

Penalty for fraudulently or negligently making incorrect returns, etc. ITA67 s501 and s502; F(MP) A68 s3(2) and Sch Ptl; FA74 s86 and Sch2 Ptl 1053.—(1) Where any person fraudulently or negligently—

(a) delivers any incorrect return or statement of a kind mentioned in any of the provisions specified in column 1 of Schedule 29,

(b) makes any incorrect return, statement or declaration in connection with any claim for any allowance, deduction or relief, or

(c) submits to the Revenue Commissioners, the Appeal Commissioners or an inspector any incorrect accounts in connection with the ascertainment of that person's liability to income tax,

that person shall, subject to section 1054, be liable to a penalty of—

(i) £100, and

(ii) the amount or, in the case of fraud, twice the amount of the difference specified in subsection (5).

(2) Where any person fraudulently or negligently furnishes, gives, produces or makes any incorrect return, information, certificate, document, record, statement, particulars, account or declaration of a kind mentioned in any of the provisions specified in column 2 or 3 of Schedule 29, that person shall, subject to section 1054, be liable to a penalty of £100 or, in the case of fraud, £250.

(3) Where any return, statement, declaration or accounts mentioned in subsection (1) was or were made or submitted by a person, neither fraudulently nor negligently, and it comes to that person's notice (or, if the person has died, to the notice of his or her personal representatives) that it was or they were incorrect, then, unless the error is remedied without unreasonable delay, the return, statement, declaration or accounts shall be treated for the purposes of this section as having been negligently made or submitted by that person.

(4) Subject to section 1060 (2), proceedings for the recovery of any penalty under subsection (1) or (2) shall not be out of time because they are commenced after the time allowed by section 1063.

(5) The difference referred to in subsection (1) (ii) shall be the difference between—

(a) the amount of income tax payable for the relevant years of assessment by the person concerned (including any amount deducted at source and not repayable), and

(b) the amount which would have been the amount so payable if the return, statement, declaration or accounts as made or submitted by that person had been correct.

(6) The relevant years of assessment for the purposes of subsection (5) shall be, in relation to

anything delivered, made or submitted in any year of assessment, that year, the next year and any preceding year of assessment, and the references in that subsection to the amount of income tax payable shall not, in relation to anything done in connection with a partnership, include any tax not chargeable in the partnership name.

(7) For the purposes of this section, any accounts submitted on behalf of a person shall be deemed to have been submitted by the person unless that person proves that they were submitted without that person's consent or knowledge.