

# **Notes for Guidance - Taxes Consolidation Act 1997**

**Finance Act 2022 edition**

## **Part 41 Self-Assessment**

**December 2022**



The information in this document is provided as a guide only and is not professional advice, including legal advice. It should not be assumed that the guidance is comprehensive or that it provides a definitive answer in every case.

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## PART 41 SELF ASSESSMENT

### Overview

**Part 41** is the legislative basis for the Self Assessment system of taxation, covering persons liable to income tax (other than PAYE), corporation tax and capital gains tax, for tax years and accounting periods up to, and including, 2012. *As respects the tax year 2013 (and subsequent years) and accounting periods of companies that start on or after 1 January 2013, the provisions of Part 41A apply.*

In essence, the system places the onus on the taxpayer to meet his/her obligations correctly and on time without any prompting from Revenue. **Part 41** sets out the rules of the system and the obligations on the taxpayer to pay tax and make returns by specified dates.

For income tax and corporation tax purposes, a pay and file system operates with preliminary tax being paid in advance. For capital gains tax purposes, a system of payment in advance of the date for making the return operates.

In the case of income tax, this means that a taxpayer, to avoid surcharge, interest and penalties, must by the return filing date in any year have —

- met his or her preliminary tax payment obligations for that tax year; and
- filed his or her income tax return for the previous year and paid any balance of tax due for that year.

These requirements apply whether or not Revenue has made an assessment to tax on the taxpayer by the return filing date.

Similar requirements apply for corporation tax purposes in relation to the accounting periods of companies. (There are some variations in relation to the payment of preliminary tax by large and small companies).

As respects capital gains tax due, in respect of disposals made in the tax year 2009 and subsequent years, the relevant payment dates are 15 December in the year of assessment, for disposals made in the period 1 January to 30 November, and 31 January in the following year of assessment for disposals made in December of the year of assessment.

### 950 Interpretation (*Part 41*)

A number of words and phrases are defined for the purposes of **Part 41**, including: (1)

“chargeable period” is an accounting period of a company for corporation tax purposes, or a year of assessment for income tax and capital gains tax purposes.

“chargeable person”: This defines the classes of taxpayers who are within the ambit of the Self Assessment system. Included is any person who is chargeable to tax for a chargeable period whether on the person’s own account or that of another person. Persons not chargeable to tax are excluded as are those with PAYE income only. Also excluded are persons with PAYE income and small amounts of income from non-PAYE sources “coded in” against the person’s tax credits or taken into account in determining his or her standard rate cut-off point. In deciding whether to “code in” non-PAYE source income, the Revenue Commissioners may have regard to the gross amount of such income. Also excluded are persons chargeable solely to tax by virtue of a number of provisions providing for deduction at source of tax at the standard rate of income tax.

However, PAYE taxpayers who are company directors or, if jointly assessed under **section 1017** or **1031C**, whose spouses or civil partners are company directors, are chargeable

ble persons and thus within the Self Assessment system unless the company is effectively dormant or a shelf company. [In practice, this provision is modified so as to exclude certain categories of directors from the definition of chargeable person and hence from the obligation to make a return under *section 951* – see Statement of Practice SP-IT/1/93 – “Finance Act, 1992 and Directors”.]

“specified return date for the chargeable period” is the date by which the taxpayer must make a return of income, profits or gains for a chargeable period. In the case of income tax and capital gains tax, the return must be made on or before 31 October in the tax year after the tax year to which the return relates. In the case of a company, the general position is that a return must be made within 9 months of the end of the company’s accounting period, but where this period ends after day 21 of the month in which this period ends, the return must be filed by day 21 of that month. Where the return and any payment are both made by electronic means the due date is extended from day 21 of that month to day 23 of that month. Where either the return or payment is made electronically but after day 23 of that month, the due date reverts to the specified return date for the chargeable period as provided for in *subsection (1)*. (1) & (1A)

“tax” is income tax, corporation tax or capital gains tax, where appropriate.

Except where expressly provided, the provisions of this Part have primacy over any other provision of the Tax Acts or Capital Gains Tax Acts. Generally, therefore, the Self Assessment provisions are not to be overruled by any other provision. (2)

Express provision is made for situations where obligations might be imposed on a person in more than one capacity. (3)

## 951 Obligation to make a return

### Summary

This section imposes an obligation on all chargeable persons (in practice certain directors are relieved of this obligation – see Statement of Practice SP-IT/1/93) to prepare, and furnish to the Collector-General, a return for the year of assessment or accounting period, as appropriate. The return must be furnished on or before 31 October in the tax year following the tax year to which the return relates or, in the case of a company, within 9 months of the end of the company’s accounting period. A return must be made even though a chargeable person may not have been notified to do so by the inspector. Penalties apply for failure to submit returns. There is also provision for the exclusion of persons from the obligation to deliver a return.

The provisions of *section 895(6)*, which imposes an obligation on persons to include details in their tax returns of foreign bank accounts opened by them, should be noted in the context of Self Assessment. Any person opening a foreign bank account is regarded as a chargeable person for Self Assessment purposes and for the purposes of the surcharge under *section 1084* for the late submission of returns. Such a person is, therefore, obliged to make an automatic Self Assessment return under this section. This obligation applies to all persons who come within the terms of *section 895(6)*, including PAYE taxpayers.

Income tax returns must also contain details relating to the profits of the tax year preceding the year for which the return is made where the taxpayer changes his or her period of account and a review of the previous year’s profits is required in accordance with *section 65(3)*.

The provisions of *Part 47* should be consulted for details of penalties for failure to make certain returns and for fraudulently or negligently making incorrect returns, etc. *Part 47* also contains provisions imposing a surcharge for the late submissions of returns (*section 1084*), the restriction of certain corporation tax reliefs where a corporation tax return is

submitted late (*section 1085*) and for the publication of the names of tax defaulters, including persons who have been successfully prosecuted for failure, etc to make a return (*section 1086*).

