year of assessment or chargeable accounting period ending not earlier than six years before the end of the normal accounting period may, subject to section 41 below, be made at any time not later than one year after the time when the tax covered by the assessment mentioned in subsection (1) above is finally determined.
39(4) An assessment under this section for any accounting period, year of assessment or chargeable accounting period ending earlier than six years before the end of the normal accounting period may only be made with the leave of the General or Special Commissioners, given under the following provisions of this section.
39(5) Where an assessment for any accounting period, year of assessment or chargeable accounting period (in this section referred to as **"the earlier period"**) has been made on any person more than six years after the end of that period–
(a) under this section, or
(b) (in the circumstances mentioned in subsection (6) below) under section 36 above,

and it appears to the General or Special Commissioners, on an application made to them not later than one year after the tax covered by the assessment for the earlier period is finally determined, that there are reasonable grounds for believing that tax for an accounting period, year of assessment or chargeable accounting period ending not earlier than six years before the end of the earlier period was or may have been lost to the Crown owing to the neglect of that person, they may give leave for the making on him of an assessment under this section for that accounting period, year of assessment or chargeable accounting period.
(6) The circumstances referred to in subsection (5)(b) above are that the assessment for the earlier period was one of a number of assessments made on that person for the purpose mentioned in subsection (1) above and that of the accounting periods, years of assessment and chargeable accounting periods for which those assessments were made–
(a) the latest, apart from the normal accounting period, ended not more than six years before the end of the normal accounting period,
(b) the next, if any, ended not more than six years before the end of the said latest accounting period, year of assessment or chargeable accounting period,

and so on for any earlier accounting periods, years of assessment or chargeable accounting periods.
(7) An application for leave under subsection (5)(b) above may be made by the inspector or the Board, and on any such application the person to be assessed shall be entitled to appear and be heard.
(8) In determining the amount of the tax to be charged for any accounting period, year of assessment or chargeable accounting period in any assessment made under this section effect shall be given, if the person to be assessed so requires, to any relief or allowance to which he would have been entitled for that accounting period, year of assessment or chargeable accounting period on a claim or application made within the time allowed by the Taxes Acts or the enactments relating to the profits tax, as the case may be.
(9) For the purposes of this section the year 1965–66 and any earlier year of assessment, and any chargeable accounting period, is to be regarded as earlier than any corporation tax accounting period.
(10) For the purpose of making assessments to income tax for the year 1965–66 and earlier years of assessment, section 38 above shall apply in relation to this section as it applies in relation to section 37 above, but as if references in the said section 38 to the normal year were references to the normal accounting period, and with any other necessary modifications."

Cross references – S. 118: definition of "neglect".

40 Assessment on personal representatives

40(1) For the purpose of the charge of tax on the executors or administrators of a deceased person in respect of the income, or chargeable gains, which arose or accrued to him before his death, the time allowed by section 34, 35 or 36 above shall in no case extend beyond the end of the period of three years beginning with the 31st January next following the year of assessment in which the deceased died.

40(2) For the purpose of making good to the Crown any loss of tax attributable to the fraudulent or negligent conduct of a person who has died, an assessment on his personal representatives to tax for any year of assessment ending not earlier than six years before his death may be made at any time before the end of the period of three years beginning with the 31st January next following the year of assessment in which he died.

40(3) In this section **"tax"** means income tax or capital gains tax.

40(4) Any act or omission such as is mentioned in section 98B below on the part of a grouping (as defined in that section) or member of a grouping shall be deemed for the purposes of subsection (2) above to be the act or omission of each member of the grouping.

History – S. 40(1), (2) amended by FA 1994, s. 196 and Sch. 19, para. 12, by substituting the words "the period of three years beginning with the 31st January next following the year of assessment" for the previous words "the third year next following the year of assessment", as respects the year 1996–97 and subsequent years of assessment.
S. 40(2) amended by FA 1989, Sch. 17, Pt. VIII omitting reference to s. 41 consequent on repeal of that section.
S. 40(2) amended by FA 1989, s. 149(4)(a)(ii) substituting "fraudulent or negligent conduct" for "fraud, wilful default or neglect" consequent to amendment of s. 36, with effect from 27 July 1989 but not affecting the making of assessments for years before 1983–84.
S. 40(4) inserted by FA 1990, s. 69 and Sch. 11, para. 4(2), 5, deemed to have effect from 1 July 1989.
Former s. 40(4), (5) dealt with development land tax and were repealed consequent on repeal of Development Land Tax Act 1976 by FA 1985, Sch. 27, Pt. X with effect from 19 March 1985.

Cross references – S. 74: deduction of tax paid out of the assets and effects of the deceased person.
S. 98B: failure to deliver a return or document and fraudulent or negligent delivery of incorrect return etc. in respect of European Economic Interest Grouping.
FA 1993, s. 173 and Sch. 19, para. 8: for 1992–93 and subsequent years, for the purposes of s. 40, acts or omissions of a Lloyd's underwriting agent are attributable to each member of the syndicate (see ICTA 1988, s. 450 and Sch. 19A, para. 9 for prior years (from 1988–89)).
FA 1993, s. 178(3)(b): modified application of s. 40(2) in relation to payments made to a member of Lloyd's under a stop-loss insurance or out of a High Level Stop Loss Fund in respect of an underwriting loss.
SI 1995/352, reg. 6(2)(b): modifications applying to assessment of Lloyd's underwriters for 1992–93.
SI 1995/352, reg. 7(2)(b): modifications applying to assessment of Lloyd's underwriters for 1993–94 and 1994–95.

41 Leave of General or Special Commissioners required for certain assessments

41 [Repealed by FA 1989, s. 149(2) and Sch. 17, Pt. VIII.]

History – S. 41 repealed by FA 1989, s. 149(2) and Sch. 17, Pt. VIII, with effect from 27 July 1989 but not affecting the making of assessments for years before 1983–84 or for accounting periods which ended before 1 April 1983. As it continues to apply as aforementioned, s. 41 reads as follows:
"**41(1)** An assessment to tax made by virtue of–
(a) section 36 of this Act, or
(b) so far as they relate to an assessment for a period ending not earlier than six years before the end of the normal year or normal accounting period, section 37, 38 or 39 of this Act, or
(c) section 40(2) of this Act,

may only be made with the leave of a General or Special Commissioner given on being satisfied by an inspector or other officer of the Board that there are reasonable grounds for believing that tax has or may have been lost to the Crown owing to the fraud or wilful default or neglect of any person.
(2) The General or Special Commissioner giving leave to make such an assessment shall take no part in the proceedings, and shall not be present, when any appeal against the assessment is heard or determined.
(3) [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985.]"
S. 41(3) dealt with development land tax.

Cross references – ICTA 1988, Sch. 19A, para. 9; FA 1973, Sch. 16A, para. 9: for the purposes of s. 41, the acts or omissions of a Lloyd's underwriting agent are attributed to each member of the syndicate.

Notes – S. 41 does not apply to any assessment signed before 6 April 1965.

CORPORATION TAX DETERMINATIONS

41A Determination procedure

41A [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 19, s. 165 and Sch. 27, Pt. III(28).]

History – S. 41A repealed by FA 1998, s. 117(3) and Sch. 19, para. 19, s. 165 and Sch. 27, Pt. III(28), with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78). The repealed provisions of s. 41A are superseded by FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, s. 117(2)).

41B Reduction of determination

41B [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 19, s. 165 and Sch. 27, Pt. III(28).]

History – S. 41B repealed by FA 1998, s. 117(3) and Sch. 19, para. 19, s. 165 and Sch. 27, Pt. III(28), with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78). The repealed provisions of s. 41B are superseded by FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, 117(2)).

41C Time limits

41C [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 19, s. 165 and Sch. 27, Pt. III(28).]

History – S. 41C repealed by FA 1998, s. 117(3) and Sch. 19 para. 19, s. 165 and Sch. 27 Pt. III(28), with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78). The repealed provisions of s. 41C are superseded by FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, s. 117(2)).

CLAIMS

42 Procedure for making claims etc.

42(1) Where any provision of the Taxes Acts provides for relief to be given, or any other thing to be done, on the making of a claim, this section shall, unless otherwise provided, have effect in relation to the claim.

42(1A) Subject to subsection (3) below, a claim for a relief, an allowance or a repayment of tax shall be for an amount which is quantified at the time when the claim is made.

42(2) Subject to subsections (3) and (3A) below, where notice has been given under section 8, 8A or 12AA of this Act, a claim shall not at any time be made otherwise than by being included in a return under that section if it could, at that or any subsequent time, be made by being so included.

42(3) Subsections (1A) and (2) above shall not apply in relation to any claim which falls to be taken into account in the making of deductions or repayments of tax under PAYE regulations.

42(3A)–(3B) [Repealed by FA 1996, s. 128(1)(a), s. 205 and Sch. 41, Pt. V(6).]

42(4)–(4A) [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 20(3), s. 165 and Sch. 27, Pt. III(28).]

42(5) The references in this section to a claim being included in a return include references to a claim being so included by virtue of an amendment of the return.

42(6) In the case of a trade, profession or business carried on by persons in partnership, a claim under any of the provisions mentioned in subsection (7) below shall be made–

(a) where subsection (2) above applies, by being included in a partnership return, and
(b) in any other case, by such one of those persons as may be nominated by them for the purpose.

42(7) The provisions are–

(a) 84, 91B, 101(2), 471, 472, 504, 531, 570, 571(4), 732(4), of, and paragraphs 2, 6 and 11 of Schedule 5 to, the principal Act;
(b) section 43(5) of the Finance Act 1989;
(c) sections 3, 83, 89, 129, 131, 135, 177, 183, 266, 268, 290, 355, 381 and 569 of the Capital Allowances Act;
(d) sections 40B(5), sections 40D, sections 41 and 42 of the Finance (No. 2) Act 1992,
(e) sections 111(1), 126(2), 129(2), 143, 185, 194 and 326 of ITTOIA 2005, and
(f) sections 668 and 669 of ITA 2007.

42(8) A claim may be made on behalf of an incapacitated person by his trustee, guardian, tutor or curator; and a person who under Part VIII of this Act has been charged with tax on the profits of another person may make any such claim for relief by discharge or repayment of that tax.

42(9) Where a claim has been made (whether by being included in a return under section 8, 8A or 12AA of this Act or otherwise) and the claimant subsequently discovers that an error or mistake has been made in the claim, the claimant may make a supplementary claim within the time allowed for making the original claim.

42(10) This section (except subsection (1A) above) shall apply in relation to any elections as it applies in relation to claims.

42(11) Schedule 1A to this Act shall apply as respects any claim or election which–

(a) is made otherwise than by being included in a return under section 8, 8A or 12AA of this Act.

42(11A) Schedule 1B to this Act shall have effect as respects certain claims for relief involving two or more years of assessment.

42(12) [Repealed by FA 1996, s. 136 and Sch. 22, para. 6, s. 205 and Sch. 41, Pt. V(12).]

42(13) In this section **"profits"**–

(a) in relation to income tax, means income, and
(b) in relation to capital gains tax, means chargeable gains.

History – In s. 42(2), (9) and (11) references to TMA 1970, s. 11 omitted by FA 1998, s. 117(3) and Sch. 19, para. 20(2), s. 165 and Sch. 27, Pt. III(28), with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78).
In s. 42(3), the words "PAYE regulations" substituted for the words "section 203 of the principal Act" by ITEPA 2003, Sch. 6, para. 128 which has effect for the tax year 2003–04 and subsequent tax years.
S. 42(4), (4A) repealed by FA 1998, s. 117(3) and Sch. 19, para. 20(3), s. 165 and Sch. 27, Pt. III(28), with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day (see notes above).

In s. 42(5), words at the end "and the reference in subsection (4) above to a claim for payment includes a reference to a claim resulting in payment" repealed by FA 1998, s. 117(3) and Sch. 19, para. 20(3), with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day (see notes above).
(The repeals of s. 42(4), (4A), and the repeal in s. 42(5), noted above had already been made by F(No. 2)A 1997, s. 34 and Sch. 4, para. 3(1), s. 52 and Sch. 8, Pt. II(9) with effect in relation to tax credits in respect of distributions made on or after 6 April 1999.)
In s. 42(6)(a) the words "partnership return" substituted for the words "return under section 12AA of this Act" by FA 2001, s. 88, Sch. 29, para. 26 with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
In s. 42(7)(a) reference to ICTA 1988, s. 810 omitted by FA 2000, Sch. 40, Pt. II(13), with effect in relation to claims made on or after 1st April 2000.
In s. 42(7)(a):

- former reference to ICTA 1988, s. 579(4) repealed by FA 1998, s. 165 and Sch. 27, Pt. III(4), with effect for income tax purposes for the year 1998–99 and subsequent years of assessment, and for corporation tax purposes with effect from 1 April 1998;
- former reference to ICTA 1988, s. 120(2) repealed by FA 1997, s. 113 and Sch. 18, Pt. VI(2), with effect in relation to payments made on or after 6 April 1997;
- former references to s. 534, 535, 537A and 538 repealed by FA 1996, s. 128(1)(b), s. 205 and Sch. 41, Pt. V(6), with effect as respects claims made in relation to the year 1997–98 or later years of assessment;
- reference to s. 484 repealed by FA 1996, s. 205 and Sch. 41, Pt. V(3), in accordance with FA 1996, s. 105.
- reference to ICTA 1988, s. 723(3) omitted by ITA 2007, s. 1027 and Sch. 1, para. 253(a) and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.

S. 42(7)(c), (d) substituted by CAA 2001, s. 578 and Sch. 2, para. 1 with effect as respects allowances and charges falling to be made for chargeable periods ending, for income tax purposes, on or after 6 April 2001.
In s. 42(7)(d) the word "and" at the end of the paragraph omitted by ITA 2007, s. 1027 and Sch. 1, para. 253(b) and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
S. 42(7)(e) inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 372; effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
S. 42(7)(f) inserted by ITA 2007, s. 1027 and Sch. 1, para. 253(c), with effect from 6 April 2007.
S. 42 substituted by FA 1994, s. 196 and Sch. 19, para. 13, and amended by FA 1995, s. 97(2), 107, 162 and Sch. 29, Pt. VIII(14), and by FA 1996, s. 128(1)(a), (c), 130(2)–(4), s. 136 and Sch. 22, para. 6 and s. 205 and Sch. 41, Pt. V(6), (7), and (12), in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and originally also for corporation tax, as respects accounting periods ending on or after 1 July 1999, the day appointed by SI 1998/3173 for the purposes of FA 1994, s. 199(2), (3) (corporation tax self-assessment provisions now to be found in FA 1998, Sch. 18, Pt. VII: see notes above).

Cross references – Sch. 1B: claims for relief involving more than one year.
CAA 2001, s. 3(4): claims for certain specified allowances to be made under s. 42 (as not included in a return) and not under CAA 2001, s. 3(2).
CAA 2001, s. 3(6): claims to capital allowances under CAA 2001, s. 3 subject to s. 42(6), (7) (special provisions for partnerships).
CAA 2001, s. 201(5): s. 42 does not apply to an election under CAA 2001, s. 198 (election to apportion sale price on sale of qualifying interest) or 199 (election to apportion capital sum given by lessee on grant of lease).
CAA 2001, s. 227(5): s. 42 does not apply to an election under CAA 2001, s. 227 (special treatment for sale and leaseback cases).
TCGA 1992, s. 16(2A): s. 42 applied to claims for allowable capital losses.
FA 1993, s. 194(4): modifications of s. 42 in its application to a claim for double taxation relief in relation to petroleum revenue tax in respect of receipts attributable to UK use of foreign field assets.
FA 1996, s. 129(1): disapplication of s. 42 in relation to claims for medical insurance and vocational training relief.
SI 1982/1236, reg. 14(1): s. 42 is not applicable to claims made under this instrument (interest relief).
SI 1987/530, reg. 13: s. 42 applies to claims in respect of tax overpaid under this instrument (entertainers and sportsmen).
SI 1987/1749, reg. 9(1): s. 42 does not apply to a claim under Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987.
SI 1988/1013, reg. 11(1): s. 42 does not apply to claims made under this instrument (personal pension schemes).
SI 1989/469, reg. 21(1): s. 42 does not apply to claims made under this instrument (personal equity plans).
SI 1993/743, reg. 20(3): application of s. 42 to an appeal of an inspector under reg. 20(1) (repayment of excess credits to subcontractor).
SI 1998/1870, reg. 27(1): disapplication of s. 42 to claims under the Individual Savings Account regulations.
SI 2004/1450, reg. 28(1): disapplication of s. 42 for the purposes of Child Trust Funds.

Statements of practice – SP A13: HMRC view that claims must normally be made personally, but relaxation where the taxpayer's health might suffer if he were required to provide a personal signature.
SP 8/91: HMRC practice on issue of "discovery" assessment following determination of appeal.

HMRC interpretations – IRInt. 211: HMRC's view on ability to make claims for an earlier year when, under self assessment, a carry back claim is treated as a claim for the year in which the event occurs, not that to which the carry back is made (and the earlier year is not, as a consequence, reopened).
IRInt. 254: *Mansworth v Jelley* implications.

HMRC Manuals – Capital Gains, vol. I, CG13861: if taxpayer does nothing within 30 days decision will stand; if claimant indicates he wishes to withdraw claim this is strictly a matter to be resolved by agreement (TMA 1970, s. 54) or by commissioners; however, unless a false claim is suspected, it is not appropriate to hold the taxpayer to a claim which he no longer wishes to pursue.
Capital Gains, vol. VI, CG 60606: prescribed form for claims to roll over relief.

Other material – Tax Bulletin TB08/95-8: requirement to submit vouchers in support of repayment claims.
Taxline 1993/57 (not reproduced): a statement in Lloyd's Market Bulletin (21 October 1992) that once loss relief was claimed under a particular section it could not be subsequently varied, is counter to established practice based on TMA 1970, s. 42. (This approach has now been modified (Lloyd's Market Bulletin (14 September 1993)).)
Committee on Enforcement Powers of the Revenue Departments (Keith Committee) (Cmnd. 8822), para. 3.5.13: Revenue practice to permit claims following assessments to "culpable tax" due to fraud or wilful default.
IR press release, 29 November 1994: form of roll-over relief claim determined by Board under s. 42(5).

Notes – S. 42(11) rewritten as ITA 2007, s. 1020(1).

43 Time limit for making claims

43(1) Subject to any provision of the Taxes Acts prescribing a longer or shorter period, no claim for relief in respect of income tax or capital gains tax may be made more than five years after the 31st January next following the year of assessment to which it relates.

43(2) A claim (including a supplementary claim) which could not have been allowed but for the making of an assessment to income tax or capital gains tax after the year of assessment to which the claim relates may be made at any time before the end of the year of assessment following that in which the assessment was made.

43(3) [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985.]

History – S. 43(1) substituted by FA 1998, s. 117(3) and Sch. 19, para. 21, with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78). Corporation tax self-assessment provisions formerly in s. 43(1) are superseded by FA 1998, Sch. 18, which has effect in relation to accounting periods ending on or after 1 July 1999 and is construed and has effect as if it were contained in TMA 1970 (FA 1998, s. 115(2)).
Former s. 43(1) amended and s. 43(3) repealed by FA 1985, Sch. 27, Pt. X, removing references to development land tax.

Cross references – S. 43C: application of s. 43(2) following amendment of tax return.
TCGA 1992, s. 16(2A): s. 43 applied to claims for allowable capital losses.
FA 1993, s. 194(4): modifications of s. 43 in its application to a claim for double taxation relief in relation to petroleum revenue tax in respect of receipts attributable to UK use of foreign field assets.
SI 1995/352, reg. 14, 15, Schedule: extended time limit under s. 43(1) for Lloyd's underwriters.

Extra-statutory concessions – B41: repayments of tax will be made outside the statutory six-year time limit where an overpayment of tax has arisen because of an error by HMRC or another government department, and where there is no dispute or doubt as to the facts.

Statements of practice – SP A13: HMRC view that claims must normally be made personally, but relaxation where the taxpayer's health might suffer if he were required to provide a personal signature.

Hansard – Commons Written Answer, 10 December 1985 (not reproduced): Financial Secretary explained that in the absence of statutory discretion, a presumption existed that time limits for claims and elections should be strictly applied; however, late claims may still be entertained following an error by the Revenue, where the taxpayer had given clear notice of intention to claim or where reason for delay is clearly beyond the taxpayer's control.

43A Further assessments: claims etc.

43A(1) This section applies where–

(a) by virtue of section 29 of this Act an assessment to income tax or capital gains tax is made on any person for a year of assessment, and

(b) the assessment is not made for the purpose of making good to the Crown any loss of tax attributable to his fraudulent or negligent conduct or the fraudulent or negligent conduct of a person acting on his behalf.

43A(2) Without prejudice to section 43(2) above but subject to section 43B below, where this section applies–

(a) any relevant claim, election, application or notice which could have been made or given within the time allowed by the Taxes Acts may be made or given at any time within one year from the end of the year of assessment in which the assessment is made, and

(b) any relevant claim, election, application or notice previously made or given may at any such time be revoked or varied–

  (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, in the case of any such person who has died, by or with the consent of his personal representatives),

except where by virtue of any enactment it is irrevocable.

43A(2A) In subsection (2) above, **"claim, election, application or notice"** does not include an election under–

(a) section 257BA of the principal Act or any of sections 47 to 49 of ITA 2007 (tax reductions for married couples and civil partners: elections to transfer relief),

(b) Schedule 13B to the principal Act (elections as to transfer of children's tax credit), or

(c) section 35(5) of the Taxation of Chargeable Gains Act 1992 (election for assets to be re-based to 1982).

43A(3) For the purposes of this section and section 43B below, a claim, election, application or notice is relevant in relation to an assessment for a year of assessment if–

(a) it relates to that year of assessment or is made or given by reference to an event occurring in that year of assessment, and

(b) it or, as the case may be, its revocation or variation has or could have the effect of reducing any of the liabilities mentioned in subsection (4) below.

43A(4) The liabilities referred to in subsection (3) above are–

(a) the increased liability to tax resulting from the assessment,

(b) any other liability to tax of the person concerned for–

(i) the year of assessment to which the assessment relates, or

(ii) any year of assessment which follows that year of assessment and ends not later than one year after the end of the year of assessment in which the assessment is made.

43A(5) Where a claim, election, application or notice is made, given, revoked or varied by virtue of subsection (2) above, all such adjustments shall be made, whether by way of discharge or repayment of tax or the making of 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 year of assessment.

43A(6) The provisions of this Act relating to appeals against decisions on claims shall apply with any necessary modifications to a decision on the revocation or variation of a claim by virtue of subsection (2) above.

History – S. 43A(1)(a) substituted by FA 1998, s. 117(3) and Sch. 19, para. 22(2), and FA 1999, s. 139 and Sch. 20, Pt. III(20), with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78). The corporation tax element of the former text is re-enacted in FA 1998, Sch. 18 as respects accounting periods ending on or after 1 July 1999.

Former s. 43A(1) amended, by substituting reference to s. 29 for previous reference to s. 29(3), by FA 1994, s. 196 and Sch. 19, para. 15(1):

- in so far as it relates to partnerships whose trades, professions or businesses are set up and commenced before 6 April 1994, as respects the year 1997–98 and subsequent years of assessment (FA 1994, Sch. 19, para. 15(2)); and
- in so far as it relates to income tax and capital gains tax, other than in relation to partnerships whose trades were set up and commenced after 6 April 1994, as respects the year 1996–97 and subsequent years of assessment; and
- also originally as respects corporation tax accounting periods ending on or after the day appointed under FA 1994, s. 199(2), but see now FA 1998, Sch. 18.

References to "chargeable periods" replaced by the phrase "year of assessment" in subsections (2), (3), (4) and (5) by FA 1998, s. 117(3) and Sch. 19, para. 22(3), with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day (see above).

In s. 43A(2A)(a), the words "or any of sections 47 to 49 of ITA 2007" inserted by ITA 2007, s. 1027 and Sch. 1, para. 254(a) and the words "(tax reductions for married couples and civil partners: elections to transfer relief)" substituted for the words "(election as to transfer of married couple's allowance)" by ITA 2007, s. 1027 and Sch. 1, para. 254(b), with effect from 6 April 2007.

In s. 43A(2A)(b), the words "the principal Act" substituted for the words "that Act" by ITA 2007, s. 1027 and Sch. 1, para. 254(c), with effect from 6 April 2007.

The reference in s. 43A(2A) to ICTA 1988 Sch. 13B was deleted by TCA 2002 s. 60 and Sch. 6 with effect from 6 April 2003 (SI 2003/962) but then amended by FA 2003, s. 207(2) with effect from 10 July 2003 to include elections under ICTA 1988 Sch. 13B and TCGA 1992 s. 35(5). Where the revised section applies to the amendment of a return, it only does so where that amendment is issued after 10 July 2003.

In s. 43A(2A), the words "or under Schedule 13B to that Act (elections as to transfer of children's tax credit)" inserted at the end by FA 1999, s. 30(4)(c) with effect for the year 2001–02 and subsequent years of assessment.

S. 43A(2A) inserted in relation to tax for 1993–94 and subsequent years of assessment, by F(No. 2)A 1992, s. 20 and Sch. 5, para. 9(1), (4).

S. 43A inserted by FA 1989, s. 150 for assessments notice of which is issued after 27 July 1989.

Cross references – S. 43C: application of s. 43A following amendment of tax return.

FA 1998, Sch. 18, para. 63(2): disapplication of s. 43A where altered liability accepted by third party following amendment to corporation tax assessment etc.

Extra-statutory concessions – B41: repayments of tax will be made outside the statutory six-year time limit where an overpayment of tax has arisen because of an error by HMRC or another government department, and where there is no dispute or doubt as to the facts.

Statements of practice – SP 6/94: s. 43A does not apply where assessment made to recover tax lost due to fraudulent or negligent conduct; s. 43A notice cannot reduce tax beyond amount due under late assessment, and only applies to the chargeable period for which late assessment is made.

43B Limits on application of section 43A

43B(1) If the effect of the exercise by any person of a power conferred by section 43A(2) above–

(a) to make or give a claim, election, application or notice, or

(b) to revoke or vary a claim, election, application or notice previously made or given,

would be to alter the liability to tax of another person, that power may not be exercised except with the consent in writing of that other person or, where he has died, his personal representatives.

43B(2) Where–

(a) a power conferred by subsection (2) of section 43A above is exercised in consequence of an assessment made on a person, and

(b) the exercise of the power increases the liability to tax of another person,

that section shall not apply by reason of any assessment made because of that increased liability.

43B(3) In any case where–

(a) one or more relevant claims, elections, applications or notices are made, given, revoked or varied by virtue of the application of section 43A above in the case of an assessment, and

(b) the total of the reductions in liability to tax which, apart from this subsection, would result from the action mentioned in paragraph (a) above would exceed the additional liability to tax resulting from the assessment,

the excess shall not be available to reduce any liability to tax.

43B(4) Where subsection (3) above has the effect of limiting either the reduction in a person's liability to tax for more than one period or the reduction in the liability to tax of more than one person, the limited amount shall be apportioned between the periods or persons concerned–

(a) except where paragraph (b) below applies, in such manner as may be specified by the inspector by notice in writing to the person or persons concerned, or
(b) where the person concerned gives (or the persons concerned jointly give) notice in writing to the inspector within the relevant period, in such manner as may be specified in the notice given by the person or persons concerned.

43B(5) For the purposes of paragraph (b) of subsection (4) above the relevant period is the period of 30 days beginning with the day on which notice under paragraph (a) of that subsection is given to the person concerned or, where more than one person is concerned, the latest date on which such notice is given to any of them.

History – S. 43B inserted by FA 1989, s. 150 for assessments notice of which is issued on or after 27 July 1989.

Cross references – S. 43C: application of s. 43B following amendment of tax return.

Extra-statutory concessions – B41: repayments of tax will be made outside the statutory six-year time limit where an overpayment of tax has arisen because of an error by HMRC or another government department, and where there is no dispute or doubt as to the facts.

43C Consequential claims etc.

43C(1) Where–

(a) a return is amended under section 28A(2)(b), 28B(2)(b) or 28B(4), and
(b) the amendment is made for the purpose of making good to the Crown any loss of tax attributable to fraudulent or negligent conduct on the part of the taxpayer or a person acting on his behalf,

sections 36(3) and 43(2) apply in relation to the amendment as they apply in relation to any assessment under section 29.

43C(2) Where–

(a) a return is amended under section 28A(2)(b), 28B(2)(b) or 28B(4), and
(b) the amendment is not made for the purpose mentioned in subsection (1)(b) above,

sections 43(2), 43A and 43B apply in relation to the amendment as they apply in relation to any assessment under section 29.

43C(3) References to an assessment in sections 36(3), 43(2), 43A and 43B, as they apply by virtue of subsection (1) or (2) above, shall accordingly be read as references to the amendment of the return.

43C(4) Where it is necessary to make any adjustment by way of an assessment on any person–

(a) in order to give effect to a consequential claim, or
(b) as a result of allowing a consequential claim,

the assessment is not out of time if it is made within one year of the final determination of the claim.

For this purpose a claim is not taken to be finally determined until it, or the amount to which it relates, can no longer be varied, on appeal or otherwise.

43C(5) In subsection (4) above **"consequential claim"** means any claim, supplementary claim, election, application or notice that may be made or given under section 36(3), 43(2) or 43A (as it applies by virtue of subsection (1) or (2) above or otherwise).

History – S. 43C inserted by FA 2003, s. 207(1) . with effect from 10 July 2003. Where the section applies to an amendment to a return, it only does so where that amendment is issued after 10 July 2003

PART V – APPEALS AND OTHER PROCEEDINGS

JURISDICTION

Cross references – TCA 2002, s. 39(6): Pt. V applies in relation to tax credits appeals, subject to prescribed modifications (see SI 2003/1382; but see also TCA 2002, s. 63 for transitional arrangements).

CTFA 2004, s. 23: exercise of rights of appeal, TMA 1970, Pt. V, (appeals to Commissioners) applies in relation to appeals under CTFA 2004, s. 22 (as in relation to appeals under the Taxes Acts, within the meaning of that Act), but subject to such modifications as are prescribed by regulations.
FA 2004, s. 114(6): Part V applies in relation to appeals against withdrawal of, or the refusal to issue, certificates to avoid levy of special withholding tax.
SI 1987/1749, reg. 9(5): Pt. V applies to appeals on annual claims under the Occupational Pension Schemes (Additional Voluntary Contributions) Regulations 1987, and the special commissioners may vary the decision appealed against whether or not the variation is to the advantage of the appellant.
SI 1993/743, reg. 14(2), (4): application of Pt. V to an appeal against a formal determination against a contractor under reg. 14.
SI 1993/2004, reg. 11(10): application of Pt. V to an appeal against an assessment under reg. 11 (manufactured overseas dividends).
SI 2002/2172, reg. 14(4): application of Pt. V (except s. 55) to determinations of working tax credit funding to be repaid by employers.
SI 2004/1450, reg. 28(5): application of Pt. 5 for the purposes of Child Trust Funds appeals under SI 2004/1450, reg. 28(3).

44 General Commissioners

44(1) Proceedings before the General Commissioners under the Taxes Acts shall, subject to the provisions of this section, be brought before the General Commissioners for the division in which the place given by the rules in Schedule 3 to this Act is situated.

44(1A) [Repealed by FA 1996, s. 205 and Sch. 41, Pt. V(12).]

44(1B) [Repealed by FA 1996, s. 205 and Sch. 41, Pt. V(12).]

44(2) Where–

(a) the parties to any proceedings under the Taxes Acts which are to be heard by any General Commissioners have agreed, whether before or after the institution of the proceedings, that the proceedings shall be brought before the General Commissioners for a division specified in the agreement; and

(b) in the case of an agreement made before the time of the institution of the proceedings, neither party has determined that agreement by a notice served on the other party before that time,

the proceedings shall be brought before the General Commissioners for the division so specified, notwithstanding the said rules.

44(3) In any case in which proceedings under the Taxes Acts may be brought at the election of any person before the Special Commissioners instead of before the General Commissioners, the Commissioners before whom the proceedings are to be brought or have been brought may, if they think fit, on an application made by the parties, arrange with the other Commissioners concerned for the transfer of the proceedings to those other Commissioners; and the proceedings may be so transferred notwithstanding that the election has been exercised, or that the time for exercising the election has expired without its being exercised.

44(3A) Where in any case (including one in which proceedings may be brought as mentioned in subsection (3) above)–

(a) an appeal has been brought before the General Commissioners; and

(b) those Commissioners consider that, because of the complexity of the appeal or the length of time likely to be required for hearing it, the appeal should be brought before the Special Commissioners;

the General Commissioners may, with the agreement of the Special Commissioners, and having considered any representations made to them by the parties, arrange for the transfer of the proceedings to the Special Commissioners.

44(4) No determination of any General Commissioners under the Taxes Acts shall be questioned, whether by a case stated under section 56 of this Act or otherwise, on the ground that this section did not authorise those General Commissioners to make the determination, except by a party by whom or on whose behalf an objection to the jurisdiction was made to those General Commissioners before or in the course of the proceedings leading to the determination.

44(5) Anything to be done by the General Commissioners may, save as otherwise expressly provided by the Taxes Acts or by regulations under section 46A of this Act, be done by any two or more General Commissioners.

History – S. 44(1A) and (1B) repealed by FA 1996, s. 205 and Sch. 41, Pt. V(12), with effect in relation to any proceedings relating to the year 1996–97 or any subsequent year of assessment, and any proceedings relating to an accounting period ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78) (corporation tax self-assessment).
S. 44(2) substituted by FA 1988, s. 133(2), (3) in relation to proceedings instituted after 29 July 1988. In s. 44(2), at the end, the words "and any direction under subsection (1A) above" repealed by FA 1996, s. 205 and Sch. 41, Pt. V(12), with effect in relation to any proceedings relating to the year 1996–97 or any subsequent year of assessment, and any proceedings relating to an accounting period ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

S. 44(3A) inserted by FA 1984, s. 127 and Sch. 22, para. 5, with effect, by virtue of SI 1984/1836, from 1 January 1985.
In s. 44(5), the words "or by regulations under section 46A of this Act" inserted by SI 1994/1813, Sch. 1, para. 3, with effect from 1 September 1994.

Cross references – Sch. 3, para. 10: rules for assigning proceedings to general commissioners.
FA 1988, s. 134(6), (7): s. 44 applies to certain proceedings in Northern Ireland instituted before the special commissioners which are transferred to the general commissioners.
Social Security (Transfer of Functions, etc.) Act 1999, s. 13(2)(a)(i): power of the Board, with the concurrence of the Lord Chancellor and the Lord Advocate, to make regulations making provision with respect to appeals on contributions matters, including any of the matters dealt with in s. 44.
SI 1994/1812, reg. 18(2): market value or apportionment of value may be proved in proceedings relating to tax on chargeable gains by certificate signed by clerk or registrar of appropriate tribunal.
SI 1994/1812, reg. 19(1), (2): question in appeal may be referred by general commissioners to appropriate tribunal. Commissioners may go on to determine other matters without awaiting determination of the other tribunal.
SI 1999/1027, reg. 8A: modified application of s. 44(2), (3), (3A), (4) and (5) in relation to appeals to the tax appeal Commissioners.
SI 2003/1382: In its application to appeals under TCA 2002 s. 38, s. 44 is modified, with effect from 18 June 2003, by–

- the replacement of subs. (1) by the following:

"**44(1)** Proceedings before the General Commissioners in relation to an appeal against an employer penalty (as defined in section 63(11) of the Tax Credits Act 2002 shall, subject to the provisions of this section, be brought before the General Commissioners for the division in which the employer's place of business is situated."

- the insertion of a new subs. (1A):

"**44(1A)** In this section **"employer's place of business"** means–
(a) the place where the trade, profession, vocation or business of the employer is carried on, or
(b) if the trade, profession, vocation or business of the employer is carried on at more than one place, the head office or the place where it is mainly carried on."

- the substitution of the words "in relation to an appeal against an employer penalty (as defined in section 63(11) of the Tax Credits Act 2002)" for the words "under the Taxes Acts" in each place where they occur.
- the omission, from subs. (4), of the words ", whether by a case stated under section 56 of this Act or otherwise,"
- the omission, from subs. (5), of the words "by the Taxes Acts or"

45 Quorum of Special Commissioners

45(1) Anything to be done under any Act (including, except where otherwise expressly provided, any Act passed after this Act) by, to or before the Special Commissioners shall, except in any case where the Presiding Special Commissioner directs otherwise, be done by, to or before a single Special Commissioner.

45(1A) Nothing in this section applies in relation to proceedings as defined in regulation 2 of the Special Commissioners Regulations but, subject to that, this section applies not only for the purposes of the Taxes Acts but also for the purposes of any other affairs under the care and management of the Board.

45(2) [Repealed by FA 1984, s. 127 and Sch. 22, para. 2(2).]

45(3) Proceedings brought, in accordance with a direction of the Presiding Special Commissioner, before two or more Special Commissioners may be continued and determined by any one or more of them if the parties to the proceedings have given their consent, and if the continuing Special Commissioner or Commissioners, after such consultation as is practicable with any Special Commissioner retiring from the proceedings, is or are satisfied that to do so will avoid undue delay in the hearing of those or any other proceedings.

45(4)–(6) [Repealed by FA 1984, s. 127 and Sch. 22, para. 2(4).]

History – In s. 45(1), concluding words omitted by SI 1994/1813, Sch. 1, para. 4(a), Sch. 2, Pt. I, with effect from 1 September 1994 and previously amended by FA 1984, s. 127 and Sch. 22, para. 2(2), (3), making usual a hearing by a single commissioner, with effect, by virtue of SI 1984/1836, from 1 January 1985.
S. 45(1A) inserted by SI 1994/1813, Sch. 1, para. 4(b), with effect from 1 September 1994.
The repeal of s. 45(2), (4)–(6) has effect from 1 January 1985 (see SI 1984/1836).

46 General and Special Commissioners

46(1) A right to elect to bring an appeal or other proceedings under the Taxes Acts or Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 before the Special Commissioners instead of before the General Commissioners shall be exercised by notice combined (in the case of an appeal) with the notice of appeal, or by a separate notice in writing to the inspector or other officer of the Board within the time limited for bringing the proceedings, and if no such notice of election is given the appeal or other proceedings shall be brought before the General Commissioners.

46(2) Save as otherwise provided in the Taxes Acts or in regulations under section 56B of this Act and in particular save as provided by section 29 of this Act, the determination of the General Commissioners or the Special Commissioners in any proceedings under the Taxes Acts shall be final and conclusive.

History – In s. 46(1), reference to Social Security Contributions (Transfer of Functions, etc.) Act 1999, Pt. II inserted by s. 18 and Sch. 7, para. 2 of that Act, with effect from 1 April 1999 by virtue of SI 1999/527 (C. 11), art. 2(b) and Sch. 2, but 4 March 1999 for purposes connected with the making of regulations (ibid., art. 2(a) and Sch. 1).
In s. 46(2) former words "and in particular save as provided by section 29 of this Act" which followed "section 56B of this Act" repealed by FA 1998, s. 117(3) and Sch. 19, para. 23, s. 165 and Sch. 27, Pt. III(28), with effect in relation to accounting

periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2) and SI 1998/3173 (C. 78).
In s. 46(2), the words "and in particular save as provided by section 29 of this Act" inserted by FA 1994, s. 196 and Sch. 19, para. 16, in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and also originally as respects corporation tax accounting periods ending on or after the self-assessment appointed day before being superseded by their repeal noted above.
In s. 46(2), the words "or in regulations under section 56B of this Act" inserted by SI 1994/1813 Sch. 1, para. 5, with effect from 1 September 1994.

Cross references – Sch. 1A, para. 11(2): claims not included in returns; election to bring appeal before the special commissioners.
FA 1993, s. 173 and Sch. 19, para. 4(2): for 1992–93 and subsequent years a Lloyd's underwriting agent may elect under s. 46(1) in relation to an appeal against an inspector's determination of syndicate profits or losses (see ICTA 1988, s. 450 and Sch. 19A, para. 5 for prior years (from 1988–89)).
FA 1998, Sch. 18, para. 94(1): corporation tax self-assessment, election for appeals to be heard by special commissioners.
Social Security Contributions (Transfer of Functions, etc.) Act 1999, s. 12(4): appeals against decisions of officers of the Board on certain matters relating to contributions etc.: appellant may elect in accordance with s. 46(1) to bring appeal before Special Commissioners instead of General Commissioners.
FA 2000, Sch. 14, para. 5(7): Revenue enquiry into whether an option is a qualifying option; election under s. 46(1) to make application to the Special Commissioners for direction for closure notice to be given within a specified period.
FA 2000, Sch. 14, para. 7(4): appeals against decisions of the Revenue that option is not a **"qualifying option"**; appellant may elect in accordance with s. 46(1) to bring appeal before Special Commissioners instead of General Commissioners.
FA 2000, Sch. 14, para. 49(5): appeals against decisions of the Revenue to withhold approval (under FA 2000, Sch. 14, para. 47(1)(e)) of alteration of share capital; employer company may elect in accordance with s. 46(1) to bring appeal before Special Commissioners instead of General Commissioners.
FA 2000, Sch. 14, para. 67(5): reference for determination of market value of shares, or appeal against determination; employer company may elect for Special Commissioners instead of General Commissioners in accordance with s. 46(1).
TCA 2002, s. 39(3): tax credit appeals are to the General Commisioners with the right for the appellant to elect to be heard by the Special Commissioners (but see also TCA 2002, s. 63 for transitional arrangements).
ITEPA 2003, Sch. 5, para. 48(3)(b): completion of enquiry: application to Special Commissioners for closure notice to be given in respect of the Enterprise Management Incentives (EMI) code.
ITEPA 2003, Sch. 5, para. 50(4)(b): appeals to Special Commissioners against decisions of the Inland Revenue in respect of the Enterprise Management Incentives (EMI) code.
ITEPA 2003, Sch. 5, para. 56(5)(b): determination of market values of shares by Special Commissioners instead of by Inland Revenue.
ITEPA 2003, Sch. 5, para. 57(3)(b): appeal to Special Commissioners against Inland Revenue's determination of market value of shares.
FA 2004, s. 156(3): in the case of appeals against the Revenue's refusal to register a pension scheme under FA 2004, s. 153, an election may be made under s. 46(1) to bring the appeal before the Special Commissioners.
FA 2004, s. 159(3): in the case of appeals against the Revenue's decision to de-register a pension scheme under FA 2004, s. 157 an election may be made under s. 46(1) to bring the appeal before the Special Commissioners.
FA 2004, s. 170(3) (from 6 April 2006): in the case of appeals against exclusion of recognised overseas pension schemes from being qualifying recognised overseas pension schemes by Revenue decision under FA 2004 FA 2004, s. 169(5), an election may be made under s. 46(1) to bring the appeal before the Special Commissioners.
FA 2004, s. 253(3) (from 6 April 2006): in the case of appeals against notices under FA 2004, s. 252 to produce documents or particulars relating to a registered pension scheme, an election may be made under s. 46(1) to bring the appeal before the Special Commissioners.
FA 2004, s. 269(3) (from 6 April 2006): in the case of appeals against the Revenue's refusal of an application under FA 2004, s. 267 or s. 268 for the discharge of a pension scheme's liability.
FA 2004, Sch. 33, para. 6(3) (from 6 April 2006): in the case of appeals against exclusion of overseas pension schemes from being qualifying overseas pension schemes by Revenue decision under FA 2004, Sch. 33, para. 5(3), an election may be made under s. 46(1) to bring the appeal before the Special Commissioners.
SI 2003/1382: in its application to appeals under TCA 2002, s. 38, s. 46 is modified, with effect from 18 June 2003, as follows–

- in subs. (1), the substitution of the words "against an employer penalty (as defined in section 63(11) of the Tax Credits Act 2002)" in place of references to proceedings under the Taxes Acts and the Social Security Contributions (Transfer of Functions) provisions;
- in subs. (2), the omission of the words "in the Taxes Acts or" and the substitution of the words "in relation to an appeal against an employer penalty (as defined under section 63(11) of the Tax Credit Act 2002)".

SI 2003/2682, reg. 72D(2): employer and employee elections against PAYE determinations.

Hansard – 22 March 1983, vol. 39, col. 394 (not reproduced): where a taxpayer has an appeal determined in his absence through failure to receive notice of the hearing, or through sickness, etc., if the commissioners are satisfied with the truth of the explanation for the failure to attend or submit documents, the inspector will not object to the commissioners recalling their determination and rehearing the appeal.

HMRC Manuals – Capital Allowances, CA2099b: HMRC guidance on consequences of claiming capital allowances which would have been due had a claim been made within the time limits where a further or discovery assessment is raised to recover tax which would have been lost other than through fraud or neglect.

Other material – Letter from Lord Chancellor to clerks of bodies of commissioners, 1980 (not reproduced): where commissioners are satisfied of the bona fides of non-attendance HMRC will not object if the commissioners recall their determination and rehear the appeal.

46A Regulations about jurisdiction

46A(1) The Lord Chancellor may, with the consent of the Secretary of State, make regulations–

(a) providing for appeals or other proceedings under the Taxes Acts to be determined in certain circumstances by the Special Commissioners instead of the General Commissioners or by the General Commissioners instead of the Special Commissioners;

(b) providing for appeals or other proceedings under the Taxes Acts that would otherwise be determined by the General Commissioners for one division to be determined in certain circumstances by the General Commissioners for another division;

(c) as to the number of General Commissioners or Special Commissioners required or permitted to hear, or perform other functions in relation to, appeals or other proceedings under the Taxes Acts.

46A(1A) In subsection (1) above "the Taxes Acts" includes Part II of the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

46A(2) The regulations may–

(a) make different provision for different cases or different circumstances, and
(b) contain such supplementary, incidental, consequential and transitional provision as the Lord Chancellor thinks appropriate.

46A(3) Provision made by virtue of subsection (1) or (2) above may include provision amending this or any other Act or any instrument made under an Act.

46A(4) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

History – In s. 46A(1), the reference to the Secretary of State was substituted for a reference to the Lord Advocate by SI 1999/678 with effect from 19 May 1999.
S. 46(1A) inserted by Social Security Contributions (Transfer of Functions, etc.) Act 1999, s. 18 and Sch. 7, para. 3, with effect from 1 April 1999 by virtue of SI 1999/527 (C. 11), art. 2(b) and Sch. 2, but 4 March 1999 for purposes connected with the making of regulations (ibid., art. 2(a) and Sch. 1).
S. 46A inserted by F(No. 2)A 1992, s. 76 and Sch. 16, para. 3.

Cross references – Sch. 3, para. 10: rules for assigning proceedings to general commissioners.
Stamp Act 1891, s. 13A(4) and FA 1999, Sch. 17, para. 11(5), 12(1): powers conferred by s. 46A(1)(c) and (2)–(4) are exercisable in relation to certain appeals relating to stamp duty penalties.
IHTA 1984, s. 225A(1): modifications of s. 46A on its application to inheritance tax.
SSCTFA 1999, s. 12(4): appeals against decisions of officers of the Board on certain matters relating to contributions etc.
SI 1986/1711, Sch., Pt. I, II: modified application of s. 46A for purposes of stamp duty reserve tax.
SI 2003/1382: in its application to appeals under TCA 2002, s. 38, s. 46A is modified, with effect from 18 June 2003, by–

- the substitution, in subs. (1), of the words "against an employer penalty (as defined under section 63(11) of the Tax Credit Act 2002)" in place of the reference to proceedings under the Taxes Acts;
- the omission of subs. (1A).

Statutory instruments – SI 1994/1811.
SI 1994/1812.
SI 1994/1813.

46B Questions to be determined by Special Commissioners

46B(1) In so far as the question in dispute on an appeal to which this section applies is a question which under this section is to be determined by the Special Commissioners, the question shall be determined by them.

46B(2) This section applies to–

(a) an appeal against an amendment of a self-assessment under section 9C of this Act or paragraph 30 of Schedule 18 to the Finance Act 1998;
(aa) an appeal against an amendment of a return under paragraph 34(2) of Schedule 18 to the Finance Act 1998;
(b) an appeal against a conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act;
(c) an appeal against an amendment of a partnership return under section 30B(1) of this Act;
(d) an appeal against an assessment to tax which is not a self-assessment;
(e) an appeal against a conclusion stated or amendment made by a closure notice under paragraph 7(2) of Schedule 1A to this Act relating to a claim or election made otherwise than by being included in a return;
(f) an appeal against a decision contained in a closure notice under paragraph 7(3) of Schedule 1A to this Act disallowing in whole or in part a claim or election made otherwise than by being included in a return.

46B(3) Any question–

(a) of the value of any shares or securities in a company resident in the United Kingdom, other than shares or securities quoted in The Stock Exchange Daily Official List, and
(b) arising in relation to the taxation of chargeable gains (whether under capital gains tax or corporation tax) or in relation to a claim under the 1992 Act,

is a question to be determined by the Special Commissioners.

46B(4) Any question as to the application of any of the following provisions is a question to be determined by the Special Commissioners–

(a) Chapter 5 of Part 5 of ITTOIA 2005;

(b) [omitted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 373(2)(c) and repealed by ITTOIA 2005, s. 884 and Sch. 3;]
(c) sections 720, 727 and 731 of ITA 2007 (liability in respect of transfer of assets abroad);
(d) section 747(4)(a) of the principal Act (liability in respect of controlled foreign company).

46B(4A) Any question as to the application of—

(a) Part XVI of the principal Act (administration of estates: corporation tax), or
(b) Chapter 6 of Part 5 of ITTOIA 2005 (administration of estates: income tax),

is a question to be determined by the Special Commissioners.

46B(5) Any question as to the application of–

(a) section 830 of the principal Act, or
(b) section 276 of the 1992 Act, or
(c) section 41 of ITEPA 2003,
(d) section 874 of ITTOIA 2005, or
(e) section 1013 of ITA 2007,

(liability in relation to territorial sea and designated areas) is a question to be determined by the Special Commissioners.

