

# Administration of Taxes - Draft Clauses - November 2006

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## PART 1

### NOTIFICATION AND REGISTRATION

#### CHAPTER 1

##### DIRECT TAX: NOTIFICATION

###### *Duties to notify HMRC of chargeability*

#### **1 Income tax**

- (1) A person who is likely to be liable to income tax in respect of a tax year must notify HMRC.
- (2) A notice under subsection (1) must be given before the end of the period of six months beginning with the end of the tax year.
- (3) Subsection (1) does not apply to a person who before the end of the six-month period mentioned in subsection (2) receives a notice under section 41 requiring the making of a return in respect of the tax year in connection with income tax.
- (4) Subsection (1) does not apply to a person who reasonably believes that liability to income tax for the tax year has been or will be entirely met by –
  - (a) PAYE deductions (in accordance with Part 11 of ITEPA),
  - (b) deductions from payments, made in accordance with a provision of the Tax Acts, or
  - (c) a combination of deductions of those kinds.
- (5) Subsection (1) does not apply to a person whose liability to income tax for the tax year is extinguished by a personal allowance under section 257 of ICTA.
- (6) Subsection (1) does not apply to a person all of whose income for the tax year is or will be income of a kind in respect of which liability to income tax does not arise.
- (7) Subsection (1) does not apply to a person who has given notice under section 2 in respect of the tax year.
- (8) A person who fails to comply with subsection (1) is liable to a penalty not exceeding any amount of income tax –
  - (a) for which the person is liable in respect of the tax year, and
  - (b) which is not paid before the end of 31st January in the next tax year.
- (9) In subsection (1) the reference to being liable to income tax includes a reference to doing anything, or being in a situation, as a result of which a charge to income tax is likely to arise.

## **2 Capital gains tax**

- (1) Persons who are likely to be chargeable in respect of all or any of their taxable amount for a tax year in accordance with section 2 of TCGA must notify HMRC.
- (2) A notice under subsection (1) must be given before the end of the period of six months beginning with the end of the tax year.
- (3) Subsection (1) does not apply to a person who before the end of the six-month period mentioned in subsection (2) receives a notice under section 41 requiring the making of a return in respect of the tax year in connection with capital gains tax.
- (4) Subsection (1) does not apply to a person who receives a notice under section 41 requiring the making of a return in respect of the tax year.
- (5) Subsection (1) does not apply to a person who has given notice under section 1 in respect of the tax year.
- (6) A person who fails to comply with subsection (1) is liable to a penalty not exceeding any amount of capital gains tax –
  - (a) for which the person is liable in respect of the tax year, and
  - (b) which is not paid before the end of 31st January in the next tax year.

## **3 Corporation tax: first accounting period**

- (1) A company which begins its first accounting period for the purposes of corporation tax must notify HMRC.
- (2) A company must notify HMRC if it begins an accounting period other than at the end of a previous accounting period.
- (3) A notice under subsection (1) or (2) must be given before the end of the first three months of the accounting period.
- (4) Subsections (1) and (2) do not apply to an unincorporated association.
- (5) In the case of an accounting period of less than three months, subsection (3) shall have effect as if it referred to the period of three months beginning with the first day of the accounting period.
- (6) [Penalty - add to list in new section 98 TMA 1970.]

## **4 Corporation tax: periodic notice**

- (1) A company which is likely to be liable to corporation tax in respect of an accounting period must notify HMRC.
- (2) A notice under subsection (1) must be given before the end of the period of 12 months beginning with the end of the accounting period.
- (3) Subsection (1) does not apply to a company which before the end of the period of 12 months mentioned in subsection (2) receives a notice under section 41 requiring the making of a return in respect of the accounting period.
- (4) A company which fails to comply with subsection (1) is liable to a penalty not exceeding any amount of corporation tax which –
  - (a) is payable for the accounting period, and

- (b) is not paid before the end of the period of 12 months beginning with the end of the accounting period.
- (5) In calculating how much tax is unpaid for the purpose of subsection (4), no account shall be taken of any relief deferred under section 419(4A) of ICTA (relief for repayment of loan).
- (6) A company which gives a notice in respect of an accounting period under section 3 need not give a notice under this section in respect of the period.
- (7) In subsection (1) the reference to being liable to corporation tax includes a reference to –
  - (a) owning an asset the disposal of which could result in a chargeable gain for the purposes of TCGA,
  - (b) receiving or becoming entitled to income, and
  - (c) incurring an expense, or doing anything else, with a view to producing income or capital gains.

*Miscellaneous*

**5 Trustees**

- (1) Sections 1 and 2 apply to a person who is liable as a trustee.
- (2) For that purpose a reference to section 41 shall be treated as a reference to section [].

**CHAPTER 2**

VAT: REGISTRATION

*Liability to register: taxable supplies*

**6 Past taxable supplies**

- (1) A person who makes taxable supplies becomes liable to be registered for VAT at the end of a month if the value of the taxable supplies in the period of one year ending with that month (Year 1) exceeds £61,000.
- (2) But subsection (1) does not apply if HMRC are satisfied that the value of the taxable supplies in Year 2 will not exceed £59,000.
- (3) For the purposes of subsection (1) taxable supplies shall be ignored if –
  - (a) they were made at a time when the person was registered for VAT,
  - (b) the registration was cancelled on grounds other than non-registrability, and
  - (c) HMRC are satisfied that before cancellation the person had given them all the information necessary for determining whether to cancel.
- (4) For the purposes of subsection (3)(b) cancellation on grounds of non-registrability means cancellation under –
  - (a) section 28(1)(b),
  - (b) section [para. 6(2) of Sched. 2],
  - (c) section [para. 6(3) of Sched. 3], or

- (d) section [para. 6(2) of Sched. 3A].
- (5) The following shall be ignored in evaluating a person's taxable supplies for the purposes of subsection (1) –
  - (a) supplies of goods or services that are capital assets of the business in the course of which they are supplied,
  - (b) supplies that are taxable only by virtue of section 7(4) of VATA (goods treated as supplied in UK),
  - (c) supplies to which section 18B(4) of VATA applies (removal from fiscal warehousing), and
  - (d) supplies treated as made by the person under section 18C(3) of VATA (warehousing);
 but the supply of land or a licence to occupy land shall be ignored by virtue of paragraph (a) or (b) only if zero-rated.
- (6) Where a business is transferred by a taxable person as a going concern and the transferee is not registered for VAT, subsection (1) shall apply in relation to the transferee as if a reference to the end of a month included a reference to the date of transfer.

## **7 Future taxable supplies**

- (1) A person who makes taxable supplies becomes liable to be registered for VAT on any day if reasonable grounds arise for belief that the value of the taxable supplies in the period of 30 days beginning with that day will exceed £61,000.
- (2) Subsection (5) of section 6 shall apply for the purposes of this section.

## **8 Artificial separation of business**

- (1) For the purpose of preventing an artificial separation of business activities from resulting in the avoidance of VAT, the Commissioners may direct –
  - (a) that two or more specified persons are to be treated as a single taxable person carrying on the activities of a business described in the direction (“the combined business”), and
  - (b) that the single taxable person shall be liable to be registered for VAT from –
    - (i) the date of the direction, or
    - (ii) a later date specified in the direction.
- (2) The Commissioners may specify a person in a direction only if satisfied –
  - (a) that the person makes or has made taxable supplies,
  - (b) that the activities, in the course of which the supplies are or were made, form or formed part of activities which are or were carried on by one or more other persons, and
  - (c) that if all the taxable supplies of the combined business were taken into account, a person carrying it on would be liable to be registered for VAT.
- (3) In determining whether a separation of business activities is artificial, regard shall be had to the extent to which the persons carrying on the activities are bound together by financial, economic and organisational links.
- (4) The Commissioners shall give written notice of a direction to each person specified in it.

