A GUIDE TO CORPORATION TAX SELF ASSESSMENT

for Tax Practitioners
and Inland Revenue Officers

Statutory References

The legislation dealt with in this guide is primarily contained in Schedule 18 Finance Act ('FA') 1998, in the Taxes Management Act ('TMA') 1970 and in the Income and Corporation Taxes Act ('ICTA') 1988.

References to paragraph numbers are to Paragraphs in Schedule 18 FA 1998, unless some other reference is shown or is supplied by the immediate context.

'CAA 1990' means the Capital Allowances Act 1990.

'TCGA 1992' means the Taxation of Chargeable Gains Act 1992.

Meaning of 'company'
'Company' means any company, body, or organisation chargeable to corporation tax.

Meaning of 'accounting period'
'Accounting period' means the period, which cannot exceed 12 months, for which corporation tax assessments are made and for which returns and self-assessments will be made under Corporation Tax Self Assessment. The events that cause an accounting period to start or end are set out in Section 12 ICTA 1988.

Meaning of 'filing date'
'Filing date' means the date by which a Company Tax Return must be delivered. It is set out in Paragraph 14, Schedule 19 FA 1998 and covered at 3.7 of this Guide.

Meaning of 'period of account'
'Period of account' means a period for which a company makes up its accounts.

The examples in this Guide assume that the main rate of corporation tax is 30%, the small companies' rate 20% and the 'upper relevant maximum amount' for the purposes of Section 13 ICTA 1988 is £1.5 million.

These notes are for guidance only and reflect the Inland Revenue's understanding of the law at the time of writing. They also reflect a particular stage in the development of the computer support and procedures for Corporation Tax Self Assessment. They are not binding in law and in a particular case there may be special circumstances that will need to be taken into account. Any change to the current legislation may modify the operation of the rules described in this Guide. Equally, computer support and procedures may change in the light of experience.

These notes do not affect any right of appeal a taxpayer may have.

APRIL 1999

CONTENTS

FOREWORD

CHAPTER 1	Background and overview
CHAPTER 2	Inland Revenue 'housekeeping' of computer records and company obligation to notify chargeability
CHAPTER 3	The CTSA filing obligation
CHAPTER 4	Self Assessment principles affecting Company Tax Returns
CHAPTER 5	Payment and repayment of tax
CHAPTER 6	Enquiries
CHAPTER 7	Claims and elections
CHAPTER 8	Particular claims: group relief, capital allowances, Section 419(4) ICTA 1988
CHAPTER 9	Determination of tax liability in the absence of a return
CHAPTER 10	Penalties for late filing and for filing incorrect returns, claims and accounts
CHAPTER 11	Appeals: general provisions
CHAPTER 12	Quarterly Instalment Payments
CHAPTER 13	Group Payment Arrangements
APPENDIX 1	The Company Tax Return form
APPENDIX 2	Extracts from *Tax Bulletin*
APPENDIX 3	Forms and guidance material
APPENDIX 4	Inland Revenue computer support

INDEX

FOREWORD

FA 1994 introduced **Income Tax Self Assessment** (ITSA) for individuals, partners and trusts who complete income tax returns. The new system first came into effect for the tax year 1996-97.

The introduction of **Corporation Tax Self Assessment** (CTSA) completes the Self Assessment reforms by extending the principles of Self Assessment to Company Tax Returns. The key changes are

- ☐ the introduction of a 'process now, check later' enquiry regime
- ☐ the inclusion in the tax return, and in a single self-assessment, of the liabilities of close companies under Section 419 ICTA 1988 on loans and advances to shareholders and others, and of liabilities under Section 747 ICTA 1988 (Controlled Foreign Companies)
- ☐ the requirement for companies with international businesses to self assess by reference to new transfer pricing legislation, without a direction from the Board of Inland Revenue. (The various provisions requiring a direction from the Board in the FOREX and financial instruments legislation are also abolished, so that these provisions too have been integrated into the Self Assessment framework.)

For most companies, the process of moving to CTSA will be straightforward. This is because the Pay and File rules for the submission of returns and the payment of tax are substantially unchanged.

ABOUT THIS GUIDE

The Inland Revenue has always recognised the importance of providing clear guidance to explain the new system and to ensure that everyone affected understands their role and can comply with the new obligations. This Guide is the latest in a series of explanatory notes prepared primarily for use by tax practitioners and the Inland Revenue's own staff. In due course it will be superseded by the guidance material included in the Inland Revenue manuals. But until then this Guide will serve as a common text, part of the Inland Revenue's continuing commitment to working in partnership with practitioners to smooth the operation of the tax system.

The changes to the Controlled Foreign Company rules and the changes to the transfer pricing regime are very important for the limited range of companies affected by them. Except for the record-keeping requirement of CTSA as it relates to transfer pricing, details of these topics are outside the scope of this Guide. Further sources of information on these topics are, however, mentioned at Appendix 3.

This Guide also does not cover the changes made by Paragraphs 84 to 87 Schedule 18 FA 1998 in the specialised area of insurance. Changes affecting only insurance companies and friendly societies will be dealt with in the next versions of the Life Insurance Manual and the General Insurance Manual, to be published later this year.

The text of this Guide is reproduced on the Internet at www.inlandrevenue.gov.uk

Although this Guide is Crown copyright, readers are welcome to reproduce its contents for their own use.

Chapter 1

Background and Overview

1.1 Background

1.1.1 In the UK the direct taxation of individuals and companies has traditionally entailed two separate activities

- ☐ establishing the right amount of income, and the corresponding amount of tax due ('assessment'), and
- ☐ payment of the tax due into the Exchequer ('collection').

1.1.2 Taxpayers have always had an obligation to 'notify chargeability'. This obligation means that taxpayers are required to identify themselves to the Inland Revenue if, for any chargeable period (whether a year of assessment or an accounting period), they have income which is not taxed in full by deduction of tax at source (for example, by the deduction of tax from investment income).

1.1.3 Historically, the 'assessment' of any additional tax due was the responsibility of the Inland Revenue. Once a potential liability had been identified - whether by notification of chargeability by the taxpayer or as a result of compliance activity by the Revenue - the first step would be for the Inspector to issue a Notice requiring the taxpayer to make and deliver a return of information for a chargeable period (a 'tax return'). When the completed tax return form was sent back, the Inspector would review the information in it. If the Inspector was satisfied with the return, an assessment (or assessments) would be made accordingly. But if the Inspector was not satisfied with the return (or if the return was not sent back in the time allowed for completion), an estimated assessment would be made 'to the best of his (or her) judgement'. It was then up to the taxpayer to appeal against the assessment if the Inspector's estimated assessment was to be displaced by a more accurate figure of the tax due.

1.1.4 The process of Revenue assessment was central to the way in which the Inland Revenue carried out any compliance work (for example, checking the completeness and accuracy of a return). An Inspector did not have an explicit right to enquire into a return to make sure it was correct. But if an Inspector was not satisfied with a return, the requirement that he or she should make an assessment 'to the best of his (or her) judgement' could be used as the basis for asking questions of a taxpayer, to inform that judgement. There were no statutory powers regulating the enquiries that could be made.

1.2 Corporation Tax Pay and File

Corporation Tax Pay and File first applied in relation to accounting periods ending after 30 September 1993. Pay and File was not intended to be a Self Assessment system, although it contains many of the features that characterise Self Assessment. For example, there is a realistic, fixed timetable for the payment of tax and the filing of tax returns, supported by automatic penalties for failure to comply with the deadlines. The CT Pay and File return must include a computation of the corporation tax due. And, as the name 'Pay and File' suggests, a company is required to pay the tax due in advance of filing the return and in the absence, at the time of payment, of a Revenue assessment. But ultimately a Revenue assessment lies at the heart of the system, and the process of assessment is the essential element upon which enforcement and compliance activity has to be based.

1.3 Self Assessment for individuals (including partnerships and trusts)

1.3.1 Changes announced by the Chancellor of the Exchequer in March 1993 heralded the introduction of a fundamental revision of the direct tax system: Income Tax Self Assessment (ITSA). The main tranche of legislation was introduced in the 1994 Finance Act and involved a fundamental re-write of the Taxes Management Act rules. The changes swept away reliance on a Revenue assessment as the basis for bringing tax into charge and as the focus for compliance activity. Instead, the taxpayer's own return and self-assessment of the tax due would form the basis for bringing tax into charge, and explicit enquiry and information powers would provide the means of checking the return.

1.3.2 Under ITSA, from 1996-97 onwards, the assessment of any additional tax due from individuals is achieved by means of self-assessment. There is still an obligation on the taxpayer to notify chargeability. And a completed tax return form is still required from the taxpayer, with details of the taxpayer's total income and chargeable gains for the year (net of any allowances and reliefs claimed or due). But, in the Self Assessment regime, the onus is on the taxpayer to create a legal charge to tax by also including a self-assessment of the tax due in the completed return.

1.3.3 Once the return and self-assessment have reached the Inland Revenue, the new regime can be characterised as 'process now - check later'. In the first instance, a completed tax return is simply processed (by transfer of the information in the taxpayer's tax return form to the Inland Revenue's computer record for the taxpayer). The Inland Revenue has the right to correct obvious mistakes in the return (for example, arithmetic errors). But apart from these corrections the figures in the taxpayer's return are processed, as returned, and tax is due, or repaid, accordingly.

1.3.4 After processing, each return is checked. The Inland Revenue has an explicit right to enquire into the completeness and accuracy of any tax return. Some returns are selected, on a random basis, for enquiry. Others are selected for enquiry on the basis of the possibility that the return may be incorrect or incomplete and the amount of tax at risk. The right to enquire covers all enquiries, from straightforward requests for more information on individual items through to full reviews of the whole of a taxpayer's business.

1.4 Self Assessment for companies (Corporation Tax Self Assessment)

1.4.1 Although the Self Assessment legislation in the 1994 (and subsequent) Finance Acts was mainly focused on income tax, the rules also provided the basic framework for a Self Assessment regime for companies (and other bodies within the charge to corporation tax). But, from the outset, the plans were for CTSA to be introduced after a period of time to allow Pay and File to settle down, ITSA to be assimilated, and to allow the Department's computer developments to take place. This phased introduction was catered for by providing that the new rules would only apply to accounting periods ending on or after an 'appointed day'. The Chancellor of the Exchequer announced, in his November 1997 pre-Budget statement, that the appointed day would be 1 July 1999.

So CTSA applies to all company accounting periods ending on or after 1 July 1999.

1.4.2 Also in his pre-Budget statement, the Chancellor announced further reforms to the company tax regime, including the abolition of Advance Corporation Tax (ACT) and the introduction of a "modern system for corporation tax payments" under which the largest companies pay their corporation tax by instalments, based on ultimate liability (referred to in this Guide as Quarterly Instalment Payments).

1.4.3 Finance Act 1998 provided an opportunity to recast much of the original legislative framework for CTSA, by bringing the provisions together in one place - Schedule 18 FA 1998 - and drafting them in a new user-friendly style.

1.4.4 CTSA is essentially concerned with the conversion of the Pay and File system into a fully-fledged Self Assessment regime. But the impact of CTSA will be less dramatic than the impact of ITSA. It will affect around 1 million taxpayers, including about 40,000 public limited companies, 936,000 private limited companies and 54,000 members' clubs and other unincorporated associations.

1.5 Comparison between CTSA and Pay and File

1.5.1 CTSA maintains much of the Pay and File framework, but with the following key differences

- responsibility for assessing a company's tax liability passes from the Inland Revenue to the company itself. Every Company Tax Return must include a self-assessment. A legal charge is created by filing a return, without further action by the Inland Revenue

- the Inland Revenue has a fixed period of at least 12 months to decide to enquire into the return, and has the right to enquire into any return

- finality comes by the passage of time, or following the formal closure of an enquiry

- the definition of 'tax' within the scope of the Self Assessment provisions includes the special tax charges assessable as if they were corporation tax

  - on loans by close companies to their participators (Section 419 ICTA 1988), and

  - on Controlled Foreign Companies (Section 747 ICTA 1988)

  as well as corporation tax. So these charges will become self-assessable and any liabilities will be included within a single tax liability

- Inspectors will no longer have to make separate corporation tax determinations of trade losses and amounts relievable as group relief. Any negative figures (including capital losses) that are required to be included in a return will become final with the return

- companies whose profits exceed the 'upper relevant maximum amount' (URMA) - when this Guide was published, £1.5M annually for a company with no associates - will have to make Quarterly Instalment Payments of tax, starting six and a half months into the accounting period

- the Quarterly Instalment Payment provisions will bring with them an entitlement to interest ('credit interest') for companies that pay tax before the due date. Credit interest will apply to all companies, not just those affected by Quarterly Instalment Payments

- credit interest and interest paid on repayments of tax are taxable and interest charged on tax paid late is tax-deductible.

1.5.2 Key features of CTSA, which mirror those of ITSA, are

- the return required by a Notice to file will contain the company's self-assessment, which is final subject to taxpayer amendment, Inland Revenue correction, or formal Inland Revenue enquiry. There will usually be no need for assessment by the Inland Revenue

- the Inland Revenue have nine months from the date the return is filed to correct

any obvious errors in the return

- there is a new information power where an enquiry is open. It allows the Inland Revenue to require production of documents and information, without involving the appeal Commissioners, and imposes penalties for failure to comply

- the company can ask the Commissioners to order the Inland Revenue to close an enquiry

- the Inland Revenue retains the power to make an assessment (a 'discovery assessment') if information comes to light indicating that the self-assessment was inadequate as a result of fraudulent or negligent conduct, or of incomplete disclosure. This will only be used when the time limits for opening an enquiry have passed, or an enquiry has already been closed for the accounting period

- taxpayers can make claims under error or mistake provisions if they have made an error or mistake in completing the return

- if no return is delivered, the Inland Revenue has the power to make a determination of the company's tax liability. The determination has the same effect as a self-assessment, and is not subject to appeal. But if the company then makes a self-assessment, it supersedes the determination.

1.5.3 But there are also some important differences between CTSA and ITSA, all of which are inherited from Pay and File

- under CTSA, companies continue to be chargeable to corporation tax rather than income tax. Corporation tax continues to be charged in a single amount on the sum of 'profits' (meaning income, computed under the same principles which apply to income tax, and chargeable gains, computed under the principles which apply for capital gains tax)

- tax under CTSA continues to be charged for accounting periods. The length of an accounting period can vary with circumstances, and the company controls the end date, though no accounting period can be longer than 12 months. By contrast, income tax is always charged for the tax year beginning on 6 April

- corporation tax rates and limits are imposed for 'financial years', which begin on 1 April and end on 31 March following. For example, the financial year 1998 is the year from 1 April 1998 to 31 March 1999. By contrast, income tax rates and limits are imposed for each 'tax year' beginning on 6 April

- companies cannot opt for Inland Revenue calculation of their tax, whereas individuals can

- there continues to be a single, fixed due date for payment of corporation tax, nine months and one day after the end of the accounting period (subject to the Quarterly Instalment Payment regime for large companies). And there are no surcharges for tax paid late. The Pay and File pattern of late payment interest on tax paid late and repayment interest on overpayments of tax remains

- the Notice to file a return will still require the submission of accounts and computations as well as the return form

- the penalty regime for late returns is virtually unchanged from Pay and File. The regime is rather different from that applying to income tax cases. For example, in ITSA there is no automatic tax-related penalty, and a tax-related penalty cannot be charged until the return has been delivered. Under CTSA, an automatic tax-related penalty can be based upon an Inland Revenue determination of the tax charge

- carry-back reliefs will still give rise to a reduction in the tax liability for the relevant earlier year(s) but with interest consequences that may be tied to the due date for the later accounting period. The abolition of ACT from 6 April 1999 and the restriction of trade loss carry-backs to one year will make carry-back reliefs less common in CTSA cases than they were under Pay and File.

Chapter 2

Inland Revenue 'housekeeping' of computer records and company obligation to notify chargeability

References to Paragraph numbers are to Paragraphs in Schedule 18 FA 1998, unless some other reference is shown or is supplied by the immediate context.

2.1 Computer records

The Inland Revenue maintains a computer record for, broadly, every company. The records are divided into a 'live' range and a 'dormant' range.

A live company is one that is

- ☐ known or believed to be active, or
- ☐ newly or recently formed, not in the hands of a company registration agent and not known or believed to be dormant.

Notices to file a tax return are issued only to companies in the live range.

2.2 New cases

The creation of a computer record for a new (or newly active) company will usually result in the issue of a form CT41G. The form asks for details of the company's business, directors and registered office, including its intended accounting date. Prompt completion and return of this form will help the Inland Revenue make sure that its records are correct and appropriate and, for example, that

- ☐ dormant companies are properly recorded as such
- ☐ Notices to file a return relate to periods that are likely to be an accounting period of the company.

2.3 Issue of Notice to file a return

2.3.1 Notices to file a Company Tax Return are usually issued between three and seven weeks after the end of the period specified in them. That period is usually a period that is thought, when the Notice is issued, likely to be an accounting period of the company. In a continuing case, the period will be based on the company's history. In a new case, it will be based on the information provided by the company in response to the form CT41G (see 2.2). Where a new company does not reply to enquiries, the Inland Revenue will assume that its first accounting period runs for 12 months from the date of its incorporation.

2.3.2 It will help to prevent the issue of inappropriate reminders if, where possible, the Inland Revenue are told about the actual or probable accounting periods of companies before returns are due to be filed.

2.4 Dormant companies

Where a company record is marked off as dormant, the computer automatically issues an enquiry form (Company Tax: Review - form CT204) at intervals of not more than five years. The form asks whether the company has traded or carried on any other activity, received any income or disposed of any assets in the review period, and about its future intentions.

2.5 Obligation to notify chargeability (Paragraph 2)

2.5.1 Companies that are chargeable to tax for an accounting period but do not receive a Notice to file a return must give notice to the Inland Revenue that they are chargeable. The notice must be given within 12 months from the end of the accounting period. If a company fails to give notice in time, a tax-related penalty is chargeable. The maximum penalty is equal to the amount of the tax payable for the accounting period that is unpaid 12 months after the end of the period.

2.5.2 Where a close company is liable to tax under Section 419 ICTA 1988 on loans or advances to a participator in the company, and claims relief under Section 419(4) because a loan has been wholly or partly repaid, released or written-off, the relief may be deferred under Section 419(4A), until the normal due date for the accounting period in which the repayment, release or write-off takes place. Such deferred relief is ignored in determining the amount of unpaid tax for the purposes of the penalty.

Example

A Ltd is liable to a penalty for failure to give notice of chargeability to tax for its accounting period ended 31 December 1999. It has a tax liability of £2,000, of which £1,600 was paid by 31 December 2000. So the maximum penalty is £400.

The company's tax liability includes £300 chargeable under Section 419 on a loan that was made during the accounting period ended 31 December 1999 and repaid to the company in full on 8 November 2000. Under Section 419(4A) relief for the repayment is deferred until 1 October 2001, the normal due date for the accounting period in which the repayment took place. This £300 cannot be deducted in calculating the unpaid tax, for the purpose of the penalty.

2.6 Discretionary treatment for members' clubs etc. with no, or small, tax liability

2.6.1 Members' clubs and similar organisations that exist primarily for recreational and other non-commercial purposes may, at the Inspector's discretion, be treated as dormant even though they receive small amounts of investment income. This treatment is not extended to

- a club run by its members as a commercial enterprise for personal profit
- a housing association or registered social landlord, as designated in the Housing Act 1986
- any organisation that carries on, or intends to carry on, a trade
- a trade association
- a collective savings or investment arrangement
- a mutual insurance arrangement
- any company that is a subsidiary of, or wholly owned by, a charity

- any company that has one or more associated companies.

2.6.2 The treatment is intended to save such small organisations, with a nil or small liability, from the need to complete tax returns every year. But if such a concern is sent a Notice to file, it will still have to complete a return. It would also be expected to give notice of chargeability (see 2.5) during the period of the treatment, if

- the types and level of its income changed
- it had chargeable assets that were likely to be disposed of
- there were changes to its rules or constitution
- there were changes in the way its financial affairs were controlled.

2.6.3 The treatment described at 2.6.1 and 2.6.2 may be extended to apartment or flat management companies if they fulfil the following additional conditions

- their business consists of the management, on a non profit-making basis, of a block(s) of flats or apartments for the owners, lessees or tenants of the flats or apartments
- their articles of association contain rules designed to ensure that the shares in the company are owned only by the persons having an interest in the property under management
- they pay no dividends and make no other distributions of profit.

Such companies will be liable to income tax at the rate applicable to trusts if they receive investment income on sinking funds etc. which are held in designated accounts, as required by Section 42, Landlord and Tenant Act 1987. Treating such a company as dormant for corporation tax purposes does not confer or imply exemption from income tax on such income.

2.6.4 When the Inspector proposes to apply the treatment mentioned at 2.6.1 to a company, he or she will write to the company to say so. If a company has not had such a letter, the treatment does not apply. Companies are free to raise this matter with the Inspector, if they believe that their situation may merit this treatment.

Chapter 3.

The CTSA filing obligation

References to Paragraph numbers are to Paragraphs in Schedule 18 FA 1998, unless some other reference is shown or is supplied by the immediate context.

3.1 General

3.1.1 The filing obligation under CTSA does not differ greatly from that under Pay and File. The return form (form CT600) is recognisably a development of the existing form CT200, but under CTSA there will be circumstances in which companies will have to file Supplementary Pages. Companies will still be required to file a copy of their accounts together with computations showing how the figures in the return form and Supplementary Pages have been derived from figures in the accounts. This is in contrast to the position under ITSA, where the return form calls for the entry of standard accounts information.

3.1.2 Where a company has an agent acting for it, the Inland Revenue will inform the agent when a Notice to file has been issued by issuing a monthly statement to each agent showing details (name, tax reference, specified period, date of issue) of notices issued to their clients.

3.2 Detail

3.2.1 Paragraph 3 enables the Inland Revenue to give notice requiring a company to deliver a 'Company Tax Return' which must include such information, accounts, statements and reports as may reasonably be required by the notice. Paragraph 4 explicitly states that delivery of the Company Tax Return means delivery of all the information etc. required by the Notice to file*.* If a company delivers a completed return form but does not deliver a copy of its accounts and computations, the filing obligation is not met and the company is treated as not having made a return.

3.2.2 The information, accounts, statements and reports required must be relevant to the company's tax liability or to the application of the Corporation Tax Acts to the company. Different information etc. may be required from different types of company. The return must include a declaration by the person making it that it is correct and complete to the best of that person's knowledge. The return must be delivered to the officer of the Board by whom the notice was issued not later than the filing date. In practice, where the responsibility for the company's tax affairs moves from one Inland Revenue office to another, the return should be delivered to the office currently responsible for the case.

3.3 The 'specified period' and the period for which a return is required (Paragraph 5)

3.3.1 The Notice to file must specify a period to which it relates. It will usually be issued between three and seven weeks after that period. This is called the 'specified period'. The specified period will never be longer than 12 months. It will usually be a period that the Inland Revenue believe is likely to be, or may be, an accounting period of the company. But where it transpires (or the Inland Revenue has reason to believe) that the end of a period that has been specified in a notice does not coincide with the end of an accounting period of the company

- the notice remains effective

- the next notice will be based on the true (or 'new') accounting period but the period specified in it will start from the end of the period specified in the previous notice.

Example

B Ltd is incorporated on 6 January 1998. In July 1998, in response to form CT41G (see 2.2), the company tells the Inspector that it started to trade on 13 April 1998 and that it will draw up its first accounts to 30 April 1999. So the Inspector records the first accounting period of the company as 13 April 1998 to 12 April 1999 (and the second as 13 April 1999 to 30 April 1999). In May 1999, a Notice to file is issued specifying the first period (and a second notice is issued specifying the second period).

In the event, the company decides to adopt 31 December as its accounting date and draws up its first accounts to 31 December 1998. In November 1999 it files a return for the period 13 April 1998 to 31 December 1998. The Inspector adjusts the accounting period record in the computer accordingly. The period to be specified on the next Notice to file will be 1 May 1999 to 31 December 1999.

3.3.2 If an accounting period of the company ends during (or at the end of) the specified period, a return is required for that accounting period. If there is more than one accounting period ending during, or at the end of, the specified period, a return is required for each of them. If there is no accounting period of the company that ends during the specified period, but there is an accounting period that begins during the specified period, a Company Tax Return is required for that part of the specified period before the accounting period began.

3.3.3 If the company is outside the charge to corporation tax, (for example, because it is dormant) for the whole of the specified period, a return is required for that period. If the specified period falls wholly within an accounting period of the company, no return is required in response to the Notice. (The Inland Revenue will not knowingly issue such a Notice.)

3.3.4 Periods for which a return is required: Examples

Example 1
The Notice specifies the period 1 January 1999 to 31 December 1999.

The company has been carrying on a trade for many years, accounting to 31 December each year.

A return should be made for the accounting period 1 January to 31 December 1999.

Example 2
The Notice specifies the period 1 January 1999 to 31 December 1999.

The company has been carrying on a trade for many years and accounting to 31 December annually. But it ceases to trade on 17 July 1999. Afterwards, it continues to receive investment income. It continues to draw up accounts to 31 December.

An accounting period ends when the company ceases to trade (Section 12(3)(c) ICTA 1988). A return should be made for the period 1 January 1999 to 17 July 1999 and another for the period 18 July 1999 to 31 December 1999.

Example 3
The Notice specifies the period 6 January 1998 to 5 January 1999.

The company was incorporated on 6 January 1998 but does not acquire a source of income until 13 April 1998. It draws up its first accounts to 30 April 1999.

A return should be made for the period 6 January 1998 to 12 April 1998, before the company's first accounting period began.

Example 4
The Notice specifies the period 1 June 1998 to 31 May 1999.

The company has been dormant for many years.

A return should be made for the specified period.

Example 5
The Notice specifies the period 13 April 1998 to 31 December 1998.

The company was incorporated on 6 January 1998 and started trading on 13 April 1998. It draws up its first accounts to 30 April 1999.

No return is required in response to the Notice because the specified period falls wholly within an accounting period of the company - but the Inspector should be told, so that Inland Revenue records can be adjusted.

3.4 The accounts required (Paragraph 11)

3.4.1 Where a company is resident in the United Kingdom, and required under the Companies Act 1985 to prepare accounts for a period that coincides or overlaps with a period for which it is required to deliver a company tax return, those are the accounts that must be delivered as part of the return. The accounts must be accompanied by any other documents, such as directors' and auditor's reports, that the Companies Act requires the company to prepare. The provision applies also to companies registered in Northern Ireland, where the relevant company law is contained in the Companies (Northern Ireland) Order 1986.

Cases not within Paragraph 11

3.4.2 In the case of a non-resident company carrying on a trade through a branch or agency in the UK, the accounts required are

- the trading and profit and loss accounts of the company
- the trading and profit and loss accounts of the UK branch or agency

covering the period to which the return relates, together with

- the balance sheet of the company at the end of the period of account and
- if prepared, the balance sheet of the UK branch or agency at the same date.

All these must be in the English language.

3.4.3 If the company is not incorporated or registered under the UK Companies Act (for example, a building society, an industrial and provident society, or an unincorporated association), the accounts required are any accounts that the company is required by law or by its constitution to prepare, covering the period to which the return relates.

3.4.4 If the company is outside the charge to corporation tax for the return period (for example, because it is dormant) and there is no set of accounts that cover the return period, the accounts required are those that most greatly overlap the return period. If there are no accounts that overlap the return period, then it is those for the most recent previous period of account.

3.5 Information about business carried on in partnership (Paragraph 12)

Where a company carries on a trade, profession or business in partnership, its Company Tax Return must include its share of any income, loss, payment, tax, credit or charge shown in a partnership statement made under Section 12AB TMA 1970 for a period that coincides or overlaps with the period covered by the return.

3.6 Information about chargeable gains (Paragraph 13)

Notice to file a Company Tax Return may require the company to supply details of assets acquired by the company in the period specified in the Notice, including details of the persons from whom assets were acquired and the consideration given or paid for them. But this provision does not apply to

- savings certificates and other non-marketable government securities within Section 121 TCGA 1992
- passenger vehicles within Section 263 TCGA 1992
- chattels that cost £6,000 or less
- assets acquired as trading stock.

3.7 The filing date (Paragraph 14)

CTSA does not change the date by which companies are required to deliver returns. It remains as the latest of the three following dates

(a) the first anniversary of the last day of the period to which the return relates

(b) where the return relates to an accounting period that ends otherwise than on an accounting date of the company, the first anniversary of the last day of the period of account in which the accounting period ends

(c) three months after the date on which the Notice to file is received.

But where the period of account mentioned at (b) above lasts longer than 18 months, it should be treated as lasting for 18 months only. This means that the date at (b) above cannot be later than 30 months after the start of the period of account.

In applying (c) above, the Inland Revenue will assume that a Notice to file that is served by post will be delivered four working days after it is issued.

3.8 Use of estimated or provisional figures in returns

3.8.1 Every Company Tax Return must contain a declaration by the person making it that it is, to the best of that person's knowledge, correct and complete. Companies are expected to take all reasonable steps to file a complete return by the filing date. But the Inland Revenue recognise that there will from time to time be circumstances in which a figure cannot be finalised by that date, although the company has done its best to do so. In that case, the company must make its best estimate of the figure, tell the Inspector that the figure has been estimated and say when a final figure is expected to be available. Where the company can show that it has taken all reasonable steps, a return completed in this way will not be regarded as incomplete.

3.8.2 When the company subsequently becomes aware that an estimated figure is no longer the 'best estimate', or that it can be replaced by an accurate figure, this information should be sent to the Inspector without unreasonable delay. If the company fails to do this, it may become liable to a penalty under Paragraph 20(1)(b) (see 10.6).

3.8.3 Where a company supplies estimated figures which prove not to be reasonable and therefore not 'best estimates', this does not make the return 'incomplete'. But if it can be demonstrated that the return was incorrectly completed either fraudulently or negligently, then liability to a penalty would arise under Paragraph 20(1)(a) (see 10.6).

3.9 The return form and supplementary pages

3.9.1 A copy of the CTSA return form, form CT600 and the April 1999 draft of the return guide are reproduced in Appendix 1 of this Guide. Companies completing this return form will need to obtain and fill in Supplementary Pages if they

- ☐ are a close company and have made loans or advances during the return period to participators, or associates of participators, and did not repay those loans or advances during the return period
- ☐ are claiming or surrendering any amounts under the group or consortium relief provisions
- ☐ have an interest of 25% or more in a foreign company
- ☐ carried on long term insurance business during the return period
- ☐ are a registered charity.