History – S. 46B(2)(a), (aa), (b) and (c) substituted for para. (a), (b) and (c) by FA 2001, s. 88, Sch. 29, para. 27(2) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
S. 46B(2)(a) previously substituted by FA 1998, s. 117(3) and Sch. 19, para. 24, with effect in relation to accounting periods ending on or after 1 July 1999, the appointed day for corporation tax self-assessment by virtue of FA 1994, s. 199(2) (3) and SI 1998/3173 (C. 78). S. 46B(2)(a) formerly referred only to TMA 1970, s. 28A(2), (4).
In s. 46B(2)(e), the words "a conclusion stated or amendment made by a closure notice under paragraph 7(2) of Schedule 1A to this Act relating to" substituted for the words "an amendment under paragraph 7(3) of Schedule 1A to this Act of" and, in s. 46B(2)(f), the words "closure notice under paragraph 7(3)" substituted for the words "notice under paragraph 7(3A)", by FA 2001, s. 88, Sch. 29, para. 27(3), (4) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
In s. 46B(4) the words "of the principle Act", following the words "the following provisions", omitted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 373(2)(a) and repealed by ITTOIA 2005, s. 884 and Sch. 3; effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
In s. 46B(4)(a) the reference to ITTOIA 2005, Pt 5, Ch. 5 substituted for a reference to ICTA 1988, Pt. XV, Ch. 1A and 1B by ITTOIA 2005, s. 882(1) and Sch. 1, para. 373(2)(b); effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
S. 46B(4)(b) omitted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 373(2)(c) and repealed by ITTOIA 2005, s. 884 and Sch. 3; effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
In s. 46B(4)(c), the words "sections 720, 727 and 731 of ITA 2007" substituted for the words "sections 740 and 743(1) of the principal Act" by ITA 2007, s. 1027 and Sch. 1, para. 255(2)(a), with effect from 6 April 2007.
In s. 46B(4)(c) the words "of the principal Act" inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 373(2)(d); effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
In s. 46B(4)(d) the words "of the principal Act" substituted for the words "of that Act" by ITA 2007, s. 1027 and Sch. 1, para. 255(2)(b), with effect from 6 April 2007.
In s. 46B(4)(d) the words "of that Act" inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 373(2)(e); effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
S. 46B(4A) inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 373(3); effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
S. 46(5)(e) inserted by ITA 2007, s. 1027 and Sch. 1, para. 255(3), with effect from 6 April 2007.
In s. 46B(5), at the end of para. (b), the words ", or" inserted by ITEPA 2003, Sch. 6, para. 129 which has effect for the tax year 2003–04 and subsequent tax years. Para. (c) inserted by ITEPA 2003, Sch. 6, para. 129 which has effect for the tax year 2003–04 and subsequent tax years. Para. (d) inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 373(4); effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
S. 46B, together with s. 46C and 46D, originally substituted for s. 47, by FA 1996, s. 136 and Sch. 22, para. 7, with effect in relation to any proceedings relating to the year 1996–97 or any subsequent year of assessment, and any proceedings relating to a company accounting period ending on or after 1 July 1999, the self-assessment appointed day (see above).

Cross references – SI 1994/1811, reg. 22(2): market value or apportionment of value may be proved in proceedings relating to tax on chargeable gains by certificate signed by clerk or registrar of appropriate tribunal.
SI 1994/1811, reg. 23(1), (2): question in appeal may be referred by special commissioners to appropriate tribunal. Commissioners may go on to determine other matters without awaiting determination of the other tribunal.

46C Jurisdiction of Special Commissioners over certain claims included in returns

46C(1) In so far as the question in dispute on an appeal to which this section applies concerns a claim made–

(a) to the Board, or
(b) under any of the provisions listed in subsection (3) below,

the question shall be determined by the Special Commissioners.

46C(2) This section applies to–

(a) an appeal against an amendment of a self-assessment under section 9C of this Act or paragraph 30 of Schedule 18 to the Finance Act 1998;
(b) an appeal against an amendment of a return under paragraph 34(2) of Schedule 18 to the Finance Act 1998;
(c) an appeal against a conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act;
(d) an appeal against an amendment of a partnership return under section 30B(1) of this Act.

46C(3) The provisions mentioned in subsection (1) above are–

(a) [omitted by ITTOIA 2005 s. 882(1) and Sch. 1, para. 374 and repealed by ITTOIA 2005, s. 884 and Sch. 3;]
(b) sections 459 and 460 of the principal Act (exemption for certain friendly societies);
(c) section 467 of the principal Act (exemption for certain trade unions and employers' associations);
(d) section 527 of the principal Act (spreading of patent royalty receipts);
(e) Chapter I of Part XVIII of the principal Act.
(f) Part 10 of ITA 2007 (charitable trusts: claims for exemption);
(g) sections 461 and 908 of ITA 2007 (reliefs in respect of royalties).

History – S. 46C(2)(a), (b), (c) and (d) substituted for para. (a) and (b) by FA 2001, s. 88, Sch. 29, para. 28(2) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
S. 46C(2)(a) previously substituted by FA 1998, s. 117(3) and Sch. 19, para. 24, with effect in relation to accounting periods ending on or after 1 July 1999, the appointed day for corporation tax self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78). S. 46C(2)(a) formerly referred only to TMA 1970, s. 28A(2), (4).
In s. 46C(1)(b), the words "of the principal Act" omitted by ITA 2007, s. 1027 and Sch. 1, para. 256(2), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
In s. 46C(3), the words "of the principal Act" omitted by ITA 2007, s. 1027 and Sch. 1, para. 256(3)(a), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
S. 46C(3)(a) omitted by ITTOA 2005, s. 882 and Sch. 1, para. 374; and repealed by ITTOIA 2005, s. 884 and Sch. 3; effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
In s. 46C(3)(b) and (c), the words "of the principal Act" inserted by ITA 2007, s. 1027 and Sch. 1, para. 256(b) and (c), with effect from 6 April 2007.
S. 46C(3)(d) substituted by FA 2001, s. 71, Sch. 24, para. 2(1) with effect in relation to claims made in respect of payments actually receivable on or after 6 April 2001. The substitution effectively removed references to ICTA 1988, s. 534 (relief for copyright payments) and 538 (relief for artists) which were repealed with effect from the same date.
In s. 46C(3)(d) the words "section 527 of the principal Act (spreading of patent royalty receipts)" substituted for the words"sections 527 and 536 (reliefs in respect of royalties)" by ITA 2007, s. 1027 and Sch. 1, para. 256(3)(d) with effect from 6 April 2007.
In s. 46C(3)(e), the words "of the principal Act" inserted by ITA 2007, s. 1027 and Sch. 1, para. 256(3)(e), with effect from 6 April 2007.
S. 46C(3) paragraphs (f) and (g) inserted by ITA 2007, s. 1027 and Sch. 1, para. 256(3)(f), with effect from 6 April 2007.
S. 46C, together with s. 46B and 46D, originally substituted for s. 47, by FA 1996, s. 136 and Sch. 22, para. 7, with effect in relation to any proceedings relating to the year 1996–97 or any subsequent year of assessment, and any proceedings relating to a company accounting period ending on or after 1 July 1999, the corporation tax self-assessment appointed day (see above).

46D Questions to be determined by Lands Tribunal

46D(1) In so far as the question in dispute on an appeal to which this section applies–

(a) is a question of the value of any land or of a lease of land, and
(b) arises in relation to the taxation of chargeable gains (whether under capital gains tax or corporation tax) or in relation to a claim under the 1992 Act,

the question shall be determined by the relevant Lands Tribunal.

46D(2) This section applies to–

(a) an appeal against an amendment of a self-assessment under section 9C of this Act or paragraph 30 of Schedule 18 to the Finance Act 1998;
(aa) an appeal against an amendment of a return under paragraph 34(2) of Schedule 18 to the Finance Act 1998;
(b) an appeal against a conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act;
(c) an appeal against an amendment of a partnership return under section 30B(1) of this Act;
(d) an appeal against an assessment to tax which is not a self-assessment;
(e) an appeal against a conclusion stated or amendment made by a closure notice under paragraph 7(2) of Schedule 1A to this Act relating to a claim or election made otherwise than by being included in a return;
(f) an appeal against a decision contained in a closure notice under paragraph 7(3) of Schedule 1A to this Act disallowing in whole or in part a claim or election made otherwise than by being included in a return.

46D(3) In this section **"the relevant Lands Tribunal"** means–

(a) in relation to land in England and Wales, the Lands Tribunal;

(b) in relation to land in Scotland, the Lands Tribunal for Scotland;

(c) in relation to land in Northern Ireland, the Lands Tribunal for Northern Ireland.

History – S. 46D(2)(a), (aa), (b) and (c) substituted for para. (a), (b) and (c) by FA 2001, s. 88, Sch. 29, para. 29(2) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.

Former s. 46D(2)(a) substituted by FA 1998, s. 117(3) and Sch. 19, para. 24, with effect in relation to accounting periods ending on or after 1 July 1999, the appointed day for corporation tax self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78). S. 46D(2)(a) formerly referred only to TMA 1970, s. 28A(2), (4).

In s. 46D(2)(e), the words "a conclusion stated or amendment made by a closure notice under paragraph 7(2) of Schedule 1A to this Act relating to" substituted for the words "an amendment under paragraph 7(3) of Schedule 1A to this Act of" and, in s. 46D(2)(f), the words "closure notice under paragraph 7(3)" substituted for the words "notice under paragraph 7(3A)", by FA 2001, s. 88, Sch. 29, para. 29(3), (4) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.

S. 46D, together with s. 46B and 46C, originally substituted for s. 47, by FA 1996, s. 136 and Sch. 22, para. 7, with effect in relation to any proceedings relating to the year 1996–97 or any subsequent year of assessment, and any proceedings relating to a company accounting period ending on or after 1 July 1999, the self-assessment appointed day (see above).

Cross references – SI 1994/1811, reg. 22(2): market value or apportionment of value may be proved in proceedings relating to tax on chargeable gains by certificate signed by clerk or registrar of appropriate tribunal.

47 Special jurisdiction relating to tax on chargeable gains

47 [Substituted by FA 1996, s. 136 and Sch. 22, para. 7.]

History – S. 46B–46D substituted for s. 47 by FA 1996, s. 136 and Sch. 22, para. 7, with effect in relation to any proceedings relating to the year 1996–97 or any subsequent year of assessment, and any proceedings relating to a corporation tax accounting period ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

47A Special jurisdiction relating to development land tax

47A [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985.]

History – S. 47A dealt with development land tax.

47B Special jurisdiction relating to business expansion scheme

47B If and so far as the question in dispute on any appeal against the refusal of relief under Chapter III of Part VII of the principal Act (relief for investment in corporate trades), or against an assessment withdrawing any such relief, is a question of the value of an interest in land (within the meaning of section 294(5) of that Act) it shall be determined–

(a) if the land is in England and Wales, on a reference to the Lands Tribunal;

(b) if the land is in Scotland, on a reference to the Lands Tribunal for Scotland; and

(c) if the land is in Northern Ireland, on a reference to the Lands Tribunal for Northern Ireland.

History – Reference to provisions of the principal Act substituted by ICTA 1988, Sch. 29, para. 32, that Act becoming the principal Act (TMA 1970, s. 118(1)).

S. 47B inserted by FA 1986, Sch. 9, para. 22 in relation to shares issued after 18 March 1986.

Cross references – SI 1994/1811, reg. 22(2); SI 1994/1812, reg. 18(2): market value or apportionment of value may be proved in proceedings relating to tax on chargeable gains by certificate signed by clerk or registrar of appropriate tribunal.

SI 1994/1811, reg. 23(1)(2); SI 1994/1812, reg. 19(1)(2): question in appeal may be referred by special or general commissioners to appropriate tribunal. Commissioners may go on to determine other matters without awaiting determination of the other tribunal.

PROCEEDINGS BEFORE COMMISSIONERS

48 Application to appeals and other proceedings

48(1) In the following provisions of this Part of this Act, unless the context otherwise requires–

"appeal" means any appeal to the General Commissioners or to the Special Commissioners under the Taxes Acts,

"the Commissioners" means the General Commissioners or the Special Commissioners as the case may be.

48(2) The following provisions of this Part of this Act shall apply in relation to–

(a) appeals other than appeals against assessments, and

(b) proceedings which under the Taxes Acts are to be heard and determined in the same way as an appeal,

subject to any necessary modifications, including (except in the case of applications under 55 below) the omission of section 56(9) below.

History – S. 48(2) amended by F(No. 2)A 1975, s. 45(4).

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 48 applies with modifications for the purposes of oil taxation.

Social Security Contributions (Transfer of Functions, etc.) Act 1999, s. 13(2)(a)(ii): power of the Board, with the concurrence of the Lord Chancellor and the Lord Advocate, to make regulations making provision with respect to appeals on contributions matters, including any of the matters dealt with in s. 48.

SI 2003/1382: In its application to appeals under TCA 2002 s. 38, s. 48 is modified, with effect from 18 June 2003, by–

- the substitution, in subs. (1), of the words ""appeal" means an appeal against an employer penalty (as defined under section 63(11) of the Tax Credit Act 2002) to the General Commissioners or to the Special Commissioners" for the existing definition;
- the omission of subs. (2).

49 Proceedings brought out of time

49(1) An appeal may be brought out of time if on an application for the purpose an inspector or the Board is satisfied that there was a reasonable excuse for not bringing the appeal within the time limited, and that the application was made thereafter without unreasonable delay, and gives consent in writing; and the inspector or the Board, if not satisfied, shall refer the application for determination by the Commissioners.

49(2) If there is a right to elect to bring the appeal before the Special Commissioners instead of before the General Commissioners, the Commissioners to whom an application under this section is to be referred shall be the General Commissioners unless the election has been exercised before the application is so referred.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 49 applies for the purposes of oil taxation.
Social Security Contributions (Transfer of Functions, etc.) Act 1999, s. 13(2)(a)(ii): power of the Board, with the concurrence of the Lord Chancellor and the Lord Advocate, to make regulations making provision with respect to appeals on contributions matters, including any of the matters dealt with in s. 49.
SI 2003/1382: in its application to appeals under TCA 2002, s. 38, s. 49 is modified, with effect from 18 June 2003, by the substitution, in subs. (1) of the words "an officer of the Board" for the words "an inspector of the Board" in each place where they occur.

Other material – Association of British Chambers of Commerce press release, 1 August 1979 (not reproduced): inspectors' discretion to allow late appeals will be applied in the case of appeals delayed in the post.
Tax Bulletin TB08/95-7: equitable liability may apply where an assessment is final and conclusive but there is acceptable evidence of a lower and correct liability.

50 Procedure

50(1)–(5) [Omitted by SI 1994/1813, Sch. 1, para. 6(a), with effect from 1 September 1994.]

50(6) If, on an appeal, it appears to the majority of the Commissioners present at the hearing, by examination of the appellant on oath or affirmation, or by other evidence–

(a) that the appellant is overcharged by a self-assessment;
(b) that any amounts contained in a partnership statement are excessive; or
(c) that the appellant is overcharged by an assessment other than a self-assessment,

the assessment or amounts shall be reduced accordingly, but otherwise the assessment or statement shall stand good.

50(7) If, on an appeal, it appears to the Commissioners–

(a) that the appellant is undercharged to tax by a self-assessment;
(b) that any amounts contained in a partnership statement are insufficient; or
(c) that the appellant is undercharged by an assessment other than a self-assessment,

the assessment or amounts shall be increased accordingly.

50(7A) If, on appeal, it appears to the Commissioners that a claim or election which was the subject of a decision contained in a closure notice under section 28A of this Act should have been allowed or disallowed to an extent different from that specified in the notice, the claim or election shall be allowed or disallowed accordingly to the extent that appears to them appropriate, but otherwise the decision in the notice shall stand good.

50(8) Where, on an appeal against an assessment (other than a self-assessment) which–

(a) assesses an amount which is chargeable to tax, and
(b) charges tax on the amount assessed,

it appears to the Commissioners as mentioned in subsection (6) or (7) above, they may, unless the circumstances of the case otherwise require, reduce or, as the case may be, increase only the amount assessed; and where any appeal is so determined the tax charged by the assessment shall be taken to have been reduced or increased accordingly.

50(9) Where any amounts contained in a partnership statement are reduced under subsection (6) above or increased under subsection (7) above, an officer of the Board shall by notice to each of the relevant partners amend–

(a) the partner's return under section 8 or 8A of this Act, or
(b) the partner's company tax return,

so as to give effect to the reductions or increases of those amounts.

History – S. 50(1)–(5) omitted by SI 1994/1813, Sch. 1, para. 6(a), Sch. 2, Pt. I, with effect from 1 September 1994.
In s. 50(6) the word "lawful" which appeared after the word "other" in the introductory paragraph omitted by SI 1994/1813, Sch. 1, para. 6(b), with effect from 1 September 1994.
In s. 50(6)–

- in para. (a), the words "by reason of an amendment under section 28A(2) or (4) of this Act or paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998", and
- in para. (b), the words "by reason of an amendment under section 28B(3) or 30B(1) of this Act,"

(both of which appeared after the word "that" in each para.) and
In s. 50(7)–

- in para. (a), the words "which has been amended under section 28A(2) or (4) of this Act or paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998", and
- in para. (b), the words "which has been amended under section 28B(3) or 30B(1) of this Act"

(which appeared after the words "self-assessment" and "partnership statement" respectively), all omitted and repealed by FA 2001, s. 88, Sch. 29, para. 30(2), (3) and s. 110, Sch. 33, Pt. 2(13) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
Prior to the above repeal, in s. 50(6)(a) and (7)(a), the words "or paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998" had been inserted by FA 1998, s. 117(3) and Sch. 19, para. 27(4), with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
Originally, s. 50(6), (7) had been substituted by FA 1994, s. 196 in so far as they relate to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as they relate to corporation tax, as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day (see above).
In s. 50(7A) the words "which was the subject of a decision contained in a closure notice under section 28A" substituted for the words "specified in a notice under section 28A(4A)" by FA 2001, s. 88, Sch. 29, para. 30(4) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
Originally, s. 50(7A) inserted by FA 1996, s. 133 and Sch. 19, para. 7, in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day (see above).
S. 50(8) amended, by the insertion of the words "(other than a self-assessment)" by FA 1994, s. 196 in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day (see above).
S. 50(8) originally inserted by F(No. 2)A 1975, s. 67(2).
S. 50(9)(a) substituted by FA 2001, s. 88, Sch. 29, para. 30(5) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
Former s. 50(9) substituted by FA 1998, s. 117(3) and Sch. 19, para. 27(4), with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78) (see above).
Former s. 50(9) originally inserted by FA 1994, s. 196 and Sch. 19, para. 17, in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the self-assessment appointed day (see above).

Cross references – Sch. 3ZA, para. 11: tax payable or repayable on consequential amendment under s. 50(9)(a) of self assessment in partner's return following decision by commissioners on partnership.
S. 19A: disapplication of s. 50(6)–(8) on appeal under s. 19A(6).
S. 59C: disapplication of s. 50(6)–(8) on appeal under s. 59C(7) (appeal against imposition of a surcharge).
S. 88A(5): disapplication of s. 50(6)–(8) to an appeal against a determination under s. 88 (interest in cases of loss due to taxpayer's fault).
S. 93: disapplication of s. 50(6)–(8) on appeal against the determination under s. 100 of a penalty under s. 93(2), (4).
S. 93A: disapplication of s. 50(6)–(8) on appeal against the determination under s. 100 of a penalty under s. 93A(2), (4).
S. 100B(2): disapplication of s. 50(6)–(8) to an appeal against a determination under s. 100 (penalties).
ICTA 1988, s. 62A: disapplication of s. 50(6)–(8) on appeal under s. 62A(6).
FA 1995, Sch. 22, para. 12(6): disapplication of s. 50(6)–(8) with regard to appeals against notices issued under FA 1995, Sch. 22, para. 12(1) (transitional current-year basis anti-avoidance rules).
Social Security Contributions (Transfer of Functions, etc.) Act 1999, s. 13(2)(a)(ii): power of the Board, with the concurrence of the Lord Chancellor and the Lord Advocate, to make regulations making provision with respect to appeals on contributions matters, including any of the matters dealt with in s. 50.

Other material – Department of Constitutional Affairs booklets; *Appeals and other proceedings before the Special Commissioners* and *Tax Appeals: A guide to appealing against decisions of the Inland Revenue on tax and other matters.*

51 Power of Commissioners to obtain information from appellant

51 [Omitted by SI 1994/1813, Sch. 1, para. 7, Sch. 2, Pt. I.]

History – S. 51 omitted by SI 1994/1813, Sch. 1, para. 7, Sch. 2, Pt. I, with effect from 1 September 1994.

52 Evidence

52 [Omitted by SI 1994/1813, Sch. 1, para. 7.]

History – S. 52 omitted by SI 1994/1813, Sch. 1, para. 7, Sch. 2, Pt. I, with effect from 1 September 1994.

53 Appeals against summary determination of penalties

53(1) An appeal shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland, against the summary determination by the Commissioners of any penalty pursuant to regulations under section 56B of this Act.

53(2) On any such appeal the court may either confirm or reverse the determination of the Commissioners or reduce or increase the sum determined.

History – S. 53 substituted by SI 1994/1813, Sch. 1, para. 8, with effect from 1 September 1994.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 53 applies for the purposes of oil taxation.
Social Security Contributions (Transfer of Functions, etc.) Act 1999, s. 13(2)(a)(ii): power of the Board, with the concurrence of the Lord Chancellor and the Lord Advocate, to make regulations making provision with respect to appeals on contributions matters, including any of the matters dealt with in s. 53.
SI 1986/1711, Sch, Pt. I, II: modified application of s. 53 for purposes of stamp duty reserve tax.

SI 2003/1382: in the application of this Part of the Act to appeals under TCA 2002, s. 38 with effect from 18 June 2003, s. 53 is to be omitted.

Other material – RSC, O. 91: procedure in the High Court on appeal from the general or special commissioners, as replaced by the Civil Procedure Rules 1998 (SI 1998/3132), r. 50.1(3), Sch. 1, r. 91, as from 26 April 1999.

54 Settling of appeals by agreement

54(1) Subject to the provisions of this section, where a person gives notice of appeal and, before the appeal is determined by the Commissioners, the inspector or other proper officer of the Crown and the appellant come to an agreement, whether in writing or otherwise, that the assessment or decision under appeal should be treated as upheld without variation, or as varied in a particular manner or as discharged or cancelled, the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, the Commissioners had determined the appeal and had upheld the assessment or decision without variation, had varied it in that manner or had discharged or cancelled it, as the case may be.

54(2) Subsection (1) of this section shall not apply where, within thirty days from the date when the agreement was come to, the appellant gives notice in writing to the inspector or other proper officer of the Crown that he desires to repudiate or resile from the agreement.

54(3) Where an agreement is not in writing–

(a) the preceding provisions of this section shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the inspector or other proper officer of the Crown to the appellant or by the appellant to the inspector or other proper officer; and

(b) the references in the said preceding provisions to the time when the agreement was come to shall be construed as references to the time of the giving of the said notice of confirmation.

54(4) Where–

(a) a person who has given a notice of appeal notifies the inspector or other proper officer of the Crown, whether orally or in writing, that he desires not to proceed with the appeal; and

(b) thirty days have elapsed since the giving of the notification without the inspector or other proper officer giving to the appellant notice in writing indicating that he is unwilling that the appeal should be treated as withdrawn,

the preceding provisions of this section shall have effect as if, at the date of the appellant's notification, the appellant and the inspector or other proper officer had come to an agreement, orally or in writing, as the case may be, that the assessment or decision under appeal should be upheld without variation.

54(5) The references in this section to an agreement being come to with an appellant and the giving of notice or notification to or by an appellant include references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant in relation to the appeal.

Cross references – FA 1982, s. 156 and Sch. 21, para. 4(1): s. 54 applies to the tribunal established under ICTA 1988, s. 706 in respect of the functions transferred to it by FA 1982, s. 156 (cancellation of tax advantage on certain transactions in securities).
Social Security Contributions (Transfer of Functions, etc.) Act 1999, s. 13(2)(a)(ii): power of the Board, with the concurrence of the Lord Chancellor and the Lord Advocate, to make regulations making provision with respect to appeals on contributions matters, including any of the matters dealt with in s. 54.
SI 2002/2926, reg. 3: application of s. 54, with modifications, to tax credits appeals.
SI 2003/1382: in its application to appeals under TCA 2002, s. 38, s. 54 is modified, with effect from 18 June 2003, by–

- the substitution, in subs. (1) of the words "set aside" in place of "discharged or cancelled" and the substitution of the words "had set it aside" for "had discharged or cancelled it";
- the substitution of the words "the officer of the Board" for "the inspector or other officer of the Crown" and "the inspector or other proper officer" in each place where they occur;
- the omission of the words "assessment or".

SI 2005/191, reg. 4 : modification of s. 54 in its application to appeals against decisions of HMRC in respect of child trust funds.

Statements of practice – SP 8/91: if an assessment has been determined on appeal in accordance with s. 54, a discovery assessment should not be made in respect of any particular point which has been dealt with in the course of the determination of that appeal.

HMRC interpretations – IRInt. 64: where substantive point was squarely in issue in reaching agreement under s. 54, relief will not be available under s. 33.

Other material – Taxline 1999/146: where inspector has full information available to him to make his decision, the question whether he chooses to make enquiries or not is immaterial; if he comes to an agreement with the taxpayer following full disclosure of the facts, s. 54 applies.
CIOT technical release CIOT/TIR/7/97 (not reproduced): Revenue explanation of interaction of transfer pricing rules with s. 54:

- the UK Revenue may be willing to discuss the scope for entering into competent authority discussions before an assessment is settled;
- early notification to the UK Revenue of transfer pricing disputes with overseas revenues is welcome;
- the UK competent authority does not have the power to modify transfer pricing adjustments on settled years but will assist the group, of which the taxpayer is a member, in securing corresponding relief;

- a claim for a corresponding adjustment in respect of action by an overseas revenue must be made under TMA 1970, s. 43 within six years although in appropriate cases a protective claim may be accepted and a claim may be made within six years even if a section 54 agreement has been reached earlier;
- the means of ensuring relief from international double taxation in respect of transfer pricing adjustments is an evolving issue and the UK Revenue is open to receiving representations.

55 Recovery of tax not postponed

55(1) This section applies to an appeal to the Commissioners against–

(a) an amendment of a self-assessment–

(i) under section 9C of this Act, or

(ii) under paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998,

(aa) a conclusion stated or amendment made by a closure notice under section 28A or 28B of this Act,

(b) an assessment to tax other than a self-assessment,

(c) [omitted by ITA 2007, s. 1027 and Sch. 1, para. 257(a), and repealed by s. 1031 and Sch. 3, Pt. 1]

(d) a notice under subsection (1) or (3) of section 753 of the principal Act where, before the appeal is determined, the appellant is assessed to tax under section 747(4)(a) of that Act by reference to an amount of chargeable profits specified in that notice.

55(2) Except as otherwise provided by the following provisions of this section, the tax charged–

(a) by the amendment or assessment, or

(b) where the appeal is against a conclusion stated by a closure notice, as a result of that conclusion,

shall be due and payable as if there had been no appeal.

55(3) If the appellant has grounds for believing that he is overcharged to tax by the amendment or assessment, or as a result of the conclusion stated in the closure notice, he may, by notice in writing given to the inspector within thirty days after the specified date, apply to the Commissioners for a determination of the amount of tax the payment of which should be postponed pending the determination of the appeal.

A notice of application under this subsection shall state the amount in which the appellant believes that he is overcharged to tax and his grounds for that belief.

55(3A) An application under subsection (3) above may be made more than thirty days after the specified date if there is a change in the circumstances of the case as a result of which the appellant has grounds for believing that he is over-charged to tax by the amendment or assessment, or as a result of the conclusion stated in the closure notice.

55(4) If, after any determination of the amount of tax the payment of which should be so postponed, 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, he may, by notice in writing given to the other party at any time before the determination of the appeal, apply to the Commissioners for a further determination of that amount.

A notice of application under this subsection shall state the amount in which the applicant believes that the amount previously determined has become excessive or, as the case may be, insufficient and his grounds for that belief.

55(5) An application under subsection (3) or (4) above shall be heard and determined in the same way as the appeal; and where any such application is heard and determined by any Commissioners, that shall not preclude them from hearing and determining the appeal or any application or further application under subsection (4) above.

55(6) The amount of tax the payment of which shall be postponed pending the determination of the appeal shall be the amount (if any) in which it appears to the Commissioners, having regard to the representations made and any evidence adduced, that there are reasonable grounds for believing that the appellant is overcharged to tax; and–

(a) in the case of a determination made on an application under subsection (3) above, other than an application made by virtue of subsection (3A) above, the date on which any tax the payment of which is not so postponed is due and payable shall be determined as if the tax were charged by an amendment or assessment notice of which was issued on the date of that determination and against which there had been no appeal; and

(b) in the case of a determination made on an application under subsection (4) above–

(i) the date on which any tax the payment of which ceases to be so postponed is due and payable shall be determined as if the tax were charged by an amendment or assessment notice of which was issued on the date of that determination and against which there had been no appeal; and

(ii) any tax overpaid shall be repaid.

55(6A) Where an appeal is brought against an amendment or assessment to tax under section 747(4)(a) of the principal Act as well as against a notice under section 753(1) or (3) of that Act–

(a) an application under subsection (3) above may relate to matters arising on both appeals and, in determining the amount of tax the payment of which should be postponed, the Commissioners shall consider the matters so arising together; and

(b) if the Commissioners have determined the amount of tax the payment of which should be postponed solely in relation to one of the appeals, the bringing of the other appeal shall be taken to be a change of circumstances falling within subsection (4) above; and

(c) any reference in this section to the determination of the appeal shall be construed as a reference to the determination of the two appeals, but the determination of one before the other shall be taken to be a change of circumstances falling within subsection (4) above.

55(7) If the appellant and an inspector come to an agreement, whether in writing or otherwise, as to the amount of tax the payment of which should be postponed pending the determination of the appeal, the like consequences shall ensue as would have ensued if the Commissioners had made a determination to that effect under subsection (6) above on the date when the agreement was come to, but without prejudice to the making of a further agreement or of a further determination under that subsection.

55(8) Where an agreement is not in writing–

(a) subsection (7) above shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the inspector to the appellant or by the appellant to the inspector, and

(b) the reference in that subsection to the time when the agreement was come to shall be construed as a reference to the time of the giving of the notice of confirmation.

55(9) On the determination of the appeal–

(a) the date on which any tax payable in accordance with that determination is due and payable shall, so far as it is tax the payment of which had been postponed, or which would not have been charged by the amendment or assessment, or as a result of the conclusion stated in the closure notice, if there had been no appeal, be determined as if the tax were charged by an amendment or assessment–

(i) notice of which was issued on the date on which the inspector issues to the appellant a notice of the total amount payable in accordance with the determination, and

(ii) against which there had been no appeal; and

(b) any tax overpaid shall be repaid.

55(10) In subsection (3) above, **"inspector"** means the inspector or other officer of the Board–

(a) by whom the notice of amendment or assessment was issued, or

(b) in the case of an appeal against a conclusion stated or amendment made by a closure notice, by whom the closure notice was issued.

55(10A) In this section **"the specified date"** means the date of–

(a) the issue of the notice of amendment or assessment, or

(b) in the case of an appeal against a conclusion stated or amendment made by a closure notice, the issue of the closure notice.

55(10B) References in this section to an agreement being come to with an appellant, and to the giving of notice to or by an appellant, include references to an agreement being come to with, and the giving of notice to or by, a person acting on behalf of the appellant in relation to the appeal.

55(11) The transfer of proceedings under this Act or under regulations made pursuant to section 46A of this Act from one body of Commissioners to another body of Commissioners shall not affect the validity of a determination under subsection (6) above.

History – S. 55(1)(a) and (aa) substituted for the previous version of subs. (1)(a) by FA 2001, s. 88, Sch. 29, para. 31(2) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.

S. 55(1)(a) and s. 55(1)(b) (previously) substituted by FA 1998, s. 117(3) and Sch. 19, para. 28 with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
S. 55(1) previously substituted and s. 55(2)–(11) amended, by the substitution of the words "amendment or assessment" for "assessment" in each place where it occurred, by FA 1994, s. 196 and Sch. 19, para. 18, in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and also originally as respects corporation tax accounting periods ending on or after 1 July 1999, the appointed day by virtue of SI 1998/3173 (but see now amendment made by FA 1998, s. 117(3) and Sch. 19, para. 28, above).
S. 55(1)(b) previously substituted by FA 1996, s. 132 and Sch. 18, para. 1:

- for the purposes of income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment;
- for the purposes of corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78); and
- so far as relating to partnerships whose trades, professions or businesses were set up and commenced before 6 April 1994, with effect as respects the year 1997–98 and subsequent years of assessment.

S. 55(1)(c) omitted by ITA 2007, s. 1027 and Sch. 1, para. 257(a), and repealed by s. 1031 and Sch. 3, Pt. 1 with effect from 6 April 2007.
In s. 55(1)(d), the words "the principal Act" substituted for "that Act" by ITA 2007, s. 1027 and Sch. 1, para. 257(b) with effect from 6 April 2007.
S. 55(1)(f) related to development land tax.
S. 55(1)(g) substituted by ICTA 1988, s. 844 and Sch. 29, para. 8(1) in relation to tax for 1988–89 and subsequent years of assessment, and for companies' accounting periods ending after 5 April 1988.
S. 55(2) amended, the amendment substituting subs. (2)(a), (b) for the words "by the amendment or assessment", by FA 2001, s. 88, Sch. 29, para. 31(3) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
S. 55(2), (6), (9) (previously in the case of (2)) amended by FA 1989, s. 156(2), (4) for tax charged by an assessment, notice of which is issued after 30 July 1982, to clarify wording consequent to previous amendments, see below.
In s. 55(3), the words "or as a result of the conclusion stated in the closure notice," inserted and the words "the specified date" substituted for the words "the date of the issue of the notice of amendment or assessment", by FA 2001, s. 88, Sch. 29, para. 31(4) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
In s. 55(3A), the words "the specified date" substituted for the words "the date of the issue of the notice of amendment or assessment" and the words "or as a result of the conclusion stated in the closure notice," inserted, by FA 2001, s. 88, Sch. 29, para. 31(5) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
S. 55(3A) originally inserted by FA 1982, s. 68(2) in relation to notices of assessment issued after 30 July 1982; s. 55(2), (6) amended accordingly by FA 1982, s. 68(1), (3).
In s. 55(6), the word "lawful" which appeared before the word "evidence" omitted by SI 1994/1813, Sch. 1, para. 9(a), Sch. 2, Pt. I, with effect from 1 September 1994.
S. 55(6A) inserted by ICTA 1988, s. 844 and Sch. 29, para. 8(2) in relation to tax for 1988–89 and subsequent years of assessment and for companies' accounting periods ending after 5 April 1988 – see previously FA 1984, s. 89(6).
S. 55(7) amended by FA 1990, s. 104(2), (4), substituting "an inspector" for "the inspector", effective where notice of appeal is given on or after 26 July 1990.
In s. 55(9)(a), the words "or as a result of the conclusion stated in the closure notice," inserted by FA 2001, s. 88, Sch. 29, para. 31(6) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
S. 55(10), (10A) and (10B) substituted for the previous version of subs. (10) by FA 2001, s. 88, Sch. 29, para. 31(7) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
S. 55(10) previously amended by FA 1990, s. 104(2), (4), substituting "subsection (3) above" for "this section", effective where notice of appeal is given on or after 26 July 1990.
In s. 55(11), the words "or under regulations made pursuant to section 46A of this Act" inserted by SI 1994/1813, Sch. 1, para. 9(b), with effect from 1 September 1994.
S. 55(11) amended by FA 1984, Sch. 23, with effect, by virtue of SI 1984/1836, from 1 January 1985, removing a reference to s. 45(2) (repealed).
Reference to provisions of the principal Act substituted by ICTA 1988, Sch. 29, para. 32, that Act becoming the principal Act (TMA 1970, s. 118(1)).
S. 55 substituted by F(No. 2)A 1975, s. 45(1).

Cross references – S. 59B (as inserted by FA 1994, s. 193 as respects 1996–97 and subsequent years of assessment): payment of income tax and capital gains tax.
S. 59DA and SI 1998/3175, reg. 6(6): application to postpone payment of corporation tax under s. 55(3) or (4) may be combined with an application under s. 59DA(4) (determination of interim repayment) or an application under SI 1998/3175, reg. 6 (repayment of amounts in respect of a large company's total liability for an accounting period).
S. 86(1): income tax or capital gains tax due under s. 55 carries interest at the rate applicable under FA 1989, s. 178 from the "relevant date" until the date of payment.
Sch. 3ZA, para. 1(3): date by which payment to be made after amendment or correction of self assessment subject to postponement provisions of s. 55(6) and (9).
ICTA 1988, s. 306(8): claim for relief under the business expansion scheme (in relation to shares issued on or before 31 December 1993) or the enterprise investment scheme (in relation to shares issued on or after 1 January 1994) to precede an application under s. 55(3).
ICTA 1988, s. 374A(4)(a): assessment to recover certain amounts deducted under MIRAS to be treated as an assessment specified under s. 55(1).
ICTA 1988, s. 375(4): assessment of excess relief on payments relating to loan interest under MIRAS to be treated as an assessment specified under s. 55(1).
ICTA 1988, s. 747(4)(a): assessment as if corporation tax for liability in respect of a controlled foreign company.
ICTA 1988, s. 753(1), (3): notice or revised notice of direction regarding company with interest in a controlled foreign company.
ICTA 1988, Sch. 14, para. 6(2): TMA 1970 applies to any assessment to recover excess life assurance premium relief as though such an assessment were one specified in s. 55(1).
ICTA 1988, Sch. 16, para. 4(1), (9): due date for income tax under Sch. 16, 14 days from return period or from date of payment if outside an accounting period.
FA 1993, s. 173 and Sch. 19, para. 5; for 1992–93 and subsequent years, s. 55 applies, with modifications, to appeals by Lloyd's underwriting agents against inspectors' determinations of a syndicate's profits or losses and (para. 7(2)) effect of s. 55 in relation to an appeal by a Lloyd's syndicate member against a varied or modified determination of syndicate profits or losses (see ICTA 1988, s. 450 and Sch. 19A, para. 6 for prior years (from 1988–89)).

ICTA 1988, s. 754: special provisions as to assessment, recovery and postponement of tax in respect of a controlled foreign company.
FA 2000, Sch. 15, para. 40(7): application for postponement may not be made under s. 55(3) or s. 55(4) on the ground of eligibility for investment relief unless a claim has been made for the relief.
FA 2002, Sch. 16, para. 45: application for postponement may not be made under s. 55(3) or s. 55(4) on the ground of eligibility for community investment relief unless a claim has been made for the relief.
SI 1987/352, reg. 6(6): TMA 1970 to apply to assessments made under those regulations (pension scheme surpluses) as if they were assessments as specified in s. 55(1).
SI 1987/530, reg. 14(2)(a): TMA 1970 to apply to assessments made under those regulations (entertainers and sportsmen) as if they were assessments as specified in s. 55(1).
SI 1989/469, reg. 28(3)(a): TMA 1970 to apply to assessments made under those regulations (personal equity plans) as if they were assessments as specified in s. 55(1).

HMRC Manuals – Company Taxation, vol. IV, CT10213: interaction of repayment claim under ICTA 1988, s. 10(4) and postponement application.

56 Statement of case for opinion of the High Court

56(1) [Omitted by SI 1994/1813, Sch. 1, para. 10(a).]

56(2) [Omitted by SI 1994/1813, Sch. 1, para. 10(a).]

56(3) Where a party to an appeal requires the Commissioners to state and sign a case under regulation 20(1) of the General Commissioners Regulations, he shall pay to the clerk to the Commissioners a fee of £25 for and in respect of the same, before he is entitled to have the case stated.

56(4) [Omitted by SI 1994/1813, Sch. 1, para. 10(a).]

56(5) [Omitted by SI 1994/1813, Sch. 1, para. 10(a).]

56(6) The High Court shall hear and determine any question or questions of law arising on a case stated and transmitted to the High Court under regulation 22 of the General Commissioners Regulations and shall reverse, affirm or amend the determination in respect of which the case has been stated, or shall remit the matter to the Commissioners with the opinion of the Court thereon, or may make such other order in relation to the matter as to the Court may seem fit.

56(7) The High Court may cause the case to be sent back for amendment, and thereupon the case shall be amended accordingly, and judgment shall be delivered after it has been amended.

56(8) An appeal shall lie from the decision of the High Court to the Court of Appeal and thence to the House of Lords:

Provided that–

(a) no appeal shall lie to the House of Lords from the Court of Appeal unless leave has been given under and in accordance with section 1 of the Administration of Justice (Appeals) Act 1934, and
(b) this subsection has effect subject to Part II of the Administration of Justice Act 1969 (appeal from High Court to House of Lords).

56(9) Where a party to an appeal against an assessment has required a case to be stated under regulation 20(1) of the General Commissioners Regulations, then notwithstanding that the case has been required to be stated or is pending before the High Court, tax shall be paid in accordance with the determination of the Commissioners who have been required to state the case:

Provided that, if the amount charged by the assessment is altered by the order or judgment of the High Court, then–

(a) if too much tax has been paid the amount overpaid shall be refunded with such interest, if any, as the High Court may allow; or
(b) if too little tax has been charged, the amount undercharged shall be due and payable at the expiration of a period of thirty days beginning with the date on which the inspector issues to the other party a notice of the total amount payable in accordance with the order or judgment of that Court.

56(10) All matters within the jurisdiction of the High Court under this section shall be assigned in Scotland to the Court of Session sitting as the Court of Exchequer, and an appeal shall lie from the decision under this section of the Court of Session, as the Court of Exchequer in Scotland, to the House of Lords.

56(11) This section has effect in Northern Ireland subject to section 58 below.

Prospective amendments – In s. 56(3) the words "the clerk to" repealed by TCEA 2007, s. 146 and Sch. 23, Pt. 1, with effect in accordance with provision made by the Lord Chancellor by order (TCEA 2007, s. 148).
In s. 56(8) the words "Supreme Court" substituted for the words "House of Lords" in the first place by Constitutional Reform Act 2005, s. 40 and Sch. 9, para. 21(2)(a), with effect from a day to be appointed.

S. 56(8)(a) substituted by Constitutional Reform Act 2005, s. 40 and Sch. 9, para. 21(2)(b), with effect from a day to be appointed. New s. 56(8)(a) reads as follows:

"(a) an appeal to the Supreme Court under this subsection lies only with the permission of the Court of Appeal or the Supreme Court, and"

In s. 56(8)(b) the words "Supreme Court" substituted for the words "House of Lords" in each place by Constitutional Reform Act 2005, s. 40 and Sch. 9, para. 21(2)(c), with effect from a day to be appointed.

In s. 56(10) the words "Supreme Court" substituted for the words "House of Lords" in each place by Constitutional Reform Act 2005, s. 40 and Sch. 9, para. 21(2)(c), with effect from a day to be appointed.

History – S. 56(1), (2), (4), (5) omitted by SI 1994/1813, Sch. 1, para. 10(a), Sch. 2, Pt. I, with effect from 1 September 1994.

In s. 56(3) the words "Where a party to an appeal requires the Commissioners to state and sign a case under regulation 20(1) of the General Commissioners Regulations, he" substituted by SI 1994/1813, Sch. 1, para. 10(b), with effect from 1 September 1994.

S. 56(3) amended by FA 1984, s. 127 and Sch. 22, para. 6, substituting the sum of £25 with effect, by virtue of SI 1984/1836, from 1 January 1985.

In s. 56(6) the words "arising on a case stated and transmitted to the High Court under regulation 22 of the General Commissioners Regulations" substituted by SI 1994/1813, Sch. 1, para. 10(c), with effect from 1 September 1994.

S. 56(6) previously amended by FA 1985, Sch. 27, Pt. X, removing a reference to other officers of the Board, which related to development land tax.

In s. 56(9) the words "Where a party to an appeal against an assessment has required a case to be stated under regulation 20(1) of the General Commissioners Regulations, then notwithstanding that the case" substituted by SI 1994/1813, Sch. 1, para. 10(d), with effect from 1 September 1994.

S. 56(9) previously amended by FA 1989, s. 156(3), (4) for tax charged by an assessment, notice of which is issued after 30 July 1982, clarifying "the amount of" as being "the amount charged by" an assessment.

Cross references – S. 19A: case cannot be stated under s. 56 following determination of an appeal under s. 19A(6).

S. 33A: in relation to errors or mistakes in partnership statements, neither the representative partner nor the Board can require a case to be stated under s. 56 other than on a point of law arising in connection with the computation of profits.

ICTA 1988, s. 824(7), 825(6): no repayment supplement payable where the High Court allows such interest as in s. 56(9)(a).

SSCTFA 1999, s. 13(2)(a)(iii): power of the Board, with the concurrence of the Lord Chancellor and the Lord Advocate, to make regulations making provision with respect to appeals on contributions matters, including any of the matters dealt with in s. 56.

FA 2003, Sch. 17, para. 9(2)(c): corresponding provisions may be made for the purposes of Stamp Duty Land Tax.

SI 2003/1382: in the application of this Part of the Act to appeals under TCA 2002, s. 38 with effect from 18 June 2003, s. 56 is to be omitted.

SI 2004/1363, reg. 18: modified application of s. 56 to disapply use of case stated in relation to determination of general commissioners.

SI 2004/1363, reg. 25ff: modification of s. 56 for the purposes of SDLT.

Hansard – 22 March 1983, vol. 39, col. 394 (not reproduced): where a taxpayer has an appeal determined in his absence through failure to receive notice of the hearing, or through sickness, etc., if the commissioners are satisfied with the truth of the explanation for the failure to attend or submit documents, the inspector will not object to the commissioners recalling their determination and rehearing the appeal.

Other material – RSC, O. 91: procedure in the High Court on appeal from the general or special commissioners, as replaced by Civil Procedure Rules 1998 (SI 1998/3132), r. 50.1(3), Sch. 1, r. 91 as from 26 April 1999.

56A Appeals from the special commissioners

56A(1) If, in the case of any appeal to the Special Commissioners, the appellant or the inspector or other officer of the Board is dissatisfied in point of law–

(a) with a decision in principle given under regulation 18 of the Special Commissioners Regulations;

(b) with the decision finally determining the appeal, other than a decision made in accordance with regulation 23(2)(b) of the Special Commissioners Regulations; or

(c) with a decision under regulation 19 of those Regulations varying a decision such as is mentioned in paragraph (a) or (b) above or substituting for it a new decision;

he may appeal against that decision to the High Court.

56A(2) A party to any appeal in England and Wales who under subsection (1) above has the right to appeal against any decision to the High Court may instead appeal directly to the Court of Appeal if–

(a) all the parties to the appeal consent;

(b) the Special Commissioners certify that the decision involves a point of law relating wholly or mainly to the construction of an enactment which was fully argued before them and fully considered by them; and

(c) the leave of the Court of Appeal has been obtained.

56A(3) Where a decision in principle or a decision finally determining an appeal is set aside or varied under regulation 19 of the Special Commissioners Regulations, an appeal against that decision under subsection (1) or (2) above that has not yet been determined shall be treated as withdrawn at the time the decision is set aside or varied.

56A(4) The High Court or, as the case may be, the Court of Appeal shall hear and determine any question of law arising on an appeal under subsection (1) or (2) above and may reverse, affirm or vary the decision appealed against, or remit the matter to the Special Commissioners with the Court's opinion on it, or make such other order in relation to the matter as the Court thinks fit.

56A(5) Subject to subsection (7) below and to Part II of the Administration of Justice Act 1969 (appeal from High Court to House of Lords), an appeal shall lie to the Court of Appeal and thence to the House of Lords from the decision of the High Court on an appeal in England and Wales under subsection (1) above.

56A(6) Subject to subsection (7) below, an appeal shall lie to the House of Lords from the decision of the Court of Appeal on an appeal under subsection (2) above.

56A(7) An appeal shall not lie to the House of Lords from the Court of Appeal unless leave has been given under and in accordance with section 1 of the Administration of Justice (Appeals) Act 1934.

56A(8) Where the decision appealed against under subsection (1) or (2) above is a decision on an appeal against an assessment, then notwithstanding that the appeal under that subsection is pending, tax shall be paid in accordance with the determination of the Special Commissioners who made that decision.

56A(9) If in such a case the amount charged by the assessment is altered by the order or judgment of the High Court or, as the case may be, the Court of Appeal, then–

(a) if too much tax has been paid the amount overpaid shall be refunded with such interest, if any, as the High Court or, as the case may be, the Court of Appeal may allow; or

(b) if too little tax has been charged, the amount undercharged shall be due and payable at the expiration of a period of thirty days beginning with the date on which the inspector issues to the other party a notice of the total amount payable in accordance with the order or judgment of the High Court or, as the case may be, the Court of Appeal.

56A(10) All matters within the jurisdiction of the High Court under this section shall be assigned in Scotland to the Court of Session sitting as the Court of Exchequer (references in this section to the High Court being construed accordingly); and an appeal shall lie from the decision under this section of the Court of Session, as the Court of Exchequer in Scotland, to the House of Lords.

56A(11) This section has effect in Northern Ireland subject to section 58 below.

Prospective amendments – In s. 56A(5) and (6) the words "Supreme Court" substituted for the words "House of Lords" in each place by Constitutional Reform Act 2005, s. 40 and Sch. 9, para. 21(3)(a), with effect from a day to be appointed.
S. 56A(7) substituted by Constitutional Reform Act 2005, s. 40 and Sch. 9, para. 21(3)(b), with effect from a day to be appointed. New s. 56A(7) reads as follows:

"(a) An appeal to the Supreme Court under subsection (6) lies only with the permission of the Court of Appeal or the Supreme Court."

In s. 56A(10) the words "Supreme Court" substituted for the words "House of Lords" by Constitutional Reform Act 2005, s. 40 and Sch. 9, para. 21(3)(c), with effect from a day to be appointed.

History – S. 56A(1)(b) amended by SI 1999/3294, reg. 3, with effect from 1 January 2000.
S. 56A substituted by SI 1994/1813, Sch. 1, para. 11, with effect from 1 September 1994.

Cross references – Stamp Act 1891, s. 13A(6): s. 56A applies in relation to a decision of the Special Commissioners under that section (appeal to Special Commissioners against adjudication).
OTA 1975, Sch. 2, para. 1(1): s. 56A applies for the purposes of oil taxation.
F(No. 2)A 1997, Sch. 2, para. 11(1), (6): application to windfall tax.
FA 1998, Sch. 18, para. 51(6): application to corporation tax self-assessment with effect from 1 July 1999, the appointed day.
SSCTFA 1999, s. 13(2)(a)(iii): power of the Board, with the concurrence of the Lord Chancellor and the Lord Advocate, to make regulations making provision with respect to appeals on contributions matters, including any of the matters dealt with in s. 56A.
FA 1999, Sch. 17, para. 12(1): s. 56A applies in relation to a decision by the Special Commissioners under para. 9 of that Schedule (stamp duty: appeal against determination of penalty).
FA 2003, Sch. 17, para. 9(3)(c): corresponding provisions may be made for the purposes of Stamp Duty Land Tax.
SI 1994/1813, reg. 1(2): the words "Special Commissioners" shall be construed in accordance with TMA 1970, s. 4(1), with effect from 1 September 1994.
SI 2001/4024, reg. 3: modifications of s. 56A as applied to referrals to the special commissioners during an enquiry into a self-assessment return.
SI 2003/1382: in the application of this Part of the Act to appeals under TCA 2002, s. 38 with effect from 18 June 2003, s. 56A is to be omitted.
SI 2004/1363, reg. 25ff: modification of s. 56A for the purposes of SDLT.
SI 2004/1363, reg. 26(3): modification of s. 56A substituting s. 56A(1) in relation to referrals to the special commissioners under Sch. 10, para. 19 and Sch. 11, para. 12.
SI 2004/1363, reg. 26(4), (5): modification of s. 56A(2), (3) in relation to referrals to the special commissioners under Sch. 10, para. 19 and Sch. 11, para. 12.
SI 2004/1363, reg. 26(6): modification of s. 56A omitting s. 56A(8) and (9) in relation to referrals to the special commissioners under Sch. 10, para. 19 and Sch. 11, para. 12.
SI 2004/1363, reg. 26(11): modification of s. 56A inserting s. 56A(12) in relation to referrals to the special commissioners under Sch. 10, para. 19 and Sch. 11, para. 12.

56B Regulations about practice and procedure

56B(1) The Lord Chancellor may, with the consent of the Secretary of State, make regulations about the practice and procedure to be followed in connection with appeals.