### Details

Every chargeable person must make a tax return for each chargeable period to the Collector-General. The return should show the usual particulars required, including details of profits or gains from all chargeable sources, distributions, etc. The return should be made on or before 31 October in the tax year after the tax year to which the return relates, in the case of income tax or capital gains tax returns, and within 9 months of the end of the accounting period, in the case of corporation tax returns. (Where this date is after day 21 of the month in which the period ends, the return must be filed by day 21 of that month). Also to be included, in the case of income tax returns, are details relating to the profits of the tax year preceding the year for which the return is made, where the taxpayer changes his or her period of account and a review of the previous year's profits is required in accordance with *section 65(3)*. (1)

The form used to make a tax return may require information in relation to gift tax and inheritance tax. (1A)

The obligation to make a return in the case of a partnership is placed on the precedent partner. (2)

Returns submitted in accordance with *subsections (1) and (2)* are regarded as returns that were required by notice under the relevant income tax, capital gains tax or corporation tax provisions. Also, action relating to the failure to make a return may be taken in respect of the failure to make a Self Assessment return as if a notice under the relevant provisions had been given to the chargeable person on the specified return date. (3)

A chargeable person must make a return even if the person has not been notified to do so by an inspector. (4)

The preparation and delivery of Self Assessment returns may be made by either the chargeable person or by an agent of the chargeable person. Where an agent makes the return, it is treated as if it had been made by the chargeable person. There is a presumption to this effect unless the contrary is proved. (5)

An inspector may exclude a person from the obligation to make a return. Where this happens, the person is advised by notice in writing and the notice is to specify for how long the exclusion is to operate. However, exclusions do not extend to removing the obligation to make a return where a person has a liability to capital gains tax for a chargeable period. Likewise, the section does not interfere with the obligation to comply with a notice, to make a return, under the general provisions relating to returns contained in *Part 38*. Any such notice should not require a return to be made by a chargeable person any earlier than the specified return date for the chargeable period. Also, the giving of such a notice to make a return does not relieve a person of any obligation to make a Self Assessment return under this section. (6), (7) & (9)

A return of the income of both spouses or civil partners by one spouse or civil partner fulfils the Self Assessment return obligations of both spouses or civil partners in cases of separate assessment to tax under *section 1023(5)* or *1031H(5)*. (8)

A certificate signed by a Revenue officer to the effect that, having examined relevant records, it appears from those records that a person is a chargeable person and that a particular return was not received, is to be accepted as evidence that the return was not made, until the contrary is proved. (10)

The Collector-General may designate a specific address to which returns, required to be (11)(d) &

delivered to him or her under this section, are to be made. Any address so designated is to be published in Iris Oifigiúil. (e)

Penalties are provided for failure by a person to make returns and there are increased penalties where the failure is by a body of persons. (12)

### 952 Obligation to pay preliminary tax

A chargeable person is obliged to pay preliminary tax for a chargeable period except where the inspector has already made an assessment before the due date for payment. The amount to be paid is the amount which in the taxpayer's opinion would be due under an assessment for the period.

Under *section 958* preliminary tax is payable as follows —

- in the case of income tax, on or before 31 October in the tax year,
- in the case of corporation tax, different rules apply for small and large companies.

For accounting periods commencing on or after 14 October 2008, large companies must pay preliminary tax in **two** instalments. The first instalment is payable in month 6 of the accounting period and the second instalment is payable in month 11 of the accounting period. Small companies pay preliminary tax in one instalment in month 11 of the accounting period (see notes on *section 958* for full details).

Preliminary tax is not payable in the case of capital gains tax. However, a system of payment of final tax due operates in advance of the date on which the relevant return must be made.

Preliminary tax is payable without notice from the inspector and is allowable, as appropriate, as a credit against income tax, corporation tax or capital gains tax due for the tax year or accounting period.

### 953 Notices of preliminary tax

This section has been deleted – see section 17 of the Finance Act 2003.

### 954 Making of assessments

#### Summary

This section is concerned with the making of assessments. In general, formal tax assessments are to be made only when a chargeable person has delivered a return. The assessments are to be made, in the first instance, by reference to that return. Estimated assessments can be made where no return is made or where the return has been made but the inspector is not satisfied with it or has received information that it is insufficient in some way. In the case of such estimated assessments or where a chargeable person calculates (and has paid) the tax due for a chargeable period and the calculation is accepted by the inspector, the notice of assessment is required to show only the tax to be paid. The section preserves the inspector's right to make assessments under certain provisions outside of the Self Assessment system.

#### Details

##### *Timing of assessments*

An assessment cannot be made on a chargeable person for a chargeable period until after the return filing date, unless the person has made a return before that date. Also, the making of an assessment for a chargeable period is subject to the 4-year rule for the making of assessments in *section 955(2)*. [A 4-year time limit applies only in circumstances where a (1)

chargeable person delivers a return with a full and true disclosure of all material facts necessary for the making of an assessment. If the return does not contain such a full and true disclosure then no time limit applies to the making of an assessment.]

### ***Assessment based on return***

In general, an assessment on a chargeable person is made by reference to the particulars (2) contained in the person's return.

### ***Right to make an estimated assessment***

Where a person fails to make a return or the inspector is dissatisfied with a return made or (3) has received information as to its insufficiency, the inspector has the right to make an estimated assessment under *section 919(4)* or *section 922*.

### ***Option not to assess***

Where an inspector is satisfied that the full liability to tax of a chargeable person for a (4) chargeable period has been paid, the inspector can elect not to make an assessment. In such cases the inspector must notify the chargeable person, who is then treated as having discharged the liability as if an assessment had been made. The decision not to make an assessment in these circumstances does not, however, preclude the inspector from making an assessment at a future date. This is subject to the 4-year rule for the making of assessments in *section 955(2)*, which applies only in circumstances where a chargeable person delivers a return with a full and true disclosure of all material facts necessary for the making of an assessment.

### ***Details to be shown in a notice of assessment***

Where an inspector makes either an estimated assessment or an assessment based on the (5) chargeable person's own computation and this computation is accepted by the inspector, the only detail necessary to be shown in the notice of assessment is the tax to be paid.

### ***Request for assessment by chargeable person***

A chargeable person who has filed a return may request the inspector to make an assess- (6) ment and the inspector is, subject to the 4 year rule in *section 955(2)*, obliged to comply with the request.

### ***Assessments outside the Self Assessment system***

An inspector may make an assessment to capital gains tax on foot of certain transactions (7) giving rise to a liability to capital gains tax. The purpose of such assessments is to recover capital gains tax —

- where a shareholder has received a capital distribution from a company (*section 977*),
- from the recipient of a gift where the donor of the gift, being liable to capital gains tax as a result of the disposal, has not paid the tax (*section 978*), and
- where in the disposal of an asset some of the consideration is held by a purchaser in circumstances where the vendor does not have a tax clearance certificate (*section 980*).

