

SCHEDULES

SCHEDULE 39

Section 118

TIME LIMITS FOR ASSESSMENTS, CLAIMS ETC.

TMA 1970

- 1 TMA 1970 is amended as follows.
- 2 In section 28C(5)(a) (time limit for determination of tax where no return delivered and self-assessment superseding determination), for “five years” substitute “3 years”.
- 3 In section 29(4) (assessment where loss of tax discovered), for “is attributable to fraudulent or negligent conduct on the part of” substitute “was brought about carelessly or deliberately by”.
- 4 In section 30B(5) (amendment of partnership statement where loss of tax discovered), for “is attributable to fraudulent or negligent conduct on the part of” substitute “was brought about carelessly or deliberately by”.
- 5 In section 33(1) (claim for error or mistake), for “not later than five years after the 31st January next following” substitute “not more than 4 years after the end of”.
- 6 In section 33A(2) (error or mistake in partnership return), for “not later than 31st January of Year 6” substitute “not more than 4 years after the end of the year of assessment in question, or in which the relevant period ends,”.
- 7 (1) Section 34 (ordinary time limit for assessments) is amended as follows.
 - (2) In subsection (1), for “not later than five years after the 31st January next following” substitute “not more than 4 years after the end of”.
 - (3) Accordingly, in the heading, for “**six years**” substitute “**4 years**”.
- 8 In section 35 (time limit: income received after year for which it is assessable), for “within six years after” substitute “not more than 4 years after the end of”.
- 9 (1) Section 36 (fraudulent or negligent conduct) is amended as follows.
 - (2) For subsection (1) substitute—
 - “(1) An assessment on a person in a case involving a loss of income tax or capital gains tax brought about carelessly by the person may be made at any time not more than 6 years after the end of the year of assessment to which it relates (subject to subsection (1A) and any other provision of the Taxes Acts allowing a longer period).
 - (1A) An assessment on a person in a case involving a loss of income tax or capital gains tax —
 - (a) brought about deliberately by the person,
 - (b) attributable to a failure by the person to comply with an obligation under section 7, or

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- (c) attributable to arrangements in respect of which the person has failed to comply with an obligation under section 309, 310 or 313 of the Finance Act 2004 (obligation of parties to tax avoidance schemes to provide information to Her Majesty’s Revenue and Customs),
 may be made at any time not more than 20 years after the end of the year of assessment to which it relates (subject to any provision of the Taxes Acts allowing a longer period).
- (1B) In subsections (1) and (1A) references to a loss brought about by the person who is the subject of the assessment include a loss brought about by another person acting on behalf of that person.”
- (3) In subsection (2)—
- (a) for “Where the person in default” substitute “Where the person mentioned in subsection (1) or (1A) (“the person in default”)”, and
- (b) for “subsection (1) above” substitute “subsection (1A) or (1B)”.
- (4) In subsection (3), after “(1)” insert “or (1A)”.
- (5) In subsection (4), for “subsection (1)” substitute “subsections (1) and (1A)”.
- (6) Accordingly, for the heading substitute “**Loss of tax brought about carelessly or deliberately etc**”.
- 10 In section 37A (effect of assessment where allowances transferred), for the words from “for the purpose” to “conduct” substitute “in a case falling within section 36(1) or (1A)”.
- 11 (1) Section 40 (assessment on personal representatives) is amended as follows.
- (2) In subsection (1), for “beyond the end of the period of three years beginning with the 31st January next following” substitute “more than 4 years after the end of”.
- (3) In subsection (2)—
- (a) for the words from the beginning to “died” substitute “In a case involving a loss of tax brought about carelessly or deliberately by a person who has died (or another person acting on that person’s behalf before that person’s death)”, and
- (b) for “before the end of the period of three years beginning with the 31st January next following” substitute “not more than 4 years after the end of”.
- 12 In section 43(1) (time limit for making claims), for “five years after the 31st January next following” substitute “4 years after the end of”.
- 13 In section 43A(1)(b) (further assessments: claims etc), for the words from “attributable” to the end substitute “brought about carelessly or deliberately by that person or by someone acting on behalf of that person.”
- 14 In section 43C(1)(b) (consequential claims etc), for “attributable to fraudulent or negligent conduct on the part of” substitute “brought about carelessly or deliberately by”.
- 15 In section 118 (interpretation) insert at the end—
- “(5) For the purposes of this Act a loss of tax or a situation is brought about carelessly by a person if the person fails to take reasonable care to avoid bringing about that loss or situation.