56B(2) The regulations may in particular include provision–

(a) enabling the Commissioners to join as a party to an appeal a person who would not otherwise be a party;
(b) for requiring any party to an appeal to provide information and make documents available for inspection by specified persons;
(c) for requiring persons to attend the hearing of an appeal to give evidence and produce documents;
(d) as to evidence generally in relation to appeals;
(e) enabling the Commissioners to review their decisions;
(f) for the imposition of penalties not exceeding an amount specified in the regulations;
(g) for the determination and recovery of penalties (imposed by virtue of paragraph (f) above or any other enactment) and for appeals against penalties.

56B(2A) In subsection (2)(b) above **"specified persons"** means such of the following as may be specified in the regulations–

(a) the Commissioners;
(b) any party to the appeal;
(c) officers of the Board.

56B(3) The regulations may also include provision–

(a) authorising or requiring the Commissioners, in circumstances prescribed in the regulations, to state a case for the opinion of a court;
(b) for an appeal to lie to a court on a question of law arising from a decision of the Commissioners;
(c) as to the practice and procedure to be followed in connection with cases so stated or such appeals.

56B(4) The regulations may–

(a) make different provision for different cases or different circumstances, and
(b) contain such supplementary, incidental, consequential and transitional provision as the Lord Chancellor thinks appropriate.

56B(5) Provision made by virtue of any of subsections (1) to (4) above may include provision amending this or any other Act or any instrument made under an Act.

56B(6) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

History – In s. 56B(1), the reference to the Secretary of State was substituted for a reference to the Lord Advocate by SI 1999/678 with effect from 19 May 1999.
In s. 56B(2)(b), the words "specified persons" substituted for the former words "the Commissioners or by officers of the Board" and s. 56B(2A) inserted by FA 1994, s. 254(1)–(3) with effect from 3 May 1994.
S. 56B inserted by F(No. 2)A 1992, s. 76 and Sch. 16, para. 4.

Cross references – S. 19A(11): power to call for documents for purposes of certain enquiries.
S. 33A(8): error or mistake in partnership statement.
Stamp Act 1891, s. 13A(4): powers conferred by s. 56B are exercisable in relation to certain appeals relating to stamp duty penalties.
IHTA 1984, s. 225A(2): application to inheritance tax.
SSCTFA 1999, s. 13(3), (4): any reference in s. 56B to an appeal includes a reference to an appeal to the tax appeal Commissioners under Part II of that Act, and regulations in force as at the commencement of that provision (1 April 1999) apply in relation to appeals to the tax appeal Commissioners under Part II of that Act, subject to any necessary modifications, as they apply in relation to such appeals under the Taxes Acts.
FA 1999, Sch. 17, para. 11(5): powers conferred by s. 56B are exercisable in relation to certain appeals relating to stamp duty penalties.
TCA 2002, s. 39(7): application of regulations under s. 56B to tax credits appeals (but see TCA 2002, s. 63 for transitional arrangements).
FA 2004, s. 317A: the provisions of TMA 1070, s. 56B apply, with necessary modification, to appeal applications under the rules relating to the disclosure of tax avoidance schemes, in FA 2004, Part 7.
SI 1986/1711, Sch., Pt. I, II: modified application of s. 56B for purposes of stamp duty reserve tax.

Statutory instruments – SI 1994/1811, SI 1994/1812 (as amended by SI 2002/2976).
SI 2003/968 (not reproduced): regulations amending SI 1994/1811 to enable the Special Commissioners to hear appeals under Proceeds of Crime Act, s. 320, relating to the exercise of Revenue functions by the Director of the Assets Recovery Agency.
SI 2004/1363 (made under s. 56B): regulations amending SI 1994/1811 and SI 1994/1812.

56C Power of Special Commissioners to order costs

56C(1) Regulations made under section 56B above may include provision for–

(a) the award by the Special Commissioners of the costs of, or incidental to, appeal hearings before them,
(b) the recovery of costs so awarded, and
(c) appeals against such awards.

56C(2) Any provision made by virtue of subsection (1)(a) above shall provide that the Special Commissioners shall not award costs against a party to an appeal unless they consider that he has acted wholly unreasonably in connection with the hearing in question.

History – S. 56C inserted by F(No. 2)A 1992, s. 76 and Sch. 16, para. 4.

Cross references – Stamp Act 1891, s. 13A(4): powers conferred by s. 56C are exercisable in relation to certain appeals relating to stamp duty penalties.
FA 2004, s. 317A: the provisions of TMA 1070, s. 56C apply, with necessary modification, to appeal applications under the rules relating to the disclosure of tax avoidance schemes, in FA 2004, Part 7.
IHTA 1984, s. 225A(2): application to inheritance tax.
Social Security Contributions (Transfer of Functions, etc.) Act 1999, s. 13(3): any reference in s. 56C to an appeal includes a reference to an appeal to the tax appeal Commissioners under Part II of that Act.
FA 1999, Sch. 17, para. 11(5): powers conferred by s. 56C are exercisable in relation to certain appeals relating to stamp duty penalties.
SI 1986/1711, Schedule, Pt. I, II: s. 56C applies for purposes of stamp duty reserve tax.

56D Power of Special Commissioners to publish reports of decisions

56D(1) Regulations made under section 56B above may include provision for the Special Commissioners to publish reports of such of their decisions as they consider appropriate.

56D(2) Any provision made by virtue of subsection (1) above shall provide that any report published, other than a report of an appeal that was heard in public, shall be in a form that so far as possible prevents the identification of any person whose affairs are dealt with in the report.

56D(3) No obligation of secrecy to which the Special Commissioners are subject (by virtue of this Act or otherwise) shall prevent their publishing reports of their decisions in accordance with any provision made by virtue of subsection (1) above.

History – S. 56D inserted by F(No. 2)A 1992, s. 76 and Sch. 16, para. 4.

Cross references – Stamp Act 1891, s. 13A(4): powers conferred by s. 56D are exercisable in relation to certain appeals relating to stamp duty penalties.
IHTA 1984, s. 225A(2): application to inheritance tax.
FA 1999, Sch. 17, para. 11(5): powers conferred by s. 56D are exercisable in relation to certain appeals relating to stamp duty penalties.
FA 2004, s. 317A: the provisions of TMA 1070, s. 56D apply, with necessary modification, to appeal applications under the rules relating to the disclosure of tax avoidance schemes, in FA 2004, Part 7.
SI 1986/1711, Schedule, Pt. I, II: s. 56D applies for purposes of stamp duty reserve tax.

HMRC interpretations – IRInt. 125: publication of special commissioners' decisions.

CHARGEABLE GAINS

57 Regulations about appeals

57(1) The Board may make regulations–

(a) as respects the conduct of appeals against assessments and decisions on claims under the 1992 Act,

(b) entitling persons, in addition to those who would be so entitled apart from the regulations, to appear on such appeals,

(c) regulating the time within which such appeals or claims may be brought or made,

(d) where the market value of an asset on a particular date, or an apportionment or any other matter, may affect the liability to capital gains tax of two or more persons, enabling any such person to have the matter determined by the tribunal having jurisdiction to determine that matter if arising on an appeal against an assessment, and prescribing a procedure by which the matter is not determined differently on different occasions,

(e) authorising an inspector or other officer of the Board, notwithstanding the obligation as to secrecy imposed by virtue of this or any other Act, to disclose to a person entitled to appear on such an appeal the market value of an asset as determined by an assessment or decision on a claim, or to disclose to a person whose liability to tax may be affected by the determination of the market value of an asset on a particular date, or an apportionment or any other matter, any decision on the matter made by an inspector or other officer of the Board.

57(2) [Repealed by FA 1971, Sch. 14, Pt. III.]

57(3) Regulations under this section may contain such supplemental and incidental provisions as appear to the Board to be expedient including in particular–

(a) provisions as to the choice of the Commissioners, whether a body of General Commissioners or the Special Commissioners, to hear the appeal where, in addition to the appellant against an assessment, or the claimant in the case of an appeal against the decision on a claim, and in

addition to the inspector or other officer of the Board, some other person is entitled to be a party to the appeal, and

(b) provisions corresponding to section 563 of the Capital Allowances Act (determination of apportionment affecting tax liability of two or more persons), and

(c) provisions authorising the giving of conditional decisions where, under section 46B, 46C or 46D of this Act, questions on an appeal against an assessment or a decision on a claim may go partly to one tribunal and partly to another.

57(4) Regulations under this section–

(a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons, and

(b) shall have effect notwithstanding anything in this Act.

History – Reference to the 1992 Act in s. 57(1)(a) substituted by TCGA 1992, s. 290 and Sch. 10, para. 2(2).
S. 57(2) repealed by FA 1971, Sch. 14, Pt. III.
S. 57(3)(b) substituted by CAA 2001, s. 578 and Sch. 2, para. 2 with effect as respects allowances and charges falling to be made for chargeable periods ending, for income tax purposes, on or after 6 April 2001, and for corporation tax purposes, on or after 1 April 2001. Under CAA 2001, Sch. 3, para. 8, where a person is affected by a change in the law brought into effect by CAA 2001, they may elect for the pre-consolidation law to apply for the chargeable period straddling the commencement of CAA 2001. The former wording of s. 57(3)(b) was as follows:

"(b) provisions corresponding to section 151 of the Capital Allowances Act 1990 (procedure on apportionments where more than one body of General Commissioners has jurisdiction), and"

S. 57(3)(b) previously amended by CAA 1990, Sch. 1, para. 1(1), substituting reference to provisions of that Act on consolidation, for chargeable periods ending after 5 April 1990.
In s. 57(3)(c) reference to s. 46B–D substituted for previous reference to s. 47 by FA 1996, s. 136 and Sch. 22, para. 8, in relation to any proceedings relating to the year 1996–97 or any subsequent year of assessment, and any proceedings relating to an accounting period ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

Cross references – Sch. 3, para. 10: rules for assigning proceedings to general commissioners.

Statutory instruments – SI 1967/149 made under FA 1965, Sch. 10, para. 2, the predecessor of s. 57.

DEVELOPMENT LAND TAX

57A Regulations about appeals

57A(1)–(3) [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985.]

PROCEDURAL RULES

57B Commissioners: procedural rules

57B [Repealed by F(No. 2)A 1992, s. 76 and Sch. 16, para. 5, s. 82 and Sch. 18, Pt. IX, with effect from 16 July 1992.]

NORTHERN IRELAND

58 Proceedings in tax cases in Northern Ireland

58(1) [Repealed by FA 1988, s. 134(2), (4), 148 and Sch. 14, Pt. IX.]

58(2) A case which is stated by the General Commissioners under regulation 22 of the General Commissioners Regulations in proceedings in Northern Ireland shall be a case for the opinion of the Court of Appeal in Northern Ireland, and the Taxes Acts shall have effect as if section 56 of this Act applied in relation to such proceedings–

(a) with the substitution for references to the High Court of references to the Court of Appeal in Northern Ireland, and

(b) with the omission of subsection (8) of that section,

and the procedure relating to the hearing and determination of the case by the Court of Appeal in Northern Ireland shall be that for the time being in force in Northern Ireland as respects cases stated by a county court in the exercise of its general jurisdiction.

58(2A) [Omitted by SI 1994/1813, Sch. 1, para. 12(b).]

58(2B) The Taxes Acts shall have effect as if section 56A of this Act applied in relation to any appeal to the Special Commissioners constituting proceedings in Northern Ireland–

(a) with the substitution for references to the High Court of references to the Court of Appeal in Northern Ireland, and

(b) with the omission of subsections (2) and (5) to (7).

58(2C) An appeal shall lie to the House of Lords in accordance with section 42 of the Judicature (Northern Ireland) Act 1978 from a decision of the Court of Appeal in Northern Ireland on a case

stated under regulation 22 of the General Commissioners Regulations or on an appeal under section 56A of this Act.

58(3) For the purposes of this section–

(a) **"proceedings in Northern Ireland"** means proceedings as respects which the place given by the rules in Schedule 3 to this Act is in Northern Ireland;

(b) proceedings under section 102, 113(5), 281(4), 343(10) or 783(9) of the principal Act (or the corresponding enactments repealed by that Act), section 186 of ITTOIA 2005, section 11 of or paragraph 22 of Schedule 7 to the Income and Corporation Taxes Act 1970 or section 563 of the Capital Allowances Act (determination of apportionment affecting tax liability of two or more persons) shall be proceedings in Northern Ireland if the place given by the rules in Schedule 3 to this Act in relation to each of the parties concerned in the proceedings is in Northern Ireland,

and sections 21 and 22 of the Interpretation Act (Northern Ireland) 1954 shall apply as if references in those provisions to any enactment included a reference to this section.

58(4) [Repealed by FA 1988, s. 148 and Sch. 14, Pt. IX.]

Prospective amendments – In s. 58(2C) the words "Supreme Court" substituted for the words "House of Lords" by the Constitutional Reform Act 2005, s. 40 and Sch. 9, para. 21(4), with effect from a day to be appointed

History – S. 58(1) repealed, and in s. 58(2) the former word "Special" before "Commissioners" omitted by FA 1988, s. 134(2), (4), 148 and Sch. 14, Pt. IX, with effect from 3 April 1989 (SI 1989/473).
S. 58(2) substituted by SI 1994/1813, Sch. 1, para. 12(a), with effect from 1 September 1994.
S. 58(2A) omitted and s. 58(2B), (2C) inserted by SI 1994/1813, Sch. 1, para. 12(b), with effect from 1 September 1994. Former s. 58(2A) was inserted, and s. 58(3) substituted, by FA 1988, s. 135(1), (2) and 324(4), with effect from 3 April 1989 (SI 1989/473).
In s. 58(3)(b), the words "section 563 of the Capital Allowances Act (determination of apportionment affecting tax liability of two or more persons)" substituted for the words "section 151 of the Capital Allowances Act 1990 (proceedings to which more than one taxpayer is a party)" by CAA 2001, s. 578 and Sch. 2, para 3 with effect as respects allowances and charges falling to be made for chargeable periods ending, for income tax purposes, on or after 6 April 2001, and for corporation tax purposes, on or after 1 April 2001. A reference to ITTOIA 2005, s. 186 inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 375; effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
In s. 58(3)(b), a reference to ICTA 1988 Sch. 13B was inserted by FA 1999 s. 30(4),(5) with effect from 2000/01 and repealed by TCA 2002 s. 60 and Sch. 6 with effect from 6 April 2003 (SI 2003/962). A reference to ICTA 1988, s. 260(3) repealed by FA 1999, s. 139 and Sch. 20, Pt. III(4) with effect for the year 2000–01 and subsequent years of assessment. S. 58(3)(b) was previously amended by CAA 1990, Sch. 1, para. 1(1), substituting reference to provisions of that Act on consolidation, for chargeable periods ending after 5 April 1990.
S. 58(4) repealed by FA 1988, s. 148 and Sch. 14, Pt. IX, with effect from 3 April 1989 (SI 1989/473).

Cross references – ICTA 1988, s. 102, 113(5) (for pre-6 April 1994 partnerships), 260(3), 281(4), 343(10) and 783(9): valuation of trading stock/work in progress; apportionment of profits on a continuation election; apportionment of additional personal allowance; determination of tax repayments to a wife; apportionment of receipts, expenses, assets or liabilities on company reconstructions without significant change of ownership; and apportionment of sums re certain leased assets.
OTA 1975, Sch. 2, para. 1(1): s. 58(2B), (2C), (3) apply with modifications for the purposes of oil taxation.
FA 1988, s. 134(6): s. 58(3) applies in respect of the transfer of certain proceedings from the special to the general commissioners after 3 April 1989.
FA 2003, Sch. 17, para. 9(2)(c) and (3)(c): provisions corresponding with s. 56 and s.56A (as modified by s. 58) may be made for the purposes of stamp duty land tax.
SI 1994/1813, reg. 1(2): in s. 58(2) and (2C), the words "General Commissioners" shall be construed in accordance with TMA 1970, s. 2(1), with effect from 1 September 1994.
SI 1994/1813, reg. 1(2): in s. 58(2B), the words "Special Commissioners" are construed in accordance with TMA 1970, s. 4(1).
SI 2001/4024, reg. 4: modifications of s. 58 as applied to referrals to the special commissioners during an enquiry into a self-assessment return.
SI 2003/1382: in the application of this Part of the Act to appeals under TCA 2002, s. 38 with effect from 18 June 2003, s. 58 is to be omitted.
SI 2004/1363, reg. 25ff: modification of s. 58 for the purposes of SDLT.
reg. 25(2): modification of s. 58(2B) inserting "as modified by regulation 25 of the Stamp Duty Land Tax (Appeals) Regulations 2004" after "section 56A of this Act", in relation to appeals from the general and special commissioners.
SI 2004/1363, reg. 25(2): modification of s. 58(3)(a) substituting "regulations 7 to 13 and 15 of the Stamp Duty Land Tax (Appeals) Regulations 2004" for "the rules in Schedule 3 to this Act", in relation to appeals from the general and special commissioners.
SI 2004/1363, reg. 26(8)–(10): modification of s. 58 in relation to referrals to the special commissioners under Sch. 10, para. 19 and Sch. 11, para. 12.
SI 2004/1363, reg. 26(12): modification of s. 58 omitting s. 58(2C) in relation to referrals to the special commissioners under Sch. 10, para. 19 and Sch. 11, para. 12.

59 Election for county court in Northern Ireland

59 [Repealed by FA 1988, s. 134(2), (4), 148 and Sch. 14, Pt. IX, with effect from 3 April 1989 (SI 1989/473 (C 17)).]

PART VA – PAYMENT OF TAX

History – Pt. VA inserted by FA 1994, s. 192–195, in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

INCOME TAX AND CAPITAL GAINS TAX

History – Heading "INCOME TAX AND CAPITAL GAINS TAX" added by FA 1998, Sch. 19, para. 29(1) as respects accounting periods ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

59A Payments on account of income tax

59A(1) Subject to subsection (9) below, this section applies to any person (the taxpayer) as regards a year of assessment if as regards the immediately preceding year–

(a) he is assessed to income tax under section 9 of this Act in any amount, and
(b) that amount (the assessed amount) exceeds the amount of any income tax which has been deducted at source, and
(c) the amount of the excess (the relevant amount) is not less than such amount as may be prescribed by regulations made by the Board, and
(d) the proportion which the relevant amount bears to the assessed amount is not less than such proportion as may be so prescribed.

59A(2) Subject to subsection (3) below, the taxpayer shall make two payments on account of his liability to income tax for the year of assessment–

(a) the first on or before the 31st January in that year, and
(b) the second on or before the next following 31st July;

and, subject to subsections (4) to (4B) below, each of those payments on account shall be of an amount equal to 50 per cent of the relevant amount.

59A(3) If, at any time before the 31st January next following the year of assessment, the taxpayer makes a claim under this subsection stating–

(a) his belief that he will not be assessed to income tax for that year, or that the amount in which he will be so assessed will not exceed the amount of income tax deducted at source, and
(b) his grounds for that belief,

each of the payments on account shall not be, and shall be deemed never to have been, required to be made.

59A(4) If, at any time before the 31st January next following the year of assessment, the taxpayer makes a claim under this subsection stating–

(a) his belief that the amount in which he will be assessed to income tax for that year will exceed the amount of income tax deducted at source by a stated amount which is less than the relevant amount, and
(b) his grounds for that belief,

the amount of each of the payments on account required to be made shall be, and shall be deemed always to have been, equal to 50 per cent of the stated amount.

59A(4A) If as regards the year immediately preceding the year of assessment–

(a) the taxpayer is assessed to income tax under section 9 of this Act after the date on or before which either payment on account is required to be made, or
(b) his assessment to income tax under that section is amended after that date

then, subject to subsections (3) and (4) above and subsection (4B) below and to any subsequent application of this subsection, the amount of the payment on account shall be, and shall be deemed always to have been, equal to 50 per cent of the relevant amount as determined on the basis of the assessment or, as the case may be, the assessment as amended.

59A(4B) If as regards the year immediately preceding the year of assessment the taxpayer is assessed to income tax under section 29 of this Act in any amount, then, subject to subsections (3)

and (4) above and to any subsequent application of this subsection, the amount of each payment on account shall be, and shall be deemed always to have been, the total of–

(a) the amount which, immediately before the making of the assessment under section 29, is the amount of that payment, and

(b) an amount equal to 50 per cent of the amount in which he is assessed under that assessment;

and if that assessment is varied, the amount in which he is assessed under it shall be taken for the purposes of paragraph (b) above to be the amount of the assessment as varied.

59A(5) Where the taxpayer makes a claim under subsection (3) or (4) above or subsection (4A) or (4B) above applies there shall be made all such adjustments, whether by the repayment of amounts paid on account, by the making of payments or further payments on account or otherwise, as may be required to give effect to the provisions of that subsection.

59A(6) Where the taxpayer fraudulently or negligently makes any incorrect statement in connection with a claim under subsection (3) or (4) above, he shall be liable to a penalty not exceeding the difference between–

(a) the amount which would have been payable on account if he had made a correct statement, and

(b) the amount of the payment on account (if any) made by him.

59A(7) The provisions of the Income Tax Acts as to the recovery of income tax shall apply to an amount falling to be paid on account of tax in the same manner as they apply to an amount of tax.

59A(8) In this section, in relation to a year of assessment, any reference to the amount of any income tax deducted at source is a reference to the amount by which the aggregate of the following, namely–

(a) any income tax deducted or treated as deducted from any income, or treated as paid on any income, in respect of the year, and

(b) any amounts which, in respect of the year, are to be deducted at source under PAYE regulations in subsequent years, or are tax credits to which section 397(1) of ITTOIA 2005 applies,

exceeds the aggregate of any amounts which, in the year, are deducted at source under the PAYE regulations in respect of previous years.

59A(9) If, at any time before the 31st January next following a year of assessment, an officer of the Board so directs–

(a) this section shall not apply, and shall be deemed never to have applied, as regards that year to any person specified in the direction; and

(b) there shall be made all such adjustments, whether by the repayment of amounts paid on account or otherwise, as may be required to give effect to the direction.

59A(10) PAYE regulations may provide that, for the purpose of determining the amount of any such excess as is mentioned in subsection (1) above, any necessary adjustments in respect of matters prescribed by the regulations shall be made to the amount of tax deducted at source under PAYE regulations.

History – S. 59A(4B), and references to that subsection in s. 59A(2), (4A) and (5), inserted by FA 1996, s. 132 and Sch. 18, para. 2, generally as respects 1996–97 and subsequent years of assessment, and, so far as relating to partnerships whose trades, professions or businesses were set up or commenced before 6 April 1994, with effect as respects the 1997–98 and subsequent years of assessment.
In s. 59A(8), the words "PAYE regulations" substituted for the words "the said section 203" by FA 2003, s. 145(7)(a) with effect from 10 July 2003.
In s. 59A(8)(b), the reference to ITTOIA 2005, s. 397(1) substituted for a reference to ICTA 1988, s. 231 by ITTOIA 2005, s. 882(1) and Sch. 1, para. 376; effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
In s. 59A(8)(b), the words "PAYE regulations" substituted for the words "section 203 of the principal Act" by ITEPA 2003, Sch. 6, para. 130(a) which has effect for the tax year 2003–04 and subsequent tax years. In addition the words "the principal Act" substituted for "that Act" by FA 2004, s. 92 and Sch. 17, para 10(1) with effect from 22 July 2004.
S. 59A(10) inserted by FA 1996, s. 119(1), as respects the year 1996–97 and subsequent years of assessment.
In s. 59A(10), the words "PAYE regulations" substituted for the words "Regulations under section 203 of the principal Act (PAYE)" by ITEPA 2003, Sch. 6, para. 130(b) which has effect for the tax year 2003–04 and subsequent tax years.
In s. 59A(10) the words "PAYE regulations" substituted for the words "that section" by FA 2003, s. 145(7)(b) with effect from 10 July 2003.
S. 59A inserted by FA 1994, s. 192 with respect to 1996–97 and subsequent years. Subs. (1), (2) and (5) amended by FA 1995, s. 108(1), (2), (4), subs. (4A) inserted by FA 1995 s. 108(3) and subs. (8) and (9) substituted in order to correct deficiencies in original legislation.

Cross references – TMA 1970, s. 86: interest on overdue tax.
TMA 1970, s. 107A(2): liability of trustees to make payments on account.
ICTA 1988, s. 42A(6): s. 59A may be modified by regulations regarding the taxation of the income of non-residents which is derived from property in the UK.
ICTA 1988, s. 824(3)(a): time from which entitlement to repayment supplement runs as respects the year 1996–97 and subsequent years of assessment.

ICTA 1988, s. 824(4): order of attribution of repayment of income tax to a person for a year of assessment.
FA 1995, Sch. 21, para. 2: payments on account of income tax for 1996–97.
FA 2004, s. 108(3): special withholding tax to be treated as income tax deducted at source for the purposes of this section.
SI 1996/781: as respects the year 1996–97 and subsequent years of assessment, for the purposes of repayment supplement, Lloyd's income (other than syndicate income) received under deduction of tax or tax credits received (other than in respect of syndicate income) are related to the year of assessment in which the underwriting year ends.
SI 1996/782: as respects the year 1995–96, for the purposes of repayment supplement, Lloyd's income (other than syndicate income) received under deduction of tax or tax credits received (other than in respect of syndicate income) are related to the year of assessment in which the underwriting year ends.
SI 1996/1654, reg. 1(2), 3: as respects the year 1996–97 and subsequent years of assessment, the prescribed amount for the purposes of s. 59A(1)(c) is £500.
SI 1996/1654, reg. 1(3), 4: as respects the year 1997–98 and subsequent years of assessment, the prescribed proportion for the purposes of s. 59A(1)(d) (i.e. the proportion which the relevant amount as mentioned in s. 59A(1)(c) bears to the assessed amount as mentioned in s. 59A(1)(b)) is the proportion of one to four.
SI 2001/56, reg. 3(2)(g) (incentive payments for electronic communication of individuals' returns): Board's direction may specify a condition that tax payable is paid in accordance with the provisions of s. 59A and s. 59B.
SI 2003/2682, reg. 185: adjustments in respect of tax that should have been deducted through PAYE.

Statutory instruments – SI 1996/1654 as amended by SI 1997/2491 (made under s. 59A(1)).
SI 2003/2682 PAYE regulations.

Other material – Tax Bulletin TB04/98-4: personal insolvency under self assessment.
Tax Bulletin TB04/96-4: table of effective dates of payment when tax paid after 5 April 1996 by cheque, electronic funds transfer, bank giro, or girobank.
IR press release, 29 July 1996: self assessment: provision of information from taxpayer statements of account to authorised agents.

59B Payments of income tax and capital gains tax

59B(1) Subject to subsection (2) below, the difference between–

(a) the amount of income tax and capital gains tax contained in a person's self-assessment under section 9 of this Act for any year of assessment, and
(b) the aggregate of any payments on account made by him in respect of that year (whether under section 59A of this Act or otherwise) and any income tax which in respect of that year has been deducted at source,

shall be payable by him or (as the case may be) repayable to him as mentioned in subsection (3) or (4) below but nothing in this subsection shall require the repayment of any income tax treated as deducted or paid by virtue of section 246D(1), of the principal Act, section 626 of ITEPA 2003 or section 399(2), 400(2), 414(1), 421(1) or 530(1) of ITTOIA 2005.

59B(2) The following, namely–

(a) any amount which, in the year of assessment, is deducted at source under PAYE regulations in respect of a previous year, and
(b) any amount which, in respect of the year of assessment, is to be deducted at source under PAYE regulations in a subsequent year, or is a tax credit to which section 397(1) of ITTOIA 2005 applies,

shall be respectively deducted from and added to the aggregate mentioned in subsection (1)(b) above.

59B(3) In a case where the person–

(a) gave the notice required by section 7 of this Act within six months from the end of the year of assessment, but
(b) was not given notice under section 8 or 8A of this Act until after the 31st October next following that year,

the difference shall be payable or repayable at the end of the period of three months beginning with the day on which the notice under section 8 or 8A was given.

59B(4) In any other case, the difference shall be payable or repayable on or before the 31st January next following the year of assessment.

59B(4A) Where in the case of a repayment the return on the basis of which the person's self-assessment was made under section 9 of this Act is enquired into by an officer of the Board–

(a) nothing in subsection (3) or (4) above shall require the repayment to be made before the day on which, by virtue of section 28A(1) of this Act, the enquiry is completed; but
(b) the officer may at any time before that day make the repayment, on a provisional basis, to such extent as he thinks fit.

59B(5) An amount of tax which is payable or repayable as a result of the amendment or correction of a self-assessment under–

(a) section 9ZA, 9ZB, 9C or 28A of this Act (amendment or correction of return under section 8 or 8A of this Act), or

(b) section 12ABA(3)(a), 12ABB(6)(a), 28B(4)(a), 30B(2)(a), 33A(4)(a) or 50(9)(a) of this Act (amendment of partner's return to give effect to amendment or correction of partnership return),

is payable (or repayable) on or before the day specified by the relevant provision of Schedule 3ZA to this Act.

59B(5A) Where a determination under section 28C of this Act which has effect as a person's self-assessment is superseded by his self-assessment under section 9 of this Act, any amount of tax which is payable or repayable by virtue of the supersession shall be payable or (as the case may be) repayable on or before the day given by subsection (3) or (4) above.

59B(6) Any amount of income tax or capital gains tax which is payable by virtue of an assessment made otherwise than under section 9 of this Act shall, unless otherwise provided, be payable on the day following the end of the period of 30 days beginning with the day on which the notice of assessment is given.

59B(7) In this section any reference to income tax deducted at source is a reference to income tax deducted or treated as deducted from any income or treated as paid on any income.

59B(8) PAYE regulations may provide that, for the purpose of determining the amount of the difference mentioned in subsection (1) above, any necessary adjustments in respect of matters prescribed by the regulations shall be made to the amount of tax deducted at source under PAYE regulations.

History – In s. 59B(1), the final words beginning "but nothing in this subsection" inserted by FA 1996 s. 122(2) with respect to 1996–97 and subsequent years.
In s. 59B(1), the words "or 547(5) of the principal Act or section 626 of ITEPA 2003" substituted for the words ", 547(5) or 599A(5) of the principal Act" by ITEPA 2003, Sch. 6, para. 131(2) which has effect for the tax year 2003–04 and subsequent tax years.
In s. 59B(1) references to ICTA 1988, s. 233(1), 249(4), 421(1) and 547(5) omitted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 377(2)(a) and repealed by ITTOIA 2005, s. 884 and Sch. 3; effective for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
References to ITTOIA 2005, s. 399(2), 400(2), 414(1), 421(1) and 530(1) substituted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 377(2)(b); effective for 2005–06 onwards ((ITTOIA 2005, s. 883(1)).
In s. 59B(2)(a), the words "PAYE regulations" substituted for the words "section 203 of the principal Act" by ITEPA 2003, Sch. 6, para. 131(3) which has effect for the tax year 2003–04 and subsequent tax years.
In s. 59B(2)(b), the words "PAYE regulations" substituted for the words "that section" by FA 2003, s. 145(7)(b) with effect from 10 July 2003.
In s. 59B(2)(b), reference to ITTOIA 2005, s. 397(1) substituted for reference to ICTA 1988 s. 231 by ITTOIA 2005, s. 882(1) and Sch. 1, para. 377(3); effective for 2005–06 onwards ((ITTOIA 2005, s. 883(1)).
In s. 59B(4A)(a), "28A(1)" substituted for "28A(5)" and "the enquiry is" substituted for "the officer's enquiries are treated as" and subs. (5) substituted, all by FA 2001, s. 88, Sch. 29, para. 14 with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
S. 59B(4A) inserted by FA 1996, s. 127 with respect to 1996–97 and subsequent years.
S. 59B(5A) inserted by FA 1996, s. 125(4) with respect to 1996–97 and subsequent years.
In s. 59B(6) the words "otherwise than under section 9 of this Act shall, unless otherwise provided" substituted for "under section 29 of this Act shall" by FA 1995, s. 115(6) with respect to 1996–97 and subsequent years.
S. 59B(8) inserted by FA 1996, s. 126(2) with respect to 1996–97 and subsequent years.
In s. 59B(8), the words "PAYE regulations" substituted for the words "that section" by FA 2003, s. 145(7)(b) with effect from 10 July 2003.
In s. 59B(8), the words "PAYE regulations" substituted for the words "Regulations under section 203 of the principal Act (PAYE)" by ITEPA 2003, Sch. 6, para. 131(4) which has effect for the tax year 2003–04 and subsequent tax years.
S. 59B inserted by FA 1994, s. 193 with respect to 1996–97 and subsequent years. in order to correct deficiencies in original legislation.

Cross references – TMA 1970, s. 42(3A): claims in connection with prior years.
TMA 1970, s. 86: interest on overdue tax.
Sch. 3ZA, para. 1(2) (date for payment after amendment or correction of self assessment): priority of later date given by s. 59B(3), (4) over date given by Sch. 3ZA.
ICTA 1988, s. 824(3)(a): time from which entitlement to repayment supplement runs as respects the year 1996–97 and subsequent years.
ICTA 1988, ICTA 1988,s. 824(4): order of attribution of repayment of income tax to a person for a year of assessment.
ICTA 1988, Sch. 4A, para. 7(3), 9(4): effect of creative artists averaging claim on aggregate amount of payments per s. 59B(1)(b).
FA 1995, Sch. 21, para. 3(1), (3): partnership taxation for 1996–97.
FA 2004, s. 108(3) and s. 109(4): special withholding tax to be treated as income tax deducted at source for the purposes of this section.
SI 2001/56, reg. 3(2)(g) (incentive payments for electronic communication of individuals' returns): Board's direction may specify a condition that tax payable is paid in accordance with the provisions of s. 59A and s. 59B.
SI 2003/2682, reg. 185: adjustments in respect of tax that should have been deducted through PAYE.

Statutory instruments – SI 2003/2682 PAYE regulations.

Other material – Tax Bulletin TB04/96-4: table of effective dates of payment when tax paid after 5 April 1996 by cheque, electronic funds transfer, bank giro, or girobank.
IR press release, 31 May 2000: launch of voluntary tax savings scheme, at Barclay's Bank, for share fishermen.

59C Surcharges on unpaid income tax and capital gains tax

59C(1) This section applies in relation to any income tax or capital gains tax which has become payable by a person (the taxpayer) in accordance with section 55 or 59B of this Act.

59C(2) Where any of the tax remains unpaid on the day following the expiry of 28 days from the due date, the taxpayer shall be liable to a surcharge equal to 5 per cent of the unpaid tax.

59C(3) Where any of the tax remains unpaid on the day following the expiry of 6 months from the due date, the taxpayer shall be liable to a further surcharge equal to 5 per cent of the unpaid tax.

59C(4) Where the taxpayer has incurred a penalty under section 7, 93(5), 95 or 95A of this Act, no part of the tax by reference to which that penalty was determined shall be regarded as unpaid for the purposes of subsection (2) or (3) above.

59C(5) An officer of the Board may impose a surcharge under subsection (2) or (3) above; and notice of the imposition of such a surcharge–

(a) shall be served on the taxpayer, and
(b) shall state the day on which it is issued and the time within which an appeal against the imposition of the surcharge may be brought.

59C(6) A surcharge imposed under subsection (2) or (3) above shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the end of the period of 30 days beginning with the day on which the surcharge is imposed until payment.

59C(7) An appeal may be brought against the imposition of a surcharge under subsection (2) or (3) above within the period of 30 days beginning with the date on which the surcharge is imposed.

59C(8) Subject to subsection (9) below, the provisions of this Act relating to appeals shall have effect in relation to an appeal under subsection (7) above as they have effect in relation to an appeal against an assessment to tax.

59C(9) On an appeal under subsection (7) above section 50(6) to (8) of this Act shall not apply but the Commissioners may–

(a) if it appears to them that, throughout the period of default, the taxpayer had a reasonable excuse for not paying the tax, set aside the imposition of the surcharge; or
(b) if it does not so appear to them, confirm the imposition of the surcharge.

59C(10) Inability to pay the tax shall not be regarded as a reasonable excuse for the purposes of subsection (9) above.

59C(11) The Board may in their discretion–

(a) mitigate any surcharge under subsection (2) or (3) above, or
(b) stay or compound any proceedings for the recovery of any such surcharge,

and may also, after judgment, further mitigate or entirely remit the surcharge.

59C(12) In this section–

"the due date", in relation to any tax, means the date on which the tax becomes due and payable;

"the period of default", in relation to any tax which remained unpaid after the due date, means the period beginning with that date and ending with the day before that on which the tax was paid.

History – S. 59C inserted by FA 1994, s. 194 and amended by FA 1995, s. 109(1) as respects the year 1996–97 and subsequent years of assessment.

Cross references – SI 1989/1297, reg. 3(1)(aa) (inserted by SI 1998/310 and SI 1998/311 (C. 7)): applicable rate of interest under FA 1989, s. 178(1) as it applies to s. 59C for periods beginning on or after 9 March 1998.
TMA 1970, s. 107A: liability of relevant trustees to surcharge.
FA 1995, s. 109(2): application of inserted TMA 1970, s. 59C to assessments for 1995–96 and earlier years where assessment made on or after 6 April 1998.

Other material – Tax Bulletin TB04/96-4: table of effective dates of payment when tax paid after 5 April 1996 by cheque, electronic funds transfer, bank giro, or girobank.
TAXline 1998/125 (not reproduced): where a surcharge has been raised and appears on statements of account, but a formal notice was not issued so that the surcharge is invalid, Revenue confirm that the original surcharge will be cancelled and another one raised (along with the issue of a valid notice). Where original surcharge was paid, the Revenue will pay supplement up to the date that the valid surcharge falls due. Where the original surcharge was not appealed against, an appeal can be lodged against the replacement within 30 days from its date of issue.

CORPORATION TAX

History – Heading "CORPORATION TAX" added by FA 1998, Sch. 19, para. 29(2) as respects corporation tax accounting periods under self-assessment. See history note for further details.

59D General rule as to when corporation tax is due and payable

59D(1) Corporation tax for an accounting period is due and payable on the day following the expiry of nine months from the end of that period.

59D(2) If the tax payable is then exceeded by the total of any relevant amounts previously paid (as stated in the relevant company tax return), the excess shall be repaid.

59D(3) The tax payable means the amount computed in accordance with paragraph 8 of Schedule 18 to the Finance Act 1998.

59D(4) Relevant amounts previously paid means any of the following, so far as relating to the accounting period in question–

(a) any amount of corporation tax paid by the company and not repaid;
(b) any corporation tax refund surrendered to the company by another group company;
(c) any amount by which the sums available for set off under Step 4 of the calculation in paragraph 8 of Schedule 18 to the Finance Act 1998 (amounts set off against overall tax liability) exceeds the amount against which they may be set off under that provision;
(d) any amount treated as corporation tax paid in respect of profits of the company by virtue of regulations under section 62 of the Finance Act 2004 (deductions from payments to sub-contractors).

59D(5) This section has effect subject to section 59E.

History – In s. 59D(4)(d) the words "by virtue of regulations under section 62 of the Finance Act 2004" substituted for the words "by virtue of regulations under section 559A of the principal Act" by FA 2004 s. 76 and Sch. 12, para. 2 with effect from 6 April 2007 (FA 2004, s. 77).
In s. 59D(4)(d), words "under section 559" substituted by FA 2002, s. 40(3), with effect in relation to deductions made under s. 559 on or after 6 April 2002.
S. 59D substituted (together with s. 59DA) by FA 1998, s. 117(3) and Sch. 19, para. 29(2), with effect in relation to corporation tax accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
Former s. 59D inserted by FA 1994, s. 195 as respects accounting periods ending on or after the appointed day.

Cross references – ICTA 1988, s. 419: due date for tax on loans to participators etc. by close company.
FA 1998, Sch. 18, para. 38: determination of amount due may be accompanied by notice determining the due date.
SI 1998/3175: provisions for payment of corporation tax by instalments by large companies.

59DA Claim for repayment in advance of liability being established

59DA(1) This section applies where a company has paid an amount of corporation tax for an accounting period and the circumstances of the company change, so that the company has grounds for believing that the amount paid exceeds its probable tax liability although that liability has not been finally established.

59DA(2) The company may, by notice given to an officer of the Board, claim repayment of the excess.

No such claim may be made before the date which under section 826 of the principal Act (interest on overpaid tax), subject to regulations under section 826A of that Act, is the material date in relation to that tax.

59DA(3) The notice must state–

(a) the amount which the company considers should be repaid, and
(b) its grounds for believing that the amount paid exceeds its probable tax liability.

59DA(4) If the company has appealed against an amendment of an assessment, or an assessment, relating to the tax liability in question, and the appeal has not been finally determined, it may apply to the Commissioners to whom the appeal stands referred for a determination of the amount which should be repaid to the company pending determination of the liability.

59DA(5) Any claim under subsection (2) or application under subsection (4) shall be heard and determined in the same way as an appeal.

59DA(6) If the company makes an application under section 55(3) or (4) (application to postpone payment pending determination of appeal), that application may be combined with an application under subsection (4) above.

59DA(7) If a company makes a claim or application under this section before it has delivered a company tax return for the period in question, any deductions under section 61 of the Finance Act 2004 (deductions from payments to certain subcontractors) shall be disregarded in considering whether the amount paid by the company exceeds its probable tax liability.

59DA(8) This section has effect subject to section 59E.

History – In s. 59DA(7), the words "section 61 of the Finance Act 2004" substituted for the words "section 559 of the principal Act" by FA 2004, s. 76 and Sch. 12, para. 3 with effect from 6 April 2007 (FA 2004, s. 77).
S. 59DA (together with s. 59D) substituted for original s. 59D, superseding it in relation to corporation tax accounting periods ending on or after 1 July 1999, by FA 1998, s. 117(3) and Sch. 19, para. 29(2). 1 July 1999 is the appointed day for corporation tax self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

Cross references – ICTA 1988 s. 826A(4): power of Treasury to modify s. 59DA(2) in relation to companies of a prescribed description by varying the date before which a claim under s. 826(2) may not be made.
FA 1998, Sch. 18, para. 31(3): repayment claim under s. 56DA not affected by amendment to company return during an enquiry.
SI 1998/3175, reg. 6(8): s. 59A disapplied where reg. 6 (repayment of amounts in respect of a large company's total liability for an accounting period) applies.
SI 2003/282: regulations governing electronic delivery of information to or by the Board under this section revoking SI 2000/945 with effect from 5 March 2003.

Statutory instruments – SI 1998/3175: Corporation Tax (Instalment Payments) Regulations 1998.

59E Further provision as to when corporation tax is due and payable

59E(1) The Treasury may by regulations make provision, in relation to companies of such descriptions as may be prescribed for, or in connection with, treating amounts of corporation tax for an accounting period as becoming due and payable on dates which fall on or before the date on which corporation tax for that period would become due and payable apart from this section.

59E(2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision–

(a) for, or in connection with, the determination of amounts of corporation tax which are treated as becoming due and payable under the regulations;
(b) for, or in connection with, the determination of the dates on which amounts of corporation tax are treated as becoming due and payable under the regulations;
(c) for, or in connection with, the making of payments to the Board in respect of amounts of corporation tax which are treated as becoming due and payable under the regulations;
(d) for, or in connection with, the determination of the amount of any such payments as are mentioned in paragraph (c) above;
(e) for, or in connection with, the determination of the dates on which any such payments as are mentioned in paragraph (c) above become due and payable;
(f) for, or in connection with, any assumptions which are to be made for any purposes of the regulations;
(g) for, or in connection with, the payment to the Board of interest on amounts of corporation tax which are treated as becoming due and payable under the regulations;
(h) for, or in connection with, the repayment of amounts paid under the regulations;
(i) for, or in connection with, the payment of interest by the Board on amounts paid or repaid under the regulations;
(j) with respect to the furnishing of information to the Board;
(k) with respect to the keeping, production or inspection of any books, documents or other records;
(l) for, or in connection with, the imposition of such requirements as the Treasury think necessary or expedient for any purposes of the regulations;
(m) for, or in connection with, appeals in relation to questions arising under the regulations.

59E(3) Regulations under this section may make provision–

(a) for amounts of corporation tax for an accounting period to be treated as becoming due and payable on dates which fall within the accounting period;
(b) for payments in respect of any such amounts of corporation tax for an accounting period as are mentioned in paragraph (a) above to become due and payable on dates which fall within the accounting period.

59E(4) Where interest is charged by virtue of regulations under this section on any amounts of corporation tax for an accounting period which are treated as becoming due and payable under the regulations, the company shall, in such circumstances as may be prescribed, be liable to a penalty not exceeding twice the amount of that interest.

59E(5) Regulations under this section–

(a) may make such modifications of any provisions of the Taxes Acts, or
(b) may apply such provisions of the Taxes Acts,

as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.

59E(6) Regulations under this section which apply any provisions of the Taxes Acts may apply those provisions either without modifications or with such modifications as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.

59E(7) Regulations under this section–

(a) may make different provision for different purposes, cases or circumstances;

(b) may make different provision in relation to companies or accounting periods of different descriptions;

(c) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

59E(8) Subject to subsection (9) below, regulations under this section may make provision in relation to accounting periods beginning before (as well as accounting periods beginning on or after) the date on which the regulations are made.

59E(9) Regulations under this section may not make provision in relation to accounting periods ending before the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

59E(10) In this section–

"modifications" includes amendments, additions and omissions;

"prescribed" means prescribed by regulations made under this section.

59E(11) Any reference in this section to corporation tax includes a reference–

(a) to any amount due from a company under section 419 of the principal Act (loans to participators etc.) as if it were an amount of corporation tax chargeable on the company;

(b) to any sum chargeable on a company under section 747(4)(a) of the principal Act (controlled foreign companies) as if it were an amount of corporation tax.

(c) to any sum chargeable on a company under section 501A(1) of the principal Act (supplementary charge in respect of ring fence trades) as if it were an amount of corporation tax chargeable on the company.

History – S. 59E(11)(c) inserted by FA 2002, s. 92(2) with effect from 24 July 2002.
S. 59E inserted by FA 1998, s. 30(1).

Cross references – S. 87A(9): restriction on powers to make regulations under s. 59E.
S. 98: penalties etc. for failure to comply with regulations under s. 59E.
ICTA 1988s. 826A(3): regulations made under s. 59E take priority over regulations made under s. 826A(3).
ICTA 1988s. 826(7E): restriction on powers to make regulations under s. 59E.
FA 1998, s. 30(2): power of Treasury to make regulations to counter arrangements to avoid or mitigate the effects of regulations made under s. 59E.
FA 1998, Sch. 18, para. 38(2): determination of amount due may be accompanied by notice determining the due date.
SI 1998/3175, reg. 13: circumstances prescribed for purposes of s. 59E(4).
SI 2003/282: regulations governing electronic delivery of information to or by the Board under this section revoking SI 2000/945 with effect from 5 March 2003.

Statutory instruments – SI 1998/3175: Corporation Tax (Instalment Payments) Regulations 1998.

Other material – IR press release 110/90 (8 June 1999) contains guidance notes on use of information and penalty powers in quarterly instalment payments cases.

Notes – The appointed day for corporation tax self-assessment (see s. 59E(9)) is 1 July 1999 by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

PART VI – COLLECTION AND RECOVERY

Cross references – TCA 1999, Sch. 2, para. 10(1); Sch. 4, para. 2(3), 4(3): application of Pt. VI in respect of working families tax credit and disabled person's tax credit.
TCA 2002, s. 29(3): overpayment of working tax credit to be treated as tax charged and due and repayable.
TCA 2002, Sch. 2, para. 7(1): a penalty payable under Pt. 1 of that Act is treated for the purposes of TMA 1970, Pt. VI as if it were tax charged in an assessment and due and payable.
CTFA 2004, s. 21(11): penalty to be treated for the purposes of TMA 1970, Pt. 6 (collection and recovery) as if it were tax charged in an assessment and due and payable.
SI 1993/743, reg. 14(2): application of Pt. VI to a formal determination against a contractor under reg. 14.
SI 2002/2172, reg. 14(4): application of Pt. VI to determinations of working tax credit funding to be repaid by employers.

HMRC Manuals – Insolvency Manual INS9307: set off of tax overpaid against amounts due to other Government Departments in an insolvency.

Other material – Tax Bulletin TB08/95-7: Revenue practice of "equitable liability", under which the Revenue may be prepared not to pursue its legal right to recovery of the full amount of tax due where to insist on doing so would be unconscionable (e.g. an estimated determination is excessive), provided that the liability assessed is greater than the amount which would have been charged had the returns, and necessary supporting documentation, been submitted at the proper time, and acceptable evidence is provided of what the liability should have been.
Taxline 1994/23 (not reproduced): because income tax is an annual tax, where an individual is made bankrupt after the Finance Act has received Royal Assent, his liability to income tax comes to an end and can only be recovered out of the assets held by the individual's trustee in bankruptcy. At the end of the year, that exemption is lost as a fresh liability is imposed by that year's Finance Act.

60 Issue of demand notes and receipts

60(1) Every collector shall, when the tax becomes due and payable, make demand of the respective sums given to him in charge to collect, from the persons charged therewith, or at the

places of their last abode, or on the premises in respect of which the tax is charged, as the case may require.

60(2) On payment of the tax, the collector shall if so requested give a receipt.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 60 applies for the purposes of oil taxation.
ICTA 1988, s. 203: provisions as to PAYE.
ICTA 1988, s. 252: assessments to recover excessive tax credits treated as assessments to income or corporation tax.
ICTA 1988, s. 830; FA 1973, Sch. 15, para. 2, 4: collection of tax assessed on non-residents in connection with exploration or exploitation activities or rights.
FA 1993, s. 173 and Sch. 19, para. 2(3)–(5), 6(2), (3), 10(6)–(8); assessment and collection of tax on profits and gains of or penalties imposed on Lloyd's underwriters in relation to 1992–93 and subsequent years (see ICTA 1988, s. 450 and Sch. 19A, para. 3, 10 for prior years (from 1988–89)).
SI 1986/1711, Schedule., Pt. I, II: s. 60 applies for purposes of stamp duty reserve tax.
SI 1999/2537: modified application of s. 60 in relation to stamp duty penalties.

DISTRAINT AND POINDING

61 Distraint by collectors

61(1) If a person neglects or refuses to pay the sum charged, upon demand made by the collector, the collector may distrain upon the goods and chattels of the person charged (in this section referred to as **"the person in default"**).

61(2) For the purpose of levying any such distress, a justice of the peace, on being satisfied by information on oath that there is reasonable ground for believing that a person is neglecting or refusing to pay a sum charged, may issue a warrant in writing authorising a collector to break open, in the daytime, any house or premises, calling to his assistance any constable.

Every such constable shall, when so required, aid and assist the collector in the execution of the warrant and in levying the distress in the house or premises.

61(3) A levy or warrant to break open shall be executed by, or under the direction of, and in the presence of, the collector.

61(4) A distress levied by the collector shall be kept for five days, at the costs and charges of the person in default.

61(5) If the person in default does not pay the sum due, together with the costs and charges, the distress shall be appraised by one or more independent persons appointed by the collector, and shall be sold by public auction by the collector for payment of the sum due and all costs and charges.

Any overplus coming by the distress, after the deduction of the costs and charges and of the sum due, shall be restored to the owner of the goods distrained.