## **955 Amendment of and time limit for assessments**

### **Summary**

The section is, in general, concerned with the amendment of assessments but sets out time limits for the making and amendment of assessments. Assessments must be *made* and *amended* within a period of 4 years of the end of the chargeable period in which a return

is delivered in circumstances where the chargeable person has made a full and true disclosure in the return of all material facts necessary for the making of an assessment. [If a return does not contain such a full and true disclosure then the assessment can be *made* at any time i.e. the 4-year time limit does not apply.] Assessments can be *amended* outside this 4 year limit in circumstances where a return does not contain a full and true disclosure of all material facts necessary for the making of an assessment and in a number of other listed circumstances (see *subsection (2)(b)*).

## Details

### *Amendment of assessment*

An inspector may at any time amend an assessment made on a chargeable person by making such alterations or additions as he or she considers necessary. This right is subject to the 4-year rule provided for in the section and subject to the time limits in *section 1048* for the assessment of personal representatives of deceased taxpayers. The right to amend assessments applies despite the payment of tax under the original assessment and despite the fact that there may have been other amendments earlier. The chargeable person is to be given notice of the amended assessment. (1)

### *Time limit for assessments*

Where a return contains a full and true disclosure of all material facts necessary for the making of an assessment, the time limit for making or amending an assessment is 4 years after the end of the tax year or accounting period in which the return is made and no further tax can become payable after the end of that 4-year period. [There is, therefore, no time limit on the *making* of an assessment in circumstances where a return does not contain such a full and true disclosure. Circumstances in which the time limit does not apply to the *amendment* of an assessment are listed in *subsection (2)(b)*.] (2)(a)

The provision goes on to provide that, in the case of repayments, a separate and distinct 4-year time limit applies. This limit is 4 years from the end of the tax year or accounting period for which the return is made (and corresponds with the 4-year time limit for making repayment claims under *section 865(4)*).

### *Non-application of time limit for amending an assessment*

An assessment may be *amended* at any time— (2)(b)

- where the return made does not contain a full and true disclosure of all material facts necessary for the making of an assessment,
- in order to give effect to the determination of an appeal against an assessment,
- to take account of a fact or matter arising from an event that happens after the making of a return,
- to correct an error in calculation (e.g. in the assessment), or
- to correct any factual mistake so as to align the assessment with the position as disclosed by the chargeable person.

The provision goes on to provide that tax may be paid or repaid as a result of the amendment notwithstanding the general time limits for making a claim for a repayment of tax set out in *section 865(4)*. The provision also provides that nothing in the section is to affect the operation of *section 804(3)*, which sets time limits for the making and amendment of assessments in relation to the estates of deceased persons.

### *Right of appeal*

A chargeable person may appeal to the Appeal Commissioners against an assessment or an amendment of an assessment on the grounds that an inspector was precluded from making the assessment or the amendment because of the 4-year rule in *subsection (2)*. If (3)



the appeal is successful, the assessment or amended assessment becomes void and, therefore, of no effect. If the appeal is unsuccessful, the assessment or amended assessment will stand good except to the extent that an amount or matter in the assessment is subject to a valid appeal on other grounds.

### ***Expression of doubt***

Where a chargeable person is in doubt as to any matter to be included in a return, the person is to be treated as having made a full and true disclosure with regard to that matter if he/she draws the inspector's attention to the matter in question by specifying the doubt held. This provision does not apply where the inspector or, on appeal, the Appeal Commissioners do not regard the doubt as genuine and consider that the person was acting with a view to the evasion or avoidance of tax. In such cases, a full and true disclosure with regard to the matter in question is deemed not to have been made by the chargeable person. (4)

### ***Additional assessments***

The provisions of *section 919(5)(b)* and *924*, which provide for the making of additional assessments where an inspector discovers that there has been an omission from a first assessment, do not apply for Self Assessment purposes. Instead the inspector is authorised to make any necessary amendments to the original assessment(s) including the addition of a new income source, so as to ensure that the assessment(s) contains the correct tax for the chargeable period. (5)

## **956 Inspector's right to make enquiries and amend assessments**

### **Summary**

An inspector, in making or amending an assessment on a chargeable person, may act on the basis of any information supplied in that person's return. However, this does not preclude an inspector from making such enquiries or taking such actions, within his/her powers, as he or she considers are necessary to satisfy himself or herself as to the accuracy of the information furnished in a return, nor does it prevent the inspector (subject to the 4-year rule in *section 955(2)*) from amending or further amending an assessment in such a way as he/she considers appropriate. There is also a 4-year time limit for an inspector to make enquiries and take actions to verify information in a return unless the inspector has reasonable grounds to believe that the return was completed in a fraudulent or negligent manner. A right of appeal against enquiries made or actions taken outside the 4-year time limit is also included.

### **Details**

#### ***Inspector's right of enquiry***

An inspector, in making or amending an assessment on a chargeable person, may act on the basis of the information supplied in that person's return. However, the inspector is not precluded from making any enquiries or taking any actions within his/her power as he/she considers are necessary to be satisfied as to the accuracy of the information furnished in the return, nor does it prevent the inspector (subject to the 4-year rule in *section 955(2)*) from amending or further amending an assessment in such a way as he/she considers appropriate. Enquiries and actions to verify information in a return can only be made outside a period of 4 years after the end of the tax year or accounting period in which the return is made where the inspector has reasonable grounds for believing that the return was completed in a fraudulent or negligent manner. (1)

### ***Chargeable person's right of appeal***

There is provision for appeal where a chargeable person is aggrieved with an inspector's enquiry or action being made outside the relevant 4 year period. The appeal must be made within 30 days of the disputed enquiry or action and is heard by the Appeal Commissioner as if it were an appeal against an assessment. All actions arising as a result of the inspector's enquiry or action are to be suspended pending the outcome of the appeal. If the appeal is successful, the inspector is precluded from further pursuit of the enquiry or action. If it is unsuccessful, the inspector may continue with the enquiry or action. (2)

## **957 Appeals**

### **Summary**

Appeals are not permitted against assessments made by reference to the chargeable person's own figures or by reference to figures agreed with the chargeable person. Where estimated assessments are made in the absence of a return, the assessment may be appealed only after the chargeable person has made a return and paid the tax due on the basis of the return. Similarly, if an assessment is made in a case where an inspector does not agree with a return, the assessment may be appealed only after the chargeable person has paid the tax due on the basis of the return. Appellants are required to state precisely what it is they are appealing against and the grounds for their appeal.

### **Details**

#### ***Cases where no appeal may be made***

No appeal may be made against — (1)

- the amount of any income, gains, allowance, etc in an assessment based on the information contained in a chargeable person's own return of income,
- the amount of any income, gains, allowance, etc agreed before the making of an assessment between the inspector and the chargeable person.

