

Obligation to keep certain records. FA68 s6(1) to (5); CTA76 s147(1) and (2); FA92 s231 886.—(1) In this section—

“linking documents” means documents drawn up in the making up of accounts and showing details of the calculations linking the records to the accounts;

“records” includes accounts, books of account, documents and any other data maintained manually or by any electronic, photographic or other process, relating to—

(a) all sums of money received and expended in the course of the carrying on or exercising of a trade, profession or other activity and the matters in respect of which the receipt and expenditure take place,

(b) all sales and purchases of goods and services where the carrying on or exercising of a trade, profession or other activity involves the purchase or sale of goods or services,

(c) the assets and liabilities of the trade, profession or other activity referred to in paragraph (a) or (b), and

(d) all transactions which constitute an acquisition or disposal of an asset for capital gains tax purposes.

(2) (a) Every person who—

(i) on that person's own behalf or on behalf of any other person, carries on or exercises any trade, profession or other activity the profits or gains of which are chargeable under Schedule D,

(ii) is chargeable to tax under Schedule D or F in respect of any other source of income, or

(iii) is chargeable to capital gains tax in respect of chargeable gains,

shall keep, or cause to be kept on that person's behalf, such records as will enable true returns to be made for the purposes of income tax, corporation tax and capital gains tax of such profits or gains or chargeable gains.

(b) The records shall be kept on a continuous and consistent basis, that is, the entries in the records shall be made in a timely manner and be consistent from one year to the next.

(c) Where accounts are made up to show the profits or gains from any such trade, profession or activity, or in relation to a source of income, of any person, that person shall retain, or cause to be retained on that person's behalf, linking documents.

(d) Where any such trade, profession or other activity is carried on in partnership, the precedent partner ) shall for the purposes of this section be deemed to be the person carrying on that trade,

profession or other activity.

(3) Records required to be kept or retained by virtue of this section shall be kept—

(a) in written form in an official language of the State, or

(b) subject to section 887 (2), by means of any electronic, photographic or other process.

(4) (a) Subject to paragraph (b), linking documents and records kept in accordance with subsections (2) and (3) shall be retained by the person required to keep the records—

(i) for a period of 6 years after the completion of the transactions, acts or operations to which they relate, or

(ii) in the case of a person who fails to comply with section 951(1) requiring the preparation and delivery of a return on or before the specified return date for a year of assessment or an accounting period, as the case may be, until the expiry of a period of 6 years from the end of the year of assessment or accounting period, as the case may be, in which a return has been delivered showing the profits or gains or chargeable gains derived from those transactions, acts or operations.

(b) Paragraph (a) shall not—

(i) require the retention of linking documents and records in respect of which the inspector notifies in writing the person who is required to retain them that retention is not required, or

(ii) apply to the books and papers of a company which have been disposed of in accordance with section 305 (1) of the Companies Act, 1963 .

(5) Any person who fails to comply with subsection (2), (3) or (4) in respect of any records or linking documents in relation to a return for any year of assessment or accounting period shall be liable to a penalty of £1,200; but a penalty shall not be imposed under this subsection if it is proved that no person is chargeable to tax in respect of the profits or gains for that year of assessment or accounting period, as the case may be.