61(6) The Treasury may by regulations make provision with respect to–

(a) the fees chargeable on or in connection with the levying of distress, and
(b) the costs and charges recoverable where distress has been levied;

and any such regulations shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

History – In s. 61(1), the words "the collector may . . . person in default)" substituted by FA 1989, s. 152 with effect from 1 February 1994 by virtue of SI 1994/87, the appointed day order for the purposes of FA 1989, s. 152(7).
In s. 61(2), the words "a justice of the peace . . . authorising a collector to" substituted by FA 1989, s. 152 with effect from 1 February 1994 by virtue of SI 1994/87, the appointed day order for the purposes of FA 1989, s. 152(7).
In s. 61(4), the words "in default" substituted by FA 1989, s. 152 with effect from 1 February 1994 by virtue of SI 1994/87, the appointed day order for the purposes of FA 1989, s. 152(7).
In s. 61(5), the words "in default" substituted; the words "within the said five days" which preceded the words ", the distress" omitted, the words "one or more independent . . . the collector" substituted and certain words which preceded "any overplus" omitted by FA 1989, s. 152 with effect from 1 February 1994 by virtue of SI 1994/87, the appointed day order for the purposes of FA 1989, s. 152(7).
S. 61(6) inserted by FA 1989, s. 152 with effect from 1 February 1994 by virtue of SI 1994/87, the appointed day order for the purposes of FA 1989, s. 152(7).

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 61 applies, with modifications, for the purposes of oil taxation.
F(No. 2)A 1997, Sch. 2, para. 15(2): application, with modifications, to windfall tax.
SI 1986/1711, Schedule, Pt. I, II: s. 61 applies for purposes of stamp duty reserve tax.
SI 1999/2537: s. 61 applies in relation to stamp duty penalties.

Statutory instruments – SI 1994/236: fees and costs in connection with the levying of distress in default of a stamp duty penalty.

Other material – HMRC Codes of Practice 6 (Collection of tax) and 7 (Collection of amounts due from employers, and contractors in the construction industry).

62 Priority of claim for tax

62(1) If at any time at which any goods or chattels belonging to any person (in this section referred to as "**the person in default**") are liable to be taken by virtue of any execution or other process, warrant, or authority whatever, or by virtue of any assignment, on any account or pretence

whatever, except at the suit of the landlord for rent, the person in default is in arrears in respect of any such sums as are referred to in subsection (1A) below, the goods or chattels may not be so taken unless on demand made by the collector the person at whose suit the execution or seizure is made, or to whom the assignment was made, pays or causes to be paid to the collector, before the sale or removal of the goods or chattels, all such sums as have fallen due at or before the date of seizure.

62(1A) The sums referred to in subsection (1) above are–

(a) sums due from the person in default on account of deductions of income tax from taxable earnings (as defined by section 10 of ITEPA 2003) paid during the period of twelve months next before the date of seizure, being deductions which the person in default was liable to make under PAYE regulations less the amount of the repayments of income tax which he was liable to make during that period; and

(b) sums due from the person in default in respect of deductions required to be made by him for that period under section 61 of the Finance Act 2004 (sub-contractors in the construction industry).

62(2) If the sums referred to in subsection (1) above are not paid within ten days of the date of the demand referred to in that subsection, the collector may distrain the goods and chattels notwithstanding the seizure or assignment, and may proceed to the sale thereof, as prescribed by this Act, for the purpose of obtaining payment of the whole of those sums, and the reasonable costs and charges attending such distress and sale, and every collector so doing shall be indemnified by virtue of this Act.

62(3) [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985 and (so far as unrepealed) by FA 1989, Sch. 17, Pt. VIII.]

History – In s. 62(1), the words from the beginning to first "are", from "the person in default" to "the collector", and "such sums" to the end substituted by FA 1989, s. 153.
In s. 62(1A)(a), the words "taxable earnings (as defined by section 10 of ITEPA 2003)" substituted for the word "emoluments" by ITEPA 2003, Sch. 6, para. 132(a) which has effect for the tax year 2003–04 and subsequent tax years.
In s. 62(1A)(a), the words "PAYE regulations" substituted for the words "section 203 of the principal Act (pay as you earn)" by ITEPA 2003, Sch. 6, para. 132(b) which has effect for the tax year 2003–04 and subsequent tax years.
In s. 62(1A)(b), the words "section 61 of the Finance Act 2004" are to be substituted for the words "section 559 of the principal Act" by FA 2004, s. 76 and Sch. 12, para. 4 with effect from 6 April 2007 (FA 2004, s. 77)
S. 62(1A) inserted by FA 1989, s. 153.
In s. 62(2) the words from the beginning to "the collector may", and the words "may proceed" and "those sums" substituted by FA 1989, s. 153.
S. 62(3) dealt with development land tax.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 62 applies with modifications for the purposes of oil taxation.
SI 1987/530: tax due under assessments on non-resident entertainers and sportsmen to be treated as Sch. D tax (now tax on trading profits) for collection purposes.

63 Recovery of tax in Scotland

63(1) Subject to subsection (3) below, in Scotland, where any tax is due and has not been paid, the sheriff, on an application by the collector accompanied by a certificate by the collector–

(a) stating that none of the persons specified in the application has paid the tax due by him;

(b) stating that the collector has demanded payment under section 60 of this Act from each such person of the amount due by him;

(c) stating that 14 days have elapsed since the date of such demand without payment of the said amount; and

(d) specifying the amount due and unpaid by each such person,

shall grant a summary warrant in a form prescribed by Act of Sederunt authorising the recovery, by any of the diligences mentioned in subsection (2) below, of the amount remaining due and unpaid.

63(2) The diligences referred to in subsection (1) above are–

(a) an attachment;

(b) an earnings arrestment;

(c) an arrestment and action of furthcoming or sale.

63(3) Paragraph (c) of subsection (1) above shall not apply to an application under that subsection insofar as it relates to sums due in respect of–

(a) deductions of income tax which any person specified in the application was liable to make under PAYE regulations; or

(b) deductions required to be made under section 61 of the Finance Act 2004 (sub-contractors in the construction industry) by any person specified in the application.

63(4) In this section references to amounts of tax due and references to sums due in respect of deductions include references to amounts which are deemed to be–

(a) amounts of tax which the person is liable to pay by virtue of the Income Tax (Employments) Regulations 1973; or

(b) amounts which the person is liable to pay by virtue of the Income Tax (Sub-Contractors in the Construction Industry) Regulations 1975.

History – S. 63(2)(a) substituted by the Debt Arrangement and Attachment (Scotland) Act 2002, s. 61 and Sch. 3, para. 11 with effect from 30 December 2002.
S. 63(3) amended by FA 1989, s. 154 to expand on PAYE deductions and to include sub-contractors.
In s. 63(3)(a), the words "PAYE regulations" substituted for the words "section 203 of the principal Act (pay as you earn)" by ITEPA 2003, Sch. 6, para. 133 which has effect for the tax year 2003–04 and subsequent tax years.
In s. 63(3)(b), the words "section 61 of the Finance Act 2004" substituted for the words "section 559 of the principal Act" by FA 2004, s. 76 and Sch. 12, para. 5 with effect from 6 April 2007 (FA 2004, s. 77).
S. 63(4) inserted by FA 1989, s. 154.
S. 63 substituted by the Lord Advocate (Debtors) (Scotland) Act 1987, s. 74(1), 109(2) and Sch. 4, para. 2, with effect, by virtue of SI 1988/1818 (C. 66) (S 170), from 30 November 1988.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 63 applies for the purposes of oil taxation.
F(No. 2)A 1997, Sch. 2, para. 15(2), (3); application, with modifications, to windfall tax.
SI 1986/1711, Schedule, Pt. I, II: s. 63 applies for purposes of stamp duty reserve tax.
SI 1993/743, as amended: Income Tax (Sub-Contractors in the Construction Industry) Regulations 1993.
SI 1999/2537: modified application of provisions of s. 63 in relation to stamp duty penalties.

63A Sheriff officer's fees and outlays

63A(1) Subject to subsection (2) below and without prejudice to paragraphs 25 to 34 of Schedule 5 to the Debtors (Scotland) Act 1987 (expenses of poinding and sale), the sheriff officer's fees, together with the outlays necessarily incurred by him, in connection with the execution of a summary warrant shall be chargeable against the debtor.

63A(2) No fee shall be chargeable by the sheriff officer against the debtor for collecting, and accounting to the collector for, sums paid to him by the debtor in respect of the amount owing.

History – S. 63A inserted by the Lord Advocate (Debtors) (Scotland) Act 1987, s. 74(1), 109(2) and Sch. 4, para. 2 with effect, by virtue of SI 1988/1818 (C. 66) (S 170), from 30 November 1988.

Cross references – SI 1986/1711, Schedule, Pt. I, II: s. 63A applies for purposes of stamp duty reserve tax.
SI 1999/2537: s. 63A applies in relation to stamp duty penalties.

64 Priority of claim for tax in Scotland

64(1) If at any time at which any moveable goods and effects belonging to any person (in this section referred to as "**the person in default**") are liable to be taken by virtue of any poinding, sequestration for rent, or diligence whatever, or by any assignation, the person in default is in arrears in respect of any such sums as are referred to in subsection (1A) below, the goods and effects may not be so taken unless on demand made by the collector the person proceeding to take the said goods and effects pays such sums as have fallen due at or before the date of poinding or, as the case may be, other diligence or assignation.

64(1A) The sums referred to in subsection (1) above are–

(a) sums due from the person in default on account of deductions of income tax from taxable earnings (as defined by section 10 of ITEPA 2003) paid during the period of twelve months next before the date of poinding, being deductions which the person in default was liable to make under PAYE regulations less the amount of the repayments of income tax which he was liable to make during that period; and

(b) sums due from the person in default in respect of deductions required to be made by him for that period under section 61 of the Finance Act 2004 (sub-contractors in the construction industry).

64(2) If the sums referred to in subsection (1) above are not paid within ten days of the date of the demand referred to in that subsection, the sums shall, notwithstanding any proceedings for the purpose of taking the said moveable goods and effects, be recoverable by poinding and selling the said moveable goods and effects under warrant obtained in conformity with the provisions contained in section 63 above.

64(3) [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985 and (so far as unrepealed) by FA 1989, Sch. 17, Pt. VIII.]

History – S. 64(1) amended by FA 1989, s. 155.
S. 64(1A) inserted by FA 1989, s. 155.
In s. 64(1A)(a), the words "taxable earnings (as defined by section 10 of ITEPA 2003)" substituted for the word "emoluments" by ITEPA 2003, Sch. 6, para. 134(a) which has effect for the tax year 2003–04 and subsequent tax years.
In s. 64(1A)(a), the words "PAYE regulations" substituted for the words "section 203 of the principal Act (pay as you earn)" by ITEPA 2003, Sch. 6, para. 134(b) which has effect for the tax year 2003–04 and subsequent tax years.

In s. 64(1A)(b), the words "section 61 of the Finance Act 2004" substituted for the words "section 559 of the principal Act" by FA 2004, s. 76 and Sch. 12, para. 6, with effect from 6 April 2007 (FA 2004, s. 77).
S. 64(2) amended by FA 1989, s. 155.
S. 64(3) dealt with development land tax and was repealed subject to saving.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 64 applies with modifications for the purposes of oil taxation.

COURT PROCEEDINGS

65 Magistrates' courts

65(1) Any amount due and payable by way of income tax, capital gains tax or corporation tax which does not exceed £2,000 shall, without prejudice to any other remedy, be recoverable summarily as a civil debt by proceedings commenced in the name of a collector.

65(2) All or any of the sums due in respect of tax from any one person and payable to any one collector (being sums which are by law recoverable summarily) may, whether or not they are due under one assessment, be included in the same complaint, summons, order, warrant or other document required by law to be laid before justices or to be issued by justices, and every such document as aforesaid shall, as respects each such sum, be construed as a separate document and its invalidity as respects any one such sum shall not affect its validity as respects any other such sum.

65(3) Proceedings under this section may be brought in England and Wales at any time within one year from the time when the matter complained of arose.

65(4) It is hereby declared that in subsection (1) above the expression **"recoverable summarily as a civil debt"** in respect of proceedings in Northern Ireland means recoverable in proceedings under Article 62 of the Magistrates' Courts (Northern Ireland) Order 1981.

65(5) The Treasury may by order made by statutory instrument increase the sum specified in subsection (1) above and any statutory instrument shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

History – S. 65(1) amended, by FA 1998, s. 117(3) and Sch. 19, para. 30(2), with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
S. 65(1) amended, by the substitution of the words "the amount of . . . payment or tax", by FA 1994, s. 196 and Sch. 19, para. 19(1), in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and also originally for corporation tax accounting periods ending on or after the appointed day (FA 1994, s. 199(2), (3)), but the corporation tax element of the former text is superseded by the amendment in FA 1998, Sch. 19, para. 30(2) (see the note above).
In s. 65(1), previous limit of £1,000 substituted from 1 September 1991 by SI 1991/1625; previously £500 from 11 September 1989 (SI 1989/1300).
In s. 65(3), words from "for the recovery of" to the end repealed by FA 1998, s. 117(3) and Sch. 19, para. 30(3), s. 165 and Sch. 27, Pt. III(28), with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
Former s. 65(3) amended, by the substitution of para. (a) and (b) for the earlier words "any tax charged under Schedule E", by FA 1994, s. 196 and Sch. 19, para. 19(2), in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and also originally for corporation tax accounting periods ending on or after the appointed day (FA 1994, s. 199(2), (3)), but the corporation tax element of the former text is superseded by the amendment in FA 1998, Sch. 19, para. 30(3) (see the note above).
S. 65(4) amended by FA 1984, s. 57(1) to insert the reference to the Magistrates' Courts (Northern Ireland) Order 1981 (SI 1981/1675 (NI 26)) in place of references to previous provisions.
S. 65(5) amended, by FA 1998, s. 117(3) and Sch. 19, para. 30(4), with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78) by the substitution of the word "sum" for the word "sums".
S. 65(5) inserted by FA 1984, s. 57(1).

Cross references – Administration of Justice Act 1970, s. 11–14 and Sch. 4: special enforcement proceedings.
Social Security Contributions (Transfer of Functions, etc.) Act 1999, Sch. 4, para. 2: recovery of NI contributions in magistrates' courts where income tax recovery provisions not applicable.
SI 1986/1711, Schedule., Pt. I, II: modified application of s. 65 for purposes of stamp duty reserve tax.
SI 1993/743, reg. 19(4): proceedings for recovery from contractors of total amounts of tax deductible in respect of payments to sub-contractors in the construction industry.
SI 1999/2537: modified application of provisions of s. 65 in relation to stamp duty penalties.

66 County courts

66(1) Tax due and payable may, in England and Wales, and in Northern Ireland where the amount does not exceed the limit specified in Article 10(1) of the County Courts (Northern Ireland) Order 1980, without prejudice to any other remedy, be sued for and recovered from the person charged therewith as a debt due to the Crown by proceedings in a county court commenced in the name of a collector.

66(2) An officer of the Board who is authorised by the Board to do so may address the court in any proceedings under this section in a county court in England and Wales.

66(2A) [Omitted by SI 1991/724 (L 5).]

66(3) In this section as it applies in Northern Ireland the expression **"county court"** shall mean a county court held for a division under the County Courts (Northern Ireland) Order 1980.

66(4) Sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this section, and Part III of the County Courts (Northern Ireland) Order 1980 (general civil jurisdiction) shall apply for the purposes of this section in Northern Ireland.

History – In s. 66(1) the words "under any assessment" omitted and repealed by FA 2001, s. 89(1) and s. 110, Sch. 33, Pt. 2(14) in relation to proceedings begun after 11 May 2001.
In s. 66(1) words from the beginning to "(Northern Ireland) Order 1980," by SI 1991/724 (L 5), reg. 2(8) and Schedule, with effect from 1 July 1991.
S. 66(2A) omitted by SI 1991/724 (L 5), reg. 2(8) and Schedule, with effect from 1 July 1991.
S. 66(3) substituted by SI 1991/724 (L 5), reg. 2(8) and Schedule, with effect from 1 July 1991.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 66 applies for the purposes of oil taxation.
Administration of Justice Act 1970, s. 11–14 and Sch. 4: special enforcement provisions.
FA 1993, s. 173 and Sch. 19, para. 11(3): interest on payments due on account for tax on profits and gains of Lloyd's underwriters (1992–93 and subsequent years) treated for s. 66 as tax charged etc. (see ICTA 1988, s. 450 and Sch. 19A, para. 11(1) for prior years (from 1988–89)).
SI 1986/1711, Schedule, Pt. I, II: modified application of s. 66 for purposes of stamp duty reserve tax.
SI 1991/724 (L. 5), reg. 2(1)(f): a county court has jurisdiction under s. 66 whatever the amount involved in the proceedings and whatever the value of any fund or asset connected with the proceedings.
SI 1991/1877, reg. 2(1), (3): there is no right of appeal, in respect of proceedings in which the county court has jurisdiction under s. 66, without the leave of a judge either of the county court or of the Court of Appeal, where the value of the appeal does not exceed £5,000, or is unquantifiable.
SI 1993/743, reg. 19(4): proceedings for recovery from contractors of tax deductible in respect of payments to sub-contractors in the construction industry.
SI 1999/2537: modified application of provisions of s. 66 in relation to stamp duty penalties.

67 Inferior courts in Scotland

67(1) In Scotland, tax due and payable may, without prejudice to any other remedy, be sued for and recovered from the person charged therewith as a debt due to the Crown by proceedings commenced in the name of a collector in the sheriff court.

67(1A) An officer of the Board who is authorised by the Board to do so may address the court in any proceedings under this section.

67(2) Sections 65 and 66 above shall not apply in Scotland.

History – In s. 67(1) the words "under any assessment" omitted and repealed by FA 2001, s. 89(1) and s. 110, Sch. 33, Pt. 2(14) in relation to proceedings begun after 11 May 2001.
S. 67(1) amended by FA 1995, s. 156(2), (3), in relation to proceedings commenced after 1 May 1995.
S. 67(1) amended by FA 1976, s. 58 and Sch. 15, Pt. III, with effect from 1 September 1976.
S. 67(1A) inserted, by FA 1995, s. 156(2), (3), in relation to proceedings commenced after 1 May 1995.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 67 applies for the purposes of oil taxation.
SI 1986/1711, Schedule, Pt. I, II: modified application of s. 67 for purposes of stamp duty reserve tax.
SI 1993/743, reg. 19(4): proceedings for recovery from contractors of total amount of tax deductible in respect of payments to sub-contractors in the construction industry.
SI 1999/2537: modified application of provisions of s. 67 in relation to stamp duty penalties.

68 High Court, etc.

68(1) Any tax may be sued for and recovered from the person charged therewith in the High Court as a debt due to the Crown, or by any other means whereby any debt of record or otherwise due to the Crown can, or may at any time, be sued for and recovered, as well as by the other means specially provided by this Act for levying the tax.

68(2) All matters within the jurisdiction of the High Court under this section shall be assigned in Scotland to the Court of Session sitting as the Court of Exchequer.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 68 applies for the purposes of oil taxation.
SI 1986/1711, Schedule, Pt. I, II: s. 68 applies for purposes of stamp duty reserve tax.
SI 1999/2537: modified application of provisions of s. 68 in relation to stamp duty penalties.

SUPPLEMENTAL

69 Recovery of penalty, surcharge or interest

69(1) This section applies to–

(a) penalties imposed under Part 2, 5A or 10 of this Act or Schedule 18 to the Finance Act 1998;
(b) surcharges imposed under Part 5A of this Act; and
(c) interest charged under any provision of this Act (or recoverable as if it were interest so charged).

69(2) An amount by way of penalty, surcharge or interest to which this section applies shall be treated for the purposes of the following provisions as if it were an amount of tax.

69(3) Those provisions are–

(a) sections 61, 63 and 65 to 68 of this Act;

(b) section 35(2)(g)(i) of the Crown Proceedings Act 1947 (rules of court: restriction of set-off or counterclaim where proceedings, or set-off or counterclaim, relate to tax) and any rules of court imposing any such restriction;

(c) section 35(2)(b) of that Act as set out in section 50 of that Act (which imposes corresponding restrictions in Scotland).

History – S. 69 substituted by FA 2001, s. 89(2) for proceedings begun (or a counterclaim made) after 11 May 2001 and to a set-off first claimed after that date.

In former s. 69 the words "or under Schedule 18 to the Finance Act 1998" inserted by FA 1998, s. 117(3) and Sch. 19, para. 31 with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

In former s. 69 before paragraph (a) the words "or recoverable under section 826(8A) of the principal Act as if it were interest so charged" inserted by FA 1998, s. 35 and Sch. 4, para. 3 with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day (see note above). Former s. 69 after paragraph (c) the words "or if it is interest recoverable under section 826(8A) of the principal Act," inserted by FA 1998, s. 35 and Sch. 4, para. 3 with effect in relation to accounting periods ending on or after 1 July 1999, the self-assessment appointed day (see note above).

In former s. 69 the words "A penalty imposed under . . . Part IX of this Act" substituted for the former words "Interest charged under Part IX of this Act", and the words "if it is a penalty or surcharge . . . interest on, tax" substituted for the former words "if it is interest on tax" by FA 1994, s. 196 and Sch. 19, para. 20, in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment.

Former s. 69 previously amended by F(No. 2)A 1987, s. 86(1), with respect to accounting periods ending after 30 September 1993 (under Pay and File) by virtue of SI 1992/3066, art. 3.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 69 applies with modifications for the purposes of supplementary petroleum duty.

SI 1986/1711, Schedule, Pt. I, II: modified application of s. 69 for purposes of stamp duty reserve tax.

SI 1999/2537: modified application of s. 69 in relation to stamp duty penalties.

70 Evidence

70(1) Where tax is in arrear, a certificate of the inspector or any other officer of the Board that tax has been charged and is due, together with a certificate of the collector that payment of the tax has not been made to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Crown; and any document purporting to be such a certificate as is mentioned in this subsection shall be deemed to be such a certificate until the contrary is proved.

70(2) A certificate of a collector

(a) that a penalty is payable under Part II, VA or X of this Act or under Schedule 18 to the Finance Act 1998, that a surcharge is payable under Part VA of this Act or that interest is payable under any provision of this Act, the principal Act or ITEPA 2003, and

(b) that payment of the penalty, surcharge or interest has not been made to him or, to the best of his knowledge and belief, to any other collector or to any person acting on his behalf or on behalf of another collector

shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Crown, and any document purporting to be such a certificate as is mentioned in this subsection shall be deemed to be such a certificate unless the contrary is proved.

70(3) [Ceases to have effect by virtue of FA 1994, s. 196 and Sch. 19, para. 21(2).]

70(4) A written statement as to the wages, salaries, fees, and other earnings or amounts treated as earnings paid for any period to the person against whom proceedings are brought under section 65, 66 or 67 of this Act, purporting to be signed by his employer for that period or by any responsible person in the employment of the employer, shall in such proceedings be prima facie evidence that the wages, salaries, fees and other earnings or amounts treated as earnings therein stated to have been paid to the person charged have in fact been so paid.

70(5) In subsection (4) **"earnings or amounts treated as earnings"** means earnings or amounts treated as earnings which constitute employment income (see section 7(2)(a) or (b) of ITEPA 2003).

History – In s. 70(2)(a), the words ", the principal Act or ITEPA 2003" substituted for the words "or the principal Act" by ITEPA 2003, Sch. 6, para. 135(2) which has effect for the tax year 2003–04 and subsequent tax years.

In s. 70(2)(a), the words "payable under any provision of this Act or the principal Act" substituted for the words "payable under Part IX of this Act" by FA 2001, s. 89(3) applicable to certificates tendered in evidence after 11 May 2001.

In s. 70(2)(a), the words "or under Schedule 18 to the Finance Act 1998" inserted by FA 1998, s. 117(3) and Sch. 19, para. 19(32) with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

S. 70(2)(a) and (b) substituted for the former words "that interest is payable under section 86 or 87 of this Act and that payment of the interest has not been made to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector" by FA 1994, s. 196 and Sch. 19, para. 21(1), and s. 70(3) repealed by virtue of FA 1994, s. 196 and Sch. 19, para. 21(2), in relation to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and in relation to corporation tax, as respects accounting periods ending on or after the appointed day (1 July 1999 by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78)).

S. 70(3) substituted by FA 1989, s. 160(3).

In s. 70(4), the words "earnings or amounts treated as earnings" substituted for the words "emoluments" by ITEPA 2003, Sch. 6, para. 135(3) which has effect for the tax year 2003–04 and subsequent tax years.
S. 70(5) inserted by ITEPA 2003, Sch. 6, para. 135(4) which has effect for the tax year 2003–04 and subsequent tax years.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 70(1)–(3) apply with modification to oil taxation.
SI 1999/2537: modified application of provisions of s. 70(2) in relation to stamp duty penalties.

Notes – Former s. 70(5) which was to have been inserted by F(No. 2)A 1987, s. 84(4), (9) was repealed by FA 1989, s. 187 and Sch. 17, Pt. VIII before it took effect.

70A Payments by cheque

70A(1) For the purposes of this Act and the provisions mentioned in subsection (2) below, where–

(a) any payment to an officer of the Board or the Board is made by cheque, and
(b) the cheque is paid on its first presentation to the banker on whom it is drawn,

the payment shall be treated as made on the day on which the cheque was received by the officer or the Board.

70A(2) The provisions are–

(a) sections 824 to 826 of the principal Act (repayment supplements and interest on tax overpaid); and
(b) section 283 of the 1992 Act (repayment supplements).

70A(3) This section is subject to regulations under section 95(1) of the Finance Act 2007 (payment by cheque).

History – S. 70A(3) inserted by FA 2007, s. 95(7), with effect from Royal Assent 19 July 2007.
S. 70A inserted by FA 1994, s. 196 and Sch. 19, para. 22, as respects cheques received on or after 6 April 1996.

Cross references – SI 1993/743: effective date of cheque payments by subcontractors.

Other material – Tax Bulletin TB04/96-4: table of effective dates of payment when tax paid after 5 April 1996 by cheque, electronic funds transfer, bank giro, or girobank.

PART VII – PERSONS CHARGEABLE IN A REPRESENTATIVE CAPACITY, ETC.

INCOME TAX

71 Bodies of persons

71(1) Subject to sections 6 to 12 and Parts VIII and XI of the principal Act (charge of corporation tax on companies), every body of persons shall be chargeable to income tax in like manner as any person is chargeable under the Income Tax Acts.

71(2) Subject to section 108 of this Act, the chamberlain or other officer acting as treasurer, auditor or receiver for the time being of any body of persons chargeable to income tax shall be answerable for doing all such acts as are required to be done under the Income Tax Acts for the purpose of the assessment of the body and for payment of the tax.

71(3) Every such officer as aforesaid may from time to time retain, out of any money coming into his hands on behalf of the body, so much thereof as is sufficient to pay the income tax charged upon the body, and shall be indemnified for all such payments made in pursuance of the Income Tax Acts.

History – Reference to provisions of the principal Act substituted by ICTA 1988, Sch. 29, para. 32, that Act becoming the principal Act (TMA 1970, s. 118(1)).

Cross references – SI 1986/1711, Schedule, Pt. I, II: modified application of s. 71 to stamp duty reserve tax.

72 Trustees, guardians, etc. of incapacitated persons

72(1) The trustee, guardian, tutor, curator or committee of any incapacitated person having the direction, control or management of the property or concern of any such person, whether such person resides in the United Kingdom or not, shall be assessable and chargeable to income tax in like manner and to the like amount as that person would be assessed and charged if he were not an incapacitated person.

72(2) The person who is chargeable in respect of an incapacitated person shall be answerable for all matters required to be done under the Income Tax Acts for the purpose of assessment and payment of income tax.

72(3) Any person who has been charged under the Income Tax Acts in respect of any incapacitated person as aforesaid may retain, out of money coming into his hands on behalf of any

such person, so much thereof from time to time as is sufficient to pay the tax charged, and shall be indemnified for all such payments made in pursuance of the Income Tax Acts.

Cross references – SSCBA 1992, Sch. 2, para. 5: Class 4 National Insurance contributions not payable by a trustee, guardian etc. in respect of the profits of a trade, profession or vocation.
SI 1986/1711, Schedule, Pt. I, II: modified application of s. 72 to stamp duty reserve tax.
SI 2004/1450, reg. 29(4): modification of s. 72 and s. 73 for child trust funds.

Statements of practice – A13: HMRC view that returns must be signed by the taxpayer personally, with relaxation where the provision of a signature would be injurious to the taxpayer's health.

73 Further provision as to infants

73 If a person chargeable to income tax is an infant, then his parent or guardian–

(a) shall be liable for the tax in default of payment by the infant, and
(b) on neglect or refusal of payment, may be proceeded against in like manner as any other defaulter, and
(c) if he makes such payment, shall be allowed all sums so paid in his accounts.

History – Words "parent or guardian" substituted by Age of Legal Capacity (Scotland) Act 1991, s. 10 and Sch. 1, para. 33, with effect from 25 September 1991.

Cross references – SI 1986/1711, Schedule, Pt. I, II: modified application of s. 73 to stamp duty reserve tax.
SI 2004/1450, reg. 29(4): modification of s. 72 and s. 73 for child trust funds.

74 Personal representatives

74(1) If a person chargeable to income tax dies, the executor or administrator of the person deceased shall be liable for the tax chargeable on such deceased person, and may deduct any payments made under this section out of the assets and effects of the person deceased.

74(2) On neglect or refusal of payment, any person liable under this section may be proceeded against in like manner as any other defaulter.

Cross references – S. 40: assessment in respect of deceased's tax liability made on personal representative by reference to three-year time limit.
ICTA 1988, s. 113(6): liability of deceased partner's personal representatives for tax on share of partnership profits.
SI 1986/1711, Schedule, Pt. I and II: modified application of s. 74 to stamp duty reserve tax.

75 Receivers appointed by a court

75(1) A receiver appointed by any court in the United Kingdom which has the direction and control of any property in respect of which income tax is charged in accordance with the provisions of the Income Tax Acts shall be assessable and chargeable with the tax in like manner and to the like amount as would be assessed and charged if the property were not under the direction and control of the court.

75(2) Every such receiver shall be answerable for doing all matters and things required to be done under the Income Tax Acts for the purpose of assessment and payment of income tax.

Cross references – F(No. 2)A 1997, Sch. 2, para. 18(1), (2): modified application to windfall tax.

76 Protection for certain trustees, agents and receivers

76(1) A trustee who has authorised the receipt of profits arising from trust property by, or by the agent of, the person entitled thereto shall not, if–

(a) that person or agent actually received the profits under that authority, and
(b) the trustee makes a return, as required by section 13 of this Act, of the name, address and profits of that person,

be required to do any other act for the purpose of the assessment of that person to income tax.

76(2) An agent or receiver of any person resident in the United Kingdom, other than an incapacitated person, shall not, if he makes a return, as required by section 13 of this Act, of the name, address and profits of that person, be required to do any other act for the purpose of the assessment of that person to income tax.

CAPITAL GAINS TAX

77 Application of Part VII to capital gains tax

77(1) This Part of this Act (except section 76 above) shall apply in relation to capital gains tax as it applies in relation to income tax, and subject to any necessary modifications.

77(2) This Part of this Act as applied by this section shall not affect the question of who is the person to whom chargeable gains accrue, or who is chargeable to capital gains tax, so far as that question is relevant for the purposes of any exemption, or of any provision determining the rate at which capital gains tax is chargeable.

History – S. 77(1) amended by FA 1971, s. 37 and Sch. 14, Pt. II, with effect from 6 April 1973.

DEVELOPMENT LAND TAX

77A Application of Part VII to development land tax

77A [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985.]

PART VIII – CHARGES ON NON-RESIDENTS

INCOME TAX

78 Method of charging non-residents

78 [Repealed by FA 1995, s. 162 and Sch. 29, Pt. VIII(16) for the purposes of income tax and capital gains tax, in relation to the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, in relation to accounting periods beginning after 31 March 1996.]

79 Profits from branch or agency

79 [Repealed by FA 1995, s. 162 and Sch. 29, Pt. VIII(16) for the purposes of income tax and capital gains tax, in relation to the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, in relation to accounting periods beginning after 31 March 1996.]

80 Charge on percentage of turnover

80 [Repealed by FA 1995, s. 162 and Sch. 29, Pt. VIII(16) for the purposes of income tax and capital gains tax, in relation to the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, in relation to accounting periods beginning after 31 March 1996.]

81 Taxation on basis of merchanting profit

81 [Repealed by FA 1995, s. 162 and Sch. 29, Pt. VIII(16) for the purposes of income tax and capital gains tax, in relation to the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, in relation to accounting periods beginning after 31 March 1996.]

82 Savings

82 [Repealed by FA 1995, s. 162 and Sch. 29, Pt. VIII(16) for the purposes of income tax and capital gains tax, in relation to the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, in relation to accounting periods beginning after 31 March 1996.]

83 Responsibilities and indemnification of persons in whose name a non-resident person is chargeable

83 [Repealed by FA 1995, s. 162 and Sch. 29, Pt. VIII(16) for the purposes of income tax and capital gains tax, in relation to the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, in relation to accounting periods beginning after 31 March 1996.]

CAPITAL GAINS TAX

84 Gains from branch or agency

84 [Repealed by FA 1995, s. 162 and Sch. 29, Pt. VIII(16) for the purposes of income tax and capital gains tax, in relation to the year 1996–97 and subsequent years of assessment and for the purposes of corporation tax, in relation to accounting periods beginning after 31 March 1996.]

CORPORATION TAX

85 Application of Part VIII to corporation tax

85 [Repealed by FA 1995, s. 162 and Sch. 29, Pt. VIII(16) for the purposes of income tax and capital gains tax, in relation to the year 1996–97 and subsequent years of assessment and for the purposes of corporation tax, in relation to accounting periods beginning after 31 March 1996.]

DEVELOPMENT LAND TAX

85A Non-residents chargeable to development land tax

85A [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985.]

PART IX – INTEREST ON OVERDUE TAX

Other material – ICAEW Technical Release TR 799 (not reproduced): interest under TMA 1970 will not accrue beyond the date of commencement of liquidation (compulsory/members' voluntary liquidation).

86 Interest on overdue income tax and capital gains tax

86(1) The following, namely–

(a) any amount on account of income tax which becomes due and payable in accordance with section 59A(2) of this Act, and

(b) any income tax or capital gains tax which becomes due and payable in accordance with section 55 or 59B of this Act,

shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the relevant date until payment.

86(2) For the purposes of subsection (1)(a) above the relevant date is whichever of the dates mentioned in section 59A(2) of this Act is applicable; and for the purposes of subsection (1)(b) above the relevant date is–

(a) in any such case as is mentioned in subsection (3) of section 59B of this Act, the last day of the period of three months mentioned in that subsection; and

(b) in any other case, the date mentioned in subsection (4) of that section.

86(3) Subsection (1) above applies even if the relevant date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.

86(4) Subsection (5) below applies where as regards a year of assessment–

(a) any person makes a claim under subsection (3) or (4) of section 59A of this Act in respect of the amounts (the section 59A amounts) payable by him in accordance with subsection (2) of that section, and

(b) an amount (the section 59B amount) becomes payable by him

(i) in accordance with section 59B(3), (4) or (5) of this Act, or

(ii) in accordance with section 59B(6) of this Act in respect of income tax assessed under section 29 of this Act.

86(5) Interest shall be payable under this section as if each of the section 59A amounts had been equal to–

(a) the aggregate of that amount and 50 per cent of the section 59B amount, or

(b) the amount which would have been payable in accordance with subsection (2) of section 59A of this Act if the claim under subsection (3) or (4) of that section had not been made,

whichever is the less.

86(6) In determining for the purposes of subsections (4) and (5) above what amount (if any) is payable by any person in accordance with section 59B(3), (4) or (5) of this Act or, in respect of income tax assessed under section 29 of this Act, in accordance with section 59B(6) of this Act–

(a) it shall be assumed that both of the section 59A amounts have been paid, and

(b) no account shall be taken of any amount which has been paid on account otherwise than under section 59A(2) of this Act or is payable by way of capital gains tax.

86(7) Subsection (8) below applies where as regards any person and a year of assessment–

(a) amounts (the section 59A amounts) become payable by him in accordance with section 59A(2) of this Act, and

(b) an amount (the section 59B amount) becomes repayable to him in accordance with section 59B (3), (4) or (5) of this Act.

86(8) So much of any interest payable under this section on either of the section 59A amounts as is not attributable to the amount by which that amount exceeds 50 per cent of the section 59B amount shall be remitted.

86(9) In determining for the purposes of subsections (7) and (8) above what amount (if any) is repayable to any person in accordance with section 59B(3), (4) or (5) of this Act, no account shall be taken of any amount which has been paid on account otherwise than under section 59A(2) of this Act or is payable by way of capital gains tax.

History – S. 86 amended by FA 1996, s.132 and Sch. 18, para. 3:

- in relation to partnerships whose trades, professions and businesses were set up and commenced before 6 April 1994, as respects the year 1997–98 and subsequent years of assessment (FA 1994, Sch. 19, para. 23(2));
- in so far as it relates to income tax and capital gains tax, other than in relation to partnerships whose trades, professions and businesses were set up and commenced before 6 April 1994, as respects the year 1996–97 and subsequent years of assessment (FA 1994, s. 199(2)).

In s. 86(2) reference to "section 92" substituted for previous reference to "section 93" by FA 1996, s. 131(2).
S. 86 substituted by FA 1994, s. 196 and Sch. 19, para. 23(1), as superseded by:

- FA 1995, s. 110(1) as respects the year 1996–97 and subsequent years generally;
- FA 1995, s. 110(2) in relation to any income tax or capital gains tax which is for the year 1995–96 or a previous year and is charged by an assessment made on or after 6 April 1998;
- FA 1995, s. 110(4) (as inserted by FA 1996, s. 131) so far as it relates to partnerships whose business commenced before 6 April 1994, as respects the year 1997–98 and subsequent years.

Cross references – S. 59D: general rule as to when corporation tax payable (nine months from the end of the accounting period).
S. 59E: further provision as to when corporation tax due and payable (regulatory powers).
SI 1998/3175: corporation tax payment by instalments regulations.
S. 70(2): collector's certificate is sufficient evidence of non-payment.
S. 107A(2)(d): application of s. 86 to relevant trustees.
S. 109(2): s. 86(6) applies with modifications in relation to tax charged on close companies in connection with loans to participators under ICTA 1988, s. 419, 420.
FA 1984, Sch. 14, para. 6(4): no interest chargeable under s. 86 is charged where capital gains tax is postponed in respect of beneficiary's liability for tax of non-resident trustees for any period prior to the time when tax becomes payable.
F(No. 2)A 1987, s. 86(3), (7): reference to s. 86 in s. 92 shall include references to s. 87A (interest on overdue corporation tax etc.) in relation to accounting periods ending after 30 September 1993 (by virtue of SI 1992/3066, art. 2).
ICTA 1988, s. 203: PAYE.
ICTA 1988, s. 307(6): application of s. 86 to assessments made by virtue of s. 307.
ICTA 1988, s. 369(7), (8): application of s. 86 to MIRAS.
ICTA 1988, s. 375(4): assessments made in respect of excess relief under ICTA 1988, s. 375(3) to be treated as assessments as mentioned in s. 86(2).
ICTA 1988, s. 393A(1): set off of company trading losses against profits of the same or an earlier accounting period.
ICTA 1988, s. 767B(1): modification of s. 86, in so far as it applies in relation to accounting periods ending on or before 30 September 1993, where tax is assessed under ICTA 1988, s. 767A (change in company ownership: corporation tax).
ICTA 1988, Sch. 3, para. 9: 30 days from the date of issue of the notice of assessment.
ICTA 1988, Sch. 14, para. 7(3), (4): life assurance premium relief; payment of a sum claimed under ICTA 1988, s. 266(5)(b).
FA 1991, s. 33(3), (3A): vocational training relief; application of s. 86.
SSCBA 1992, Sch. 2, para. 6: application of s. 86 in relation to Class 4 National Insurance contributions.
TCGA 1992, s. 281(5): payment of capital gains tax on certain gifts by instalments is subject to interest under s. 88 in accordance with the revised due dates.
FA 1995, s. 73(4): application of s. 86 to certain sums payable in connection with venture capital trusts.
FA 2001, s. 107: relief for interest in certain circumstances (e.g. foot and mouth)
SI 1986/1711, Sch., Pt. I, II: modified application of s. 86 to stamp duty reserve tax.
SI 1987/352, reg. 6(6)(b): s. 86(3), (4) does not apply to assessments under this instrument (pension surpluses) – also, reckonable dates for payment of tax under that instrument.
SI 1987/530, reg. 11(3)(b): application of s. 86–92 to withholding tax on entertainers and sportsmen.
SI 1989/469, reg. 28(3)(a); SI 1987/352, reg. 6(6)(a): assessments under these regulations (personal equity plan and pensions surpluses) are treated as assessments specified in s. 86.
SI 1993/743, reg. 15(4): application of s. 86 rate to sub-contractors tax deduction scheme.
SI 1989/1297, reg. 3: applicable rate of interest for the purposes of s. 86.

Extra-statutory concessions – A17: where taxpayer dies before tax is due, the time for payment is extended until the personal representatives have obtained a grant of representation.

Hansard – 2 July 1975, col. 746 and confirmed in ICAEW Technical Release TR 798 (not reproduced): where a taxpayer simultaneously has tax due under one assessment and has overpaid on another and he draws this fact to the Revenue's attention and asks for a set-off, interest will not be charged on the tax due as of the date that the set-off request is made (to the extent that it can be met from the overpayment).
Written Answers, 17 November 1986, col. 81 (not reproduced): when tax is paid by bank giro, the Revenue treat the date stamped on the payslip by the bank cashier as the date of payment.

HMRC Manuals – Assessed Taxes, AT 12.502: how the Revenue consider objections to an interest charge.

Other material – Taxline 1993/55 (not reproduced): HMRC regard SP 6/89 as not only protecting the taxpayer from interest charges under TMA 1970, s. 88, but as also protecting HMRC's entitlement to interest under s. 86. As a Sch. E assessment will only attract interest from the date it is agreed or determined, deductions and allowances must be reported as well as income.
Tax Bulletin TB04/96-4: table of effective dates of payment when tax paid after 5 April 1996 by cheque, electronic funds transfer, bank giro, or girobank.

86A Interest on development land tax unpaid on reckonable date

86A [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985.]

87 Interest on overdue income tax deducted at source

87(1) Income tax which is assessable under Chapter 15 of Part 15 of ITA 2007 carries interest at the rate applicable under section 178 of the Finance Act 1989 from the date when it was due under section 951 of ITA 2007 until payment.

87(2) Subsection (1) applies–

(a) whether or not an assessment is made, and

(b) whether or not income tax which is assessed has been paid when the assessment is made.

87(3) Subsection (1) applies even if the date when the income tax should have been paid is a non-business day as defined by section 92 of the Bills of Exchange Act 1882.

87(4) Subsection (5) applies to any income tax which–

(a) was payable under Chapter 15 of Part 15 of ITA 2007 (collection: deposit-takers, building societies and certain companies) in respect of payments within section 946 of that Act made in a return period,
(b) was not paid on the date when it was due under section 951 of that Act, and
(c) has subsequently been discharged or repaid under section 953 of that Act because the person who made the payments received payments on which it suffered income tax by deduction in a later return period.

87(5) The income tax carries interest under subsection (1) from the date when it was due under section 951 of ITA 2007 until the earliest of–

(a) the date when the income tax was paid,
(b) the date when the person delivered a return for the later return period, and
(c) the expiry of 14 days after the end of that period,

but subsection (1) does not otherwise apply to the income tax.

87(6) In this section **"return period"** means a period for which a return is required to be made under Chapter 15 of Part 15 of ITA 2007.

History – S. 87 substituted by ITA 2007, s. 1027 and Sch. 1, para. 258, with effect from 6 April 2007.

87A Interest on overdue corporation tax etc.

87A(1) Corporation tax shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the date when the tax becomes due and payable (in accordance with section 59D of this Act) until payment.

87A(2) Subsection (1) above applies even if the date when the tax becomes due and payable (as mentioned in that subsection) is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.

87A(3) In relation to corporation tax assessed or treated as assessed by virtue of section 346(2) or 347(1) of the principal Act, section 137(4), 139(7) or 190 of the 1992 Act paragraph 75A(2) of Schedule 18 to the Finance Act 1998, Schedule 28 to the Finance Act 2000 or paragraph 69 of Schedule 29 to the Finance Act 2002 (which enable unpaid corporation tax assessed on a company to be assessed on other persons in certain circumstances), the reference in subsection (1) above to the date when the tax becomes due and payable is a reference to the date when it became due and payable by the company.

87A(4) [Repealed by FA 1998, s. 31 and Sch. 3, para. 4(2), s. 165 and Sch. 20, Pt. III(2).]

87A(4A) In a case where–

(a) there is for an accounting period of a company (**"the later period"**) a non-trading deficit on the company's loan relationships,
(b) as a result of a claim under section 83(2)(c) of the Finance Act 1996 or paragraph 4(3) of Schedule 11 to that Act the whole or part of the deficit for the later period is set off against profits of an earlier accounting period (**"the earlier period"**), and
(c) if the claim had not been made, there would be an amount or, as the case may be, an additional amount of corporation tax for the earlier period which would carry interest in accordance with this section,

then, for the purposes of the determination at any time of whether any interest is payable under this section or of the amount of interest so payable, the amount mentioned in paragraph (c) above shall be taken to be an amount of unpaid corporation tax for the earlier period except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable as mentioned in subsection (8) below.

87A(4B) [Repealed by FA 1998, s. 31 and Sch. 3, para. 4(3), s. 165 and Sch. 20, Pt. III(2).]

87A(5) A sum assessed on a company by such an assessment as is referred to in section 252(5) of the principal Act (recovery of payment of tax credit or interest on such a payment) shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the date when the payment of tax credit or interest was made until the sum assessed is paid.

87A(6) In any case where–

(a) on a claim under section 393A(1) of the principal Act, the whole or any part of a loss incurred in an accounting period (**"the later period"**) has been set off for the purposes of corporation tax against profits of a preceding accounting period (**"the earlier period"**);

(b) the earlier period does not fall wholly within the period of twelve months immediately preceding the later period; and

(c) if the claim had not been made, there would be an amount or, as the case may be, an additional amount of corporation tax for the earlier period which would carry interest in accordance with this section,

then, for the purposes of the determination at any time of whether any interest is payable under this section or of the amount of interest so payable, the amount mentioned in paragraph (c) above shall be taken to be an amount of unpaid corporation tax for the earlier period except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable as mentioned in subsection (8) below.

87A(7) [Repealed by FA 1998, s. 31 and Sch. 3, para. 4(3), s. 165 and Sch. 20, Pt. III(2).]

87A(8) In subsections (4), (4A) and (6) above, any reference to the date on which corporation tax for an accounting period became, or would have become, due and payable shall be construed on the basis that corporation tax for an accounting period becomes due and payable on the day following the expiry of nine months from the end of the accounting period.

87A(9) The power conferred by section 59E of this Act (alteration of date on which corporation tax becomes due and payable) does not include power to make provision in relation to subsection (4), (4A), (6) or (8) above the effect of which would be to change the meaning of references in subsection (4), (4A) or (6) above to the date on which corporation tax for an accounting period became, or would have become, due and payable (as mentioned in subsection (8) above).

History – S. 87A(1) amended by FA 1994, s. 196 and Sch. 19, para. 24, substituting the reference to TMA 1970, s. 59D for the former reference to ICTA 1988, s. 10, in relation to accounting periods ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

In s. 87A(1), (5), the words "rate applicable under section 178 of the Finance Act 1989" substituted by FA 1989, s. 179(1)(b)(i) with effect from 1 October 1993 (the day from which FA 1989, s. 178 has effect for the purposes of s. 87A by virtue of SI 1993/2212).

In s. 87A(3), reference to FA 1998, Sch. 18, para. 75A(2) substituted for former reference to FA 1990, s. 96(8) by FA 1999, s. 92(5), with effect in relation to accounting periods ending on or after 1 July 1999.

In s. 87A(3), words "or treated as assessed" and words "or Schedule 28 of the Finance Act 2000" inserted by FA 2000, Sch. 28, para. 3 with effect in relation to unpaid corporation tax assessed on a non-resident company (the "taxpayer company"), for an accounting period beginning after 1st April 2000, and payable by a company other than the "taxpayer company" by virtue of FA 2000, Sch. 28.

In s. 87A(3), words "or treated as assessed" and "or 190" inserted by FA 2000, Sch. 29, para. 9(2) with effect for the purposes of TCGA 1992, s. 190 (tax recoverable from another group company or controlling director), in relation to gains accruing on or after 1st April 2000.

In s. 87A(3), word "or" preceding "paragraph 75A(2)" and the words "or 179(11)" repealed by FA 2000, Sch. 40, Pt. II(11) and (12) respectively.

In s. 87A(3), the words ", Schedule 28 to the Finance Act 2000 or paragraph 69 of Schedule 29 to the Finance Act 2002" substituted by FA 2002, Sch. 29, para. 69(4) with effect from 1 April 2002.

S. 87A(4) repealed by FA 1998, s. 31 and Sch. 3, para. 4(2), s. 165 and Sch. 27, Pt. III(2), with effect where the "later period" referred to in that subsection begins on or after 6 April 1999.

Former s. 87A(4) amended by FA 1995, s. 130 and Sch. 24, para. 9(1), with deemed effect from 23 March 1995 (FA 1995, Sch. 24, para. 7, FA 1993, s. 165(7)(b) and SI 1994/3224 (C. 79)) (and by FA 1998: see note below).

In former s. 87A(4), s. 87A(4A) and (6), references to subsection (8) substituted for former references to subsection (1) by FA 1998, s. 35 and Sch. 4, para. 4(2), with effect where the accounting period whose due and payable date (as defined in FA 1998, Sch. 4, para. 4(6)) falls to be determined is an accounting period ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

In s. 87A(4A)(a), the words "a non-trading deficit on the company's loan relationships," substituted for the previous words "a relievable amount within the meaning of section 131 of the Finance Act 1993 (non-trading exchange gains and losses)," and in s. 87A(4A)(b) the words "section 83(2)(c) . . . set off against profits" substituted for the previous words "subsection (5) or (6) of that section the whole or part of the relievable amount for the later period is set off against the exchange profits (as defined in subsection (10) of that section)", by FA 1996, s. 104 and Sch. 14, para. 1(1), in relation to accounting periods ending after 31 March 1996.

S. 87A(4A) (as amended by FA 1995, s. 130 and Sch. 24, para. 8, with deemed effect from 23 March 1995) inserted by FA 1993, s. 170 and Sch. 18, para. 1, with effect where a company becomes entitled to qualifying assets or rights under a currency contract, or subject to qualifying liabilities or duties under a currency contract, on or after the first day of its first accounting period to begin after 22 March 1995 (FA 1993, s. 165 and SI 1994/3224 (C. 79)).

S. 87A(4B) repealed by FA 1998, s. 31 and Sch. 3, para. 4(3), s. 165 and Sch. 27, Pt. III(2), with effect where the "earlier period" referred to in that subsection begins on or after 6 April 1999.

Former s. 87A(4B) inserted by FA 1995, s. 130 and Sch. 24, para. 9 with deemed effect from 23 March 1995 (FA 1995, Sch. 24, para. 7, FA 1993, s. 165(7)(b) and SI 1994/3224 (C. 79)) and amended by FA 1996, s. 104 and Sch. 14, para. 1(2), in relation to accounting periods ending after 31 March 1996.

S.87A(7) repealed by FA 1998, s. 31 and Sch. 3, para. 4(3), s. 165 and Sch. 27, Pt. III(2), with effect where the "earlier period" referred to in that subsection begins on or after 6 April 1999.