Copies of these Pages are also reproduced in Appendix 1.

3.9.2 The Inland Revenue will not enclose a return form or guidance notes with any Notice to file issued to companies when an agent is acting or which is recorded as using an approved substitute version of the return form. This change has been made in response to representations from accountants about the significant amount of waste caused by the issue of forms to companies whose agents use computer-produced, approved substitutes and in the belief that agents who need the official form will be content to get supplies direct from the Inland Revenue, rather than via their clients. This change will apply to any Notice issued after the Inland Revenue's new computer system is introduced (see Appendix 4), even if it specifies a period that ends before 1 July 1999.

3.9.3 Copies of the return form, Supplementary Pages and the return guide may be obtained from the Inland Revenue Orderline from late June 1999, on 0845 300 6555 (or by fax on 0845 300 6777). They are also available on the Internet. See Appendix 3.

3.10 No facilities for filing CTSA returns electronically or on magnetic media

The Inland Revenue cannot accept CTSA returns electronically or on diskette. The continuing need for companies to file copies of their accounts and computations under CTSA (see 3.1) means that information which is required as part of the return will be delivered in many different, non-standard formats. The Inland Revenue is committed to the extension of electronic commerce. However, it has not yet been possible to assess the development of facilities for electronic filing in CTSA.

3.11 Approved substitute forms

The Inland Revenue remains committed to enabling practitioners to use approved, substitute versions of the return form and Supplementary Pages. To this end

- ☐ a press release is issued when a revised version of the return form (including the Supplementary Pages) goes to print

- ☐ copies of updated versions are published on the Internet at www.inlandrevenue.gov.uk

- ☐ practitioners and software houses that produced an approved substitute of the 'old' version are each told about up-dated versions.

Guidance on the Inland Revenue's main requirements for substitute forms is available from Inland Revenue, Business and Management Services Division, Forms Unit, Room 9/3A, NW Wing, Bush House, London, WC2B 4PP.

3.12 Mistake relief (Paragraph 51)

Paragraph 51 provides for relief for a mistake in a return to continue in CTSA, subject to the rules and time limits previously set out in Section 33 TMA 1970. So

- ☐ the claim must be made in writing, to the Board of Inland Revenue, within six years after the end of the accounting period to which the return relates

- ☐ the Board must enquire into the matter and give by repayment such relief as is reasonable and just

- ☐ no relief is to be given in respect of a mistake as to the basis on which liability ought to have been computed if it was in fact computed on the basis or in accordance with the practice generally prevailing when the return was made, or for a mistake in a claim or election included in a return

- ☐ in determining the claim, the Board are to have regard to all the relevant circumstances and, in particular, to whether granting the relief would result in amounts being excluded from charge to tax. The Board may, for this purpose, take into account liabilities and assessments for accounting periods other than that to which the claim relates

- ☐ any appeal against the Board's decision on the claim is made to the Special Commissioners, who must approach the matter using the principles set out above

- ☐ neither the company nor the Board may appeal against the Special Commissioners' decision except on a point of law arising in connection with the computation of

    - the profits of the company for the purposes of corporation tax

    - any amount assessable under Section 419 ICTA 1988 (close company loans or advances to participators)

    - any amount chargeable under Section 747(4)(a) ICTA 1988 (Controlled Foreign Companies).

Chapter 4

Self Assessment principles affecting Company Tax Returns

References to Paragraph numbers are to Paragraphs in Schedule 18 FA 1998, unless some other reference is shown or is supplied by the immediate context.

4.1 Introduction

4.1.1 CTSA introduces for company accounting periods ending on or after 1 July 1999 many of the principles of Self-Assessment which have applied to individuals and partnerships from 1996-97 under ITSA. But because the existing rules under Pay and File already require companies to pay tax before they have received an assessment from the Inland Revenue, and require them to file a return by a specified statutory filing date, the changes for companies will not be so great.

4.1.2 The main Self Assessment features affecting Company Tax Returns are

- Company Tax Returns must include a self-assessment of tax payable
- the self-assessment must include tax due on
  - loans or advances by close companies to participators
  - profits of Controlled Foreign Companies
- the return (including the self-assessment) will become final with the passage of time, unless the Inland Revenue give notice that they intend to enquire into it
- a company will have the right to amend its return (including its self-assessment)
- the Inland Revenue will be able to correct any obvious errors in, or omissions from, the return
- there are new rules covering enquiries into Company Tax Returns
- there is a new requirement for companies to keep and preserve records for tax purposes.

4.2 Self-assessment

4.2.1 Under Pay and File, companies were required to include a computation of their liability to corporation tax as part of their corporation tax return. The Inland Revenue then issued an assessment based on the return if they were satisfied that the return was correct and complete. If the Inland Revenue were not satisfied with the return, enquiries may have been made, following which an assessment (and/or a loss determination) was issued. Under Pay and File, the tax shown as due on the return was collectible as if it were assessed tax, until the Inland Revenue made an assessment.

4.2.2 Under CTSA, companies are required to include in their Company Tax Return a self-assessment of the amount of tax payable for the period for which the return is made. Unlike ITSA, there is no facility for an Inland Revenue calculation of the tax payable. Every company must include its own calculation with the return, no matter how early the return is filed.

4.2.3 The self-assessment creates a charge to tax.

4.2.4 Once made, the company's return (including its self-assessment) is final unless

- the company amends it
- the Inland Revenue corrects any obvious errors or omissions
- the Inland Revenue starts an enquiry into the return
- the conclusions stated at the end of an enquiry into a return for a different period require a consequential amendment
- the Inland Revenue make an assessment or determination under the 'discovery' provisions (see Chapter 6).

4.2.5 Enquiries into Company Tax Returns are covered in Chapter 6, including the time limits within which the Inland Revenue can begin an enquiry.

4.3 Losses and other negative amounts

4.3.1 Under CT Pay and File, the amount of a trading loss incurred by a company, and certain amounts which can be surrendered as group relief, are determined by the Inspector under Section 41A TMA 1970. The Inland Revenue issues a determination of those amounts based on the return if satisfied that the return sets the amounts out correctly. If the Inland Revenue are not satisfied, enquiries are made before issuing a determination.

4.3.2 Under CTSA, all negative amounts for the accounting period have to be included in the Company Tax Return. Any amount which has to be included in a return, including losses and other negative amounts, becomes final in the same way as the self-assessment. And the rules governing enquiries into Company Tax Returns under CTSA (see Chapter 6) apply equally to negative amounts included in the return. But note that a negative figure brought forward from a return for a pre-CTSA accounting period does not become final by being included in a CTSA return.

4.3.3 This treatment applies more widely than the Section 41A TMA 1970 determination procedure under CT Pay and File. As well as trade losses and amounts which can be surrendered as group relief, the CTSA rules cover other negative amounts, for example allowable capital losses under Section 16 TCGA 1992 or the management expenses under Section 75 ICTA 1988 of a company which is not a member of any group.

4.4 Conclusiveness of amount stated in return (Paragraph 88)

4.4.1 Where a negative amount which has been included in the return has become final, for example because of the passage of time, the company must use the same figure for the negative amount in any other return and self-assessment which is affected by it.

4.4.2 The same is true if the negative amount is included in an amended return.

4.4.3 A negative amount, such as a trading loss, which is carried forward to a later accounting period is likely to need to be included in the return for the later period. Where the negative amount was originally stated in a return for a CTSA period, including it in the later return does not give the Inland Revenue a second opportunity to enquire into it. This does not prevent an enquiry into the later return covering how the negative amount has been used in that return.

Example 1

C Ltd delivers a return for the period ended 31 December 2000 which shows a trading loss incurred of £40,000. The return is delivered before the filing date. The time limit for opening an enquiry into the return is 31 December 2002, and this date passes without an enquiry being made.

C Ltd's return for the period to 31 December 2001 shows trading profits of £100,000 from which are deducted trading losses brought forward of £40,000. Again, the return is delivered before the filing date. On 1 July 2003, the Inland Revenue issue a notice of enquiry into this return.

In this enquiry, the Inland Revenue cannot enquire into the £40,000 loss. But enquiries can, for example, be made into whether relief for it can properly be given against the trading profit of 2001.

Example 2

The facts are as in 4.4.3 *Example 1*, except that the return for the period ended 31 December 2001 shows trading profits of only £10,000. These are fully covered by trading losses brought forward. No enquiry is made into this return.

The return for the accounting period ended 31 December 2002 shows trading profits of £100,000 from which are deducted the remaining £30,000 losses brought forward. Again, if the Inland Revenue issue a notice of enquiry into this return they cannot enquire into the year 2000 loss of which the £30,000 formed part. But they can enquire into whether relief for the £30,000 can properly be given against the year 2002 profits. (If the company had deducted losses of £40,000, they could have enquired into whether that was the correct amount or, indeed, corrected the figure to £30,000 under Paragraph 16 - see 4.9.)

4.5 Return to include self-assessment (Paragraph 7)

4.5.1 A Company Tax Return for an accounting period must include a self-assessment of the amount of tax payable by the company for that period. The self-assessment must be made on the basis of the information in the return and after taking into account any reliefs or allowances.

4.5.2 Paragraph 1 specifies that, under CTSA, the self-assessment must include not only corporation tax, but also any tax due under

- Section 419 ICTA 1988 (tax on a loan or advance made by a close company to a participator), and

- ☐ Section 747 ICTA 1988 (profits of Controlled Foreign Companies).

4.5.3 Provided the return is for a period of not more than 12 months, the requirement at 4.5.1 applies, even if that period is not or turns out not to be an accounting period. (For details of the Notice to file a return and period for which a return is required, see Chapter 3).

4.5.4 A self-assessment will be required even though the tax payable by the company may be nil or the company may be entitled to a net repayment of tax.

4.6 'Assessment' in the Tax Acts (Paragraph 97)

4.6.1 Use of the term 'assessment' in the Tax Acts will include a self-assessment or amendment to a self-assessment. It also includes a determination by the Inland Revenue under Paragraphs 36 or 37 (see Chapter 9).

4.7 Calculation of tax payable (Paragraph 8)

4.7.1 Paragraph 8 sets out in a number of steps how a company's self-assessment of tax payable is calculated. Unless otherwise provided, any reference in Schedule 18 to the amount of tax payable by a company for an accounting period is to be a reference to the amount shown as payable in the company's self-assessment.

4.7.2 Tax payable for an accounting period is calculated as follows:

Step 1
Calculate the corporation tax chargeable -

- ☐ take the amount of the company's profits chargeable to corporation tax for the period, and
- ☐ apply the rate or rates of corporation tax applicable to the company.

Step 2
Give any reliefs or set-offs available against corporation tax -

- ☐ marginal small companies' relief
- ☐ double taxation relief
- ☐ ACT.

Step 3
Add -

- ☐ any amount due under Section 419 ICTA 1988 on loans or advances by a close company to a participator
- ☐ any amount chargeable under Section 747 ICTA 1988 on profits of Controlled Foreign Companies.

Step 4
Deduct any amounts to be set off against the company's overall tax liability -

- ☐ income tax deducted from income received
- ☐ ACT paid in respect of foreign income dividend.

4.8 Amendment of return by the company (Paragraph 15)

4.8.1 A company may wish to amend information originally entered in its return and make corresponding amendments to its self-assessment. A company can amend its return at any time up to 12 months from the statutory filing date. (Where a return is made for a wrong period - see 6.5 - the time allowed is 12 months from what would be the filing date if the period for which the return was made were an accounting period).

4.8.2 An amendment must be made by notice to the Inland Revenue and must be in such form, contain such information and be accompanied by such statements as the Inland Revenue may reasonably require. For the time being, the Inland Revenue do not propose to prescribe the form and content of an amended return or to provide an official form for amended returns. Instead, companies and their agents will be able to amend Company Tax Returns informally, in correspondence. (This is in contrast to the position under Pay and File, for which Statement of Practice 9 of 1993 sets out the Inland Revenue's requirements.)

4.8.3 Unless the company's return is under enquiry (see Chapter 6), where a company makes an amendment to its return and self-assessment the Inland Revenue will simply record the amendment.

4.8.4 A company may amend its return while it is under enquiry, but any change which affects the tax payable by the company, or the liability of another company, will only be effective once the enquiry is completed (Paragraph 31 - see 6.12).

4.9 Correction of return by the Inland Revenue (Paragraph 16)

4.9.1 The Inland Revenue has the right to amend a Company Tax Return to correct any obvious errors or omissions in the return. The Inland Revenue can make a correction at any time up to nine months after the day the return is delivered. A correction which arises as a result of an amendment to the return by the company can be made up to nine months after the day on which the amendment is made. Any such correction will be made by giving notice to the company.

4.9.2 The obvious errors or omissions which can be corrected by the Inland Revenue in this way include errors of principle as well as arithmetical errors. But the process of correction will not involve any judgement as to the accuracy of the figures in the return. The process is concerned with correcting an obvious error or omission, like an incorrect calculation, based on the information supplied in the return. Any question relating to the accuracy of the information contained in the return will be handled by way of an enquiry into the return (see Chapter 6).

4.9.3 The company can reject the correction by amending its return, if it is within the time allowed by Paragraph 15 (see 4.8.1). If the period allowed for an amendment to the return has expired, the company can give notice to the Inland Revenue rejecting the correction. It must do so within three months of the date of issue of the notice of correction, by notice in writing.

4.10 Inland Revenue processing of returns

4.10.1 The 'process now, check later' character of CTSA means that initially the company's return is simply processed by transferring the information in the return form to the Inland Revenue computer system. This means that the self-assessment will often be recorded before the need to make a correction is identified. In general, only those corrections that need to be made in order to allow the Inland Revenue to process the return will be made at the initial processing stage. Other corrections will be made at a later date, within the time allowed by Paragraph 16.

4.10.2 The Inland Revenue propose to issue an acknowledgement of the receipt of every Company Tax Return.

4.11 Enquiry into Company Tax Return

Full details of enquiries under CTSA are given in Chapter 6.

4.12 Requirement to keep records (Paragraph 21)

4.12.1 Companies incorporated under the Companies Acts already need to keep and preserve certain accounting records to comply with their obligations under Section 221 Companies Act 1985. Paragraph 21 introduces a new requirement to keep and preserve certain records for the purposes of making a Company Tax Return. In common with the rest of the legislation covered in this Guide, this requirement applies to all companies within the charge to corporation tax, and so covers bodies which are not be subject to Companies Act requirements, like informal clubs and societies, authorised unit trusts, industrial and provident societies. In this section, as elsewhere in this Guide, ‘companies’ means any company, body or organisation chargeable to corporation tax.

4.12.2 The provisions mirror those under ITSA for individuals and partnerships for 1996-97 and later years, which were introduced by Section 12B TMA 1970. Guidance on the interpretation of the record-keeping requirements for self-employed taxpayers was published in leaflet *A Guide to Keeping Records for the Self-Employed* (SA/BK3).

4.12.3 Issue 37 (October 1998) of *Tax Bulletin*, the Inland Revenue’s journal for tax practitioners, included guidance on the record-keeping requirements of CTSA in two articles, offering

- general guidance on the records to be kept under Self Assessment (*Tax Bulletin* Issue 37, October 1998, page 587), and

- more detail on the requirement as it relates to the new transfer pricing legislation (*Tax Bulletin* Issue 37, October 1998, page 579).

The first of these is relevant to all companies. The second contains more specific guidance on the extra records which will need to be kept by those companies with transactions within the scope of the new transfer pricing rules in Section 28AA ICTA 1988.

The text of the first of these articles, containing the guidance appropriate to all companies, is reproduced in Appendix 2. An extract from the transfer pricing article, including the guidance on the record-keeping requirements, is also reproduced in Appendix 2.

Company must keep and preserve records relevant to return (Paragraph 21(1))

4.12.4 Under CTSA, companies are required both to keep *and* preserve the records needed to make a correct and complete return for any period. Most companies will already keep financial records of one form or another, even if not specifically for tax purposes. It is virtually impossible to produce an accurate Company Tax Return without keeping proper business records.

4.12.5 The record-keeping requirement supports the new statutory framework for enquiries (see Chapter 6). In the event of an enquiry, companies will be asked to demonstrate to

the Inland Revenue that their return is correct and complete. Keeping business records, as required by Paragraph 21, will help companies do this.

4.12.6 Period for which records must be kept (Paragraph 21(2), (3) and (4))

The basic requirement is that records must be preserved for six years from the end of the period for which the company is required to deliver a return. The period for which records must be preserved is extended in particular circumstances (see 4.12.7).

4.12.7 Where the Notice to file is issued before the end of the six year period mentioned in 4.12.6, the relevant records must be kept until the later of

- six years from the end of the period for which the company may be required to make a return
- the date on which an enquiry into the return is completed (see 6.13)
- the date beyond which the Inland Revenue no longer have the power to enquire into the return, because the time limit for opening an enquiry has passed (see 6.3).

4.12.8 Where the Notice to make a return is issued more than six years after the end of an accounting period, the record-keeping requirement only applies to those records still in the company's possession when the Notice is issued, and which are needed to make a complete and correct return. These records must then be kept until the later of

- the date on which an enquiry into the return has been completed
- the date beyond which the Inland Revenue no longer have the power to enquire into the return, because the time limit for opening an enquiry has passed.

4.12.9 Records to be kept (Paragraph 21(5) & (6))

All records which are required to enable the company to make a correct and complete return must be kept. This specifically includes records of

- all receipts and expenses that arise in the course of the company's business
- all sales and purchases, where the company's trade involves dealing in goods
- all supporting documents. (Supporting documents includes accounts, books, deeds, contracts, vouchers and receipts. 'Documents' includes records held on computer.)

4.12.10 Records preserved in an alternative form (Paragraph 22)

With a few exceptions (see 4.12.11), the obligation to preserve records can be met by preserving the information contained in them. Provided that all the original information is retained, it may be kept in a different form from the original documents. This allows documents to be retained as copies, including copies maintained in electronic form. Where information is preserved in another form, copies of documents are admissible in evidence in any proceedings before the Commissioners.

4.12.11 However, in certain cases the original documents must be retained. This applies to certain specific categories of records relating to tax credits, tax deducted at source or tax payable overseas. These are

- ☐ statements in writing of the amount of a qualifying distribution and tax credit - Section 234(1) ICTA 1988
- ☐ certificates of deduction of income tax from annual payments and other amounts - Section 352(1) ICTA 1988
- ☐ certificates of deductions on account of tax under the Construction Industry Scheme - Sections 559 and 566(1) ICTA 1988
- ☐ records relating to tax paid or payable under the law of a territory outside the United Kingdom.

4.13 Penalty for failure to keep records (Paragraph 23)

4.13.1 A penalty of up to £3000 can be charged for each failure to keep or to preserve records required to make a correct and complete return.

4.13.2 The penalty provisions relate to an accounting period - there can only be one penalty of a maximum of £3000 for all Paragraph 21 failures for one accounting period.

4.13.3 Where a particular claim, election or notice can only be made in a Company Tax Return, any failure to retain records relating to that claim, election or notice falls within Paragraph 23. But where the records are records which might have been needed only for the purposes of claims, elections or notices not included in the return, and which could be made independently of the return, any failure to keep and preserve those records falls within Paragraph 2A, Schedule 1A TMA 1970 (see Chapter 7).

4.13.4 No penalty is incurred for a failure to preserve records of

- ☐ qualifying distributions and tax credits
- ☐ payments made under deduction of tax

provided that any facts required to be proved by the records are proved by other documentary evidence.

4.13.5 The company can appeal against the determination of a penalty under Paragraph 23 (see 11.5).

4.13.6 Penalties under Paragraph 23 will not be sought routinely. They will only be sought in the more serious cases where, for example, records have been destroyed deliberately to obstruct an enquiry or there has been a history of serious record-keeping failures.

Chapter 5

Payment and repayment of tax

References to Paragraph numbers are to Paragraphs in Schedule 18 FA 1998, unless some other reference is shown or is supplied by the immediate context.

5.1 General

5.1.1 This Chapter covers the payment and interest provisions of CTSA as they affect companies that are not required to make Quarterly Instalment Payments of tax. Quarterly Instalment Payments are covered in Chapter 12.

5.1.2 **Summary**

CTSA brings some changes to the rules regarding the payment and repayment of tax and to those for charging and paying interest on tax. In particular

- the rules that currently apply to corporation tax apply to all the tax contained in the self assessment. This includes liability under Section 419 ICTA 1988 (close company loans to participators) and under Section 747 of that Act (Controlled Foreign Companies). Payment applications issued by the Inland Revenue refer simply to 'tax' without distinguishing these three possible components of the liability

- companies that pay tax before the normal due date are entitled to interest ('credit interest' - see 5.7) calculated from the later of

  - the date of payment, and

  - the date that would be the due date for the first Quarterly Instalment Payment if the company were required to make such payments (see 12.4.2)

- interest on a repayment of income tax or a payment of tax credit runs from the day after the end of the accounting period, instead of the normal due date for the accounting period, as under Pay and File

- all interest chargeable on late payments of tax is deductible for corporation tax purposes. And interest receivable on tax paid early and on repayments of tax is taxable. The rates of interest charged under Section 87A TMA 1970 and paid under Section 826 ICTA 1988 have been changed to reflect this.

5.1.3 The Inland Revenue do not propose to introduce 'Taxpayer Statements', covering liability of more than one accounting period, for CTSA. Payment applications and reconciliations will continue to relate to a single accounting period, as they have under Pay and File.

5.2 Normal due date (Section 59D(1) TMA 1970*)*

The tax charged in a company's self-assessment is due nine months and one day after the end of the accounting period. This Guide refers to that date as 'the normal due date'. 'Months' means calendar months.

Where the accounting period ends on the last day of a calendar month, the normal due date is the first day of the tenth following month. Where the accounting period ends on some other day, the normal due date will be the day after the correspondingly numbered day in the ninth following month. Where the ninth following month does not

have a day corresponding to the end date of the accounting period, the normal due date is the first day of the tenth following month.

Examples

Date Accounting Period Ends	Due Date
1 July 1999	2 April 2000
31 July 1999	1 May 2000
31 December 1999	1 October 2000
28 February 2000	29 November 2000 (note: if 2000 were not a leap year, the due date would be 1 December 2000)
29 February 2000	1 December 2000
28 May 2000	1 March 2001 (note: if 2001 were a leap year, the due date would be 29 February 2001)
29 May 2000	1 March 2001
30 May 2000	1 March 2001
31 May 2000	1 March 2001

5.3 Provisional repayment of tax (Section 59DA TMA 1970)

5.3.1 For CTSA, the arrangements for provisional repayment of corporation tax on a change of circumstances contained in Section 10(3) to (5) ICTA 1988 under Pay and File are replaced by similar provisions in Section 59DA TMA 1970.

5.3.2 Where a company has paid an amount of tax for an accounting period and the circumstances of the company change so that it has grounds for believing that the amount paid exceeds its probable liability it may claim repayment of the excess. A claim cannot be made before the normal due date. The claim must state the amount that the company considers should be repaid and its grounds for that belief.

5.3.3 The provision operates only where the liability of the company has not been finally established. That may be because the company has not yet made a return or because its return is under enquiry or, conceivably, because the Inspector has made a discovery assessment that is under appeal. (If the company's liability has been finally established, see 4.8 for amending the return and 3.12 for mistake relief.) If there is an assessment or amendment under appeal, the company may apply to the appeal Commissioners for a determination of the amount to be repaid.

5.3.4 A company may combine a claim or application under these provisions with a postponement application under Section 55 TMA 1970. Claims and applications must be heard and determined in the same way as appeals.

5.3.5 If a company makes a claim or application before it has delivered its return, any deductions suffered by the company under the Construction Industry Scheme are ignored in calculating the amount to be repaid.

5.4 Interest chargeable on tax paid late ('late payment interest')

5.4.1 Late payment interest is chargeable under Section 87A TMA 1970. It runs from the normal due date to the date on which the tax is paid, irrespective of when the tax liability is determined.

5.4.2 Where tax is charged under Section 419 ICTA 1988 and relief is claimed under Section 419(4) following the repayment, release or write-off of all or part of the loan, interest on any outstanding tax is not chargeable beyond the date on which the loan repayment,

release or write-off takes place. For the purpose of applying this rule any tax that is unpaid at the date on which a repayment, release or write-off occurs is assumed, as far as possible, to be Section 419 tax, rather than corporation tax or tax under Section 747.

5.4.3 In most cases, payment applications produced by the Inland Revenue's computer system will show the interest that has accrued to the date on which the application is processed. But there are some exceptional cases in which the computer cannot calculate interest correctly. In those cases, the Inland Revenue tries to ensure that the payment application shows the accrued interest as nil rather than as a positive but incorrect amount. A proper interest calculation is carried out once the tax has been paid in full.

5.4.4 Under Pay and File, interest may be charged in advance of the receipt of a return, if a late payment of tax had been made. This ceases when the Inland Revenue's new computer system starts (see Appendix 4, para 1). From then on, interest is not calculated, for either a Pay and File or CTSA period, until a return is made or some other charge to tax arises.

5.4.5 Subject to what is said at 5.4.2 and 5.4.6, liability to interest is reduced if the tax charge is reduced, and interest that has been paid on tax that is subsequently repaid is itself usually repayable (Section 91 TMA 1970). In the case of a repayment, the statute puts the onus on the company to 'require' this treatment. In practice, the Inland Revenue will repay any overpaid interest automatically, along with the tax and any repayment interest that may be due. These rules (and the practice) are carried over from Pay and File.

5.4.6 When relief is claimed for a trading loss or a non-trade loan relationship deficit carried back to an earlier accounting period, the relief is not normally effective for interest purposes until the due date for the accounting period in which the loss or deficit is incurred. The exception is where a trading loss is carried back no more than 12 months. The rules are carried over from Pay and File. They operate by

- identifying an amount of tax that would attract interest if the claim had not been made, and
- charging interest on that amount up to the normal due date for the accounting period in which the loss or deficit is incurred.

Example
D Ltd has liability of £60,000 on profits of £300,000 (including non-trade loan relationship profits and gains of £100,000) for its accounting period ended 31 March 2000. It pays £30,000 on the normal due date, 1 January 2001.

D Ltd has a non-trade deficit on loan relationships of £150,000 for its accounting period ended 31 March 2001. It claims relief on £100,000 of this under Section 83(2)(c) FA 1996 by carry-back against the profits and gains arising from non-trade loan relationships in the previous accounting period.

The tax relief amounts to £20,000 (£100,000 @ 20%) but it is effective for interest purposes from 1 January 2002 only, the normal due date for the later accounting period. So D Ltd is liable to Section 87A interest

- on £20,000 from 1 January 2001 to 1 January 2002, and
- on £10,000 from 1 January 2001 to the date of payment.

5.5 Interest Payable on tax repaid ('repayment interest')

5.5.1 Repayment interest on corporation tax (and tax under Sections 419 and 747 ICTA 1988) runs from the normal due date or the date of payment of the tax being repaid, whichever is the later, as it did on corporation tax under the Pay and File rules. But Section 826 ICTA 1988 is amended by Paragraph 2, Schedule 4 FA 1998 so as to advance the date from which repayment interest runs on

- a repayment of income tax to a company that is within the charge to corporation tax, or
- a payment of tax credit to such a company

to the day after the end of the accounting period.

5.5.2 Where tax has been paid on more than one date, any repayment is treated for the purpose of calculating repayment interest as a repayment of tax paid on a later rather than an earlier date (Section 826(6)).

5.5.3 Where a carry-back of trade losses or non-trade loan relationship deficits generates a repayment, repayment interest will not normally run for any time before the normal due date for the accounting period in which the loss or deficit is incurred. The exception to this is where trade losses are carried back no more than 12 months.

Example
E Ltd has a tax liability of £60,000 on profits of £300,000 (including non-trade loan relationship profits and gains of £100,000) for its accounting period ended 31 March 2000. It pays the tax on the normal due date, 1 January 2001.

E Ltd has a non-trade deficit on loan relationships of £150,000 for its accounting period ended 31 March 2001. It claims relief on £100,000 of this under Section 83(2)(c) FA 1996 by carry-back against the non-trade loan relationship profits and gains of the previous period. Tax of £20,000 is accordingly repaid on 14 January 2002. Interest on the repaid tax runs from 1 January 2002, the normal due date for the accounting period in which the deficit arose.

5.5.4 Tax under Section 419 ICTA 1988 that is repayable in consequence of a Section 419(4) claim to which Section 419(4A) applies (that is, where the repayment, release or write-off of the loan takes place later than nine months after the end of the accounting period in which the loan was made) does not attract repayment interest

until the normal due date for the accounting period in which the repayment, release or write-off occurs (Section 826(4)).

5.6 Inland Revenue computer treatment of losses and deficits carried back (and of relief to which Section 419(4A) applie*s*)

5.6.1 In order to handle the interest consequences at 5.4.6 and 5.5.3 , the Inland Revenue's computer system

- ☐ calculates the tax effect of the carry-back of a loss or deficit
- ☐ adds the result of that calculation to the tax liability shown in the assessment or other calculation of liability, and
- ☐ treats the tax effect of the loss as a payment made on the date on which the relief is effective for interest purposes.

This will be reflected in payment applications.

So in the examples at 5.4.6 and 5.5.3, any payment applications issued would show the tax charge as £60,000 both before and after relief has been given for the non-trade deficit. Once the relief has been given, the tax effect of the relief - £20,000 - would be shown as tax paid. The computer handles relief for trading losses carried back for 12 months or less in the same way.

5.6.2 The computer will treat relief to which Section 419(4A) applies in the same way.

5.7 Credit interest

5.7.1 The Regulations introducing Quarterly Instalment Payments of tax by large companies (described in Chapter 12) impose a special interest charge ('debit interest') on companies that are liable to make such payments. They also entitle *all* companies to be paid interest ('credit interest') by the Inland Revenue if they pay tax earlier than the normal due date. The entitlement is set out at Regulation 8 of the Corporation Tax (Instalment Payment) Regulations 1998 (SI 1998 No. 3175). Credit interest runs from the date on which tax is paid (provided that is not earlier than the date on which a first instalment payment would have been due for the accounting period) to the normal due date, or the date on which the tax is repaid, if that is earlier.

Example 1
F Ltd is liable to make Quarterly Instalment Payments of tax for its accounting periods ended 31 December 1999, 2000 and 2001. Its early profit forecasts for 2002 suggest that it will be liable to make such payments for that year also. It accordingly makes estimated instalment payments in July and October 2002.