#### ***Conditions relating to appeals***

No appeal can be made against an estimated assessment made by an inspector under **section 919(4)** or **section 922** in circumstances where a chargeable person has not filed a return or has filed a return which the inspector considers unsatisfactory or where the inspector has received information that the return is insufficient. Only when a return is filed (where the return was outstanding) and the tax, based on the chargeable person's own figures in the return, has been paid is it possible to appeal against the assessment. While an entitlement to appeal does not arise until these conditions have been satisfied, the normal 30-day time limit in **section 933** on bringing an appeal applies (see the Supreme Court case of *Keogh v Criminal Assets Bureau* (2004)). Therefore, the conditions in relation to the submission of the tax return and the payment of the relevant amount of tax must be satisfied with the 30-day time limit. (2)

References in this provision to an assessment include any amendment of the assessment that is made before the entitlement to appeal arises. Also, the requirement to pay the relevant amount of tax due includes the requirement to pay any interest and costs arising in collecting that tax.

#### ***Amended assessments***

Where an assessment is amended under **section 955** (other than an amendment arising from the determination of an appeal) a chargeable person has the right to appeal against the amended assessment as if it were an original assessment. However, the grounds of ap- (3)

peal are limited to amounts changed, added or deleted by the amendment.

### ***Requirements for appeals***

An appellant must identify specifically the matter in an assessment or amended assessment which is disputed and the grounds of appeal in respect of each such matter must be specified. Failure to do this renders an appeal ineffective. New matters cannot be introduced after the appeal has been made unless an Appeal Commissioner or Circuit Court judge is satisfied that the grounds for the appeal could not reasonably have been given in the appeal notice. (4) to (6)

## **958 Date for payment of tax**

### **Summary**

#### ***Income Tax***

- Preliminary tax must be paid on or before 31 October in the tax year.
- The **balance of income tax** is payable on or before 31 October in the year after the tax year.

If the amount of preliminary tax is less than the required amount, or if it is not paid on time, the tax due for a tax year is backdated for the purposes of calculating the interest due on late payments to the date on which the preliminary tax was payable. The section also provides a facility for paying preliminary income tax by instalments.

#### ***Capital Gains Tax***

- Preliminary tax is not payable in the case of **capital gains tax**. However, a system of payment of final tax due operates in advance of the date on which the relevant return must be made.
- As respects **capital gains tax due** relating to disposals made in the tax year 2009 and subsequent years, the relevant payment dates on which tax is due are 15 December in the year of assessment for disposals made in the period 1 January to 30 November, and 31 January in the following year of assessment for disposals made in December of the year of assessment.

#### ***Corporation Tax***

##### ***Companies Preliminary Tax - Finance (No. 2) Act 2008 changes***

For accounting periods commencing on or after 14 October 2008, **large** companies must pay preliminary tax in **two** instalments. The first instalment is payable in month 6 of the accounting period e.g. 21 June for a company with calendar year accounts, and the amount payable is 50% of the corporation tax liability in the preceding accounting period or 45% of the corporation tax liability for the current accounting period. The second instalment is payable in month 11 of the accounting period e.g. 21 November for a company with calendar year accounts, and the amount payable must bring the total preliminary tax paid to 90% of the corporation tax liability for the current accounting period. A large company is a company whose corporation tax liability in the preceding accounting period is more than €200,000. Small companies continue to pay preliminary tax in one instalment - 31 days before the end of the accounting period, but where this date is later than day 21 of a month the payment must be made by day 21 of that month.

There is an extension of two days [from day 21 to day 23] for those companies which file their returns and payments electronically.

#### ***Balance of corporation tax***

The **balance of corporation tax** is due and payable by the latest day on which the tax re-

turn for the period must be filed i.e. by day 21 of month 9 after the end of the accounting period [or day 23 for companies making payments and filing returns electronically].

### ***Companies capital gains arising after the preliminary tax payment date***

Special rules apply in the case of (i) a company's chargeable gains on disposals of assets after the preliminary tax payment date or, in the case of a large company, after the due date for payment of the initial or final instalment of preliminary tax and (ii) where a relevant company, as defined, has unrealised gains on financial instruments and these gains arise from the movements in the fair value of those instruments in the last two months of an accounting year or in the case of an initial instalment payable by a large company after the 5<sup>th</sup> month. These rules provide for a top-up payment of preliminary tax to bring the total paid to the required level.

### **Details**

#### ***Definitions***

“corresponding corporation tax for the preceding chargeable period” is a measure of the corporation tax payable for the previous period. This is relevant in the case of (i) small companies who may opt to pay preliminary tax of an amount equal to 100% of the tax liability of the previous accounting period instead of 90% of the tax liability of the current accounting period and (ii) large companies which opt to pay their initial instalment of preliminary tax by reference to 50% of the tax liability of the preceding year. In the normal course where one 12-month accounting period follows another 12-month accounting period this will be straightforward. However, it is necessary to cater also for a situation where either or both of those periods are less than 12 months in duration. In such a case the corporation tax payable for the previous accounting period is to be adjusted by reference to the number of days in each accounting period so that it corresponds to the current accounting period. This is achieved by the formula  $T \times C/P$ . (1)

“corresponding income tax for the preceding chargeable period” is defined to ensure that income tax payable under **section 239** or **241** is included in preliminary corporation tax payments where the payment is based on the tax liability of the preceding year.

“pre-preceding chargeable period” is the chargeable period before the preceding chargeable period. This is only relevant in relation to the provisions which allow for payment of preliminary tax by way of direct debits.

“relevant accounting period” is an accounting period of a company other than a small company which commences on or after 14 October 2008 but does not include an accounting period where, by reason of the length or timing of the accounting period, the second instalment of preliminary tax would fall due on or before the first instalment.

“relevant accounting standards” have the meaning assigned by **Schedule 17A**. The standards are defined as including international accounting standards (or IFRS) or Irish Accounting Standards (Irish GAAP).

“relevant company” is a company which applies IFRS or Irish GAAP in computing Schedule D Case I or II gains or losses from financial instruments.

“relevant limit” is used to determine whether a company is a small company. For a 12-month accounting period the limit is €200,000; for an accounting period which is less than 12 months the limit is proportionately reduced. A company is a “small company” if the corresponding corporation tax for the previous accounting period is not greater than the €200,000 limit.

### ***Capital Gains Tax definitions***

The definitions of “tax payable for the initial period” and “tax payable for the later period” identify the two separate payments to be made by a person in respect of liability to capital gains tax for a year.

