

Notices of preliminary tax. FA88 s12; FA91 s47; FA97 s146(1) and Sch9 Ptl par15 953.—(1) Where—

(a) a chargeable person defaults in the making of a payment of preliminary tax for a chargeable period,
or

(b) at any time before the due date for the payment of an amount of preliminary tax for a chargeable period the inspector considers it appropriate to do so,

the inspector may give notice in writing to the chargeable person of the amount of the preliminary tax which in the opinion of the inspector ought to be paid by the chargeable person for that chargeable period; but a notice shall not be given under this subsection to a chargeable person for a chargeable period at any time after the chargeable person has delivered a return for that chargeable period.

(2) Subject to this section, an amount of preliminary tax specified in a notice under subsection (1) shall be due and payable to the Collector-General by the chargeable person on the due date for the payment of an amount of preliminary tax for the chargeable period to which the notice relates.

(3) Subject to subsection (4), where on or before the specified return date for a chargeable period the chargeable person—

(a) makes a payment of preliminary tax for the chargeable period under section 952, or

(b) gives notice in writing to the Collector-General that the chargeable person considers that the chargeable person will not have a liability to pay tax for the chargeable period by reason of any assessment or assessments made or to be made by the inspector,

then, the amount of preliminary tax for the chargeable period specified in a notice given to the chargeable person under subsection (1), or the excess (if any) of that amount over the preliminary tax paid by the chargeable person for the chargeable period, shall not be payable.

(4) Where—

(a) the chargeable person defaults in delivering a return for a chargeable period to which a notice of preliminary tax under subsection (1) relates, and

(b) the amount of preliminary tax specified in the notice as increased under section 1084 is greater than the amount (if any) of the preliminary tax paid by the chargeable person under section 952 as increased under section 1084,

then—

(i) with effect from the specified return date for the chargeable period, subsection (3) shall not apply to that chargeable person for the chargeable period, and

(ii) the amount of preliminary tax specified in the notice, as increased under section 1084 but reduced by any preliminary tax paid by the chargeable person in the capacity to which the notice relates for the chargeable period, shall become due and payable in all respects as if subsection (3) had not been enacted.

(5) (a) Notwithstanding subsections (1) to (4) but subject to paragraph (b), an amount of preliminary tax, or any excess of that amount over the amount (if any) of the preliminary tax paid by the chargeable person for the chargeable period to which the notice relates, specified in a notice given under subsection (1) shall cease to be due and payable as on and from the date on which the inspector makes an assessment on the chargeable person for that chargeable period.

(b) Where action for the recovery of an amount of preliminary tax specified in a notice given under subsection (1) has been taken, being action by means of the institution of proceedings in any court or the issue of a certificate under section 962, this subsection shall not apply to that amount of preliminary tax.

(6) (a) Subject to subsections (1) to (5), the amount of preliminary tax specified in a notice given under subsection (1) shall be collected and paid in all respects as if it were tax charged by an assessment in respect of which no appeal was pending.

(b) Section 870 shall apply to preliminary tax specified in a notice as it applies to tax specified in an assessment.

(c) Sections 928 (2) and 967 shall apply in all respects to an amount of preliminary tax specified in a notice under subsection (1) as if it were an amount of tax specified in an assessment.

(7) Where the amount of preliminary tax paid by a chargeable person for any chargeable period exceeds that person's tax liability for that period, the excess shall be repaid and the amount repaid shall carry interest at the rate of 0.6 per cent, or such other rate (if any) prescribed by the Minister for Finance by regulations, for each month or part of a month for the period from the date or dates of the payment of the amount or amounts giving rise to the overpayment, as the case may require, to the date on which the repayment is made; but—

(a) interest shall not be payable under this subsection—

(i) if it amounts to less than £10, or

(ii) to the extent that the excess arises from relief provided for by section 438 (4),

and

(b) income tax shall not be deductible on payment of interest under this subsection and such interest shall not be reckoned in computing income for the purposes of the Tax Acts.

(8) Where for a chargeable period a notice of preliminary tax has been given to a person by the inspector and the inspector is satisfied that—

(a) the person, being a chargeable person, has discharged all that person's tax liability for the chargeable period,

(b) the person is not a chargeable person as respects that chargeable period, or

(c) it is appropriate to do so,

the inspector may reduce the amount of preliminary tax specified in the notice given to the person to such amount (including nil) as the inspector deems appropriate having regard to the circumstances of the case.

(9) Where a provision of this section has the effect of providing that any preliminary tax specified in a notice under subsection (1) ceases to become payable, the provision shall not have the effect of removing from any chargeable person an obligation imposed on that person by section 952 to pay an amount of preliminary tax.

(10) Section 929 shall, with any necessary modifications, apply to notices of preliminary tax under this section as it applies to assessments.

(11) Apart from subsection (7), this section shall not apply to capital gains tax.

(12) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.