- (5) Where a direction is made—
  - (a) the single taxable person shall be registered—
    - (i) in a name nominated by the specified persons by notice in writing given to an Officer during the period of 14 days beginning with the date of the direction, or
    - (ii) if no name is nominated, in the name specified in the direction,
  - (b) a supply of goods or services by or to a specified person in the course of the combined business shall be treated for the purposes of VATA as a supply by or to the single taxable person,
  - (c) an acquisition of goods from another member State by a specified person in the course of the combined business shall be treated for the purposes of VATA as an acquisition by the single taxable person,
  - (d) the specified persons shall be jointly and severally liable for VAT due from the single taxable person,
  - (e) a failure by the taxable person to comply with a requirement imposed by virtue of VATA shall be treated as a failure by each specified person, and
  - (f) the specified persons shall be treated, for the purposes of VAT, as a partnership carrying on the combined business.
- (6) The Commissioners may make a supplementary direction adding to the persons specified in a direction a person who makes taxable supplies in the course of activities which the Commissioners think should be treated as part of the business described; and the addition shall be treated as having taken effect—
  - (a) on the day on which the person began to make the taxable supplies, or
  - (b) if later, the date on which the single taxable person became liable, in accordance with the direction, to be registered for VAT.
- (7) The Commissioners may by notice amend a direction so as to remove a specified person; and the removal shall take effect, or shall be treated as having taken effect, on a date specified in the notice.

## **9 Duration of liability**

- (1) A person who becomes liable to be registered for VAT under section 6 or 7 remains liable unless and until a provision of this section applies.
- (2) A person ceases to be liable to be registered if HMRC are satisfied that the person—
  - (a) has stopped making taxable supplies, and
  - (b) is not liable to be registered by virtue of section 6 or 7.
- (3) A person ceases to be liable to be registered on a date if HMRC are satisfied that the value of taxable supplies made by the person in the year beginning with that date will not exceed £59,000.
- (4) But subsection (3) shall not apply where HMRC are satisfied that the reason why the value of taxable supplies will not exceed £59,000 is that the person will stop making taxable supplies—
  - (a) permanently, or
  - (b) for a period of at least 30 days.
- (5) The following shall be ignored in evaluating a person's taxable supplies for the purposes of subsection (3)—

- (a) supplies of goods or services that are capital assets of the business in the course of which they are supplied, and
  - (b) supplies that are taxable only by virtue of section 7(4) of VATA (goods treated as supplied in UK);
- but the supply of land or a licence to occupy land shall be ignored by virtue of paragraph (a) or (b) only if zero-rated.
- (6) A person who –
- (a) is specified in a direction under section 8, and
  - (b) is registered for VAT in respect of taxable supplies by reference to which the direction is made,
- ceases to be liable to be registered for VAT when the single taxable person becomes liable to be registered for VAT in accordance with the direction.

## 10 Notifying HMRC of new liability

- (1) A person who becomes liable to be registered for VAT at the end of a month by virtue of section 6(1) shall notify HMRC during the period of 30 days beginning with the end of the month.
- (2) A person who becomes liable to be registered for VAT by virtue of section 6(1) and (6) (following a transfer of a business) shall notify HMRC during the period of 30 days beginning with the date of the transfer.
- (3) A person who becomes liable to be registered for VAT by virtue of section 7 shall notify HMRC during the period of 30 days by reference to which the liability arises.

### *Liability to register: EU supplies*

## 11 Interpretation: EU supplies

- (1) In this Chapter “EU supply” means a supply of goods which satisfies the following conditions.
- (2) Condition 1 is that the supply involves the removal of the goods to the United Kingdom by or under the direction of the supplier.
- (3) Condition 2 is that the supply does not involve installing or assembling the goods in the United Kingdom.
- (4) Condition 3 is that as a result of the supply the goods are acquired –
  - (a) in the United Kingdom,
  - (b) from another member State, and
  - (c) by a non-taxable person.
- (5) Condition 4 is that the supply is not an exempt supply.
- (6) Condition 5 is that the goods are not –
  - (a) subject to a duty of excise, or
  - (b) a new means of transport.
- (7) Condition 6 is that the supply is not treated as a supply of goods only by virtue of paragraph 5(1) or 6 of Schedule 4 to VATA (assets of business).

## **12 Past EU supplies**

- (1) A person who makes EU supplies becomes liable to be registered for VAT on any day in a year if the value of the supplies made in that year exceeds £70,000.
- (2) In subsection (1) “year” means a year beginning with 1st January.
- (3) In evaluating a person’s taxable supplies for the purposes of subsection (1) supplies to which section 18B(4) of VATA applies (removal from fiscal warehousing) shall be ignored.

## **13 Supply treated as outside member State**

- (1) A person who makes an EU supply which is subject to a deemed location option becomes liable to be registered for VAT.
- (2) For the purposes of this Chapter –
  - (a) “deemed location option” means an option exercised in accordance with the law of another member State as a result of which a supply is treated for the purposes of that law as taking place outside that State, and
  - (b) a supply is “subject to” a deemed location option which applies to it having been exercised by the person making the supply.
- (3) Subsection (1) applies only if –
  - (a) the person is required to be registered for purposes of VAT in the other member State, and
  - (b) but for the option, the supply would be treated by the law of that State as taking place in it.
- (4) For the purposes of subsection (1) a supply to which section 18B(4) of VATA applies (removal from fiscal warehousing) shall be ignored.

## **14 Dutiable supply**

- (1) A person who makes a supply of goods becomes liable to be registered for VAT if the supply satisfies the following conditions.
- (2) Condition 1 is that the goods are subject to a duty of excise.
- (3) Condition 2 is that the supply involves the removal of the goods to the United Kingdom.
- (4) Condition 3 is that as a result of the supply the goods are acquired –
  - (a) in the United Kingdom,
  - (b) from another member State, and
  - (c) by a non-taxable person.
- (5) Condition 4 is that the supply is not treated as a supply of goods only by virtue of paragraph 5(1) or 6 of Schedule 4 to VATA (assets of business).

## **15 Duration of liability**

- (1) A person who becomes liable to be registered for VAT under sections 12 to 14 remains liable unless and until subsection (2) below applies.
- (2) A person ceases to be liable to be registered at a time if –

- (a) the value of EU supplies made by the person in the previous year did not exceed £70,000, and
  - (b) HMRC are satisfied that the value of EU supplies made by the person in the present year will not exceed £70,000.
- (3) But subsection (2) does not apply in respect of a person who has exercised a deemed location option which remains in force.
- (4) In subsection (2) “year” means a year beginning with 1st January.

## 16 Notifying HMRC of new liability

A person who becomes liable to be registered for VAT by virtue of sections 12 to 14 shall notify HMRC during the period of 30 days beginning with the day after that on which the liability arises.

### *Liability to register: EU acquisitions*

## 17 Interpretation: EU acquisitions

- (1) In this Chapter “EU acquisition” means an acquisition of goods from another member State which satisfies the following conditions.
- (2) Condition 1 is that the acquisition is taxable.
- (3) Condition 2 is that the goods are not –
  - (a) subject to a duty of excise, or
  - (b) a new means of transport.
- (4) Condition 3 is that the acquisition is not made in the course of a taxable supply.
- (5) Condition 4 is that the acquisition is treated for the purposes of VATA as taking place in the United Kingdom.

## 18 Past acquisitions

- (1) A person who makes EU acquisitions becomes liable to be registered for VAT at the end of a month if the value of the acquisitions in the year in which that month falls exceeds £61,000.
- (2) In subsection (1) “year” means a year beginning with 1st January.
- (3) In evaluating a person’s EU acquisitions for the purposes of subsection (1) acquisitions to which section 18B(4) of VATA applies (removal from fiscal warehousing) shall be ignored.

## 19 Future acquisitions

- (1) A person becomes liable to be registered for VAT on any day if reasonable grounds arise for belief that EU acquisitions with a total value of more than £61,000 will be made by the person in the period of 30 days beginning with that day.
- (2) In evaluating a person’s EU acquisitions for the purposes of subsection (1) acquisitions to which section 18B(4) of VATA applies (removal from fiscal warehousing) shall be ignored.

## **20 Duration of liability**

- (1) A person who becomes liable to be registered for VAT under section 18 or 19 remains liable unless and until subsection (2) below applies.
- (2) A person ceases to be liable to be registered at a time if—
  - (a) the value of EU acquisitions made by the person in the previous year did not exceed £61,000, and
  - (b) HMRC are satisfied that the value of EU acquisitions made by the person in the present year will not exceed £61,000.
- (3) In subsection (2) “year” means a year beginning with 1st January.

## **21 Notifying HMRC of new liability**

- (1) A person who becomes liable to be registered for VAT at the end of a month by virtue of section 18 shall notify HMRC during the period of 30 days beginning with the end of the month.
- (2) A person who becomes liable on a day to be registered for VAT by virtue of section 19 shall notify HMRC during the period of 30 days by reference to which the liability arises.