By January 2003, the company is satisfied that it is not, after all, liable to make instalment payments for 2002 and claims repayment of the tax it has paid. The tax is repaid in full on 16 January 2003. No credit interest is added at that time.

The company's return for its accounting period to 31 December 2002, made in August 2003, shows that the company was not liable to make Quarterly Instalment Payments. So credit interest will be due on the full amount of the early payments from the date on which they were paid to 16 January 2003 (the date on which they were repaid).

Example 2
In September 2000, G Ltd estimates its tax liability for its accounting period ended 31 December 1999 as £125,000. It pays that amount on 28 September 2000, three days before the normal due date. When it completes its return, in November 2000, its

calculates its liability as £132,650. It pays the balance of £7,650 on 22 November 2000.

G Ltd will be

- entitled to credit interest on £125,000 from 28 September to 1 October 2000 (the normal due date)
- liable to late payment interest on £7,650 from 1 October 2000 (the normal due date) to 22 November 2000.

5.7.2 The Inland Revenue will not normally calculate credit interest until the tax charge is recorded or the normal due date has just passed, whichever is the later.

5.8 Interest taxable/tax deductible for CTSA periods

5.8.1 Section 90 TMA 1970 is amended by Section 33 FA 1998 to make interest under Section 87A deductible (under the FA 1996 loan relationship rules) in computing profits for corporation tax purposes where it is charged on tax due for a CTSA accounting period. The same is true of interest under Section 87 TMA 1970 on tax due under Schedule 13 or 16 ICTA 1988.

5.8.2 Section 34 FA 1998 amends Section 826 ICTA 1988 to make repayment interest taxable (under the FA 1996 loan relationship rules) when it relates to a CTSA accounting period.

5.9 Interest rate-setting arrangements and formulae

5.9.1 When this Guide was written, the formulae laid down in the Taxes (Interest Rate) Regulations 1989 (SI 1989 No 1297) for setting rates of interest embodied a deduction for tax in recognition of the fact that interest was not tax deductible or taxable. For accounting periods ending on and after 1 July 1999 new formulae that do not involve such a deduction apply, by virtue of the Taxes (Interest Rate) (Amendment No. 2) Regulations 1999 (SI 1999 No 3176).

5.9.2 The formulae used for setting the rates of late payment interest under Section 87A TMA 1970 and repayment and credit interest under Section 826 ICTA 1988 are

	Pay and File periods	CTSA periods
Late payment interest under Section 87A TMA 1970	Reference rate plus 2.5% reduced by the small companies' rate of corporation tax	Reference rate plus 2.5%
Repayment interest under Section 826 ICTA 1988	Reference rate minus 1% reduced by the full rate of corporation tax	Reference rate minus 1%
Credit interest under the Instalment Regulations	Not applicable	Reference rate minus 0.25%
Debit interest under the Instalment Regulations (See Chapter 12)	Not applicable	Reference rate plus 2%

When the rate for credit interest produced by the formula is not a multiple of one quarter, it is rounded down to the nearest quarter. When the rate for debit interest produced by the formula is not a multiple of one quarter, it is rounded up to the nearest quarter.

The reference rate is the average base lending rate of six clearing banks specified in the Taxes (Interest Rates) Regulations 1989 (SI 1989 No 1297). For ordinary late payment interest and repayment interest (but not for debit interest or credit interest - see above) it is rounded to the nearest whole number, with 0.5 being rounded down.

5.9.3 Rates of late payment and repayment interest are reviewed once a month and changes always take effect on the sixth day of a calendar month. Rates of debit interest and credit interest are reviewed twice a month, on the Tuesday following the monthly meeting of the Bank of England's Monetary Policy Committee, and the Tuesday a fortnight later. Changes take effect on the following Monday.

Chapter 6

Enquiries

References to Paragraph numbers are to Paragraphs in Schedule 18 FA 1998, unless some other reference is shown or is supplied by the immediate context.

6.1 Introduction

The Inland Revenue want companies to pay the right amount of tax: no more, no less. They will do everything they reasonably can to help you make sure this happens. The Inland Revenue also want companies to feel confident that other taxpayers are paying what they should and that the Inland Revenue operates the tax system fairly. To help achieve these aims, enquiries are made into some tax returns to check that they are right or if further information is needed to understand any figures. The Inland Revenue want to make sure companies do not pay too much tax or too little - either way, they will tell companies if they find something wrong.

Enquiries prior to the introduction of CTSA

6.1.1 The introduction of Self Assessment in 1996-97 included a new statutory framework for enquiries into tax returns delivered by individuals and partnerships. This framework did not apply to companies, and for accounting periods which end before 1 July 1999 assessments on companies are made under the rules contained in Section 29 TMA 1970.

6.1.2 For accounting periods prior to the introduction of CTSA, the Inland Revenue does not have an explicit right to enquire into a return to ensure it is correct. But the Inland Revenue is required to consider whether a return is correct and complete before making an assessment. If an Inspector is satisfied with the accuracy of a return, the assessment must be based on the figures in that return. If the Inspector is not satisfied with the return, an estimated assessment is made, 'to the best of his (or her) judgement'.

6.1.3 Where a return cannot be immediately agreed, the Inland Revenue may ask questions of a company in order to judge the accuracy of the return. In practice, this generally means that enquiries are made, either about specific technical aspects or about the whole of the company's business. But there are no statutory powers regulating the scope of enquiries that can be made.

6.1.4 The introduction of Pay and File considerably reduced the number of cases progressed through the old cycle of estimated assessment, appeal, Commissioners' hearing. But where the Inland Revenue experience difficulty in obtaining replies to enquiries, it is still often necessary to make an estimated assessment, which is appealed against, followed by proceedings before the Commissioners, in order to progress matters. This can be a time-consuming process for all concerned and can appear unnecessarily confrontational, particularly when the Inland Revenue is merely seeking to establish the facts of the case.

6.1.5 For accounting periods before the introduction of CTSA, the Inland Revenue must state grounds for dissatisfaction with a return at the start of an investigation, in accordance with the 1977 agreement with the Consultative Committee of Accountancy Bodies. It is possible that a dishonest company may arrange its affairs in such a way that its returns appear to be perfectly satisfactory.

6.1.6 Although in many such cases a detailed review of the company's affairs will quickly establish the true position, for periods prior to CTSA the Inland Revenue cannot open an investigation without being able to state why it is dissatisfied with the return delivered.

The CTSA enquiry framework

6.1.7 Under CTSA there will be a completely new approach to the examination of returns. For many companies the return, including the self-assessment, will simply be processed as submitted and there will be no need for the Inland Revenue to take any further action in respect of that return to create the charge to tax. This will form part of a ‘process now, check later’ approach to the examination of returns.

6.1.8 During routine processing the Inland Revenue will only check the return to the extent of correcting obvious errors that come to light at that stage.

6.1.9 Once initial processing has been completed, the Inland Revenue will check returns and will have an explicit right to enquire into the completeness and accuracy of any tax return. This right will cover all enquiries, from straightforward requests for further information on individual items through to full reviews of a company’s business including examination of the company’s records. It will be supported by a new information power.

6.1.10 There is a new statutory framework for enquiries into Company Tax Returns. The new rules mirror those for income tax under Self Assessment, and ensure that for accounting periods ending on or after 1 July 1999 the rules governing enquiries into Company Tax Returns will be the same as those for unincorporated businesses.

6.1.11 The main features of the rules for enquiries under CTSA are

- ☐ the Inland Revenue has a fixed period, of at least 12 months, in which to commence an enquiry

if no enquiry is started within this time limit, the company’s return becomes
ect to the possibility of an Inland Revenue discovery (see 6.17)

- ☐ the Inland Revenue are required to give formal notice when an enquiry commences
- ☐ the Inland Revenue are also required to give formal notice of the completion of an enquiry, and to state their conclusions
- ☐ a company may ask the Commissioners to direct the Inland Revenue to close an enquiry if there are no reasonable grounds for continuing it
- ☐ at the end of an enquiry a company has 30 days in which to amend its return in accordance with the conclusions in the closure notice
- ☐ if at the end of that 30 days the Inland Revenue are not satisfied that the return is correct and complete, they may amend the return as necessary
- ☐ there are new information powers which support the enquiry process, and which do not require the involvement of the Commissioners
- ☐ companies are obliged to keep records specifically for tax purposes.

6.1.12 It will no longer be necessary to justify an enquiry by stating dissatisfaction with the return or by identifying particular aspects of the return that give cause for concern.

6.1.13 There are clear rules covering the time limits in which enquiries may be made, the nature of the information that can be sought, and the conduct of the enquiry itself. And at the end of any enquiry the company will have full rights of appeal if it does not agree with the Inland Revenue's findings.

6.1.14 The time limit for enquiries only applies to the opening of an enquiry. It does not place any constraints on the time taken to complete the enquiry because this will vary according to the nature and complexity of each case. If the Inland Revenue do not open an enquiry within the time limit, they will not be able to amend a company's self-assessment and will only be able to make a further (discovery) assessment if the company has been fraudulent or negligent or has made an incomplete disclosure of information.

6.1.15 Random selection will play a part in CTSA, but the majority of enquiry cases will continue to be specially selected, as they were now, on the basis of a judgement, informed by all of the information in the Inland Revenue's possession, of the risk of tax loss reflected in the return.

6.1.16 The new enquiry procedures described in this Chapter apply to all Company Tax Returns for accounting periods ending on or after 1 July 1999. A Code of Practice (CoP 14) for enquiries into Company Tax Returns under CTSA will be published. The Code of Practice will cover

- ☐ what the Inland Revenue do when they receive a return
- ☐ how an enquiry is conducted
- ☐ professional representation
- ☐ providing information
- ☐ meetings
- ☐ what the Inland Revenue will do when they find nothing wrong, and when they find something wrong
- ☐ revised figures
- ☐ appeals
- ☐ interest and penalties
- ☐ what happens at the end of an enquiry
- ☐ keeping the company/its agent informed
- ☐ confidentiality
- ☐ company costs
- ☐ complaints

Detail

6.2 Power to enquire into returns (Paragraph 24)

6.2.1 Under CTSA, the Inland Revenue will have the right to make enquiries into any Company Tax Return.

6.2.2 This right will apply to the original return, and to any subsequent amendment to the return made by the company.

Inland Revenue duty to give notice of enquiry (Paragraph 24(1))

6.2.3 The only condition that the Inland Revenue must satisfy before commencing an enquiry is to give written notice of the intention to enquire into the return.

6.2.4 Once the time limit for giving a notice of enquiry under Paragraph 24 has passed (see 6.3), it will not be possible for the Inland Revenue to open an enquiry to which the provisions of Paragraphs 24 to 34 of Schedule 18 apply. This does not mean that the Inland Revenue will no longer be able to ask questions about earlier years' returns. But the Inland Revenue can only take further action in relation to a return for which the enquiry time limit has passed if the company has been negligent or fraudulent, or has failed to disclose all the information relevant to its liability (see 6.17, Discovery assessments and determinations).

6.2.5 The Inland Revenue is under no obligation to give notice that a particular return has been 'accepted' and that no enquiries will be made. It will not do so, even if requested, other than in specific circumstances relating to the completion of a winding-up.

Only one notice of enquiry allowed (Paragraph 24(5))

6.2.6 Unless the company amends its return, only one notice of enquiry may be issued in respect of that return. Where the company amends its return, that amendment and any later amendment may be the subject of separate enquiries.

6.3 Time limits for notice of enquiry (Paragraph 24(2) - (4))

6.3.1 The written notice of enquiry into a Company Tax Return must be given within a specified period of time following the delivery of the return.

6.3.2 Where a return is delivered on or before the filing date, the time limit for giving notice of enquiry will be 12 months from that filing date. The 12 months begins on the day after the filing date. For example, if the filing date is 31 December 2000, the Inland Revenue may issue a notice of enquiry at any time up to and including 31 December 2001.

6.3.3 If a return is delivered *after* the filing date, the period in which the notice can be given runs up to and includes the 31 January, 30 April, 31 July or 31 October next following the first anniversary of the date on which the return was delivered.

6.3.4 A notice of enquiry into an amendment to a return may be given at any time up to and including the 31 January, 30 April, 31 July or 31 October next following the first anniversary of the day on which the amendment was made.

6.3.5 A notice of intention to enquire is 'given' on the date on which it is issued. For a notice given by post, this means the date on which it is posted or otherwise committed to the postal services.

6.4 Scope of enquiries (Paragraph 25)

6.4.1 An enquiry into a Company Tax Return can extend to anything contained in the return or which should have been contained in the return. This includes claims and elections. It also includes any amount which may affect the tax payable for other accounting periods (for example, a trading loss for which relief cannot yet be given), and any amount which may affect the liability of another company (for example, a loss surrendered as group relief). But where an amount has been included in a return for another period and that return has become final, the enquiry can only extend to how that amount is used in the other return (see 4.3 and 4.4).

6.4.2 If the enquiry is into an amendment to the return, and the notice of enquiry is issued after the end of the period during which the Inland Revenue could commence an enquiry into the whole of the return, then the scope of that enquiry is limited to matters to which the amendment relates or which are affected by the amendment (see 6.6.11).

6.5 Enquiry into return for wrong period (Paragraph 26)

6.5.1 Companies are charged to corporation tax by reference to accounting periods, and are required by Paragraph 5 to make returns for accounting periods (see Chapter 3). Where it appears that a company has made a return for the wrong period, the power to enquire into the return is extended to include the period for which the return should have been made.

6.5.2 There are two situations where a company may make a return which is a return for the 'wrong period'. The first is where the company makes a return for a period which is not an accounting period. The second is where the return is made on the basis that there is no accounting period ending in or at the end of the specified period, but there is such an accounting period.

6.5.3 Where a return is made for a wrong period, the time allowed for the issue of a notice of enquiry into that return is determined by reference to the filing date for the wrong period rather than by reference to the filing date for the period for which the return should have been made.

6.5.4 The scope of the enquiry is similarly extended where a return has become a return for the wrong period as a result of a direction under Section 12(5A) ICTA 1988, as to the accounting date to be used where the company carries on several trades.

6.6 Notes on Inland Revenue enquiries

6.6.1 The right to 'correct' the entries in a return (see Chapter 4) is quite distinct from the right to 'enquire' into the accuracy of the information in the return.

6.6.2 A 'correction' is simply the correction of an obvious error in an entry in the return, or the associated computations. In contrast, an enquiry may be concerned with the accuracy and technical validity of the entry itself.

6.6.3 Although the Inland Revenue will have the right to check any Company Tax Return at random, including those in which everything appears to be in order, most enquiries will be selective, for example on the basis that there is significant tax at risk, or a suspicion that something may be wrong.

6.6.4 In addition to the selective enquiries there will be a small number of random selections.

6.6.5 The Inland Revenue no longer need to state grounds for dissatisfaction with a return before starting an enquiry. The Inland Revenue are not required to give reasons for commencing an enquiry, and inspectors will not give reasons. Of course, the Inland Revenue may identify particular areas on which the enquiry will focus, whether the enquiry has been taken up randomly or selectively.

6.6.6 Some enquiries will simply question obvious errors that were not identified during the initial processing, and some will require a straightforward clarification of a single item in the return.

6.6.7 Others will comprise a more detailed examination of some technical aspect of the return, for example, whether a particular expense is allowable for tax purposes. Some

large businesses will, as under Pay and File, be the subject of detailed technical reviews each and every year.

6.6.8 In some cases there will be a full in-depth review of the company's affairs including the records underlying the entries in the return.

6.6.9 In all enquiries, the Inland Revenue will focus on the facts and information underlying the figures in the return, accounts and computations. Business documents and records will commonly be requested.

6.6.10 The percentage of cases where there is a full enquiry involving a detailed, in-depth review of the company's affairs is likely to remain small. And it is expected that enquiries into specific aspects of a company's return, for example involving examination of a particular area or technical point, will continue in similar numbers to now. The Inland Revenue will monitor compliance levels closely to ensure that companies that do not self-assess correctly face a high risk of being detected and, in the case of negligence or fraud, penalised.

6.6.11 Whenever a self-assessment is amended by the company, a new period for potential Inland Revenue enquiries begins. In most cases, any subsequent enquiry will be limited to the area of the return that was amended. But there may be cases in which the amendment relates to or affects matters which are so fundamental to the whole return that the whole return will be considered for enquiry. For example, the original return may have contained estimated figures. When the amendment alters a number of figures or changes a figure which radically alters the overall return it is possible that the whole return would be considered in the enquiry. But in most instances, where the amendment is to a specific figure or area, the Inland Revenue enquiry will be confined to that figure or area.

6.6.12 The enquiry procedures described below only apply where the Inland Revenue has issued a formal notice of enquiry in respect of any return, or an amendment to a return.

6.7 Formal notice may be given requesting documents or information (Paragraph 27(1))

6.7.1 Once a notice of enquiry has been issued, the Inland Revenue may issue a notice which requires the company to produce documents or provide information which they may reasonably require for the purposes of the enquiry. This notice may be issued at the same time as the notice of enquiry, or at some later date.

6.7.2 The notice can require the company to produce documents which are in its possession or power.

6.7.3 For the purposes of a Paragraph 27 notice, the meaning of 'document' is extended by Section 127 FA 1988 to include anything in which information of any description is recorded. A notice under Paragraph 27 can require a 'document' which is written, which is held in computer form, which is stored electronically, or in any other medium.

6.7.4 The notice can also require the company to provide the Inland Revenue with information. 'Information' extends beyond documents which already exist and can include statements which have to be drawn up, such as a profit and loss account, a balance sheet, or a detailed factual account of how a particular entry in the return is made up.

6.7.5 A Paragraph 27 notice must be given in writing. It does not give the Inland Revenue the power to require someone to attend an interview but, of course, a meeting will often be an effective way of resolving an enquiry.

Period allowed for compliance (Paragraph 27 (2))

6.7.6 Whenever a formal notice is issued, that notice must specify a time limit for compliance with the notice. This time limit must be not less than 30 days. It runs from the date of receipt of the notice.

6.7.7 If a company requires a longer period to provide the information requested, it should contact the officer to explain the problem. In cases of genuine difficulty a revised time scale will be agreed.

6.7.8 Where, exceptionally, the company cannot obtain the information, or it does not exist, the taxpayer should explain the circumstances to the officer dealing with the enquiry.

Originals or copies? (Paragraph 27(3) & (4))

6.7.9 A company may comply with a notice under Paragraph 27 by producing photocopy or facsimile documents rather than the originals. But the Inland Revenue may issue a notice requiring the originals to be produced for inspection. This notice must specify the time, which must be not less than 30 days, within which the company is to comply.

6.7.10 The Inland Revenue may take copies of, or make extracts from, any document produced to them under Paragraph 27.

Exemption for documents or information relating to the conduct of a pending appeal (Paragraph 27*(5)*)

6.7.11 A company does not have to supply any documents or information relating to the conduct of any pending appeal by the company. This means documents that are brought into existence as part of the preparation for the presentation of an appeal.

6.8 Nature and amount of information that may be requested

6.8.1 The nature and quantity of documents etc. that will be requested in any case will depend on the nature of the enquiry. For example, for a simple technical enquiry into expenditure qualifying for capital allowances the request might be limited to the documents etc. detailing that expenditure. For a full in-depth review of a company's business, the request might cover all the records of that business. But in all cases a notice under Paragraph 27 must be limited to documents etc. which are relevant to the return which is under enquiry.

6.8.2 A request for documents under Paragraph 27 is not restricted to those documents which a company is obliged to keep under Paragraph 21 (see 4.12). So long as the documents are in the company's possession or power and are relevant to the purposes of the enquiry they may be included in a Paragraph 27 notice.

6.8.3 The Inland Revenue may wish to obtain information from someone other than the company whose return is under enquiry. Examples might include details of a company director's personal expenditure, bank statements, personal assets or non-taxable income, or information from another company which has been party to a transaction involving the company under enquiry. Unless the documents requested are in the possession or power of the company under enquiry and can reasonably be requested for the purposes of the enquiry, they cannot be requested under Paragraph 27. But, as now, any such information from a third party can be sought informally, and if not provided informally, it can be sought formally under Section 20(3) TMA 1970. And where information is sought from a company director whose income tax self-assessment is also under enquiry, the information can be sought formally under Section 19A TMA 1970, if it is relevant to that enquiry.

6.8.4 The general information powers of Section 20 TMA 1970 (which apply to both taxpayers and third parties) and Regulation 10 of Statutory Instruments 1994 Nos. 1811 and 1812 (Commissioners' right to issue notices requiring information) will continue to apply where appropriate.

6.8.5 Although there are some apparent similarities between Paragraph 27 and Section 20 TMA 1970, they do fulfil two distinct and separate functions. Paragraph 27 provides part of the formal framework for the 'check later' component of 'process now, check later'. As such, it will only apply where an officer of the Board is seeking to establish the accuracy of a particular return. The information that can be sought is limited to that which is reasonably relevant to determining whether or not the return is correct. By contrast, Section 20 TMA 1970 is a general investigative power, which can be used in a wide variety of circumstances. It allows the officer to seek information relating to any tax liability to which the taxpayer may or may not be subject. It is not restricted to a

particular return, or to a particular period. It can also be used to obtain information from third parties.

6.8.6 While the powers of Commissioners to require information remain, these powers are only relevant where there has been an appeal. Under CTSA, just as under Pay and File, the numbers of appeals against assessments will be much less than was the case before the introduction of Pay and File.

6.9 Appeals against requests for documents, accounts or particulars (Paragraph 28)

6.9.1 The company may appeal against a formal notice under Paragraph 27 requesting documents or information. Any appeal must be made

- in writing
- within 30 days of the date on which the notice was given to the company
- to the person who issued the notice.

6.9.2 Paragraph 28 does not limit the terms of the appeal. But the potential grounds for any such appeal are limited because the only points open to arbitration are whether the production of documents or provision of information requested is reasonably required for the purposes of the enquiry, and whether the company was given sufficient time to comply with the notice.

The appeal cannot be used to challenge the Revenue's right to make enquiries into any return.

6.9.3 The normal appeal procedures will apply to any such appeal (see Chapter 11).

6.9.4 When determining the appeal, the Commissioners will

- confirm the original notice, or
- confirm only that part of the notice which they consider to be reasonably required for the purposes of the enquiry, or
- set the notice aside.

6.9.5 Whenever a notice is confirmed, that notice must be complied with within 30 days of the determination of the appeal.

6.9.6 The decision of the Commissioners on an appeal under this Paragraph is final and conclusive. Neither party will be entitled to require a stated case. This is because it is a question of fact whether or not the information requested is reasonably relevant to determine the accuracy of the return.

6.10 Penalty for failure to produce documents etc. (Paragraph 29)

6.10.1 Failure to comply with a notice under Paragraph 27 requesting documents or information may result in the determination of a penalty.

6.10.2 A company which fails to comply with such a notice will be liable to an initial penalty of £50. But, if the failure continues after this initial penalty has been imposed, the company will be liable to additional daily penalties.

6.10.3 The amount of the additional daily penalty will depend on whether the additional penalty is determined by an officer of the Board under Section 100 TMA 1970, or determined by the Commissioners under Section 100C TMA 1970.

6.10.4 If the additional daily penalty is determined by an officer of the Board the maximum penalty that can be imposed is £30 per day. But if the penalty is determined by the Commissioners in formal penalty proceedings the maximum is £150 per day.

6.10.5 The taxpayer can appeal against the penalty in the normal way (see Chapter 11).

6.10.6 No penalty can be determined after the failure has been corrected.

6.10.7 There can be no question of a penalty in any case in which it is genuinely impossible, for whatever reason, to comply with the notice.

6.10.8 A company cannot be penalised for failing to produce documents that do not exist. So, if the company has failed to keep the records required by Paragraph 21, a penalty may arise for that failure, but not for any consequential failure to produce those records in response to a notice issued under Paragraph 27. However, where the company has kept some but not all records required by Paragraph 21, and fails to comply with a request to produce them, penalties could be sought for the failure to comply with a notice under Paragraph 27. The circumstances in which a penalty under Paragraph 23 would be sought for a failure to keep records are described at 4.13.6.

6.10.9 A notice under Paragraph 27 requesting information, as opposed to documents, may require the company to provide information beyond that contained in documents which already exist. For example, information could include an analysis showing how a particular entry in the company's accounts or return is made up, computations or calculations, an explanation of how certain items have been categorised in the company's return, or a translation of documents written in a foreign language. A penalty can be sought for a failure to provide such information in response to a notice issued under Paragraph 27.

6.11 Amendment of self-assessment during the enquiry to prevent loss of tax (Paragraph 30)

6.11.1 If, during the course of an enquiry, the Inland Revenue have reason to believe that there is likely to be a loss of tax unless the assessment is amended immediately, the Inland Revenue may amend the self-assessment.

6.11.2 An amendment of the company's self-assessment under Paragraph 30 will only be made where the Inland Revenue have formed the opinion that

- ☐ the amount shown in the self-assessment as tax payable is insufficient, and
- ☐ there is likely to be a loss of tax to the Crown unless the assessment is amended immediately.

6.11.3 Where the enquiry is limited to matters in or affected by an amendment to the self-assessment, under Paragraph 25(2), the Inland Revenue may only act under this Paragraph to make good a deficiency which is attributable to the amendment.

6.11.4 The company has a right of appeal against an amendment made by the Inland Revenue under this Paragraph. Notice of appeal must be made

- ☐ in writing

within 30 days after the amendment was notified to the company

- ☐ to the person by whom notice of the amendment was given.

6.11.5 Any appeal will be heard and determined by the Commissioners in the normal way, but an appeal against an amendment made under Paragraph 30 will not be heard until the enquiry has been completed (see 6.13).

6.11.6 Where an appeal is made against an amendment under Paragraph 30, the postponement provisions of Section 55 TMA 1970 apply.

6.11.7 Where during the course of an enquiry the Inland Revenue establish that the tax included in the self-assessment is insufficient, a request will normally be made to the company to make an additional payment on account to cover the deficiency. Where a company refuses to make such a payment on account, the Inland Revenue will issue a notice of amendment under Paragraph 30 if they believe that tax is at risk.

6.11.8 Circumstances where the Inland Revenue will consider issuing a notice under this Paragraph will include those cases where there is a possibility that the company might

- ☐ dispose of its assets
- ☐ go into liquidation.

6.12 Amendment of return by the company during an enquiry (Paragraph 31)

6.12.1 A company may amend its return under Paragraph 15 (see Chapter 4*),* generally within 12 months of the statutory filing date for the return. It is therefore possible for a company to give notice of an amendment to its return after the commencement of an enquiry into that return.

Paragraph 31

6.12.2 Where a company amends its return while an enquiry is in progress, the amendment does not restrict the scope of the enquiry but it may be taken into account (together with any matters arising) in the enquiry.

6.12.3 Where an amendment made by the company during an enquiry affects

- ☐ the amount stated in the company's self-assessment as the amount of tax payable, or

☐ any amount that affects or may affect

- the tax payable by the company for another accounting period, or
- the tax liability of another company for any accounting period

the amendment does not take effect until the enquiry is completed.

6.12.4 An amendment made by the company during an enquiry can be given effect in different ways at the end of the enquiry. Which of these is appropriate depends on the conclusions stated in the closure notice (see 6.13*)* at completion of the enquiry.

6.12.5 Where the conclusions in the closure notice state either

- ☐ that the amendment was not taken into account in the enquiry, or
- ☐ that no amendment of the return is required arising from the enquiry

the amendment takes effect on completion of the enquiry.

Otherwise the amendment must be taken into account by the company in amending its return in accordance with the conclusions in the closure notice, and will take effect as part of those amendments.

6.12.6 In practice, this means that

- ☐ where the closure notice says that no amendment of the return is required in consequence of the enquiry, the Inland Revenue will give effect to the amendment made during the enquiry
- ☐ where the closure notice says that the return should be amended in consequence of the enquiry, the amendments suggested by the Inland Revenue will normally take account of the amendment made by the company during the enquiry
- ☐ where the closure notice says that the amendment has not been taken into account in the conclusions, the company should amend its return in accordance with the closure notice *and*, if it so wishes, take account of its own amendment. If it does so, the Inland Revenue will be able to open an enquiry into the matters relating to or affected by that amendment, within the time limit allowed by Paragraph 24(4) (see 6.3.4).

6.12.7 See Chapter 8 on the company's right to make or withdraw claims to capital allowances and group relief at the end of an enquiry.

6.13 Completion of enquiry (Paragraph 32*)*

6.13.1 An enquiry is completed when the Inland Revenue issues a closure notice. The closure notice is a formal notice which informs the company that the Inland Revenue have completed the enquiry and states their conclusions. The conclusions will reflect any adjustments that are required to the Company Tax Return which has been the subject of the enquiry.

6.13.2 If the Inland Revenue conclude that the return was for the wrong period (see 6.5), the closure notice will designate the accounting period for which a return should have been made.

6.13.3 Where there is more than one accounting period ending in or at the end of the period specified in the notice requiring the return, the closure notice will only designate the first of those accounting periods for which no return has been made. Paragraph 35 provides for a return to be delivered for any other outstanding period (see 6.16).

6.14 Direction to complete an enquiry (Paragraph 33)

6.14.1 During the course of an enquiry, the company may consider that the Inland Revenue has no reasonable grounds for continuing the enquiry, and that therefore the enquiry should be concluded.

6.14.2 The company may apply to the Commissioners for a direction that the Inland Revenue issue a notice stating that the enquiry is complete. This application will be determined as if it were an appeal.

6.14.3 The Commissioners must give a direction unless they are satisfied that the Inland Revenue has reasonable grounds for not giving a closure notice within a specified period.

6.14.4 This right to apply to the Commissioners does not restrict the Inland Revenue's right to make an enquiry into any return. But if the company believes that the enquiry should not continue, for instance because it has provided the Inland Revenue with all the information reasonably required to determine the accuracy or completeness of the return, it allows the company to ensure that the enquiry is not unreasonably prolonged.

6.14.5 The Commissioners can direct the Inland Revenue to issue a closure notice. The date of completion of the enquiry will still be the date on which the Inland Revenue issue the notice, under Paragraph 32, rather than the date on which the Commissioners give their direction.

6.14.6 While the Commissioners can direct the Inland Revenue to complete the enquiry, such a direction does not require the Inland Revenue to confirm that the company's tax return and self-assessment are correct. The closure notice which the Inland Revenue issue following a Commissioners' direction must include their conclusions. Those conclusions will be based on the information available to the Inland Revenue at the time of completion of the enquiry, and will represent what the Inland Revenue believe to be the correct amounts to be included in the return on the basis of that information.