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- (6) Where—
- (a) information is provided to Her Majesty’s Revenue and Customs,
 - (b) the person who provided the information, or the person on whose behalf the information was provided, discovers some time later that the information was inaccurate, and
 - (c) that person fails to take reasonable steps to inform Her Majesty’s Revenue and Customs,
- any loss of tax or situation brought about by the inaccuracy shall be treated for the purposes of this Act as having been brought about carelessly by that person.
- (7) In this Act references to a loss of tax or a situation brought about deliberately by a person include a loss of tax or a situation that arises as a result of a deliberate inaccuracy in a document given to Her Majesty’s Revenue and Customs by or on behalf of that person.”

ICTA

- 16 ICTA is amended as follows.
- 17 In section 36(2)(b) (claims for repayment of tax on sale of land with right to reconveyance), for “six years” substitute “4 years”.
- 18 In section 257AB(9) (elections in respect of married couple’s allowance (post-5th December 2005 marriages and civil partnerships)), for “on or before the 5th anniversary of the 31st January next following” substitute “not more than 4 years after”.
- 19 In section 257BB(5)(a) (notices in respect of transfer of relief under section 257A or 257AB), for “on or before the fifth anniversary of the 31st January next following” substitute “not more than 4 years after”.
- 20 In section 265(5) (notices in respect of transfer of blind person’s allowance), for “on or before the fifth anniversary of the 31st January next following” substitute “not more than 4 years after”.
- 21 In section 270(4) (claims for repayment of excess paid on surrender etc of life insurance policy), for “six years” substitute “4 years”.
- 22 In section 419(4) (claims for relief from tax where loan surrendered etc), for “six years” substitute “4 years”.
- 23 In section 500(4) and (9) (additional assessment to corporation tax where petroleum revenue tax repaid), for “six years” substitute “4 years”.
- 24 In section 806(1) (time limit for claims for allowance under arrangements by way of credit for foreign tax)—
- (a) in paragraph (a)(i), for “the fifth anniversary of the 31st January next following” substitute “the 4th anniversary of the end of”, and
 - (b) in paragraph (b)(i), for “six years” substitute “4 years”.
- 25 In section 806G(3)(a) (claims for the purposes of utilisation of eligible unrelieved foreign tax), for “six years” substitute “4 years”.
- 26 In section 806M(7)(a) (claims for the purpose of carry forward or carry back of unrelieved foreign tax), for “six years” substitute “4 years”.

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FA 1991

- 27 In section 65(6) of FA 1991 (additional assessment to corporation tax on receipt of reimbursement expenditure), for “six years” substitute “4 years”.

TCGA 1992

- 28 TCGA 1992 is amended as follows.
- 29 In section 203(2) (claims in respect of certain capital losses), for “6 years” substitute “4 years”.
- 30 In section 253(4A) (claims for relief for loans to traders)—
- (a) in paragraph (a), for “on or before the fifth anniversary of the 31st January next following” substitute “not more than 4 years after the end of”, and
 - (b) in paragraph (b), for “6 years” substitute “4 years”.
- 31 In section 279(5) (claims in respect of delayed remittance of gain from disposal of foreign assets)—
- (a) in paragraph (a), for “at any time after the fifth anniversary of the 31st January next following” substitute “more than 4 years after the end of”, and
 - (b) in paragraph (b), for “6 years” substitute “4 years”.

VATA 1994

- 32 VATA 1994 is amended as follows.
- 33 In section 33A(4) (refunds of VAT to museums and galleries), for “3 years” substitute “4 years”.
- 34 (1) Section 77 (assessments: time limits and supplementary assessments) is amended as follows.
- (2) In subsection (1)(a) and (b), for “3 years” substitute “4 years”.
 - (3) For subsection (4) substitute—
 - “(4) In any case falling within subsection (4A), an assessment of a person (“P”), or of an amount payable by P, may be made at any time not more than 20 years after the end of the prescribed accounting period or the importation, acquisition or event giving rise to the penalty, as appropriate (subject to subsection (5)).
 - (4A) Those cases are—
 - (a) a case involving a loss of VAT brought about deliberately by P (or by another person acting on P’s behalf),
 - (b) a case in which P has participated in a transaction knowing that it was part of arrangements of any kind (whether or not legally enforceable) intended to bring about a loss of VAT,
 - (c) a case involving a loss of VAT attributable to a failure by P to comply with a notification obligation, and
 - (d) a case involving a loss of VAT attributable to a scheme in respect of which P has failed to comply with an obligation under paragraph 6 of Schedule 11A.

