HMRC - CTM90650 - Corporation Tax Self-Assessment (CTSA): Claims And Elections: No Fraud Or Neglect

FA98/SCH18/PARA61 provides that, when you make assessments or amendments in some circumstances a company can make, revoke or vary certain claims, elections, applications or notices.

This right is subject to the rules set out in FA98/SCH18/PARA62 to 64. The general effect is that when you bring additional tax into charge, a company has an opportunity to make claims to set against the additional tax liability arising, even though the normal time limit for doing so has passed. However, this opportunity does not apply to claims for the period into which the enquiry was conducted.

Paragraph 61 (1) identifies the relevant amendments and assessments. They are:

a consequential Revenue amendment of a company tax return other than the return enquired into, under FA98/SCH18/PARA34 (2A), (see the Enquiry Manual),

a discovery assessment made under FA98/SCH18/PARA41, (see CTM95030), and

an assessment to recover excess group relief made under FA98/SCH18/PARA76, (see CTM97070).

Under FA98/SCH18/PARA62 (1) the extended time limit for these claims is one year from the end of the “relevant accounting period”. Paragraph 61 (3) defines the “relevant accounting period” as the accounting period in which the Revenue amendment was issued or the assessment was made.

Paragraph 62 (1) also says that a company can vary or revoke a claim previously made or given (unless it is irrevocable).

When a company varies or revokes a claim, it must do so in the same manner in which the claim was made. If the consent of some other person was required for the original claim that other person must also give consent to its revocation. If that person has died, consent must be obtained from the personal representatives.

Paragraph 62 (3) describes the liabilities that can be reduced by a claim under these provisions. They are:

the increased liability resulting from the amendment or assessment (see above),

any other tax liability for the accounting period to which the amendment or assessment relates, or

any other tax liability for any subsequent accounting period which ends not later than one year from the end of the relevant accounting period.

Paragraph 62 (4) gives you the authority to make all necessary adjustments to give effect to claims, elections or revocations made under this paragraph whether by discharge or repayment of tax or the making of assessments or amendments of SAs.

Paragraph 62 (5) applies the provisions of TMA70 relating to appeals against decisions on claims to decisions on the revocation or variation of a claim under this paragraph.

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