6.15 Amendment of return after enquiry - by the company (Paragraph 34(1))

6.15.1 Once the closure notice under Paragraph 32 has been issued the company has 30 days in which to

- amend its return in accordance with the conclusions in the notice
- where it has made return for the wrong period, to make a return for the designated period stated in the closure notice, and
- make any amendments of other Company Tax Returns delivered by it which are required to give effect to the conclusions stated in the closure notice.

6.15.2 The 12 month time limit which normally restricts the time in which the company can amend its return and self-assessment (see 4.8.1) does not apply to amendments required under this Paragraph.

6.15.3 **Amendment of return after enquiry - by the Inland Revenue (Paragraph 34(2))**

If at the end of that 30 day period the Inland Revenue are not satisfied that

- the return which was under enquiry has been amended and is now correct and complete (or is now for the designated period, in the case of a return for the wrong period), and
- necessary amendments required to give effect to the conclusions in the closure notice have been made to any other return delivered by the company

they may make such amendments of that return or those returns as they consider necessary.

6.15.4 Any such further amendments must be made by giving formal notice to the company, and must be made within 30 days of the expiry of the 30 day limit allowed for amendments to be made by the company.

Company right of appeal (Paragraph 34 (3) and (4))

6.15.5 The company have the right of appeal against an Inland Revenue amendment made under Paragraph 34(2). The appeal must be made

- in writing
- within 30 days of the notification of the amendment to the company
- to the person by whom the notice of amendment was given.

6.15.6 The provision in Paragraph 34(1) for amendments to other returns delivered by the company allows the company to make consequential amendments. For example, a company will be able to amend a return for a later period to reflect a change, resulting from the enquiry, in a figure of trade losses brought forward and set off against trading profits of the later period, even though the normal time limit for amendment of that later period return has passed.

6.15.7 The provision allowing the Inland Revenue to make amendments to the company's return following the 30 day period in which the company can amend its return will enable the Inland Revenue to amend the company's return where the company does not make the required amendment under Paragraph 34(1), or where the company's amendment is not in accordance with the conclusions in the closure notice.

6.15.8 The paragraphs above describe the formal statutory framework governing closure of enquiries and amendment of the Company's Tax Return following enquiry, including the company's right of appeal against an Inland Revenue amendment of its return. It is expected, however, that in the vast majority of cases settlement will be by agreement and by an amendment to the self-assessment to reflect any adjustments agreed.

6.15.9 The facility to agree a contract settlement for all outstanding liabilities in appropriate cases will remain broadly as now. This will most often apply to those cases involving liability to penalties as well as additional tax.

6.16 Further return for an outstanding period (Paragraph 35)

6.16.1 Where an enquiry establishes that a further return is required in respect of an outstanding period, Paragraph 35 sets out what the company must do.

6.16.2 If no return has already been made which can be amended so as to become the return for the outstanding period, the original notice to make a return is taken to require the company to make a return in respect of that period.

6.16.3 The statutory filing date for a return for such an outstanding period is the later of

- the original filing date, and
- 30 days after the day on which the period for which the outstanding return must be made has been established.

6.16.4 *Example*
H Ltd is issued with a notice to make a return for the specified period 1 January 2001 to 31 December 2001.

The company delivers a return for that period, which includes accounts for the year ended 31 December 2001.

During the course of an enquiry into that return, it is established that the company's trade ceased on 30 November, after which date the company received only investment income.

The accounting periods for which the company should have made a return are

- 1 January 2001 to 30 November 2001, and
- 1 December 2001 to 31 December 2001

(Section 12 ICTA 1988 and Paragraph 5 Schedule 18 FA 1998).

On completion of the enquiry, the closure notice issued by the Inland Revenue includes the conclusion that the return was a return for the wrong period, and designates the first of the accounting periods for which a return should have been made: 1 January 2001 to 30 November 2001.

H Ltd amends its return under Paragraph 34(1) in line with the conclusions in the closure notice. The amendment makes it a return for the period 1 January 2001 to 30 November 2001.

H Ltd is then required by Paragraph 35 to file a return for the period 1 December 2001 to 31 December 2001.

6.17 Discovery assessments and determinations (Paragraph 41)

6.17.1 Self-assessments will replace the vast majority of assessments which were previously issued by the Inland Revenue. But the Inland Revenue will still be able to make 'discovery' assessments and determinations in certain circumstances. For pre-CTSA periods, 'discovery' assessments were made under the authority of Section 29 TMA 1970. For accounting periods within CTSA, the provisions of Section 29 are replaced by new rules contained in Paragraph 41.

6.17.2 Under Paragraph 41(1), the Inland Revenue may make a 'discovery assessment' to make good a loss of tax if they discover

- ☐ an amount which ought to have been assessed to tax has not been assessed
- ☐ an assessment to tax is or has become insufficient
- ☐ relief has been given which is or has become excessive.

6.17.3 Paragraph 41(2) applies where the Inland Revenue discover that a Company Tax Return incorrectly states an amount that affects, or may affect, either

- ☐ the tax payable by the company for another period, or
- ☐ the tax liability of another company.

Where the Inland Revenue make such a discovery, they may make a 'discovery determination' of the amount which in their opinion ought to have been stated in the return.

6.17.4 The circumstances in which a determination under Paragraph 41(2) can be made are distinct from the circumstances in which the Inland Revenue can make a determination under Paragraphs 36 and 37 (see Chapter 9). Determinations under Paragraphs 36 and 37 are determinations of tax payable and can only be made where no return has been delivered by the company or where a notice to deliver a return has been only partly complied with. A Paragraph 41(2) determination is a determination of a loss or some other negative amount and can only be issued where a return has already been delivered.

6.17.5 In practice, where a return has been filed and the time limit for opening an enquiry into that return has not yet expired (see 6.3), the Inland Revenue will normally deal with matters by opening an enquiry rather than the issue of a discovery assessment or determination.

6.17.6 A discovery determination will be appropriate, for example, where there is a discovery that losses carried forward or surrendered as group relief have been overstated. A discovery assessment will be appropriate where a discovery leads to an additional tax liability on the company for that accounting period.

6.17.7 A discovery determination which reduces losses, or other negative amounts, available to the company for another period, or available to another company, will often lead to a need to amend the return made for that other period or by that other company, if an amendment may be made at that time (see Chapter 4). Where the time allowed for making an amendment has expired, the Inland Revenue will make a discovery assessment.

6.18 Restrictions on the power to make discovery assessments or determinations

6.18.1 The conditions which govern when the Inland Revenue is allowed to make discovery assessments or determinations are set out in Paragraphs 42 to 45. With one exception (Paragraph 42(2) - see 6.18.2), where a return has been delivered, a discovery assessment or determination can only be made where

- there has been fraudulent or negligent conduct, or
- the Inland Revenue could not have been reasonably expected to be aware of the under assessment (or excessive relief) on the basis of information made available as part of the Company Tax Return or in related documents.

Paragraph 42(2)

6.18.2 The Inland Revenue is allowed to make a discovery assessment or determination in order to give effect to a discovery determination made with respect to an amount stated in another company's return. (An example would be a change in an amount of group relief). Otherwise, where a company has delivered a Company Tax Return, the Inland Revenue can only make a discovery assessment or determination in the circumstances set out in Paragraph 43 or Paragraph 44, qualified by Paragraph 45.

Objections (Paragraph 42(3))

6.18.3 Any objection that the Inland Revenue have not complied with the conditions of Paragraphs 43 to 45 restricting their power to make discovery assessments or determinations can only be made on an appeal against the assessment or determination.

Fraudulent or negligent conduct (Paragraph 43)

6.18.4 A discovery assessment or determination may be made on a company if there has been fraudulent or negligent conduct on the part of

- the company
- a person acting on the company's behalf
- a person who was a partner of the company at the relevant time.

Situation not disclosed by return or related documents (Paragraph 44)

6.18.5 The Inland Revenue may make a discovery assessment or discovery determination where they could not have been reasonably expected to be aware of the situation giving rise to the loss of tax, or statement of an incorrect amount, before the expiry of the normal time limit for opening an enquiry, or before the conclusion of an enquiry, on the basis of the information made available to them before that time (Paragraph 44(1)).

6.18.6 Information is treated as being made available to the Inland Revenue if

- it is contained in a return by the company for the period (or either of the two preceding accounting periods), or in documents accompanying such a return
- it is contained in a claim made by the company for the period, or in accounts, statements or documents accompanying such a claim
- it is contained in any documents, accounts or other information produced or provided for the purposes of an enquiry into any such return or claim

- it is information whose existence and relevance to the loss of tax or statement of an incorrect amount

  - could reasonably be expected to be inferred from any of the above, or

  - are notified in writing to the Inland Revenue.

6.18.7 A change of opinion on information that had previously been made available in a relevant return, and whose relevance was clear, will not be grounds for making a discovery assessment or determination.

6.18.8 The definition of 'made available' must be considered in the context of the 'reasonably expected' condition of Paragraph 44(1) (see 6.18.5). There is an onus on the company to draw attention to any important information that is relevant to a tax liability. This is particularly true if there is some doubt as to the interpretation which could be placed on that information. It is not sufficient just to provide that information if it is hidden away, is obscure, or if its relevance is unclear. In particular, information cannot be regarded as 'made available' under the last of these definitions unless both the existence and relevance of the information has been notified by the company, or can reasonably be expected to be inferred.

6.18.9 Information is regarded as made available under this Paragraph if it is made available by 'the company'. This will include information made available by the company's agent on behalf of the company. The Inland Revenue will not be prevented from making a discovery assessment or a discovery determination where the information has been made available by, or on behalf of, someone other than the company on whom the discovery assessment or determination would be made. For example, information relevant to the discovery may have been contained in the return of another company in the same group or notified in writing by another company, or provided during the course of an enquiry into the return of one of the company's directors. In these circumstances, the Inland Revenue will still be able to make a discovery assessment or discovery determination, because the information was not made available by 'the company'.

6.19 Return made in accordance with prevailing practice (Paragraph 45)

6.19.1 The Inland Revenue may not make a discovery assessment or discovery determination where

- the loss of tax or incorrect statement of an amount is attributable to a mistake in the return concerning the basis on which the company's liability ought to have been computed, and

- the return was made on the basis or in accordance with the practice generally prevailing at the time.

6.19.2 So the Inland Revenue will not be able to make discovery assessments or determinations simply because it has changed its practice in relation to the treatment of some particular item.

6.20 General time limit for assessments (Paragraph 46)

6.20.1 Unless the provisions of the Taxes Acts allow a longer period, an assessment can be made at any time up to six years after the end of the accounting period to which it relates.

6.20.2 The time limit for making an assessment is extended to 21 years after the end of the accounting period to which it relates in cases where the loss of tax is attributable to

fraudulent or negligent conduct by the company, a person acting on behalf of the company, or a person who was a partner of the company at the relevant time.

6.20.3 An objection to an assessment on the grounds that the time limit for making it has expired can only be made on an appeal against the assessment.

Assessment procedure and appeals (Paragraphs 47 and 48)

6.20.4 The existing procedures relating to the issue of assessments other than self-assessments and appeals against those assessments are continued. These provisions are contained in Paragraph 47 and Paragraph 48 for CTSA accounting periods.

6.20.5 A notice of assessment on a company must be served on the company stating the date on which the notice was issued and the time within which an appeal against the assessment may be made. After a notice of assessment has been issued it may not be altered except in accordance with the express provisions of the Taxes Acts.

6.20.6 An appeal may be brought against an assessment which is not a self-assessment. Notice of appeal must be given

- in writing
- within 30 days after the notice of assessment was issued
- to the officer of the Board by whom the notice of assessment was issued.

Paragraph 49

6.20.7 The above general provisions for assessments as to time limits, procedure and appeals apply to a discovery determination as they would to an assessment.

6.21 Recovery of excessive repayments (Paragraph 52)

6.21.1 Paragraph 52 allows the Inland Revenue to recover excessive repayments which have been made to a company. It applies the provisions of Paragraphs 41 to 48 (discovery assessments and discovery determinations (see 6.18 to 6.20)) to excessive repayments as if the amount were unpaid tax. The exceptions to this are where the amount is assessable under those provisions already, or where the amount is overpaid interest which is otherwise recoverable under Section 826(8A) ICTA 1988.

6.21.2 The amounts which can be recovered under this Paragraph include amounts paid by way of

- repayment of tax (including income tax) or payment of tax credit
- repayment supplement under Section 825 ICTA 1988
- repayment interest under Section 826 ICTA 1988.

6.21.3 For the purposes of this Paragraph, ‘repayment’ includes

- an amount which has been allowed by way of set-off, and
- an amount intended as a repayment, even if it in error actually exceeded the amount paid by the company.

6.21.4 Assessments made under this Paragraph are made under Case VI of Schedule D. An assessment to recover excessive repayments of tax in respect of an accounting period, or interest on such repayments, is treated as an assessment to tax for that accounting period. Amounts charged in assessments made under this Paragraph carry interest from the date on which the payment being recovered was made until the date of payment.

Time limit (Paragraph 53)

6.21.5 Paragraph 53 prescribes the time limits for making assessments under Paragraph 52. The time limit for such an assessment is the latest of

- six years after the end of the accounting period to which it relates
- the end of the accounting period following that in which the amount being recovered was paid
- three months after the completion of an enquiry into a relevant Company Tax Return.

In cases involving fraudulent or negligent conduct, the time limit is extended to 21 years after the end of the accounting period to which the assessment relates.

Chapter 7

Claims and elections

References to Paragraph numbers are to Paragraphs in Schedule 18 FA 1998, unless some other reference is shown or is supplied by the immediate context.

7.1 Introduction

7.1.1 CTSA involves changes to the rules governing the various claims and elections which companies can make under the Taxes Acts. These changes are necessary to bring the claims regime in line with the 'process now, check later' principles governing CTSA.

7.1.2 Wherever possible, companies must make claims by including them in their Company Tax Returns (or by amendment of the return) and by giving effect to them in their self-assessments. This is in contrast to the position under Pay and File where it is the Inland Revenue that gives effect to claims. A claim included in a return will be subject to the same 'process now, check later' procedures as any other entry in the return. For example, the Inland Revenue will have the right to correct obvious errors in the claim (Paragraph 16(1) - see 4.9)). It will also have the right to enquire into the validity and accuracy of a claim (Paragraphs 24(1) and 25(1)(a) - see 6.4.1).

7.1.3 In some cases, it will not be possible for a claim or election to be dealt with entirely in a Company Tax Return. This may be, for example, because a claim affects an accounting period for which the company is no longer able to amend its return, or because an election has effect not just for one accounting period but until further notice. Schedule 1A TMA 1970 provides

- for such claims to be given effect by the Inland Revenue by discharge or repayment of tax
- a parallel set of 'process now, check later' rules for dealing with these claims, providing for them to be corrected, enquired into and become final.

7.1.4 There are special rules for claims to group relief and to capital allowances - see Chapter 8.

7.1.5 Subject to any contrary provision in the rules for a particular claim or election, a claim or election may be amended or withdrawn at any time before the end of the period during which the Inland Revenue may enquire into it, or into the return of which it forms part.

7.2 Claims must be quantified (Paragraph 54)

7.2.1 All claims for a relief, an allowance or a repayment of tax must be quantified at the time the claim is made. 'Quantified' means that the claim must be expressed in figures. Formulaic claims are not allowed.

7.2.2 The rule at 7.2.1 does not apply to elections. Most elections are not capable of immediate quantification. For example, two companies in the same group may elect under Section 247(4) ICTA 1988 not to deduct income tax from payments of interest made between them. An election like that will apply to all future payments of interest until the election is withdrawn. The amount of such future payments cannot be known at the time the election is made.

7.3 General time limit for claims (Paragraph 55)

7.3.1 The general time limit for making a claim for relief is six years from the end of the accounting period to which the claim relates. This general time limit may be overridden by any specific time limit applying for any particular claim. The accounting period to which a claim relates is the period in which the event or occasion giving rise to the claim occurs.

7.3.2 *Example*
J Ltd sustains a trading loss for the accounting period ended 31 December 2001 and claims under Section 393A(1)(b) ICTA 1988 to set this loss off against its profits for its accounting period ended 31 December 2000. The claim relates to the accounting period ended 31 December 2001 in which the loss occurred. Section 393A(10) contains a specific two-year time limit, which overrides the general time limit in Paragraph 55. So the loss relief claim must be made by 31 December 2003.

7.4 Mistakes in claims (Paragraph 56)

If a company discovers that it has made a mistake in a claim or election, it may make a supplementary claim or election within the time allowed for making the original one.

7.5 CTSA claims fall into three categories

7.5.1 The CTSA rules deal with claims and elections in three categories

- ☐ claims which affect only one accounting period. These are dealt with in Paragraph 57 (see 7.6)
- ☐ claims which affect more than one accounting period. These are dealt with in Paragraph 58 (see 7.7), and
- ☐ all other claims and elections. These are dealt with in Paragraph 59 (see 7.8).

7.6 Claims which affect only one accounting period (Paragraph 57)

7.6.1 Paragraph 57 sets out the rules for corporation tax claims which affect only a single accounting period, that is to say where the event or occasion giving rise to the claim takes place in one accounting period and effect is given to the claim in the same accounting period, for example a claim to double taxation relief. Most claims made by companies are like this. The company will deal with them by including them in its return (including an amended return) and giving effect to them in its self-assessment.

7.6.2 Once a notice to deliver a Company Tax Return has been issued (see Chapter 3), a claim or election which the company can make by including it in its return must be made in that way (Paragraph 57(2)). It may be made in that way

- ☐ by being included in the return originally delivered, or
- ☐ by amending the return.

7.6.3 Under Paragraph 57(3), if the company has already delivered its Company Tax Return for the relevant accounting period, any claim or election which could be made in an amended return is treated as an amendment of the return. This is in contrast to the position under Pay and File where it is the Inland Revenue that gives effect to a claim. One effect of this provision is that no special formality attaches to the making of a claim that can be made by amending a return. This is in line with the position described at 4.8.2 in relation to other return amendments.

7.6.4 Paragraph 57(3) also applies the provisions of Paragraph 15 to claims made by amendment of a return. The effect of this is that

- ☐ a claim will be treated as an amendment to a return if it is made not later than the latest day for amending the return (normally 12 months after the filing date - see 4.8)

- ☐ claims must be in such form, contain such information and be accompanied by such statements as the Inland Revenue may require. So claims and elections will be validly made if they

  - comply with the general rules for claims (for example, are quantified - see 7.2.1)

  - comply with any special rules applying to particular claims (for example, the rule requiring a notice of consent in the case of a claim to group relief - see 8.5) and

  - contain sufficient information to adequately describe the relief, etc. sought.

7.6.5 Group relief claims and capital allowances claims must be made in a Company Tax Return (including an amended return). The rules for these claims are described in detail in Chapter 8. Certain other claims cannot be made before a company delivers its return (Paragraph 9). See 7.10.

7.6.6 A claim is not prevented from being made in a return just because it has to be made jointly. A written claim or election signed by the person authorised to act for each company need be delivered with only one of the returns to which it applies. But the returns of the other parties must reveal the existence of the claim and be prepared in accordance with it.

7.6.7 If a claim cannot be made in a return or an amended return because the time during which the return may be amended has passed, Paragraph 57(4) applies the rules in Schedule 1A TMA 1970. The Inland Revenue will give effect to the claim by discharge or repayment. The rules are described at 7.9.

7.7 Claims which involve more than one accounting period (Paragraph 58)

7.7.1 Paragraph 58 sets out the rules for claims which involve more than one accounting period. The circumstances in which a claim involves more than one accounting period are described by Paragraph 58(1) as being where

- ☐ the event or occasion giving rise to it occurs in one accounting period (the period to which it relates), and

- ☐ it affects one or more other accounting periods (whether or not it also affects the period to which it relates).

7.7.2 *Example*
K Ltd makes a trading loss in its accounting period ended 31 December 2002 and carries this back to set against its other profits in its accounting period ended 31 December 2001. The claim relates to the accounting period ended 31 December 2002. It also affects the accounting period ended 31 December 2001.

7.7.3 Paragraph 58(2*)* applies if a company makes a claim or election which either relates to or affects an accounting period for which it has already made a return, and where the claim could be made or given effect to by amendment of that return. In cases like this, the claim or election is treated as an amendment of the return, and is covered by the provisions that apply to amendments generally. This is in contrast to the position under Pay and File where it is the Inland Revenue that gives effect to a claim.

Paragraph 58(2*)* also applies the provisions of Paragraph 15 to such amendments. For the effect of this, see 7.6.4.

7.7.4 If, or to the extent that, a claim cannot be made in a return or by amendment of the return, Paragraph 58(3*)* applies the rules in Schedule 1A TMA 1970. The Inland Revenue will give effect to the claim by discharge or repayment. The rules are described at 7.9.

Example
L Ltd makes a trading loss of £100,000 in its accounting period ended 31 March 2002. It has other profits of the same accounting period of £40,000. It made profits of £50,000 in its accounting period ended 31 March 2001. It claims relief for the loss against the profits of these two accounting periods. This claim relates to the accounting period ended 31 March 2002. It affects both that accounting period and the accounting period ended 31 March 2001.

L Ltd makes its claim to loss relief by including it in its return for the accounting period ended 31 March 2002. The company will also give partial effect to the claim by setting off £40,000 of the loss against its other profits in its self-assessment for the accounting period. If the Inland Revenue do not enquire into this return, the amount of the trading loss reported in the return, and the claim to set off £40,000 against the profits of the return period, will become final at the same time as the other figures included in the return.

If L Ltd is still able to amend its return for the accounting period ended 31 March 2001, it will give effect to the carry-back element of the claim by amending its return and self-assessment for this period. The Revenue may enquire into the amendment under Paragraph 24 (see 6.2.4).

If L Ltd's return for the accounting period ended 31 March 2001 may no longer be amended, the carry-back element of the claim will fall within the Schedule 1A TMA rules. The Inland Revenue will give effect to the claim by discharge or repayment. If the Inland Revenue enquire into the claim, the Schedule 1A rules will apply (see 7.9).

L Ltd will probably indicate in the computations that form part of its return for the accounting period ended 31 March 2002 that its claim for loss relief includes a carry-back to the accounting period ended 31 March 2001. (The company should show on Page 1 of its Company Tax Return if the return gives rise to a repayment for an earlier period. See the specimen Company Tax Return form at Appendix 1.) The Inland Revenue regard these actions as amounting to

☐ the making of an amended return for the accounting period ended 31 March 2001, if that return is not out of time for amendment, or

☐ if that return is out of time for amendment, the making of a claim under Schedule 1A.

There is also a balance of loss of £10,000 to be carried forward under Section 393(1) and set against future income from the same trade. If the company's return for the accounting period ended 31 March 2002 has become final, the amount of the loss of £100,000 is also conclusive for any other period (Paragraph 88 - see 4.4).

7.8 Other claims and elections

7.8.1 Under Paragraph 59, any claim or election which cannot be dealt with under Paragraphs 57 or 58 is to be dealt with under Schedule 1A TMA 1970. This sweep-up provision is mainly aimed at elections which do not relate to a particular accounting period, but have effect in relation, for example, to a particular sort of income until they are withdrawn. An example is an election under Section 247(4) ICTA 1988 that

income tax should not be deducted from payments of interest between companies in the same group.

7.9 Schedule 1A TMA 1970

7.9.1 The enquiry procedures and provisions described in Chapter 6 relate to returns and amended returns. They do not apply to any claims that are not included in a return, and are not made at a time when the return is open to amendment. Schedule 1A TMA 1970 provides a parallel set of procedures to deal with the making and checking of any such claims.

7.9.2 Where a claim is made outside a return it must

- be in a form determined by the Board (if the Board have determined a form for the claim in question). The Board generally do not determine a form (in the sense of a format) for claims made by companies.
- be made to an officer of the Board (or, where appropriate to the Board),
- contain sufficient information to enable its validity and accuracy to be verified.

Where the claim requires tax to be repaid, the company must have documentary proof that the tax has been paid, either directly or by deduction from income received.

7.9.3 Amendment of claims (Paragraph 3, Schedule 1A TMA 1970)

The Inland Revenue may correct obvious errors or mistakes in a claim within nine months of the claim being made. The company may amend the claim within 12 months of making it provided the claim is not under enquiry.

7.9.4 Giving effect to claims (Paragraph 4, Schedule 1A TMA 1970)

Unless the claim is under enquiry, the Inland Revenue will give effect to it as soon as practicable by discharge or repayment of tax.

7.9.5 Other Self Assessment provisions

The record-keeping requirement, enquiry power, information power and settlement procedures detailed in Chapter 7 are mirrored in paragraphs 2A, 5, 6, 7, 8 and 9 of Schedule 1A TMA. The Revenue can enquire into any claim. The enquiry is supported by an information power which enables the officer dealing with the claim formally to require the production of documents, accounts or other written particulars. The enquiry is completed when the officer issues the company with a notice to that effect. If the company considers that the officer has no reasonable grounds for continuing the enquiry, it may apply to the appeal Commissioners to direct that the enquiry be completed.

7.10 Claims which cannot be made without a Company Tax Return (Paragraph 9)

Paragraph 9 provides that a company may not make certain claims before it delivers its Company Tax Return for the period to which the claim relates. These are claims for

- repayments of income tax under Section 6(2) ICTA 1988
- repayments of income tax due to exemptions from income tax under the Corporation Tax Acts, and
- while it lasts, payments of tax credit (unless the company is either wholly

exempt from corporation tax or is liable only on trading income and the tax credit is not one for which the company may claim a payment on account under Schedule 19AB ICTA 1988).

7.11 Claims made outside normal time limits following Inland Revenue amendments or assessments (Paragraphs 61 to 65)

7.11.1 Under the legislation which existed before the introduction of CTSA, there were rules allowing companies to make and withdraw claims, elections, applications and notices outside normal time limits where the Inland Revenue made certain assessments.

- Section 43A TMA 1970 allowed such claims etc. where the Inland Revenue raised a discovery assessment under (old) Section 29(3) TMA 1970
- Section 36(3) TMA 1970 allowed such claims where the assessment was raised to recover a tax loss attributable to fraudulent or negligent conduct.

7.11.2 These provisions are replicated as nearly as possible in Paragraphs 61 to 65. The only substantive changes made to them are those necessary to make them work in the context of a Self Assessment regime.

7.11.3 Paragraphs 61 to 64 deal with claims, etc. which reduce the additional tax charged by certain assessments and amendments made by the Inland Revenue. They contain the rules which were previously found in Sections 43A and 43B TMA 1970.

7.11.4 These Paragraphs do not apply in relation to an assessment made in a case involving fraudulent or negligent conduct. In such a case, a more limited right to make claims, etc. is provided by Paragraph 65. This corresponds to the old Section 36(3) TMA 1970.

7.12 Claims, etc. against assessments and amendments not involving fraudulent or negligent conduct

7.12.1 Paragraph 61 provides that, where the Inland Revenue exercise the right to make certain assessments or amendments, a company may, in turn, make, revoke or vary certain claims elections, applications or notices. This right is subject to the rules set out in Paragraphs 62 to 64. The general effect of the rules is that where the Inland Revenue brings additional tax into charge, a company is given an opportunity to make claims, etc. to set against the additional tax liability arising, even though the normal time limit for doing so has passed.

7.12.2 Paragraph 61(1) identifies the relevant amendments and assessments. They are

- an Inland Revenue amendment of a Company Tax Return under Paragraph 34(2)(b). This sub-paragraph allows the Inland Revenue, following an enquiry into a company's return, to amend other returns so as to give effect to the conclusions stated in the closure notice. The power is only to be used where the company fails to make the necessary amendments under Paragraph 34(1)(b) (see 6.15.3)
- a discovery assessment made under Paragraph 41 (see 6.17), and
- an assessment to recover excess group relief made under Paragraph 76 (see 8.9).

7.12.3 Paragraph 62(1*)* provides that the extended time limit for these claims, etc. is one year from the end of the relevant accounting period. The 'relevant accounting period' is

defined by Paragraph 61(3) as the accounting period in which the closure notice was issued or the assessment was made.

7.12.4 Paragraph 62(1) also says that a claim, etc. which has previously been made or given may be varied or revoked (unless it is irrevocable). Where a claim, etc. is revoked, it must be revoked in the same manner in which it was given. For example, if a claim is made by notice in writing, it should be revoked in writing.

7.12.5 A claim, etc. must be revoked by the person or persons who made it. If the consent of some other person was required for the original claim, etc., that other person must also give consent to its revocation. If that person has died, consent must be obtained from his or her Personal Representatives. An example of an election that a company may make jointly with an individual is an election under Section 77(3) CAA 1990 that machinery or plant on which capital allowances have been claimed shall be treated as having been sold to a successor in the trade at a price that does not give rise to a balancing allowance or a balancing charge.

7.12.6 Paragraph 62(3) describes the liabilities which may be reduced by a claim, etc. under these provisions. They are

- the increased liability resulting from the amendment or assessment
- any other tax liability for the accounting period to which the amendment or assessment relates, or for any subsequent accounting period which ends not later than one year from the end of the relevant accounting period.

7.12.7 Paragraph 62(4) provides for the appropriate tax adjustments to be made where a claim, election or notice is varied. Reductions in liability will be made by discharge or repayment of tax. But the sub-paragraph also specifically provides that an increase in liability may be the subject of an amendment or assessment.

7.12.8 Paragraph 62(5) applies the provisions of TMA 1970 relating to decisions on claims to a decision on the revocation or variation of a claim under this Paragraph.

7.13 Claims, etc. which affect the liability of others

7.13.1 Paragraph 63(1) provides that, where the making of a claim, etc. under Paragraph 62 would alter the tax liability of any other person, the claim may only be made, varied or revoked with the written consent of that other person. If that other person has died, consent must be obtained from his or her Personal Representatives.

7.13.2 Paragraph 63(2) provides that, where result of the making of a claim, etc. under Paragraph 62 is to increase another person's liability to tax, neither Paragraph 61 nor Section 43A TMA (which makes corresponding provision in relation to income tax and capital gains tax) will apply to any assessment made because of that increased liability. Tax is defined for these purposes as including income tax and capital gains tax (Paragraph 63(3)).

7.14 **Claims, etc. not to give rise to an overall reduction in liability**

7.14.1 Paragraph 64 ensures that that any claims etc. made, given, revoked or varied under Paragraph 62 do not reduce the combined tax liability of the company and any other persons affected by a greater amount than the additional liability to tax arising from the amendment or assessment.