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(4B) In subsection (4A) the references to a loss of tax brought about deliberately by P or another person include a loss that arises as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by that person.

(4C) In subsection (4A)(c) “notification obligation” means an obligation under—

- (a) paragraph 5, 6, 7 or 14(2) or (3) of Schedule 1,
- (b) paragraph 3 of Schedule 2,
- (c) paragraph 3 or 8(2) of Schedule 3,
- (d) paragraph 3, 4 or 7(2) or (3) of Schedule 3A, or
- (e) regulations under paragraph 2(4) of Schedule 11.”

(4) In subsection (5)—

- (a) in paragraph (a), for “3 years” substitute “4 years”, and
- (b) omit paragraph (b) and the “and” before it.

35 In section 78(11) (interest in certain cases of official error), for “three years” substitute “4 years”.

36 In section 80(4) (credit for, or repayment of, overstated or overpaid VAT), for “3 years” substitute “4 years”.

FA 1998

37 Schedule 18 to FA 1998 (company tax returns) is amended as follows.

38 In paragraph 36(5) (determination of tax payable if no return delivered), for “five years” substitute “3 years”.

39 In paragraph 37(4) (determination of tax payable if notice complied with in part), for “five years” substitute “3 years”.

40 In paragraph 40(3) (time limit for self-assessment superseding determination), for “five years” substitute “3 years”.

41 (1) Paragraph 43 (fraudulent or negligent conduct) is amended as follows.

(2) For “is attributable to fraudulent or negligent conduct on the part of” substitute “was brought about carelessly or deliberately by”.

(3) Accordingly, for the heading before the paragraph substitute “*Loss of tax brought about carelessly or deliberately*”.

42 (1) Paragraph 46 (general time limits for assessments) is amended as follows.

(2) In sub-paragraph (1), for “six years” substitute “4 years”.

(3) For sub-paragraph (2) substitute—

“(2) An assessment in a case involving a loss of tax brought about carelessly by the company (or a related person) may be made at any time not more than 6 years after the end of the accounting period to which it relates (subject to sub-paragraph (2A) and to any other provision of the Taxes Acts allowing a longer period).

(2A) An assessment in a case involving a loss of tax—

- (a) brought about deliberately by the company (or a related person),

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- (b) attributable to a failure by the company to comply with an obligation under paragraph 2, or
- (c) attributable to arrangements in respect of which the company has failed to comply with an obligation under section 309, 310 or 313 of the Finance Act 2004 (obligation of parties to tax avoidance schemes to provide information to Her Majesty's Revenue and Customs),

may be made at any time not more than 20 years after the end of the accounting period to which it relates (subject to any provision of the Taxes Acts allowing a longer period).

(2B) In this paragraph “related person”, in relation to a company, means—

- (a) a person acting on behalf of the company, or
- (b) a person who was a partner of the company at the relevant time.”

43 In paragraph 51(1)(c) (relief in case of mistake in return), for “six years” substitute “4 years”.

44 (1) Paragraph 53 (time limit for recovery of excessive payments etc) is amended as follows.

(2) In sub-paragraph (1), for “six year” substitute “4 year”.

(3) In sub-paragraph (2), for “paragraph 46(2) (time limit for assessment in case of fraud or negligence)” substitute “paragraph 46(2) and (2A) (time limit for assessment in case of loss of tax brought about carelessly or deliberately)”.

45 In paragraph 55 (general time limit for making claims), for “six years” substitute “4 years”.

46 In paragraph 61(2) (consequential claims etc arising out of certain Revenue amendments or assessments), for “fraudulent or negligent conduct on the part of” substitute “a loss of tax brought about carelessly or deliberately by”.

47 (1) Paragraph 65 (consequential claims) is amended as follows.

(2) In sub-paragraph (1), for “fraudulent or negligent conduct on the part of” substitute “a loss of tax brought about carelessly or deliberately by”.

(3) Accordingly, in the heading before the paragraph, for “*fraud or negligence*” substitute “*loss of tax brought about carelessly or deliberately*”.

