

Special provisions relating to tax on wife's income. ITA67 s196; FA80 s18 1022.—(1) Where—

(a) an assessment to income tax (in this section referred to as “the original assessment”) has been made for any year of assessment on a man, or on a man's trustee, guardian or committee, or on a man's executors or administrators,

(b) the Revenue Commissioners are of the opinion that, if an application for separate assessment under section 1023 had been in force with respect to that year of assessment, an assessment in respect of or of part of the same income would have been made on, or on the trustee, guardian or committee of, or on the executors or administrators of, a woman who is the man's wife or was his wife in that year of assessment, and

(c) the whole or part of the amount payable under the original assessment has remained unpaid at the expiration of 28 days from the time when it became due,

the Revenue Commissioners may give to that woman, or, if she is dead, to her executors or administrators, or, if an assessment referred to in paragraph (b) could in the circumstances referred to in that paragraph have been made on her trustee, guardian or committee, to her or to her trustee, guardian or committee, a notice stating—

(i) particulars of the original assessment and of the amount remaining unpaid under that assessment, and

(ii) to the best of their judgment, particulars of the assessment which would have been so made,

and requiring the person to whom the notice is given to pay the amount which would have been payable under the last-mentioned assessment if it conformed with those particulars, or the amount remaining unpaid under the original assessment, whichever is the less.

(2) The same consequences as respects—

(a) the imposition of a liability to pay, and the recovery of, the tax with or without interest,

(b) priority for the tax in bankruptcy or in the administration of the estate of a deceased person,

(c) appeals to the Appeal Commissioners, the rehearing of such appeals and the stating of cases for the opinion of the High Court, and

(d) the ultimate incidence of the liability imposed,

shall follow on the giving of a notice under subsection (1) to a woman, or to her trustee, guardian or committee, or to her executors or administrators, as would have followed on the making on her, or on her trustee, guardian or committee, or on her executors or administrators, as the case may be, of an assessment referred to in subsection (1) (b), being an assessment which—

- (i) was made on the day of the giving of the notice,
- (ii) charged the same amount of tax as is required to be paid by the notice,
- (iii) fell to be made and was made by the authority who made the original assessment, and
- (iv) was made by that authority to the best of that authority's judgment,

and the provisions of the Income Tax Acts relating to the matters specified in paragraphs (a) to (d) shall, with the necessary modifications, apply accordingly.

(3) Where a notice is given under subsection (1), tax up to the amount required to be paid by the notice shall cease to be recoverable under the original assessment and, where the tax charged by the original assessment carried interest under section 1080, such adjustment shall be made of the amount payable under that section in relation to that assessment and such repayment shall be made of any amounts previously paid under that section in relation to that assessment as are necessary to secure that the total sum, if any, paid or payable under that section in relation to that assessment is the same as it would have been if the amount which ceases to be recoverable had never been charged.

(4) Where the amount payable under a notice under subsection (1) is reduced as the result of an appeal or of a case stated for the opinion of the High Court—

(a) the Revenue Commissioners shall, if having regard to that result they are satisfied that the original assessment was excessive, cause such relief to be given by means of repayment or otherwise as appears to them to be just; but

(b) subject to any relief so given, a sum equal to the reduction in the amount payable under the notice shall again become recoverable under the original assessment.

(5) The Revenue Commissioners and the inspector or other proper officer shall have the like powers of obtaining information with a view to the giving of, and otherwise in connection with, a notice under subsection (1) as they would have had with a view to the making of, and otherwise in connection with, an assessment referred to in subsection (1)(b) if the necessary conditions had been fulfilled for the making of such an assessment.

(6) Where a woman dies who at any time before her death was a wife living with her husband, he or, if he is dead, his executors or administrators may, not later than 2 months from the date of the grant of probate or letters of administration in respect of her estate or, with the consent of her executors or administrators, at any later date, give to her executors or administrators and to the inspector a notice in writing declaring that, to the extent permitted by this section, he disclaims or they disclaim responsibility for unpaid income tax in respect of all income of hers for any year of assessment or part of a year of assessment, being a year of assessment or part of a year of assessment for which any income of hers was deemed to be his income and in respect of which he was assessed to tax under section 1017.

(7) A notice given to the inspector pursuant to subsection (6) shall be deemed not to be a valid notice

unless it specifies the names and addresses of the woman's executors or administrators.

(8) Where a notice under subsection (6) has been given to a woman's executors or administrators and to the inspector—

(a) it shall be the duty of the Revenue Commissioners and the Appeal Commissioners to exercise such powers as they may then or thereafter be entitled to exercise under subsections (1) to (5) in connection with any assessment made on or before the date when the giving of that notice is completed, being an assessment in respect of any of the income to which that notice relates, and

(b) the assessments (if any) to tax which may be made after that date shall, in all respects and in particular as respects the persons assessable and the tax payable, be the assessments which would have been made if—

(i) an application for separate assessment under section 1023 had been in force in respect of the year of assessment in question, and

(ii) all assessments previously made had been made accordingly.