7.14.2 Where this provision limits the reduction in a person's liability for more than one period or the reduction in liability to tax of more than one person, the limited amount is to be apportioned between the periods or persons concerned.

7.14.3 This apportionment will in the first instance be made by the Inland Revenue, who will issue a written notice to the person or persons concerned (Paragraph 64(3)). But if the person or persons concerned wish to apportion the limited amount differently, they must give written notice to the Inland Revenue within 30 days of receipt of the Inland Revenue's notice (Paragraph 64(4)).

7.14.4 Paragraph 64(5) defines tax to include income tax and capital gains tax.

7.15 Claims, etc. against assessments and amendments involving fraudulent or negligent conduct

7.15.1 Paragraph 65 provides that, where an assessment is made as a result of fraudulent or negligent conduct, additional claims, etc. can be made. But the only claims etc. that can made are those that can be given effect in that assessment. They must therefore be made before the assessment is issued, or in the time provided for an appeal against the assessment.

7.16 Relief from double assessment (Paragraph 50)

7.16.1 Paragraph 50 provides relief for double assessment. Where a company has been assessed more than once for the same cause and the same accounting period, a written claim for relief may be made to the Board.

7.16.2 If the claim is accepted the double charge will be eliminated either by amendment to the assessment, or by discharge or repayment of tax or in some other way.

7.16.3 Paragraph 50(3) provides for an appeal against the Board's decision.

Chapter 8

Particular claims: group relief, capital allowances, Section 419(4) ICTA 1988

References to Paragraph numbers are to Paragraphs in Schedule 18 FA 1998, unless some other reference is shown or is supplied by the immediate context.

8.1 Claims to group relief (Paragraphs 66 to 76)

8.1.1 The CTSA regime for group relief claims is very little changed from the Pay and File regime. There are changes to the special arrangement under which some groups will be able to submit Joint Amended Returns (see Statement of Practice 10 of 1993). In general, the effect of these changes is to reduce the formal requirements for claiming and surrendering group relief compared with special arrangements under Pay and File. However, these changes were due to be made by Regulations, which had not been published in time to be included in this Guide.

8.2 Group relief claims must be made and withdrawn in a return (Paragraphs 67 and 73)

8.2.1 Claims to group relief have to be made in a Company Tax Return. If a company has already submitted its return for an accounting period, it may make group relief claims by amending its return (Paragraph 67).

8.2.2 As under Pay and File, CTSA claims to group relief cannot be amended, but must be withdrawn and replaced by a new claim. Claims can only be withdrawn by the company amending its return (Paragraph 73).

8.3 What information has to be given in a group relief claim (Paragraph 68)

8.3.1 Every group relief claim must specify the amount of relief claimed, which must be quantified at the time the claim is made. In the context of a group relief claim, 'quantified' means that the claim must be expressed in figures, as opposed to a formula.

Example
'M Ltd claims £43,319 group relief from N Ltd' is a valid claim to group relief. But 'M Ltd claims sufficient group relief from N Ltd to reduce its profits to £150,000' is not.

8.3.2 A group relief claim must also specify the name of the surrendering company. A claimant company makes a separate claim to group relief from each surrendering company for each accounting period.

8.4 How much group relief can be claimed (Paragraph 69)

8.4.1 A group relief claim may be made for less than the amount available for surrender by the surrendering company, but no claim may be made for more than the total amount it has available for surrender (Paragraph 69(1) and (2)).

8.4.2 The total amount available for surrender is calculated as follows

Step 1

- ☐ Work out the total amount of group relief the surrendering company could surrender under the rules in Section 403 ICTA 1988 on the basis of the information in its return. For this purpose, any amendments it has made while its return is under enquiry must be ignored. The effect of these amendments is deferred under Paragraph 31(3) (see 6.12.3).

Step 2

- ☐ Take off the total of all the group relief for the same accounting period for which the company has already given notices of consent (see 8.5). If any notices of consent have previously been given but have later been withdrawn, they must be ignored for this purpose.

8.4.3 If a company makes and withdraws group relief claims on the same day, effect is given to the withdrawals first (Paragraph 69(4)).

8.4.4 A group relief claim is ineffective if it is for more than the surrendering company has available for surrender at the time the claim is made (Paragraph 69(2)).

8.4.5 If some claimant companies together claim on the same day for an amount greater than the amount available for surrender from a particular surrendering company, the Inland Revenue may decide which claims to give effect to and which are to be ineffective. But the Inland Revenue will exercise this power so as treat as ineffective the claims or combination of claims in the lowest amounts consistent with bringing the total claimed within the limit of the amount available for surrender (Paragraph 69(5) and (6)).

8.5 Notices of consent to the surrender of group relief (Paragraphs 70 to 72)

8.5.1 Except where a company is a member of a special arrangement (see 8.10), every claim to group relief requires the consent of the surrendering company (Paragraph 70(1)), and the consent to surrender must meet a number of formal conditions set out in 8.5.2 to 8.5.8. Unless *all* of the conditions are met, the group relief claim is not valid.

8.5.2 A consortium claim to group relief requires the consent of each member of the consortium, in addition to the consent of the surrendering company (Paragraph 70(2)).

8.5.3 Consents to surrender group relief must be given by notice in writing to the Inland Revenue office to which the surrendering company makes its returns. This must be done at or before the time the claim is made (Paragraph 70(3)).

8.5.4 A copy of the notice of consent to surrender must accompany any claim for group relief (by virtue of Paragraph 70(4)). Similarly, a consortium claim must be accompanied by a copy of the notice of consent to surrender given by each member of the consortium (Paragraph 70(5)).

8.5.5 Paragraph 71 sets out the details which must be contained in a notice of consent by the surrendering company. These are

(a) the name of the surrendering company

(b) the name of the company to which relief is being surrendered

(c) the amount of relief being surrendered

(d) the accounting period of the surrendering company to which the surrender relates

(e) the Tax Office references of the surrendering company and the company to which relief is being surrendered.

8.5.6 Paragraph 72(1) provides that a surrendering company which has already made its Company Tax Return for the period to which the surrender relates must amend its return to reflect the notice of consent at the same time as it gives the notice.

8.5.7 If a group relief surrender relates to a trading loss, the company may already have received relief for that loss for a later accounting period (or periods) under Section 393(1) ICTA 1988. In that case, the company must also amend its return for that later accounting period(s) at the same time as it gives the notice of consent (Paragraph 72(2)). For this purpose, relief under Section 393(1) is treated as given for losses incurred in earlier accounting periods before losses incurred in later accounting periods.

8.5.8 Paragraph 72(3*)* relaxes the time limits which would otherwise apply to the amendment of a return, so that an amendment made under Paragraph 72(1) or (2) will not be out of time.

8.6 Withdrawal of consent (Paragraph 71(2) to (5))

8.6.1 Where a surrendering company wishes to change the amount of group relief it has surrendered, it cannot amend any notice of consent it has previously given. Instead, it must withdraw the earlier notices and replace them with new ones (Paragraph 71(2)). Paragraph 71(3) requires the withdrawal of a notice of consent to be made by notice to the same Inland Revenue office as that to which the notice was given. In practice, where responsibility for the tax affairs of the company has been transferred from one Inland Revenue office to another, the notice should be given to the new office.

8.6.2 Paragraph 71(4) provides that, in order to be valid, a notice of withdrawal must be accompanied by a notice from the claimant company signifying its consent to the withdrawal. The only exception to this is where the consent is withdrawn under Paragraph 75 because of a reduction in the amount available for surrender (see 8.8.1 to 8.8.3).

8.6.3 The claimant company must amend its return to reflect the withdrawal of consent (Paragraph 71(5)).

8.7 Time limits for making and withdrawing group relief claims (Paragraph 74)

8.7.1 The normal time limit for making or withdrawing a group relief claim is the first anniversary of the filing date for the return. This will normally be (and will not be earlier than) two years after the end of a claimant company's accounting period. See 3.7 for occasions on which the filing date is later than that. Where the Inland Revenue enquire into a Company Tax Return, the time limit is extended until 30 days after the enquiry is resolved. The CTSA time limits regime is, accordingly, very similar to that under Pay and File. There is, however, no overriding six year and three months limit on the making and withdrawing of group relief claims, as there was under Paragraphs 3 and 5, Schedule 17A ICTA 1988.

8.7.2 Examples

Example 1
P Ltd makes up its accounts to 31 December each year. On 21 January 2001, the Inland Revenue issue a Notice to file (see Chapter 3) specifying the period 1 January

to 31 December 2000. P Ltd submits its Company Tax Return in November 2001. The Inland Revenue do not enquire into this return.

Under Paragraph 74(1)(a), P Ltd may make and withdraw group relief claims at any time up to 31 December 2002, the first anniversary of its filing date.

Example 2
Q Ltd also makes up its accounts to 31 December each year. It submits its return for the year ended 31 December 2000 before the filing date, 31 December 2001. But the Inland Revenue enquire into this return. A closure notice is issued on 13 February 2003. This completes the enquiry (Paragraph 32, see 6.13).

Unless the Inland Revenue subsequently amend Q Ltd's return under Paragraph 34(2), Q Ltd has until 15 March 2003, 30 days following the completion of the enquiry, to make and withdraw group relief claims (Paragraph 74(1)(b)).

Example 3
The Inland Revenue enquire into R Ltd's return for the accounting period ended 30 June 2000. A closure notice is issued on 14 October 2002, but R Ltd fails to amend its return in accordance with the conclusions stated in the closure notice. The Inland Revenue therefore amend the return under Paragraph 34(2) (see 6.15.3) on 20 November 2002.

Under Paragraph 74(1)(c), R Ltd may make and withdraw group relief claims at any time up to 20 December 2002, 30 days after notice of the amendment was issued.

Example 4
S Ltd's return for its accounting period ended 31 December 2002 gives rise to a dispute about a substantial point of law. Eventually, S Ltd's appeal against the Inland Revenue's amendment of its return (Paragraph 34(2), see 6.15.5) is heard by the House of Lords and they give their decision on 19 April 2009.

S Ltd has until 19 May 2009 to make and withdraw claims to group relief, 30 days after the date on which its appeal was finally determined (Paragraph 74(1)(d)). Under CTSA, there is no overriding six year and three month limit on making and withdrawing group relief claims, as there was under Pay and File.

8.7.3 Paragraph 74(3) relaxes the time limits which would otherwise apply to the amendment of a return, so that, to the extent that it makes or withdraws a claim for group relief within the time allowed under paragraph 74(1), an amendment will not be out of time.

8.7.4 Paragraph 74(1) extends the time limit for making and withdrawing group relief claims where the Inland Revenue enquires into a return. But by virtue of Paragraph 74(4), the time limit is not extended where the enquiry is restricted to a previous amendment of a return making or withdrawing a claim for group relief.

8.7.5 An enquiry is restricted to an amendment if

- the scope of the enquiry is limited as mentioned in Paragraph 25(2), because the notice of enquiry is issued after the time that the Inland Revenue may start an enquiry into the whole of the return (see 6.4.2), and

- the amendment giving rise to the enquiry consisted of the making or withdrawing of a group relief claim.

8.7.6 Late claims

Paragraph 74(2) allows the Inland Revenue to extend the time limit for making and withdrawing group relief claims. This is effectively the same power to admit late claims which the Inland Revenue had in relation to Pay and File claims by virtue of Paragraph 4, Schedule 17A ICTA 1988.

8.7.7 Statement of Practice 11 of 1993 explains how the Inland Revenue exercises its existing discretion to admit late claims under Pay and File. This Statement of Practice will need to be amended or replaced for CTSA accounting periods. The new statement will be published well before July 2001, which is the earliest date on which a group relief claim for a CTSA accounting period can be late. In the meantime, the existing practice will continue for Pay and File periods.

8.8 What happens when the amount available for surrender is reduced (Paragraph 75)

8.8.1 Under CTSA, as under Pay and File, effect may be given to a group relief claim at a time when the surrendering company's figures have not been finally determined. This is consistent with the 'process now, check later' approach which underpins CTSA. Companies may not surrender more amounts as group relief than is shown by their returns (see 8.4.1. to 8.4.5). But it may happen that, after a surrendering company has given one or more notices of consent, the amount it has available for relief is reduced to less than the total of the amounts previously surrendered. In that case, the total group relief allowed has to be brought within the total of the amount available for surrender.

8.8.2 Paragraph 75(2) requires the company to withdraw one or more notices of consent (and allows it, if appropriate, to give one or more new notices) so as to bring the total amount surrendered within the new amount available for surrender. It must do this within 30 days after the date on which the amount available for surrender is reduced.

8.8.3 The notice or notices must be in writing (Paragraph 75(3)), and copies must be sent to each of the companies affected, and to the Inland Revenue.

8.8.4 Where the surrendering company fails to take action under Paragraph 75(2*)*, the Inland Revenue may direct which claims are to be ineffective or to have effect in a lower figure. The Inland Revenue must only exercise this power to the extent necessary to bring the total amount surrendered as group relief within the total of the amount available for surrender (Paragraph 75(4)).

8.8.5 Paragraph 75(4) also provides that the Inland Revenue must make the direction in 8.8.4 by notice to the surrendering company. The Inland Revenue must at the same time send a copy of the notice to each claimant company affected (Paragraph 75(5)).

8.8.6 If a claimant company is able to amend its return for the accounting period for which less or no group relief is now available following receipt of a copy notice under either Paragraph 75(3) or (4), it must do so (Paragraph 75(6)).

8.8.7 The surrendering company may appeal against a direction given by the Inland Revenue under Paragraph 75(4). The appeal must be made

- in writing
- within 30 days of the notice being issued, and
- to the Inland Revenue office which issued the notice.

8.9 What happens if too much group relief is given

Paragraph 76 gives the Inland Revenue power to make an assessment to recover group relief which was excessive when it was given or has become excessive as a result of a reduction in the amount of group relief available for surrender.

8.10 Special arrangements for large groups of companies and joint amended returns (Paragraph 77)

8.10.1 Inland Revenue Statement of Practice 10 of 1993 introduced certain simplifications to the formal rules in Schedule 17A ICTA 1988 for making group relief claims under Pay and File. Groups of companies dealt with mainly in one Inland Revenue office can submit a single 'joint amended return' showing the group relief claims and surrenders for all the companies in the group. Where they do so, individual notices of surrender of group relief may be dispensed with.

8.10.2 Paragraph 77 provides a regulation-making power that will give statutory underpinning to the joint amended return procedures. The regulations were being drafted when this Guide was published. They will be subject to consultations with representatives of business and the legal and accountancy professions. They are expected to be laid before the end of June 1999.

8.10.3 The powers in Paragraph 77 provide in particular for the regulations to

- dispense with the requirement for a group relief claim to be accompanied by a copy of the notice of consent given by the surrendering company, and
- authorise one company (the 'authorised company') to act on behalf of other group members in making group relief claims and surrenders and in amending their Company Tax Returns in order to do so
- give the Inland Revenue power to recover from the authorised company, or from some other company within a special arrangement, tax representing excessive group relief that could be assessed under Paragraph 76 (see 8.9) on the company that claimed the relief.

8.11 Claims to capital allowances (Paragraphs 78 to 83)

8.11.1 Schedule A1 Capital Allowances Act 1990 contained, a comprehensive code for capital allowance claims under Pay and File. As with the regime for group relief claims in Schedule 17A ICTA 1988, the code needed to be replaced for CTSA. But the new rules are very similar to the ones they replace.

8.12 Capital allowances claims must be made and withdrawn in a return (Paragraph 83)

8.12.1 Claims to capital allowances have to be made in a Company Tax Return. If a company has already submitted its return for an accounting period, it may make capital allowances claims by amending its return.

8.13 Capital allowances claims must be quantified (Paragraph 80)

Every capital allowances claim must specify the amount of relief claimed which must be 'quantified' at the time the claim is made. As for group relief claims (see 8.3.1), quantified just means that the claim must be expressed in figures as opposed to a formula.

8.14 Amendment and withdrawal of claims

Once made, capital allowances claims may only be amended or withdrawn by amending the Company Tax Return.

8.15 Time limits for making, amending and withdrawing capital allowances claims (Paragraph 82)

8.15.1 As for group relief claims (see 8.7.1 to 8.7.5) the general principle is that capital allowances claims may be made, amended or withdrawn up to the first anniversary of the filing date for the return. That will not be earlier than two years after the end of the claimant company's accounting period. But, where the Inland Revenue enquires into a Company Tax Return, the time limit is extended, so that claims may be made, amended or withdrawn for 30 days after the enquiry is resolved.

8.15.2 The latest date at which a capital allowances claim may be made, amended or withdrawn is defined by Paragraph 82(1) in exactly the same way as for group relief (see the examples at 8.7.2). For CTSA, there is no overriding six year limit on capital allowance claims, as there was by virtue of Paragraph 4, Schedule A1 CAA 1990 under Pay and File.

8.15.3 Paragraph 82(2) gives the Inland Revenue power to allow claims to capital allowances to be made, amended or withdrawn at a later time than that specified in Paragraph 82(1). This is effectively the same power to admit late claims which the Inland Revenue has in relation to Pay & File claims by virtue of Paragraph 5, Schedule A1 CAA 1990. Statement of Practice 11 of 1993 explains how the Inland Revenue exercises its discretion to admit late claims. This Statement of Practice is to be amended or replaced for CTSA to reflect the changes in the statutory regime (see 8.7.7). In the meantime, the existing practice will continue for Pay and File periods.

8.15.4 Paragraph 82(3) relaxes the time limits which would otherwise apply to the amendment of a Company Tax Return. To the extent that it makes, withdraws or amends a claim for capital allowances within the time allowed by Paragraph 82, an amendment will not be out of time.

8.15.5 The extended time limits in Paragraph 82(1) for making, withdrawing and amending capital allowances claims where the Inland Revenue enquires into a return do not apply where the enquiry is restricted to a previous amendment of a return making, withdrawing or amending a claim for capital allowances (Paragraph 82(4)).

8.15.6 An enquiry is restricted to such a previous amendment if

- ☐ the scope of the enquiry is limited as mentioned in Paragraph 25(2), because the notice of enquiry is issued after the time that the Inland Revenue may begin an enquiry into the whole of the return (see 6.4.2), and
- ☐ the amendment giving rise to the enquiry consisted of the making, amending or withdrawing of a capital allowances claim.

8.16 What happens if a capital allowance claim reduces the capital allowances available for another accounting period (Paragraph 83)

8.16.1 It may be that the effect of making a capital allowances claim is to reduce the amount of capital allowances available in another accounting period for which the company has already made its return. Where this happens, Paragraph 83(2) requires the company to amend its return within 30 days.

8.16.2 If the company does not make the necessary amendments within 30 days, under Paragraph 83(3) the Inland Revenue can amend the company's return. The Inland

Revenue must give the company written notice of any amendment they make under this Paragraph.

8.16.3 Paragraph 83(4) extends the time limits which otherwise apply to the amendment of a Company Tax Return, so that an amendment made under Paragraph 83(2) or (3) will not be out of time.

8.16.4 The company may appeal against an amendment made by the Inland Revenue under Paragraph 83(3). The appeal must be made

- ☐ in writing
- ☐ within 30 days of the notice being issued, and
- ☐ to the Inland Revenue office which issued the notice.

8.17 Claims under Section 419(4) 1988

8.17.1 Under CTSA, Section 419 ICTA 1988 liabilities have to be included in a Company Tax Return for the first time. And Section 419 tax becomes part of the calculation of tax payable by the company under Paragraph 8 (see 4.7.2).

8.17.2 Where the loan or advance is made during a CTSA accounting period, Schedule 1A TMA 1970 applies to Section 419(4) claims in respect of loans repaid, released or written off unless

- ☐ the claim is included (by amendment or otherwise) in the return for the period in which the loan or advance was made, and
- ☐ the relief may be given at the time the claim is made.

(New Section 419(4B) *ICTA 1988,* introduced by Paragraph 47, Schedule 19 FA 1998.)

It is only in this situation that the company can give effect to Section 419(4) relief in its self-assessment. In all other cases, Schedule 1A TMA 1970 applies so that relief is given by discharge or repayment of tax (see 7.9).

8.17.3 Section 419(4) claims to relief in respect of loans made in a pre-CTSA accounting period are not within the CTSA regime and relief will continue to be given against the original tax charge by discharge or repayment.

Chapter 9

Determination of tax liability in the absence of a return

References to Paragraph numbers are to Paragraphs in Schedule 18 FA 1998, unless some other reference is shown or is supplied by the immediate context.

9.1 Determination if no tax return delivered (Paragraph 36)

9.1.1 If a company fails to deliver a Company Tax Return in response to a Notice to file, the Inland Revenue may determine the amount of tax payable by the company to the best of their information and belief. This may be done at any time after the filing date for the return, if that date can be ascertained.

If the filing date for a return cannot be ascertained, the power of determination can be exercised only after the later of

- 18 months after the end of the period specified in the Notice to file, and
- three months after the day on which the Notice is served.

9.1.2 The periods for which a determination may be made are

- if there is only one accounting period ending in or at the end of the period specified in the Notice to file, that period
- if there is more than one accounting period ending in or at the end of the specified period, each of those accounting periods
- if the Inland Revenue have insufficient information to identify the accounting periods of a company, such period or periods ending in or at the end of the specified period as they may determine.

9.1.3 The Inland Revenue must serve a notice of determination on the company, stating the date on which the determination is issued.

9.1.4 If the company shows

- that it has no accounting period that ended in or at the end of the period specified in the Notice to file, or
- that it has delivered a return for the accounting period (or each accounting period, if there is more than one) that so ended, or
- that no return is yet due for any such period

any determination is of no effect. See 9.8.5, *Examples 2* and *3*.

9.2 How the power will be exercised in practice

9.2.1 The Inland Revenue will normally review cases for determination under Paragraph 36 18 months after the end of what is assumed or believed to be the company's accounting period. Where the Inland Revenue believe that the filing date is later than that, the Inspector will wait until after the filing date before making a determination. (See 2.3.1 about the assumptions the Inland Revenue makes about the accounting period of a new company, in the absence of information.)

9.2.2 In some circumstances, the Inland Revenue may review the need to make a determination before the 18 month point, where a determination can be made at an earlier date. Examples will include cases where the Inland Revenue believe there would be a risk of loss of tax if no immediate action was taken, or, if the company is a member of a group, where the failure to deliver the return prevents a proper review of other companies in the group.

9.2.3 *Example 1*
T Ltd, a company with an established tax history, makes up its accounts to 31 December annually. A Notice to file, specifying the period 1 January to 31 December 1999 is issued on 21 January 2000. The filing date for the return is recorded as 31 December 2000.

In the absence of special circumstances, the Inland Revenue will review T Ltd for determination under Paragraph 36 after June 2001, if the company has not delivered a return by then.

Example 2
U Ltd is incorporated on 15 January 1999. It gives the Inland Revenue no information about its activities or intended accounting date. The Inland Revenue assume that the first accounting period of U Ltd runs from 15 January 1999 to 14 January 2000. A Notice to file, specifying that period, is issued on 18 February 2000 and the filing date is recorded as 14 January 2001. In the absence of further information or special circumstances (see 9.2.2), the Inland Revenue will review U Ltd for determination under Paragraph 36 after 14 July 2001.

Example 3
V Ltd is incorporated on 1 September 1998. In the absence of any further information, the Inland Revenue assume that its first accounting period runs from 1 September 1998 to 31 August 1999. A Notice to file, specifying that period, is issued on 21 September 1999 and the filing date is recorded as 31 August 2000.

In October 1999, in response to the notice, V Ltd tells the Inland Revenue that it did not start to carry on business until 28 September 1998 and that it will draw up its first accounts to 31 December 1999.

Based on this information

- the first return to be delivered by V Ltd will be for the dormant period 1 September to 27 September 1998 (Paragraph 5(3) - see 3.3.2)

- the filing date for that return will be assumed to be 25 December 1999 (under Paragraph 14(1)(d) - see 3.7(c)). A period of four working days will be assumed to be necessary for the Notice to file to be delivered to the company

- no other return will be due in response to the Notice to file that was issued in September 1999

- the first accounting period of the company is the period 28 September 1998 to 27 September 1999 and the second is the period 28 September 1999 to 31 December 1999

- the filing date for the returns for those two periods will be 31 December 2000, provided that an appropriate Notice to file is served before 1 October 2000 (Paragraph 14(1)(b) - see 3.7(b))

- in practice, the Inland Revenue are not likely to insist on a formal return for the dormant period and the Inspector will normally review V Ltd for determination under Paragraph 36 after June 2001.

9.3 In what circumstances will the filing date for a return be regarded as ascertainable?

9.3.1 Because the Inland Revenue do not ordinarily expect to review non-filing companies for determination under Paragraph 36 until 18 months after the end of the period that they assume or believe to be the accounting period, the question whether the filing date for a return can be ascertained will not normally arise. But it will arise sometimes.

9.3.2 To ascertain the filing date for a return for an accounting period, the following information is needed

(a) the accounting period the return will cover

(b) whether or not that accounting period coincides with a period of account of the company and, if it does not, into what period of account of the company the accounting period falls

(c) in some cases, the date of service of the Notice to file.

Whether the filing date can be ascertained will depend on the facts. Where a company has an established tax history and the Inland Revenue have no evidence of any subsequent changes to the company's accounting period or period of account, they may take the view that the filing date for an outstanding return can be ascertained. In the examples at 9.2.3, therefore, the Inland Revenue may regard the filing date as ascertainable in a case like *Example 1*. They would not regard that date as ascertainable, in the absence of additional information, in a case like *Example 2*. They would regard the filing dates as ascertainable in a case like *Example 3*, on the basis of the additional information provided by the company in October 1999.

9.3.3 Where the date of service of a Notice to file is material in ascertaining the filing date for a return the Inland Revenue will assume that it was delivered in the ordinary course of the post, four working days after its date of issue.

9.4 Determination where Notice to File complied with in part (Paragraph 37)

9.4.1 If

- ☐ a return is delivered for an accounting period ending in or at the end of the period specified in a Notice to file, and
- ☐ there is another period so ending (called in the statute the ‘outstanding period’) which the Inland Revenue think is, or may be, an accounting period

the Inspector may determine to the best of his or her information and belief the amount of tax payable by the company for the outstanding period. This may be done at any time after the filing date for the outstanding period, if that date can be ascertained. If the filing date cannot be ascertained, the power of determination cannot be exercised until after the later of

- ☐ 30 months after the end of the period specified in the Notice to file
- ☐ three months after the day on which the notice is served.

The Inland Revenue must serve a notice of determination on the company.

9.4.2 If the company shows

- ☐ that the outstanding period is not an accounting period, or
- ☐ that it has delivered a return for that period

the determination is of no effect.

9.5 What a determination will determine (Paragraph 38)

9.5.1 The power to make a determination under Paragraph 36 or 37 includes power to determine

- ☐ any of the amounts mentioned at 4.7.2, and
- ☐ any amount that forms part of the calculation of any of those amounts.

And it may be accompanied by a notice of a determination by the Inland Revenue of the dates on which amounts of tax are payable.

9.5.2 In practice, a determination under Paragraph 36 or 37 will cover much the same ground as, and look rather like, an estimated assessment to tax made under the pre-CTSA rules. So it

- ☐ will include an estimated amount of profits and may include estimated amounts of particular types of profit, for example, trading profits
- ☐ may contain relief for losses, deficiencies and other amounts brought forward from a previous accounting period
- ☐ will indicate the rate, or rates, at which tax is estimated to be due.

But, unlike an estimated assessment, a determination is not subject to appeal. Instead, it is superseded when the company makes a return.

9.6 Determination to have effect as self-assessment (Paragraph 39)

9.6.1 A determination has effect for enforcement purposes as a self-assessment. ‘Enforcement purposes’ means the purposes of

- the following parts of TMA 1970 -
  Part VA (payment)
  Part VI (collection and recovery)
  Part IX (interest on overdue tax), and
  Part XI (miscellaneous and supplementary provisions)

- the provisions of Schedule 18 imposing tax-related penalties

- the provisions of the Corporation Tax Acts enabling unpaid tax assessed on a company to be assessed on other persons.

9.6.2 For the purposes at 9.6.1, the period for which the determination is made is to be treated as an accounting period of the company, even if

- in the case of a determination under Paragraph 36, the Inland Revenue have insufficient information to determine what the accounting period is

- in the case of a determination under Paragraph 37, the Inland Revenue have insufficient information to determine whether the outstanding period is an accounting period.

9.7 Time limit for making a determination

9.7.1 A determination cannot be made later than five years after the date on which it could first be made (Paragraphs 36(5) and 37(4)).

9.8 Determination superseded by self-assessment (Paragraph 40)

9.8.1 A self-assessment contained in a return will supersede a determination provided it is delivered not later than the later of

- the time limit for making the determination (see 9.7) and

- 12 months after the date of the determination.

9.8.2 The statute recognises that the return may not cover the same period as the determination. Provided

- the return covers a period ending in or at the end of the period specified in the Notice to file and

- that period is (or is treated in the return as) an accounting period

it will supersede any determination made under Paragraph 36 or Paragraph 37 for a period that ends in, or at the end of, the period specified in the same Notice to file.

9.8.3 If a determination under Paragraph 36 has been made for more than one period that ends in or at the end of the specified period, the return will supersede the determination for the period with which it has the greatest overlap.

9.8.4 Where the Inland Revenue have begun proceedings for tax charged by a determination and a return is made before the proceedings have been concluded, the proceedings may be continued as if they were proceedings for outstanding tax charged by the self-assessment.

9.8.5 Examples

Example 1
T Ltd (details the same as *Example 1* at 9.2.3) does not make a return in response to the Notice to file specifying the period 1 January to 31 December 1999. In July 2001 the Inspector makes a determination for that period.

In October 2001 the company makes a return for the period 1 January to 31 December 1999, including accounts for the 15 month period ended 31 March 2000.

The return supersedes the determination.

Example 2
V Ltd (details the same as *Example 2* at 9.2.3) does not make a return in response to the Notice to file specifying the period 15 January 1999 to 14 January 2000.

In September 2001 the Inspector makes a determination for the period 15 January 1999 to 14 January 2000.

In November 2001 the company makes a return for the period 15 January 1999 to 14 January 2000, showing that the company was dormant throughout.

The return is not a return for an accounting period so it does not contain a self-assessment. But, by making the return, the company has shown that it has no accounting period ending in or at the end of the period specified in the Notice to file so the determination is of no effect.