### *Registration*

## **22 Compulsory registration**

- (1) HMRC shall register a person who becomes liable to be registered for VAT at the end of a month by virtue of section 6(1) (whether or not section 10(1) is complied with) with effect from—
  - (a) the end of the following month, or
  - (b) an earlier date agreed between the person and HMRC.
- (2) HMRC shall register a person who becomes liable to be registered for VAT by virtue of section 6(1) and (6) (following a transfer of a business) (whether or not section 10(2) is complied with) with effect from the date of the transfer.
- (3) HMRC shall register a person who becomes liable to be registered for VAT at a time by virtue of section 7 (whether or not section 10(3) is complied with) with effect from—
  - (a) the beginning of the period by reference to which the liability arises, or
  - (b) an earlier date agreed between the person and HMRC.
- (4) HMRC shall register a person who becomes liable to be registered for VAT by virtue of sections 12 to 14 (whether or not section 16 is complied with) with effect from—
  - (a) the day on which the liability arose, or
  - (b) an earlier date agreed between the person and HMRC.
- (5) HMRC shall register a person who becomes liable to be registered for VAT at the end of a month by virtue of section 18 (whether or not section 21(1) is complied with) with effect from—
  - (a) the end of the following month, or
  - (b) an earlier date agreed between the person and HMRC.

- (6) HMRC shall register a person who becomes liable to be registered for VAT at a time by virtue of section 19 (whether or not section 21(2) is complied with) with effect from –
- (a) the beginning of the period by reference to which the liability arises, or
  - (b) an earlier date agreed between the person and HMRC.

### **23 Voluntary registration: taxable supplies**

- (1) This section applies where a person who is not liable to be registered for VAT requests to be registered under this section, by notice in writing to HMRC.
- (2) HMRC shall register the person if satisfied that the person –
- (a) makes taxable supplies, or
  - (b) carries on a business and intends to make taxable supplies in the course of it.
- (3) Registration under subsection (2) shall be treated as having taken effect –
- (a) on the day on which the request was made, or
  - (b) on an earlier day agreed between HMRC and the person.
- (4) Subsection (5) applies to a person –
- (a) who has a business establishment in the UK,
  - (b) who carries on business through a branch or agency in the UK, or
  - (c) whose usual place of residence, or place of legal constitution, is in the UK.
- (5) A supply made by a person to whom this subsection applies shall be treated for the purpose of subsection (2) as if it were a taxable supply if –
- (a) it would be a taxable supply if made in the UK, or
  - (b) it is specified for the purposes of section 26(2) of VATA in an order under section 26(2)(c) (allowable input tax).

### **24 Voluntary registration: EU supplies**

- (1) This section applies where a person who is not liable to be registered for VAT requests to be registered under this section, by notice in writing to HMRC.
- (2) HMRC may register the person if satisfied that the person –
- (a) has made a deemed location option and intends to make EU supplies to which the option will apply,
  - (b) intends to make a deemed location option and to make EU supplies to which it will apply, or
  - (c) intends to make supplies which satisfy Conditions 1 to 4 of section 14.
- (3) A request to be registered under subsection (2) must specify a date before which the person intends to begin making supplies.
- (4) Registration under subsection (2) shall be treated as taking effect, or as having taken effect, on a day agreed between the person and HMRC.
- (5) Registration under subsection (2) may be subject to conditions imposed by HMRC.
- (6) Conditions –
- (a) may require the keeping of records,

- (b) may require the provision of accounts,
- (c) may require a registration number to be used in a specified way on specified occasions,
- (d) may require the making of returns,
- (e) may relate to timing of payments,
- (f) may require notification of changes of circumstance,
- (g) may impose any other procedural requirement,
- (h) may relate to compliance with a substantive obligation, and
- (i) may be varied by HMRC.

## **25 Voluntary registration: EU acquisitions**

- (1) This section applies where a person who is not liable to be registered for VAT requests to be registered under this section, by notice in writing to HMRC.
- (2) HMRC shall register the person if satisfied that the person makes EU acquisitions.
- (3) HMRC may register the person if satisfied that the person intends to make EU acquisitions before a date specified in the request.
- (4) Registration under subsection (2) shall be treated as having taken effect –
  - (a) on the day on which the request was made, or
  - (b) on an earlier day agreed between the person and HMRC.
- (5) Registration under subsection (3) –
  - (a) shall take effect, or be treated as having taken effect, on a day agreed between the person and HMRC, and
  - (b) may be subject to conditions imposed by HMRC.
- (6) Conditions –
  - (a) may require the keeping of records,
  - (b) may require the provision of accounts,
  - (c) may require a registration number to be used in a specified way on specified occasions,
  - (d) may require the making of returns,
  - (e) may relate to timing of payments,
  - (f) may require notification of changes of circumstance,
  - (g) may impose any other procedural requirement,
  - (h) may relate to compliance with a substantive obligation, and
  - (i) may be varied by HMRC.
- (7) A person registered under subsection (3) shall notify HMRC of the date on which the first EU acquisition is made after registration.
- (8) Notice under subsection (7) must be given during the period of 30 days beginning with the date of the acquisition.

## **26 The register**

- (1) HMRC shall keep a single register of all persons registered under this Chapter.
- (2) The Commissioners may make regulations about –
  - (a) the information to be included in the register;

- (b) correction of information in the register.

### *Cancellation*

#### **27 Voluntary cancellation**

- (1) This section applies where a registered person—
  - (a) requests, by notice in writing to HMRC, that the registration be cancelled, and
  - (b) satisfies HMRC that there is no liability to be registered.
- (2) HMRC shall cancel the registration.
- (3) The cancellation shall be treated as having taken effect—
  - (a) on the day on which the request was made, or
  - (b) on a later day agreed between the person and HMRC.

#### **28 Compulsory cancellation**

- (1) This section applies where HMRC are satisfied that a registered person—
  - (a) is no longer liable or entitled to be registered, or
  - (b) was neither liable nor entitled to be registered when the registration was effected.
- (2) HMRC shall cancel the registration.
- (3) A cancellation by virtue of subsection (1)(a) shall be treated as having taken effect on the day on which the person stopped being liable or entitled to be registered.
- (4) A registration cancelled by virtue of subsection (1)(b) shall be treated as not having taken effect.
- (5) [Subject to para. 18 of Sched. 3B].
- (6) Where a person who is not liable to be registered for VAT is registered under section 24(2), HMRC may cancel the registration if they are satisfied that the person—
  - (a) has not begun to make supplies, of the kind specified in the request for registration, before the date specified in the request, or
  - (b) has contravened a condition of registration.
- (7) Where a person who is not liable to be registered for VAT is registered under section 25(3), HMRC may cancel the registration if they are satisfied that the person—
  - (a) has not begun to make acquisitions, of the kind specified in the request for registration, before the date specified in the request, or
  - (b) has contravened a condition of registration.
- (8) A cancellation under subsection (6) or (7) shall be treated as having taken effect—
  - (a) from the specified date (in the case of cancellation under subsection (6)(a) or (7)(a)),
  - (b) from the date of the contravention (in the case of cancellation under subsection (6)(b) or (7)(b)), or

- (c) in any case, from a later date agreed between the person and HMRC.
- (9) The registration of a person who has made a deemed location option may not be cancelled with effect from a time before the third 1st January after the date on which the registration took effect (or the second, if the registration took effect on 1st January).

### *Exemption*

#### **29 Request**

- (1) The Commissioners may exempt from registration for VAT a person who –
  - (a) makes or intends to make taxable supplies,
  - (b) requests exemption by notice in writing to HMRC, and
  - (c) satisfies the Commissioners that the supplies are or will be zero-rated, or would be zero-rated if the person were taxable.
- (2) The Commissioners may exempt from registration for VAT a person who –
  - (a) makes or intends to make EU acquisitions,
  - (b) requests exemption by notice in writing to HMRC, and
  - (c) satisfies the Commissioners that the acquisitions are or would be in pursuance of transactions which would be zero-rated if they were taxable supplies by a taxable person.

#### **30 Duration**

An exemption continues until –

- (a) the request under section 29(1) or (2) is withdrawn, or
- (b) the Commissioners revoke the exemption.

#### **31 Change of circumstance: taxable supplies**

- (1) An exempted person shall notify HMRC if –
  - (a) the nature of the supplies made by the person changes materially, or
  - (b) the proportion of zero-rated taxable supplies made by the person in a quarter changes materially.
- (2) Notice under subsection (1)(a) must be given –
  - (a) during the period of 30 days beginning with the date on which the material change occurred, or
  - (b) if there is no such date, during the period of 30 days beginning with the end of the quarter in which the material change occurred (or began to occur).
- (3) Notice under subsection (1)(b) must be given during the period of 30 days beginning with the end of the relevant quarter.