S. 87A(8) and S. 87A(9) inserted by FA 1998, s. 35 and Sch. 4, para. 4(3) and (4), with effect where the accounting period whose due and payable date (as defined in FA 1998, Sch. 4, para. 4(6)) falls to be determined is an accounting period ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

S. 87A inserted by F(No. 2)A 1987, s. 85; ICTA 1988, s. 844 and Sch. 29, para. 10(1), (4); FA 1990, s. 96(12) and FA 1993, s. 120 and Sch. 14, para. 4 (superseding FA 1991, s. 73 and Sch. 15, para. 2), with respect to accounting periods ending after 30 September 1993, the day appointed by virtue of SI 1992/3066 (under Pay and File).

Cross references – ICTA 1988, s. 393A(1): set off of company trading losses against profits of same or earlier accounting period.
ICTA 1988, s. 767B(1): modification of s. 87A where corporation tax assessed under ICTA 1988, s. 767A (change in company ownership: corporation tax).
ICTA 1988, Sch. 19AB, para. 5: transitional application of s. 87A to life insurance companies carrying on pension business which make provisional repayment claims. See also para. 3(3): disregard of words in s. 87A(1) "(in accordance with section 10 of the principal Act)" in application of s. 87A to interest payable by life insurance company on excessive provisional repayment in respect of pension business.
TCGA 1992, s. 137(5): restitution in respect of interest payable by a person charged with unpaid tax following nullification of the equation of original and new holdings by a finding that the exchange, reconstruction or amalgamation not effected for bona fide commercial reasons etc.
TCGA 1992, s. 139(8): restitution in respect of interest payable by a person charged with unpaid tax following nullification of the no gain, no loss provisions for transfers of business on a reconstruction or amalgamation by a finding that not effected for bona fide commercial reasons etc.
TCGA 1992, s. 179(11): restitution in respect of interest payable by a person charged with unpaid tax following crystallisation of gain when company leaves a group with asset transferred intra-group.
TCGA 1992, s. 189(4): restitution in respect of interest payable by a person charged with unpaid tax as the recipient of a capital distribution emanating from the asset in respect of which the gain arose.
TCGA 1992, s. 190(4): restitution in respect of interest payable by a person charged with unpaid tax as the principal company of the chargeable company's group or as a fellow group member previously owning the asset.
FA 1994, s. 250: modified application of s. 87A where tax due under FA 1994, s. 250(4) (disposal of assets by companies treated as non-resident).
FA 1998, Sch. 18, para. 52(6): interest charged on the recovery of excess repayments of corporation tax.
FA 2000, Sch. 15, para. 63(2): interest on corporation tax which becomes due following reduction or withdrawal of investment relief.
SI 1998/3175, reg. 7: modifications of s. 87A as it applies in relation to any unpaid amount in respect of the total liability of a large company for an accounting period.
SI 1989/1297, reg. 3A, 3ZA, 3ZB: applicable rate of interest on overdue corporation tax.

Other material – Tax Bulletin TB04/96-4: table of effective dates of payment when tax paid after 5 April 1996 by cheque, electronic funds transfer, bank giro, or girobank.

Notes – S. 87 rewritten as ITA 2007, Sch. 1 para. 258.

88 Interest on tax recovered to make good loss due to taxpayer's fault

88 [Repealed by FA 1996, s. 132 and Sch. 18, para. 4(1), s. 205 and Sch. 41, Pt. V(8).]

History – S. 88 repealed by FA 1996, s. 132 and Sch. 18, para. 4(1), s. 205 and Sch. 41, Pt. V(8). The repeal is effective generally for years after 1995–96. However, in the case of partnerships where the business was set up and commenced before 6 April 1994, the repeal is effective for years after 1996–97. The repeal also applies to income tax and capital gains tax charged by assessments made after 5 April 1998, but relating to 1995–96 and earlier years.

88A Determinations under section 88

88A [Repealed by FA 1996, s. 132 and Sch. 18, para. 4(2), s. 205 and Sch. 41, Pt. V(8).]

History – S. 88A repealed (in consequence of the repeal of s. 88), by FA 1996, s. 132 and Sch. 18, para. 4(2), s. 205 and Sch. 41, Pt. V(8). The repeal is effective generally for years after 1995–96. However, in the case of partnerships where the business was set up and commenced before 6 April 1994, the repeal is effective for years after 1996–97. The repeal also applies to income tax and capital gains tax charged by assessments made after 5 April 1998, but relating to 1995–96 and earlier years. S. 88A inserted by FA 1989, s. 160(2) with effect from 27 July 1989.

89 The prescribed rate of interest

89 [Repealed by FA 1989, s. 187 and Sch. 17, Pt. X.]

History – The repeal of s. 89 has effect for periods beginning on or after 18 August 1989 by virtue of SI 1989/1298 (C. 44) for the enactments specified in para. 2(2) of that Order and from 1 October 1993 in relation to TMA 1970, s. 87A and ICTA 1988, s. 826 (the date from which FA 1989, s. 178 applies to TMA 1970, s. 87A and ICTA 1988, s. 826 by virtue of SI 1993/2212).

90 Disallowance of relief for interest on tax

90(1) Interest payable under this Part of this Act–

(a) shall be paid without any deduction of income tax; and

(b) subject to subsection (2) below, shall not be allowed as a deduction in computing any income, profits or losses for any corporation tax purpose (but see also sections 54 and 869 of ITTOIA 2005 for corresponding rule for income tax purposes).

90(2) Paragraph (b) of subsection (1) above does not apply in relation to interest under section 87 or 87A of this Act payable by a company within the charge to corporation tax.

History – S. 90 amended by FA 1998, s. 33, with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173, and in relation to interest on tax assessable in accordance with ICTA 1988, Sch. 13 or 16 for return periods in accounting periods ending on or after that day.
In s. 90(1)(b), the words "any corporation tax purpose (but see also sections 54 and 869 of ITTOIA 2005 for corresponding rule for income tax purposes)" substituted for the former wording by ITTOIA 2005, s. 882(1) and Sch. 1, para. 378; effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).

Cross references – FA 1993, s. 173 and Sch. 19, para. 11(5): for 1992–93 and subsequent years, s. 90 applies to interest on amounts payable by Lloyd's underwriting agents on account of the tax liabilities of syndicate members (see ICTA 1988, s. 450 and Sch. 19A, para. 3(4) for prior years (from 1988–89).
OTA 1975, Sch. 2, para. 1(1): s. 90 applies for the purposes of oil taxation.

SI 1986/1711, Sch., Pt. I, II: s. 90 applies for purposes of stamp duty reserve tax.

91 Effect on interest of reliefs

91(1) Where any amount of interest is payable under section 86 of this Act in relation to an assessment, and relief from tax charged by the assessment is given to any person by a discharge of any of that tax, such adjustment shall be made of the said amount, and such repayment shall be made of any amounts previously paid under that section in relation to the assessment, as are necessary to secure that the total sum, if any, paid or payable under that section in relation to the assessment, is the same as it would have been if the tax discharged had never been charged.

91(1A) Where interest is payable under section 87A of this Act in respect of an amount of corporation tax for an accounting period, and relief from tax is given by a discharge of any of that corporation tax–

(a) such adjustment shall be made of the amount of interest payable under that section in respect of corporation tax for that accounting period, and

(b) such repayment shall be made of any amounts of interest previously paid under that section in respect of that corporation tax,

as are necessary to secure that the total sum (if any) paid or payable under that section in respect of corporation tax for that accounting period is the same as it would have been if the tax discharged had never been charged.

91(1B) Subsection (1A) above has effect subject to section 87A(4), (4A), (4B), (6) and (7) of this Act.

91(2) Subject to subsection (2A) below where relief from tax paid for any chargeable period is given to any person by repayment, he shall be entitled to require that the amount repaid shall be treated for the purposes of this section, so far as it will go, as if it were a discharge of the tax charged on him (whether alone or together with other persons) by or by virtue of any assessment for or relating to the same chargeable period, so, however, that it shall not be applied to any assessment made after the relief was given and that it shall not be applied to more than one assessment so as to reduce, without extinguishing, the amount of tax charged thereby.

91(2A) In any case where–

(a) relief from corporation tax is given to any person by repayment, and

(b) that tax was paid for an accounting period ending after the day which is the appointed day for the purposes of section 10 of the principal Act,

that person shall be entitled to require that the amount repaid shall be treated for the purposes of this section, so far as it will go, as if it were a discharge of the corporation tax charged on him for that period.

91(3) Notwithstanding anything in the preceding provisions of this section, no relief, whether given by way of discharge or repayment, shall be treated for the purposes of this section as–

(a) [Repealed by FA 1971, s. 37(1), 38(1), Sch. 6, para. 88(a) and Sch. 14, Pt. II.]

(b) affecting tax charged by any assessment to income tax made under Schedule A or Schedule D if either–

  (i) [Repealed by FA 1971, s. 37(1), 38(1), Sch. 6, para. 88(a) and Sch. 14, Pt. II.]

  (ii) it arises in connection with income taxable otherwise than under Schedule A or Schedule D, or

  (iii) it relates to a source income from which is taxable otherwise than under Schedule A or Schedule D, or

(c) affecting tax charged at a rate other than the basic rate, the savings rate or the starting rate on income from which tax has been deducted (otherwise than under PAYE regulations) or is treated as having been deducted, unless it is a relief from the tax so charged.

91(4) For the purposes of this section a relief from corporation tax or capital gains tax shall not be treated as affecting tax charged by any assessment unless the assessment is to the same tax.

History – In s. 91(1) reference to "section 88", which appeared after the reference to s. 86, repealed, and minor consequential amendments made, by FA 1996, s. 132 and Sch. 18, para. 4(2), s. 205 and Sch. 41, Pt. V(8). The repeal relating to s. 88 is effective generally for years after 1995–96. However, in the case of partnerships where the business was set up and commenced before 6 April 1994, the repeal is effective for years after 1996–97. The repeal also applies to income tax and capital gains tax charged by assessments made after 5 April 1988, but relating to 1995–96 and earlier years.

S. 91(1A) and s. 91(2A) (as amended by ICTA 1988, s. 844 and Sch. 29, para. 10(6)) inserted by F(No. 2)A 1987, s. 86(5)–(7): and s. 91(2) amended to make it subject to s. 91(2A), with respect to accounting periods ending after 30 September 1993 by virtue of SI 1992/3066, art. 2 (under Pay and File).

S. 91(1B) amended by FA 1995, s. 130 and Sch. 24, para. 10, with deemed effect from 23 March 1995 (FA 1995, Sch. 24, para. 7, FA 1993, s. 165 and SI 1994/3224) to include reference to s. 87A(4A) and (4B).

S. 91(1B) amended by FA 1993, s. 120 and Sch. 14, para. 5, inserting "(6) and (7)" after the words "section 84A(4)".
S. 91(2) amended by FA 1985, Sch. 27, Pt. X by removing a reference to development land tax.
S. 91(3)(a), (b)(i) repealed with effect from 1973–74.
In s. 91(3)(c), the words "savings rate" substituted for the words "lower rate" by ITA 2007, s. 1027 and Sch. 1, para. 259, with effect from 6 April 2007.
In s. 91(3)(c), the words "PAYE regulations" substituted for the words "section 203 of the principal Act" by ITEPA 2003, Sch. 6, para. 136 which has effect for the tax year 2003–04 and subsequent tax years.
S. 91(3)(c) inserted by FA 1971, Sch. 6, para. 88(b), with effect from 1973–74.
In s. 91(3)(c), words ", the lower rate or the starting rate" substituted by FA 1999, s. 22(11)(b) with effect for the year 1999–2000 and subsequent years of assessment. Former reference to the lower rate inserted by F(No. 2)A 1992, s. 19(2), for 1992–93 and subsequent years of assessment.
Reference to provisions of the principal Act substituted by ICTA 1988, Sch. 29, para. 32, that Act becoming the principal Act (TMA 1970, s. 118(1)).

Cross references – S. 107(4), (5): restricted application to tax re loans by close companies to participators.
ICTA 1988, s. 203: PAYE.
ICTA 1988, s. 306(9): restriction on application of s. 91 on discharge etc. in relation to business expansion scheme (in relation to shares issued on or before 31 December 1993) or enterprise investment scheme investment (in relation to shares issued on or after 1 January 1994).
ICTA 1988, s. 419(4): restriction on application of s. 91 on discharge or repayment of tax in respect of loans to participators in close companies; and for the purposes of s. 91 relief from tax under s. 419, 420 is only treated as affecting tax charged by an assessment where the assessment is under those sections.

91A Reliefs etc.: effect on interest on development land tax

91A [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985.]

92 Remission in certain cases of interest on tax in arrear by reason of exchange restrictions

92(1) The provisions of this section shall have effect where the Board are satisfied as respects any tax carrying interest under section 86 of this Act–

(a) that the tax is in respect of income or chargeable gains arising in a country outside the United Kingdom, and
(b) that, as the result of action of the government of that country, it is impossible for the income or gains to be remitted to the United Kingdom, and
(c) that having regard to the matters aforesaid and to all the other circumstances of the case it is reasonable that the tax should for the time being remain uncollected,

and the Board allow the tax to remain uncollected accordingly.

92(2) Interest on the said tax shall, subject to subsection (3) below, cease to run under the said section 86 as from the date on which the Board were first in possession of the information necessary to enable them to be satisfied as aforesaid and, if the said date is not later than three months from the time when the tax became due and payable, the interest thereon under the said section 86 in respect of the period before the said date shall be remitted.

92(3) Where, under subsection (2) above, interest has ceased to run on any tax and thereafter demand is made by the collector or other proper officer for payment of all or any of that tax, interest under the said section 86 shall again begin to run from the date of the demand in respect of the amount demanded:

Provided that where all or any part of the amount demanded is paid not later than three months from the date of the demand, the interest under the said section 86 on the amount so paid running from the date of the demand shall be remitted.

Cross references – F(No. 2)A 1987, s. 86(3)(a), (7): the reference in s. 92 to s. 86 shall include, with respect to accounting periods ending after 30 September 1993 (by virtue of SI 1992/3066, art. 2), a reference to s. 87A.

PART X – PENALTIES, ETC.

93 Failure to make return for income tax and capital gains tax

93(1) This section applies where–

(a) any person (the taxpayer) has been required by a notice served under or for the purposes of section 8 or 8A of this Act (or either of those sections as extended by section 12 of this Act) to deliver any return, and
(b) he fails to comply with the notice.

93(2) The taxpayer shall be liable to a penalty which shall be £100.

93(3) If, on an application made to them by an officer of the Board, the General or Special Commissioners so direct, the taxpayer shall be liable to a further penalty or penalties not exceeding

£60 for each day on which the failure continues after the day on which he is notified of the direction (but excluding any day for which a penalty under this subsection has already been imposed).

93(4) If–

(a) the failure by the taxpayer to comply with the notice continues after the end of the period of six months beginning with the filing date, and

(b) no application is made under subsection (3) above before the end of that period,

the taxpayer shall be liable to a further penalty which shall be £100.

93(5) Without prejudice to any penalties under subsections (2) to (4) above, if–

(a) the failure by the taxpayer to comply with the notice continues after the anniversary of the filing date, and

(b) there would have been a liability to tax shown in the return,

the taxpayer shall be liable to a penalty of an amount not exceeding the liability to tax which would have been so shown.

93(6) No penalty shall be imposed under subsection (3) above in respect of a failure at any time after the failure has been remedied.

93(7) If the taxpayer proves that the liability to tax shown in the return would not have exceeded a particular amount, the penalty under subsection (2) above, together with any penalty under subsection (4) above, shall not exceed that amount.

93(8) On an appeal against the determination under section 100 of this Act of a penalty under subsection (2) or (4) above, neither section 50(6) to (8) nor section 100B(2) of this Act shall apply but the Commissioners may–

(a) if it appears to them that, throughout the period of default, the taxpayer had a reasonable excuse for not delivering the return, set the determination aside; or

(b) if it does not so appear to them, confirm the determination.

93(9) References in this section to a liability to tax which would have been shown in the return are references to an amount which, if a proper return had been delivered on the filing date, would have been payable by the taxpayer under section 59B of this Act for the year of assessment.

93(10) In this section–

"the filing date" in respect of a return for a year of assessment (Year 1) means–

(a) 31st January of Year 2, or

(b) if the notice under section 8 or 8A was given after 31st October of Year 2, the last day of the period of three months beginning with the day on which the notice is given.

"the period of default", in relation to any failure to deliver a return, means the period beginning with the filing date and ending with the day before that on which the return was delivered.

History – In s. 93(10), the definition of "the filing date" substituted by FA 2007, s. 91(7), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007. The former definition read ""the filing date" means the day mentioned in section 8(1A) or, as the case may be, section 8A(1A) of this Act". See s. 8 or s. 8A History note as appropriate.
S. 93 substituted by FA 1994, s. 196 and Sch. 19, para. 25, as respects the year 1996–97 and subsequent years of assessment (FA 1994, s. 197(2)).
Former s. 93 amended by FA 1990, s. 90(3), (5) effective for notices given (or falling to be given) after 5 April 1990, by FA 1989, s. 162 in relation to failure to comply with a notice served after 5 April 1989, by FA 1988, s. 148 and Sch. 14, Pt. VIII with effect from 1990–91, by FA 1971, Sch. 6, para. 69 with effect from 1973–74, and by ICTA 1988, Sch. 29, para. 32.

Cross references – S. 59C(4): where a penalty has been incurred by reference to s. 93, no part of the tax by reference to which the penalty was determined is regarded as unpaid for the purposes of surcharges on income tax and capital gains tax under s. 59C(2), (3).
S. 107A: application of s. 93 to relevant trustees.
S. 118(3): partnership assessment treated as made on individual partners and tax charged treated accordingly.
FA 1993, s. 173 and Sch. 19, para. 2(3)–(5), 6(2), (3), 10(6)–(8): (1992–93 and subsequent years) penalties for failure by Lloyd's underwriting agents to make returns of either syndicate profits or losses, or apportioning between syndicate members profits or losses as determined by the inspector (see ICTA 1988, s. 450 and Sch. 19A, para. 2(3), 7(2), (10) for prior years (from 1988–89)).
SI 1986/1711, Sch., Pt. I, II: modified application of s. 93 to stamp duty reserve tax.

HMRC Manuals – Investigation Handbook, vol. III, IH5525ff: mitigation factors for tax geared penalties.

Other material – Tax Bulletin TB10/99-2: from 1 October 1999, in relation to SDRT penalties, where there is a composite notice relating to a number of transactions in a single month, the Stamp Office will normally only seek a single £100 penalty charge, provided that the accountable person takes steps to eliminate sources of recurrent error.

93A Failure to make partnership return

93A(1) This section applies where, in the case of a trade, profession or business carried on by two or more persons in partnership–

(a) a partner (the representative partner) has been required by a notice served under or for the purposes of section 12AA(2) or (3) of this Act to deliver any return, and
(b) he or a successor of his fails to comply with the notice.

93A(2) Each relevant partner shall be liable to a penalty which shall be £100.

93A(3) If, on an application made to them by an officer of the Board, the General or Special Commissioners so direct, each relevant partner shall be liable, for each day on which the failure continues after the day on which the representative partner or a successor of his is notified of the direction (but excluding any day for which a penalty under this subsection has already been imposed), to a further penalty or penalties not exceeding £60.

93A(4) If–

(a) the failure by the representative partner or a successor of his to comply with the notice continues after the end of the period of six months beginning with the filing date, and
(b) no application is made under subsection (3) above before the end of that period,

each relevant partner shall be liable to a further penalty which shall be £100.

93A(5) No penalty shall be imposed under subsection (3) above in respect of a failure at any time after the failure has been remedied.

93A(6) Where, in respect of the same failure to comply, penalties under subsection (2), (3) or (4) above are determined under section 100 of this Act as regards two or more relevant partners–

(a) no appeal against the determination of any of those penalties shall be brought otherwise than by the representative partner or a successor of his;
(b) any appeal by that partner or successor shall be a composite appeal against the determination of each of those penalties; and
(c) section 100B(3) of this Act shall apply as if that partner or successor were the person liable to each of those penalties.

93A(7) On an appeal against a determination under section 100 of this Act of a penalty under subsection (2) or (4) above, neither section 50(6) to (8) nor section 100B(2) of this Act shall apply but the Commissioners may–

(a) if it appears to them that, throughout the period of default, the person for the time being required to deliver the return (whether the representative partner or a successor of his) had a reasonable excuse for not delivering it, set the determination aside; or
(b) if it does not so appear to them, confirm the determination.

93A(7A) For the purposes of this section the filing date for a year of assessment (Year 1) in the case of a partnership which includes one or more individuals is–

(a) 31st January of Year 2, or
(b) if the notice under section 12AA was given after 31st October of Year 2, the last day of the period of three months beginning with the date of the notice.

93A(7B) For the purposes of this section the filing date for a year of assessment (Year 1) in the case of a partnership which includes one or more companies is–

(a) the first anniversary of the period for which the return is required, or
(b) where the notice is given more than nine months after the end of the period for which the return is required, the last day of the period of three months beginning with the date of the notice.

93A(8) In this section–

"the period of default", in relation to any failure to deliver a return, means the period beginning with the filing date and ending with the day before that on which the return was delivered;

"relevant partner" means a person who was a partner at any time during the period in respect of which the return was required.

History – S. 93A(7A) inserted by FA 2007, s. 91(8), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007.
S. 93A(7B) inserted by FA 2007, s. 91(8) with effect in respect of a return for a period in respect of which a return is required (a "relevant period") beginning on or after 6 April 2007.
In s. 93A(8), the words ""the filing date" means the day specified in the notice under section 12AA(2) or (3) of this Act;" omitted by FA 2007, s. 91(9) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(3), with effect in respect of a return for a year of assessment beginning on or after 6 April 2007 (for a partnership which includes one or more individuals) and in respect of a return for a period in respect of which a return is required (a "relevant period") beginning on or after 6 April 2007 (for a partnership which includes one or more companies).
S. 93A inserted by FA 1994, s. 196 and Sch. 19, para. 26, and amended by FA 1996, s. 123(8)–(11), in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it applies to

corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

94 Failure to make return for corporation tax

94 [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 33, s. 165 and Sch. 27, Pt. III(28).]

History – S. 94 repealed by FA 1998, s. 117(3) and Sch. 19, para. 33, with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

95 Incorrect return or accounts for income tax or capital gains tax

95(1) Where a person fraudulently or negligently–

(a) delivers any incorrect return of a kind mentioned in section 8 or 8A of this Act (or either of those sections as extended by section 12 of this Act), or

(b) makes any incorrect return, statement or declaration in connection with any claim for any allowance, deduction or relief in respect of income tax or capital gains tax, or

(c) submits to an inspector or the Board or any Commissioners any incorrect accounts in connection with the ascertainment of his liability to income tax or capital gains tax,

he shall be liable to a penalty not exceeding the amount of the difference specified in subsection (2) below.

95(2) The difference is that between–

(a) the amount of income tax and capital gains tax payable for the relevant years of assessment by the said person (including any amount of income tax deducted at source and not repayable), and

(b) the amount which would have been the amount so payable if the return, statement, declaration or accounts as made or submitted by him had been correct.

95(3) The relevant years of assessment for the purposes of this section are, in relation to anything delivered, made or submitted in any year of assessment, that, the next following, and any preceding year of assessment.

Prospective amendments – S. 95 omitted by FA 2007, s. 97 and Sch. 24, para. 29(a) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(5), in accordance with provision made by the Treasury by order.

History – In s. 95(1)(a) reference to TMA 1970, s. 9 omitted, and in s. 95(3) the words at the end "; and the references in subsection (2) to the amount of income tax payable do not, in relation to anything done in connection with a partnership, include any income tax not chargeable in the partnership name" repealed by FA 1994, s. 196 and Sch. 19, para. 27(1), (2), s. 258 and Sch. 26, Pt. V(23), as respects the year 1996–97 and subsequent years of assessment.
In s. 95(1)(a) references to TMA 1970, s. 8A inserted and consequential amendment made by FA 1990, s. 90(4), (5), effective for notices given (or falling to be given) after 5 April 1990.
S. 95(1) amended by FA 1989, s. 163 reducing the maximum penalty from the "aggregate of (i) £50 and (ii) the amount, or, in the case of fraud, twice the amount of the difference specified in subsection (2) below" for returns, statements, declarations or accounts delivered, made or submitted on or after 27 July 1989.
S. 95(1)(a) amended by FA 1988, s. 148 and Sch. 14, Pt. VIII by removing the former reference to ICTA 1988, s. 284(4), with effect from 1990–91.
S. 95(3) amended by FA 1971, Sch. 6, para. 90, with effect from 1973–74.
Reference to provisions of the principal Act substituted by ICTA 1988, Sch. 29, para. 32, that Act becoming the principal Act (TMA 1970, s. 118(1)).

Cross references – FA 1993, Sch. 20A, para. 9(5) (introduced by FA 2004, s. 144 and Sch. 25 para. 3): this section is to apply where a Lloyd's member fraudulently or negligently fails to comply with the reporting requirements of Part 3 of that schedule.
FA 2004, s. 33(5): delivery of an incorrect return not to be regarded as negligent if solely due to a failure to preserve records relating to an arm's length provision (until 2006/07 or for accounting periods ending on or before 31 March 2006).
FA 2004, s. 313(4)(a): a person is not liable to a penalty under s. 95 by reason of any failure to include in a return or account any number or other information required by FA 2004, s. 313(3)(a).
S. 8, 8A, 9 and 12: return of income, trustee's return, partnership return and capital gains.
S. 59C(6): where penalty incurred under s. 95, no part of the tax by reference to which the penalty was determined is regarded as unpaid for the purpose of surcharges on income tax and capital gains tax (s. 59C(2), (3)).
S. 107A: application of s. 95 to relevant trustees.
S. 118(3): partnership assessment treated as made on individual partners and tax charged treated accordingly.
ICTA 1988, s. 369(7): s. 95 applies to any overpayment to a MIRAS lender of tax deducted by a borrower and thus treated as paid by the lender as if it were income tax which ought not to have been repaid, or a relief which was not due.
ICTA 1988, Sch. 6A, para. 8(4): claim for alternative calculation to be applied in respect of private use by employee of a company van is, for the purposes of s. 95, to be taken as a claim for relief.
ICTA 1988, Sch. 14, para. 7(3)(d): s. 95 applies in relation to excess life assurance premium relief.
FA 1989, s. 57(3)(d): application to excessive relief for payments of medical insurance.
FA 1991, s. 33(3)(d): application of s. 95 where the recipient of a payment in respect of a qualifying course of vocational training claims from the Board, in excess of his entitlement, the amount of tax deducted from the payer.
FA 1993, s. 173 and Sch. 19, para. 2(3)–(5): (1992–93 and subsequent years) penalties for incorrect returns submitted by Lloyd's underwriting agents (see ICTA 1988, s. 450 and Sch. 19A, para. 2(4), (10) for prior years (from 1988–89)).
FA 1995, s. 73(4): regulations may apply s. 95 in cases where amounts equivalent to the tax credits on distributions are paid to any person by a venture capital trust.
ITEPA 2003, s. 164(4): claim for alternative calculation of value of shared availability of van.
SI 1986/1711, Sch., Pt. I, II: modified application of s. 95 for purposes of stamp duty reserve tax.

SI 1989/469, reg. 9(6)(a) (false declaration on applying to subscribe to a personal equity plan): reg. 9(6)(b) (modifications to s. 95 in respect of applications to subscribe to personal equity plans) and reg. 18(4) (deductions where excessive relief given in respect of personal equity plans to be treated as deductions at source, and not repayable by virtue of s. 95(2)(a)).
SI 1998/1870, reg. 12(8): modified application of s. 95 in respect of applications to subscribe to an individual savings account – see also reg. 13(8) (applications by curator bonis).
SI 1998/1870, reg. 24(4): deduction to claw back excessive relief given in respect of an individual savings account is treated for the purposes of s. 95(2)(a) as an amount of income tax deducted at source and not repayable.

HMRC Manuals – Investigation Handbook, vol. III, IH5525ff: mitigation factors for tax geared penalties.

Other material – ICAEW Technical Release TAX 27/95 (not reproduced): professional conduct in relation to taxation.
IR press release, 18 October 1990: Board may accept a money settlement instead of instituting criminal proceedings in respect of fraud alleged to have been committed by a taxpayer, particularly where the taxpayer has made a full confession and co-operated in the investigation, but they can give no undertaking that they will do so.
Tax Bulletin TB12/98-1: HMRC guidance notes on penalties exigible where "a return is not submitted in accordance with the arm's length principle [for transfer pricing], it can be shown that the return was submitted fraudulently or negligently, and UK tax is lost as a result".

95A Incorrect partnership return or accounts

95A(1) This section applies where, in the case of a trade, profession or business carried on by two or more persons in partnership–

(a) a partner (the representative partner)–
  (i) delivers an incorrect partnership return, or
  (ii) makes any incorrect statement or declaration in connection with a partnership return, or
  (iii) submits to an officer of the Board any incorrect accounts in connection with such a return, and

(b) either he does so fraudulently or negligently, or his doing so is attributable to fraudulent or negligent conduct on the part of a relevant partner.

95A(2) Each relevant partner shall be liable to a penalty not exceeding the difference between–

(a) the amount of income tax or corporation tax payable by him for the relevant period (including any amount of income tax deducted at source and not repayable), and

(b) the amount which would have been the amount so payable if the return, statement, declaration or accounts made or submitted by the representative partner had been correct;

and in determining each such penalty, regard shall be had only to the fraud or negligence, or the fraudulent or negligent conduct, mentioned in subsection (1)(b) above.

95A(3) Where, in respect of the same return, statement, declaration or accounts, penalties under subsection (2) above are determined under section 100 of this Act as regards two or more relevant partners–

(a) no appeal against the determination of any of those penalties shall be brought otherwise than by the representative partner or a successor of his;

(b) any appeal by that partner or successor shall be a composite appeal against the determination of each of those penalties; and

(c) section 100B(3) of this Act shall apply as if that partner or successor were the person liable to each of those penalties.

95A(4) In this section–

"relevant partner" means a person who was a partner at any time during the relevant period;

"relevant period" means the period in respect of which the return was made.

Prospective amendments – S. 95A omitted by FA 2007, s. 97 and Sch. 24, para. 29(a) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(5), in accordance with provision made by the Treasury by order.

History – In s. 95A(1)(a):
- in sub-para. (i), the words "incorrect partnership return" substituted for "incorrect return of a kind mentioned in section 12AA of this Act"; and
- in sub-para. (ii), "partnership return" substituted for "return of such a kind",

by FA 2001, s. 88, Sch. 29, para. 32 with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
S. 95A inserted by FA 1994, s. 196 and Sch. 19, para. 28, and amended by FA 1996, s. 123(12), (13), in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

Cross references – FA 2004, s. 33(6): delivery of an incorrect partnership return not to be regarded as negligent if solely due to a failure to preserve records relating to an arm's length provision (until 2006-07 or for accounting periods ending on or before 31 March 2006).

Other material – Tax Bulletin TB12/98-1: HMRC guidance on penalties exigible where "a return is not submitted in accordance with the arm's length principle [for transfer pricing], it can be shown that the return was submitted fraudulently or negligently, and UK tax is lost as a result".

96 Incorrect return or accounts for corporation tax

96 [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 34, s. 165 and Sch. 27, Pt. III(28).]

History – S. 96 repealed by FA 1998, s. 117(3) and Sch. 19, para. 34, s. 165 and Sch. 27, Pt. III(28), with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (2) and SI 1998/3173 (C. 78).

97 Incorrect return or accounts: supplemental

97(1) Where any such return, statement, declaration or accounts as are mentioned in section 95 above were made or submitted by any person neither fraudulently nor negligently and it comes to his notice (or, if he has died, to the notice of his personal representatives) that they were incorrect, then, unless the error is remedied without unreasonable delay, the return, statement, declaration or accounts shall be treated for the purposes of those sections as having been negligently made or submitted by him.

97(2) For the purpose of section 95 above, any accounts submitted on behalf of any person shall be deemed to have been submitted by him unless he proves that they were submitted without his consent or connivance.

Prospective amendments – S. 97 omitted by FA 2007, s. 97 and Sch. 24, para. 29(a) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(5), in accordance with provision made by the Treasury by order.

History – References to TMA 1970, s. 95 substituted for former references to s. 95 and 96 by FA 1998, s. 117(3) and Sch. 19, para. 35, with effect in relation to corporation tax accounting periods ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

Cross references – SI 1989/469, reg. 28(4): s. 97(1) applies in the case of personal equity plans with modifications.
SI 1986/1711, Schedule, Pt. I, II: modified application of s. 97 for purposes of stamp duty reserve tax.

97AA Failure to produce documents under section 19A

97AA(1) Where a person fails to comply with a notice or requirement under section 19A(2), (2A) or (3) of this Act or paragraph 6(2) or (3A)(b) of Schedule 1A to this Act, he shall be liable, subject to subsection (4) below–

(a) to a penalty which shall be £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 relevant amount for each day on which the failure continues after the day on which the penalty under that paragraph was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).

97AA(2) In subsection (1)(b) above

"the relevant amount" means–
(a) in the case of a determination of a penalty by an officer of the Board under section 100 of this Act, £30;
(b) in the case of a determination of a penalty by the Commissioners under section 100C of this Act, £150.

97AA(3) An officer of the Board authorised by the Board for the purposes of section 100C of this Act may commence proceedings under that section for any penalty under subsection (1)(b) above, notwithstanding that it is not a penalty to which subsection (1) of section 100 of this Act does not apply by virtue of subsection (2) of that section.

97AA(4) No penalty shall be imposed under subsection (1) above in respect of a failure within that subsection at any time after the failure has been remedied.

History – S. 97AA(1) amended by FA 1998, s. 117(3) and Sch. 19, para. 36, with effect in relation to accounting periods ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78), by inserting the words "or paragraph 6(2) or (3A)(b) of Schedule 1A to this Act,".
S. 97AA inserted by FA 1994, s. 196 and Sch. 19, para. 29, and amended by FA 1996, s. 133 and Sch. 19, para. 3(4), in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day (see above).

Cross references – S. 107A: application of s. 97AA to relevant trustees.

Other material – Tax Bulletin Special Edition 3: Revenue view on implications for s. 97AA penalty determinations of special commissioners' decision concerning timescale for supply of information by notice under s. 19A.

97A Two or more tax-geared penalties in respect of same tax

97A Where two or more penalties–

(a) are incurred by any person and fall to be determined by reference to any income tax or capital gains tax with which he is chargeable for a year of assessment,
(b) [Repealed by FA 1998, s. 117(3) and Sch. 19, para. 37, s. 165 and Sch. 27, Pt. III(28).]

each penalty after the first shall be so reduced that the aggregate 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 section, would be the greater or greatest of them, so far as so determined.

History – S. 97A(b), and word "or" immediately preceding it, repealed by FA 1998, s. 117(3) and Sch. 19, para. 37, s. 165 and Sch. 27, Pt. III(28), with effect in relation to accounting periods ending on or after 1 July 1999, the appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
S. 97A inserted by FA 1988, s. 129, with effect for 1988–89 and subsequent years of assessment, or for company accounting periods ending after 31 March 1989.

Other material – ICAEW Technical Release TR 739 (not reproduced): Revenue will decide on appropriate penalty taking account of all circumstances. A small penalty might be charged on a first offence being uncovered with a further penalty on a second offence being uncovered. The "first" penalty means the first to be charged.

98 Special returns, etc.

98(1) Subject to the provisions of this section and section 98A below, where any person–

(a) has been required, by a notice served under or for the purposes of any of the provisions specified in the first column of the Table below, to deliver any return or other document, to furnish any particulars, to produce any document, or to make anything available for inspection, and he fails to comply with the notice, or

(b) fails to furnish any information, give any certificate or produce any document or record in accordance with any of the provisions specified in the second column of the Table below,

he shall be liable, subject to subsections (3) and (4) below–

(i) to a penalty not exceeding £300, and

(ii) if the failure continues after a penalty is imposed under paragraph (i) above, to a further penalty or penalties not exceeding £60 for each day on which the failure continues after the day on which the penalty under paragraph (i) above was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).

98(2) Subject to section 98A below, where a person fraudulently or negligently furnishes, gives, produces or makes any incorrect information, certificate, document, record or declaration of a kind mentioned in any of the provisions specified in either column of the Table below, he shall be liable to a penalty not exceeding £3,000.

98(3) No penalty shall be imposed under subsection (1) above in respect of a failure within paragraph (a) of that subsection at any time after the failure has been remedied.

98(4) No penalty shall be imposed under paragraph (ii) of subsection (1) above in respect of a failure within paragraph (b) of that subsection at any time after the failure has been remedied.

98(4A) If–

(a) a failure to comply with Chapter 15 or 16 of Part 15 of ITA 2007 arises from a person's failure to deliver an account, or show the amount, of a payment, and

(b) the payment is within subsection (4B), (4D), (4DA) or (4E) below,

subsection (1) above shall have effect as if for "£300" there were substituted "£3,000" and as if for "£60" there were substituted "£600".

98(4B) A payment is within this subsection if–

(a) the payment is made by a company, local authority or qualifying partnership (within the meaning of section 932 of ITA 2007) without an amount representing income tax on the payment being deducted from it,

(b) at the time the payment is made, the company, authority or partnership–

(i) does not believe that the payment is an excepted payment for the purposes of Chapter 11 of Part 15 of ITA 2007 (payments between companies etc: exception from duties to deduct), or

(ii) if it does so believe, cannot reasonably do so,

(c) the payment is one from which tax is deductible under Part 15 of ITA 2007 unless the company, authority or partnership reasonably believes that it is an excepted payment for the purposes of Chapter 11 of that Part, and

(d) the payment is not an excepted payment at the time the payment is made.

98(4C) [Omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(4) and repealed by s. 1031 and Sch. 3, Pt. 1.]

98(4D) A payment is within this subsection if–

(a) it is a payment from which a sum representing income tax must be deducted under Chapter 6 (deduction from annual payments and patent royalties) or 7 (deduction from other payments connected with intellectual property) of Part 15 of ITA 2007,

(b) a company, purporting to rely on section 911 of that Act (double taxation arrangements: deduction at treaty rate), deducts less from the payment than required by those Chapters, and

(c) at the time the payment is made the payee (as defined in section 913 of that Act) is not entitled to relief under double taxation arrangements (as defined in section 1023 of that Act) and the company–

(i) does not believe that it is entitled to such relief, or

(ii) if it does so believe, cannot reasonably do so.

98(4DA) A payment is within this subsection if–

(a) it is a payment from which a sum representing income tax must be deducted under Chapter 6 (deduction from annual payments and patent royalties) or 7 (deduction from other payments connected with intellectual property) of Part 15 of ITA 2007,

(b) a company, purporting to rely on section 914 of ITA 2007 (EU companies: discretion to make payment gross), makes the payment without deducting a sum representing income tax, and

(c) at the time the payment is made the payment is not exempt from income tax as a result of section 758 of ITTOIA 2005 (exemption for certain interest and royalty payments) and the company–

(i) does not believe that the payment is so exempt, or

(ii) if it does so believe, cannot reasonably do so.

98(4E) A payment is within this subsection if–

(a) it is an interest distribution made to a unit holder by the trustees of an authorised unit trust,

(b) the trustees, in purported reliance on the reputable intermediary condition being fulfilled with respect to the unit holder, do not comply with the obligation under section 874 of ITA 2007 to make a deduction from the interest distribution,

(c) that obligation would apply if that condition were not so fulfilled, and

(d) the trustees did not believe that the unit holder was not ordinarily resident in the United Kingdom or could not reasonably have so believed (so that that condition was not so fulfilled).

Expressions used in this subsection have the same meaning as in regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964)).

98(5) In the case of a failure to comply with section 765A(2)(a) or (b) of the principal Act, subsection (1) above shall have effect as if for "£300" there were substituted "£3,000" and as if for "£60" there were substituted "£600".

TABLE

1	2
Part III of this Act	In the principal Act–
In the principal Act–	section 216;
section 38(5);	section 226(1) and (2);
section 42;	section 234(5), (6) and (7)(a);
Regulations under section 59E of this Act	section 250(1) to (5);
section 217;	section 310(1), (2), (2A) and (3);
section 226(3) and (4);	regulations under section 333;
section 234(7)(b), (8) and (9);	section 375(5);
section 246H;	regulations under section 431E(1);
section 250(6) and (7);	regulations under section 444BB;
section 272(7);	regulations under section 444BD;
section 310(4) and (5);	section 552;
regulations under section 333;	regulations under section 552ZA(6);
regulations under section 431E(1)	
section 588(7);	section 577(4);
section 700(4);	section 588(6);
section 708;	section 765A(2)(a);
section 728;	regulations under paragraph 7 of Schedule 14;
section 730(8);	Schedule 15, paragraph 14(4);
section 755;	Schedule 22, paragraph 2.
section 765A(2)(b);	Regulations under section 151 of the 1992 Act.
section 767C;	Regulations 16 and 17 of the Income Tax (Interest Relief) Regulations 1982.
section 768(9);	Paragraph 15(3) of Schedule 14 to the Finance Act 1984.
section 774(5);	Regulations under section 57 of the Finance Act 1989.
section 778;	Sections 43(5) and (6), 45B(5) and (6), 45G(4) and (5), 45I(5) and (6), 118–120, 145(2) and (3) and 203 of the Capital Allowances Act.
section 815;	Regulations under section 33 of the Finance Act 1991.
Schedule 5, paragraph 10;	
Schedule 9, paragraph 6;	
Schedule 15, paragraph 14(5);	
Schedule 22, paragraph 4	

TABLE

1	2
Section 32 of the Finance Act 1973.	Section 28(2) of the Finance (No. 2) Act 1992.
Paragraph 2 of Schedule 15 to the Finance Act 1973.	Paragraph 12 of Schedule 4ZA to the 1992 Act
Regulations under section 151 of the 1992 Act.	Regulation 11(2) of the Income Tax (Manufactured Overseas Dividends) Regulations 1993.
Paragraph 2(9) of Schedule 1 to the 1992 Act.	Paragraphs 2 to 6 of Schedule 5A to the 1992 Act.
Section 98 of the 1992 Act	Regulations under section 73 of the Finance Act 1995.
Paragraph 15(1) of Schedule 14 to the Finance Act 1984.	Section 86(4) of the Finance Act 1999.
Paragraph 6(1) of Schedule 22 to Finance Act 1985.	Paragraph 64 or 65 of Schedule 15 to the Finance Act 2000.
Section 79(6) of the 1992 Act	Paragraph 93(2) of Schedule 22 to the Finance Act 2000.
Regulations under section 57 of the Finance Act 1989.	Paragraph 129 of Schedule 22 to the Finance Act 2000.
Section 73 of the Finance Act 1989.	Paragraph 42 of Schedule 16 to the Finance Act 2002
Paragraphs 2 to 4 of Schedule 12 to the Finance Act 1989.	Paragraph 6 of Schedule 34 to the Finance Act 2002.
Regulations under section 33 of the Finance Act 1991.	Paragraph 7 of Schedule 35 to the Finance Act 2002.
Section 169G(2) of the 1992 Act	Section 421J(3) of ITEPA 2003
Section 235 of the 1992 Act. Paragraph 1(7) of Schedule 1 to the 1992 Act	Regulations under section 589 of ITEPA 2003
Paragraph 14 of Schedule 4ZA to the 1992 Act	Regulations under section 715 of ITEPA 2003
Paragraph 10 of Schedule 5 to the Finance Act 1995.	PAYE regulations
Paragraph 66 of Schedule 15 to the Finance Act 2000.	Paragraph 52 of Schedule 5 of ITEPA 2003
Paragraph 10 of Schedule 34 to the Finance Act 2002.	Section 55 of the Finance Act 2004
Paragraph 11 of Schedule 35 to the Finance Act 2002.	Regulations under section 65(2), 69(1), 70(1)(a) or (c) or 71 of the Finance Act 2004
Section 421J(4) of ITEPA 2003	Regulations under section 251(1)(a) or (4) of the Finance Act 2004
Regulations under section 589 of ITEPA 2003	Section 75(4) of ITTOIA 2005
Regulations under section 715 of ITEPA 2003	Regulations under Chapter 3 of Part 6 of ITTOIA 2005
Paragraph 93 of Schedule 2 to ITEPA 2003	Section 37(3) of the Finance Act 2005
Paragraph 45 of Schedule 3 to ITEPA 2003	Section 37(6) of the Finance Act 2005
Paragraph 33 of Schedule 4 to ITEPA 2003	Section 106 of FA 2006 as modified by Schedule 17 of that Act
Paragraph 51 of Schedule 5 to ITEPA 2003	Section 116 of FA 2006
Regulations under section 199 of the Finance Act 2003. Regulations under section 70(3) of the Finance Act 2004	Regulations under section 116 of FA 2006
Section 75(5) of ITTIOA 2005	Section 130 of FA 2006
Section 128 of ITTOIA 2005	Sections 240 and 241 of ITA 2007
Section 305 of ITTOIA 2005	Section 271(1) of ITA 2007
Section 647 of ITTOIA 2005	Regulations under Chapter 5 of Part 6 of ITA 2007
Regulations under Chapter 3 of Part 6 of ITTOIA 2005	Section 373 of ITA 2007
Section 40(1) of the Finance Act 2005	Regulations under section 871(1) of ITA 2007
Regulations under section 17(3) of the Finance (No. 2) Act 2005.	Chapter 15 of Part 15 of ITA 2007
Sections 242 and 243(1) and (2) of ITA 2007	Chapter 16 of Part 15 of ITA 2007
Section 271(2) of ITA 2007	Regulations under section 969(1) of ITA 2007
Regulations under Chapter 5 of Part 6 of ITA 2007	Regulations under section 971(1) of ITA 2007
Regulations under section 330(5) of ITA 2007	Regulations under section 973(1) of ITA 2007
Section 703 of ITA 2007	
Section 748(1) and (2) of ITA 2007	
Section 771 of ITA 2007	
Section 788 of ITA 2007	
Section 862 of ITA 2007	

1	2
Regulations under section 871(1) of ITA 2007	
Regulations under section 969(1) of ITA 2007	
Regulations under section 971(1) of ITA 2007	
Paragraph 155(5) of Schedule 2 to ITA 2007	

The references in this Table to regulations under section 602 have effect only for the purpose of giving effect to any provision mentioned in paragraphs (a) and (b) of subsection (2) of that section.

References in this Table to sections 240, 241, 242 and 243(1) and (2) of ITA 2007 are to provisions that apply only in relation to shares issued after 5 April 2007.

History – S. 98(1), (2) amended, (3) substituted and (4) inserted by FA 1989, s. 164(1)–(4), (7) adding "Subject to section 98A below," and reference to subs. (4) and increasing the level of penalties for offences on or after 27 July 1989.
In s. 98(4A)(a), the words "Chapter 15 or 16 of Part 15 of ITA 2007" substituted for the words "section 350(1) of, or Schedule 16 to, the principal Act" by ITA 2007, Sch. 1, para. 260(2), with effect from 6 April 2007.
In s. 98(4A)(b), the reference to s. 98(4E) added by FA 2003, s. 203(11) in relation to interest distributions made on or after 16 October 2002: the reference to s. 98(4DA) inserted by FA 2004, s. 105(2) in relation to payments of interest or royalties on or after 1 January 2004.
S. 98(4A) inserted by FA 2001, s. 85(2) with application to payments made on or after 1 April 2001.
S. 98(4B)(a)–(d) substituted by ITA 2007, Sch. 1, para. 260(3), with effect from 6 April 2007.
In s. 98(4B), words:

- "local authority" inserted in para. (a);
- "authority" inserted in subpara. (b)(i) and para. (c);
- "either" substituted for "one" in subpara. (b)(i), (ii); and
- "neither" substituted for "none" in para. (d),

by FA 2002, s. 94(5), with effect in relation to payments made on or after 1 October 2002.
S. 98(4B) inserted by FA 2001, s. 85(2) with application to payments made on or after 1 April 2001.
S. 98(4C) omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(4) and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
S. 98(4C) substituted by FA 2002, s. 94(6), with effect in relation to payments made on or after 1 October 2002. Former s. 98(4C) read as follows:

"In subsection (4B) above **"company"** includes a partnership of which any member is a company."

S. 98(4C) inserted by FA 2001, s. 85(2) with application to payments made on or after 1 April 2001.
S. 98(4D) substituted by ITA 2007, Sch. 1, para. 260(5), with effect from 6 April 2007. The former s. 98(4D) and reference to it in s. 98(4A)(b) was inserted by FA 2002, s. 96(3), with effect in relation to payments made on or after 1 October 2002.
S. 98(4DA) substituted by ITA 2007, Sch. 1, para. 260(6), with effect from 6 April 2007. The former s. 98(4DA) was inserted by FA 2004, s. 105(3) in relation to payments of interest or royalties made on or after 1 January 2004.
In former s. 98(4DA) the reference to ITTOIA 2005, s. 758 substituted for a reference to FA 2004, s. 98 by ITTOA 2005, s. 882(1) and Sch. 2, para. 379(2); effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
In s. 98(4E)(b), the words "section 874 of ITA 2007" substituted for the words "section 349(2)" by ITA 2007, Sch. 1, para. 260(7), with effect from 6 April 2007.
In s. 98(4E) the words "regulations made under section 17(3) of the Finance (No. 2) Act 2005 (as at 1st April 2006, see the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964))" substituted for the words "Chapter 3 of Part 12 of the principal Act" by SI 2006/964, reg. 87(2)(a), with effect:

- for the purposes of income tax for the tax year 2006-07 and subsequent tax years, for distributions made on or after 6 April 2006;
- for the purposes of corporation tax on income, for accounting periods beginning on or after 1 April 2006 and on chargeable gains, in relation to disposals made on or after 1 April 2006, and for distributions made on or after 1 April 2006; and
- for the purposes of capital gains tax, in relation to disposals made on or after 6 April 2006.

S. 98(4E) inserted by FA 2003, s. 203(12) in relation to interest distributions made on or after 16 October 2002.
S. 98(5) inserted by FA 1990, s. 68(3)(b) and s. 98(1) accordingly amended.
Table and the immediately following paragraph substituted by ICTA 1988, s. 844 and Sch. 29, para. 9, in place of the former table which referred to relevant pre-consolidation provisions, with effect from 1988–89, and in respect of companies' accounting periods ending after 5 April 1988, various provisions inserting entries in the former table having been repealed by ICTA 1988, s. 844 and Sch. 31.
The final paragraph following the table inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(10), with effect from 6 April 2007.
Col. 1 of Table amended as follows:

- ICTA 1988, s. 38(5) and 42 transposed from second col. by FA 1989, s. 164(5) and Sch. 17, Pt. VIII for offences on or after 27 July 1989;
- regulations under ICTA 1988, s. 42A added by FA 1995, s. 40(2) and omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(a), and repealed by s. 1031 and Sch. 3, Pt. 1.with effect from 6 April 2007.
- regulations under TMA 1970, s. 59E added by FA 1999, s. 89(1);
- ICTA 1988, s. 246H added by FA 1994, s. 138 and Sch. 16, para. 10;
- regulations under ICTA 1988, s. 326C added by FA 1990, s. 28(2); omitted by ITTOIA 2005, s. 882 and Sch. 1, para. 379(3)(a) and repealed by ITTOIA 2005, s. 884 and Sch. 3; effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1))
- regulations under ICTA 1988, s. 333B added by FA 1998, s. 77(2); omitted by FA 2007, s. 38 and Sch. 7, para. 1 and repealed by FA 2007, s. 114 and Sch. 27, Pt. 2(7), with effect for periods of account of insurance companies beginning on or after 1 January 2007, subject to the transitional provisions in FA 2007, Sch. 7, Pt. 2.
- regulations under ICTA 1988, s. 431E(1), 441A(3) added by FA 1995, s. 51 and Sch. 8, para. 50; reference to 441A(3) omitted by FA 2007, s. 41 and Sch. 10, para. 16(2) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 2(10), with effect from Royal Assent 19 July 2007.
- Section 468P(6) of ICTA 1988 added by FA 2003, s. 203(13) in relation to interest distributions made on or after 16 October 2002. Omitted by SI 2006/964, reg. 87(2)(b)(i), with effect:
  - for the purposes of income tax for the tax year 2006–07 and subsequent tax years, for distributions made on or after 6 April 2006;
  - for the purposes of corporation tax on income, for accounting periods beginning on or after 1 April 2006 and on chargeable gains, in relation to disposals made on or after 1 April 2006, and for distributions made on or after 1 April 2006; and
  - for the purposes of capital gains tax, in relation to disposals made on or after 6 April 2006.