Example 3
W Ltd (details the same as *Example 3* at 9.2.3) is issued with Notices to file as follows

- on 21 September 1999, specifying the period 1 September 1998 to 31 August 1999 ('Specified Period One')
- in November 1999, specifying the period 1 September 1999 to 27 September 1999 ('Specified Period Two')
- in January 2000, specifying the period 28 September 1999 to 31 December 1999 ('Specified Period Three')
- in January 2001, specifying the period 1 January 2000 to 31 December 2000 ('Specified Period Four').

By July 2001, W Ltd it has made no return. The Inspector then makes determinations for the periods 28 September 1998 to 27 September 1999 and 28 September 1999 to 31 December 1999.

In October 2001, W Ltd makes returns for

- the accounting period 28 September 1998 to 27 September 1999, and
- the accounting period 28 September 1999 to 31 March 2000

including accounts for the 18 month period 28 September 1998 to 31 March 2000.

The return for the period 28 September 1998 to 27 September 1999 supersedes the determination for that period.

The return for the period 28 September 1999 to 31 March 2000 does not supersede the determination for the period 28 September 1999 to 31 December 1999 because the return and determination do not relate to periods ending in (or at the end of) the

same specified period. The determination ends at the end of Specified Period Three but the return ends in Specified Period Four.

But it is clear that the company did not have an accounting period that ended in Specified Period Three, so the determination for that period is of no effect.

Chapter 10

Penalties for late filing and for filing incorrect returns, claims and accounts

References to Paragraph numbers are to Paragraphs in Schedule 18 FA 1998, unless some other reference is shown or is supplied by the immediate context.

10.1 Introduction

Penalties for failure offences under CTSA remain virtually the same as those introduced under Corporation Tax Pay and File. Likewise, the penalties arising from the delivery of an incorrect return, claim, or accounts follow those imposed under Sections 96 and 97 TMA 1970. There remains a limiting provision where two or more tax-related penalties are incurred for the same period.

10.2 Penalties for failure to deliver a return on time: flat-rate penalty (Paragraph 17)

10.2.1 If, having been required to do so, a company has not delivered its return by the filing date, it becomes liable to a flat-rate penalty (and may also be liable to a tax-related penalty - see 10.3). Unlike ITSA (Section 93(7) TMA 1970), there is no provision for reducing the flat-rate penalty where the tax due for the accounting period is less than the penalty chargeable.

10.2.2 If the return is delivered late but within three months of the filing date the penalty is £100. If the return is delivered later than that, the penalty is £200.

10.2.3 The flat-rate penalties are increased to £500 and £1,000 respectively if a company

(a) has continuously been within the charge to corporation tax for three or more consecutive accounting periods (being within the charge to corporation tax means having a source or sources of income within the charge, whether or not they give rise to income), and

(b) has been required to make a return for each of those accounting periods, and

(c) has become liable to a flat-rate penalty for each of the first two of those periods, and

(d) is liable to a flat-rate penalty in respect of the third period.

When applying this rule, accounting periods that ended before the CTSA appointed day are included.

10.2.4 Examples

Example 1
Z Ltd's accounting period for which a return is required is year ended 30 September 1999.
Filing date: 30 September 2000.
Return filed: 5 December 2000.
Flat-rate penalty £100.

Example 2
| As *Example 1* (Z Ltd), but return filed 17 January 2001.
Flat-rate penalty £200.

Example 3

AB Ltd's accounting periods for which a return was required: years ended 30 September 1999, 2000 and 2001.

Filing dates: 30 September 2000, 2001 and 2002.
Returns filed: 15 November 2000, 1 February 2002 and 30 December 2002.
Flat-rate penalties: accounting period ended 30 September 1999: £100.
accounting period ended 30 September 2000: £200.
accounting period ended 30 September 2001: £500.

10.3 Penalties for failure to deliver a return on time: tax-related penalty (Paragraph 18)

10.3.1 A company becomes liable to a tax-related penalty if, having been required to do so, it does not deliver its Company Tax Return within 18 months after the end of the accounting period, or by the filing date, if later. Any such tax-related penalty is additional to any flat-rate penalty incurred under Paragraph 17.

10.3.2 If the return is delivered between 18 months and two years after the end of the return period, the penalty is 10% of the unpaid tax. If the return is delivered more than two years after the end of the period, the penalty is 20% of the unpaid tax. 'Unpaid tax' is the amount of the liability for the accounting period remaining unpaid at the time when the liability to the tax-related penalty arises. Any relief under Section 419(4) ICTA 1988, deferred under sub-section (4A) (see 5.5.4) is ignored for the purpose of determining the amount of unpaid tax.

10.3.3 Examples

Example 1

AC Ltd's accounting period for which a return is required is year ended 30 September 1999.

Filing date: 30 September 2000.
Return filed: 1 May 2001.
Unpaid tax at 1 April 2001 (30 September 1999 + 18 months + one day): £20,000.
Tax-related penalty: £20,000 x 10% = £2,000.

Example 2

As *Example 1* (AC Ltd) but return filed: 1 December 2001.
Unpaid tax at 1 April 2001: £20,000.
Tax related penalty: £20,000 x 20% = £4,000.

Example 3

As *Example 1* (AC Ltd) but -
Unpaid tax at 1 April 2001 (30 September 1999 + 18 months + one day) all relates to a £20,000 loan made by the close company to a participator.
Loan all repaid on 1 October 2000.
Unpaid tax at 1 April 2001: £5,000.
No account is taken of relief under S419(4) because the loan was repaid more than nine months after the end of the accounting period and relief is therefore deferred under S419(4A).
Tax-related penalty: £5,000 x 10% = £500.

Had the loan been repaid within nine months of the end of the accounting period, i.e. on or before 30 June 2000, the unpaid tax at 1 April 2001 would have been NIL and therefore no penalty would have been due.

10.4 Excuse for late delivery of return (Paragraph 19)

10.4.1 A flat-rate penalty is not incurred if

- the period for which the return is required is one for which the company is required to deliver accounts to the registrar of companies, and
- the return is delivered no later than the last day for delivery of those accounts to the registrar.

In practice, the benefit of this provision will be accorded to a company whose return period overlaps, but does not coincide with, the period covered by the Companies Act accounts.

10.4.2 This provision will not often benefit companies that are incorporated in the United Kingdom because such companies are normally required to deliver a copy of their accounts to the registrar not later than ten months after the end of the period of account (seven months, in the case of a public company). But if a company carries on business or has interests outside the United Kingdom it will automatically be granted an extension of three months, if it makes proper application. And the Secretary of State has power to grant other extensions, if he sees fit. All such extensions will be effective for the purposes of Paragraph 19.

10.4.3 Companies incorporated outside the United Kingdom that have an established place of business in the United Kingdom are normally required to deliver a copy of their accounts to the registrar not later than 13 months after the end of their period of account.

10.5 Late filing penalties: practical matters

10.5.1 Although the Inland Revenue may require a return for a period during which a company is outside the charge to corporation tax, they will not knowingly issue a Notice to file that specifies such a period (see 3.3.3). Once the Inspector is satisfied that a period for which a return has been made is such a period he or she will not impose a penalty for delay in making such a return. If a penalty has already been charged, it will be discharged on appeal.

10.5.2 Under Extra Statutory Concession B46, the Inland Revenue do not charge a penalty in the case of any return that is received in their hands on or before the last business day within seven days following the statutory filing date. A business day, for this purpose, is any day other than a Saturday, a Sunday, Christmas Eve, Good Friday or any Bank or Public Holiday. This concession

- is couched in terms of the Pay and File provisions and is kept under review. The Inland Revenue have no plans to disapply it to returns for CTSA periods.
- does not apply to any other statutory date which may trigger higher or additional penalties under Paragraphs 17 or 18
- should not be regarded as an extension to the statutory time limit.

Example 1
AD Ltd receives a Notice to file a return for its accounting period ended 31 December 1999. The filing date is 31 December 2000. AD Ltd's return reaches the Inland Revenue on 4 January 2001.

AD Ltd benefits from the concession and no penalty is charged

Example 2
AE Ltd also receives a Notice to file a return for its accounting period ended 31 December 1999. It posts its return by first class post on Thursday 4 January 2001. The return reaches the Inspector on Monday 8 January 2001.

AE Ltd does not benefit from the concession because its return is not in the Inland Revenue's hands on Friday 5 January, the last business day within the seven days following the filing date. If the return had reached the Inland Revenue on the Friday, AE Ltd would have benefitted from the concession, but the concession does not extend the filing date: AE Ltd cannot argue that the fact that it posted its return in time to have reached the Inland Revenue on 5 January constitutes a reasonable excuse for late filing.

Example 3
AF Ltd also receives a Notice to file a return for its accounting period ended 31 December 1999. Its return reaches the Inland Revenue on 4 April 2001

AF Ltd clearly does not benefit from the concession. Because its return is filed later than 31 March 2001 it is liable to a penalty of £200 under Paragraph 17. It cannot argue that the penalty should be £100 because it delivered its return before the last business day after 31 March, because the concession operates only in relation to the filing date.

10.6 Penalties for incorrect or uncorrected returns (Paragraph 20)

10.6.1 A tax-related penalty is chargeable if a company either

- ☐ fraudulently or negligently delivers an incorrect return, or
- ☐ discovers that a return delivered neither fraudulently nor negligently is incorrect, and fails to remedy the error without unreasonable delay.

10.6.2 The maximum penalty is the amount of tax understated, i.e., the difference between

- ☐ the amount of the tax finally payable by the company for the period of the return, and
- ☐ the amount which would have been payable based on the return as delivered.

Any relief under Section 419(4) ICTA 1988, deferred under sub-section(4A) is ignored.

10.6.3 *Examples*

Example 1
AG Ltd's accounting period for which return required: year ended 30 September 1999.
Return filed: 1 August 2000, showing tax payable: £10,000.
Enquiries into return establish incorrect accounts delivered negligently, with revised tax payable for the period of £17,500.

Paragraph 20 maximum penalty:

Final tax payable	£17,500
Tax payable on the basis of accounts delivered	10,000
Amount of tax understated (maximum penalty)	£7,500

Example 2
AH Ltd's accounting period for which a return is required: year ended 30 September 1999.
Return filed: 1 August 2000 showing NIL tax payable.
Enquiries into return establish incorrect accounts delivered negligently, with Section 419 tax due on a £20,000 loan made by the close company to a participator.
Loan all repaid on 1 October 2001.

Paragraph 20 maximum penalty:

Tax payable: (No account taken of relief under Section 419(4) as the repayment was made more than nine months after the end of the accounting period and relief is therefore deferred under Section 419(4A))	£5,000
Tax payable on the basis of return delivered	NIL
Amount of tax understated (maximum penalty)	£5,000

Had the loan been repaid within nine months of the end of the accounting period, i.e. on or before 30 June 2000, the tax payable would have been NIL and so no penalty would have been due.

10.7 Penalty for making an incorrect claim or sending in incorrect accounts (Paragraph 89)

10.7.1 If a company, fraudulently or negligently,

☐ makes an incorrect return, statement or declaration in connection with a claim for an allowance, deduction or relief in respect of tax, or

☐ submits to the Inland Revenue, or to the Commissioners, incorrect accounts relating to the ascertainment of the company's tax liability

it becomes liable to a tax-related penalty.

10.7.2 The maximum penalty is the amount of tax understated, i.e., the difference between

☐ the amount of tax finally payable by the company for the accounting period(s) to which the claim or accounts relate, and

☐ the amount which would have been payable on the basis of the return(s), etc. made or the accounts submitted.

As with Paragraphs 18 and 20, Section 419(4) ICTA 1988 relief deferred under sub-section (4A) (see 5.5.4) is ignored for the purpose of computing the amount of tax payable under this Paragraph.

10.7.3 Accounts submitted on behalf of a company are taken as submitted by that company, unless it can prove that the accounts were submitted without its consent or connivance.

10.8 Multiple tax-related penalties for the same accounting period (Paragraph 90)

10.8.1 If more than one tax-related penalty is incurred by a company for the same accounting period, then only one such penalty, whichever is the greatest, is imposed on each slice of relevant tax.

Example
AJ Ltd's accounting period for which return required: year ended 30 September 1999.
Filing date: 30 September 2000.
Accounts and return filed: 1 May 2001.
Tax payable: £25,000. Paid by 1 April 2001: £5000.

Paragraph 18 tax-related penalty based on unpaid tax at 1 April 2001: £20000 x 10% = £2000.

Enquiries establish negligent submission of incorrect accounts
Revised tax payable: £30,000.

Paragraph 20 Maximum penalty (£30000 - £25000 =) £5000.

Using an agreed penalty abatement for the Paragraph 20 penalty, the penalty calculation would be

Paragraph 18 penalty: £20,000 x 10% =	£2,000
Paragraph 20 penalty: £ 5,000 x say, 30% =	£1,500
Total	£3,500

If there had been no Paragraph 20 culpability attaching to the additional £5,000, the total Paragraph 18 penalty would have been £25,000 x 10% = £2,500.

Chapter 11

Appeals: general provisions

References to Paragraph numbers are to Paragraphs in Schedule 18 FA 1998, unless some other reference is shown or is supplied by the immediate context.

11.1 Introduction

The CTSA regime introduced changes to matters which can be the subject of an appeal, like the new information powers at Paragraph 27. The new circumstances in which appeals can be made in connection with the various provisions of the CTSA regime are described elsewhere. The main ones are

- ☐ appeal against a notice under Paragraph 27, requesting documents or information (6.9)
- ☐ appeal against a penalty for failure to comply with a Paragraph 27 notice (6.10.5)
- ☐ appeal against an Inland Revenue amendment of a self-assessment made during the course of an enquiry (6.11.4 - 6)
- ☐ appeal against an Inland Revenue amendment made following the closure of an enquiry (6.15.5)
- ☐ an appeal against an assessment which is not a self-assessment, or against a discovery determination (6.20.6 - 7)
- ☐ appeal against a penalty for failure to keep records (4.13.5).

Where an appeal can be made, the appeals provisions applicable to the CTSA regime, both jurisdictional and procedural, are broadly similar to those which relate to ITSA and to those which existed before to the introduction of Self Assessment.

11.2 Notices of appeal (Paragraph 92)

Any notice of appeal under Schedule 18 must contain the grounds of the appeal. But when the Commissioners hear the appeal they may allow the appellant to put forward further grounds and take them into consideration provided they are satisfied that their original omission was not wilful or unreasonable.

11.3 Jurisdiction: General or Special Commissioners (Paragraph 93)

11.3.1 This Paragraph applies to an appeal against

- ☐ an amendment by the Inland Revenue of a self-assessment during the course of an enquiry
- ☐ an amendment by the Inland Revenue to a Company Tax Return at the conclusion of an enquiry
- ☐ an assessment to tax other than a self-assessment
- ☐ a discovery determination of losses, etc., under Paragraph 41(2). (Note that there is no right of appeal against a determination of tax payable made under Paragraph 36 or 37 where no return has been made.)

11.3.2 An appeal against a decision of the Board is to the Special Commissioners. Any other appeal is to the General Commissioners subject to

- ☐ the right to make an election for the Special Commissioners (see 11.4)
- ☐ any provision of Part V of TMA 1970 which allows or requires jurisdiction to be with another tribunal. Examples of these are Section 44(3) which permits jurisdiction to be transferred to the Special Commissioners by agreement where no timeous election was made, Section 46B which identifies certain matters which are within the exclusive jurisdiction of the Special Commissioners, and Section 46D which identifies certain questions which must be determined by the Lands Tribunal.

11.4 Election to take an appeal to the Special Commissioners (Paragraph 94*)*

11.4.1 The company may elect under Section 46(1) TMA 1970 to bring an appeal before the Special Commissioners rather than the General Commissioners.

11.4.2 The election is to be disregarded if

- ☐ at any time before the determination of the appeal, the taxpayer and the Inland Revenue agree in writing that it should be disregarded, or
- ☐ the General Commissioners have given a direction that the election is to be disregarded and that direction has not been revoked (see 11.4.3).

11.4.3 Where an election to the Special Commissioners has been made and the relevant appeal has not yet been determined, the Paragraph permits the Inland Revenue to refer the election to the General Commissioners. Before doing so they must give notice of their intention to do so to the appellant.

On such a referral, the General Commissioners will direct that the election is to be disregarded, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal.

If, after having given 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 must revoke the direction. Any decision to give or revoke a direction is final.

11.5 Appeals against penalties

11.5.1 The CTSA penalties set out in Schedule 18 for failure offences and for the delivery of an incorrect return, claim or accounts (see Chapter 10), are charged by determination under Section 100 TMA 1970. They are therefore penalties determined by an officer of the Board.

11.5.2 Under Section 100B T M A 1970, an appeal may be brought against the determination of a penalty and will be to either the General or the Special Commissioners in the usual way. The normal rules of TMA 1970 relating to appeals have effect as they have in relation to an appeal against an assessment except that Section 50(6)-(8) (Commissioners' powers to reduce, confirm or increase an assessment) do not apply.

11.5.3 Instead, in the case of a penalty the amount of which is fixed by the statute under which it is imposed (for example penalties under Paragraphs 17, 18 and 29(1)(a)), the Commissioners may:

- ☐ if they decide that no penalty has been incurred, set the determination aside

- if they decide the penalty is correct, confirm it, or
  - if they decide the penalty determined is incorrect, increase or reduce it to the correct amount.

11.5.4 In the case of a penalty expressed to be of an amount not exceeding a statutory maximum (for example penalties under Paragraphs 23 and 29(1)(b)), the Commissioners may

- if they decide that no penalty has been incurred, set the determination aside
- if they decide the amount of the penalty is appropriate, confirm it
- if they decide the amount of the penalty is excessive, reduce it to whatever amount they decide is appropriate, including Nil, or
- if they decide the amount of the penalty is insufficient, increase it to whatever amount they decide is appropriate.

11.5.5 A company can appeal against the Commissioners' decision on an appeal against a penalty determination if it considers the decision to be wrong on a point of law. That is by way of case stated under Regulation 22, SI 1994 No. 1812 in respect of a decision by the General Commissioners or by Notice of Motion under Section 56A TMA 1970 in respect of a decision by the Special Commissioners.

There is a separate and additional right of appeal to the High Court (the Court of Session in Scotland) under Section 100B(3) TMA against the amount of a penalty. On that appeal the Court has the same jurisdiction as is conferred on the Commissioners by Section 100B(2) (described at 11.5.3 and 11.5.4).

Chapter 12

Quarterly Instalment Payments

12.1 Introduction

12.1.1 The requirement for large companies to pay tax in quarterly instalments (Quarterly Instalment Payments) is set out in the Corporation Tax (Instalment Payments) Regulations 1998 (SI 1998 No 3175), made under the authority of Sections 59DA(8) and 59E TMA 1970, Section 826A ICTA 1988 and Section 30 FA 1998. Section 59E TMA 1970 is introduced by Section 30 FA 1998. References to regulations in this Chapter are to those Regulations, unless otherwise shown.

12.1.2 Quarterly Instalment Payments

- ☐ apply to large companies only (see 12.2)
- ☐ apply to CTSA accounting periods, that is, to accounting periods ending on and after 1 July 1999
- ☐ apply to the tax that is required to be self-assessed, that is to corporation tax chargeable on the company's profits, tax chargeable under Section 419 ICTA 1988 on close company loans to participators and tax chargeable under Section 747 ICTA 1988 (Controlled Foreign Companies)
- ☐ are phased in over four years (see 12.3).

12.2 Large companies (Regulation 3)

12.2.1 A company is 'large', for the purpose of Quarterly Instalment Payments, if its profits for an accounting period exceed the Section 13 ICTA 1998 'upper relevant maximum amount' (URMA) which is in force at the end of that period. As in the case of Section 13

- ☐ 'profits' means profits chargeable to corporation tax plus franked investment income received otherwise than from the company's group
- ☐ URMA is proportionately reduced where the accounting period is less than 12 months
- ☐ where the company has associated companies, URMA is reduced by dividing it by one plus the number of those companies.

12.2.2 But a company is not large if its total liability does not exceed £5,000 (proportionately reduced if the accounting period is less than 12 months).

Companies becoming large

12.2.3 Regulation 3 contains provisions to protect growing companies from having to make Quarterly Instalment Payments for the first period in which they are large unless the growth is very substantial. Under these provisions, a company will not have to make Quarterly Instalment Payments for an accounting period if

- ☐ its profits for the accounting period do not exceed £10 million and
- ☐ it was not large in the 12 months preceding the accounting period.

'Profits' means the same as it does at 12.2.1 and the £10 million limit is proportionately reduced for accounting periods of less than 12 months, and for

associated companies. Associated companies are counted for this purpose as at the day before the start of the accounting period (or on the first day of the accounting period if the previous day did not fall within an accounting period).

12.2.4 A company is not treated as large in the 12 months preceding the accounting period if

- there is any part of that 12 months in which it did not exist or did not have an accounting period, or
- an accounting period in which it was not a large company (other than by virtue of the let-out described at 12.2.3) falls or ends within that 12 month period.

12.2.5 Examples

Example 1
AK Ltd has five associated companies. Its profits for its 12 month accounting period ended 30 November 1999 are £200,000 and its tax liability is £55,000.

AK Ltd is not a large company for this accounting period because its profits do not exceed URMA (see 12.2.1) of $\frac{\text{£}1,500,000}{6}$ = £250,000.

Example 2
AL Ltd also has five associated companies. Its profits for its 12 month accounting period to 31 December 1999 are £260,000, and its tax liability is £4,500.

AL Ltd is not a large company for this accounting period. Although its profits exceed URMA, its tax liability does not exceed £5,000.

Example 3
AM Ltd also has five associated companies. Its profits for its 12 month accounting period ended 31 January 2000 are £260,000, and its tax liability is £78,000.

On these figures, AM Ltd is a large company for the accounting period ended 31 January 2000. But if it was not a large company during the previous 12 months it will not have to make Quarterly Instalment Payments for this period.

Example 4
AN Ltd, with nine associated companies, has the following figures for the following accounting periods of 12 months:

	Profits	*Liability*
Accounting period ended 31 December 1998	£200,000	£61,000
Accounting period ended 31 December 1999	£140,000	£41,000
Accounting period ended 31 December 2000	£160,000	£48,000

AN Ltd is not large for either its 1999 or its 2000 accounting periods because

- for 1999 its profits do not exceed URMA of $\frac{£1,500,000}{10} = £150,000$
- for 2000, although its profits do exceed that figure, it was not a large company during the previous 12 months.

12.3 The transitional provisions (Regulation 4)

The liability to pay tax by instalments is phased in over four years so that

- for accounting periods ending between 1 July 1999 and 30 June 2000 inclusive, 60% of the company's total liability is to be paid by instalments, leaving 40% to be paid on the normal due date, nine months and one day after the end of the accounting period
- for accounting periods ending between 1 July 2000 and 30 June 2001 inclusive, 72% of the liability is to be paid by instalments, leaving 28% to be paid on the normal due date
- for accounting periods ending between 1 July 2001 and 30 June 2002 inclusive, 88% of the liability is to be paid by instalments, leaving 12% to be paid on the normal due date
- for accounting periods ending on and after 1 July 2002, 100% of the liability is to be paid by instalments.

12.4 Instalment due dates (Regulation 5)

12.4.1 The number of Quarterly Instalment Payments to be made depends on the length of the accounting period. But in all cases, the final instalment is due three months and 14 days after the end of the accounting period.

12.4.2 12 month accounting periods

For a 12 month accounting period, the due dates for Quarterly Instalment Payments are

- for the first instalment, six months and 13 days after the start of the accounting period
- for the second instalment, three months after the first
- for the third instalment, three months after the second
- for the final instalment, three months and 14 days after the end of the accounting period.

12.4.3 The due dates for the second and third instalments are determined from the due date for the first and second instalments, not from the start of the accounting period.

- ☐ Where the first or second instalment is due on the last day of a calendar month, the second or third instalment, as the case may be, will be due on the last day of the third following month
- ☐ Where the first or second instalment is due on some other day, the second or third instalment, as the case may be, will be due on the correspondingly numbered day in the third following month
- ☐ Where there is no correspondingly numbered day in the third following month, the second or third instalment will be due on the last day of the third following month.

12.4.4 12 month accounting periods: examples

Example 1
For the earliest possible 12 month accounting period to attract instalment payments, an accounting period 2 July 1998 to 1 July 1999, the instalment due dates are as follows

First instalment	15 January 1999
Second instalment	15 April 1999
Third instalment	15 July 1999
Final instalment	15 October 1999.

Example 2
Accounting period year ended 31 December 1999

First instalment	14 July 1999
Second instalment	14 October 1999
Third instalment	14 January 2000
Final instalment	14 April 2000.

Example 3 (first instalment due on the last day of a calendar month)
Accounting period 18 July 1998 to 17 July 1999

First instalment	31 January 1999
Second instalment	30 April 1999
Third instalment	31 July 1999
Final instalment	31 October 1999.

The instalment due dates for an accounting period that begins on 16 February, 16 May or 16 August, or ends on 16 November are affected by whether or not the following year is a leap year.

Example 4
Accounting period 17 November 1998 to 16 November 1999

First instalment	30 May 1999

Second instalment 30 August 1999

Third instalment 30 November 1999

Final instalment 1 March 2000 (because 2000 is a leap year. In a non leap year the final instalment would be due on 2 March)

Example 5
Accounting period 16 May 1999 to 15 May 2000 (a leap year)

First instalment 29 November 1999

Second instalment 29 February 2000

Third instalment 31 May 2000

Final instalment 29 August 2000.

Example 6
Accounting period 16 May 2000 to 15 May 2001 (not a leap year)

First instalment 29 November 2000

Second instalment 28 February 2001

Third instalment 31 May 2001

Final instalment 29 August 2001.

Accounting periods of less than 12 months

12.4.5 Where the accounting period is less than 12 months

- ☐ the final instalment is due, as normal, three months and 14 days after the end of the accounting period
- ☐ earlier instalments are due only if the earlier dates mentioned at 12.4.2 fall before the due date for the final instalment.

This means that an accounting period of

- ☐ three months or less, will require only the final instalment
- ☐ between three months one day and six months, will require only a first and a final instalment
- ☐ between six months one day and nine months, will require a first, a second and a final instalment
- ☐ more than nine months, will require all four instalments.

A short accounting period that ends on 16 November will have its final instalment due date affected by the leap year point illustrated at 12.4.4, *Example 4*. And a short accounting period that starts on 16 May or 16 August will follow the pattern illustrated at 12.4.4, *Examples 5* and *6*, if it is long enough.

12.4.6 Accounting period of less than 12 months: examples

Example 1
Accounting period 1 January 1999 to 31 July 1999

Final instalment	14 November 1999
First instalment	six months and 13 days after 1 January 1999 = 14 July 1999
Second instalment	14 October 1999
Third instalment	not due (the due date for the third instalment would be three months after the second instalment, 14 January 2000, which is after the due date for the final instalment).

Example 2
Accounting period 16 October 1998 to 20 July 1999

Final instalment	three months and 14 days after 20 July 1999 = 3 November 1999
First instalment	six months and 13 days after 16 October 1998 = 29 April 1999
Second instalment	three months after the first = 29 July 1999
Third instalment	three months after the second = 29 October 1999.

Example 3
Accounting period 1 June to 31 August 1999

Final instalment	three months and fourteen days after 31 August 1999 = 14 December 1999
First instalment	the due date for the first instalment, six months and 13 days after 1 June 1999, falls on the same day as that for the final instalment. So only one instalment is due.

12.5 Amount of tax due at each instalment date

12.5.1 The amount of tax to be paid at each instalment date is found by applying the formula

$$3 \times \frac{CTI}{n}$$

where

- ☐ CTI is the amount of the company's total liability for the accounting period that is due to be paid in instalments. After the transitional period (see 12.3), this is 100% of the liability. During the transitional period, it is the smaller percentages mentioned at 12.3.
- ☐ n is the number of months in the accounting period, with part months calculated by reference to the number of spare days, divided by 30 and expressed as a decimal to two decimal places, rounded arithmetically.

12.5.2 Calculating 'n': examples

Example 1
Accounting period 1 January 1999 to 31 December 1999: n = 12

Example 2
Accounting period 1 January 1999 to 31 July 1999: n = 7

Example 3
Accounting period 1 January 1999 to 28 July 1999

The accounting period consists of six complete months plus 28 days.

$\frac{28 \times 100}{30}$ = 93.33 recurring

n = 6.93

Example 4
Accounting period 16 January 1999 to 28 July 1999

The accounting period consists of six complete months (16 January to 15 July inclusive) plus 13 days

$\frac{13 \times 100}{30}$ = 43.33 recurring

n = 643

12.5.3 When the accounting period is 12 months, the application of the formula will result in a quarter of the liability being due at each instalment date. For accounting periods of less than 12 months, the amount payable on each instalment date is the smaller of

- the amount resulting from the application of the formula, and
- the amount of CTI that has not been allocated to earlier instalments.

12.5.4 Examples

The following examples assume a constant view of the company's tax liability. In that respect, they are more representative of the calculations that the Inland Revenue will have to carry out, once a company's tax liability has been established, in order to apply the interest rules to the payments the company has actually made than they are of the calculations that companies will have to make during the instalment period. In making instalment payments, companies are required to base their calculations on their best estimate of the liability, which is likely to vary over time.

Example 1
AO Ltd has liability of £1.2 million for its 12 month accounting period ended 31 December 1999.

The proportion of the liability that must be paid in instalments (CTI) is 60%, or £720,000. n is 12.

So the amount to be paid at each instalment $= \frac{3 \times £720,000}{12}$

= £180,000

The balance of £480,000 is due on the normal due date, 1 October 2000.

Example 2
AP Ltd is a large company and must make Quarterly Instalment Payments (see 12.2). AP Ltd has liability of £68,000 for its seven month accounting period 1 January to 31 July 2000.

The proportion of the liability that must be paid in instalments is 72%, or £48,960.
n is 7.

Three instalments are due, on 14 July, 14 October and 14 November 2000.

The amount to be paid at the first instalment $= \frac{3 \times £48,960}{7}$

= £20,982.85.

The same formula applies for the second instalment, so the amount to be paid is again £20,982.85, making a total so far of £41,965.70.

For the third instalment the amount produced by the formula is again £20,982.85 but the company has already paid £41,965.70 of the total instalment liability of £48,960. The amount to be paid is therefore restricted to the unpaid balance (£48,960, less £41,965.70) = £6,994.30.

This leaves 28% of the liability - £19,040 - to be paid on the normal due date, 1 May 2000.