#### **32 Change of circumstance: EU acquisition**

- (1) An exempted person shall notify HMRC if the person makes an EU acquisition in pursuance of a transaction which would, if it were a taxable supply by a taxable person, be chargeable to VAT otherwise than as a zero-rated supply.

- (2) Notice under subsection (1) must be given during the period of 30 days beginning with the date of the acquisition.

*Notifying end of liability or eligibility*

**33 Taxable supplies**

- (1) A registered person who on a date stops making taxable supplies, or stops intending to make taxable supplies, shall notify HMRC during the period of 30 days beginning with that date.
- (2) Subsection (1) does not apply to a person who remains liable or entitled to be registered for VAT under this Chapter.
- (3) Subsection (1) shall have effect in relation to a person registered by virtue of section 23(5) as if a reference to a person who stops making or intending to make taxable supplies included a reference to a person who –
- (a) stops making supplies that are treated as taxable by virtue of section 23(5), or
  - (b) makes, or intends to make, taxable supplies.
- (4) A person who ceases to be liable to be registered for VAT may notify HMRC.

**34 EU supplies and acquisitions**

- (1) A registered person who on a date stops being liable to be registered under any of sections 12 to 14, 18 or 19 shall notify HMRC during the period of 30 days beginning with that date.
- (2) Subsection (1) does not apply to a person who remains liable or entitled to be registered for VAT under this Chapter.
- (3) A person whose deemed location option ceases to have effect on a date in relation to EU supplies shall notify HMRC during the period of 30 days beginning with that date.

**35 Eligibility**

A person who ceases to be eligible to be registered for VAT shall notify HMRC.

*General*

**36 Supply**

In this Chapter “supply” means supply in the course of a business carried on by the supplier.

**37 Value of supply or acquisition**

- (1) In determining the value of a supply of goods or services for the purposes of this Chapter, it shall be assumed that no VAT is chargeable on the supply.
- (2) In determining the value of an EU supply or acquisition for the purposes of this Chapter, no account shall be taken of any part of the consideration which

represents liability of the supplier for VAT on the supply under the law of another member State.

### **38 Monetary amounts**

The Treasury may by order substitute a greater sum for a sum specified in this Chapter.

## **CHAPTER 3**

### **PROCEDURE, &C.**

### **39 Notices**

- (1) The Commissioners may make regulations about –
  - (a) the form of a notice;
  - (b) the information to be contained in a notice;
  - (c) the manner in which a notice may be given.
- (2) The Commissioners may require the provision of information under subsection (1)(b) only if they think the information is likely to be necessary or useful –
  - (a) to identify the person giving the notice,
  - (b) to facilitate communication between HMRC and that person,
  - (c) to establish whether, and when, the person is obliged to give the notice,
  - (d) to establish the validity of the notice,
  - (e) to verify information given in the notice,
  - (f) to enable information given in the notice to be assessed for consistency with other information, or
  - (g) to identify risks of fraud.
- (3) In this section “notice” means a notice (or notification) under this Part.

## **PART 2**

### **RETURNS TO HMRC**

#### *Introduction*

### **40 Nature of returns**

- (1) In this Act “return” means –
  - (a) a direct tax return, and
  - (b) a VAT return.
- (2) A direct tax return is a statement by a person of information for use by HMRC in determining –
  - (a) whether the person is liable to direct tax,
  - (b) the amount of any liability to direct tax arising in respect of the person or in respect of anything owned or done wholly or partly by the person,
  - (c) the amount payable in respect of a liability specified in paragraph (b), or

- (d) whether an amount paid in respect of a liability specified in paragraph (b) is repayable by HMRC.
- (3) In subsection (2) “direct tax” means –
  - (a) income tax,
  - (b) capital gains tax, and
  - (c) corporation tax.
- (4) The reference in subsection (3)(c) to corporation tax includes a reference to amounts assessable or chargeable as if they were corporation tax under –
  - (a) section 419(1) of ICTA (tax on loan by close company to participator),
  - (b) section 501A(1) of ICTA (ring fence trades: supplementary charge), or
  - (c) section 747(4)(a) of ICTA (tax on profits of controlled foreign company).
- (5) A VAT return is a statement by a person –
  - (a) asserting the amount of VAT payable by or to the person, and
  - (b) providing evidence to support that assertion.

*Requirements to make returns*

#### **41 Notice**

- (1) The Commissioners may by notice in writing require a person to make a return in connection with –
  - (a) income tax,
  - (b) capital gains tax, or
  - (c) corporation tax.
- (2) A notice in connection with income tax or capital gains tax must specify a tax year to which it relates.
- (3) A notice in connection with corporation tax must specify a period to which it relates.
- (4) The Commissioners may make regulations under which persons are required to make returns in respect of VAT.

#### **42 Form and content**

- (1) The Commissioners may make regulations about –
  - (a) the form of a return;
  - (b) the content of a return;
  - (c) the manner in which a return may be given.
- (2) A notice under section 41 may include provision about the form and content of the required return (which may, in particular, refer to or supplement regulations under subsection (1)).
- (3) Regulations under subsection (1), or a notice under section 41, may, in particular, require a return to include specified information.
- (4) Nothing in this Part prevents regulations under subsection (1), or a notice under section 41, from requiring the provision of information about income tax and capital gains tax in a single document.

#### **43 Period covered by return**

- (1) An income tax return made in response to a notice under section 41(1)(a) must deal with matters relating to the tax year specified in the notice.
- (2) A capital gains tax return made in response to a notice under section 41(1)(b) must deal with matters relating to the tax year specified in the notice.
- (3) In the case of a notice under section 41(1)(c) requiring a corporation tax return and specifying a period –
  - (a) if one or more accounting periods ended during (or at the same time as) the specified period, a separate return must be made dealing with matters relating to each accounting period,
  - (b) if no accounting period ended during the specified period but an accounting period began during the specified period, a return must be made dealing with matters relating to that part of the specified period which fell before the beginning of the accounting period,
  - (c) if the company was not liable to corporation tax at any time during the specified period, a return must be made dealing with matters relating to that period, and
  - (d) if the company was liable to corporation tax at a time during the specified period and no accounting period either began or ended during (or at the same time as) the specified period, no return is required and the notice can be disregarded.
- (4) For the purpose of subsection (3) a company is liable to corporation tax in respect of a chargeable period if at any time in the period –
  - (a) it owns an asset the disposal of which could result in a chargeable gain for the purposes of TCGA,
  - (b) it receives or becomes entitled to income, or
  - (c) it incurs an expense, or does anything else, with a view to producing income or capital gains.

#### **44 Declaration of accuracy**

- (1) A return must include a declaration that the person to whom it relates reasonably believes that the information given is complete and accurate.
- (2) A return made on behalf of the person to whom it relates must include –
  - (a) a declaration that the person making it reasonably believes that the information given is complete and accurate, and
  - (b) a declaration, made by the person making the return, that the person to whom it relates reasonably believes that the information given is complete and accurate.
- (3) The person to whom a return relates shall be taken to have acquiesced in the making of the declaration under subsection (2)(b), unless the contrary is proved.

#### *Timing*

#### **45 Income tax**

A return in response to a notice in connection with income tax and relating to a tax year (Tax Year 1) must be delivered to HMRC –

- (a) on or before 31st January in Tax Year 2, or
- (b) if the notice is given after 31st October in Tax Year 2, during the period of 3 months beginning with the day on which the notice is given.

#### **46 Capital gains tax**

A return in response to a notice in connection with capital gains tax and relating to a tax year (Tax Year 1) must be delivered to HMRC –

- (a) on or before 31st January in Tax Year 2, or
- (b) if the notice is given after 31st October in Tax Year 2, during the period of 3 months beginning with the day on which the notice is given.

#### **47 Corporation tax**

- (1) A return in response to a notice in connection with corporation tax must be delivered before whichever is the latest of the following –
  - (a) the end of the period of 3 months beginning with the day following that on which the notice was given,
  - (b) the end of the period of 12 months beginning with the end of the period to which the return relates, and
  - (c) either –
    - (i) where the company makes up its accounts for periods not exceeding 18 months, the end of the period of 12 months beginning with the end of the relevant period of account, or
    - (ii) where the company makes up its accounts for periods exceeding 18 months, the end of the period of 30 months beginning at the same time as the relevant period of account.
- (2) In subsection (1)(c) “relevant period of account” means the period –
  - (a) for which the company makes up its accounts, and
  - (b) during which falls the last day of the accounting period to which the return relates.