EA 2002

48 In paragraph 27 of Schedule 16 (withdrawal or reduction of community investment tax relief), insert at the end—

“(5) An assessment under this paragraph may be made at any time not more than 6 years after the end of the accounting period for which the relief was obtained.

(6) Sub-paragraph (5) is without prejudice to paragraph 46(2A) of Schedule 18 to the Finance Act 1998 (loss of tax brought about deliberately).”

ITEPA 2003

- 49 In section 711(2) (notice requiring officer of Revenue and Customs to give notice requiring tax return), for “5 years” substitute “3 years”.

ITTOIA 2005

- 50 ITTOIA 2005 is amended as follows.
- 51 In section 301(3) (claims for repayment of tax payable in connection with sale with right to reconveyance), for “6 years” substitute “4 years”.
- 52 In section 302(3) (claims for repayment of tax payable in connection with sale and leaseback transactions), for “6 years” substitute “4 years”.
- 53 In section 840A(1) (claims for relief for backdated pensions charged on arising basis) (inserted by Schedule 7 to this Act), for “on or before the fifth anniversary of the normal self-assessment filing date for” substitute “not more than 4 years after the end of”.

ITA 2007

- 54 ITA 2007 is amended as follows.
- 55 In section 40(1)(a) (election for transfer of blind person’s allowance), for “on or before the fifth anniversary of the normal self-assessment filing date for” substitute “not more than 4 years after the end of”.
- 56 In section 46(6)(b) (marriages and civil partnerships on or after 5 December 2005: election specifying person entitled to relief), for “on or before the fifth anniversary of the normal self-assessment filing date for” substitute “not more than 4 years after the end of”.
- 57 In section 53(4)(a) (notice in respect of transfer of unused relief), for “on or before the fifth anniversary of the normal self-assessment filing date for” substitute “not more than 4 years after the end of”.
- 58 In section 155 (claim for loss relief against miscellaneous income), in each of subsections (1) and (2), for “on or before the fifth anniversary of the normal self-assessment filing date for” substitute “not more than 4 years after the end of”.
- 59 (1) Section 237 (EIS relief: time limits for assessments) is amended as follows.
- (2) In subsection (1)—
- (a) omit “not”, and
 - (b) for “more than” substitute “at any time not more than”.
- (3) In subsection (3)—
- (a) for “36” substitute “36(1A)”, and
 - (b) for “(fraudulent or negligent conduct)” substitute “(loss of tax brought about deliberately etc)”.
- 60 In section 372 (withdrawal or reduction of community investment tax relief), insert at the end—
- “(4) An assessment under this paragraph may be made at any time not more than 6 years after the end of the tax year for which the relief was obtained.

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(5) Subsection (4) is without prejudice to section 36(1A) of TMA 1970 (loss of tax brought about deliberately etc).”

61 In section 668(7) (claim for relief for unremittable transfer proceeds), for “on or before the fifth anniversary of the normal self-assessment filing date for” substitute “not more than 4 years after the end of”.

62 In section 669(4) (claim for relief for unremittable transfer proceeds: section 630 profits), for “on or before the fifth anniversary of the normal self-assessment filing date for” substitute “not more than 4 years after the end of”.

Consequential amendments

63 In section 178(3) of FA 1993 (stop-loss and quota share insurance)—
(a) in paragraph (a), for “six years” substitute “4 years”, and
(b) in paragraph (b), for “fraudulent or negligent conduct” substitute “loss of tax brought about carelessly or deliberately”.

64 In section 225(3)(b) of FA 1994 (stop-loss and quota share insurance), for “fraudulent or negligent conduct” substitute “loss of tax brought about carelessly or deliberately”.

65 In consequence of the preceding provisions of this Schedule, omit—
(a) section 149(4)(a)(i) and (ii) of FA 1989,
(b) paragraphs 4 and 6 of Schedule 21 to FA 1996,
(c) section 47(10) of FA 1997,
(d) paragraph 18 of Schedule 19 to FA 1998, and
(e) section 91(6)(b) of FA 2007.

Saving

66 The amendments of sections 33, 34 and 36 of TMA 1970 made by this Schedule do not have effect for the purposes of those sections as applied by paragraph 1 of Schedule 1 to OTA 1975 (management and collection of petroleum revenue tax).