

SCHEDULES

SCHEDULE 23

Section 167

SIMPLE ASSESSMENTS

- 1 TMA 1970 is amended in accordance with paragraphs 2 to 8 of this Schedule.
- 2 In section 7 (notice of liability to income tax and capital gains tax), after subsection (2) insert—

“(2A) A person who—

 - (a) falls within subsection (1A) or (1B), and
 - (b) is notified of a simple assessment for the year of assessment,

is not required to give notice under subsection (1) for that year unless the person is chargeable to income tax or capital gains tax for the year of assessment on any income or gain that is not included in the assessment.”
- 3 After section 28G (determination of amount notionally chargeable where no NRCGT return delivered) insert—

“28H Simple assessments by HMRC: personal assessments

- (1) HMRC may make a simple assessment for a year of assessment in respect of a person (other than a person to whom section 28I applies) if, when the assessment is made, the person is not excluded by subsection (2) in relation to that year.
- (2) Subsection (1) does not apply to a person at any time in relation to that year of assessment if—
 - (a) the person has delivered a return under section 8 for that year, or
 - (b) the person is at that time subject to a requirement to make and deliver such a return by virtue of a notice under section 8.

but nothing in this subsection prevents HMRC from giving the person notice of a simple assessment at the same time as a notice withdrawing a notice under section 8.
- (3) A simple assessment is—
 - (a) an assessment of the amounts in which the person is chargeable to income tax and capital gains tax for the year of assessment to which it relates, and
 - (b) an assessment of the amount payable by the person by way of income tax for that year, that is to say, the difference between the amount in which the person is assessed to income tax under paragraph (a) and the aggregate amount of any income tax deducted at source;

but nothing in this subsection enables an assessment to show as repayable any income tax which any provision of the Income Tax Acts provides is not repayable.

Status: This is the original version (as it was originally enacted).

- (4) The amounts in which a person is chargeable to income tax and capital gains are net amounts, taking into account any relief or allowance that is applicable.
- (5) A simple assessment must be based on information relating to the person that is held by HMRC (whether or not supplied by the person to whom the assessment relates).
- (6) The notice of a simple assessment required to be sent to the person by section 30A(3) must (among other things)—
 - (a) include particulars of the income and gains, and any relief or allowance, taken into account in the assessment, and
 - (b) state any amount payable by the person by virtue of section 59BA (with particulars of how it may be paid and the date by which it is payable).
- (7) The tax to be assessed on a person by a simple assessment does not include any tax which—
 - (a) is chargeable on the scheme administrator of a registered pension scheme under Part 4 of Finance Act 2004,
 - (b) is chargeable on the sub-scheme administrator of a sub-scheme under Part 4 of the Finance Act 2004 as modified by the Registered Pension Schemes (Splitting of Schemes) Regulations 2006, or
 - (c) is chargeable on the person who is (or persons who are) the responsible person in relation to an employer-financed retirement benefits scheme under section 394(2) of ITEPA 2003.
- (8) Nothing in this section prevents HMRC issuing more than one simple assessment to the same person in respect of the same year of assessment (whether or not any earlier simple assessment for that year is withdrawn).
- (9) In this section references to a simple assessment are to an assessment under this section.

28I Simple assessments by HMRC: trustees

- (1) HMRC may make a simple assessment for a year of assessment in respect of a settlement if, when the assessment is made, the relevant trustees of the settlement are not excluded by subsection (2) in relation to that year.
- (2) Subsection (1) does not apply at any time in relation to that year of assessment if—
 - (a) a return under section 8A has been delivered for that year by the relevant trustees or any of them, or
 - (b) there is at that time a subsisting requirement to make and deliver such a return by virtue of a notice under section 8A;
 but nothing in this subsection prevents HMRC from giving notice of a simple assessment at the same time as a notice withdrawing a notice under section 8A.
- (3) A simple assessment is—

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

- (a) an assessment of the amounts in which the relevant trustees are chargeable to income tax and capital gains tax for the year of assessment to which it relates, and
 - (b) an assessment of the amount payable by them by way of income tax for that year, that is to say, the difference between the amount in which they are assessed to income tax under paragraph (a) and the aggregate amount of any income tax deducted at source;but nothing in this subsection enables an assessment to show as repayable any income tax which any provision of the Income Tax Acts provides is not repayable.
- (4) The amounts in which the relevant trustees are chargeable to income tax and capital gains are net amounts, taking into account any relief or allowance that is applicable.
- (5) A simple assessment must be based only on information relating to the settlement that is held by HMRC (whether or not supplied by the relevant trustees).
- (6) The notice of a simple assessment required by section 30A(3) may be given to any one or more of the relevant trustees.
- (7) That notice must (among other things)—
 - (a) include particulars of the income and gains, and any relief or allowance, taken into account in the assessment, and
 - (b) state any amount payable by the relevant trustees by virtue of section 59BA (with particulars of how it may be paid and the date by which it is payable).
- (8) The tax to be assessed by a simple assessment does not include any tax which—
 - (a) is chargeable on the scheme administrator of a registered pension scheme under Part 4 of Finance Act 2004,
 - (b) is chargeable on the sub-scheme administrator of a sub-scheme under Part 4 of the Finance Act 2004 as modified by the Registered Pension Schemes (Splitting of Schemes) Regulations 2006, or
 - (c) is chargeable on the person who is (or persons who are) the responsible person in relation to an employer-financed retirement benefits scheme under section 394(2) of ITEPA 2003.
- (9) Nothing in this section prevents HMRC issuing more than one simple assessment in respect of the same settlement and the same year of assessment (whether or not any earlier simple assessment for that year is withdrawn).
- (10) In this section references to a “simple assessment” are to an assessment under this section.
- (11) In this Act references to the person to whom a simple assessment relates are, in relation to one made under this section, to the relevant trustees of the settlement to which it relates.