#### **48 VAT**

Regulations under [paragraph 2 of Schedule 11 to VATA (returns)] shall include provision about the times for delivering returns.

#### **49 “Filing date”**

The last date on which a return is to be given in accordance with sections 45 to 48 may be referred to as the “filing date” for the return.

### *Self-assessment*

#### **50 Duty to make self-assessment**

- (1) A return made in response to a notice under section 41 must include a self-assessment.
- (2) But a return in connection with income tax or capital gains tax relating to a tax year (Tax Year 1) need not (but may) include a self-assessment if it is delivered to HMRC –

- (a) on or before September 30th in Tax Year 2, or
- (b) where the notice is given on a day after 31st July in Tax Year 2, during the period of 2 months beginning with that day.

## 51 Nature of self-assessment

- (1) A self-assessment is an assessment by a person of –
  - (a) the amounts in respect of which the person is liable to tax, and
  - (b) the amounts payable in respect of that liability.
- (2) For the purposes of subsection (1) –
  - (a) liability is to be determined having regard to any relevant reliefs and allowances,
  - (b) amounts payable are to be determined having regard to –
    - (i) deductions at source,
    - (ii) payments on account,
    - (iii) tax credits under section 231 of ICTA (recipients of qualifying distributions), and
    - (iv) tax credits under section 397(1) of ITTOIA (company distributions), and
  - (c) “tax” means the tax in connection with which the notice under section 41 was given.
- (3) In particular –
  - (a) a self-assessment in an income tax return must show the figures listed in section 52, and
  - (b) a self-assessment in a corporation tax return must show the figures listed in section 53.
- (4) For the purpose of subsection (1) –
  - (a) “amount” includes –
    - (i) nil, and
    - (ii) a negative amount,
  - (b) a reference to liability to tax includes a reference to entitlement to a repayment or credit, and
  - (c) a reference to an amount payable includes a reference to an amount to be repaid or credited.

## 52 Income tax calculations

- (1) The following are the figures required by section 51(3) to be shown in an income tax return.

|   |   |
|---|---|
| 1 | The amounts of income on which the taxpayer is charged to income tax for the tax year |
| 2 | The result of deducting from each component allowable reliefs                         |
| 3 | The net income  |

|   |   |
|---|---|
| 4 | The result of deducting from each component relevant allowances (after reliefs)                     |
| 5 | The result of applying tax at each applicable rate on each component (after reliefs and allowances) |
| 6 | The sum of the components after the previous calculations   |
| 7 | The result of deducting from that sum any relevant tax reductions                                   |
| 8 | The result of adding to the result of the previous calculation any additional amounts of tax        |

(2) In the Table in subsection (1) –

- (a) an expression used in section [clause j9137 of Tax Law Rewrite Bill 4 - steps for calculating income tax liability] has the same meaning as in that section,
- (b) “allowable reliefs” means the reliefs referred to in Step 2 of that section,
- (c) “relevant allowances” means the allowances referred to in Step 3 of that section,
- (d) “relevant tax reductions” means the reductions referred to in Step 6 of that section, and
- (e) “additional amounts of tax” means the amounts referred to in Step 7 of that section.

### 53 Corporation tax calculations

The following are the figures required by section 51(3) to be shown in a corporation tax return.

|   |   |
|---|---|
|   | <i>Calculating corporation tax chargeable on company's profits</i>  |
| 1 | The amount of the company's profits for the period to which the return relates  |
| 2 | The result of applying to that amount the applicable corporation tax rate or rates  |
|   | <i>Reliefs and set offs</i>   |
| 3 | The result of applying any reduction under section 13(2) of ICTA (marginal small companies' relief)                           |
| 4 | The result of then applying any relief under Part V of Schedule 15 to FA 2000 (corporate venturing scheme: investment relief) |
| 5 | The result of then applying any relief under Part 5 of Schedule 16 to FA 2002 (community investment tax relief)               |
| 6 | The result of then applying double taxation relief under section 788 or 790 of ICTA   |

|    |  |
|----|--|
| 7  | The result of then applying any set-off for advance corporation tax under –<br>(a) section 32 of FA 1998, or<br>(b) section 239 of ICTA<br><br><i>Amounts assessable or chargeable as if they were corporation tax</i> |
| 8  | Any amount due under section 419(1) of ICTA (loan or advance made by close company to participator)  |
| 9  | Any sum chargeable under section 501A of ICTA (ring fence trade)   |
| 10 | Any sum chargeable under section 747(4)(a) of ICTA (controlled foreign company)  |
| 11 | The result of adding those sums to the final result of rows 3 to 7<br><br><i>Set offs against overall tax liability</i>  |
| 12 | Any amount to be set off under section 7(2) or 11(3) of ICTA (income tax borne by deduction)   |
| 13 | Any amount to be set off under section 246N or 246Q of ICTA (foreign income dividend: advance corporation tax)   |
| 14 | The result of deducting those amounts from the result in row 11  |

#### 54 Tax charged on scheme administrator

For the purpose of sections 50 to 53 no account shall be taken of tax charged on the administrator of a scheme under –

- (a) Chapter 1 or 4 of Part 14 of ICTA (retirement benefit schemes and personal pension schemes),
- (b) Part 4 of FA 2004 (pension schemes) (including that Part as modified in relation to split pension schemes), or
- (c) section 394(2) of ITEPA (retirement benefits scheme).

#### 55 Tax treated as paid

For the purpose of sections 50 to 53 no account shall be taken of tax which is treated as having been paid under –

- (a) section 399(2) of ITTOIA (qualifying distributions received by persons not entitled to tax credits),
- (b) section 400(2) of ITTOIA (non-qualifying distributions),
- (c) section 414(1) of ITTOIA (stock dividends from UK resident companies),
- (d) section 421(1) of ITTOIA (release of loan to participator in close company), or
- (e) section 530(1) of ITTOIA (gains from contracts for life insurance, &c.).

*Mistakes***56 Correction by HMRC: direct tax**

- (1) This section applies to returns in respect of income tax, capital gains tax and corporation tax.
- (2) Where HMRC think that a return contains an error, they may correct it.
- (3) For the purposes of subsection (2) “error” means –
  - (a) a typographical error,
  - (b) a mathematical error, and
  - (c) any information which HMRC think, because of other information in their possession, is recorded erroneously.
- (4) A correction of a return must be made before the end of the period of nine months beginning with –
  - (a) the date on which the return was delivered, or
  - (b) where the correction relates to an amendment, the date on which the notice of amendment was delivered.
- (5) Where HMRC correct a return they shall notify the person who made it.
- (6) That person may reject the correction, by written notice given to HMRC before the end of the period of –
  - (a) in the case of a return in respect of income tax or capital gains tax, 30 days beginning with the date on which notice of the correction was given, or
  - (b) in the case of a return in respect of corporation tax, 3 months beginning with that date.
- (7) A rejected correction shall be treated as never having had effect.

**57 Amendment**

- (1) A return may be amended by or on behalf of the person who made it.
- (2) An amendment must be made by notice to the Commissioners in such form, and containing such information, as the Commissioners may prescribe by regulations.
- (3) A notice of amendment must be given before the end of the period of 12 months beginning with the filing date.
- (4) Where a return is made on the basis of an incorrect assumption about the timing of a company’s accounting periods, the filing date for the purposes of subsection (3) shall be calculated as if the assumption were correct.

**58 Deficient returns**

- (1) A return that does not satisfy a requirement of this Part or another provision of a Tax Act shall not be treated as a return.
- (2) Subsection (1) does not apply to a return if the failure to satisfy a requirement is removed by a correction under section 56.

- (3) Subsection (1) does not apply to a return if the failure to satisfy a requirement is removed by an amendment under section 57; but the return shall be treated as having been delivered when the amendment is made.

*Miscellaneous*

**59 Provisional figures**

- (1) Where an actual amount in respect of a matter is not known at the time when a return is made, the return may include or rely on a provisional figure, provided that Conditions 1 to 5 below are complied with.
- (2) In subsection (1) “provisional figure” means an estimate of what an actual amount is likely to be.
- (3) Condition 1 is that all reasonable steps are taken to obtain the actual figure.
- (4) Condition 2 is that the return explains why the actual figure is not available.
- (5) Condition 3 is that the return estimates when a final figure will be available.
- (6) Condition 4 is that the provisional figure is a reasonable estimate, based on such data and other considerations as are reasonably available.
- (7) Condition 5, which applies only to a return in respect of VAT, is that HMRC have before the making of the return—
  - (a) agreed that it may include a provisional figure, and
  - (b) approved the method of calculation.
- (8) Where a provisional figure is used in a return, the actual figure, or any change in the return required to reflect the actual figure, must be supplied to HMRC as soon as is reasonably practicable.