- regulations under ICTA 1988, s. 468PB(3) added by FA 2003, s. 203(13) in relation to interest distributions made on or after 16 October 2002 omitted by SI 2006/964, reg. 87(2)(b)(ii), with effect:
  - for the purposes of income tax for the tax year 2006–07 and subsequent tax years, for distributions made on or after 6 April 2006;
  - for the purposes of corporation tax on income, for accounting periods beginning on or after 1 April 2006 and on chargeable gains, in relation to disposals made on or after 1 April 2006, and for distributions made on or after 1 April 2006; and
  - for the purposes of capital gains tax, in relation to disposals made on or after 6 April 2006.
- regulations under ICTA 1988, s. 476(1) omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(b), and repealed by s. 1031 and Sch. 3, Pt. 1 with effect from 6 April 2007.
- regulations under ICTA 1988, s. 477A(1) added by FA 1990, s. 30 and Sch. 5, para. 15 and omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(c), and repealed by s. 1031 and Sch. 3, Pt. 1 with effect from 6 April 2007.
- ICTA 1988, s. 482(3) omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(d), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- regulations under ICTA 1988, s. 482(11) omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(e), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- ICTA 1988, s. 483 omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(f), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- regulations under ICTA 1988, s. 555(7) omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(g), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- regulations under ICTA 1988, s. 602, 612 and 639 repealed by FA 2004, s. 326 and Sch. 42, Pt. 3 with effect from 6 April 2006.
- regulations under ICTA 1988, s. 605(1A)(b) added by FA 1994, s. 105(4)(a) and subsequently repealed by FA 2004, s. 326 and Sch. 42, Pt. 3 with effect from 6 April 2006;
- regulations under ICTA 1988, s. 651A(1)(b)–(d) added by FA 1998, s. 96(3)(a) and subsequently repealed by FA 2004, s. 326 and Sch. 42, Pt. 3 with effect from 6 April 2006;
- ICTA 1988, s. 660F substituted for s. 669, 680 by FA 1995, s. 74 and Sch. 17, para. 23; omitted by ITTOIA 2005, s. 882 and Sch. 1, para. 379(3)(b) and repealed by ITTOIA 2005, s. 884 and Sch. 3; effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
- ICTA 1988, s. 745(1) omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(h), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- ICTA 1988, s. 729(11) repealed by FA 1996, Sch. 41, Pt. V(21), with effect from 6 November 2006.
- ICTA 1988, s. 765A(2)(b) added by FA 1990, s. 68(3)(c);
- ICTA 1988, s. 767C added by FA 1998, s. 115(2);
- ICTA 1988, Sch. 15B, para. 5(2) added by FA 1995, s. 71(3)) and omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(i), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- regulations under ICTA 1988, Sch. 28B, para. 11B(5) added by FA 2000, Sch. 18 para. 8(3) in relation to exchanges of shares or securities taking effect on or after 21 March 2000 and omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(j), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- regulations under FA 1989, s. 57 added by FA 1989, s. 57(2);
- FA 1989, s. 73 added by FA 1989, s. 73(9);
- regulations under FA 1991, s. 33 added by FA 1991, s. 33(2);
- references to the 1992 Act substituted on consolidation by TCGA 1992, s. 290 and Sch. 10, para. 2(10);
- TCGA 1992 s. 169G(2) inserted by FA 2004, s. 116 and Sch. 21, para. 1, with effect for any notice given:
  - after 22 July 2004 (Royal Assent); and
  - in respect of 2003–04 or any subsequent year of assessment
- TCGA 1992 Sch. 1 para. 1(7) inserted by FA 2003, s. 159 and Sch. 28, para. 6 in respect of the year 2002–03 and subsequent years provided the notice is given on or after 10 July 2003.
- TCGA 1992, Sch. 4ZA, para. 14 inserted by FA 2006, s. 88 and Sch. 12, para. 46(1), with effect from 6 April 2006.
- FA 1995, s. 86(12) added by FA 1995, s. 86(12) but omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(k), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- FA 2000, Sch. 15 para. 66 inserted by FA 2000, Sch. 16 para. 1(3);
- FA 2002, Sch. 34, para. 10 added by FA 2002, s. 111 and Sch. 34, para. 10, with effect from 24 April 2002;
- FA 2002, Sch. 35, para. 11 added by FA 2002, s. 113 and Sch. 35, para. 11, with effect from 24 April 2002;
- FA 2002, Sch. 33 added by FA 2002, s. 109 and Sch. 33, para. 15 with effect from 24 July 2002 but omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(l), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- "Regulations under section 589 of ITEPA 2003", "Regulations under section 715 of ITEPA 2003", "Paragraph 93 of Schedule 2 to ITEPA 2003", "Paragraph 45 of Schedule 3 to ITEPA 2003", "Paragraph 33 of Schedule 4 to ITEPA 2003", and "Paragraph 51 of Schedule 5 to ITEPA 2003" inserted by ITEPA 2003, Sch. 6, para. 137(3) which has effect, for income tax purposes, for the tax year 2003–04 and subsequent tax years, and, for corporation tax purposes, for accounting periods ending after 5 April 2003.
- ITEPA 2003 s. 421J(4) added by FA 2003, s. 140 and Sch. 22, para. 47(1)(a) in accordance with the provisions made for the taking effect of the amendments to ITEPA 2003, Pt. 7 by FA 2003, Sch. 22, para. 3–10. Some amendments have effect on or after 16 April 2003; others have effect from the day appointed for the purposes of FA 2003, Sch. 22, para. 3(2).
- regulations under FA 2003, s. 199 added by FA 2003, s. 199(6) with effect from 10 July 2003.
- regulations under section 70(3) of the Finance Act 2004 inserted by FA 2004, s. 76 and Sch. 12, para. 7, with effect from 6 April 2007.
- ITTOIA 2005, s. 75(5), 128, 305 and 467 and regulations under ITTOIA 2005, Pt. 6, Ch. 5 inserted by ITTOIA 2005, s. 882 and Sch. 1, para. 379(3)(c); effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
- FA 2005, s. 40(1), inserted by FA 2005, s. 43(2) with effect from the tax year 2004–05 onwards.
- regulations under F(No. 2)A 2005, s. 17(3) inserted by SI 2006/964, reg. 87(2)(b)(iii), with effect:
  - for the purposes of income tax for the tax year 2006–07 and subsequent tax years, for distributions made on or after 6 April 2006;
  - for the purposes of corporation tax on income, for accounting periods beginning on or after 1 April 2006 and on chargeable gains, in relation to disposals made on or after 1 April 2006, and for distributions made on or after 1 April 2006; and
  - for the purposes of capital gains tax, in relation to disposals made on or after 6 April 2006.
- ITA 2007, s. 242 and 243(1) and (2), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.
- ITA 2007, s. 271(2), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.
- regulations under ITA 2007, Ch. 5, Pt. 6, inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.

- regulations under ITA 2007, s. 330(5), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.
- ITA 2007, s. 703, inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.
- ITA 2007, s. 748(1) and (2), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.
- ITA 2007, s. 771, inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.
- ITA 2007, s. 788, inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.
- ITA 2007, s. 862, inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.
- regulations under ITA 2007, s. 871(1), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.
- regulations under ITA 2007, s. 969(1), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.
- regulations under ITA 2007, s. 971(1), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.
- ITA 2007, Sch. 2, para. 155(5), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(8)(m), with effect from 6 April 2007.

Col. 2 of Table amended as follows:

- regulations under ICTA 1988, s. 42A added by FA 1995, s. 40(2) and omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(a), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- ICTA 1988, s. 38(5) and 42 transposed to first col., s. 482(2) added by FA 1989, s. 164(5) for offences on or after 27 July 1989;
- regulations under ICTA 1988, s. 51B added by FA 1995, s. 78(2). Subsequently repealed by FA 1998, s. 165 and Sch. 27 Pt. 28, with effect in relation to payments of interest falling due after 31 March 1999.
- in the entry for ICTA 1988, s. 310, (2A) inserted by FA 2001, s. 63 and Sch. 15, para. 39 in relation to shares issued on or after 6 April 2001, for claims for relief under ICTA 1988, Pt. 7, Ch. 3 made for the year 2000–01 or any later year of assessment;
- regulations under s. 326C added by FA 1990, s. 28(2); omitted by ITTOIA 2005, s. 882 and Sch. 1, para. 379(4)(a) and repealed by ITTOIA 2005, s. 884 and Sch. 3; effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
- regulations under ICTA 1988, s. 333B added by FA 1998, s. 77(2); omitted by FA 2007, s. 38 and Sch. 7, para. 1 and repealed by FA 2007, s. 114 and Sch. 27, Pt. 2(7), with effect for periods of account of insurance companies beginning on or after 1 January 2007, subject to the transitional provisions in FA 2007, Sch. 7, Pt. 2.
- ICTA 1988, s. 350(1) omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(b), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- regulations under ICTA 1988, s. 431E(1), 441A(3) added by FA 1995, s. 51 and Sch. 8, para. 50; reference to 441A(3) omitted by FA 2007, s. 41 and Sch. 10, para. 16(2) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 2(10), with effect from Royal Assent [19] July 2007.
- regulations under ICTA 1988, s. 444BB and 444BD added by FA 1996, s. 166 and Sch. 32, para. 2;
- regulations under ICTA 1988, s. 476(1) omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(c), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- regulations under ICTA 1988, s. 477A(1) added by FA 1990, s. 30 and Sch. 5, para. 15 but omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(d), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- ICTA 1988, s. 482(2) added by FA 1989, s. 164, but omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(e), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- regulations under ICTA 1988, s. 482(11) omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(f), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- ICTA 1988, section 552 substituted for one to ICTA 1988, s. 552(1)–(4) and reference to regulations under ICTA 1988, s. 552ZA(6) substituted for one to regulations under ICTA 1988, s. 552(4A) by FA 2001, s. 83 and Sch. 28, para. 20, in relation to chargeable events happening on or after 6 April 2002;
- regulations under ICTA 1988, s. 552 added by FA 2001, s. 83 and Sch. 28, para. 20, with effect for chargeable events happening after 5 April 2002.
- ICTA 1988, s. 552ZA(6) added by FA 2001, s. 83 and Sch. 28, para. 20, with effect for chargeable events happening after 5 April 2002.
- regulations under ICTA 1988, s. 555(7) omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(g), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- regulations under ICTA 1988, s. 566(1), (2) or (2A) added by FA 1996, s. 178(2);
- regulations under ICTA 1988, s. 602, 612 and 639 repealed by FA 2004, s. 326 and Sch. 42, Pt. 3 with effect from 6 April 2006.
- regulations under ICTA 1988, s. 605(1A) added by FA 1994, s. 105(4)(c) with effect from 3 May 1994 and subsequently repealed by FA 2004, s. 326 and Sch. 42, Pt. 3 with effect from 6 April 2006;
- regulations under ICTA 1988, s. 651A(1)(a) added by FA 1998, s. 96(3)(c) and subsequently repealed by FA 2004, s. 326 and Sch. 42, Pt. 3 with effect from 6 April 2006;
- ICTA 1988, s. 765A(2)(a) added by FA 1990 s. 68(3)(d);
- regulations under ICTA 1988, Sch. 15B, para. 5(1) added by FA 1995, s. 71(3) and (4), with effect for the year 1995–96 and subsequent years of assessment but omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(h), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- ICTA 1988, Sch. 16, omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(i), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- regulations under FA 1989, s. 57 added by FA 1989, s. 57(2);
- regulations under FA 1991, s. 33 added by FA 1991, s. 33(2);
- F(No. 2)A 1992, s. 28(2) added by F(No. 2) A 1992, s. 28(4);
- references to the 1992 Act substituted on consolidation by TCGA 1992, s. 290 and Sch. 10, para. 2(10);
- TCGA 1992, Sch. 5A, para. 2–6 added by FA 1994, s. 97(6);
- SSAA 1992, s. 110ZA added by Social Security Contributions (Transfer of Functions, etc.) Act 1999, s. 5 and Sch. 5, para. 1. Subsequently omitted by NICSPA 2004, s. 12 and Sch. 2, with effect from 6 April 2005 (by virtue of SI 2004/1943, reg. 6).;
- reg. 11(2) of the Income Tax (Manufactured Overseas Dividends) Regulations added by SI 1993/2004, reg. 11(13) with effect from 1 October 1993;
- regulations under FA 1995, s. 73 added by FA 1995, s. 73(5);
- FA 1999, s. 86(4) added by FA 1999, s. 86(9);
- FA 2000, Sch. 15, para. 64 or 65 inserted by FA 2000, Sch. 16, para. 1(2);
- FA 2000, Sch. 22, para. 93(2) inserted by FA 2000, Sch. 22, para. 93(4);
- FA 2000, Sch. 22, para. 129 inserted by FA 2000, Sch. 22, para. 129(3);
- references to CAA 2001 ("the Capital Allowances Act"), s. 43(5) and (6), 118 to 120, 145(2) and (3) and 203 substituted for references to CAA 1990, s. 22B(4), 23(2), 33F(5), 48, 51(6A) and 53(1H) by CAA 2001, s. 578 and Sch. 2, para. 4(2);

- CAA 2001, s. 45B(5) and (6) inserted by FA 2001, s. 6 and Sch. 17, para. 5 with effect as respects allowances and charges falling to be made for chargeable periods ending, for income tax purposes, on or after 6 April 2001, and for corporation tax purposes, on or after 1 April 2001;
- CAA 2001, s. 45G(4) and (5) added by FA 2002, s. 63 and Sch. 21, para. 7(2), with effect in relation to expenditure incurred on or after 17 April 2002).
- CAA 2001, s. 45I(5) and (6) inserted by FA 2003, s. 167 and Sch. 30, para. 6 in relation to expenditure incurred on or after 1 April 2003.
- FA 2002, Sch. 16, para. 42 inserted with effect from 23 January 2003 by The Finance Act 2002, Section 57(3) and (4)(a), (Appointed Day) Order 2003 (SI 2003/88) giving effect to FA 2002, Sch. 17, para. 1.
- regulations under FA 2002, Sch. 33 added by FA 2002, s. 109 and Sch. 33, para. 15 with effect from 24 July 2002 but omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(j), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- FA 2002, Sch. 34, para. 6 added by FA 2002, s. 111 and Sch. 34, para. 6, with effect from 24 April 2002;
- FA 2002, Sch. 35, para. 7 added by FA 2002, s. 113 and Sch. 35, para. 7, with effect from 24 April 2002;
- ITEPA 2003, s. 421J(3) substituted for references to s. 432, 445, 465, 466, 486 of ITEPA 2003 by FA 2003, s. 140 and Sch. 22, para. 47(1)(b). Some amendments have effect on or after 16 April 2003; others have effect from the day appointed for the purposes of FA 2003, Sch. 22, para. 3(2). (The deleted references had in turn been inserted by ITEPA 2003, Sch. 6, para. 137(5), with effect, for income tax purposes, for the year 2003–04 and subsequent years, and for corporation tax purposes, for accounting periods ending after 5 April 2003.)
- regulations under s. 589 of ITEPA 2003, regulations under s. 715 of ITEPA 2003, PAYE regulations and para. 52 of Sch. 5 to ITEPA 2003 inserted by ITEPA 2003, Sch. 6, para. 137(5) which has effect, for income tax purposes, for the tax year 2003–04 and subsequent tax years, and, for corporation tax purposes, for accounting periods ending after 5 April 2003.
- FA 2004, s. 55 inserted by FA 2004, s. 55(6) with effect from accounting periods beginning on or after 22 July 2004.
- regulations under FA 2004, s. 251(1)(a) or (4) inserted by FA 2004, s. 258(1), with effect from 6 April 2006.
- regulations under section 65(2), 69(1), 70(1)(a) or (c) or 71 of the Finance Act 2004 inserted by FA 2004, s. 76 and Sch. 12, para. 7, with effect from 6 April 2007.
- ITTOIA 2005, s. 75(4) and regulations under ITTOIA 2005, Pt. 6, Ch. 3, inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 379(4)(b); effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
- FA 2005, s. 37(3) and 37(6), inserted by FA 2005, s. 43(3) with effect from tax year 2004–05 onwards.
- FA 2006, s. 106 (as modified by Schedule 17 of that Act), s. 116 and FA 2006, s. 130 inserted by FA 2006, s. 140, in respect of notices required to be given for accounting periods beginning on or after 1 January 2007.
- regulations under FA 2006, s. 122 inserted by FA 2006, s. 140, in respect of notices required to be given for accounting periods beginning on or after 1 January 2007 but omitted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(k), and repealed by s. 1031 and Sch. 3, Pt. 1, with effect from 6 April 2007.
- TCGA 1992 , Sch. 4ZA, para. 12 inserted by FA 2006, s. 88 and Sch. 12, para. 46(2) with effect from 6 April 2006.
- ITA 2007, s. 240 and s. 241, inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(l) with effect from 6 April 2007.
- ITA 2007, s. 271(1), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(l) with effect from 6 April 2007.
- regulations under ITA 2007, Pt. 6, Ch. 5, inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(l) with effect from 6 April 2007.
- ITA 2007, s. 373, inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(l) with effect from 6 April 2007.
- regulations under ITA 2007, s. 871(1), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(l) with effect from 6 April 2007.
- ITA 2007, Pt. 15, Ch. 15, inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(l) with effect from 6 April 2007.
- ITA 2007, Pt. 15, Ch. 16, inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(l) with effect from 6 April 2007.
- regulations under ITA 2007, s. 969(1), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(l) with effect from 6 April 2007.
- regulations under ITA 2007, s. 971(1), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(l) with effect from 6 April 2007.
- regulations under ITA 2007, s. 973(1), inserted by ITA 2007, s. 1027 and Sch. 1, para. 260(9)(l) with effect from 6 April 2007.

Cross references – ICTA 1988, s. 566(2E): exclusion of further penalty under s. 98 in relation to person already liable to penalty under s. 566(2C).
SSCBA 1992, Sch. 1, para. 6(7): s. 98 applies to regulations made under that paragraph as it applies to regulations under ICTA 1988, s. 203 (PAYE).
FA 1993, s. 187(8): s. 98 to have effect as if, in the first column of the Table there were included a reference to s. 178(2)–(6) of that Act (PRT).
FA 2005, s. 43(4): application of s. 98 where information, statements or declarations are made jointly by trustees and a "vulnerable person".
SI 1986/1711, Sch., Pt. I, II: modified application of s. 98 to stamp duty reserve tax.
SI 1997/993, reg. 8(5), (6): modification of s. 98, Table, 2nd column, in relation to a return under reg. 8(2) (manufactured dividends: returns by persons other than UK-resident companies).
SI 2006/964, reg. 93A: modification of s. 98(4E).

98A Special penalties in the case of certain returns

98A(1) PAYE regulations or regulations under section 70(1)(a) or 71 of the Finance Act 2004 (sub-contractors) may provide that this section shall apply in relation to any specified provision of the regulations.

98A(2) Where this section applies in relation to a provision of regulations, any person who fails to make a return in accordance with the provision shall be liable–

(a) to a penalty or penalties of the relevant monthly amount for each month (or part of a month) during which the failure continues, but excluding any month after the twelfth or for which a penalty under this paragraph has already been imposed, and

(b) if the failure continues beyond twelve months, without prejudice to any penalty under paragraph (a) above, to a penalty not exceeding

(i) in the case of a provision of PAYE regulations, so much of the amount payable by him in accordance with the regulations for the year of assessment to which the return relates as remained unpaid at the end of 19th April after the end of that year, or

(ii) in the case of a provision of regulations under section 70(1)(a) or 71 of the Finance Act 2004, £3,000

98A(3) For the purposes of subsection (2)(a) above, the relevant monthly amount in the case of a failure to make a return–

(a) where the number of persons in respect of whom particulars should be included in the return is fifty or less, is £100, and

(b) where that number is greater than fifty, is £100 for each fifty such persons and an additional £100 where that number is not a multiple of fifty.

98A(4) Where this section applies in relation to a provision of regulations, any person who fraudulently or negligently makes an incorrect return of a kind mentioned in the provision shall be liable to a penalty not exceeding the difference between–

(a) the amount payable by him in accordance with the regulations for the year of assessment (in the case of a provision of PAYE regulations) or a period (in the case of a provision of regulations under section 70(1)(a) or 71 of the Finance Act 2004) to which the return relates, and

(b) the amount which would have been so payable if the return had been correct.

Prospective amendments – S. 98A(4) omitted by FA 2007, s. 97 and Sch. 24, para. 29(a) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(5), in accordance with provision made by the Treasury by order.

History – In s. 98A(1), the words "section 70(1)(a) or 71 of the Finance Act 2004 (sub-contractors)" substituted for the words "section 566(1) (sub-contractors) of the principal Act" by FA 2004, s. 76 and Sch. 12, para. 8(2), with effect from 6 April 2007 (FA 2004, s. 77).
In s. 98A(1), the words "PAYE regulations or regulations under section" substituted for the words "Regulations under section 203(2) (PAYE) or" by ITEPA 2003, Sch. 6, para. 138 which has effect for the tax year 2003–04 and subsequent tax years.
In s. 98A(2)(b)(i) created from existing text and s. 98(2)(b)(ii) inserted by FA 2004 s. 76 and Sch. 12, para. 8(3), with effect from 6 April 2007 (FA 2004, s. 77).
In s. 98A(4)(a)"(in the case of a provision of PAYE regulations) or a period (in the case of a provision of regulations under section 70(1)(a) or 71 of the Finance Act 2004)" inserted by FA 2004, s. 76 and Sch. 12, para. 8(4), with effect from 6 April 2007 (FA 2004, s. 77).
S. 98A inserted by FA 1989, s. 165 with effect from 27 July 1989, but with s. 98A(2)(a) modified as respects failures before 20 May 1995 (the day appointed by virtue of SI 1994/2503 (C. 50)).

Cross references – SSCBA 1992, Sch. 1, para. 7: application of s. 98A to returns of National Insurance contributions.
SI 1993/743, reg. 11(11): application of s. 98A to year-end return by a contractor.

Statutory instruments – SI 2003/2682 (PAYE).
SI 2005/2045: Construction Industry Scheme Regulations.

Extra-statutory concessions – B46: 7-day period of grace for companies with statutory filing dates after 30 September 1995, and for employers' and contractors' returns for years following 1994–95.

Other material – IR press release, 14 June 1996: automatic penalties for employers' and contractors' returns filed late restricted to total amount of tax and NIC which should be shown on the return, or £100, whichever is the greater.

98B European Economic Interest Groupings

98B(1) In this section **"grouping"** means a European Economic Interest Grouping formed in pursuance of Council Regulation (EEC) No. 2137/85 of 25th July 1985, whether registered in Great Britain, in Northern Ireland, or elsewhere.

98B(2) Subsections (2A) to (4) below apply where a grouping or member of a grouping required by a notice given under section 12A of this Act to deliver a return or other document fails to comply with the notice.

98B(2A) The grouping or member shall be liable to a penalty not exceeding £300 multiplied by the number of members of the grouping at the time of the failure to comply.

98B(2B) If, on an application made to them by an officer of the Board, the General or Special Commissioners so direct, the grouping or member shall be liable, for each day on which the failure continues after the day on which the grouping or member is notified of the direction (but excluding any day for which a penalty under this subsection has already been imposed), to a further penalty or penalties not exceeding £60 multiplied by the number of members of the grouping at the end of that day.

98B(3) No penalty shall be imposed under subsection (2A) or (2B) above in respect of a failure at any time after the failure has been remedied.

98B(4) If a grouping to which, or member to whom, a notice is given proves that there was no income or chargeable gain to be included in the return, the penalty under subsections (2A) and (2B) above shall not exceed £100.

98B(5) Where a grouping or member fraudulently or negligently delivers an incorrect return, accounts or statement, or makes an incorrect declaration in a return delivered, under section 12A

above, the grouping or member shall be liable to a penalty not exceeding £3,000 multiplied by the number of members of the grouping at the time of delivery.

History – S. 98B(2) substituted by FA 1994, s. 196 and Sch. 19, para. 30, in so far as it applies to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it applies to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day for corporation tax self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
S. 98B(2A) inserted by FA 1994, s. 196 and Sch. 19, para. 30, in so far as it applies to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it applies to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day for corporation tax self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
S. 98B(2B) inserted by FA 1994, s. 196 and Sch. 19, para. 30, in so far as it applies to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it applies to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day for corporation tax self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
S. 98B(3), (4) amended by FA 1994, s. 196 and Sch. 19, para. 30, in so far as it applies to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it applies to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day for corporation tax self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
S. 98B inserted by FA 1990, s. 69 and Sch. 11, para. 3, 5, deemed to have effect from 1 July 1989.

Cross references – S. 36(4): 20-year time limit for fraudulent or negligent conduct applies to each member of the grouping.
S. 40(3): time limit for assessment on personal representatives applies to each member of the grouping.
FA 1998, Sch. 18, para. 91: actions by one member of an EEIG deemed to be an act or omission of all members for certain purposes.

European material – For Council Regulation 2137/85, see OJ 1985 L199/1.

Other material – Inland Revenue press release, 9 February 1994: from 1 January 1994 these provisions extended to all EEIGs established within the European Economic Area (EU member states, Iceland, Norway and Liechtenstein).

98C Notification under Part 7 of Finance Act 2004

98C(1) A person who fails to comply with any of the provisions of Part 7 of the Finance Act 2004 (disclosure of tax avoidance schemes) mentioned in subsection (2) below shall be liable–

(a) to a penalty not exceeding £5,000, and
(b) if the failure continues after a penalty is imposed under paragraph (a) above, to a further penalty or penalties not exceeding £600 for each day on which the failure continues after the day on which the penalty under paragraph (a) was imposed (but excluding any day for which a penalty under this paragraph has already been imposed).

98C(2) Those provisions are–

(a) section 308(1) and (3) (duty of promoter in relation to notifiable proposals and notifiable arrangements),
(b) section 309(1) (duty of person dealing with promoter outside United Kingdom),
(c) section 310 (duty of parties to notifiable arrangements not involving promoter),
(d) section 312(1) (duty of promoter to notify client of reference number), and
(e) sections 313A and 313B (duty of promoter to respond to inquiry).

98C(2A) Where a failure to comply with a provision mentioned in subsection (2) concerns a proposal or arrangements in respect of which an order has been made under section 306A of the Finance Act 2004 (doubt as to notifiability), the amount specified in subsection (1)(b) above shall be increased to the prescribed sum.

98C(2B) Where a failure to comply with a provision mentioned in subsection (2) concerns a proposal or arrangements in respect of which an order has been made under section 314A of the Finance Act 2004 (order to disclose), the amount specified in subsection (1)(b) above shall be increased to the prescribed sum in relation to days falling after the prescribed period.

98C(2C) In subsection (2A) and (2B)–

(a) **"the prescribed sum"** means a sum prescribed by the Treasury by regulations, and
(b) **"the prescribed period"** means a period beginning with the date of the order under section 314A and prescribed by the Commissioners by regulations.

98C(2D) The making of an order under section 314A of that Act does not of itself mean that, for the purposes of section 118(2) of this Act, a person either did or did not have a reasonable excuse for non-compliance before the order was made.

98C(2E) Where an order is made under section 314A of that Act then for the purposes of section 118(2) of this Act–

(a) the person identified in the order as the promoter of the proposal or arrangements cannot, in respect of any time after the end of the period mentioned in subsection (2B), rely on doubt as to notifiability as an excuse for failure to comply with section 308 of that Act, and
(b) any delay in compliance with that section after the end of that period is unreasonable unless attributable to something other than doubt as to notifiability.

98C(2F) Regulations under subsection (2C)–

(a) may include incidental or transitional provision,
(b) shall be made by statutory instrument,
(c) in the case of regulations under subsection (2C)(a), shall not be made unless a draft has been laid before and approved by resolution of the House of Commons, and
(d) in the case of regulations under subsection (2C)(b), shall be subject to annulment in pursuance of a resolution of the House of Commons.

98C(3) A person who fails to comply with section 313(1) of the Finance Act 2004 (duties of parties to notifiable arrangements to notify Board of reference number, etc.) shall be liable to a penalty of the relevant sum.

98C(4) In subsection (3) above **"the relevant sum"** means–

(a) in relation to a person not falling within paragraph (b) or (c) below, £100 in respect of each scheme to which the failure relates,
(b) in relation to a person who has previously failed to comply with section 313(1) on one (and only one) occasion during the period of 36 months ending with the date on which the current failure to comply with that provision began, £500 in respect of each scheme to which the current failure relates (whether or not the same as the scheme to which the previous failure relates), or
(c) in relation to a person who has previously failed to comply with section 313(1) on two or more occasions during the period of 36 months ending with the date on which the current failure to comply with that provision began, £1,000 in respect of each scheme to which the current failure relates (whether or not the same as the schemes to which any of the previous failures relates).

98C(5) In subsection (4) above **"scheme"** means any notifiable arrangements within the meaning of Part 7 of the Finance Act 2004.

History – In s. 98C(2), the word "or" at the end of paragraph (c) repealed by FA 2007, s. 114 and Sch. 27, Pt. 6(4) and paragraph (e) and the word ", and" preceding it inserted by FA 2007, s. 108(9)(a), with effect from Royal Assent 19 July 2007.
S. 98C(2A)–(2F) inserted by FA 2007, s. 108(9)(b), with effect from Royal Assent 19 July 2007.
S. 98C inserted by FA 2004, s. 315(1) with effect from 1 August 2004.

Cross references – SI 2007/785, Pt. 3: provisions corresponding to s. 98C.
SI 2007/3104: where a penalty is imposed under s. 98C(1) following an order under FA 2004, s. 306A, or s. 314A the amount specified in s. 98C(1)(b) is increased to £5,000.

Statutory instruments – SI 2007/3103: made under s. 98C(2B) and (2C).
SI 2007/3104: made under s. 98C(2A)–(2C)(a).

99 Assisting in preparation of incorrect return etc.

99 Any person who assists in or induces the preparation or delivery of any information, return, accounts or documents which–

(a) he knows will be, or is or are likely to be, used for any purpose of tax, and
(b) he knows to be incorrect,

shall be liable to a penalty not exceeding £3,000.

History – S. 99 substituted by FA 1989, s. 166 in relation to assistance and inducements on or after 27 July 1989.

Cross references – S. 20A: imposition of penalty may result in notice to deliver papers as regards tax clients.
S. 100C(1A): appeals against penalties under s. 98C(1)(a) to be heard by the Special Commissioners.
OTA 1975, Sch. 2, para. 1(1): s. 99 applies for the purposes of oil taxation.
F(No. 2)A 1997, Sch. 2, para. 14(3): s. 99 applies for the purposes of windfall tax.
FA 2004, s. 33(7): a person is not to be taken to know that a return is incorrect solely due to a failure to preserve records relating to an arm's length provision (until 2006/07 or for accounting periods ending on or before 31 March 2006).
SI 1986/1711, Sch., Pt. I and II: modified application of s. 99 for purposes of stamp duty reserve tax.

Statements of practice – A13: HMRC view that returns must be signed personally by taxpayers, with relaxation where the provision of a signature would damage the taxpayer's health.
SP1/97: applications for HMRC approval to transmit information via ELS will automatically be refused where a penalty has been imposed under s. 99 within three years of the application.

Other material – Taxline 2000/3 (not reproduced): advice to accountants worried about breaching the ICAEW ethical rule when requested to provide documents by HMRC.

99A Certificates of non-liability to income tax

99A If a person who gives a certificate of non-liability to income tax in pursuance of regulations under section 852 of ITA 2007–

(a) gives the certificate fraudulently or negligently, or
(b) fails to comply with any undertaking contained in the certificate in pursuance of the regulations,

he shall be liable to a penalty not exceeding £3,000.

History – In s. 99A, the words "section 852 of ITA 2007" substituted for the words "section 477A of the principal Act (building societies) or section 480B of that Act (deposit-takers)" by ITA 2007, Sch. 1, para. 261, with effect from 6 April 2007.
S. 99A inserted by FA 1991, s. 82, in relation to certificates given on or after 25 July 1991 so far as relating to the giving of a certificate, or, so far as relating to failure to comply with an undertaking contained in a certificate, in relation to certificates whenever given, but not so as to impose liability for a failure occurring before 25 July 1991.

Hansard – Standing Committee on the 1991 Finance Bill, 11 June 1991, col. 294 (not reproduced): the Financial Secretary, in discussing innocent failures within s. 99A(b), said that there would be cases where taxpayers registered by mistake but that, provided the taxpayer had acted in good faith, the question of a penalty would not arise.

Notes – Certificates of non-liability may be given under SI 1990/2231, reg. 5 (building societies) and SI 1990/2232, reg. 5 (deposit-takers).

99B Declarations under Chapter 2 of Part 14 of ITA 2007

99B Where a person fraudulently or negligently gives any incorrect information in a declaration under any of sections 858 to 861 of ITA 2007, the person shall be liable to a penalty not exceeding £3,000.

History – S. 99B inserted by ITA 2007, s. 1027 and Sch. 1, para. 262, with effect from 6 April 2007.

100 Determination of penalties by officer of Board

100(1) Subject to subsection (2) below and except where proceedings for a penalty have been instituted under section 100D below, an officer of the Board authorised by the Board for the purposes of this section may make a determination imposing a penalty under any provision of the Taxes Acts and setting it at such amount as, in his opinion, is correct or appropriate.

100(2) Subsection (1) above does not apply where the penalty is a penalty under–

(a) section 93(1) above as it has effect before the amendments made by section 162 of the Finance Act 1989 or section 93(1)(a) above as it has effect after those amendments,
(b) section 94(1) above as it has effect before the substitution made by section 83 of the Finance (No.2) Act 1987,
(c) section 98(1) above as it has effect before the amendments made by section 164 of the Finance Act 1989 or section 98(1)(i) above as it has effect after those amendments, or
(d) paragraph (a)(i) of section 98A(2) above as it has effect by virtue of section 165(2) of the Finance Act 1989, or
(e) section 98B(2)(a) above, or
(f) section 98C(1)(a) above.

100(3) Notice of a determination of a penalty under this section shall be served on the person liable to the penalty and shall state the date on which it is issued and the time within which an appeal against the determination may be made.

100(4) After the notice of a determination under this section has been served the determination shall not be altered except in accordance with this section or on appeal.

100(5) If it is discovered by an officer of the Board authorised by the Board for the purposes of this section that the amount of a penalty determined under this section is or has become insufficient the officer may make a determination in a further amount so that the penalty is set at the amount which, in his opinion, is correct or appropriate.

100(6) In any case where–

(a) a determination under this section is of a penalty under section 93(2), (4) or (5) of this Act paragraph 18(2) of Schedule 18 to the Finance Act 1998 or section 260(1)(b) of the Finance Act 2004, and
(b) after the determination has been made it is discovered by an officer of the Board authorised by the Board for the purposes of this section that the amount which was taken into account as the relevant amount of tax is or has become excessive,

the determination shall be revised so that the penalty is set at the amount which is correct; and, where more than the correct amount has already been paid, the appropriate amount shall be repaid.

History – In s. 100(1), the words "or a penalty has been imposed by the Commissioners under section 53 of this Act" which appeared after the word "below" omitted by SI 1994/1813, Sch. 1, para. 14, with effect from 1 September 1994.
S. 100(2)(e) inserted by FA 1990, Sch. 11 para. 3(2), (5), deemed to have effect from 1 July 1989.
S. 100(2)(f) inserted by FA 2004, s. 315(2) with effect from 1 August 2004.
In s. 100(6)(a) the words "or section 260(1)(b) of the Finance Act 2004" inserted by FA 2004, s. 260(5) with effect from 6 April 2006.
In s. 100(6)(a) the word "or" preceding the words "paragraph 18(2)" repealed by FA 2004, s. 326 and Sch. 42, Pt. 3 with effect from 6 April 2006, subject to the transitional provisions in Sch. 36.
In s. 100(6)(a) the words "section 93(2), (4) or (5) of this Act or" inserted by FA 2001, s. 91(1) in relation to penalties determined at any time whether before or after 11 May 2001.
In s. 100(6)(a), reference to FA 1998, Sch. 18, para. 18(2) substituted for reference to TMA 1970, s. 94(6) by FA 1998, s. 117(3) and Sch. 19, para. 38, with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 28).

S. 100 substituted by FA 1989, s. 167.

Cross references – S. 113(1D): delegation of responsibility by officer of the Board for completion of determination procedure.
S. 114: want of form not to invalidate determination.
FA 1988, s. 134(6), (8): proceedings instituted before the special commissioners in Northern Ireland before 3 April 1989 will not be transferred to the general commissioners until after that date.
SSCBA 1992, Sch. 1, para. 7: application of s. 100 to returns of National Insurance contributions.
SI 1986/1711, Sch., Pt. I and II: modified application of s. 100 for purposes of stamp duty reserve tax.
SI 2001/1004, reg. 82: application with respect to National Insurance returns.
SI 2007/785, reg.15(2): modification of s. 100, substituting s. 100(2)(f).

Notes – In s. 100(2)(e), the reference to s. 98B(2)(a) refers to the pre-self-assessment version of s. 98B.

100A Provisions supplementary to section 100

100A(1) Where a person who has incurred a penalty has died, a determination under section 100 above which could have been made in relation to him may be made in relation to his personal representatives, and any penalty imposed on personal representatives by virtue of this subsection shall be a debt due from and payable out of his estate.

100A(2) A penalty determined under section 100 above shall be due and payable at the end of the period of thirty days beginning with the date of the issue of the notice of determination.

100A(3) A penalty determined under section 100 above shall for all purposes be treated as if it were tax charged in an assessment and due and payable.

Prospective amendments – S. 100A(1) omitted by FA 2007, s. 97 and Sch. 24, para. 29(b) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(5), in accordance with provision made by the Treasury by order.

History – S. 100A inserted by FA 1989, s. 167.

Cross references – SSCBA 1992, Sch. 1, para. 7: application of s. 100A to returns of National Insurance contributions.
SI 1986/1711, Sch., Pt. I and II: modified application of s. 100A for purposes of stamp duty reserve tax.

100B Appeals against penalty determinations

100B(1) An appeal may be brought against the determination of a penalty under section 100 above and, subject to sections 93, 93A and 95A of this Act and the following provisions of this section, the provisions of this Act relating to appeals shall have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax.

100B(2) Subject to sections 93(8) and 93A(7) of this Act on an appeal against the determination of a penalty under section 100 above section 50(6) to (8) of this Act shall not apply but–

(a) in the case of a penalty which is required to be of a particular amount, the Commissioners may–
  (i) if it appears to them that no penalty has been incurred, set the determination aside,
  (ii) if the amount determined appears to them to be correct, confirm the determination, or
  (iii) if the amount determined appears to them to be incorrect, increase or reduce it to the correct amount,

(b) in the case of any other penalty, the Commissioners may–
  (i) if it appears to them that no penalty has been incurred, set the determination aside,
  (ii) if the amount determined appears to them to be appropriate, confirm the determination,
  (iii) if the amount determined appears to them to be excessive, reduce it to such other amount (including nil) as they consider appropriate, or
  (iv) if the amount determined appears to them to be insufficient, increase it to such amount not exceeding the permitted maximum as they consider appropriate.

100B(3) Without prejudice to any right to have a case stated under regulation 22 of the General Commissioners Regulations or any right of appeal under section 56A of this Act, an appeal from a decision of the Commissioners against the amount of a penalty which has been determined under section 100 above or this section shall lie, at the instance of the person liable to the penalty, to the High Court or, in Scotland, to the Court of Session as the Court of Exchequer in Scotland; and on that appeal the court shall have the like jurisdiction as is conferred on the Commissioners by virtue of this section.

History – In s. 100B(1), reference to TMA 1970, s. 93, 93A and 95A, and in s. 100B(2), reference to TMA 1970, s. 93(8) and 93A(7), inserted by FA 1994, s. 196 and Sch. 19, para. 31, FA 1995, s. 115(7), in so far as it relates to income tax and corporation tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day for corporation tax self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
In s. 100B(3), the words "any right to have a case stated under regulation 22 of the General Commissioners Regulations or any right of appeal under section 56A" substituted by SI 1994/1813, Sch. 1, para. 15, with effect from 1 September 1994.
S. 100B inserted by FA 1989, s. 167.

Cross references – S. 50(6)–(8): procedure for commissioners amending etc. assessments.

S. 56A: appeals from the special commissioners.
SSCBA 1992, Sch. 1, para. 7: application of s. 100B to returns of National Insurance contributions.
SI 1986/1711, Sch., Pt. I and II: modified application of s. 100B for purposes of stamp duty reserve tax.
SI 1994/1812, reg. 22: general commissioners stating case for the opinion of the High Court.

100C Penalty proceedings before Commissioners

100C(1) An officer of the Board authorised by the Board for the purposes of this section may commence proceedings before the General or Special Commissioners for any penalty to which subsection (1) of section 100 above does not apply by virtue of subsection (2) of that section.

100C(1A) In its application to a penalty under section 98C(1)(a) above, subsection (1) above has effect with the omission of the words "General or".

100C(2) Proceedings under this section shall be by way of information in writing, made to the Commissioners, and upon summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons; and they shall hear and decide each case in a summary way.

100C(3) Any penalty determined by the Commissioners in proceedings under this section shall for all purposes be treated as if it were tax charged in an assessment and due and payable.

100C(4) An appeal against the determination of a penalty in proceedings under this section shall lie to the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland–

(a) by any party on a question of law, and
(b) by the defendant (or, in Scotland, the defender) against the amount of the penalty.

100C(5) On any such appeal the court may–

(a) if it appears that no penalty has been incurred, set the determination aside,
(b) if the amount determined appears to be appropriate, confirm the determination,
(c) if the amount determined appears to be excessive, reduce it to such other amount (including nil) as the court considers appropriate, or
(d) if the amount determined appears to be insufficient, increase it to such amount not exceeding the permitted maximum as the court considers appropriate.

History – S. 100C(1A) inserted by FA 2004, s. 315(3) with effect from 1 August 2004.
S. 100C inserted by FA 1989, s. 167.

Cross references – SSCBA 1992, Sch. 1, para. 7: application of s. 100C to returns of National Insurance contributions.
SI 1986/1711, Sch., Pt. I and II: modified application of s. 100C for purposes of stamp duty reserve tax.
SI 1994/1811, reg. 3(1); SI 1994/1812, reg. 3(1): normal procedure for listing and giving notice of hearing does not apply to proceedings under s. 100C heard by general or special commissioners.
SI 1994/1812, reg. 1(2)(b): General Commissioners regulations do not apply to proceedings under s. 100C where summons issued prior to 1 September 1994.
SI 2007/785, reg.15(3): modification of s. 100C, substituting s. 100C(1A).
RSC, O. 91: procedure in the High Court on appeal from the general or special commissioners, as replaced by Civil Procedure Rules 1998 (SI 1998/3132), r. 50.1(3), Sch. 1, r. 91 as from 26 April 1999.

100D Penalty proceedings before court

100D(1) Where in the opinion of the Board the liability of any person for a penalty arises by reason of the fraud of that or any other person, proceedings for the penalty may be instituted before the High Court or, in Scotland, the Court of Session as the Court of Exchequer in Scotland.

100D(2) Proceedings under this section which are not instituted (in England, Wales or Northern Ireland) under the Crown Proceedings Act 1947 by and in the name of the Board as an authorised department for the purposes of that Act shall be instituted–

(a) in England and Wales, in the name of the Attorney General,
(b) in Scotland, in the name of the Lord Advocate, and
(c) in Northern Ireland, in the name of the Attorney General for Northern Ireland.

100D(3) Any proceedings under this section instituted in England and Wales shall be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947 and any such proceedings instituted in Northern Ireland shall be deemed to be civil proceedings within the meaning of that Part of that Act as for the time being in force in Northern Ireland.

100D(4) If in proceedings under this section the court does not find that fraud is proved but consider that the person concerned is nevertheless liable to a penalty, the court may determine a penalty notwithstanding that, but for the opinion of the Board as to fraud, the penalty would not have been a matter for the court.

History – S. 100D inserted by FA 1989, s. 167.

Cross references – SSCBA 1992, Sch. 1, para. 7: application of s. 100D to returns of National Insurance contributions.
SI 1986/1711, Sch., Pt. I and II: s. 100D applies for purposes of stamp duty reserve tax.

SI 2001/1004, reg. 82: application with respect to National Insurance returns.

101 Evidence for purposes of proceedings relating to penalties

101 An assessment which can no longer be varied by any Commissioners on appeal or by order of any court is sufficient evidence, for the purposes of–

(a) the preceding provisions of this Part, and
(b) the provisions of Schedule 18 to the Finance Act 1998 relating to penalties,

that the amounts in respect of which tax is charged in the assessment arose or were received as stated in the assessment.

History – S. 101 substituted by FA 1998, s. 117(3) and Sch. 19, para. 39, with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
Former S. 101 amended by FA 1985, Sch. 27, Pt. X by removing a reference to development land tax, with effect from 19 March 1985.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 101 applies with modifications for the purposes of oil taxation.
SI 1986/1711, Sch., Pt. I and II: modified application of s. 101 for purposes of stamp duty reserve tax.

102 Mitigation of penalties

102 The Board may in their discretion mitigate any penalty, or stay or compound any proceedings for a penalty, and may also, after judgment, further mitigate or entirely remit the penalty.

History – The words "a penalty" substituted for "recovery thereof" by FA 1989, s. 168(4), consequent to the substitution of s. 100 and the insertion of s. 100A–D.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 102 applies for the purposes of oil taxation.
SSCBA 1992, Sch. 1, para. 7: application of s. 102 to returns of National Insurance contributions.
SI 1986/1711, Sch., Pt. I and II: s. 102 applies for purposes of stamp duty reserve tax.
SI 2001/1004, reg. 90K: application with respect to late payment of National Insurance Contributions due electronically.

HMRC Manuals – Investigation Handbook, vol. III, IH5501: Board's policy on mitigation.

103 Time limits for penalties

103(1) Subject to subsection (2) below, where the amount of a penalty is to be ascertained by reference to tax payable by a person for any period, the penalty may be determined by an officer of the Board, or proceedings for the penalty may be commenced before the Commissioners or a court–

(a) at any time within six years after the date on which the penalty was incurred, or
(b) at any later time within three years after the final determination of the amount of tax by reference to which the amount of the penalty is to be ascertained.

103(2) Where the tax was payable by a person who has died, and the determination would be made in relation to his personal representatives, subsection (1)(b) above does not apply if the tax was charged in an assessment made later than six years after the 31st January next following the chargeable period for which it was charged.

103(3) A penalty under section 99 of this Act may be determined by an officer of the Board, or proceedings for such a penalty may be commenced before a court, at any time within twenty years after the date on which the penalty was incurred.

103(4) A penalty to which neither subsection (1) nor subsection (3) above applies may be so determined, or proceedings for such a penalty may be commenced before the Commissioners or a court, at any time within six years after the date on which the penalty was incurred or began to be incurred.

Prospective amendments – S. 103(2) omitted by FA 2007, s. 97 and Sch. 24, para. 29(b) and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(5), in accordance with provision made by the Treasury by order.

History – In s. 103(2), the words "the 31st January next following the chargeable period" substituted for the previous words "the end of the chargeable period" by FA 1994, s. 196 and Sch. 19, para. 32, in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day for corporation tax self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
S. 103 substituted by FA 1989, s. 169 with effect from 27 July 1989, but not affecting the application of the former s. 103(4) to proceedings under s. 100 before substitution by that Act.

Cross references – SSCBA 1992, Sch. 1, para. 7: application of s. 103 to returns of National Insurance contributions.
SI 1986/1711, Sch., Pt. I and II: modified application of s. 103 for purposes of stamp duty reserve tax.
SI 2001/1004, reg. 90P: application with respect to non-delivery of National Insurance Contributions due electronically.

103A Interest on penalties

103A A penalty under any of the provisions of Part II, IV or VA or this Part of this Act, or Schedule 18 to the Finance Act 1998, shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the date on which it becomes due and payable until payment.

History – S. 103A amended by inserting the words ", or Schedule 18 to the Finance Act 1998,", by FA 1998, s. 117(3) and Sch. 19, para. 40, with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
S. 103A inserted by FA 1994, s. 196 and Sch. 19, para. 33 and amended by FA 1995, s. 115(8), in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day (see above).

Cross references – SI 1989/1297, reg. 3(1)(ab) (inserted by SI 1998/310) and SI 1998/311 (C. 7): applicable rate of interest under FA 1989, s. 178(1) as it applies to s. 103A for periods beginning on or after 9 March 1998.
SI 1999/2537: modified application of s. 103A in relation to stamp duty penalties.
SI 2001/1004, reg. 90P: application with respect to non-delivery of National Insurance Contributions due electronically.

104 Saving for criminal proceedings

104 The provisions of the Taxes Acts shall not, save so far as is otherwise provided, affect any criminal proceedings for any misdemeanour.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 104 applies for the purposes of oil taxation.
SSCBA 1992, Sch. 1, para. 7: application of s. 104 to returns of National Insurance contributions.
SI 1986/1711, Sch., Pt. I and II: modified application of s. 104 for purposes of stamp duty reserve tax.
SI 2001/1004, reg. 82: application with respect to National Insurance returns.

Statements of practice – SP 2/88: civil tax penalties and criminal prosecution cases.

Notes – Felony–misdemeanour distinction abolished by Criminal Law Act 1967, s. 1(1).

105 Admissibility of evidence not affected by offer of settlement

History – Heading substituted for the words "Evidence in cases of fraud or wilful default" by FA 2003, s. 206(2).

105(1) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (2) below by reason only that it has been drawn to his attention–

(a) that where serious tax fraud has been committed the Board may accept a money settlement and that the Board will accept such a settlement, and will not pursue a criminal prosecution, if he makes a full confession of all tax irregularities, or
(b) that the extent to which he is helpful and volunteers information is a factor that will be taken into account in determining the amount of any penalty,

105(2) The proceedings mentioned in subsection (1) above are–

(a) any criminal proceedings against the person in question for any form of fraudulent conduct in connection with or in relation to tax, and
(b) any proceedings against him for the recovery of any tax due from him, and
(c) any proceedings for a penalty or on appeal against the determination of a penalty.

