HMRC - OT04330 - Amended Assessments And Loss Determinations

OTA75\SCH2\PARA12

Amended assessments

OTA75\SCH2\PARA12(1) enables an assessment or loss determination to be amended where it appears to the Board that the following circumstances apply:

the assessable profit or allowable loss ought to be (or to have been) larger or, as the case may be, smaller, OTA75\SCH2\PARA12(1)(a) and (b); or there ought to be (or have been) an assessment instead of a loss determination or vice versa, OTA75\SCH2\PARA12(1)(d); or

there ought to be (or have been) either an assessment or loss determination instead of a determination of no profit, no loss, OTA75\SCH2\PARA12(1)(c).

Unless an assessment is open on appeal an amendment will be made by virtue of OTA75\SCH2\PARA12. But See OT04360 in regard to appeals made against the assessment and any amendment made under Paragraph 12.

The time limit for making assessments under Paragraph 12 is four years by virtue of Paragraph 12(1A). However Paragraph 12(1B) disapplies the four year time limit if the amended assessment is made as a result of (i) a carry back of losses under OTA75\7(2) or (3), (ii) a claim under paragraph 13A (relief for overpaid tax) or (iii) a notice of variation served under OTA75\SCH5\PARA9.

OTA75\SCH2\PARA12B(1) extends the time limit for making assessments under PARA12 to 6 years if the assessment is made as a result a “relevant situation” (PARA12B(3)) brought about carelessly by the participator. A “relevant situation” includes the loss of tax or the understatement of profits. PARA12B(2) extends the time limit to 20 years if the relevant situation is brought about deliberately.

Amendment to loss determination and unrelievable field losses (UFLs)

If a determined loss of £12m in the field of loss is amended to say £13m, the UFL claim is treated as changed to £13m even though the claim remains in a different figure, and the claimant may not want the claim increased. See OT16250.

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