For the years of assessment 2009 and later years, the first amount of capital gains tax known as “tax payable for the initial period” is to be paid by 15 December in the year of assessment in respect of chargeable gains arising in the period from 1 January to 30 November. [The definition by treating the period as if it were a year of assessment and requiring the tax due to be calculated as if the period were a year of assessment means that all reliefs due to the person for a year of assessment will be taken into account in determining this amount. For example, losses brought forward from a previous year of assessment may be set off against gains arising in the initial period. Likewise, the annual exempt amount would be taken into account in determining the tax due for the initial period.]

The second amount of capital gains tax known as “tax payable for the later period” must be paid by 31 January in the following year of assessment in respect of gains arising in the year of assessment in the period 1 December to 31 December. This amount is the tax payable for the full year of assessment less the tax paid for the initial period. The sum of the tax paid in the initial period and the later period should equal the full capital gains tax liability for the year.

### ***Due date for preliminary income tax***

Preliminary tax is due as respects income tax on or before 31 October in the tax year. This rule however is modified in the case of preliminary tax paid by way of direct debit (see notes on ***subsection (10)***). (2)

### ***Due dates for preliminary corporation tax***

*Rule for accounting periods ending in the years 2002 to 2005:*

Preliminary tax is payable in 2 instalments as follows: (2A)

- the first instalment is due 31 days before the end of the accounting period (but where this day would be later than day 21 of a month then payment must be made by day 21 of that month);
- the second instalment is due within 6 months after the end of the accounting period (but where this day would be later than day 21 of a month then payment must be made by day 21 of that month).

However, where an accounting period is less than one month and one day in length, the first instalment will be due at the end of the accounting period (but where this day would be later than day 21 of a month then payment must be made by day 21 of that month).

A first instalment is not payable before 28 June 2002.

*Rule for accounting periods ending in 2006 and subsequent years other than those under subsection (2BA):*

Preliminary corporation tax is due 31 days before the end of the accounting period (but where this day would be later than day 21 of a month then payment must be made by day 21 of that month). (2B)

Where the accounting period is less than one month and one day in length, the preliminary tax is due at the end of the accounting period (but where this day would be later than day 21 of a month then payment must be made by day 21 of that month).

There is a separate rule for start-up companies: If a new company has a corporation tax liability in its start-up year not exceeding €200,000\* then it does not have to pay any preliminary tax in that first year. €200,000 is the same figure used to determine if a company is a small company (i.e. the “relevant limit”).

\* €150,000 as respects accounting periods in respect of which preliminary tax is payable before 5 December 2007.

*Rule for accounting periods of large companies commencing on or after 14 October 2008:*

This subsection provides the due dates for payment of preliminary corporation tax in 2 instalments [‘initial instalment’ and ‘final instalment’] by large companies i.e. companies with a tax liability of more than €200,000 in their preceding accounting period. The initial instalment is due within 6 months of the commencement of the accounting period and not later than day 21 of that month. The final instalment is due 31 days before the end of the accounting period and not later than day 21 of the relevant month. (2BA)

This subsection provides for an extension of two days [from day 21 to day 23] for those companies which file their returns and payments electronically. (2BB)

References throughout this Part to the due date for the payment of the first instalment or the second instalment of preliminary tax or of the due date for the payment of an amount of preliminary tax is to be construed in accordance with the rules described above and applicable up to the year 2006 or those applicable for 2006 and subsequent years, as appropriate. (2C)

*Date for payment of balance of tax*

This subsection sets out the date for payment of the balance of tax for the chargeable period and is subject to *subsections (3A), (4), (4B), (4C), (4D), (4E), (4F) and (4G)* which are summarised below. (3)

The due date for the payment of the balance of tax is not absolutely dependent on an assessment having been first made on the taxpayer. Instead a number of rules apply to give the date for the payment of tax depending on the circumstances in any particular case. These rules are subject to the rules requiring a particular amount of preliminary tax to be paid by the preliminary tax due date. Where the appropriate amount of preliminary tax is not paid by the preliminary tax due date, the date for payment of a person’s tax liability will vary – see note below.

*Assessment made before date for payment of preliminary tax*

Where an assessment is made on a chargeable person before the due date for the payment of preliminary tax, the tax due for a chargeable period is due on or before the due date for the payment of preliminary tax, that is, on or before 31 October in the tax year for which the tax is due in the case of income tax and, in the case of corporation tax due in respect of accounting periods ending in the period 2002 to 2006, the period on or before 6 months after the end of the accounting period. In the case of corporation tax due in respect of accounting periods ending in 2006 and subsequent years this provision is redundant as an assessment would not be made before the due date for the payment of preliminary tax which in such cases will be 31 days before the end of the accounting period. (3)(a)(i)

*Assessment made before 31 October in the following tax year*

Where an assessment to income tax or capital gains tax is made for a chargeable period before the specified return date for the tax year (that is, where the assessment for a tax year is made before 31 October in the year following the year for which the tax is payable by the chargeable person), the tax is due and payable on or before 31 October in the year (3)(a)(ii)

following the year for which the tax is due. This provision does not apply to corporation tax or capital gains tax.

***Where no assessment made***

***Income Tax:*** Where no assessment to income tax has been made on a chargeable person for a tax year, the tax for the chargeable period is due on or before 31 October in the year following the tax year for which the tax is due. This provision does not apply to corporation tax. (3)(a)(iii)

***Capital Gains Tax:*** As respects the tax years 2003 to 2008 inclusive, where no assessment to capital gains tax was made on a chargeable person for a tax year, the tax payable for the initial period had to be paid by 31 October in the tax year and the tax payable for the later period had to be paid by 31 January in the following tax year. Where the initial period falls in the tax year 2009 or any subsequent year of assessment, the tax payable for the initial period must be paid by 15 December in that year of assessment. The date for the payment of tax for the later period (month of December) remains at 31 January in the following year. (3)(a)(v)

Where as respects the tax year 2002 no assessment to capital gains tax was made on a chargeable person for a tax year, the tax for the chargeable period was due on or before 31 October in the year following the tax year for which the tax was due. (3)(a)(iv)

***Corporation Tax:*** The tax due for an accounting period of a company is due and payable not later than the latest day by which the return must be filed (where this date is later than day 21 of a month, the tax must be paid by day 21 of that month). (3)(a)(vi)

***Where assessment made after 31 October***

As assessments to tax are generally made even where tax is paid under the above rules in advance of the making of the assessment, the various payment dates as set out above are confirmed as the due date for the payment of tax once the tax due is specified in the assessment. (3)(b)-(d)

***Innocent error in calculating tax***

A margin of error is allowed where income tax or, as respects the year 2002, capital gains tax is paid by a taxpayer for a chargeable period without an assessment having been first made. When this happens and the person has made an otherwise correct tax return for the year on or before 31 October and the amount paid by the person on or before that date is less than the correct amount of tax which the person should have paid on or before that date by a margin which is within 5% of the person's actual tax liability for the year, then the additional tax arising is due and payable on or before 31 December in the year following the year of assessment. This 5% margin is subject to a maximum error of €3,175. (3A)

Where 5% of the person's actual tax liability for the year is less than €635, then an error of up to that amount may be made and the relief provided by this provision is available. The effect of this relief is that no interest or penalties will be due in respect of the tax shortfall.