**60 Agents**

A return may be made by –

- (a) the person to whom it relates, or
- (b) a person acting on behalf of the person to whom it relates.

**61 Partnerships**

- (1) A notice under section 41 may be given to a partnership carrying on a business.
- (2) A return in response to a notice given to a partnership may be made by any partner who is approved for the purpose by HMRC.
- (3) Where a notice is given by virtue of subsection (1) this Part shall have effect subject to the following modifications.
- (4) The return must not include a self-assessment in accordance with section 50.
- (5) Figures shown in the return as the shares of individual partners (whether of profits, assets, liabilities or anything else) must be used by the partners in making returns in response to notices given to them under section 41.
- (6) The notice may include provision about the calculations to be shown in the return.

- (7) The return in response to a notice for a mixed-partnership relating to a tax year (Tax Year 1) must be delivered to HMRC in accordance with the following rules (to which sections 45 and 46 are subject) –
  - (a) if the accounting date is after 5th April and before the following 1st February, the return must be delivered on or before 31st January in Tax Year 2, and
  - (b) if the partnership includes one or more companies and one or more individuals and its accounting date is after 31st January and before the following 6th April, the return must be delivered on or before the first anniversary of the accounting date after the date on which the notice is given.
- (8) In subsection (7) “mixed partnership” means a partnership which includes as partners –
  - (a) one or more companies, and
  - (b) one or more individuals.
- (9) Where as a result of section 45 and subsection (7) above an individual partner is required to make a return before the partnership makes its return, Condition 1 of section 59 shall be treated as satisfied in relation to the individual’s use of provisional figures relating to partnership profits.
- (10) A correction under section 56 shall be notified to each partner.

### PART 3

#### ASSESSMENTS BY HMRC

##### *Powers*

## 62 Correction assessment

- (1) HMRC may make an assessment of the liability to tax of a person who has made a return if –
  - (a) either –
    - (i) HMRC think that any statement, figure or information included in or with the return is incorrect or incomplete,
    - (ii) HMRC think that an amount has become chargeable to tax in respect of the period to which the return relates after it was made,
    - (iii) the person has failed to cooperate with an attempt by HMRC to verify the return, or
    - (iv) the person has failed to retain documents required by HMRC under an enactment, and
  - (b) HMRC think that the return understates the amount of tax payable.
- (2) The power to make an assessment under subsection (1)(a)(i) is subject to the restrictions in sections 68 and 69.
- (3) Where a return includes a self-assessment –
  - (a) an assessment under subsection (1) may be made in addition to the self-assessment, and
  - (b) the self-assessment shall have effect subject to any assessment under subsection (1).

### **63 Errors affecting other returns**

- (1) This section applies where HMRC think that a return made by a company in accordance with a notice under section 41 incorrectly states an amount which affects or may affect –
  - (a) the tax liability of the company for a period other than that to which the return relates, or
  - (b) the tax liability of another company.
- (2) HMRC may make an assessment of what the amount ought to have been.
- (3) The power to make an assessment under subsection (2) is subject to the restrictions in sections 68 and 69.

### **64 Default assessment**

- (1) HMRC may make an assessment of a person's liability to tax if –
  - (a) a person fails to make a return in response to a requirement under section 41 of this Act or under VATA, but
  - (b) HMRC think tax may be payable by the person.
- (2) In subsection (1) "tax" means –
  - (a) income tax,
  - (b) capital gains tax,
  - (c) corporation tax, or
  - (d) VAT.
- (3) The power to make an assessment under subsection (1) arises on the day after the filing date for the return.
- (4) For the purposes of subsection (3) in its application to corporation tax, where HMRC cannot ascertain the filing date before a return is made, the filing date shall be taken to be –
  - (a) the last day of the period of 18 months beginning with the end of the period specified in the notice under section 41, or
  - (b) if later, the last day of the period of 3 months beginning with the date on which that notice was given.
- (5) Where a person fails to make a return in respect of part of the period to which a notice requiring a return related, the person shall be taken for the purpose of subsection (1) to have failed to make a return in respect of that part of the period.

### **65 Free-standing assessment**

- (1) HMRC may make an assessment of a person's liability to direct tax in respect of a tax year if –
  - (a) the person has not been required under section 41 to make a return, but
  - (b) HMRC think tax may be payable by the person.
- (2) In subsection (1) "direct tax" means –
  - (a) income tax,
  - (b) capital gains tax, or
  - (c) corporation tax.

**66 Recovery assessment**

- (1) This section applies where –
  - (a) HMRC has repaid tax to a person, and
  - (b) the repayment –
    - (i) was made wholly or partly in error, or
    - (ii) has ceased to be correct because of later events affecting the person's liability to tax for the relevant period.
- (2) HMRC may make an assessment for the recovery of all or part of the repayment as if the amount to be recovered were an amount of unpaid tax.
- (3) The power to make an assessment under subsection (2) is subject to the restrictions in sections 68 and 69.
- (4) Subsection (2) does not apply if an assessment has been made under another provision of a Tax Act for the purpose of recovering the repayment.
- (5) For the purposes of subsection (1)(b) it does not matter why the error occurred.
- (6) In this section a reference to repayment of tax includes –
  - (a) a reference to any payment which purports to be –
    - (i) a repayment of tax,
    - (ii) a credit,
    - (iii) a tax credit,
    - (iv) a VAT credit within the meaning of section 25(3) of VATA,
    - (v) a repayment supplement, or
    - (vi) interest, and
  - (b) an amount of tax which a person pays and which is then set off against another liability of the person to pay tax.

**67 Assessment where self-assessment omitted**

- (1) Where a person makes a return without a self-assessment in reliance on section 50(2) HMRC shall, using the information in the return, make an assessment of –
  - (a) the amounts in respect of which the person is liable to tax, and
  - (b) the amounts payable in respect of that liability.
- (2) Where a person makes a return without a self-assessment, but not in reliance on section 50(2), HMRC may, using the information in the return, make an assessment of –
  - (a) the amounts in respect of which the person is liable to tax, and
  - (b) the amounts payable in respect of that liability.
- (3) Where HMRC make an assessment in respect of a person under subsection (1) or (2), they shall send a copy of the assessment to the person.
- (4) An assessment under subsection (1) or (2) shall be treated for the purposes of any Tax Act as if it were –
  - (a) a self-assessment, and
  - (b) included in the return.

## 68 Generally prevailing practice

- (1) In this section “assessment” means –
  - (a) a correction assessment by virtue of section 62(1)(a)(i),
  - (b) an assessment by virtue of section 63(2), and
  - (c) a recovery assessment by virtue of section 66(2).
- (2) An assessment may not be made in relation to income tax, corporation tax or capital gains tax if the relevant return was completed in accordance with generally prevailing practice (at that time).

## 69 Failure to act on information

- (1) In this section “assessment” means –
  - (a) a correction assessment by virtue of section 62(1)(a)(i),
  - (b) an assessment by virtue of section 63(2), and
  - (c) a recovery assessment by virtue of section 66(2).
- (2) An assessment may not be made in relation to income tax, corporation tax or capital gains tax if information, which could reasonably have been expected to make HMRC aware that the relevant return understated the amount of tax payable, was made available to HMRC –
  - (a) while HMRC could have instituted an enquiry into the return, or
  - (b) while an enquiry was in progress.
- (3) Information is made available for the purposes of subsection (2) if and only if –
  - (a) it is contained in the relevant return,
  - (b) it is contained in a return made by the taxpayer for either of the two tax years immediately preceding that to which the relevant return relates,
  - (c) it is contained in a claim which is made by or on behalf of the taxpayer making the relevant return and which relates to the same period as the relevant return,
  - (d) it is supplied to HMRC in connection with an enquiry into the relevant return,
  - (e) it is supplied to HMRC in connection with an enquiry into a claim to which paragraph (c) applies,
  - (f) written notice of it is given to HMRC in connection with the relevant return, or
  - (g) it can reasonably be deduced from information made available in accordance with paragraphs (a) to (f).