History – In s. 105, the words "fraudulent conduct" substituted by FA 1989, s. 149(5) but not to affect the making of assessments for years of assessment before 1983–84 or for accounting periods ended before 1 April 1983.
In s. 105(1), paras. (a) and (b) substituted by FA 2003, s. 206(1) in relation to statements made, or documents produced, on or after 10 July 2003. The previous paragraphs did not require a full confession to all tax irregularities for the acceptance of a money settlement in lieu of prosecution, it was merely a factor influencing the Board's decision.
S. 105(1)(a), the words "tax due from him, and" at the end of s. 105(2)(b) and s. 105(2)(c) substituted by FA 1989, s. 168(5).

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 105 applies for the purposes of oil taxation.
SI 1986/1711, Sch., Pt. I: s. 105 applies for purposes of stamp duty reserve tax.
SI 2001/1004, reg. 82: application with respect to National Insurance returns.

Statements of practice – SP 2/88: civil tax penalties and criminal prosecution cases.

106 Refusal to allow a deduction of income tax, and avoidance of agreements for payment without deduction

106(1) A person who refuses to allow a deduction of income tax authorised by the Taxes Acts to be made out of any payment shall incur a penalty of £50.

106(2) Every agreement for payment of interest, rent or other annual payment in full without allowing any such deduction shall be void.

SCOTLAND

107 Criminal liability for false statements made to obtain allowances

107(1) This section applies only in Scotland.

107(2) If any person, for the purpose of obtaining any allowance, reduction, rebate or repayment in respect of tax, either for himself or for any other person, or, in any return made with reference to tax, knowingly makes any false statement or false representation, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months.

107(3) Notwithstanding anything in the Summary Jurisdiction (Scotland) Act 1954, proceedings for an offence under this section may be commenced at any time within three years from the time when the offence was committed.

107(4) The expression **"return"** in this section shall be construed without regard to the definition in section 118(1) of this Act.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 107(1)–(3) apply for the purposes of oil taxation.

Statements of practice – SP 2/88: civil tax penalties and criminal prosecution cases.

PART XI – MISCELLANEOUS AND SUPPLEMENTAL

SETTLEMENTS

107A Relevant trustees

107A(1) Subject to the following provisions of this section, anything which for the purposes of this Act is done at any time by or in relation to any one or more of the relevant trustees of a settlement shall be treated for those purposes as done at that time by or in relation to the other or others of those trustees.

107A(2) Subject to subsection (3) below, where the relevant trustees of a settlement are liable–

(a) to a penalty under section 7, 12B, 93, 95 or 97AA of this Act or paragraph 2A of Schedule 1A to this Act, or to interest under section 103A of this Act on such a penalty;
(b) to make a payment in accordance with an assessment under section 30 of this Act, or to make a payment under section 59A or 59B of this Act;
(c) to a surcharge under section 59C of this Act, or to interest under that section on such a surcharge; or
(d) to interest under section 86 of this Act,

the penalty, interest, payment or surcharge may be recovered (but only once) from any one or more of those trustees.

107A(3) No amount may be recovered by virtue of subsection (2)(a) or (c) above from a person who did not become a relevant trustee until after the relevant time, that is to say–

(a) in relation to so much of a penalty under section 93(3) or 97AA(1)(b) of this Act as is payable in respect of any day, or to interest under section 103A of this Act on so much of such a penalty as is so payable, the beginning of that day;
(b) in relation to a penalty under any other provision of this Act mentioned in subsection (2)(a) above, or to interest under section 103A of this Act on such a penalty, the time when the relevant act or omission occurred; and
(c) in relation to a surcharge under subsection (2) or (3) of section 59C of this Act, or to interest under that section on such a surcharge, the beginning of the day mentioned in that subsection;

and in paragraph (b) above **"the relevant act or omission"**means the act or omission which caused the penalty to become payable.

107A(4) In a case where–

(a) subsection (2)(a) above applies in relation to a penalty under section 93 of this Act, or
(b) subsection (2)(c) above applies in relation to a surcharge under section 59C of this Act,

subsection (8) of section 93 or, as the case may be, subsection (9) of section 59C of this Act shall have effect as if the reference to the taxpayer were a reference to each of the relevant trustees.

History – S. 107A inserted by FA 1995, s. 103(5) as respects the year 1996–97 and subsequent years of assessment.

Cross references – SI 1999/2537: modified application of provisions of s. 107A in relation to stamp duty penalties.

COMPANIES

108 Responsibility of company officers

108(1) Everything to be done by a company under the Taxes Acts shall be done by the company acting through the proper officer of the company or, except where a liquidator has been appointed for the company, through such other person as may for the time being have the express, implied or apparent authority of the company to act on its behalf for the purpose, and service on a company of any document under or in pursuance of the Taxes Acts may be effected by serving it on the proper officer.

This subsection is without prejudice to Part VIII of this Act (charges on non-residents) as it applies to corporation tax.

108(2) Corporation tax or other tax chargeable under the Corporation Tax Acts on a company which is not a body corporate, or which is a body corporate not incorporated under the Companies Act 1985 or any other enactment forming part of the law of the United Kingdom, or by Charter, may, at any time after the tax becomes due, and without prejudice to any other method of recovery, be recovered from the proper officer of the company, and that officer may retain out of any money coming into his hands on behalf of the company sufficient sums to pay that tax, and, so far as he is not so reimbursed, shall be entitled to be indemnified by the company in respect of the liability so imposed on him.

108(3) For the purposes of this section–

(a) the proper officer of a company which is a body corporate shall be the secretary or person acting as secretary of the company, except that if a liquidator or administrator has been appointed for the company the liquidator or, as the case may be, administrator shall be the proper officer,

(b) the proper officer of a company which is not a body corporate or for which there is no proper officer within paragraph (a) above, shall be the treasurer or the person acting as treasurer, of the company.

108(4) For the purposes of subsection (3)(a), where two or more persons are appointed to act jointly or concurrently as the administrator of a company, the proper officer is–

(a) such one of them as is specified in a notice given to the Board by those persons for the purposes of this section, or

(b) where the Board is not so notified, such one or more of those persons as the Board may designate as the proper officer for those purposes.

Prospective amendments – Provisions in the Companies Act 1985 to be substituted by the Companies Act 2006 on dates to be appointed (expected to be between 2007 and 2008). See Accounting Standards in vol. 1C for extracts from CA 2006.

History – In s. 108(1), words "or, except where . . . for the purpose" inserted by FA 1993, s. 120 and Sch. 14, para. 7.
S. 108(2) amended by Companies Consolidation (Consequential Provisions) Act 1985, substituting a reference to the Companies Act 1985 for the previous reference to the Companies Act 1948.
In s. 108(3)(a), references to an administrator inserted by FA 2003, s. 196 and Sch. 41, para. 2(2) in relation to companies which enter administration on or after the commencement of Enterprise Act 2002, s. 248.
S. 108(4) inserted by FA 2003, s. 196 and Sch. 41 para. 2(3) in relation to companies which enter administration on or after the commencement of Enterprise Act 2002, s. 248.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 108 applies for the purposes of oil taxation, with modifications to s. 108(2).
SI 1986/1711, Sch., Pt. I and II: modified application of s. 108 for purposes of stamp duty reserve tax.
SI 1999/2537: modified application of provisions of s. 108 in relation to stamp duty penalties.
SI 2001/1817 reg. 4(3): application of s. 108(1) to notice under Social Security Contributions (Share Options) Act 2001, s. 1.

HMRC Manuals – Company Taxation, CT93170: HMRC will accept returns or amended returns showing an original signature if there is no reason to doubt the authority of the person signing. HMRC will also accept returns signed in the name of a firm of accountants.

Other material – ICAEW Technical Release TR 340: HMRC insist on the strict statutory position under s. 108 in respect of group income elections.

109 Corporation tax on close company in connection with loans to participators etc.

109(1) The provisions of sections 419 and 420 of the principal Act (charge of tax in connection with loans by close companies to participators etc.) directing that tax be assessed and recoverable as if it were an amount of corporation tax shall be taken as applying, subject to the provisions of the Taxes Act, and to any necessary modifications, all enactments applying generally to corporation tax, including those relating to the assessing, collecting and receiving of corporation tax, those conferring or regulating a right of appeal and those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.

109(2) [Omitted by F(No. 2)A 1987, s. 91(1).]

109(3) For the purposes of section 87A of this Act as applied by subsection (1) above, the date when tax under the said section 419 become due and payable shall be that determined in accordance with subsection (3) of that section.

109(3A) If

(a) there is such a repayment of the whole or any part of a loan or advance as is referred to in subsection (4) of section 419 of the principal Act, or

(b) there is such a release or writing off of the whole or any part of the debt in respect of a loan or advance as is referred to in that subsection,

interest under section 87A of this Act on so much of the tax under the said section 419 as is referable to the amount repaid, released or written off shall not be payable in respect of any period after the date on which the repayment was made or the release or writing off occurred.

109(4) Section 91 of this Act shall not apply in consequence of any discharge or repayment of tax under section 419(4) of the principal Act.

109(5) For the purposes of the said section 91, a relief from tax under the said sections 419 and 420 shall not be treated as affecting tax charged by any assessment unless the assessment is to tax under that section.

History – S. 109(2) omitted and s. 109(3) amended by F(No. 2)A 1987, s. 91, with respect to loans or advances made (or treated as made) in any accounting period ending after 30 September 1993, (under Pay and File) by virtue of SI 1992/3066, art. 2.
S. 109(2) and (3) amended by (F(No. 2)A 1975, s. 46(5) with effect from 1975–76.
S. 109(3A) amended by FA 1998, s. 31 and Sch. 3, para. 6, by creating para. (a), inserting para. (b), and inserting the words ", released or written off" and "or the release or writing off occurred", with effect in relation to the release or writing off of the whole or part of a debt on or after 6 April 1999.
S. 109(3A) inserted, by F(No. 2)A 1987, s. 91, with respect to loans or advances made (or treated as made) in any accounting period ending after 30 September 1993, (under Pay and File) by virtue of SI 1992/3066, art. 2.
References to the principal Act substituted by ICTA 1988, Sch. 29, para. 32.
S. 109 substituted by FA 1972, Sch. 24, para. 13, with effect from 6 April 1973.

Notes – ICTA 1988 failed to amend the words "that section" in s. 109(5) so as to be grammatically consistent with the substitution of "sections 419 and 420" for the previous "section 286".

VALUATION

110 Valuation of land: power of entry

110 Any person authorised in that behalf by the Board may, on producing if so required evidence of his authority, at any reasonable time enter on and inspect, with a view to establishing its annual value, any land the annual value of which falls to be determined for purposes of income tax or corporation tax.

111 Valuation of assets: power to inspect

111(1) If for the purposes of the 1992 Act the Board authorise an inspector or other officer of the Board to inspect any property for the purpose of ascertaining its market value the person having the custody or possession of that property shall permit the inspector or other officer so authorised to inspect it at such reasonable times as the Board may consider necessary.

111(1A) [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985.]

111(2) [Repealed by CRCA 2005, s. 52 and Sch. 5; see History note.]

History – In s. 111(1) reference to the "1992 Act" substituted by TCGA 1992, s. 290 and Sch. 10, para. 2(2).
S. 111(1A) dealt with development land tax.
S. 111(2) ceased to have effect by virtue of CRCA 2005, s. 50 and Sch. 4, para 14 and repealed by CRCA 2005, s. 52 and Sch 5, with effect from 18 April 2005 (SI 2005/1126, reg. 2(2)).

Cross references – SI 1986/1711, Sch., Pt. I and II: modified application of s. 111 for purposes of stamp duty reserve tax.

DOCUMENTS

112 Loss, destruction or damage to assessments, returns, etc.

112(1) Where any assessment to tax, or any duplicate of assessment to tax, or any return or other document relating to tax, has been lost or destroyed, or been so defaced or damaged as to be illegible or otherwise useless, the Commissioners, inspectors, collectors and other officers having powers in relation to tax may, notwithstanding anything in any enactment to the contrary, do all such acts and things as they might have done, and all acts and things done under or in pursuance of this section shall be as valid and effectual for all purposes as they would have been, if the assessment or duplicate of assessment had not been made, or the return or other document had not been made or furnished or required to be made or furnished.

Provided that, where any person who is charged with tax in consequence or by virtue of any act or thing done under or in pursuance of this section proves to the satisfaction of the Commissioners having jurisdiction in the case that he has already paid any tax for the same chargeable period in respect of the subject matter and on the account in respect of and on which he is so charged, relief shall be given to the extent to which the liability of that person has been discharged by the payment so made either by abatement from the charge or by repayment, as the case may require.

112(1A) [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985.]

112(2) In this section, **"the Commissioners"** means, as the case may require, either the Board or the General or Special Commissioners concerned.

112(3) The references in subsection (1) above to assessments to tax include references to determinations of penalties; and in its application to such determinations the proviso to that subsection shall have effect with the appropriate modifications.

History – S. 112(1A) dealt with development land tax.
S. 112(3) inserted by FA 1989, s. 168(6).

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 112 applies for the purposes of oil taxation, with modifications to s. 112(1).
SI 1999/2537: modified application of provisions of s. 112 in relation to stamp duty penalties.

113 Form of returns and other documents

113(1) Any returns under the Taxes Acts shall be in such form as the Board prescribe, and in prescribing income tax forms under this subsection the Board shall have regard to the desirability of securing, so far as may be possible, that no person shall be required to make more than one return annually of the sources of his income and the amounts derived therefrom.

113(1A) Any notice or direction requiring any return to be made under the Taxes Acts to an inspector or other officer of the Board may be issued or given in the name of that officer, or as the case may be in the name of the Board, by any officer of the Board, and so as to require the return to be made to the first-mentioned officer.

113(1B) Where the Board or an inspector or other officer of the Board have in accordance with section 29 of this Act or paragraph 41 of Schedule 18 to the Finance Act 1998, or any other provision of the Taxes Acts, decided to make an assessment to tax, and have taken all other decisions needed for arriving at the amount of the assessment, they may entrust to some other officer of the Board 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 on the person liable for tax.

113(1C) [Repealed by FA 1996, s. 132 and Sch. 18, para. 4(2)(c), s. 205 and Sch. 41, Pt. V(8).]

113(1D) Where an officer of the Board has decided to impose a penalty under section 100 of this Act and has taken all other decisions needed for arriving at the amount of the penalty, he may entrust to any other officer of the Board responsibility for completing the determination procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the determination on the person liable to the penalty.

113(2) Any return or assessment or other document relating to chargeable gains or tax on capital gains may be combined with one relating to income or income tax.

113(3) Every assessment, determination of a penalty, duplicate, warrant, notice of assessment, of determination or of demand, or other document required to be used in assessing, charging, collecting and levying tax or determining a penalty shall be in accordance with the forms prescribed from time to time in that behalf by the Board, and a document in the form prescribed and supplied or approved by them shall be valid and effectual.

History – S. 113(1A) inserted by FA 1970, Sch. 4, para. 10.
S. 113(1B) amended by inserting the words "or paragraph 41 of Schedule 18 to the Finance Act 1998", by FA 1998, s. 117(3) and Sch. 19, para. 41, with effect in relation to accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
S. 113(1B) inserted by FA 1970, Sch. 4, para. 10.
S. 113(1C) repealed by FA 1996, s. 132 and Sch. 18, para. 4(2)(c), s. 205 and Sch. 41, Pt. V(8), with effect:

- as respects the year 1996–97 and subsequent years of assessment; and
- in relation to any income tax or capital gains tax which is charged by an assessment made on or after 6 April 1998 and is for the year 1995–96 or any earlier year of assessment.

So far as relating to partnerships whose trades, professions or businesses were set up and commenced before 6 April 1994, the repeal of s. 113(1C) has effect:

- as respects the year 1997–98 and subsequent years of assessment; and
- in relation to any income tax which is charged by an assessment made on or after 6 April 1998 and is for the year 1995–96 or any earlier year of assessment.

S. 113(1C) inserted by FA 1989, s. 159(4).
S. 113(1D) inserted by FA 1989, 168(7)(a).
Words "determination of a penalty,", ", of determination" and "or determining a penalty" inserted by FA 1989, s. 168(7)(b).

Cross references – CRCA 2005, s. 16 and Sch. 2(3): s. 113(3) has effect only in connection with functions relating to matters to which CRCA 2005, s. 7 applies.
OTA 1975, Sch. 2, para. 1(1): s. 113(1A) and, with modifications, s. 113(3) apply for the purposes of oil taxation.
SI 1995/351, reg. 8: s. 113(1B) applies to determinations and notices of determinations under FA 1993, Sch. 19 (Lloyd's underwriters).
SI 1999/2537: modified application of provisions of s. 113 in relation to stamp duty penalties.

Statutory instruments – SI 2003/2682 PAYE regulations.
SI 2005/2045: Construction Industry Scheme Regulations.
SI 2006/131: pension schemes.
SI 2007/2969: PAYE, partly made under s. 113(1).

Statements of practice – SP 5/87: Revenue approach towards acceptance of tax returns and other forms by way of facsimiles or photocopies, as substitutes for officially-produced printed forms.

114 Want of form or errors not to invalidate assessments, etc.

114(1) An assessment or determination, warrant or other proceeding which purports to be made in pursuance of any provision of the Taxes Acts shall not be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of the Taxes Acts, and if the person or property charged or intended to be charged or affected thereby is designated therein according to common intent and understanding.

114(2) An assessment or determination shall not be impeached or affected–

(a) by reason of a mistake therein as to–

(i) the name or surname of a person liable, or
(ii) the description of any profits or property, or
(iii) the amount of the tax charged, or

(b) by reason of any variance between the notice and the assessment or determination.

History – Words "or determination" inserted after the word "assessment" in each place where it occurs in s. 114 by FA 1989, s. 160(5).

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 114 applies with modifications for the purposes of oil taxation.
SI 1986/1711, Sch., Pt. I and II: modified application of s. 114 for purposes of stamp duty reserve tax.
SI 1999/2537: modified application of provisions of s. 114 in relation to stamp duty penalties.

115 Delivery and service of documents

115(1) A notice or form which is to be served under the Taxes Acts on a person may be either delivered to him or left at his usual or last known place of residence.

115(2) Any notice or other document to be given, sent, served or delivered under the Taxes Acts may be served by post, and, if to be given, sent, served or delivered to or on any person by the Board, by any officer of the Board, or by or on behalf of any body of Commissioners, may be so served addressed to that person–

(a) at his usual or last known place of residence, or his place of business or employment, or
(b) in the case of a company, at any other prescribed place and, in the case of a liquidator of a company, at his address for the purposes of the liquidation or any other prescribed place.

115(3) In subsection (2) above **"prescribed"** means prescribed by regulations made by the Board, and the power of making regulations for the purposes of that subsection shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

115(4) Notices to be given or delivered to, or served on, the General Commissioners shall be valid and effectual if given or delivered to or served on their clerk.

115(5) Nothing in this section applies to any notice or other document required or authorised by the General Commissioners Regulations or the Special Commissioners Regulations to be sent or delivered to, or served on, any person.

Prospective amendments – S. 115(4) repealed by TCEA 2007, s. 146 and Sch. 23, Pt. 1, with effect in accordance with provision made by the Lord Chancellor by order (TCEA 2007, s. 148).

History – S. 115(5) inserted by SI 1994/1813, Sch. 1, para. 16, with effect from 1 September 1994.

Cross references – OTA 1975, Sch. 2, para. 1(1): s. 115(1)–(3) apply for the purposes of oil taxation.
INA 1978, s. 7: service by post is deemed to be effected by properly addressing, pre-paying and posting a letter containing the documents to be served.
SI 1999/2537: modified application of provisions of s. 115 in relation to stamp duty penalties.

115A Electronic lodgement of tax returns, etc.

115A Schedule 3A to this Act (which makes provision with respect to the electronic lodgement of tax returns and documents required in connection with tax returns) shall have effect.

Prospective amendments – S. 115A repealed by FA 1999, s. 139 and Sch. 20, Pt. VII with effect from a day to be appointed under FA 1999, s. 133(4).

History – S. 115A inserted by FA 1995, s. 153 and Sch. 28, para. 1.

116 Receipts, etc. exempt from stamp duty

116 [Repealed by FA 1970, Sch. 8, Pt. V, with effect from 1 February 1971.]

NORTHERN IRELAND

117 Action of ejectment in Northern Ireland

117 Unless other provision is made in that behalf by any enactment, an action of ejectment in Northern Ireland for non-payment of rent shall not be defeated on the ground that the person liable to pay the rent is entitled under the Income Tax Acts to a deduction which would reduce the amount due by him below a year's rent.

INTERPRETATION

118 Interpretation

118(1) In this Act, unless the context otherwise requires–

"Act" includes an Act of the Parliament of Northern Ireland and

"enactment" shall be construed accordingly,

"the Board" means the Commissioners of Inland Revenue,

"body of persons" means any body politic, corporate or collegiate, and any company, fraternity, fellowship and society of persons, whether corporate or not corporate,

"chargeable gain" has the same meaning as in the 1992 Act,

"chargeable period" means a year of assessment or a company's accounting period,

"collector" means any collector of taxes,

"company" has the meaning given by section 992(1) of ITA 2007 (with section 468 of the principal Act),

"the General Commissioners Regulations" means the General Commissioners (Jurisdiction and Procedure) Regulations 1994,

"incapacitated person" means any infant, person of unsound mind, lunatic, idiot or insane person,

"infant", in relation to Scotland, except in section 73 of this Act, means a person under legal disability by reason of nonage, and, in the said section 73, means a person under the age of 18 years,

"inspector" means any inspector of taxes,

"ITEPA 2003" means the Income Tax (Earnings and Pensions) Act 2003,

"ITTOIA 2005" means the Income Tax (Trading and Other Income) Act 2005,

"ITA 2007" means the Income Tax Act 2007,

"partnership return" has the meaning given by section 12AA(10A) of this Act,

"the principal Act" means the Income and Corporation Taxes Act 1988,

"the relevant trustees", in relation to a settlement, shall be construed in accordance with section 7(9) of this Act.

"return" includes any statement or declaration under the Taxes Acts,

"the Special Commissioners Regulations" means the Special Commissioners (Jurisdiction and Procedure) Regulations 1994,

"successor", in relation to a person who is required to make and deliver, or has made and delivered, a partnership return, and

"predecessor" and **"successor,"** in relation to the successor of such a person, shall be construed in accordance with section 12AA(11) of this Act;

"tax", where neither income tax nor capital gains tax nor corporation tax is specified, means any of those taxes,

"the Taxes Acts" means this Act and–

(a) the Tax Acts, and

(b) the Taxation of Chargeable Gains Act 1992 and all other enactments relating to capital gains tax,

"the 1992 Act" means the Taxation of Chargeable Gains Act 1992,

"trade" includes every trade, manufacture, adventure or concern in the nature of trade.

118(2) For the purposes of this Act, a person shall be deemed not to have failed to do anything required to be done within a limited time if he did it within such further time, if any, as the Board or the Commissioners or officer concerned may have allowed; and where a person had a reasonable excuse for not doing anything required to be done he shall be deemed not to have failed to do it

unless the excuse ceased and, after the excuse ceased, he shall be deemed not to have failed to do it if he did it without unreasonable delay after the excuse had ceased.

118(3) [Repealed by FA 1994, s. 196 and Sch. 19, para. 34(2) and s. 258 and Sch. 26, Pt. V(23).]

118(4) For the purposes of this Act, the amount of tax covered by any assessment shall not be deemed to be finally determined until that assessment can no longer be varied, whether by any Commissioners on appeal or by the order of any court.

History – In s. 118, in the definition of "tax" the word ", 20C" omitted by FA 2007, s. 84(4) and Sch. 22, para. 4(b), with effect from 1 December 2007 by virtue of SI 2007/3166, art. 3(a), and repealed by FA 2007, s. 114 and Sch. 27, Pt. 5(1), with effect from 8 November 2007 by virtue of SI 2007/3166, art. 2(c) in accordance with FA 2007, s. 84(5).
In s. 118(1):
Definitions of "branch or agency" and "branch or agent" repealed by FA 2003, s. 216 and Sch. 43, Pt. 3(6) in relation to accounting periods beginning on or after 1 January 2003.
In the definition of "company", the words "section 992(1) of ITA 2007 (with section 468 of the principal Act)" substituted for the words "section 832(1) of the principal Act (with section 468 of that Act)" by ITA 2007, s. 1027 and Sch. 1, para. 263(a), with effect from 6 April 2007.
Definition of "the General Commissioners Regulations" inserted by SI 1994/1813 Sch. 1, para. 17(a), with effect from 1 September 1994.
Definition of "infant" inserted by Age of Legal Capacity (Scotland) Act 1991, s. 10 and Sch. 1, para. 34, with effect from 25 September 1991.
Definition of "ITEPA 2003" inserted by ITEPA 2003, Sch. 6, para. 139 which has effect, for income tax purposes, for tax year 2003–04 and subsequent tax years and, for corporation tax purposes, for accounting periods ending after 5 April 2003.
Definition of "ITTOIA 2005" inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 380; effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
Definition of "ITA 2007" inserted by ITA 2007, s. 1027 and Sch. 1, para. 263(b), with effect from 6 April 2007.
Definition of "neglect" (which previously appeared) repealed by FA 1989, s. 187 and Sch. 17, Pt. VIII, but not to affect the making of assessments for years of assessment before 1983–84 or for accounting periods which ended before 1 April 1983 (FA 1989, s. 149(7)).
Definition of "partnership return" inserted by FA 2001, s. 88 andSch. 29, para. 33(2) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
Definition of "the relevant trustees" inserted by FA 1995, s. 103(6), with effect, so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the day appointed by virtue of FA 1994, s. 199(3) and SI 1998/3173 (C. 78)).
Definition of "successor" amended, substituting the words "a partnership return" for the words "a return under section 12AA of this Act", by FA 2001, s. 88, Sch. 29, para. 33(3) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
Definition of "successor" inserted by FA 1996, s. 123(14) (thereby substituted for the previous definition inserted by FA 1994, s. 196 and Sch. 19, para. 34) in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day (FA 1994, s. 199(2),(3) and SI 1998/3173 (C. 78)).
Definition of "the Special Commissioners Regulations" inserted by SI 1994/1813, Sch. 1, para. 17(b), with effect from 1 September 1994.
Definition of "Taxes Acts" further amended by ICTA 1988, s. 844 and Sch. 31 removing the reference to ICTA 1970, s. 526(2) (repealed), with effect for 1988–89 and subsequent years of assessment.
References to the "1992 Act" and the "Taxation of Chargeable Gains Act 1992" substituted by TCGA 1992, s. 290 and Sch. 10, para. 2(11).
S. 118(2) amended by FA 1970, s. 36 and Sch. 8 repealing the proviso; and further amended by F(No. 2)A 1987, s. 94 by inserting the words "not to have failed to do it unless the excuse ceased and, after the excuse ceased, he shall be deemed" after "deemed" in the second place where it occurs.
S. 118(3) repealed by FA 1994, s. 196 and Sch. 19, para. 34(2) and s. 258 and Sch. 26, Pt. V(23). The repeal has effect:

- in relation to partnerships whose trade, profession or business is set up and commenced before 6 April 1994, as respects the year 1997–98 and subsequent years of assessment; and
- in relation to other partnerships, as respects the year 1996–97 and subsequent years of assessment.

Words "section 36" in former s. 118(3) substituted by FA 1989, s. 149(3)(b), but not to affect the making of assessments for years of assessment before 1983–84 or for accounting periods which ended before 1 April 1983 (FA 1989, s. 149(7)).

Cross references – S. 88(7): s. 118(2) not to apply for the purposes of s. 88(1)(a) (assessment to recover loss of tax attributable to failure to give a notice etc.).
ICTA 1988, s. 705B(1)(b): modified application of s. 118 for purposes of proceedings in Northern Ireland.
FA 2003, Sch. 17, para. 1 (Stamp Duty Land Tax): Sch. 17 to be treated as part of "the Taxes Acts" for the purposes of TMA 1970, Pt. 1.
OTA 1975, Sch. 2, para. 1(1): s. 118(1), (2) apply for the purposes of oil taxation.
SI 1986/1711, Sch., Pt. I and II: modified application of s. 118 for purposes of stamp duty reserve tax.
SI 1999/2537: modified application of s. 118(1) in relation to stamp duty penalties.
SI 2004/1363, reg. 25ff: modification of s. 118 for the purposes of SDLT.

Statements of practice – A13: HMRC view that returns must be signed by the taxpayer personally, with relaxation where the provision of a signature would damage the taxpayer's health.

HMRC Manuals – Company Taxation, CT94140: HMRC's understanding of "reasonable excuse" and its application in relation to company tax returns.

Notes – CCH has taken the view that the definitions of "company", "tax" and "Taxes Acts" should exclude references to development land tax on the basis that FA 1985, Sch. 27, Pt. X repealed the whole of the Development Land Tax Act 1976 with effect from 19 March 1985 and therefore repealed those references by implication. The repeal of words relating to development land tax in the definition of "tax" by FA 2007, s. 84 and Sch. 22, para. 4 has not therefore been reflected.

PART XII – GENERAL

119 Commencement and construction

119(1) This Act shall come into force for all purposes on 6th April 1970 to the exclusion of the corresponding enactments repealed by the principal Act.

119(2) This Act, and the repeals made by the principal Act, have effect subject to Schedule 4 to this Act.

119(3) This Act, so far as it relates to income tax or corporation tax, shall be construed as one with the principal Act.

119(4) This Act, so far as it relates to chargeable gains, shall be construed as one with the 1992 Act and ITEPA 2003.

119(5) [Repealed by FA 1985, Sch. 27, Pt. X, with effect from 19 March 1985.]

History – In s. 119(4), the words "and ITEPA 2003" inserted by ITEPA 2003, Sch. 6, para. 140 which has effect, for income tax purposes, for tax year 2003–04 and subsequent tax years and, for corporation tax purposes, for accounting periods ending after 5 April 2003.
S. 119(5) dealt with development land tax.
References to the "1992 Act" in definitions of "chargeable gain" and "the Taxes Acts" substituted by TCGA 1992, s. 290 and Sch. 10, para. 2(2).

Notes – Sch. 4 dealt with savings and transitory provisions and is spent.

120 Short title

120 This Act may be cited as the Taxes Management Act 1970.

SCHEDULES

SCHEDULE 1 – FORMS OF DECLARATIONS

Section 6

Part I – General and Special Commissioners and Others

"I, A. B., do solemnly declare that I will impartially and to the best of my ability execute the duties of my office; and that I will not disclose any information received by me in the execution of those duties except for the purposes of those duties or for the purposes of any prosecution for an offence relating to a former Inland Revenue matter (being a matter listed in Schedule 1 to the Commissioners for Revenue and Customs Act 2005 except for paragraphs 2, 10, 13, 14, 15, 17, 19, 28, 29 and 30), or in such other cases as may be required by law."

History – Pt. I amended by FA 1975, s. 57(2), with effect from 13 March 1975.
References to "an offence relating to a former Inland Revenue matter" and to Schedule 1 to CRCA 2005 substituted for "an offence relating to inland revenue" by CRCA 2005, s. 50 and Sch. 4, para. 15, with effect from 18 April 2005 (SI 2005/1126, reg. 2(2)).

Part II – Commissioners of Inland Revenue

[Repealed by CRCA 2005, s. 52 and Sch 5; see history note]

History – Part II ceased to have effect by virtue of CRCA 2005, s. 50 and Sch. 4, para. 13 and repealed by CRCA 2005, s. 52 and Sch. 5 with effect from 18 April 2005 (SI 2005/1126, reg. 2(2)). Former wording of Part II was as follows:

> "I, A. B., do solemnly declare that I will not disclose any information received by me in the execution of my duties except for the purposes of those duties or for the purposes of any prosecution for an offence relating to inland revenue, or in such other cases as may be required by law."

Part III – Inspectors, Collectors and Other Officers

[Repealed by CRCA 2005, s. 52 and Sch. 5; see history note]

History – Part III ceased to have effect by virtue of CRCA 2005, s. 50 and Sch. 4, para 13 and repealed by CRCA 2005, s. 52 and Sch. 5 with effect from 18 April 2005 (SI 2005/1126, reg. 2(2). Former wording of Part III was as follows:

> "I, A. B., do solemnly declare that I will not disclose any information received by me in the execution of my duties which may from time to time be assigned to me by the Board of Inland Revenue except for the purposes of my duties, or to the Board of Inland Revenue or in accordance with their instructions, or for the purposes of any prosecution for an offence relating to inland revenue, or in such other cases as may be required by law."

SCHEDULE 1AA – ORDERS FOR PRODUCTION OF DOCUMENTS

History – Sch. 1AA inserted by FA 2000, s. 149(2) and Sch. 39.

Cross references – TCA 2002, s. 36(1): application of Sch. 1AA and regulations made thereunder in relation to tax credits fraud.

Statutory instruments – SI 2000/2875: regulations under various provisions of Sch. 1AA.

INTRODUCTION

1 The provisions of this Schedule supplement section 20BA.

AUTHORISED OFFICER OF THE BOARD

2(1) In section 20BA(1) an **"authorised officer of the Board"** means an officer of the Board authorised by the Board for the purposes of that section.

2(2) The Board may make provision by regulations as to–

(a) the procedures for approving in any particular case the decision to apply for an order under that section, and

(b) the descriptions of officer by whom such approval may be given.

Statutory instruments – SI 2000/2875, reg. 3: regulations under Sch. 1AA, para. 2(2).
SI 2007/881: made under para. 2(2).

NOTICE OF APPLICATION FOR ORDER

3(1) A person is entitled–

(a) to notice of the intention to apply for an order against him under section 20BA, and

(b) to appear and be heard at the hearing of the application,

unless the appropriate judicial authority is satisfied that this would seriously prejudice the investigation of the offence.

3(2) The Board may make provision by regulations as to the notice to be given, the contents of the notice and the manner of giving it.

Statutory instruments – SI 2000/2875, reg. 4: regulations under Sch. 1AA, para. 3(2).

OBLIGATIONS OF PERSON GIVEN NOTICE OF APPLICATION

4(1) A person who has been given notice of intention to apply for an order under section 20BA(4) shall not–

(a) conceal, destroy, alter or dispose of any document to which the application relates, or

(b) disclose to any other person information or any other matter likely to prejudice the investigation of the offence to which the application relates.

This is subject to the following qualifications.

4(2) Sub-paragraph (1)(a) does not prevent anything being done–

(a) with the leave of the appropriate judicial authority,

(b) with the written permission of an officer of the Board,

(c) after the application has been dismissed or abandoned, or

(d) after any order made on the application has been complied with.

4(3) Sub-paragraph (1)(b) does not prevent a professional legal adviser from disclosing any information or other matter–

(a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or

(b) to any person–

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

This sub-paragraph does not apply in relation to any information or other matter which is disclosed with a view to furthering a criminal purpose.

4(4) A person who fails to comply with the obligation in sub-paragraph (1)(a) or (b) above may be dealt with as if he had failed to comply with an order under section 20BA.

EXCEPTION OF ITEMS SUBJECT TO LEGAL PRIVILEGE

5(1) Section 20BA does not apply to items subject to legal privilege.

5(2) For this purpose **"items subject to legal privilege"** means–

(a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
(b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and
(c) items enclosed with or referred to in such communications and made–
  (i) in connection with the giving of legal advice; or
  (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

5(3) Items held with the intention of furthering a criminal purpose are not subject to legal privilege.

RESOLUTION OF DISPUTES AS TO LEGAL PRIVILEGE

6(1) The Board may make provision by regulations for the resolution of disputes as to whether a document, or part of a document, is an item subject to legal privilege.

6(2) The regulations may, in particular, make provision as to–

(a) the custody of the document whilst its status is being decided;
(b) the appointment of an independent, legally qualified person to decide the matter;
(c) the procedures to be followed; and
(d) who is to meet the costs of the proceedings.

Statutory instruments – SI 2000/2875, reg. 7: regulations under Sch. 1AA, para. 6.

COMPLYING WITH AN ORDER

7(1) The Board may make provision by regulations as to how a person is to comply with an order under section 20BA.

7(2) The regulations may, in particular, make provision as to–

(a) the officer of the Board to whom the documents are to be produced,
(b) the address to which the documents are to be taken or sent, and
(c) the circumstances in which sending the documents by post complies with the order.

7(3) Where an order under section 20BA applies to a document in electronic or magnetic form, the order shall be taken to require the person to deliver the information recorded in the document in a form in which it is visible and legible.

Statutory instruments – SI 2000/2875, reg. 6: regulations under Sch. 1AA, para. 7(1), (2).

PROCEDURE WHERE DOCUMENTS ARE DELIVERED

8(1) The provisions of section 20CC(3) to (9) apply in relation to a document delivered to an officer of the Board in accordance with an order under section 20BA as they apply to a thing removed by an officer of the Board as mentioned in subsection (1) of section 20CC.

8(2) In section 20CC(9) as applied by sub-paragraph (1) above the reference to the warrant concerned shall be read as a reference to the order concerned.

SANCTION FOR FAILURE TO COMPLY WITH ORDER

9(1) If a person fails to comply with an order made under section 20BA, he may be dealt with as if he had committed a contempt of the court.

9(2) For this purpose **"the court"** means–

(a) in relation to an order made by a Circuit judge, the Crown Court;
(b) in relation to an order made by a sheriff, a sheriff court;
(c) in relation to an order made by a county court judge, a county court in Northern Ireland.

NOTICE OF ORDER ETC.

10 The Board may make provision by regulations as to the circumstances in which notice of an order under section 20BA, or of an application for such an order, is to be treated as having been given.

Statutory instruments – SI 2000/2875, reg. 5: regulations under Sch. 1AA, para. 10.

GENERAL PROVISIONS ABOUT REGULATIONS

11 Regulations under this Schedule–

(a) may contain such incidental, supplementary and transitional provision as appears to the Board to be appropriate, and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Statutory instruments – SI 2000/2875: regulations under Sch. 1AA, para. 11(a).

SCHEDULE 1A – CLAIMS ETC. NOT INCLUDED IN RETURNS

Section 42

History – Sch. 1A inserted by FA 1994, s. 196 and Sch. 19, para. 35 and amended by FA 1995, s. 107(11) and Sch. 20 in so far as it relates to income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment and, in so far as it relates to corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day for the purposes of corporation tax self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78)).

Cross references – FA 1998, Sch. 18, para. 9, 10: company tax return under self assessment – claims or elections that cannot be made without a return and other claims, etc. to be included in a return.
FA 1998, Sch. 18, para. 59: Sch. 1A applies to claims or elections not within FA 1998, Sch. 18, para. 57 (claims or elections affecting a single accounting period) or 58 (claims or elections involving more than one accounting period) whether or not included in a company tax return.
CAA 2001, s. 201(5): Sch. 1A does not apply to an election under CAA 2001, s. 198 (election to apportion sale price on sale of qualifying interest) or 199 (election to apportion capital sum given by lessee on grant of lease).
CAA 2001, s. 227(5): Sch. 1A does not apply to an election under CAA 2001, s. 227 (special treatment for sale and leaseback cases).
SI 2003/282: regulations governing electronic delivery of information to or by the Board under this Schedule revoking SI 2000/945 with effect from 5 March 2003.

Statements of practice – SP 5/01: HMRC's approach to extending time limits for making claims for loss relief, capital allowances and group relief.

PRELIMINARY

1 In this Schedule–

"claim" means a claim or election as respects which this Schedule applies;

"partnership claim" means a claim made in accordance with section 42(6)(b) of this Act;

"profits"–

(a) in relation to income tax, means income,

(b) in relation to capital gains tax, means chargeable gains, and

(c) in relation to corporation tax, means profits as computed for the purposes of that tax;

"relevant partner", in relation to a partnership claim, means any person who was a partner at any time during the period in respect of which the claim is made;

"successor", in relation to a person who–

(a) has made a partnership claim, but

(b) is no longer a partner or is otherwise no longer available,

means such other partner who may at any time be nominated for the purposes of this paragraph by the majority of the partners at that time,and

"predecessor" and **"successor"**, in relation to a person so nominated, shall be construed accordingly.

History – Definition of "profits" substituted by FA 1998, s. 117(3) and Sch. 19, para. 42(2) with effect in relation to company accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day (FA 1998, s. 117(4), (5) and FA 1994, s. 199(2), (3)).
Definition of "claim" amended by FA 1996, s. 130(5).

Notes – Para. 1 rewritten as ITA 2007, s. 1020(1).

MAKING OF CLAIMS

2(1) Subject to any provision in the Taxes Acts for a claim to be made to the Board, every claim shall be made to an officer of the Board.

2(2) No claim requiring the repayment of tax shall be made unless the claimant has documentary proof that the tax has been paid by deduction or otherwise.

2(3) A claim shall be made in such form as the Board may determine.

2(4) The form of claim shall provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the information and belief of the person making the claim.

2(5) The form of claim may require–

(a) a statement of the amount of tax which will be required to be discharged or repaid in order to give effect to the claim;

(b) such information as is reasonably required for the purpose of determining whether and, if so, the extent to which the claim is correct;

(bb) the delivery with the claim of such accounts, statements and documents, relating to information contained in the claim, as are reasonably required for the purpose mentioned in paragraph (b) above;

(c) any such particulars of assets acquired as may be required in a return by virtue of section 12 of this Act or paragraph 13 of Schedule 18 to the Finance Act 1998.

2(6) In the case of a claim made by or on behalf of a person who is not resident, or who claims to be not resident or not ordinarily resident or not domiciled, in the United Kingdom, an officer of the Board or the Board may require a statement or declaration in support of the claim to be made by affidavit.

History – Para. 2(5)(c) amended by inserting the words "or paragraph 13 of Schedule 18 to the Finance Act 1998", by FA 1998, s. 117(3) and Sch. 19, para. 42(3) as respects company accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

Notes – Para. 2(3), (4) and (5) rewritten as ITA 2007, s. 1020(1).

KEEPING AND PRESERVING OF RECORDS

2A(1) Any person who may wish to make a claim in relation to a year of assessment or other period shall–

(a) keep all such records as may be requisite for the purpose of enabling him to make a correct and complete claim; and

(b) shall preserve those records until the end of the relevant day.

2A(2) In relation to a claim, the relevant day for the purposes of sub-paragraph (1) above is whichever of the following is the latest, namely–

(a) where enquiries into the claim or any amendment of the claim are made by an officer of the Board, the day on which, by virtue of paragraph 7(1) below, those enquiries are completed; and

(b) where no enquiries into the claim or any amendment of the claim are so made, the day on which such an officer no longer has power to make such enquiries.

2A(3) Except in the case of records falling within section 12B(4A) of this Act or paragraph 22(3) of Schedule 18 to the Finance Act 1998, the duty under sub-paragraph (1) above to preserve records may be discharged by the preservation of the information contained in them; and where the information is so preserved a copy of any document forming part of the records shall be admissible in evidence in any proceedings before the Commissioners to the same extent as the records themselves.

2A(4) Subject to sub-paragraph (5) below, any person who fails to comply with sub-paragraph (1) above in relation to any claim which is made for a year of assessment or accounting period shall be liable to a penalty not exceeding £3,000.

2A(5) Sub-paragraph (4) above does not apply where–

(a) the records which the person fails to keep or preserve are records falling within paragraph (a) of section 12B(4A) of this Act or paragraph 22(3) of Schedule 18 to the Finance Act 1998; and

(b) an officer of the Board is satisfied that any facts which he reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence furnished to him.

History – In para. 2A(2)(a), "7(1)" substituted for "7(4)" and the words "treated as" (which appeared before the word "completed") omitted, by FA 2001, s. 88, Sch. 29, para. 34(2), and the words omitted repealed by s. 110, Sch. 33, Pt. 2(13), all with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.

In para. 2A(3) and (5)(a) the words "or paragraph 22(3) of Schedule 18 to the Finance Act 1998" inserted by FA 1998, s. 117(3) and Sch. 19, para. 42(4) with effect in relation to company accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).
In para. 2A(3) the words "Except in the case . . . 12B(4A) of this Act," inserted by FA 1996, s. 124(6) and in para. 2A(4) the words "Subject to sub-paragraph (5) below," inserted by FA 1996, s. 124(7), for the purposes of income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day (FA 1994, s. 199(2), (3)). These amendments do not have effect in relation to any time before 29 April 1996, or any records which a person fails to preserve before 29 April 1996.
Para. 2A(5) inserted by FA 1996, s. 124(8), for the purposes of income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, as respects accounting periods ending on or after 1 July 1999, the appointed day (FA 1994, s. 199(2), (3)). This amendment does not have effect in relation to any time before 29 April 1996, or any records which a person fails to preserve before 29 April 1996.

AMENDMENTS OF CLAIMS

3(1) Subject to sub-paragraph (2) below–

(a) at any time before the end of the period of nine months beginning with the day on which a claim is made, an officer of the Board may by notice to the claimant so amend the claim as to correct any obvious errors or mistakes in the claim (whether errors of principle, arithmetical mistakes or otherwise); and

(b) at any time before the end of the period of twelve months beginning with the day on which the claim is made, the claimant may amend his claim by notice to an officer of the Board.

3(2) No amendment of a claim may be made under sub-paragraph (1) above at any time during the period–

(a) beginning with the day on which an officer of the Board gives notice of his intention to enquire into the claim, and

(b) ending with the day on which the officer's enquiries into the claim are completed.

GIVING EFFECT TO CLAIMS AND AMENDMENTS

4(1) Subject to sub-paragraphs (1A), (3) and (4) below and to any other provision in the Taxes Acts which otherwise provides, an officer of the Board or the Board shall, as soon as practicable after a claim other than a partnership claim is made, or such a claim is amended under paragraph 3 above, give effect to the claim or amendment by discharge or repayment of tax.

4(1A) In relation to a claim which would otherwise fall to be taken into account in the making of deductions or repayments of tax under PAYE regulations, sub-paragraph (1) above shall apply as if for the word "shall" there were substituted the word "may".

4(2) Subject to sub-paragraphs (3) and (4) below, an officer of the Board or the Board shall, as soon as practicable after a partnership claim is made, or such a claim is amended under paragraph 3 above, give effect to the claim or amendment, as respects each of the relevant partners, by discharge or repayment of tax.

4(3) Where any such claim or amendment as is mentioned in sub-paragraph (1) or (2) above is enquired into by an officer of the Board–

(a) that sub-paragraph shall not apply until the day on which, by virtue of paragraph 7(1) below, the enquiry is completed; but

(b) the officer may at any time before that day give effect to the claim or amendment, on a provisional basis, to such extent as he thinks fit.

4(4) Nothing in this paragraph applies in relation to a claim or an amendment of a claim if the claim is not one for discharge or repayment of tax.

History – In para. 4(1A), the words "PAYE regulations" substituted for the words "section 203 of the principal Act" by ITEPA 2003, Sch. 6, para. 141 which has effect, for income tax purposes, for the tax year 2003–04 and subsequent tax years and, for corporation tax purposes, for accounting periods ending after 5 April 2003.
In para. 4(3)(a), "7(1)" substituted for "7(4)" and the words "the enquiry is" substituted for "the officer's enquiries are treated as", by FA 2001, s. 88 and Sch. 29, para. 34(3) with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then.
Para. 4(4) inserted, and references to it in para. 4(1) and (2) inserted, by FA 1996, s. 133 and Sch. 19, para. 8, for the purposes of income tax and capital gains tax, as respects the year 1996-97 and subsequent years of assessment, and for the purposes of corporation tax, as respects accounting periods ending on or after 1 July 1999, the day appointed for the purposes of self-assessment by virtue of FA 1994, s. 199 and SI 1998/3173 (C. 78).

POWER TO ENQUIRE INTO CLAIMS

5(1) An officer of the Board may enquire into–

(a) a claim made by any person, or

(b) any amendment made by any person of a claim made by him,

if, before the end of the period mentioned in sub-paragraph (2) below, he gives notice in writing of his intention to do so to that person or, in the case of a partnership claim, any successor of that person.

5(2) The period referred to in sub-paragraph (1) above is whichever of the following ends the latest, namely–

(a) the period ending with the quarter day next following the first anniversary of the day on which the claim or amendment was made;
(b) where the claim or amendment relates to a year of assessment, the period ending with the first anniversary of the 31st January next following that year; and
(c) where the claim or amendment relates to a period other than a year of assessment, the period ending with the first anniversary of the end of that period;

and the quarter days for the purposes of this sub-paragraph are 31st January, 30th April, 31st July and 31st October.

5(3) A claim or amendment which has been enquired into under sub-paragraph (1) above shall not be the subject of–

(a) a further notice under that sub-paragraph; or
(b) if it is subsequently included in a return, a notice under section 9A(1) or 12AC(1) of this Act or paragraph 24 of Schedule 18 to the Finance Act 1998.

History – In para. 5(3)(b) the words "under section 9A(1) or 12AC(1) of this Act or paragraph 24 of Schedule 18 to the Finance Act 1998" substituted by FA 1998, s. 117(3) and Sch. 19, para. 42(5) with effect in relation to company accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

Cross references – ICTA 1988, s. 488(11A)(b), (12): enquiry into a claim by a housing association.
ICTA 1988, s. 489(9A): enquiry into a claim by a self-build society.

POWER TO CALL FOR DOCUMENTS FOR PURPOSES OF ENQUIRIES

6(1) This paragraph applies where an officer of the Board gives notice under paragraph 5 above to any person (the claimant) of his intention to enquire into–

(a) a claim made by the claimant, or
(b) any amendment made by the claimant of such a claim.

6(2) For the purpose of enquiring into the claim or amendment, the officer may at the same or any subsequent time by notice in writing require the claimant, within such time (which shall not be less than 30 days) as may be specified in the notice–

(a) to produce to the officer such documents as are in the claimant's possession or power and as the officer may reasonably require for the purpose of determining whether and, if so, the extent to which the claim or amendment is incorrect, and
(b) to furnish the officer with such accounts or particulars as he may reasonably require for that purpose.

6(3A) 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) the officer 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.

6(3B) The officer may take copies of, or make extracts from, any document produced to him under this paragraph.

6(3C) A notice under this paragraph does not oblige the claimant to produce documents or provide accounts or information relating to the conduct of any pending appeal by the claimant.

6(4) Where this paragraph applies in relation to a partnership claim, any reference in this paragraph to the claimant includes a reference to any predecessor or successor of his.

History – Para. 6(3A), (3B) and (3C) substituted for para. 6(3) by FA 1998, s. 117(3) and Sch. 19, para. 42(6) with effect in relation to company accounting periods ending on or after 1 July 1999, the day appointed for the purposes of self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

APPEAL AGAINST NOTICE TO PRODUCE DOCUMENTS, ETC.

6A(1) An appeal may be brought against a requirement imposed by a notice under paragraph 6 to produce documents or provide accounts or information.

6A(2) Notice of appeal must be given–

(a) in writing,
(b) within 30 days after the notice was given to the claimant,
(c) to the officer of the Board by whom that notice was given.

6A(3) 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 accounts or 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 accounts or information, which appear to them are reasonably required for the purposes of the enquiry.

6A(4) 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.

6A(5) The decision of the Commissioners on an appeal under this paragraph is final and conclusive.

History – Para. 6A inserted by FA 1998, Sch. 19, para. 42(7) as respects company accounting periods ending on or after 1 July 1999, the day appointed for the purposes of self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

COMPLETION OF ENQUIRY INTO CLAIM

7(1) An enquiry under paragraph 5 above is completed when an officer of the Board by notice (a **"closure notice"**) informs the claimant that he has completed his enquiries and states his conclusions.