***Due date for payment of income tax where preliminary tax is unpaid, late or insufficient***

The due dates for the payment of tax just outlined are conditional on compliance with specific rules for the payment of preliminary tax. Where these rules are not observed, the due date for payment of tax is backdated and becomes due from the date for payment of preliminary tax. This is the case where preliminary tax is not paid or is paid late. It is also the case where a certain minimum amount of preliminary tax is not paid. (4)

The general position is that, for income tax, preliminary tax must amount to at least 90%

of the tax payable for the chargeable period. There are alternatives to the 90% rule. A chargeable person is regarded as complying with his/her preliminary income tax obligations if, instead of the 90% of the current year requirement, the person's preliminary tax payment amounts to 100% of the previous tax year's liability or, in the case of a taxpayer on direct debit, 105% of the pre-preceding tax year's liability.

### ***The “short” tax year***

The rule which allows taxpayers to fulfil their preliminary tax payment obligation by paying 100% of the tax liability of the previous year is modified for the short tax “year” 2001 so that the obligation is for the person to pay 74% of the previous year's tax liability. For the tax year 2002, the rule is modified so that the obligation is for the person to pay 135% of the previous year's tax liability.

These modifications are necessary because a person's tax liability for the short tax “year” 2001 arises on 74% of a person's profits earned in a 12-month period and on other income received in the short tax “year”. To maintain the proper balance between the amount of preliminary tax paid for the short tax “year” and the following normal tax year it is necessary to adjust the preliminary tax rule based on 100% of the previous year's liability downwards for the tax year 2001 as it is calculated on the basis of a 12 months tax year and upwards for the tax year 2002 as it is calculated on the basis of the short tax “year”.

Likewise, the preliminary tax rules for taxpayers who pay their preliminary tax by direct debit is adjusted. In these cases meeting the preliminary tax payment obligation is based on paying 105% of the tax liability of the year before the preceding tax year. The adjustments required in this case are: for the short tax “year” 2001, 78% of the income tax payable by the person for the tax year 1999–2001, and for the tax year 2003, 142% of the tax payable by the person for the short tax “year” 2001.

### ***Innocent error in calculating preliminary tax under 100% rule***

A margin of error is provided where a person's preliminary income tax payment for a tax year is measured against his/her tax liability for the previous tax year (i.e. the “100%” rule). (4A)

In assessing whether a person has met his or her preliminary tax payment obligations under this rule any additional payment of income tax made in accordance with **subsection (3A)** is not taken into account in deciding whether or not the taxpayer complied with the “100%” rule for the payment of preliminary tax. This treatment applies provided that the taxpayer pays an additional amount of preliminary tax for the tax year on or before 31 December in the year. This additional payment must be of such an amount as would mean that the total amount of preliminary tax paid by the person is not less than 100% of the person's tax liability for the preceding year.

### ***Corporation tax: Failure to meet preliminary tax payment obligations***

*Rule for accounting periods ending in the years 2002 to 2005:*

In the normal course, any balance of tax due by a company is payable on or before the latest date for the filing of the return (or where this date is after day 21 of a month by the 21st of the month). However, where the preliminary tax rules are not fully observed by a company, the tax for the accounting period is regarded as due in 2 instalments, one involving a payment of 20% (or 40%, 60% or 80% depending on the year involved) of the tax for the accounting period due on the payment date for the first preliminary tax instalment, and the other involving the balance of tax payable on the payment date for the second instalment of preliminary tax, namely, 6 months after the end of the accounting period (or where this date is after day 21 of a month by the 21st of the month), and interest on tax due runs from those dates. (4B)



The circumstances in which a company is regarded as failing to meet its preliminary tax requirements are: **(4B)(a)**

- Where the company defaults in paying the first or second instalment.
- Where a small company fails to pay the appropriate amount of the first instalment of preliminary tax (i.e. for accounting periods ending in 2002, 20% of preliminary tax; for those ending in 2003, 40% of preliminary tax; for those ending in 2004, 60% of preliminary tax; and for those ending in 2005, 80% of preliminary tax). For this purpose, preliminary tax is either 90% of the liability of the current accounting period or 100% of the liability of the previous accounting period.
- Where a company which is not a small company fails to pay the appropriate amount of the first instalment of preliminary tax (i.e. for accounting periods ending in 2002, 20% of preliminary tax; for those ending in 2003, 40% of preliminary tax; for those ending in 2004, 60% of preliminary tax; and for those ending in 2005, 80% of preliminary tax). Such a company does not have the option to pay by reference to 100% of the tax liability for the previous accounting period – instead its preliminary tax has to be 90% of the final liability for the accounting period.
- Where the aggregate of the first and second instalments is less than 90% of the final liability for the accounting period.
- Where the first or second instalment is paid late.

Where a company fails to meet its preliminary tax obligations for an accounting period, the corporation tax for the accounting period is payable by way of two instalments in accordance with *subsections (4B)(c) and (4B)(d)*. The first instalment of tax is due on the payment date for the first instalment of preliminary tax, namely, 31 days before the end of the accounting period (but where this date is after day 21 of a month the payment must be made by the 21st of the month). The second instalment of tax is due on the payment date for the second instalment of preliminary tax, namely, 6 months after the end of the accounting period (but where this date is after day 21 of a month the payment must be by the 21st of the month). **(4B)(b)**

#### ***Amount of first instalment of corporation tax***

The amount of the first instalment is as follows— **(4B)(c)**

- For an accounting period ending in 2002, 20% of the final tax liability for the accounting period.
- For an accounting period ending in 2003, 40% of the final tax liability for the accounting period.
- For an accounting period ending in 2004, 60% of the final tax liability for the accounting period.
- For an accounting period ending in 2005, 80% of the final tax liability for the accounting period.