*Procedure, &c.*

## 70 Combined assessments

- (1) An assessment in respect of a period may relate to –
  - (a) tax charged under more than one provision;
  - (b) more than one tax;
  - (c) any combination of –
    - (i) chargeable tax,
    - (ii) repayment of tax,
    - (iii) penalty, and

- (iv) interest.
- (2) An assessment which includes a penalty must identify the amount of the penalty.
- (3) An assessment which includes interest must identify the amount of the interest.
- (4) In this section “repayment” has the same meaning as in section 66.
- (5) In this section “penalty” includes surcharge.

## **71 Period of assessment**

- (1) An assessment in respect of income tax must relate to a specified tax year.
- (2) An assessment in respect of capital gains tax must relate to a specified tax year.
- (3) An assessment in respect of corporation tax must relate to a specified accounting period.
- (4) In the case of a default assessment under section 64 in respect of corporation tax (following a failure to comply with a notice under section 41) –
  - (a) where only one accounting period ends during (or at the same time as) the period to which the notice related, the assessment must relate to that accounting period,
  - (b) where more than one accounting period ends during (or at the same time as) the period to which the notice related, the assessment must relate to each of those accounting periods, and
  - (c) if HMRC are unable to identify an accounting period ending during (or at the same time as) the period to which the notice related, the assessment must relate to a specified period which ends during (or at the same time as) the period to which the notice related;and subsection (3) is subject to this subsection.
- (5) An assessment in respect of VAT must relate to a specified prescribed accounting period (within the meaning given by section 25(1) of VATA).
- (6) In the case of a recovery assessment for VAT –
  - (a) the prescribed accounting period to be specified in accordance with subsection (5) for an assessment under section 66(1)(b)(i) is the period in which the error occurred, but
  - (b) subsection (5) does not apply to an assessment in respect of an amount –
    - (i) paid under section 78(1) of VATA (interest in cases of official error), or
    - (ii) credited under section 80(1) or (1A) of VATA (credit for overstated or overpaid VAT).

## **72 Notice**

- (1) HMRC shall notify any person in respect of whom an assessment is made under this Part.
- (2) A notice under subsection (1) must specify –
  - (a) the date on which it is issued, and

- (b) the period during which an appeal may be brought against the assessment.
- (3) A notice may relate to more than one assessment; but –
  - (a) a notice may not relate to assessments in respect of more than one person, and
  - (b) a notice relating to more than one assessment must include separate provision in respect of each tax and period.

### **73 Effect of default assessment**

- (1) In this section “amount payable” means an amount of tax which is specified in a default assessment under section 64 as being due and payable by a specified person.
- (2) An amount payable by a person in respect of income tax, capital gains tax or corporation tax shall be treated as if it formed part of a self-assessment by the person under section 50.
- (3) A default assessment of corporation tax in respect of a company shall have no effect (despite subsection (2)) if the company shows that it did not have an accounting period ending during (or at the same time as) the period specified in that notice.
- (4) An amount payable by a person in respect of VAT shall be treated for the purposes of any Tax Act as VAT due and payable by that person.

### **74 Default assessment superseded by self-assessment**

- (1) A default assessment under section 64 (following failure to make a return) shall have no effect if superseded by a self-assessment under section 50.
- (2) A self-assessment supersedes a default assessment if made before –
  - (a) the end of the period of five years beginning with the date by which the return should have been made, or
  - (b) if later, the end of the period of one year beginning with the date of the default assessment.
- (3) Where a self-assessment supersedes a default assessment at a time when proceedings for recovery of tax in pursuance of the default assessment have been commenced and not concluded, the proceedings may be continued as proceedings for recovery of tax in pursuance of the self-assessment (in so far as tax is payable under the self-assessment).

### **75 Supplementary assessment**

Where HMRC think that an assessment in respect of VAT mistakenly specified too small a sum as being due, they may make a supplementary assessment.

### **76 Additional assessment**

Nothing in this Part prevents HMRC from making an assessment in respect of VAT which –

- (a) follows an earlier assessment, and
- (b) relies on evidence arising since the making of the earlier assessment.

*Timing: direct tax***77 Normal rule**

- (1) An assessment in respect of income tax must be made before the end of the fifth year after the tax year to which the assessment relates.
- (2) An assessment in respect of capital gains tax must be made before the end of the fifth year after the tax year to which the assessment relates.
- (3) In subsections (1) and (2) “year” means a year beginning with 1st February.
- (4) An assessment in respect of corporation tax must be made before the end of the period of six years beginning with the end of the accounting period to which the assessment relates.
- (5) This section is subject to sections 78 to 80 (and to any other provision of a Tax Act).

**78 Default assessment**

- (1) An assessment under section 64 (following failure to make a return) must be made during the period of five years beginning with the day after the filing date for the return.
- (2) Section 64(4) shall have effect for the purposes of this section.

**79 Recovery assessment**

- (1) A recovery assessment under section 66 in respect of income tax or capital gains tax may be made at any time –
  - (a) during the tax year after that in which the repayment was made, or
  - (b) while an enquiry into a return made by the taxpayer is in progress.
- (2) A recovery assessment under section 66 in respect of corporation tax may be made at any time –
  - (a) during the accounting period after the period in which the repayment was made, or
  - (b) before the end of the period of three months beginning with the day on which an enquiry into a return made by the taxpayer is completed.
- (3) In this section “repayment” has the same meaning as in section 66.
- (4) Section 77 does not apply to recovery assessments.

**80 Fraud and negligence**

- (1) This section applies to an assessment made for the purpose of recovering tax lost as a result of the fraud or negligence of –
  - (a) the taxpayer, or
  - (b) a person acting on behalf of the taxpayer.
- (2) An assessment in respect of income tax may be made at any time until the end of the 20th year after the tax year to which the assessment relates.
- (3) An assessment in respect of capital gains tax may be made at any time until the end of the 20th year after the tax year to which the assessment relates.

- (4) In subsections (2) and (3) “year” means a year beginning with 1st February.
- (5) An assessment in respect of corporation tax may be made at any time during the period of 21 years beginning with the end of the accounting period to which the assessment relates.

*Timing: VAT*

**81 Normal rule**

- (1) An assessment in respect of VAT must be made before the end of the period of three years beginning with—
  - (a) the end of the prescribed accounting period to which the assessment relates,
  - (b) the importation to which the assessment relates, or
  - (c) the acquisition to which the assessment relates.
- (2) A correction assessment under section 62, or a default assessment under section 64, in respect of VAT due for a prescribed accounting period may not be made after—
  - (a) the end of the period of two years beginning with the end of the prescribed accounting period, or
  - (b) if later, the end of the period of one year beginning with the date on which HMRC become aware of the facts on which the assessment relies;but this subsection does not apply to assessments under—
  - (i) [section 73(7) of VATA],
  - (ii) [section 73(7A) of VATA], or
  - (iii) [section 73(7B) of VATA].
- (3) This section is subject to sections 82 to 84 (and to any other provision of a Tax Act).

**82 Recovery assessment**

- (1) A recovery assessment under section 66 in respect of VAT must be made during the period of two years beginning with the date on which HMRC become aware of the facts on which the assessment relies.
- (2) Section 81 does not apply to recovery assessments.

**83 Fraud, &c.**

- (1) This section applies to an assessment made for the purpose of recovering VAT lost as a result of—
  - (a) conduct within section 60 of VATA (dishonest evasion),
  - (b) conduct which makes a person liable to a penalty under section 67 of VATA (failure to notify; and unauthorised invoices), or
  - (c) conduct for which a person has been convicted of fraud.
- (2) The assessment may be made before the end of the period of 20 years beginning with—
  - (a) the end of the prescribed accounting period to which the assessment relates,

- (b) the importation to which the assessment relates, or
- (c) the acquisition to which the assessment relates.

(3) This section is subject to section 84.

#### **84 Posthumous assessment**

An assessment of a sum due by way of or in respect of VAT as a result of anything done by a person who has died, may not be made after the end of the period of three years beginning with the day following the death.

#### **85 Supplementary assessment**

A supplementary assessment must be made within the time limit applying to the original assessment.

#### **86 Additional assessment**

The rules about time limits are the same for additional assessments as for original assessments.