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

28J Power to withdraw a simple assessment

- (1) HMRC may withdraw a simple assessment by notice to the person to which it relates.
- (2) An assessment that has been withdrawn ceases to have effect (and is to be taken as never having had any effect)."

4 In section 31 (appeals: right to appeal), before subsection (4) insert—

- “(3A) In the case of a simple assessment, the right to appeal under subsection (1) (d) does not apply unless and until the person concerned has—
- (a) raised a query about the assessment under section 31AA, and
 - (b) been given a final response to that query.”

5 (1) Section 31A (appeals: notice of appeal) is amended as follows.

(2) In subsection (4), after “this Act” insert “(other than an appeal against a simple assessment)”.

(3) After subsection (4) insert—

- “(4A) In relation to an appeal under section 31(1)(d) against a simple assessment—
- (a) the specified date is the date on which the person concerned is given notice under section 31AA of the final response to the query the person is required by section 31(3A) to make, and
 - (b) the relevant officer of the Board is the officer by whom the notice of assessment was given.”

6 After section 31A (notice of appeal) insert—

“31AA Taxpayer’s right to query simple assessment

- (1) This section applies where a person has been given notice of a simple assessment.
- (2) The person may query the simple assessment by notifying HMRC of—
 - (a) a belief that the assessment is or may be incorrect, and
 - (b) the reasons for that belief.
- (3) The person may exercise the power to query the simple assessment at any time within—
 - (a) the period of 60 days after the date on which the notice of assessment was issued, or
 - (b) such longer period as HMRC may allow.
- (4) If the simple assessment is queried, HMRC must—
 - (a) consider the query and the matters raised by it, and
 - (b) give a final response to the query.
- (5) The person may at any time withdraw a query (which terminates HMRC’s duties under subsection (4)).
- (6) If it appears to HMRC that—
 - (a) they need time to consider the matters raised by the query, or

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

- (b) further information (whether from the person or anyone else) is required,
HMRC may postpone the simple assessment in whole or part (according to how much of it is being queried by the person).
 - (7) If the simple assessment is postponed in whole or part, HMRC must notify the person in writing—
 - (a) whether the assessment is postponed in whole or part, and
 - (b) if it is postponed in part, of the amount that remains payable under the assessment.
 - (8) While the simple assessment is postponed the person is under no obligation to pay—
 - (a) the payable amount specified in the notice of assessment (if the whole assessment is postponed), or
 - (b) the postponed part of the payable amount so specified (if the assessment is postponed in part).
 - (9) After considering the query the final response must be to—
 - (a) confirm the simple assessment,
 - (b) give the person an amended simple assessment (which supersedes the original assessment), or
 - (c) withdraw the simple assessment (without replacing it).
 - (10) HMRC must notify the person in writing of their final response.
 - (11) This section does not apply to an amended simple assessment given as a final response to the query.
 - (12) Nothing in this section affects—
 - (a) a person’s right to request an explanation from HMRC of a simple assessment or the information on which it is based, or
 - (b) HMRC’s power to give a person such explanation or information as they consider appropriate,whether as part of the querying process under this section or otherwise.
 - (13) In subsection (12) “person” means a person who has been given notice of a simple assessment”.
- 7 (1) Section 59B (payment of income tax and capital gains tax) is amended as follows.
- (2) In the heading, at end insert “: **assessments other than simple assessments**”.
- (3) In subsection (6), after “9” insert “, 28H or 28I”.
- 8 After section 59B insert—

“59BA Payment of income tax and capital gains tax: simple assessments

- (1) This section applies where a person has been given a simple assessment in relation to a year of assessment.
- (2) Subject to subsection (3), the difference between—
 - (a) the amount of income tax and capital gains tax for that year contained in the simple assessment, and

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

- (b) the aggregate of any payments on account made by the person in respect of that year (whether under section 59A or 59AA or otherwise) and any income tax which in respect of that year has been deducted at source,
is payable by that person as mentioned in subsection (4) or (5).
- (3) Nothing in subsection (2) is to be read as requiring the repayment of any income tax which any provision of the Income Tax Acts provides is not repayable.
- (4) In a case where the person is given notice of the simple assessment after the 31st October next after the year of assessment, the difference is payable at the end of the period of 3 months after the day on which that notice was given.
- (5) In any other case the difference is payable on or before the 31st January next after the end of the year of assessment.
- (6) Section 59B(7) (which explains references to income tax deducted at source) applies for the purposes of this section.
- (7) PAYE regulations may provide that, for the purpose of determining the amount of the difference mentioned in subsection (2), any necessary adjustments in respect of matters prescribed in the regulations shall be made to the amount of tax deducted at source under PAYE regulations.”
- 9 (1) Schedule 56 to FA 2009 (penalty for failure to make payments on time) is amended as follows.
- (2) In the Table in paragraph 1, after item 1 insert—
- | | | | | |
|-----|---------------------------------|----|---|--|
| “1A | Income tax or capital gains tax | or | Amount payable under section 59BA(4) or (5) of TMA 1970 | The date falling 30 days after the date specified in section 59BA(4) or (5) of TMA 1970 as the date by which the amount must be paid.” |
|-----|---------------------------------|----|---|--|
- (3) In paragraph 3(1)(a), after “items 1,” insert “1A.”