

Appeals against assessment. ITA67 s416(1) to (7) (f), (8) and (9); F(MP) A68 s3(1), s3(2) and Sch Ptl; CTA76 s146(1); FA80 s54(1); FA83 s9(a) (i) and s37; FA95 s173(1) (a) 933.—(1) (a) A person aggrieved by any assessment to income tax or corporation tax made on that person by the inspector or such other officer as the Revenue Commissioners shall appoint in that behalf (in this section referred to as “other officer”) shall be entitled to appeal to the Appeal Commissioners on giving, within 30 days after the date of the notice of assessment, notice in writing to the inspector or other officer.

(b) Where on an application under paragraph (a) the inspector or other officer is of the opinion that the person who has given the notice of appeal is not entitled to make such an appeal, the inspector or other officer shall refuse the application and notify the person in writing accordingly, specifying the grounds for such refusal.

(c) A person who has had an application under paragraph (a) refused by the inspector or other officer shall be entitled to appeal against such refusal by notice in writing to the Appeal Commissioners within 15 days of the date of issue by the inspector or other officer of the notice of refusal.

(d) On receipt of an application under paragraph (c), the Appeal Commissioners shall request the inspector or other officer to furnish them with a copy of the notice issued to the person under paragraph (b) and, on receipt of the copy of the notice, they shall as soon as possible—

(i) refuse the application for an appeal by giving notice in writing to the applicant specifying the grounds for their refusal,

(ii) allow the application for an appeal and give notice in writing accordingly to both the applicant and the inspector or other officer, or

(iii) notify in writing both the applicant and the inspector or other officer that they have decided to arrange a hearing at such time and place specified in the notice to enable them determine whether or not to allow the application for an appeal.

(2) (a) The Appeal Commissioners shall from time to time appoint times and places for the hearing of appeals against assessments and the Clerk to the Appeal Commissioners shall give notice of such times and places to the inspector or other officer.

(b) The inspector or other officer shall give notice in writing to each person who has given notice of appeal of the time and place appointed for the hearing of that person's appeal; but—

(i) notice under this paragraph shall not be given in a case in which subsection (3) (b) applies either consequent on an agreement referred to in that subsection or consequent on a notice referred to in subsection (3) (d), and

(ii) in a case where it appears to the inspector or other officer that an appeal may be settled by agreement under subsection (3), he or she may refrain from giving notice under this paragraph or may by

notice in writing and with the agreement of the appellant withdraw a notice already given.

(c) Where, on application in writing in that behalf to the Appeal Commissioners, a person who has given notice of appeal to the inspector or other officer in accordance with subsection (1) (a) satisfies the Appeal Commissioners that the information furnished to the inspector or other officer is such that the appeal is likely to be determined on the first occasion on which it comes before them for hearing, the Appeal Commissioners may direct the inspector or other officer to give the notice in writing first mentioned in paragraph (b) and the inspector or other officer shall comply forthwith with such direction, and accordingly subparagraph (ii) of that paragraph shall not apply to that notice of appeal.

(3) (a) This subsection shall apply to any assessment in respect of which notice of appeal has been given, not being an assessment the appeal against which has been determined by the Appeal Commissioners or which has become final and conclusive under subsection (6).

(b) Where, in relation to an assessment to which this subsection applies, the inspector or other officer and the appellant come to an agreement, whether in writing or otherwise, that the assessment is to stand, is to be amended in a particular manner or is to be discharged or cancelled, the inspector or other officer shall give effect to the agreement and thereupon, if the agreement is that the assessment is to stand or is to be amended, the assessment or the amended assessment, as the case may be, shall have the same force and effect as if it were an assessment in respect of which no notice of appeal had been given.

(c) An agreement which is not in writing shall be deemed not to be an agreement for the purposes of paragraph (b) unless—

(i) the fact that an agreement was come to, and the terms agreed on, are confirmed by notice in writing given by the inspector or other officer to the appellant or by the appellant to the inspector or other officer, and

(ii) 21 days have elapsed since the giving of that notice without the person to whom it was given giving notice in writing to the person by whom it was given that the first-mentioned person desires to repudiate or withdraw from the agreement.

(d) Where an appellant desires not to proceed with the appeal against an assessment to which this subsection applies and gives notice in writing to that effect to the inspector or other officer, paragraph (b) shall apply as if the appellant and the inspector or other officer had, on the appellant's notice being received, come to an agreement in writing that the assessment should stand.

(e) References in this subsection to an agreement being come to with an appellant and the giving of notice to or by an appellant include references to an agreement being come to with, and the giving of notice to or by, a person acting on behalf of the appellant in relation to the appeal.

(4) All appeals against assessments to income tax or corporation tax shall be heard and determined by the Appeal Commissioners, and their determination on any such appeal shall be final and conclusive, unless the person assessed requires that that person's appeal shall be reheard under section 942 or unless under the Tax Acts a case is required to be stated for the opinion of the High Court.

(5) An appeal against an assessment may be heard and determined by one Appeal Commissioner, and the powers conferred on the Appeal Commissioners by this Part may be exercised by one Appeal Commissioner.

(6) (a) In default of notice of appeal by a person to whom notice of assessment has been given, the assessment made on that person shall be final and conclusive.

(b) Where a person who has given notice of appeal against an assessment does not attend before the Appeal Commissioners at the time and place appointed for the hearing of that person's appeal, the assessment made on that person shall, subject to subsection (8), have the same force and effect as if it were an assessment in respect of which no notice of appeal had been given.