#### ***Amount of second instalment of corporation tax***

The amount of the second instalment is the balance of the person's tax liability for the accounting period after taking into account the amount paid in the first instalment. **(4B)(d)**

N.B. These rules are modified in the case of a company which has chargeable gains on certain disposals - see *subsection (4D)* below.

*Rule for accounting periods ending in 2006 and subsequent years other than those in subsection (4CA):*

Where a company defaults in its preliminary tax payments the tax payable for the accounting period is regarded as payable on the date on which preliminary tax is payable (generally, 31 days before the end of the accounting period but where this date is after day **(4C)**

21 of a month by the 21st of the month).

A company is regarded as defaulting in its preliminary tax payment obligations where—

- it defaults in paying preliminary tax,
- sufficient preliminary tax is not paid, (that is, where a small company fails to pay an amount equal to the lesser of 90% of the final liability of the accounting period and 100% of the liability of the previous accounting period, or where a company which is not a small company or a start-up company fails to pay an amount equal to 90% of the final liability of the accounting period), or
- preliminary tax is paid late.

**Subsection (4C)(b)(i)** ensures that income tax payable on relevant payments under **section 239** or **section 241** is taken into account in the calculation of the company's preliminary tax.

*Rules for accounting periods of large companies commencing on or after 14th October 2008:*

This subsection sets out the rules for default, underpayment or late payment of preliminary tax for relevant accounting periods commencing on or after 14 October 2008 for large companies. Underpayment of the initial instalment arises where payment is less than the lower of 45% of tax payable in the current accounting period or 50% of tax payable in the preceding accounting period. Underpayment of the final instalment arises where payment is less than 90% of tax payable for the current accounting period. **(4CA)**

#### **Top-up Payments**

For accounting periods ending in the years 2002 to 2005 the rules set out above in relation to the failure to meet preliminary tax requirements are modified in the case of a company, which has chargeable gains on disposals in the accounting period where these gains arise after the due date for payment of the first instalment of preliminary tax or has unrealised gains on financial instruments where these gains arise from movements in the fair value of those instruments in the last two months of an accounting year. In such a case, a company is regarded as meeting its preliminary tax obligations where— **(4D)**

- the first instalment of preliminary tax is less than it should be under the normal rules,
- the first instalment of preliminary tax paid is not less than what would have been payable if, capital gains on disposals in the accounting period (but after the payment date for the first instalment), or unrealised gains on financial instruments arising from movements in the fair value of those instruments in last two months of an accounting year, were ignored,
- a top-up payment is made within a month after the end of the accounting period to bring total preliminary tax paid for the accounting period up to the amount of preliminary tax which would have been payable as a first instalment if the capital gains were not ignored, and
- the total of the first and second instalments of preliminary tax is not less than 90% of the tax payable for the accounting period.

For accounting periods ending in 2006 and subsequent years other than those in **subsections (4F)** and **(4G)** the rules set out above in relation to the failure to meet preliminary tax requirements are modified in the case of a company, which has chargeable gains on disposals in the accounting period, where these gains arise after the due date for payment of the first instalment of preliminary tax, or where a relevant company, as defined, has unrealised gains on financial instruments arising from movements in the fair value of those instruments in the last two months of an accounting year. **(4E)**

In such a case, a company is regarded as meeting its preliminary tax payment obligations

where—

- the preliminary tax paid is less than 90% of the final tax liability for the accounting period,
- the preliminary tax paid is not less than 90% of what the final liability for the accounting period would be if capital gains on disposals in the accounting period (but after the payment date for preliminary tax), or unrealised gains on financial instruments arising from movements in the fair value of those instruments in last two months of an accounting year, were ignored, and
- a top-up payment is made within a month after the end of the accounting period to bring total preliminary tax paid for the accounting period up to the amount of preliminary tax which would have been payable if the capital gains were not ignored.

For accounting periods of large companies commencing on or after 14th October 2008 (4F) this subsection provides for a situation where the **initial instalment of preliminary tax paid by a large company is insufficient** because of a chargeable gain arising in the period between the payment of the initial instalment and final instalment or because unrealised gains or losses arise on financial instruments from movements in the fair value of those instruments in the period between the 6<sup>th</sup> and 10<sup>th</sup> month of the accounting period. The subsection provides that, as long as the aggregate of the initial instalment and the final instalment of preliminary tax is not less than 90% of the tax payable by the chargeable person for the chargeable period excluding (a) any chargeable gains arising between the final instalment and end of the accounting period or (b) any unrealised gains or losses on financial instruments that arise from movements in the fair value of those instruments in the 11<sup>th</sup> or 12<sup>th</sup> month of the accounting period, then the preliminary tax paid by the chargeable person shall be deemed to be paid on time.

For accounting periods of a large company commencing on or after 14th October 2008 (4G) this subsection provides that, in the event of the **aggregate of preliminary tax payments being less than 90% of tax payable** for the period because of (a) chargeable gains arising between the final instalment and end of the accounting period or (b) unrealised gains or losses on financial instruments that arise from movements in the fair value of those instruments in the last 2 months of the accounting period, the chargeable person may satisfy preliminary tax requirements by the making of a top-up amount within one month after the end of the accounting period to bring the amount of preliminary tax up to 90% of the tax liability for that accounting period.

#### ***Preliminary tax based on 100% and 105% rules***

For preliminary tax purposes, the liability position of a person who was not a chargeable person for income tax purposes in a preceding or pre-preceding year is taken as nil except in the case of a person who is not a chargeable person by virtue of their spouse or civil partner being jointly assessed for the couple's tax. In such cases preliminary tax is based on the joint liability to tax of both spouses or civil partners in the preceding or pre-preceding year. Also, where preliminary tax is based on 100% or 105%, respectively, of the preceding or pre-preceding year's liability, the liability in question is to be that before account is taken of BES or film relief. (5)-(7)

#### ***Additional tax due after amendment of assessment***

Any additional tax due after an amendment of an assessment is treated as due and payable (8) on the date the tax charged in the original assessment was due and payable. However, if the amendment is made to an assessment which assessment was made following the delivery of a return which contained a full and true disclosure of all material facts necessary for the making or previous amendment of the assessment, the due date is the day following the making of the amendment to the assessment.

***Additional liability arising on a change of accounting date***

Where additional tax becomes due for a tax year as a result of a change in accounting date (in accordance with the provisions of **section 65(3)** which allows Revenue to review the tax liability of a preceding tax year where a change of accounting period occurs), the tax due must be paid by 31 October in the tax year following the tax year in respect of which the additional tax is due even though the assessment for that year may not have been amended by that date. (8A)

A chargeable person is now required to do the review of the preceding year on a self assessment basis and to pay any additional tax due for that preceding year at the same time as he or she is paying the tax due for the year in respect of which he or she is making a return.