7(2) In the case of a claim for discharge or repayment of tax, the closure notice must either–

(a) state that in the officer's opinion no amendment of the claim is required, or
(b) if in the officer's opinion the claim is insufficient or excessive, amend the claim so as to make good or eliminate the deficiency or excess.

In the case of an enquiry falling within paragraph 5(1)(b) above, paragraph (b) above only applies so far as the deficiency or excess is attributable to the claimant's amendment.

7(3) In the case of a claim that is not a claim for discharge or repayment of tax, the closure notice must either–

(a) allow the claim, or
(b) disallow the claim, wholly or to such extent as appears to the officer appropriate.

7(4) A closure notice takes effect when it is issued.

7(5) The claimant may apply to the Commissioners for a direction requiring an officer of the Board to issue a closure notice within a specified period.

7(6) Any such application shall be heard and determined in the same way as an appeal.

7(7) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that there are reasonable grounds for not issuing a closure notice within a specified period.

7(8) In relation to a partnership claim, references in this paragraph to the claimant are to the person who made the claim or his successor.

History – Para. 7 and the heading which precedes it substituted by FA 2001, s. 88 and Sch. 29, para. 10(2) with effect where the notice of enquiry is given after 11 May 2001, or where the enquiry is in progress immediately before that date (for these purposes, an "enquiry is in progress" until the officer's enquiries fall to be treated as completed under former para. 7(4) prior to substitution). For the purposes of these commencement provisions and where the substituted provisions continue to apply prior to commencement, the former wording of para. 7 and the preceding heading is reproduced below:

"AMENDMENTS OF CLAIMS WHERE ENQUIRIES MADE

7(1) This paragraph applies where an officer of the Board gives notice under paragraph 5(1) above to any person (**the claimant**) of his intention to enquire into–
(a) a claim made by the claimant, or
(b) any amendment made by the claimant of such a claim.

7(2) At any time in the period of 30 days beginning with the day on which the officer's enquiries are completed, the claimant may so amend his claim–
(a) as to eliminate or make good any excess or deficiency which, on the basis of the conclusions stated in the officer's notice under sub-paragraph (4) below, is an excess or deficiency which could be made good or eliminated under sub-paragraph (3) below; or
(b) as to give effect to any amendments to the claim which he has notified to the officer.

7(3) If, at any time in the period of 30 days beginning immediately after the period mentioned in sub-paragraph (2) above, the officer is of opinion that–
(a) the claimant's claim is excessive or insufficient, and
(b) in a case falling within sub-paragraph (1)(b) above, the excess or deficiency is attributable (wholly or partly) to the claimant's amendment,

the officer may by notice to the claimant so amend the claim as to eliminate or make good the excess or deficiency or, where paragraph (b) above applies, so much of the excess or deficiency as is so attributable.

7(3A) If, in the case of a claim which is not a claim for discharge or repayment of tax–

(a) the officer is of opinion that the claim should be disallowed in whole or in part, and
(b) the claim, so far as the officer thinks it should be disallowed, is not, before the end of the period mentioned in sub-paragraph (2) above, amended to the officer's satisfaction or withdrawn,

the officer shall, before the end of the period mentioned in sub-paragraph (3) above, give notice to the taxpayer of the extent to which he is disallowing the claim.

7(3B) Sub-paragraph (3A)(b) above is without prejudice to any provision by virtue of which any claim is irrevocable or unamendable.

7(4) Subject to sub-paragraph (5) below, the officer's enquiries shall be treated as completed at such time as he by notice–
(a) informs the claimant that he has completed his enquiries, and
(b) states his conclusions as to whether the claim should be allowed in whole or in part and as to what amount (if any) should be the amount of the claimant's claim.

7(5) Subsections (6) and (7) of section 28A of this Act apply for the purposes of sub-paragraph (4) above as they apply for the purposes of subsection (5) of that section.

7(6) Where this paragraph applies in relation to a partnership claim, any reference in this paragraph to the claimant includes a reference to any predecessor or successor of his."

Former para. 7(3A), (3B) inserted, and in former para. 7(4)(b) the words "whether the claim . . . what amount (if any)" substituted for "the amount which" by FA 1996, s. 133 and Sch. 19, para. 9, for the purposes of income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, as respects accounting periods ending on or after 1 July 1999, the day appointed for the purposes of self-assessment by virtue of FA 1994, s. 199 and SI 1998/3173 (C. 78).

Cross references – Para. 9: appeals against amendments under para. 7.
FA 2001, Sch. 29, para. 12(8): application of para. 9 (as amended by FA 2001) to closure notices issued under the substituted version of para. 7.

GIVING EFFECT TO SUCH AMENDMENTS

8(1) An officer of the Board or the Board shall, within 30 days after the date of issue of a closure notice amending a claim other than a partnership claim under paragraph 7(2) above, give effect to the amendment by making such adjustment as may be necessary, whether–

(a) by way of assessment on the claimant, or
(b) by discharge of tax or, on proof to the satisfaction of the officer or the Board that any tax has been paid by the claimant by deduction or otherwise, by repayment of tax.

8(2) An officer of the Board or the Board shall, within 30 days after the date of issue of a closure notice amending a partnership claim under paragraph 7(2) above, give effect to the amendment, as respects each of the relevant partners, by making such adjustment as may be necessary, whether–

(a) by way of assessment on the partner, or
(b) by discharge of tax or, on proof to the satisfaction of the officer or the Board that any tax has been paid by the partner by deduction or otherwise, by repayment of tax.

8(3) An assessment made under sub-paragraph (1) or (2) above shall not be out of time if it is made within the time mentioned in that sub-paragraph.

History – In para. 8(1), the words "after the date of issue of a closure notice amending a claim other than a partnership claim under paragraph 7(2)" substituted for the words "of a claim other than a partnership claim being amended under paragraph 7(2) or (3)" and, in 8(2), the words "after the date of issue of a closure notice amending a partnership claim under paragraph 7(2)" substituted for "of a [partnership] claim being amended under paragraph 7(2) or (3)", by FA 2001, s. 88, Sch. 29, para. 34(4) and (5) respectively, with effect from 11 May 2001 in relation to returns whether made before or after that date and whether relating to periods before or after then. (The amending legislation omits the word "partnership" from the text of the original words in para. 8(2) which are to be substituted, although it is clear that it is to be replaced along with the rest of the wording.)

APPEALS AGAINST SUCH AMENDMENTS

9(1) An appeal may be brought against–

(a) any conclusion stated or amendment made by a closure notice under paragraph 7(2) above, or
(b) any decision contained in a closure notice under paragraph 7(3) above.

9(1A) Notice of the appeal must be given–

(a) in writing,
(b) within 30 days after the date on which the closure notice was issued,
(c) to the officer of the Board by whom the closure notice was given.

9(2) Where, in the case of such an appeal, the issues arising include–

(a) any question arising under section 278 of the principal Act or section 56 or 460 of ITA 2007 (residence etc of claimants);
(b) any question of residence, ordinary residence or domicile; or
(c) the question whether a fund is one to which section 615(3) of the principal Act applies (pension funds for service abroad),

the time for bringing the appeal shall be three months from the date mentioned in sub-paragraph (1A)(b) above.

9(3) On an appeal against an amendment made by a closure notice under paragraph 7(2) above, the Commissioners may vary the amendment appealed against whether or not the variation is to the advantage of the appellant.

9(4) Where any such amendment is varied, whether by the Commissioners or by the order of any court, paragraph 8 above shall (with the necessary modifications) apply in relation to the variation as it applied in relation to the amendment.

9(5) If, on appeal, it appears to the Commissioners that a claim which was the subject of a decision contained in a closure notice under paragraph 7(3) above should have been allowed or disallowed to an extent different from that specified in the notice, the claim shall be allowed or disallowed accordingly to the extent that appears to them appropriate, but otherwise the decision in the notice shall stand good.

History – Para. 9(1) and (1A) substituted for former para. 9(1) by FA 2001, s. 88, Sch. 29, para. 12(2), with effect in relation to closure notices issued under para. 7 (as substituted by FA 2001, Sch. 29, para. 10).
Former para. 9(1) substituted by FA 1996, s. 133 and Sch. 19, para. 10, for the purposes of income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, as respects accounting periods ending on or after 1 July 1999, the day appointed for the purposes of self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173.
In para. 9(2)(a), the words "or section 56 or 460 of ITA 2007 (residence etc of claimants)" substituted for the words "(personal reliefs for non-residents)" by ITA 2007, s. 1027 and Sch. 1, para. 264(a), with effect from 6 April 2007.
In para. 9(2)(c), the words "of the principal Act" substituted for the words "of that Act" by ITA 2007, s. 1027 and Sch. 1, para. 264(b), with effect from 6 April 2007.
In para. 9(2), "(1A)(b)" substituted for "(1)" by FA 2001, s. 88, Sch. 29, para. 12(3), with effect in relation to closure notices issued under para. 7 (as substituted by FA 2001, Sch. 29, para. 10).
Previously, in para. 9(2), the words "date mentioned in sub-paragraph (1) above" substituted for "making of the amendment under paragraph 7(3) above" by FA 1996, s. 133 and Sch. 19, para. 10, for the purposes of income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, as respects accounting periods ending on or after 1 July 1999 (see note further above).
In para. 9(3) the words "amendment made by a closure notice under paragraph 7(2) above" substituted for the words "amendment under paragraph 7(3) above" by FA 2001, s. 88, Sch. 29, para. 12(4) , with effect in relation to closure notices issued under para. 7 (as substituted by FA 2001, Sch. 29, para. 10).
Previously, in para. 9(3), the words "against an amendment under paragraph 7(3) above" substituted for "under this paragraph" by FA 1996, s. 133 and Sch. 19, para. 10, for the purposes of income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, as respects accounting periods ending on or after 1 July 1999 (see note further above).
In para. 9(4) the words "any such amendment" substituted for the words "an amendment made under paragraph 7(3) above" by FA 2001, s. 88, Sch. 29, para. 12(5), with effect in relation to closure notices issued under para. 7 (as substituted by FA 2001, Sch. 29, para. 10).
In para. 9(5) the words "which was the subject of a decision contained in a closure notice under paragraph 7(3)" substituted for the words "specified in a notice under paragraph 7(3A)" by FA 2001, s. 88, Sch. 29, para. 12(6), with effect in relation to closure notices issued under para. 7 (as substituted by FA 2001, Sch. 29, para. 10).
Para. 9(5) originally inserted by FA 1996, s. 133 and Sch. 19, para. 10, for the purposes of income tax and capital gains tax, as respects the year 1996–97 and subsequent years of assessment, and for the purposes of corporation tax, as respects accounting periods ending on or after 1 July 1999 (see note further above).

10 An appeal against any conclusion stated or amendment made by a closure notice under paragraph 7(2) above relating to a claim made–

(a) to the Board,
(b) under Part XVI of the principal Act (administration of estates: corporation tax), or Chapter 6 of Part 5 of ITTOIA 2005 (administration of estates: income tax), or
(c) under any of the provisions of the principal Act listed in section 46C(3) of this Act,

shall be to the Special Commissioners.

History – In para. 10(b), the description of ICTA 1988, Pt. XVI amended to "administration of estates: corporation tax" and the reference to ITTOIA 2005, Pt. 5, Ch. 6 inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 381; effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).
In para. 10, the words "any conclusion stated or amendment made by a closure notice under paragraph 7(2) above relating to" substituted for "an amendment under paragraph 7(3) above of" by FA 2001, s. 88, Sch. 29, para. 12(7), with effect in relation to closure notices issued under para. 7 (as substituted by FA 2001, Sch. 29, para. 10).
Para. 10 originally inserted by FA 1996, s. 136 and Sch. 22, para. 9, with effect in relation to any proceedings relating to the year 1996-97 or any subsequent year of assessment and any proceedings relating to an accounting period ending on or after 1 July 1999, the day appointed by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

11(1) Subject to paragraph 10 above and the following provisions of this paragraph, an appeal under paragraph 9(1) above shall be to the General Commissioners.

11(2) The appellant may elect (in accordance with section 46(1) of this Act) to bring the appeal before the Special Commissioners.

11(3) Such an election shall be disregarded if–

(a) the appellant and the officer of the Board 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 (5) below and have not revoked it.

11(4) At any time before the determination of an appeal in respect of which an election has been made an officer of the Board after giving notice to the appellant may refer the election to the General Commissioners.

11(5) On any such reference the Commissioners shall, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, give a direction that the election be disregarded.

11(6) If, at any time 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.

11(7) Any decision to give or revoke such a direction shall be final.

11(8) If–

(a) a person bringing an appeal under paragraph 9(1) above has another appeal pending to either body of Commissioners concerning an assessment on him, and

(b) the appeals relate to the same source of income,

the appeal under paragraph 9(1) above shall be to the body of Commissioners before whom the appeal concerning the assessment is being brought.

11(9) This paragraph is subject to provision made by or under Part V of this Act.

History – Para. 11 inserted by FA 1996, s. 136 and Sch. 22, para. 9, with effect in relation to any proceedings relating to the year 1996–97 or any subsequent year of assessment and any proceedings relating to an accounting period ending on or after 1 July 1999, the appointed day under FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

SCHEDULE 1B – CLAIMS FOR RELIEF INVOLVING TWO OR MORE YEARS

Section 42

History – Sch. 1B inserted by FA 1996, s. 128 and Sch. 17, with effect as respects claims made (or deemed to be made) in relation to the year 1996–97 or later years of assessment.

Cross references – ICTA 1988, Sch. 4A (creative artists relief for fluctuating profits): two or more claims made by the same person are associated if each of them are a claim under TMA 1970, Sch. 1B or a claim under Sch. 4A. See para. 1 below.

HMRC interpretations – IRInt. 211: HMRC's view on ability to make claims for an earlier year when, under self-assessment, a carry back claim is treated as a claim for the year in which the event occurs, not that to which the carry back is made (under TMA 1970, Sch. 1B) and the earlier year is not, as a consequence, reopened.

PRELIMINARY

1(1) In this Schedule–

(a) any reference to a claim includes a reference to an election or notice; and

(b) any reference to the amount in which a person is chargeable to tax is a reference to the amount in which he is so chargeable after taking into account any relief or allowance for which a claim is made.

1(2) For the purposes of this Schedule, two or more claims made by the same person are associated with each other if each of them is a claim to which this Schedule applies and the same year of assessment is the earlier year in relation to each of those claims.

1(3) In sub-paragraph (2) above, any reference to claims includes a reference to amendments and revocations to which paragraph 4 below applies.

History – In para. 1(2), the words "is a claim to which this Schedule applies and the same" substituted for the former wording by ITTOIA 2005, s. 882(1) and Sch. 1, para. 382(1)(a); effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
In para. 1(3), the words "includes a reference to amendments and revocations to which paragraph 4 below applies." substituted for the former wording by ITTOIA 2005, s. 882(1) and Sch. 1, para. 382(1)(b); effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
Para. 1(2) and (3) substituted by FA 2001, s. 71, Sch. 24, para. 3(1) for the year 2000–01 and subsequent years of assessment.

LOSS RELIEF

2(1) This paragraph applies where a person makes a claim requiring relief for a loss incurred or treated as incurred, or a payment made, in one year of assessment (**"the later year"**) to be given in an earlier year of assessment (**"the earlier year"**).

2(2) Section 42(2) of this Act shall not apply in relation to the claim.

2(3) The claim shall relate to the later year.

2(4) Subject to sub-paragraph (5) below, the claim shall be for an amount equal to the difference between–

(a) the amount in which the person is chargeable to tax for the earlier year (**"amount A"**); and
(b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim in relation to that year (**"amount B"**).

2(5) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.

2(6) Effect shall be given to the claim in relation to the later year, whether by repayment or set-off, or by an increase in the aggregate amount given by section 59B(1)(b) of this Act, or otherwise.

2(7) For the purposes of this paragraph, any deduction made under section 62(2) of the 1992 Act (death: general provisions) in respect of an allowable loss shall be deemed to be made in pursuance of a claim requiring relief to be given in respect of that loss.

Cross references – ICTA 1988, s. 824(2C) (repayment supplement): application of ICTA 1988, s. 824(1) to repayment resulting from claim under para. 2.

RELIEF FOR FLUCTUATING PROFITS OF FARMING ETC.

3(1) This paragraph applies where a person who is or has been carrying on a qualifying trade, profession or vocation (within the meaning of Chapter 16 of Part 2 of ITTOIA 2005) claims that Chapter 16 of Part 2 of ITTOIA 2005 shall have effect in relation to his profits from that trade, profession or vocation for two consecutive years of assessment (**"the earlier year"** and **"the later year"**).

3(2) The claim shall relate to the later year.

3(3) Subject to sub-paragraph (4) below, in so far as the claim relates to the profits of the earlier year, the claim shall be for an amount equal to the difference between–

(a) the amount in which the person is chargeable to tax for the earlier year (**"amount A"**); and
(b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim in relation to that year (**"amount B"**).

3(4) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.

3(5) In so far as the claim relates to the profits of the earlier year, effect shall be given to the claim in relation to the later year by an increase in the amount of tax payable or, as the case may require, in the aggregate amount given by section 59B(1)(b) of this Act.

3(6) Where this paragraph applies twice in relation to the same year of assessment, the increase or reduction in the amount of tax payable for that year which is required by sub-paragraph (5) above on the earlier application shall be disregarded in determining amounts A and B above for the purposes of the later application.

History – In para. 3(1), the words "a qualifying trade, profession or vocation (within the meaning of Chapter 16 of Part 2 of ITTOIA 2005) claims that Chapter 16 of Part 2 of ITTOIA 2005" substituted for the former words by ITTOIA 2005, s. 882(1) and Sch. 1, para. 382(3)(a); effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)); and the words "profession or vocation" inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 382(3)(b); effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).

Cross references – ICTA 1988, s. 824(2C) (repayment supplement): application of ICTA 1988, s. 824(1) to repayment resulting from claim under para. 3.

RELIEF CLAIMED BY VIRTUE OF SECTION 224(4) OF ITTOIA 2005

History – In the heading, the reference to ITTOIA 2005, s. 224(4) substituted for the former reference by ITTOIA 2005, s. 882(1) and Sch. 1, para. 382(5); effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).

4(1) This paragraph applies where–

(a) a person who claims that Chapter 16 of Part 2 of ITTOIA 2005 shall have effect for two consecutive years of assessment (**"the earlier year"** and **"the later year"**) makes or amends a claim for relief under any other provision of the Income Tax Acts for either of those years; and
(b) the making or amendment of the claim would be out of time but for section 224(4) of that Act.

4(2) The claim or amendment shall relate to the later year.

4(3) Subject to sub-paragraph (4) below, in so far as the claim or amendment relates to income of the earlier year, the amount claimed, or (as the case may be) the increase or reduction in the amount claimed, shall be equal to the difference between–

(a) the amount in which the person is chargeable to tax for the earlier year (**"amount A"**); and
(b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim or amendment in relation to that year (**"amount B"**).

4(4) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.

4(5) In so far as the claim or amendment relates to income of the earlier year, effect shall be given to the claim or amendment in relation to the later year by an increase in the amount of tax payable or, as the case may require, in the aggregate amount given by section 59B(1)(b) of this Act.

4(6) In this paragraph **"amend"** includes revoke and **"amendment"** shall be construed accordingly.

History – In para. 4(1)(a), the words "claims that Chapter 16 of Part 2 of ITTOIA 2005" substituted for the former wording by ITTOIA 2005, s. 882(1) and Sch. 1, para. 382(4)(a); effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
In para. 4(1)(b), the words "section 224(4) of that Act" substituted for the former wording by ITTOIA 2005, s. 882(1) and Sch. 1, para. 382(4)(b); effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).

CARRY-BACK OF POST-CESSATION ETC. RECEIPTS

5(1) This paragraph applies where a person who has received a sum to which section 257 of ITTOIA 2005 applies (election for carry-back) makes an election under that section requiring tax to he charged as if the sum were received on the date of cessation; and in this paragraph–

"the earlier year" means the year in which the sum is treated as received;
"the later year" means the year in which the sum is received.

5(2) The claim shall relate to the later year.

5(3) Subject to sub-paragraph (4) below, the claim shall be for an amount equal to the difference between–

(a) the amount in which the person is chargeable to tax for the earlier year (**"amount A"**); and
(b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim in relation to that year (**"amount B"**).

5(4) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.

5(5) In computing amount B for the purposes of this paragraph, no further deduction or relief shall be made or given in respect of any loss or allowance deducted in pursuance of section 254 of ITTOIA 2005.

5(6) Effect shall be given to the claim in relation to the later year by an increase in the amount of tax payable.

History – In para. 5(1), the reference to ITTOIA 2005, s. 254 substituted for the former reference to ICTA 1988, s. 108 and the words "the date of the cessation" substituted for the previous wording by ITTOIA 2005, s. 882(1) and Sch. 1, para. 382(6)(a); effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
In para. 5(5), the reference to ITTOIA 2005, s. 254 substituted for the former reference to ICTA 1988, s. 105 by ITTOIA 2005, s. 882(1) and Sch. 1, para. 382(6)(b); effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).

BACKWARD SPREADING OF CERTAIN PAYMENTS

6 [Repealed by FA 2001, s. 110, Sch. 33, Pt. 2(6).]

History – Para. 6 repealed by FA 2001, s. 110, Sch. 33, Pt. 2(6) with effect in relation to payments actually receivable on or after 6 April 2001.

SCHEDULE 2 – JURISDICTION IN APPEALS ON CLAIMS

Section 42

[Repealed by FA 1996, s. 136 and Sch. 22, para. 6]

History – Sch. 2 repealed by FA 1996, s. 136 and Sch. 22, para. 6, s. 205 and Sch. 41, Pt. V(12), with effect in relation to any proceedings relating to the year 1996–97 or any subsequent year of assessment, and any proceedings relating to an accounting

period ending on or after 1 July 1999, the appointed day for the purposes of corporation tax self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

SCHEDULE 3 – RULES FOR ASSIGNING PROCEEDINGS TO GENERAL COMMISSIONERS

Section 44

History – Sch. 3 substituted by FA 1996, s. 136 and Sch. 22, with effect in relation to any proceedings relating to the year 1996–97 or any subsequent year of assessment, and any proceedings relating to an accounting period ending on or after 1 July 1999, the appointed day for the purposes of corporation tax self-assessment by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78)).

Cross references – SSCTFA 1999, s. 13(2)(a)(i): power of the Board, with the concurrence of the Lord Chancellor and the Lord Advocate, to make regulations making provision with respect to appeals on contributions matters, including any of the matters dealt with in Sch. 3.

INTRODUCTORY

1 In this Schedule–

"the relevant place" means the place referred to in section 44(1) of this Act, which is used to identify the General Commissioners before whom proceedings are to be brought; and

"the taxpayer", in relation to any proceedings, means the party to the proceedings who is neither the Board nor an officer of the Board.

Cross references – FA 2004, s. 156(4): para. 1 to apply to appeals against the Revenue's refusal to register a pension fund under FA 2004, Pt. 4 Ch. 2, but subject to modifications specified in an order to be made by the Board.
FA 2004, s. 159(4): para. 1 to apply to appeals against the Revenue's decision to de-register a pension scheme under FA 2004, s. 157, but subject to modifications specified in an order to be made by the Board.
FA 2004, s. 170(4) (from 6 April 2006): para. 1 to apply to appeals against the Revenue's decision to exclude recognised overseas pension schemes from being qualifying recognised overseas pension schemes under FA 2004, s. 169(5), but subject to modifications specified in an order to be made by the Board.
FA 2004, s. 253(4) (from 6 April 2006): para. 1 to apply to appeals against notices under FA 2004, s. 252 to produce documents or particulars relating to a registered pension scheme, but subject to modifications specified in an order to be made by the Board.
FA 2004, s. 269(4) (from 6 April 2006): para. 1 to apply to appeals against the Revenue's refusal of an application under FA 2004, s. 267(2) or s. 268 for the discharge of a pension scheme's liability.
FA 2004, Sch. 33, para. 6(4) (from 6 April 2006): para. 1 to apply to appeals against the Revenue's decision to exclude overseas pension schemes from being qualifying overseas pension schemes under FA 2004, Sch. 33, para. 5(3), but subject to modifications specified in an order to be made by the Board.

GENERAL RULE FOR INCOME TAX AND CAPITAL GAINS TAX PROCEEDINGS

2(1) In the case of any proceedings relating to income tax or capital gains tax the relevant place is whichever of the places specified in sub-paragraph (2) below is identified–

(a) except where the proceedings are commenced by an officer of the Board, by an election made by the taxpayer; and

(b) where the proceedings are so commenced, by an election made by the officer.

2(2) Those places are–

(a) the place (if any) in the United Kingdom which, at the time when the election is made, is the taxpayer's place of residence;

(b) the place (if any) which at that time is the taxpayer's place of business in the United Kingdom;

(c) the place (if any) in the United Kingdom which at that time is the taxpayer's place of employment;

and, in the case of a place of employment, it shall be immaterial for the purposes of this paragraph whether the proceedings in question relate to matters connected with the employment of the taxpayer.

2(3) Where the taxpayer fails to make an election for the purposes of this paragraph before the time limit given by paragraph 5 below, an officer of the Board may elect which of the places specified in sub-paragraph (2) above is to be the relevant place.

2(4) In sub-paragraph (2)(a) above **"place of residence"** means–

(a) in relation to an election made by the taxpayer, his usual place of residence; and

(b) in relation to an election made by an officer of the Board, the taxpayer's usual place of residence or, if that is unknown, his last known place of residence.

2(5) In sub-paragraph (2)(b) above **"place of business"** means–

(a) the place where the trade, profession, vocation or business with which the proceedings are concerned is carried on, or

(b) if the trade, profession, vocation or business is carried on at more than one place, the head office or place where it is mainly carried on.

2(6) This paragraph does not apply in the case of any proceedings to which paragraph 3, 4 or 7 below applies.

Cross references – FA 2004, s. 156(4): para. 2 to apply to appeals against the Revenue's refusal to register a pension fund under FA 2004, Pt. 4 Ch. 2, but subject to modifications specified in an order to be made by the Board.
FA 2004, s. 159(4): para. 2 to apply to appeals against the Revenue's decision to de-register a pension scheme under FA 2004, s. 157, but subject to modifications specified in an order to be made by the Board.
FA 2004, s. 170(4) (from 6 April 2006): para. 2 to apply to appeals against the Revenue's decision to exclude recognised overseas pension schemes from being qualifying recognised overseas pension schemes under FA 2004, s. 169(5), but subject to modifications specified in an order to be made by the Board.
FA 2004, s. 253(4) (from 6 April 2006): para. 2 to apply to appeals against notices under FA 2004, s. 252 to produce documents or particulars relating to a registered pension scheme, but subject to modifications specified in an order to be made by the Board.
FA 2004, s. 269(4) (from 6 April 2006): para. 2 to apply to appeals against the Revenue's refusal of an application under FA 2004, s. 267(2) or s. 268 for the discharge of a pension scheme's liability.
FA 2004, Sch. 33, para. 6(4) (from 6 April 2006): para. 2 to apply to appeals against the Revenue's decision to exclude overseas pension schemes from being qualifying overseas pension schemes under FA 2004 Sch. 33, para. 5(3), but subject to modifications specified in an order to be made by the Board.
SI 2005/3457, art. 2: modification of para. 2(2), specifying additional places within the UK, where functions are carried out in respect of pension schemes, to confer jurisdiction on General Commissioners, with effect from 6 April 2006.

PAYE APPEALS

3(1) In the case of an appeal in exercise of a right of appeal conferred by PAYE regulations, the relevant place is–

(a) except in a case falling in sub-paragraph (b) below, the place determined by the regulations, and

(b) if the appellant elects for one of the places specified in paragraph 2(2) above to be the relevant place instead, the place identified by the election.

3(2) This paragraph does not apply in the case of any proceedings to which paragraph 4 or 7 below applies.

History – In para. 3, the words "PAYE regulations" substituted for the words "regulations under section 203 of the principal Act" by ITEPA 2003, Sch. 3, para. 3 which has effect for the tax year 2003–04 and subsequent tax years.

Cross references – SI 2001/1004, reg. 90Q: definition of "relevant place" for appeals against National Insurance default notices (reg. 90J) or surcharges (reg. 90L(4)).
SI 2003/2495, reg. 6: definition of "relevant place" for appeals concerning PAYE filing incentives.
SI 2003/2682, reg. 18(5): application of para. 3 to appeals against PAYE codings.
SI 2003/2682, reg. 80(6): application of para. 3 to appeals by employers against determinations of unpaid tax due under the PAYE regulations.
SI 2003/2682, reg. 110(5): application of para. 3 to appeals against determinations of liabilities under a PAYE Settlement Agreement.
SI 2003/2682, reg. 127(4): application of para. 3 to appeals relating to the deduction of tax from reservists' pay.
SI 2003/2682, reg. 217(3): definition of "relevant place" for certain appeals.

CORPORATION TAX ETC.

4(1) In the case of the proceedings mentioned in sub-paragraph (2) below the relevant place is whichever of the places specified in sub-paragraph (3) below is identified–

(a) except where the proceedings are commenced by an officer of the Board, by an election made by the company or other body corporate which is a party to the proceedings ("the corporate taxpayer"); and

(b) Where the proceedings are so commenced, by an election made by the officer.

4(2) The proceedings are–

(a) proceedings relating to corporation tax;

(b) proceedings relating to income tax which are proceedings to which a company resident in the United Kingdom and within the charge to corporation tax is a party;

(c) proceedings relating to tax assessable under sections 419 and 420 of the principal Act (close company loans).

4(3) The places are–

(a) the place where, at the time when the election is made, the corporate taxpayer carries on its trade or business;

(b) the place where, at that time, the head office or principal place of business of the corporate taxpayer is situated;

(c) the place where, at that time, the corporate taxpayer resides.

4(4) Where the corporate taxpayer fails to make an election for the purposes of this paragraph before the time limit given by paragraph 5 below, an officer of the Board may elect which of the places specified in sub-paragraph (3) above is to be the relevant place.

4(5) This paragraph does not apply in the case of any proceedings to which paragraph 7 below applies.

PROCEDURE FOR MAKING ELECTIONS, ETC.

5(1) An election by a taxpayer for the purposes of this Schedule shall be made by notice in writing to an officer of the Board.

5(2) The time limit for the making of such an election in relation to proceedings is–

(a) the time when the taxpayer gives notice of appeal or, if the proceedings are not an appeal, otherwise commences the proceedings; or

(b) such later date as the Board allows.

5(3) Such an election shall be irrevocable.

6 An election by an officer of the Board for the purposes of this Schedule shall be made by notice in writing served on the taxpayer.

PARTNERSHIPS

7 In the case of proceedings relating to a partnership to which a partner of that partnership is a party, the relevant place is–

(a) the place where the trade, profession or business of the partnership is carried on, or

(b) if the trade, profession or business is carried on at more than one place, the place where it is mainly carried on.

DIRECTIONS BY THE BOARD

8(1) The Board may give a direction in relation to any class of proceedings specified in the direction that, notwithstanding the preceding provisions of this Schedule, the relevant place shall be taken to be a place in a division specified in the direction.

8(2) A direction given under this paragraph shall not have effect in relation to any proceedings unless an officer of the Board has served on the taxpayer a notice in writing stating the effect of the direction in relation to those proceedings.

8(3) A direction given under this paragraph shall not have effect if the taxpayer gives a notice in accordance with sub-paragraph (4) below objecting to the direction.

8(4) The taxpayer gives a notice in accordance with this sub-paragraph if he gives it in writing to the Board within the period of 30 days beginning with the day on which the notice under sub-paragraph (2) above was served on him.

Cross references – FA 2004, s. 156(4): para. 8 to apply to appeals against the Revenue's refusal to register a pension fund under FA 2004, Pt. 4 Ch. 2, but subject to modifications specified in an order to be made by the Board.
FA 2004, s. 159(4): para. 8 to apply to appeals against the Revenue's decision to de-register a pension scheme under FA 2004, s. 157, but subject to modifications specified in an order to be made by the Board.
FA 2004, s. 170(4) (from 6 April 2006): para. 8 to apply to appeals against the Revenue's decision to exclude recognised overseas pension schemes from being qualifying recognised overseas pension schemes under FA 2004 s. 169(5), but subject to modifications specified in an order to be made by the Board.
FA 2004, s. 253(4) (from 6 April 2006): para. 8 to apply to appeals against notices under FA 2004, s. 252 to produce documents or particulars relating to a registered pension scheme, but subject to modifications specified in an order to be made by the Board.
FA 2004, s. 269(4) (from 6 April 2006): para. 8 to apply to appeals against the Revenue's refusal of an application under FA 2004, s. 267(2) or s. 268 for the discharge of a pension scheme's liability.
FA 2004, Sch. 33, para. 6(4) (from 6 April 2006): para. 8 to apply to appeals against the Revenue's decision to exclude overseas pension schemes from being qualifying overseas pension schemes under FA 2004 Sch. 33, para. 5(3), but subject to modifications specified in an order to be made by the Board.

9(1) The Board may give directions for determining the relevant place in cases where–

(a) the proceedings fall within paragraph 2, 4 or 7 above, but there is no place falling within paragraph 2(2), 4(3) or, as the case may be, paragraph 7; or

(b) the relevant place would, apart from the direction, be a place outside the United Kingdom.

9(2) A direction given under this paragraph by the Board shall not have effect in relation to any proceedings unless an officer of the Board has served on the taxpayer a notice in writing stating the effect of the direction in relation to those proceedings.

9(3) A direction under sub-paragraph (1) above may be given in relation to–

(a) proceedings falling within that sub-paragraph;

(b) any class of such proceedings specified in the direction; or

(c) proceedings specified in the direction.

Cross references – FA 2004, s. 156(4): para. 9 to apply to appeals against the Revenue's refusal to register a pension fund under FA 2004, Pt. 4 Ch. 2, but subject to modifications specified in an order to be made by the Board.

FA 2004, s. 159(4): para. 9 to apply to appeals against the Revenue's decision to de-register a pension scheme under FA 2004, s. 157, but subject to modifications specified in an order to be made by the Board.

FA 2004, s. 170(4) (from 6 April 2006): para. 9 to apply to appeals against the Revenue's decision to exclude recognised overseas pension schemes from being qualifying recognised overseas pension schemes under FA 2004 s. 169(5), but subject to modifications specified in an order to be made by the Board.

FA 2004, s. 253(4) (from 6 April 2006): para. 9 to apply to appeals against notices under FA 2004, s. 252 to produce documents or particulars relating to a registered pension scheme, but subject to modifications specified in an order to be made by the Board.

FA 2004, s. 269(4) (from 6 April 2006): para. 9 to apply to appeals against the Revenue's refusal of an application under FA 2004, s. 267(2) or s. 268 for the discharge of a pension scheme's liability.

FA 2004, Sch. 33, para. 6(4) (from 6 April 2006): para. 9 to apply to appeals against the Revenue's decision to exclude overseas pension schemes from being qualifying overseas pension schemes under FA 2004 Sch. 33, para. 5(3), but subject to modifications specified in an order to be made by the Board.

OTHER PROVISIONS

10 The provisions of this Schedule have effect subject to sections 44(2), 46A and 57 of this Act, sections 102(1), 113(5), 343(10) and 783(9) of the principal Act, section 186 of ITTOIA 2005 and section 563 of the Capital Allowances Act.

History – In para. 10 the reference to ITTOIA 2005, s. 186 inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 383; effective for income tax purposes for 2005–06 onwards and for corporation tax purposes for accounting periods ending after 5 April 2005 (ITTOIA 2005, s. 883(1)).

In para. 10 the words "section 563 of the Capital Allowances Act" substituted for "section 151 of the Capital Allowances Act 1990" by CAA 2001, s. 578 and Sch. 2, para 5 with effect as respects allowances and charges falling to be made for chargeable periods ending, for income tax purposes, on or after 6 April 2001, and for corporation tax purposes, on or after 1 April 2001. Under CAA 2001, Sch. 3, para. 8, where a person is affected by a change in the law brought into effect by CAA 2001, they may elect for the pre-consolidation law to apply for the chargeable period straddling the commencement of CAA 2001.

SCHEDULE 3ZA – DATE BY WHICH PAYMENT TO BE MADE AFTER AMENDMENT OR CORRECTION OF SELF-ASSESSMENT

History – Sch. 3ZA inserted by FA 2001, s. 88, Sch. 29, para. 15 with application where the "relevant day" is, or is after, 11 May 2001 (the "relevant day" being the first day of the period of 30 days specified in the relevant provision of Sch. 3ZA – i.e. the period beginning with the day on which the appropriate notice was given).

Cross references – FA 2001, s. 88, Sch. 29, para. 16(2): definition of "relevant day" for commencement of application of Sch. 3ZA.

GENERAL

1(1) This Schedule specifies the day by which tax has to be paid (or repaid) following the amendment or correction of a self-assessment.

1(2) If in any case the general rules in section 59B(3) and (4) of this Act give a later day, those rules apply instead.

1(3) The provisions of this Schedule have effect subject to section 55(6) and (9) of this Act (provisions as to postponement of payment, etc. in case of appeal).

AMENDMENT OF PERSONAL OR TRUSTEE RETURN BY THE TAXPAYER

2(1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 9ZA of this Act (amendment of personal or trustee return by taxpayer).

2(2) Subject to sub-paragraph (3) below, the amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice of amendment was given.

2(3) If section 9B(3) of this Act applies (amendment of self-assessment by taxpayer during enquiry: deferral of effect), then–

(a) if the amendment is taken into account as mentioned in paragraph (a)(i) of that subsection, paragraph 5 below (amendment of personal or trustee return by closure notice) applies accordingly; and

(b) if the amendment takes effect under paragraph (b) of that subsection on the issue of the closure notice, the amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the closure notice was given.

CORRECTION OF PERSONAL OR TRUSTEE RETURN BY REVENUE

3(1) This paragraph applies where an amount of tax is payable or repayable as a result of the correction of a self-assessment under section 9ZB of this Act (correction of personal or trustee return by the Revenue).

3(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice of correction was given.

AMENDMENT OF PERSONAL OR TRUSTEE RETURN TO PREVENT LOSS OF TAX

4(1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 9C of this Act (amendment of personal or trustee return by Revenue to prevent loss of tax).

4(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice of amendment was given.

AMENDMENT OF PERSONAL OR TRUSTEE RETURN BY CLOSURE NOTICE

5(1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 28A of this Act (amendment of personal or trustee return by closure notice following enquiry).

5(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the closure notice was given.

AMENDMENT CONSEQUENTIAL ON AMENDMENT OF PARTNERSHIP RETURN BY TAXPAYER

6(1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 12ABA(3)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return amended by taxpayer).

6(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 12ABA(3)(a) of this Act was given.

AMENDMENT CONSEQUENTIAL ON CORRECTION OF PARTNERSHIP RETURN BY REVENUE

7(1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 12ABB(6)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return corrected by Revenue).

7(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 12ABB(6)(a) of this Act was given.

AMENDMENT CONSEQUENTIAL ON AMENDMENT OF PARTNERSHIP RETURN BY CLOSURE NOTICE

8(1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 28B(4)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return amended by closure notice).

8(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 28B(4)(a) of this Act was given.

AMENDMENT CONSEQUENTIAL ON AMENDMENT OF PARTNERSHIP RETURN TO PREVENT LOSS OF TAX

9(1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 30B(2)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return amended by Revenue to prevent loss of tax).

9(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 30B(2)(a) of this Act was given.

AMENDMENT CONSEQUENTIAL ON AMENDMENT OF PARTNERSHIP RETURN BY WAY OF ERROR OR MISTAKE RELIEF

10(1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 33A(4)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return amended by Revenue to afford relief in case of error or mistake).

10(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 33A(4)(a) of this Act was given.

AMENDMENT CONSEQUENTIAL ON REDUCTION OR INCREASE ON APPEAL OF AMOUNTS STATED IN PARTNERSHIP STATEMENT

11(1) This paragraph applies where an amount of tax is payable or repayable as a result of the amendment of a self-assessment under section 50(9)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership statement amended by Revenue following decision on appeal).

11(2) The amount is payable (or repayable) on or before the day following the end of the period of 30 days beginning with the day on which the notice under section 50(9)(a) of this Act was given.

SCHEDULE 3A – ELECTRONIC LODGEMENT OF TAX RETURNS, ETC.

Section 115A

Prospective amendments – Sch. 3A repealed by FA 1999, s. 133(3), 139 and Sch. 20, Pt. VII, with effect from a date or dates to be appointed under FA 1999, s. 133(4).

History – Sch. 3A inserted by FA 1995, s. 153 and Sch. 28, para. 2.

Statements of practice – SP 1/97: the electronic lodgment service.

Other material – HMRC Press Release 26 September 2005; electronic lodgement service withdrawn from 31 March 2006.

Part I – Tax Returns: General

THE BASIC RULE

1(1) Sub-paragraph (2) below applies where a person is–

(a) required by a notice to which this Schedule applies, or

(b) subject to any other requirement to which this Schedule applies,

to deliver or make a return to an officer of the Board or to the Board.

1(2) The requirement to deliver or make the return shall be treated as fulfilled by the person subject to the requirement if–

(a) information is transmitted electronically in response to that requirement; and

(b) each of the conditions in Part III of this Schedule is met with respect to that transmission.

1(3) Sub-paragraphs (4) and (5) below apply where the requirement to deliver or make the return is fulfilled by virtue of sub-paragraph (2) above.

1(4) Any requirement–

(a) under any provision of Part II of this Act or Schedule 18 to the Finance Act 1998, that the return include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct or complete, or–

(b) under or by virtue of any other provision of the Taxes Acts that the return be signed or include any description of declaration or certificate,

shall not apply.

1(5) The time at which the requirement to deliver or make the return is fulfilled is the end of the day during which the last of the conditions in Part III of this Schedule to be met with respect to the transmission is met.

1(6) In sub-paragraph (2)(a) above **"information"** includes any self-assessment, partnership statement, particulars or claim.

History – Paragraph 1(4)(a) amended by inserting the words "or Schedule 18 to the Finance Act 1998", by FA 1998, s. 117(3) and Sch. 19, para. 43(2) with effect in relation to company accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

RETURNS TO WHICH SCHEDULE APPLIES

2(1) This Schedule applies to a notice requiring a return to be delivered or made if–

(a) the notice is given under any provision of the Taxes Acts or of regulations made under the Taxes Acts;
(b) the provision is specified for the purposes of this Schedule by an order made by the Treasury; and
(c) the notice is given after the day appointed by the order in relation to notices under the provision so specified.

2(2) This Schedule applies to any other requirement to deliver or make a return if–

(a) the requirement is imposed by any provision of the Taxes Acts or of regulations made under the Taxes Acts;
(b) the provision is specified for the purposes of this Schedule by an order made by the Treasury; and
(c) the requirement is required to be fulfilled within a period beginning after the day appointed by the order in relation to the specified provision.

2(3) The power to make an order under this paragraph shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

2(4) For the purposes of this Schedule, any reference to a requirement to deliver a return includes, in relation to regulations made under the principal Act or under ITEPA 2003 or ITTOIA 2005, a reference to a requirement to render a return.

History – In para. 2(4), the reference to ITTOIA 2005 inserted by ITTOIA 2005, s. 882(1) and Sch. 1, para. 384; effective for income tax purposes for 2005–06 onwards (ITTOIA 2005, s. 883(1)).
In para. 2(4), the words "or under ITEPA 2003" inserted by ITEPA 2003, Sch. 6, para. 143 which has effect, for income tax purposes, for the tax year 2003–04 and subsequent tax years and, for corporation tax purposes, for accounting periods ending after 5 April 2003.

Statutory instruments – SI 1997/57: appoints 1 March 1997 pursuant to para. 2(1)(c) in relation to notices requiring returns to be delivered or made under TMA 1970, s. 8, 8A, 12AA.

Part II – Documents Supporting Certain Tax Returns

3(1) This paragraph applies where–

(a) a person is required by a notice to which this Schedule applies to deliver a return to an officer of the Board;
(b) the notice also requires any document other than the return (**"a supporting document"**) to be delivered;
(c) the provision under which the notice is given requires the supporting document to be delivered with the return;
(d) the notice states that the supporting document may be transmitted electronically; and
(e) the requirement to deliver the return is fulfilled by virtue of paragraph 1(2) of this Schedule.

3(2) The requirement to deliver the supporting document shall be treated as fulfilled by the person subject to the requirement if–

(a) information is transmitted electronically in response to that requirement; and
(b) each of the conditions in Part III of this Schedule is met with respect to that transmission.

3(3) If information is not transmitted electronically in response to the requirement to deliver the supporting document, that requirement shall have effect as a requirement to deliver the document on or before the day which is the last day for the delivery of the return.

3(4) For the purposes of sub-paragraph (1)(b) above the reference to a document includes in particular a reference to any accounts, statements or reports.

3(5) Where the requirement to deliver the supporting document is fulfilled by virtue of sub-paragraph (2) above, the time at which it is fulfilled is the end of the day during which the last of the conditions in Part III of this Schedule to be met with respect to the transmission is met.

Part III – The Conditions

APPROVED PERSONS

4(1) The first condition is that the transmission must be made by a person approved by the Board.

4(2) A person seeking approval under this paragraph shall be given notice of the grant or refusal of approval.

4(3) A person may be approved for the purpose of transmitting the information–

(a) on behalf of another person or other persons; or
(b) on his own behalf.

4(4) An approval under this paragraph may be withdrawn by notice with effect from such date as may be specified in the notice.

4(5) A notice refusing or withdrawing an approval shall state the grounds for the refusal or withdrawal.

4(6) A person who is refused approval or whose approval is withdrawn may appeal to the Special Commissioners against the refusal or withdrawal.

4(7) The appeal shall be made by notice given to the Board before the end of the period of 30 days beginning with the day on which notice of the refusal or withdrawal was given to the appellant.

4(8) The Special Commissioners shall not allow the appeal unless it appears to them that, having regard to all the circumstances, it is unreasonable for the approval to be refused or (as the case may be) withdrawn.

4(9) If the Special Commissioners allow an appeal by a person who has been refused approval, they shall specify the date from which the approval is to have effect.

APPROVED MANNER OF TRANSMISSION

5(1) The second condition applies if the person who makes the transmission is notified by the Board of any requirements for the time being applicable to him as to the manner in which transmissions are to be made by him or as to the manner in which any description of transmission is to be made by him.

5(2) The second condition is that the transmission must comply with the requirements so notified.

5(3) The requirements referred to include in particular requirements as to–

(a) the hardware or type of hardware, or
(b) the software or type of software,

to be used to make transmissions or a description of transmissions.

CONTENT OF TRANSMISSION

6 The third condition is that the transmission must signify, in a manner approved by the Board, that before the transmission was made a hard copy of the information proposed to be transmitted was made and authenticated in accordance with Part IV of this Schedule.

PROCEDURE FOR ACCEPTING ELECTRONIC TRANSMISSIONS

7(1) The fourth condition is that the information transmitted must be accepted for electronic lodgement.

7(2) For the purposes of this Schedule, information is accepted for electronic lodgement if it is accepted under a procedure selected by the Board for the purposes of this Schedule.

7(3) The selected procedure may in particular consist of or include the use of specially designed software.

Part IV – Hard Copies of Information Transmitted

PROVISIONS ABOUT MAKING OF HARD COPIES

8(1) A hard copy is made in accordance with this Part of this Schedule if it is made under arrangements designed to ensure that the information contained in the hard copy is the information in fact transmitted.

8(2) A hard copy is authenticated in accordance with this Part of this Schedule if–

(a) where the transmission is made in response to a requirement imposed by a notice under Part II of this Act or Schedule 18 to the Finance Act 1998 to deliver a return, the hard copy is endorsed with a declaration by the relevant person that the hard copy is to the best of his knowledge correct and complete; and

(b) in any other case, if the hard copy is signed by the relevant person.

8(3) In sub-paragraph (2) above **"the relevant person"** means–

(a) where the transmission is made as mentioned in sub-paragraph (2)(a) above, the person who, but for paragraph 1(4)(a) of this Schedule, would have been required to make the declaration there mentioned;

(b) in any other case, the person subject to the requirement to deliver or make the return or, in the case of a document other than a return, deliver the document.

History – Paragraph 8(2)(a) amended by inserting the words "or Schedule 18 to the Finance Act 1998", by FA 1998, s. 117(3) and Sch. 19, para. 43(3) with effect in relation to company accounting periods ending on or after 1 July 1999, the corporation tax self-assessment appointed day by virtue of FA 1994, s. 199(2), (3) and SI 1998/3173 (C. 78).

MEANING OF "HARD COPY"

9 In this Part of this Schedule **"hard copy"**, in relation to information held electronically, means a printed out version of that information.

Part V – Status of Information

EXERCISE OF POWERS

10(1) Sub-paragraphs (2) to (5) below apply where information transmitted in response to a requirement to deliver or make a return is accepted for electronic lodgement.

10(2) An officer of the Board shall have all the powers that he would have had if the information accepted had been contained in a return delivered by post.

10(3) The Board shall have all the powers that they would have had if the information accepted had been contained in a return delivered by post.

10(4) Where the information is transmitted in response to a notice given under any provision of Part II of this Act, any power which, if the information had been contained in a return delivered by post, a person would have had under this Act to amend the return–

(a) by delivering a document, or

(b) by notifying amendments,

to an officer of the Board, shall have effect as if the power enabled that person to deliver a statement of amended information to the officer.

10(5) Any right that a person would have had, if the information transmitted had been contained in a return delivered by post, to claim that tax charged under an assessment was excessive by reason of some mistake or error in the return shall have effect as far as the claimant is concerned as if the information transmitted had been contained in a return delivered by post.

10(6) Where information transmitted in response to a requirement to deliver a document other than a return is accepted for electronic lodgement, an officer of the Board shall have all the powers that he would have had if the information had been contained in a document delivered by post.

10(7) This paragraph is subject to paragraph 11 of this Schedule.

PROCEEDINGS

11(1) Sub-paragraphs (2) to (4) below apply where–

(a) a person is required by a notice to which this Schedule applies, or subject to any other requirement to which this Schedule applies, to deliver or make a return; and

(b) that requirement is fulfilled by virtue of paragraph 1(2) of this Schedule.

11(2) A hard copy shown to have been made and authenticated in accordance with Part IV of this Schedule for the purposes of the transmission in question shall be treated for the purposes of any proceedings as if it were a return delivered or made in response to the requirement.

11(3) Sub-paragraph (4) below applies if no hard copy is shown to have been made and authenticated in accordance with Part IV of this Schedule for the purposes of the transmission in question.

11(4) A hard copy certified by an officer of the Board to be a true copy of the information transmitted shall be treated for the purposes of any proceedings in relation to which the certificate is given as if it–

(a) were a return delivered or made in response to the requirement in question, and

(b) contained any declaration or signature which would have appeared on a hard copy made and authenticated in accordance with Part IV of this Schedule for the purposes of the transmission.

11(5) Where–

(a) a person is required by a notice to which this Schedule applies to deliver any document other than a return, and

(b) that requirement is fulfilled by virtue of paragraph 3(2) of this Schedule,

sub-paragraphs (2) to (4) above shall apply as if any reference to a return delivered in response to the requirement were a reference to a document delivered in response to the requirement.

11(6) In this paragraph–

"hard copy" has the same meaning as in Part IV of this Schedule; and

"proceedings" includes proceedings before the General or Special Commissioners or any tribunal having jurisdiction by virtue of any provision of the Taxes Acts.