Example 3
AQ Ltd is a large company and must make Quarterly Instalment Payments. AQ Ltd has liability of £72,000 for its accounting period 16 October 2000 to 29 July 2001.

The proportion of the liability that has to be paid in instalments is 88%, or £63,360. The accounting period lasts for nine months and 14 days so n is 9.47.

Four instalments are due, on 29 April, 29 July, 29 October and 12 November 2001

So the amount to be paid at the first instalment $= \frac{3 \times £63,360}{9.47}$

= £20,071.80

The amount to be paid at the second instalment is also £20,071.80 (making a total of £40,143.60 so far).

The amount to be paid at the third instalment is also £20,071.80 (making a total of £60,215.40) leaving £3,144.60 to be paid at the final instalment.

12% of the liability, or £8,460, remains to be paid at the normal due date, 30 April 2002.

12.6 Provisional repayment (Regulation 6)

12.6.1 Where a company has made instalment payments and then believes that, because of a change in the company's circumstances,

- its total liability for the accounting period is likely to be less than previously calculated, and
- the total amount it has paid is greater than the amount it has, on its latest estimate, so far become due to pay

it may apply to the Inland Revenue for repayment of the excess. The claim must specify the amount that the company thinks should be repaid and the grounds for that belief.

12.6.2 This provision applies (in place of Section 59DA TMA 1970, see 5.3) at any time after an instalment payment has been made and before the liability of the company has been finally established, including where a return is under enquiry. If there is an assessment or amendment under appeal, the company may apply to the appeal Commissioners for a determination of the amount to be repaid.

12.6.3 A claim or application under this Regulation should be directed to the Inspector to whom the company makes its returns. It may be combined with a postponement application under Section 55 TMA 1970 and is to be heard and determined in the same way as an appeal.

12.7 Interest on late and inadequate instalment payments (debit interest) (Regulation 7) (and new Regulation 3ZA, Taxes (Interest Rate) Regulations 1989 (SI 1989 No 1297))

12.7.1 Late and inadequate instalment payments attract late payment interest at a lower rate than that generally chargeable under Section 87A TMA 1970. This lower rate will apply to interest that accrues at any time from the due date for the first instalment to the normal due date, nine months and one day after the end of the accounting period. Interest chargeable under these provisions is referred to in this Guide as ‘debit interest’, to distinguish it from ‘normal’ late payment interest and to recognise it as the counterpart of credit interest (see 12.8).

12.7.2 Regulation 7 contains the necessary amendments to Section 87A, making interest run, in the case of a large company, from the instalment due dates.

12.7.3 Regulation 6 of the Taxes (Interest Rate)(Amendment No 2) Regulations 1998 (SI 1998 No 3176) amends the Taxes (Interest Rate) Regulations 1989 (SI 1989 No 1297) by providing for a special, lower rate of interest to run in respect of underpayments of tax from the due date for the first instalment to the normal due date. The formula is reference rate (see 5.9.2) plus 2%. (The same regulation provides the new rate and formula for ‘normal’ late payment interest under Section 87A, described at 5.9.)

12.7.4 Like all other interest chargeable under Section 87A TMA 1970 for accounting periods ending after 30 June 1999, debit interest is deductible in computing profits for corporation tax purposes (see 5.8).

12.8 Interest on early paid and overpaid instalments (credit interest) (Regulation 8) (and new Regulation 3BA, Taxes (Interest Rate) Regulations 1989)

12.8.1 When a company makes Quarterly Instalment Payments that turn out to have been unnecessary or excessive, the Inland Revenue will pay or credit the company with ‘credit interest’ on the excess. Credit interest will run from the date on which the overpayment arises (or from the due date for the first instalment payment, if later) to the earlier of

- the date on which the overpayment is extinguished (for example, because of a repayment of tax), and

- the normal due date, nine months and one day after the end of the accounting period.

It is calculated at a higher rate than interest under Section 826 ICTA 1988 on a repayment of tax.

12.8.2 Credit interest is described at 5.7. The rate-setting arrangements are described at 5.9. For an example of credit interest in a Quarterly Instalment Payment case, see 12.10.8, *Example 2*.

12.9 Intra-group surrender of excessive instalment payments (Regulation 9) (as amended)

12.9.1 Regulation 9 (as amended) enables a company that has paid tax in accordance with Regulation 5, and is entitled to a refund of some or all of that tax under Regulation 6, to surrender part or all of the refund under Section 102 FA 1989, passing the benefit of the early payment to another company in the paying company's group. It achieves this by enabling the companies to specify the payment or payments out of which the refund is deemed to come. That identification will determine the dates on which, and the amounts in which, the surrendering company is treated as having received a repayment and the recipient company is treated as having paid tax.

Example

AR Ltd and AS Ltd are members of the same group for the purposes of Section 102 FA 1989. They both have an accounting period 1 August 1998 to 31 July 1999. Both companies believe themselves liable to make instalment payments for the accounting period. They pay tax as follows

	AR Ltd		AS Ltd	
	Estimated liability to be paid in instalments	Payments made	Estimated liability to be paid in instalments	Payments made
14 February 1999	£32m	£8m	£16m	£4m
14 May 1999	£32m	£8m	£16m	£4m
14 August 1999	£32m	£8m	£16m	£4m
1 October 1999	£28m		£20m	
Total payments made		£24m		£12m
Revised estimate of total payments due to 1 October 1999	£21m		£15m	
Repayment claim		£3m		

AR Ltd wishes to surrender the repayment to AS Ltd. AR Ltd will be able to identify the refund as consisting of £1m paid on 14 February, £1m paid on 14 May and £1m paid on 14 August 1999. AR Ltd will then be treated as having had those amounts repaid to it on those dates and AS Ltd as having paid those amounts on those dates.

12.9.2 For the purposes of Section 102 FA 1989, two companies are members of the same group only if they qualify to be treated as such for group relief purposes. This, together with the fact that there has to be an amount that is repayable under Regulation 6, makes a Section 102 surrender a less flexible instrument than a Group Payment Arrangement under Section 36 FA 1998. See Chapter 13.

12.10 Making Quarterly Instalment Payments

12.10.1 Companies must decide for themselves if they need to make Quarterly Instalment Payments and take the initiative to make the payments. The Inland Revenue run a computer check of the most recent return received and alert companies that seem likely to need to review their position. The Inland Revenue issue payslips to those companies between one and two months before the likely due date for an instalment payment that the company might need to make. This is a customer service measure and does not affect the principle that the legislation requires the company to act without prior prompting.

12.10.2 Companies that believe that they are, or may be, liable to make Quarterly Instalment Payments should, as a minimum, review the position before each instalment due date. If the company estimate of total liability indicates that it has paid too little tax at previous instalment due dates, the company should make a top-up payment. If the review indicates that the company has paid too much, it may deduct the excess from the current payment. If the cumulative payments exceed the cumulative liability, the company may claim repayment under Regulation 6. A top-up payment (or a repayment claim) may be made at any time.

12.10.3 Companies may make Quarterly Instalment Payments by any means that are available for the payment of tax, including electronically. Where companies pay by cheque, it is helpful if they use an Inland Revenue payslip for the accounting period concerned. If a company does not have a payslip, it can get one by telephoning

- the Accounts Office to which it pays its corporation tax, for requests made before December 1999. The telephone numbers are:

  Accounts Office Cumbernauld 01236 783708

  Accounts Office Shipley 01274 539561

- the tax office, for requests made after December 1999 (tax offices are listed in The Phone Book under 'Inland Revenue').

When using the new Company Tax computer system, called COTAX, (see Appendix 4) Inspectors will set a computer signal that the company is liable, or potentially liable, to make Quarterly Instalment Payments. Before COTAX comes 'on-line' in November 1999, the old computer system will issue 'in year' payslips only as a result of the process described at 12.10.1.

12.10.4 Repayment claims under Regulation 6

These should be sent to the tax office. Repayment will be made without the addition of credit interest, pending the ascertainment of the company's actual tax liability. See 12.10.8, *Example 2*.

12.10.5 Establishing liability to make Quarterly Instalment Payments

It is for the company to determine both whether it is likely to be liable to make Quarterly Instalment Payments, and to make them (see 12.10.1). Because this process will necessarily involve estimates of liability, there will be occasions when companies

- make payments that they later judge (or discover) to have been excessive or unnecessary

- judge (or discover) that they should have made payments that they have not made, or should have made bigger payments.

Such judgements and discoveries are an inescapable part of the regime and will not lead to the imposition of a penalty under Regulation 13 (see 12.13) unless the company has

- deliberately or recklessly failed to make an adequate instalment payment or
- made a fraudulent or negligent repayment claim under Paragraph 6.

12.10.6 A company is required to show in its return if it considers that it was liable to make Quarterly Instalment Payments on the basis of its self-assessment. The Inland Revenue will check the position, but not before the self-assessment is recorded and possibly not before a payment application is made or an overpayment processed. So the Inland Revenue's action will be based initially on the company's declaration of its position.

- If the company does not identify in its return that it was liable to make Quarterly Instalment Payments, the Inland Revenue will initially calculate credit interest on the basis that it was not so liable and may issue a payment application (or a repayment) accordingly.
- If the company identifies in its return that it was liable to make Quarterly Instalment Payments, the Inland Revenue will calculate interest on the basis that it was so liable and may issue a payment application (or a repayment) accordingly.

12.10.7 Handling interest

The Inland Revenue will not calculate credit or debit interest, or post those amounts to company accounts, until

- the company's self-assessment is recorded (or, exceptionally, the Inspector makes a determination of tax payable under Paragraph 36 or 37 in the absence of a return) and
- the normal due date has just passed.

The Inland Revenue will then

- calculate debit and credit interest on a daily basis by reference to the extent to which the cumulative amount of tax paid by the company (after taking account of any repayment under Paragraph 6) exceeds or falls short of the cumulative amount the company had become liable to pay, based on the tax liability established
- post the interest to the company account.

Debit and credit interest will not be separately distinguishable in payment applications and reconciliation statements. Credit interest will be aggregated with payments. Debit interest will be aggregated with late payment interest.

12.10.8 Examples

In the following examples, the reference rate (see 5.9.2) is assumed to be 5%, so credit interest is calculated at 4.75% and debit interest at 7%.

Example 1
AT Ltd's return for its 12 month accounting period ending 31 December 2004, filed in September 2005, shows a tax liability of £156 million. The following table shows the Quarterly Instalment Payments it made, and the estimates of liability on which they were based.

Date	Estimate of liability	Payments made
July 2004	£80m	£20m (paid on 12 July, two days before the due date for the first instalment)
October 2004	£110m	£35m (paid on 14 October)
January 2005	£140m	£50m (paid on 14 January)
April 2005	£150m	£45m (paid on 14 April)
Total payments made		£150m

AT Ltd pays a further £6m on 22 September 2005, in accordance with its return and self-assessment.

The following table shows the debit interest due from AT Ltd

Date	Cumulative tax due	Cumulative tax paid and interest consequences	Interest payable /chargeable	
			Credit	**Debit**
12 July 2004	£nil	£20m No interest consequences up to 14 July.	£Nil	
14 July 2004	£39m	£20m Debit interest due on £19m due from 14 July to 14 October (92 days)		£334,317
14 October 2004	£78m	£55m Debit interest due on £23m from 14 October to 14 January (92 days)		£404,699
14 January 2005	£117m	£105m Debit interest due on £12m from 14 January to 14 April (90 days)		£206,557
14 April 2005	£156m	£150m Debit interest due on £6m from 14 April to 22 September (161 days)		£184,754
Totals				£1,130,32

The interest is debited to the company's account and payment applied for.

Example 2

AU Ltd's return for its 12 month accounting period ending 31 December 2004, filed in December 2005, shows a tax liability of £31 million. The following table shows the Quarterly Instalment Payments it made, the repayment it claimed and received, and the estimates of liability on which they were based.

Date	**Estimate of liability**	**Payments and repayment made**
July 2004	£80m	£20m (paid on 14 July)
October 2004	£70m	£15m (paid on 14 October)
January 2005	£30m	£Nil. Repayment of £10m claimed. Repayment made 22 January. (See Notes below.)
April 2005	£30m	£5m (paid on 14 April)
Total net payments made		£30m

Notes

1. By reference to the company's estimate of its liability in January 2005, it had paid £11.75m more than was due up to 14 January. It could have claimed that amount.

2. Credit interest is not added to this repayment at this time. See 12.10.4.

AU Ltd pays a further £1m on 20 December 2005, in accordance with its return and self-assessment.

The following table shows the credit and debit interest due to and from AU Ltd.

Date	**Cumulative tax due**	**Cumulative net tax paid and interest consequences**	**Interest payable/ chargeable**	
			Credit	Debit
14 July 2004	£7.75m	£20m Credit interest due on £12.25m from 14 July to 14 October (92 days)	£146,665	
14 October 2004	£15.5m	£35m Credit interest due on £19.5m from 14 October to 14 January (92 days)	£233,466	
14 January 2005	£23.25m	£35m Credit interest due on £11.75m from 14 to 22 January (8 days)	£12,233	
22 January 2005	£23.25m	£25m Credit interest due on £1.75m from 22 January to		

		14 April (82 days)	£18,675	
14 April 2005	£31m	£30m Debit interest due on £1m from 14 April to 1 October (the normal due date) (170 days)		£32,513
Totals			£411,039	£32,513

These separate amounts of interest are posted to the company's account. The net credit of £378,526 is set against the outstanding tax of £1 million, leaving a net tax debt of £621,474. Late payment interest accrues on this until it is paid on 20 December.

12.11 Information power (Regulations 10 and 11)

12.11.1 Under Regulation 10, the Board of Inland Revenue may, by notice to the company at any time after the filing date, require it to furnish the Inland Revenue with such information as may reasonably be required about

- the computation of any Quarterly Instalment Payments made by the company to ascertain whether the payments were consistent with the quality and quantity of the information that was available to the company about its probable tax liability at the time the payments were made
- the reasons for any failure to make Quarterly Instalment Payments
- a claim to repayment under Regulation 6, to satisfy the Board that it was properly made.

12.11.2 The Regulation 10 notice must specify the time allowed for providing the information, which must not be less than 30 days.

12.11.3 There is a similar power under Regulation 11 to require the company to produce 'books, documents and other records in its possession or power' relating to the matters and for the purposes mentioned at 12.11.1. The company may produce copies instead of originals, but the copies must be photographic or other facsimiles and an officer of the Board may require the originals to be made available for inspection under Regulation 12.

12.12 Inspection of records (Regulation 12)

An officer of the Board may, after the filing date, require a company to make available for inspection any books, documents or other records that could be required to be produced by notice under Regulation 11. Where the records are kept on computer, the officer is entitled to be provided by the company with the necessary facilities to view the documents.

12.13 Penalty for unpaid tax (Regulation 13)

12.13.1 If a company is liable to debit interest (see 12.7), Section 30(4) FA 1998 provides authority for prescribing circumstances in which the company may be liable to a penalty not exceeding twice the amount of that interest. Regulation 13 sets out the prescribed circumstances, which are

- ☐ that the company or a person acting on its behalf deliberately or recklessly fails to make the required amounts of instalment payments, or

- ☐ that the company or a person acting on its behalf makes a fraudulent or negligent repayment claim under Regulation 6.

12.13.2 The Board of Inland Revenue will publish guidance on the Inland Revenue's practice in relation to this penalty. See Appendix 3, Table 4.

12.14 Anti-avoidance provision (Regulation 14)

12.14.1 Regulation 14 contains an anti-avoidance provision. It applies if, on or after 27 November 1997 and before 30 June 2002, a company

- ☐ causes the start or end date of a relevant accounting period (see 12.14.3) to change, or

- ☐ enters into any arrangements or transactions the effect of which is to transfer an amount of its taxable profits to another company in the same group, other than a non-resident company in whose hands the taxable profits transferred are outside the charge to UK corporation tax
  with the result that an amount, or amounts, of corporation tax for any part of an accounting period beginning after 1 July 1998 and ending before 1 July 2002 becomes payable later than it would otherwise have done. The provisions do not contain a motive test.

12.14.2 Where the provision applies, the company will be liable to pay an amount equal to interest at the rate applicable under Section 178 FA 1989 on the tax deferred. In working out this charge, each accounting period is considered separately and the hypothetical payment dates are those of the 12 month period which would have occurred if the date of the relevant accounting period had not been changed or taxable profits transferred. The charge allows for accelerated as well as deferred amounts of corporation tax to be taken into account and the interest rate to use for both accelerated and deferred amounts of corporation tax is that normally charged on corporation tax paid late.

Example
AV Ltd has an accounting period ended 31 December 1998. The company changes its accounting period so it has a four month accounting period to 30 April 1999 followed by an 8 month accounting period to 31 December 1999 and it does not fall within any of the exemptions in the anti-avoidance provision.

The 12 month period which would have occurred, if AV Ltd had not changed its accounting period would have been the year ended 31 December 1999 and so the hypothetical dates will be the instalment dates on which tax would have been due and payable - 14 July 1999, 14 October 1999, 14 January 2000 and 14 April 2000.

The transitional provisions outlined in Regulation 4(1) also need to be taken into account and so interest will be calculated up to the normal due date as well. In this example the date will be 1 October 2000 and the balance payable on this date will be 40% (see 12.3).

The hypothetical dates will then be compared with the actual due dates and interest computed for the four month accounting period to 30 April 1999 and the eight month accounting period to 31 December 1999 respectively.

4 month accounting period 1/1/99 - 30/4/99 - total liability		140
hypothetical instalments due (60%)	=	84
hypothetical balance (40%)	=	56

Hypothetical due dates	Actual due dates	Tax due on hypothetical dates	Tax paid	Interest chargeable	Interest allowable
14/07/99		21		✓	
14/10/99		21		✓	
14/01/00		21		✓	
	01/02/00		140		
14/04/00		21			✓
01/10/00		56			✓

8 month accounting period 1May 1999 - 31December 1999 - total liability 600
payable by instalments (60%) = 360
balance (40%) = 240

Hypothetical due dates	Actual due dates	Tax due on hypothetical dates	Tax paid	Interest chargeable	Interest allowable
14/07/99		90		✓	
14/10/99		90		✓	
	14/11/99		135	✓	
14/01/00		90		✓	
	14/02/00		135		
14/04/00	14/04/00	90	90		
01/10/00	01/10/00	240	240		

The results for each of the accounting periods cannot be netted off (i.e. if the earlier period calculation results in a credit position in terms of interest, this cannot be netted off against an interest charge arising as a result of the calculation for the later period). And a net credit cannot be paid to the company because Regulation 14(3)(b) specifically prohibits any payment by the Board.

But if a company is prepared to pay tax on the dates the tax would have been due if the accounting period had not been changed, the Inland Revenue regard payment as being accelerated in terms of Regulation 14(3) and an interest charge will not arise, except, as in the normal way, when the amounts paid are less than the amounts due.

12.14.3 A ‘relevant accounting period’ is an accounting period which, but for the action taken by the company,

- would have ended after 24 November 1997 and before 1 July 2002, and
- would have started immediately after another accounting period and lasted for 12 months.

12.14.4 There are exemptions for

- accounting period changes caused by decisions or facts in existence prior to 25 November 1997, by cessations etc. that are not linked to the transfer of the company’s activities to a fellow group company, and by certain action taken to align the company’s accounting period with that of a new ultimate parent company

- transfers of taxable profits where the transferee company has the same accounting period as the transferor or where the profits of the transferor are reduced by £5 million or less, or a proportionate amount for a period of less than 12 months.

Chapter 13

Group Payment Arrangements

References to Paragraph numbers are to Paragraphs in Schedule 18 FA 1998, unless some other reference is shown or is supplied by the immediate context.

13.1 Summary

13.1.1 Group Payment Arrangements are provided for in Section 36 FA 1998, which empowers the Board of Inland Revenue to offer companies in a group the facility to have one company pay tax on behalf of all of them.

13.1.2 The aim of Group Payment Arrangements is to help groups containing large companies manage any uncertainty over the amount of the individual companies' tax liabilities in the period between their falling due and the filing of their tax returns. The arrangements will mean that, while groups will still have to pay the right amount of corporation tax at the right time, in estimating what is due to be paid they will be able to forecast for the participating companies as a whole rather than for each individual company, and pay on that basis (rather than worrying about dividing up payments between the companies in the group). These arrangements will also mitigate the effect on a group of the differential interest rates on over- and underpaid tax.

13.1.3 Group Payment Arrangements are set up and administered by Group Payment Teams at the Inland Revenue Accounts Offices. Groups wanting further information or an application form should contact the Accounts Office to which they pay their corporation tax.

The addresses and telephone numbers are

Group Payment Team
Accounts Office Cumbernauld
St Mungo's Road
Cumbernauld
Glasgow
G70 5TR

Telephone: 01236 783488
Fax: 01236 783387

Group Payment Team
Accounts Office Shipley
Victoria Street
Shipley
West Yorkshire
BD98 8AA

Telephone: 01274 539561
Fax: 01274 539669

13.2 Eligible companies

13.2.1 Companies eligible to enter into the arrangements will be parent companies and their 51 per cent subsidiaries, and the 51 per cent subsidiaries of those subsidiaries, and so on. The group must have reasonable grounds for believing, at the time the arrangement is entered into, that at least one of the companies covered by the arrangement (the participating companies) will be liable to make Quarterly Instalment Payments.

13.2.2 Not all companies in the group need be resident in the United Kingdom, but the company nominated to pay on behalf of the participating companies (the nominated company) must be. UK subsidiaries of overseas parent companies and UK branches of non-resident companies can come within an arrangement. Not all members of the group need be covered by the Group Payment Arrangement, and a group may apply to set up more than one arrangement for different sub-sets of companies in the group. The participating companies will have to make up accounts to the same date as the nominated company.

13.2.3 Only companies which have filed returns and paid tax due in respect of their last but one accounting period (and new, and newly activated, companies - see 13.3.1) will be eligible to be covered by the arrangements.

13.3 Relevant accounting periods

13.3.1 The arrangement will relate to periods of account of the nominated company. The periods will normally be (and will not be longer than) 12 months. Each period will normally be an accounting period of each of the participating companies. But a company that is newly formed or newly activated or newly acquired by the group will, by agreement, be able to be covered by the arrangement, provided it aligns its accounting date with that of the nominated company. Such a company cannot be covered by the arrangement in respect of an accounting period which began before the period of account covered by the arrangement.

Example
ZZ Group have a Group Payment Arrangement for the period of account 1 April 2000 to 31 March 2001. A Ltd is acquired by the group on 1 June 2000. A Ltd has previously drawn up its accounts to 31 December annually. Following its acquisition by ZZ Group it draws up accounts to 31 May 2000 and then aligns its accounting date with that of the group, drawing up its next accounts for the period 1 June 2000 to 31 March 2001.

A Ltd cannot participate in the Group Payment Arrangement for its accounting period 1 January to 31 May 2000, but it can do so, by agreement, in respect of its accounting period 1 June 2000 to 31 March 2001, provided ZZ Group notifies the appropriate Group Payment Team that it wants to bring A Ltd into the arrangement before 14 October 2000 (the due date for the first instalment payment due under the arrangement).

13.3.2 If a participating company has an accounting period which ends during the period of account to which the arrangement applies, it can remain part of the arrangement as long as its accounts are drawn up for the same period as that of the nominated company.

Example
AW Ltd participates in a Group Payment Arrangement for the period of account 1 January 2001 to 31 December 2001. AW Ltd stops trading on 31 August 2001, triggering the end of an accounting period. Provided that AW Ltd draws up its accounts to 31 December 2001, it can continue to participate in the arrangement. If the period 1 September to 31 December 2001 is an accounting period of AW Ltd, its tax liability for that period, as well as its tax liability for its accounting period 1 January to 31 August 2001, will fall within the arrangement.

13.3.3 Where a group of companies that is party to an arrangement changes its period of account the nominated company must inform the Inland Revenue of the change but it is entitled to leave the arrangement in place for the new period of account as long as that period does not exceed 12 months.

13.4 Rolling the arrangement forward

Once a Group Payment Arrangement has been made, it will roll forward automatically to subsequent periods of account. The nominated company will have to notify the Inland Revenue of any additional companies that it wishes to bring into the arrangement for the next period of account and of any companies that it wishes to leave out. It must give the notification before the first payment is due under the arrangement for the new period.

13.5 Removal of companies from an arrangement

13.5.1 The nominated company has the right to remove from the arrangement a participating company which ceases to be a member of the group before the 'closing date' (see 13.8.1). It **must** do so if the participating company

- ☐ ceases to be a member of the group during the period of account to which the arrangement relates or
- ☐ turns out not to have an accounting period that ends on the last day of the period to which the arrangement relates.

In such circumstances the nominated company

- ☐ may apportion payments, or parts of payments, to the departing company
- ☐ will not retain any liability in respect of the departing company after it has left the arrangement (including in respect of its liability for the accounting period during part of which it was a member of the group).

13.5.2 Similarly, the Inland Revenue will have the right to remove from the arrangement any company which ceases to be a member of the group, or does not make up its accounts to the same date as the nominated company, or turns out never to have been a member of the group. The nominated company may apportion payments, or parts of payments, to a company that is removed in this way, as at 13.5.1.

13.5.3 The nominated company may also remove a participating company from an arrangement by agreement, whether or not the conditions at 13.5.1 apply, at any time before the due date for the first payment due under the arrangement. And it must notify the Inland Revenue of the removal before that date.

13.6 Termination of an arrangement

13.6.1 The Inland Revenue will have the right to terminate an arrangement if the nominated company breaches the terms of the agreement, or if the Board have reason to believe that any of the companies covered by the arrangement may become liable to tax under Section 767A or 767AA ICTA 1988 (anti-avoidance legislation concerned with changes in ownership of a company).

13.6.2 The nominated company will have the right to terminate the arrangement for any period of account as long as it notifies the Inland Revenue before the first payment for that period is due. For example, a group which makes up its accounts for the year to 31 December 2004, and has a Group Payment Arrangement, decides it does not want to continue the arrangement for the period ending on 31 December 2005. It must notify the Inland Revenue before 14 July 2005.

13.7 Deadline for signing-up to arrangements

The Inland Revenue will normally only agree to enter into an arrangement for a period of account if the group delivers its signed agreement to the appropriate Group Payment Team in the Accounts Office to which it makes its corporation tax payments at least two

months prior to the first instalment payment due date. This is so that the necessary administrative processes can be gone through before the first Quarterly Instalment Payment is due.

13.8 The undertaking

13.8.1 Under Group Payment Arrangements, the nominated company will undertake to pay the tax liabilities of all the companies covered by the arrangement. And the Inland Revenue will not look to any of the companies individually to pay its own corporation tax during the period up to the date (known as 'the closing date') when all the companies covered by the arrangement have either filed their returns, or had their tax payable determined by the Inland Revenue under Paragraph 36 or 37 (see Chapter 9). The closing date cannot be earlier than the filing date.

13.8.2 Where tax is due to be paid in quarterly instalments, the nominated company will effectively undertake to

- make payments of tax on the instalment due dates on the basis of the most recent forecast of the level of profits of all the large companies (see 12.2) in the arrangement
- adjust the payments made throughout the instalment payments period if that forecast changes, increasing or reducing payments as appropriate
- make top-up payments, where appropriate.

See 12.10.2.

13.8.3 The nominated company will have the same right, by reference to the estimated profits of all the large companies in the arrangement, to claim repayment under Regulation 6 of the instalment regulations (see 12.6), as an individual large company would have by reference to its own estimated profits. When doing so it must specify which payment or payments (or parts thereof) are being repaid. As in the case of a Regulation 6 repayment to an individual large company, the Inland Revenue will not add credit interest (see 5.7) to such a repayment when it is made. Credit interest on such a repayment, if due, will be calculated and paid after the closing date.

13.8.4 Payment of corporation tax under the arrangements must be made by electronic funds transfer. This includes BACS (the automated payment services provided by BACS Ltd to its member banks), CHAPS (the Clearing House Automated Payment System), and bank giro credit.

13.8.5 Up until the closing date, where a participating company amends its self-assessment, the amendment will be taken into account in working out what, if anything, is due from the nominated company under the arrangement. Any adjustments made to the liabilities of participating companies after the closing date will be dealt with on an individual company basis.

13.8.6 What is transferred to the nominated company under a Group Payment Arrangement is the responsibility for making payments of tax, not actual tax liability. Group Payment Arrangements are machinery provisions only and do not affect the computation of any company's liability to tax, nor prevent its being pursued for payment of tax if legal proceedings to enforce payment are required after the closing date.

13.9 Apportionment of payments

13.9.1 After the closing date, the Inland Revenue will give notice to the nominated company showing what it has paid on behalf of the participating companies and the liability at the

closing date. The nominated company will be invited to make good any shortfall, and to apportion payments made to the companies covered by the arrangement. A shortfall may be allocated by the nominated company if it has reason to believe that the liability of the company to which it allocates the shortfall is likely to decrease after the closing date. Interest will be the liability of the individual participating company, as will any late filing penalty which may be incurred.

13.9.2 The nominated company may allocate any surplus to one or more participating company, or require its repayment.

13.9.3 If there is a shortfall, and the Inland Revenue cannot secure payment from a company to which a shortfall has been allocated, it will have the right to override the nominated company's allocation of the payments.

13.9.4 If any company in a Group Payment Arrangement files its return late enough to incur a tax-related penalty under Paragraph 18 (see 10.3) and there is a payment shortfall in the arrangement at the date on which the penalty is incurred, the nominated company's apportionment cannot relieve a late filing company of its liability to the tax-related penalty. For the purpose of calculating such a penalty, the Inland Revenue will apportion payments made under a Group Payment Arrangement

- first, to companies that have not incurred a tax-related penalty
- secondly, to companies that have incurred a tax-related penalty of 10%
- finally, to companies that have incurred a tax-related penalty of 20%.

Appendix 1

COMPANY TAX RETURN FORM

Available from www.inlandrevenue.gov.uk/ctsa

Appendix 2

EXTRACT FROM INLAND REVENUE ARTICLE IN *TAX BULLETIN*, ISSUE 37 (OCTOBER 1998)

Records to be kept under Self Assessment

Introduction
This article is mainly about the record-keeping requirements for corporation tax purposes under Self Assessment. It is intended that the key points will in due course become the subject of a formal Statement of Practice. But the section on the preservation of records in an alternative form is also relevant to unincorporated businesses. We will revise the next edition of our booklet on record-keeping for the self-employed (SA/BK3) to record it.