### **PART 4**

#### MISCELLANEOUS PROCEDURAL MATTERS

#### **87 Clerical error, &c.**

- (1) This section applies to—
  - (a) an assessment,
  - (b) a notice, and
  - (c) any other document issued by HMRC under a Tax Act.
- (2) A document shall have effect despite any mistake, omission or other defect (whether of form or of substance) provided that—
  - (a) the defect does not amount to failure to comply with an express provision of a Tax Act, and
  - (b) the intended effect of the document is clear for all reasonable purposes.
- (3) Subsection (2) applies, in particular, to mistakes in respect of—
  - (a) a person's name,
  - (b) the description of profits, income or property,
  - (c) an amount of tax.
- (4) Subsection (2) also applies, in particular, to inconsistencies between two documents (such as a notice and an assessment).

#### **88 Service of documents by HMRC**

Any document required by or under this Act to be given by HMRC to a person may ...

**PART 5**

GENERAL

*Interpretation*

**89 HMRC**

- (1) In this Act “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.
- (2) In this Act “Officer” means an officer of Revenue and Customs.
- (3) In this Act “HMRC” means Her Majesty’s Revenue and Customs.
- (4) Subsection (1) is without prejudice to section 13 of the Commissioners for Revenue and Customs Act 2005 (c. 11) (exercise of functions by officers).

**90 Tax year**

In this Act “tax year” means –

- (a) in relation to income tax, a year for which an Act provides for income tax to be charged, and
- (b) in relation to capital gains tax, a year beginning on 6th April and ending with the following 5th April.

**91 Business**

In this Act “business” includes trade or profession.

**92 Failure**

A person who is required or permitted to do something within a specified period or before a specified time is treated as having failed to do the thing only if it is not done within the period or before the time.

**93 Information**

A reference in this Act to information includes a reference to documents.

**94 Inclusion in document**

A reference in this Act to anything being included or contained in a document includes a reference to its accompanying the document.

**95 UK**

In this Act “the UK” means the United Kingdom.

**96 Timing: “on” a date**

A reference to anything occurring on a date is a reference to it occurring at the beginning of that date.

**97 Acts**

- (1) In this Act—
- (a) CAA means the Capital Allowances Act 2001 (c. 2),
  - (b) FA [*year*] means the Finance Act of that year,
  - (c) ICTA means the Income and Corporation Taxes Act 1988 (c. 1),
  - (d) ITEPA means the Income Tax (Earnings and Pensions) Act 2003 (c. 1),
  - (e) ITTOIA means the Income Tax (Trading and Other Income) Act 2005 (c. 5),
  - (f) TCGA means the Taxation of Chargeable Gains Act 1992 (c. 12), and
  - (g) VATA means the Value Added Tax Act 1994 (c. 23).
- (2) In this Act “a Tax Act” means an enactment (including a provision made under an Act) about taxation.

**98 ICTA definitions**

The expressions specified in the Table have the same meaning in this Act as in ICTA (except where the contrary is expressly provided).

| <i>Expression</i> | <i>Defining provision of ICTA</i> |
|-------------------|-----------------------------------|
| Accounting period | Sections 12 and 834               |
| Chargeable period | Section 832(1)                    |
| Company           | Section 832(1)                    |
| Trade             | Section 832(1)                    |

**99 VATA definitions**

The expressions specified in the Table have the same meaning in this Act in relation to VAT as in VATA.

| <i>Expression</i>            | <i>Defining provision of VATA</i> |
|------------------------------|-----------------------------------|
| Another member State         | Sections 93(1) and 96(1)          |
| Exempt supply                | Section 31 and Schedule 9         |
| New means of transport       | Section 95                        |
| Prescribed accounting period | Section 25(1)                     |
| Quarter                      | Section 96(1)                     |
| Supply                       | Section 5 and Schedule 4          |
| Taxable acquisition          | Section 10                        |
| Taxable person               | Section 3(1)                      |
| Taxable supply               | Section 4                         |

| <i>Expression</i> | <i>Defining provision of VATA</i> |
|-------------------|-----------------------------------|
| Zero-rating       | Section 30 and Schedule 8         |

## 100 Index of defined terms

The Table sets out expressions defined in this Act.

| <i>Expression</i>            | <i>Defining provision</i> |
|------------------------------|---------------------------|
| Accounting period            | Section 98                |
| Business                     | Section 91                |
| Chargeable period            | Section 98                |
| The Commissioners            | Section 89                |
| Company                      | Section 98                |
| Contain                      | Section 94                |
| EU supplies                  | Section 11                |
| EU acquisitions              | Section 17                |
| FA                           | Section 97                |
| Failure                      | Section 92                |
| Filing date                  | Section 49                |
| ICTA                         | Section 97                |
| ITEPA                        | Section 97                |
| ITTOIA                       | Section 97                |
| Include                      | Section 94                |
| Information                  | Section 93                |
| HMRC                         | Section 89                |
| New means of transport       | Section 99                |
| Officer                      | Section 89                |
| On a date                    | Section 96                |
| Prescribed accounting period | Section 99                |
| Quarter                      | Section 99                |
| Return                       | Section 40                |
| Tax Act                      | Section 97                |

| <i>Expression</i>   | <i>Defining provision</i> |
|---------------------|---------------------------|
| Tax year            | Section 90                |
| Taxable acquisition | Section 99                |
| Taxable person      | Section 99                |
| Taxable supply      | Section 99                |
| Trade               | Section 98                |
| UK                  | Section 95                |
| VATA                | Section 97                |
| Zero-rating         | Section 99                |

*Other provisions***101 Subordinate legislation**

- (1) Regulations, rules and orders under this Act –
  - (a) may make provision generally or only for specified cases or circumstances;
  - (b) may make different provision for different cases or circumstances;
  - (c) may include incidental, consequential or transitional provision.
- (2) Regulations and orders under this Act shall be made by statutory instrument.
- (3) [Affirmative resolution cases.]
- (4) The following shall be subject to annulment in pursuance of a resolution of the House of Commons –
  - (a) regulations under section 26, and
  - (b) an order under section 38.
- (5) Other regulations and orders under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**102 Amendments and repeals**

- (1) Schedule 1 (consequential [and minor] amendments) shall have effect.
- (2) The enactments specified in Schedule 2 are repealed to the extent specified.

## SCHEDULES

## SCHEDULE 1

Section 102

## CONSEQUENTIAL [AND MINOR] AMENDMENTS

*Value Added Tax Act 1994 (c. 23)*

- 1 The Value Added Tax Act 1994 shall be amended as follows.
- 2 In section 3 (taxable persons and registration) –
  - (a) in subsection (1) for “under this Act” substitute “under Chapter 1 of Part 1 of the Administration of Taxes Act 2008”,
  - (b) omit subsection (2),
  - (c) for subsection (3) substitute –
    - “(3) A reference in this Act to being registered is a reference to being registered under that Chapter.”, and
  - (d) omit subsection (4).
- 3 In section 7
- 4 In section 9A(1)(b) (reverse charge on gas and electricity supplied by person outside UK) for “person who is registered under this Act,” substitute “registered person,”.
- 5 In section 14
- 6 In section 42
- 7 In section 47
- 8 In section 48
- 9 In section 49
- 10 In section 50
- 11 In section 67 (penalty for failure to notify) –
  - (a) for subsection (1)(a) substitute –
    - “(a) a person fails to comply with a requirement under Chapter 2 of Part 1 of the Administration of Taxes Act 2008 to notify HMRC,” and
  - (b) for subsection (3)(a) substitute [.]
- 12 In section 80
- 13 Schedules 1 to 3A (registration) shall cease to have effect.
- 14 In Schedule 5

15 In Schedule 11

*Finance Act 2004 (c. 12)*

16 Section 55 of the Finance Act 2004 (duty to notify HMRC of new chargeability to corporation tax) shall cease to have effect.

*Commissioners for Revenue and Customs Act 2005 (c. 11)*

17 In section 13(3) of the Commissioners for Revenue and Customs Act 2005 (non-delegable functions) ...

SCHEDULE 2

Section 102

REPEALS

| <i>Short title and chapter</i>   | <i>Extent of repeal</i>                   |
|----------------------------------|---|
| Taxes Management Act 1970 (c. 9) | [...]                                     |
| Value Added Tax Act 1994 (c. 23) | Section 3(2) and (4)<br>Schedules 1 to 3A |

SCHEDULE 3

Section []

TRANSITIONAL PROVISIONS

- 1 Section 66 shall not permit the recovery of interest paid under section 78 of VATA (official error) before 18th July 1996.
- 2 Section 66 shall not permit the recovery of a credit given under section 80(1) or (1A) of VATA (overstated or overpaid VAT) before 26th May 2005.