(c) Where on the hearing of an appeal against an assessment—

(i) no application is or has been made to the Appeal Commissioners before or during the hearing of the appeal by or on behalf of the appellant for an adjournment of the proceedings on the appeal or such an application is or has been made and is or was refused, and

(ii) (I) a return of the appellant's income for the relevant year of assessment or, as the case may be, a return under section 884 has not been made by the appellant, or

(II) such a return has been made but—

(A) all the statements of profits and gains, schedules and other evidence relating to such return have not been furnished by or on behalf of the appellant,

(B) information requested from the appellant by the Appeal Commissioners in the hearing of the appeal has not been supplied by the appellant,

(C) the terms of a precept issued by the Appeal Commissioners under section 935 have not been complied with by the appellant, or

(D) any questions as to an assessment or assessments put by the Appeal Commissioners under section 938 have not been answered to their satisfaction,

the Appeal Commissioners shall make an order dismissing the appeal against the assessment and thereupon the assessment shall have the same force and effect as if it were an assessment in respect of which no notice of appeal had been given.

(d) An application for an adjournment of the proceedings on an appeal against an assessment, being an application made before or during the hearing of the appeal, shall not be refused before the expiration of 9 months from the earlier of—

(i) the end of the year of assessment or, as the case may be, accounting period to which the assessment appealed against relates, and

(ii) the date on which the notice of assessment was given to the appellant.

(e) Paragraph (c) shall not apply if on the hearing of the appeal the Appeal Commissioners are satisfied that sufficient information has been furnished by or on behalf of the appellant to enable them to determine the appeal at that hearing.

(7) (a) A notice of appeal not given within the time limited by subsection (1) shall be regarded as having been so given where, on an application in writing having been made to the inspector or other officer in that behalf within 12 months after the date of the notice of assessment, the inspector or other officer, being satisfied that owing to absence, sickness or other reasonable cause the applicant was prevented from giving notice of appeal within the time limited and that the application was made thereafter without unreasonable delay, notifies the applicant in writing that the application under this paragraph has been allowed.

(b) Where on an application under paragraph (a) the inspector or other officer is not so satisfied, he or she shall by notice in writing inform the applicant that the application under this paragraph has been refused.

(c) Within 15 days after the date of a notice under paragraph (b) the applicant may by notice in writing require the inspector or other officer to refer the application to the Appeal Commissioners and, in relation to any application so referred, paragraphs (a) and (b) shall apply as if for every reference in those paragraphs to the inspector or other officer there were substituted a reference to the Appeal Commissioners.

(d) Notwithstanding paragraph (a), an application made after the expiration of the time specified in that paragraph which but for that expiration would have been allowed under paragraph (a) may be allowed under that paragraph if at the time of the application—

(i) there has been made to the inspector or other officer a return of income or, as the case may be, a return under section 884, statements of profits and gains and such other information as in the opinion of the inspector or other officer would enable the appeal to be settled by agreement under subsection (3), and

(ii) the income tax or corporation tax charged by the assessment in respect of which the application is made has been paid together with any interest on that tax chargeable under section 1080.

(e) Where on an application referred to in paragraph (d) the inspector or other officer is not satisfied that the information furnished would be sufficient to enable the appeal to be settled by agreement under subsection (3) or if the tax and interest mentioned in paragraph (d) (ii) have not been paid, the inspector or other officer shall by notice in writing inform the applicant that the application has been refused.

(f) Within 15 days after the date of a notice under paragraph (e) the applicant may by notice in writing require the inspector or other officer to refer the application to the Appeal Commissioners and, in relation to an application so referred, if—

(i) the application is one which but for the expiration of the period specified in paragraph (a) would have been allowed under paragraph (c) if the application had been referred to the Appeal Commissioners under

that paragraph,

(ii) at the time the application is referred to the Appeal Commissioners the income tax or corporation tax charged by the assessment in respect of which the application is made, together with any interest on that tax chargeable under section 1080, has been paid, and

(iii) the information furnished to the inspector or other officer is such that in the opinion of the Appeal Commissioners the appeal is likely to be determined on the first occasion on which it comes before them for hearing,

the Appeal Commissioners may allow the application.

(8) In a case in which a person who has given notice of appeal does not attend before the Appeal Commissioners at the time and place appointed for the hearing of that person's appeal, subsection (6) (b) shall not apply if—

(a) at that time and place another person attends on behalf of the appellant and the Appeal Commissioners consent to hear that other person,

(b) on an application in that behalf having been made to them in writing or otherwise at or before that time, the Appeal Commissioners postpone the hearing, or

(c) on an application in writing having been made to them after that time the Appeal Commissioners, being satisfied that, owing to absence, sickness or other reasonable cause, the appellant was prevented from appearing before them at that time and place and that the application was made without unreasonable delay, direct that the appeal be treated as one the time for the hearing of which has not yet been appointed.

(9) (a) Where action for the recovery of income tax or corporation tax charged by an assessment has been taken, being action by means of the institution of proceedings in any court or the issue of a certificate under section 962, neither subsection (7) nor subsection (8) shall apply in relation to that assessment until that action has been completed.

(b) Where, in a case within paragraph (a), an application under subsection (7) (a) is allowed or, on an application under subsection (8) (c), the Appeal Commissioners direct as provided in that subsection, the applicant shall in no case be entitled to repayment of any sum paid or borne by the applicant in respect of costs of any such court proceedings or, as the case may be, of any fees or expenses charged by the county registrar or sheriff executing a certificate under section 962.