Paragraphs 21 to 23, Schedule 18, F A 1998 require companies and other concerns within the charge to corporation tax to keep and preserve records. The provisions mirror those in Section 12B TMA 1970 which brought in, for 1996/97 and subsequent years of assessment, a record-keeping requirement for individuals and partnerships. Paragraphs 21 to 23 have effect for accounting periods ending on or after 1 July 1999.

As noted above, these rules apply not only to ordinary limited companies but to all concerns within the charge to corporation tax including for example industrial and provident societies, authorised unit trusts, clubs and societies as well as ordinary limited companies. Except in the paragraph referring to the Companies Act record-keeping requirements, we use 'companies' as convenient shorthand for all concerns within the charge to corporation tax.

Summary
The legislation requires companies to keep and preserve sufficient records to enable them to make a correct and complete Company Tax Return. Should the Revenue decide to make enquiries into a return, the company will need to be able to explain and substantiate the information it contains. Companies with systems in place to enable them to do that should be affected by the new legislation only to the extent that they may have to retain records for longer than they do at present.

Our approach in practice
Concern has been expressed that, on a strict interpretation, the legislation would impose an additional and unwarranted burden on the business community by extending the requirement to preserve greater quantities of prime records than is currently the case. That is not the purpose of the legislation.

We issued guidance on how Section 12B TMA affects self employed taxpayers in leaflet *SA/BK3, Self Assessment: A Guide to Keeping Records for the Self-Employed* published in June 1995.

The leaflet gives guidance on the practical effect of the legislative requirement. In particular, it makes clear that:

- the taxpayer is required to keep sufficient records to make a correct and complete return
- the taxpayer will also need to be able to demonstrate in response to Revenue enquiries that that is the case
- the precise nature and extent of the records needed to discharge that obligation to be kept will be dependent on the type and size of business.

This statement is equally applicable to companies and other concerns within the charge to corporation tax.

Interaction with the record-keeping requirements of the Companies Act
Companies to which the Companies Act applies are already required by Section 221 Companies Act 1985 to keep and preserve specific accounting records in terms which are close to the tax requirements. We can confirm that any company satisfying the requirements of the Companies Act will have satisfied the requirement to keep and preserve records for tax purposes. This is subject to keeping adequate records for arm's length pricing purposes and to the rules on the period for which records must be preserved. These provisos are discussed further below.

Records for arm's length pricing purposes
A particular issue here concerns the 'transfer pricing' legislation. These provisions require taxpayers to apply the arm's length standard to certain arrangements and transactions for the purpose of making their tax returns and self-assessments.

The legislation applies primarily to dealings between a UK taxpayer and an associate operating outside the UK. It will generally not be relevant where the parties are unconnected, unless the dealings in question constitute individual transactions within a "series of transactions" to which the legislation applies. And - with very limited exceptions - the legislation is of no relevance where the parties to a transaction are both subject to UK tax in respect of it.

Where the transfer pricing legislation may be in point, the records required by paragraph 21, Schedule 18, F A 1998 to enable a company to deliver a correct and complete return, and to substantiate the figures in the return on enquiry, may well go beyond those required for the purposes of Section 221 Companies Act.

Following extensive consultations, we are also issuing guidance in this issue of *Tax Bulletin* on how we will interpret and apply the SA documentation requirements for transfer pricing purposes.

Period for which records must be retained
The Companies Act requires private companies to retain their accounting records for a period of only three years. For tax purposes, once Corporation Tax Self Assessment is introduced, such companies will need to preserve their records for the longer period prescribed in paragraph 21 of Schedule 18.

Normally, records for an accounting period will have to be preserved for six years from the end of that period. But in three cases they have to be kept for longer. The second and third cases in particular will be very rare in practice.

First, if an enquiry into the return for an accounting period remains open at the six year point the records for that period must be retained until that enquiry is completed.

Secondly, where no such enquiry has been started but the statutory period for doing so has not expired at the six year point (because the return is late) the records for that accounting period must be retained until the latest date for starting an enquiry has passed or, if later, the date such an enquiry is completed.

The third case is where, contrary to the first two situations, the date on which a company is requested to complete a tax return for an accounting period is itself more than six years after the end of that period. In that case the records in existence at that date must be retained as in the second situation, that is until the latest date for starting an enquiry has passed or, if later still, the date such an enquiry is completed.

Preservation of records in an alternative form (see below) should make it easier for some companies to retain their records for this longer period.

Records preserved in an alternative form

For unincorporated business we have already indicated in *Tax Bulletin* (Issue 21, February 1996) that records may be preserved on optical imaging systems, and the originals discarded, provided that what is retained in digital form represents a complete and unaltered image of the underlying paper document. We are now able to go further. Both in the case of companies and unincorporated businesses, we can accept other methods which preserve the information in the records in a different form. This is so long as those methods capture all the information needed to demonstrate that a complete and correct tax return has been made and are capable of yielding up that information in legible form. Businesses need to bear in mind this second condition when they change or up-date computerised accounting packages and ensure they have the software to access the old data.

Precisely what information needs to be preserved in this way will vary from business to business. But standard information, such as contractual terms and conditions printed on all invoices, need not be reproduced as part of the record of each transaction.

We accept of course that companies which store information in accordance with the Code of Practice on the Legal Admissibility of Information stored in Electronic Document Management Systems (BSI 1996 DISC PD 0008) will thereby automatically satisfy the tax requirements.

The exceptions, where the original record must be retained, are set out in paragraph 22, Schedule 18, F A 1998. In essence they consist of vouchers for tax suffered or for tax credits in respect of incomings . But photocopies of foreign tax assessments, rather than the assessments themselves, will remain acceptable for the purposes of claims to double taxation relief in respect of foreign tax underlying dividend income from abroad.

Penalties for record-keeping failures

We have been asked to clarify what constitutes a failure for the purpose of the penalty provisions in the record-keeping rules (Paragraph 23, Schedule 18, F A 1998 and Section 12B(5) TMA 1970). These penalty provisions relate the penalty to a year of assessment (for income tax) or to an accounting period (corporation tax). The effect is that there can only be one penalty of a maximum £3,000 in relation to all the offences relating to that year of assessment or accounting period.

We have given assurances in connection with self assessment for individuals and partnerships that penalties under Section 12B(5) will only be sought in the more serious cases - where, for example, records have been destroyed deliberately to obstruct an enquiry, or where there has been a history of serious record-keeping failures. We are now able to offer equivalent assurances to companies. We can also confirm that a penalty would only be sought from companies, as in the case of individuals and partnerships, following approval by Compliance Division.

Pay As You Earn (PAYE) Records

The requirement to create and preserve records to enable a correct and complete tax return to be filed applies to records relating to employee costs in the same way as other business costs. Some employee records will almost automatically be required for Company Tax Return purposes. Where records of employee costs are used for this purpose they must be preserved for the longer period specified in paragraph 21, Schedule 18, Finance Act 1998, described above.

But companies which are employers must also preserve PAYE records, that is those additional records created to show that the PAYE system has been operated in a satisfactory manner. Regulation 55(12) of the Income Tax (Employments) Regulations 1993 (SI 1993 No. 744), requires these additional PAYE records to be preserved for three years after the end of the tax year to which they relate.

Unlike Paragraph 22, Schedule 18, F A 1998, the PAYE regulations do not provide for preservation of information in the records in another form. To help employers we have recently changed our view on the use of optical imaging to preserve such records which were originally created in paper form. Any paper records may now be preserved by the use of

optical imaging systems, provided that what is retained is a complete and unaltered image of the underlying paper document.

EXTRACT FROM INLAND REVENUE ARTICLE IN *TAX BULLETIN*, ISSUE 37 (OCTOBER 1998)

The new transfer pricing legislation - record-keeping

(This extract reproduces only that part of the article relating to record-keeping requirements)

Under the new transfer pricing legislation, taxpayers are required to recognise the arm's length principle in reporting income, profits or losses for tax purposes. Where transactions within the scope of the new rules have taken place on other than arm's length terms to the disadvantage of the UK Exchequer, appropriate computational adjustments must be made in the tax return.

Section 12B TMA 1970 and paragraph 21, Schedule 18 FA 1998 require taxpayers to keep and preserve the records needed to make and deliver a correct and complete return for any chargeable period.

In interpreting those rules for transfer pricing purposes, the Inland Revenue will be guided by Chapter V of the Organisation for Economic Co-operation and Development Guidelines. This is designed to assist tax administrations in developing their approaches to documentation rules, and taxpayers in identifying the records that would be helpful in demonstrating how their methodologies satisfy the arm's length principle.

The Inland Revenue does not want taxpayers to suffer disproportionate compliance costs, nor to be required to prepare and retain documentation which is out of keeping with the nature, size, and complexity of their business, or with the transaction (or series of transactions) in question.

At the same time, taxpayers will be required to self-assess accurately, and may be called on by the Inland Revenue to justify their transfer prices and the quantum of income, profits or losses returned for tax purposes.

Taxpayers should therefore prepare and retain such documentation as is reasonable given the complexity or otherwise of the relevant transaction (or series of transactions), and which identifies

- relevant commercial or financial relations falling within the scope of the new legislation

- the nature and terms (including prices) of relevant transactions (including transactions which form a series, and any relevant offsets). Transactions which are clearly in one family (e.g. regular purchases made by a distributor throughout a return period of the same or similar products for resale) may be aggregated, provided any significant changes during the period in the nature or terms of the transactions are recorded

- the method or methods by which the nature and terms of relevant transactions were arrived at, including any study of comparables and any functional analysis undertaken

- how that method has resulted in arm's length terms etc. or, where it has not,

  what computational adjustment is required and how it has been calculated. This will usually include an analysis of market data or other information on third party comparables

- the terms of relevant commercial arrangements with both third party and affiliated customers. These will include commercial agreements (e.g. service or distribution contracts, loan agreements), and any budgets, forecasts or other papers containing information relied on in arriving at arm's length terms etc. or in calculating any

adjustment made in order to satisfy the requirements of the new transfer pricing legislation.

Current arrangements need not be freshly documented for the first Corporation Tax Self Assessment return period, provided the existing documentation is sufficient to enable the taxpayer to make a complete and correct return for that period.

Where arrangements continue in force for more than one return period (e.g. a distribution agreement lasting several years), there is no need to prepare fresh documentation for each return period, provided the original documentation is sufficient to demonstrate that the taxpayer has made a complete and correct return for that later period. Any significant changes in the nature or terms of the transaction or transactions in question should be recorded.

The documentation should exist at the latest by the time the return is made.

Documents should be kept until the later of

- ☐ six years from the end of the chargeable period to which they refer or for which there could be a related tax effect, or
- ☐ the date on which enquiries to which the documents are relevant are complete.

Appendix 3

FORMS AND GUIDANCE MATERIAL

The following tables show the main forms that are used in connection with CTSA and guidance material that is planned to be available from the Inland Revenue about the regime. The lists do not include

- the Inland Revenue's internal guidance manuals that will be available for purchase under the Open Government rules, because the publication dates for the revised versions of these were not known when this Guide went to print.

- references to articles in *Tax Bulletin* and other guidance material that do not add to the material in this Guide.

Where shown, forms are available on, and may be downloaded from, the Inland Revenue's website at www.inlandrevenue.gov.uk, or the Corporation Tax Self Assessment pages at www.inlandrevenue.gov.uk/ctsa.

Where shown, forms etc. are available from the Inland Revenue Orderline on 0845 300 6555 (or by fax on 0845 300 6777). Opening hours are 8.00am to 10.00pm, seven days a week, and calls are charged at local rates.

Most of the forms etc. mentioned below were not available on the date of publication of this Guide. But the tables below show when they are expected to become available. Some dates may be subject to change.

Table 1: Main forms

Forms that are shown in this Table as available from the Inland Revenue Orderline are available from 1 July 1999.

Form number and description	When issued or how available	Copied to agent? *	Further information at
CT41G: New company details	When the Inland Revenue becomes aware of the formation of a new company.	No	3.2, 3.3
CT204: Corporation tax/Company tax: Review	Periodically, for reviewing companies treated as dormant.	No	3.4
CT205; Return reminder	About a month before the recorded filing date, if no return received.	No	
CT208: Payment reminder	About a month before the 'normal due date', if neither a payment nor a return is received About a month after the normal due date if above circumstances continue and a zero payslip has not been received.	No	
CT211: Penalty warning	About a month after the recorded filing date, if return has not yet been logged into computer.	Yes	
CT211: Notice of determination of late filing penalty or penalties	Normally - After receipt of late return, not more than 18 moths after the end of the accounting period, or In the continued absence of a return, more than 18 months after the end of the recorded accounting period.	Yes	Note that flat-rate and tax-related penalties are charged in separate determinations
CT211Notes	With notices of penalty determination. Available on the Internet.	No	
CT600: Company tax return form	Enclosed with form CT603, the Notice to file, unless the company ☐ has an agent recorded in the computer system or ☐ is recorded as using an approved substitute form. Available on the Internet. Available from the Inland Revenue Orderline.	No	4.9 - 4.11
Return form supplementary pages: CT600A: Loans to participators by close companies CT600B: Controlled foreign companies CT600C: Group and consortium relief CT600D: Insurance CT600E: Charities	Not issued with the return form or Notice to file. Available from the Inland Revenue Orderline.	No	4.9 - 4.11
CT600Guide	Issued with the CT600. Available on the Internet. Available from the Inland Revenue Orderline.	No	
CT603: Notice to deliver a Company Tax Return (referred to in this guide as a	Normally issued between three and seven weeks after the period specified in it. It is accompanied by a return form (CT600) and guidance notes (CT600Guide) where it is	No	3.1, 3.3, 4.2 - 4.3, 15.1, 15.2.3

Notice to file)	issued to a company that is not recorded as ☐ having an agent acting for it ☐ using an approved substitute return form.		
CT603A List: Information notice to agents of client companies to which a Notice to file has been issued	Monthly, following the issue of Notices to file.	Not applic-able	4.1.2
CT608	Payslip and explanation issued to companies that may be liable to make quarterly instalment payments.	No	13.10
CT620: Revenue determination of tax payable in the absence of a return	When a formal determination is made under Paragraph 36 or 37	Yes	Chapter 10
CT620: Acknowledgement of return	When a self assessment is recorded, following the receipt of a return.	Yes	
CT620: Notice of correction of return	When the Inland Revenue corrects a return under Paragraph 16.	Yes	5.8
CT620: Acknowledgement of amendment to return	When the Inland Revenue records the figures in an amended return. (The notice may contain an Inland Revenue correction of the amendment under Paragraph 16.)	Yes	5.8.1
CT620: Acknowledgement of claim or amended claim	When the Inland Revenue act on a claim or amended claim that is not included in a return or amended return. (The notice may contain an Inland Revenue correction of the claim or amendment under Paragraph 3, Schedule 1A, TMA.)	Yes	
CT620(Notes):	Notes to accompany form CT620. Available on the Internet.	No	

* When the company's authority on form 64-8 is held

Table 2: Forms and notices used in connection with Inland Revenue enquiries into Company Tax Returns

Form or notice	When and to whom issued
Notice of enquiry under Paragraph 24	Always issued to the company, but if an agent is acting, the notice will be copied to the agent and the actual queries will usually be addressed to the agent
Notice under Paragraph 27 to produce documents or provide information	Only issued following an unsuccessful informal request for information. Always issued to the company. Copied to the agent.
Notice under Paragraph 32 of completion of enquiry	Always issued to the company. Copied to the agent. May be on form CT620 (and be accompanied by form CT620 Notes - see Table 1).
Notice of Inland Revenue amendment to a self-assessment	Usually on form CT620 (see Table 1). Always issued to the company (and will be accompanied by form CT620 Notes - see Table 1). Copied to the agent.
Notice of discovery assessment or determination under Paragraph 41	Usually on form CT620 (see Table 1). Always issued to the company (and will be accompanied by form CT620Notes - see Table 1). Copied to the agent.
Code of Practice for enquiries into Company Tax Returns (CoP 14)	Issued to companies when an enquiry is opened. Available on the Internet.

Table 3: Inland Revenue booklets and leaflets (available from any tax office)

A Guide to Keeping Records for the Self-Employed (SA/BK3)

Successor to *Corporation Tax Pay and File: Company leaflet (IR128) - Autumn 1999*

Successor to *Corporation Tax Pay and File: A General Guide (IR126) - Autumn 1999*

Income tax and corporation tax: Clubs, Societies and Associations (IR46) - Autumn 1999

Gift Aid: A Guide for donors and charities (IR113)

Table 4: Specialist guidance material

Double Taxation Relief: Underlying Tax Available from July 1999 from the Inland Revenue, Financial Intermediaries & Claims Office, Nottingham (Telephone 0115 974 2033)

Controlled Foreign Companies: Guidance Notes for Self Assessment
Available, price £10, early Summer 1999:

- ☐ to callers at Inland Revenue Information Centre, South West Wing, Bush House, Strand, London WC2
- ☐ by post (post free) from Inland Revenue Reference Library, Room 28, New Wing, Somerset House, London WC2R 1LB
- ☐ on the Internet

Deeds of Covenant: Guidance for Charities (Financial Intermediaries & Claims Office Charity Series booklet CS1) Available only from FICO (Telephone 0151 472 6293/4)

Trading by Charities (Financial Intermediaries & Claims Office Charity Series booklet CS2) Available only from Financial Intermediaries & Claims Office (as above)

Guidance on the Inland Revenue's practice in relation to the penalty chargeable under Section 59E(4) TMA 1970 and Paragraph 13 of the Corporation Tax (Instalment Payments) Regulations 1998. Available on the Internet from June 1999

Tax Bulletin articles:
Transfer Pricing Legislation (on record-keeping and financial arrangements) (Issue 37, page 579).
Penalties and The New Transfer Pricing Legislation (Issue 38, page 603).

Appendix 4

Inland Revenue Computer support

1 New computer system

1.1 When this Guide went to print EDS (the Inland Revenue's information technology partner) was re-engineering and enhancing the computer system that supports the Pay and File provisions. The new system - called the Company Tax computer system (COTAX) - is scheduled to go live on 10 November 1999, some four months after the CTSA appointed day. It will support the continuing Pay and File work, for accounting periods ending up to 30 June 1999 and CTSA work for subsequent periods.

1.2 The starting date for COTAX will have implications for Inland Revenue offices and for companies and their agents. These are described below.

2 Issue of Notices to File

The Inland Revenue will not issue Notices to file for CTSA periods until COTAX is available. It may take until well into 2000 for the issue process to catch up with the 'normal' pattern under which notices are issued monthly, between three and seven weeks after the end of the period specified in them. This need not prevent any company that wishes to do so from making a return before a Notice to file is issued. See 2.9.3 and Appendix 3 about getting hold of the necessary forms and guidance. Even though Notices to file will not be issued until COTAX is available, companies will still get them in good time.

3 Handling Early Returns

3.1 Inland Revenue offices will not be able to process CTSA returns into the computer system until COTAX is available. But they will be able to make repayments of tax already paid for CTSA accounting periods, for example, in response to claims for repayment under the quarterly instalment payment provisions.

3.2 Where Company Tax Returns are received for CTSA periods before COTAX is available the Inland Revenue will

- ☐ acknowledge their receipt (or return them for completion if they are incomplete)
- ☐ deal with any repayment claim which they contain (for example, a claim to repayment of income tax for the accounting period) or to which they give rise (for example, a claim for an earlier accounting period, resulting from the carry-back of a trading loss)
- ☐ if they are from a company liquidator and relate to the accounting period in which he or she who intends to complete the winding-up, examine them with a view to
  - opening an early enquiry, if that is considered appropriate, or

- giving the liquidator an assurance that, on the basis of the information currently available, no enquiry will be opened

- ☐ in all cases, stockpile them for computer processing when COTAX is available.

3.3 On the basis of past experience, the Inland Revenue expect to receive fewer than 20,000 Company Tax Returns during the period to the end of November 1999, even if Notices to file were being issued at the normal time. This is around 5% of the numbers expected during a whole year. In 1999, with Notices to file not being issued, the total number of returns received before COTAX is available may be nearer to 10,000.

3.4 The temporary period of absence of the new computer system need not inhibit companies or practitioners from filing returns for CTSA periods if they wish to do so. Returns filed during this period

- ☐ are relatively unlikely to be checked during this period, unless they are received from a liquidator who is anxious to complete the winding-up (see 3.2)

- ☐ will have no greater or smaller chance of being selected for enquiry than if they were filed later.

INDEX

Where more than one reference is shown, the main reference is printed in bold type.

Accounts
required to satisfy filing obligation 3.4

Amendment
of a claim
by the company 7.1.5, 7.9.3
of a return
by the company 4.8
by the company, normal time limit 4.8.1
by the company during an enquiry 6.12
by the company, following an enquiry 6.12.5, **6.15.1-2**
by the Inland Revenue, following an enquiry 6.15.3-4
by the Inland Revenue, to correct obvious error 4.9
of a self-assessment
by the Inland Revenue during an enquiry 6.11

Appeal
against an Inland Revenue amendment of a return **6.15.5**, 8.16.4
against an Inland Revenue amendment of a self-assessment 6.11.4
against an Inland Revenue direction under Paragraph 75(4) 8.8.7
against an assessment that is not a self-assessment 6.20.6
against a request for documents etc. 6.9
against penalties 11.5
general,
election for Special Commissioners 11.4
need to state grounds 11.2
jurisdiction: General or Special Commissioners 11.3

Assessment
discovery 6.17
as alternative to opening an enquiry 6.17.5
objection that Inland Revenue not entitled to make 6.18.3, 6.20.3
restrictions on power to make 6.18, 6.19
to recover excessive group relief 8.9
time limits for making **6.20**, 6.21.5
in the Taxes Acts 4.6
Notice of, Inland Revenue duty to issue 6.20.5
Self-
to be included in Company Tax Return 4.5
calculation of 4.7

Business records - See **Records**

Capital allowances - see **Claim, to capital allowances**

Claim **Chapter 7**
amendment or withdrawal of 7.1.5
correction of, by Inland Revenue 7.1.2, 7.9.3

- joint 7.6.6
- made outside normal time limit following Inland
  - Revenue intervention - general 7.11
  - fraudulent or negligent conduct involved 7.15
  - fraudulent or negligent conduct not involved 7.12-14
- mistake in 7.4
- must be quantified 7.2
- normal time limit for 7.3
- to capital allowances **Chapter 8**
  - must be made or withdrawn in a return 8.12
  - must be quantified 8.13
  - procedure where claim reduces allowances available for another period 8.16
  - time limit 8.15
- to group relief **Chapter 8**
  - cannot be amended 8.2.2
  - joint amended return 8.10
  - may be for less than the full amount available for surrender 8.4.1
  - must be made or withdrawn in a return 8.2
  - must be quantified 8.3.1
  - must specify the surrendering company 8.3.2
  - notice of consent 8.5
  - procedure when amount available for surrender is reduced 8.8
  - time limit 8.7
  - withdrawal of consent 8.6
- to be made in a return 7.6.2-4, 7.7.3
- to relief for double assessment 7.16
- under Section 419(4) ICTA 1988 8.17
- which affect only one accounting period 7.6
- which affect the liability of others 7.13
- which cannot be made in advance of a return 7.10
- which cannot be made in a return 7.6.7, 7.7.4, 7.8.1, 7.9
  - amendment by company 7.9.3
  - application of Self Assessment provisions 7.9.5
  - given effect by discharge or repayment 7.9.4
  - requiring tax to be repaid 7.9.2
- which involve more than one accounting period 7.7

Close company - see **Section 419 ICTA 1988**

Commissioners
- powers to require information 6.8.6

Completion
- of enquiry 6.13
  - date of **6.13**, 6.14.5,

Contract settlement 6.15.9

Controlled Foreign Companies
- tax on, to be included in self-assessment 4.1.2

Correction
- of claim by Inland Revenue 7.1.2, 7.9.3
- of return by Inland Revenue **4.9**, 4.10, 6.6.1-2

Determination

Discovery (of losses etc) 6.17
- as alternative to opening an enquiry 6.17.5
- objection that Inland Revenue not entitled to make 6.18.3, 6.20.3
- restrictions on power to make 6.18, 6.19
- time limits for making 6.20

of tax payable in the absence of a return **Chapter 9**
- displacement of 9.1.4, 9.4.2
- effective as self-assessment 9.6
- Inland Revenue practice 9.5
- not appealable 9.5.2
- notice of determination 9.1.3, 9.4.1
- superseded by self-assessment 9.8
- time limit 9.7
- where no tax return delivered 9.1-3
- where Notice to file partly complied with 9.4

Direction to complete an enquiry 6.14

Discovery - see **Assessment, discovery**
Determination, discovery

Enquiry **Chapter 6**
- Code of Practice for 6.1.16
- completion of 6.13
- direction to complete 6.14
- focus on the facts 6.6.9
- Inland Revenue will not give reasons for 6.6.5
- into amended return 6.4.2, 6.6.11
- into free-standing claim 7.9.5
- into return for the wrong period 6.5
- no need for Inland Revenue to justify 6.1.12
- notice of 6.2.3
- opening, as alternative to discovery assessment or determination 6.17.5
- rules, main features 6.1.11
- scope of 6.4
- selection of cases for 6.1.15, 6.6.3-4
- time limit for opening 6.1.14, 6.3

Filing date 3.7

Filing obligation **Chapter 3**
- accounts required 3.4
- estimated figures, use of in return 3.8
- period for which return required 3.3
- provisional figures, use of in return 3.8
- return to include self-assessment 4.5
- 'specified period' (in a Notice to file) 3.3

Forms

Inland Revenue Appendix 3
- CT41G 2.2
- Company Tax Return form(CT600) Appendix 1, 3.9, 3.10
- - approved substitute 3.11
- Company Tax: Review (CT204) 2.4

Group - see **Claim, to group relief**
Repayment of tax, provisional, of Quarterly Instalment Payments, intra-group surrender

Group Payment Arrangement **Chapter 13**
aim of 13.1.2
apportionment of payments 13.9
not effective for tax-related penalty 13.9.4
'closing date' 13.8.1
deadline for signing-up 13.7
electronic payment required 13.8.4
eligible companies 13.2
Inland Revenue Group Payment Teams:
contact telephone and fax numbers 13.1.3
'nominated company' 13.2.2
provisional repayment claim 13.8.3
relevant accounting periods 13.3
removal of companies from 13.5
by the Inland Revenue 13.5.2
by the nominated company 13.5.1, 13.5.3
rolling forward 13.4
statutory authority for 13.1.1
termination of
by the Inland Revenue 13.6.1
by the nominated company 13.6.2
undertaking 13.8

Interest
on Quarterly Instalment Payments
('debit interest') 12.7
on tax paid early ('credit interest') 5.7
on tax paid late 5.4
accrued, shown on payment applications 5.4.3
assessment to recover excessive
repayment 6.21.4
not calculated until charge to tax arises 5.4.4
reduced if tax charge reduced 5.4.5
on repayments of tax 5.5
rate-setting arrangements 5.9
taxable and tax deductible for CTSA periods 5.8

Instalment - see **Quarterly Instalment Payments**

Landlord and Tenant Act 1987 2.6.3

Loan - see **Section 419 ICTA 1988**

Losses
carried back
effect on interest 5.4.6, 5.5.3
effect on payment applications 5.6
conclusiveness of amounts stated in return 4.4
included in return become final with return 4.3.2-3

Management
of apartments or flats 2.6.3

Members' clubs
with little or no tax liability, discretionary treatment for 2.6

Mistake relief
mistake in a return 3.12
mistake in a claim 7.4

Notice
of chargeability 2.5
of closure of an enquiry 6.12.4-6, 6.13
of enquiry 6.2.3
one notice per return 6.2.6
time limits for giving 6.3
to file a return
normal time of issue 2.3.1
requesting documents or information 6.7
company unable to obtain information 6.7.8
information does not exist 6.7.8
nature and amount of information that can be requested 6.8
period allowed for compliance 6.7.6-8
photocopies 6.7.9

Penalty
for failure to deliver a return on time
flat-rate 10.2
practical matters 10.5
tax-related 10.3
for failure to give notice of chargeability 2.5
for failure to keep records 4.13
for failure to produce documents etc. 6.1
for incorrect accounts 10.6
for incorrect claim 10.6
for incorrect or uncorrected return 10.6
multiple tax-related, for the same accounting period 10.7
under Instalments Regulations 12.13

Payment of tax
application for 5.4.3
normal due date for 5.2

'Process now, check later'
practical implications 4.10.1

Quarterly Instalment Payments **Chapter 12**
amount due at each instalment 12.5
anti-avoidance provision 12.14
'credit interest' **5.7**, 12.8, 12.10.7
'debit interest' **12.7**, 12.10.7
due dates 12.4
short accounting periods 12.4.5-6
12 month accounting periods 12.4.2-4
entry in return form 12.10.6
Inland Revenue response to 12.10.6
errors in 12.10.5
growing companies 12.2.3-5
information powers 12.11-12

'large' companies 12.2
obligation to make 12.10.1-2
payslips
issue by Inland Revenue 12.10.1
telephone numbers to obtain 12.10.3
penalty for unpaid tax 12.10.5, **12.13.1-2**
provisional repayment **12.6**, 12.10.4
intra-group surrender of 12.9

Records
company obligation to keep 4.12
Inland Revenue's computer, of companies 2.1

'Reference rate' **5.9**

Repayment of tax
provisional, under Section 59D TMA 1970 5.3
provisional, of Quarterly Instalment Payments 12.6
intra-group surrender of 12.9
recovery of excessive 6.21

Return - and see **Filing obligation**
acknowledgement of, by Inland Revenue 4.10.2
amendment of
by Inland Revenue to correct
obvious error **4.8**, 4.10
electronic filing facilities not available 3.10
enquiry into **Chapter 6**
excuse for late delivery of 10.4
for an 'outstanding period' 6.16
for the wrong period 4.8.1, 6.5, 6.13.2-3, 6.13.2, 6.15.1, 6.15.3
incorrect
penalty for 10.6
joint amended 8.10
late, excuse for 10.4
late, penalty for
flat-rate 10.2
tax-related 10.3
mistake in 3.12
must include self-assessment 4.1.2, 4.2.2, 4.5
processing of, by Inland Revenue 4.10, 6.1.8-9

Self Assessment
principles **Chapter 4**

Section 20 TMA 1970
still applies 6.8.4
compared with Paragraph 27 6.8.5

Section 419 ICTA 1988
effect on penalty for failure to notify
chargeability 2.5.2
liability to be included in self-assessment 4.1.2
relief under Section 419(4)
claim for 8.17
effect on late payment interest 5.4.2

'Specified period' (in a Notice to file) 3.3