If this review results in an additional tax payment the payment is disregarded for the purposes of calculating whether or not the person satisfied the preliminary tax payments obligations.

Finally, where Revenue amend the assessment for the previous year in accordance with **section 65(3)** the due date for the payment of the additional tax specified in the assessment is deemed to be the date by which the taxpayer is required to pay his or her tax for the current year.

***Due date for tax payable following an appeal***

Any balance of tax found to be due on the determination of an appeal against an assessment is payable on the same day as the original tax in the assessment was payable. This stipulation is relaxed where at least 90% of the full tax due in the assessment had been paid before the appeal was made and the preliminary tax and return filing requirement had been satisfied. In such circumstances the balance of tax is treated as being due and payable not later than one month from the date of the determination of the appeal. (9)

***Direct debit payment***

The Collector-General is authorised to accept preliminary tax payments by direct debit where the taxpayer complies with the conditions applicable. These conditions are to be such as to ensure that the person pays preliminary tax in accordance with requirements. In such cases preliminary tax may be based on 105% of the pre-preceding year's liability (for the short tax "year" 2001 the amount required under this option is 78% of the pre-preceding year's liability and for the tax year 2003 the amount required is 142% of the pre-preceding year's liability). (10)

The direct debit preliminary tax option is only available for income tax. Where a person opts for the facility he or she is required to pay the preliminary tax due by way of a minimum of 3 monthly instalments in the first year the person authorises the Collector-General to debit his or her account. In following years the preliminary tax payment may be made by way of 8 or more equal monthly instalments. The account is debited on day 9 of each month.

The Collector-General is given authority in genuine cases to vary the number of equal monthly instalments in a year or the amount to be paid in any particular instalments made in a year where it is appropriate to do so in order to facilitate the payment of preliminary tax.

If a person fails to comply with the requirements he or she is not regarded as having met their preliminary tax obligations.

A person who fully complies with his or her preliminary tax payment obligations under the direct debit arrangements is treated as having met their preliminary tax obligations for

the period.

***Notional offsetting of preliminary tax payments for interest purposes***

Following the introduction of the Finance (No. 2) Act 2008, revised arrangements were introduced for the notional offset of preliminary tax payments for interest purposes in the case of one member of a group underpaying preliminary tax in the accounting period and another member of the group overpaying preliminary tax for the same period. The revised arrangements cater for the payment of preliminary tax in two instalments by large companies. Four new definitions viz. initial balance, final balance, relevant initial balance and relevant final balance are inserted to take account of the fact that large companies will now pay preliminary tax in 2 instalments. A company, which overpays its initial instalment or aggregate amount of preliminary tax, may surrender its excess to offset an underpayment of the initial instalment or aggregate amount of preliminary tax by another company (or companies) within the same group, thereby reducing or eliminating any interest charge. (11)

The following definitions are used in the subsection: (11)(a)

- “initial balance”,
- “final balance”,
- “relevant initial balance”, and
- “relevant final balance”.

The subsection applies where: (11)(b)

- (i) a surrendering company pays an amount in excess of the required amount of its initial instalment of preliminary tax or more than 90% preliminary tax for a chargeable period,
- (ii) a claimant company in the same group pays less than the required amount of its initial instalment of preliminary tax or less than 90% preliminary tax for a chargeable period,
- (iii) the two chargeable periods are the same, and
- (iv) the claimant is not a small company.

Where the subsection has effect, both companies give notice to the Collector-General’s Office. (11)(c)

When a notice has been given under **subsection (11)(c)**- (11)(d)

- (i) the relevant balance is deemed to be an additional amount of preliminary tax paid, in time, by the claimant company for the relevant period, for the purposes of calculating the 90%. However, this only applies where any actual balance of tax payable by the claimant company is paid when it falls due, and
- (ii) the surrendering company can’t “give” the relevant balance to any other company for the purpose of trying to reach the 90%.

Payments by a claimant to a surrendering company in consideration for the notional surrender of preliminary tax payments are ignored for corporation tax purposes. (11)(e)

Only liability in relation to interest, and not liability to pay corporation tax, is covered by the subsection. (11)(f)

Two companies are in a group for the purposes of **subsection (11)** if they would be in a group for the purposes of **section 411** (i.e. 75% relationship). (11)(g)

**959 Miscellaneous (Part 41)**

## Summary

The section contains a number of supplementary provisions required for the purposes of Self Assessment.

## Details

### *Time limits and amended assessments*

Provisions under **section 1048** relating to the making of additional assessments on personal representatives of deceased individuals are applied to amended assessments under Self Assessment (**section 955**). This means that the inspector in making an amended assessment, for instance, on the personal representatives of a deceased person is bound by the time limits which apply in such cases. (1)

### *Issue of notices*

Where a notice of assessment or notice of an amendment of an assessment bearing the name of the inspector is issued, by electronic or any other means, by the inspector (or on behalf of the inspector by another Revenue official), the relevant assessment is deemed to have been made by the inspector to the best of his/her judgement. The provision reflects the fact that the issue of such notices is computerised. (2)

### *Final and conclusive assessments*

An assessment which is otherwise final and conclusive is not affected by the fact that the inspector has amended it or may amend it under **section 955**. Also, where the inspector elects under **section 954(4)** not to issue an assessment there is provision deeming a final and conclusive assessment to have been made on the date on which notice of the inspector's decision is given. This ensures that certain provisions, which are affected by the date on which an assessment becomes final and conclusive, can continue to operate even though an inspector may amend, or elect not to make, an assessment. (3)

### *Obligation to file a return*

There is an obligation under **section 876** on those persons who are chargeable to income tax, and who have not been issued with the appropriate forms in which to make a return of income, to give notice of their chargeability to the inspector. The giving of such a notice of chargeability does not relieve a person of their obligation to file a Self Assessment return. (4)

### *Capital gains tax*

The due dates for the payment of tax under the Self Assessment system do not apply in certain instances involving a charge to capital gains tax. This is the case where there is liability to capital gains tax on foot of gains to the beneficiaries of a non-resident trust or where payment of capital gains tax is by way of instalments in circumstances where the consideration for the disposal of an asset is received in instalments. (5)

The references in this Part to income tax provisions are to be construed as references to those provisions as applied for capital gains tax purposes where necessary. (6)

### *Non-application of section 926*

**Section 926**, which provides for the estimate of certain "actual" amounts of income and deductions, is not to apply for Self Assessment purposes. (7)