

Power to assess

43. (1) Where any taxable person—

- (a) fails to apply for registration under section 21;
- (b) fails to furnish a return under section 41; or
- (c) furnishes a return which to the Director General appears incomplete or incorrect,

the Director General may assess to the best of his judgement the amount of tax **and the penalty under subsection 41(8), if any**, due and payable from the taxable person and shall forthwith notify him of the assessment in writing.

(Insert s50 FA 2015 w.e.f. 1/1/2016)

(2) Where an amount has been paid to any person as being refund of tax under subsection 38(3) and Part VII which ought not to have been paid to him, the Director General may assess the amount as being tax due and payable from him and shall forthwith notify him of the assessment in writing.

(3) The assessment under subsections (1) and (2) shall not be made more than six years from the date on which the tax was due and payable or from the date on which the refund was made, as the case may be, except where in the opinion of the Director General any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to tax, the Director General may, for the purposes of making good any loss of tax or payment of refunds of tax attributable to the fraud or wilful default, make an assessment at any time.

(4) Where any taxable person has been supplied with or has obtained control of any goods or has imported any goods in the course or furtherance of a business, the Director General may require him to account for the goods.

(5) Where the taxable person fails to account for the goods under subsection (4) by reason that—

- (a) the goods have been supplied by him;
- (b) the goods are available to be supplied by him;
- (c) the goods have been exported or removed by way of supply; or
- (d) the goods have been lost or destroyed,

the Director General may assess to the best of his judgement the amount of tax that would have been chargeable in respect of the supply of the goods if they had been supplied by him and shall forthwith notify the taxable person of the assessment in writing.

(6) Where—

- (a) the Director General has made an assessment under subsection (1) in respect of paragraph (1)(a) or (b);
- (b) the tax assessed has been paid but no return has been furnished for the period to which the assessment relates; and
- (c) the person fails to furnish a return for any subsequent taxable period,

the Director General may, as he deems fit, assess an amount of tax greater than that which he otherwise would have considered to be appropriate.

(7) Where it appears to the Director General that the amount which ought to have been assessed in an assessment under this section exceeds the amount which was so assessed, he may—

- (a) under the same provision as that assessment was made; and
- (b) within the period during which that assessment could have been made,

make a supplementary assessment of the amount of the excess and shall forthwith notify the person in writing accordingly.

(8) Where an amount has been assessed and notified to any person under subsection (1), (2), (5) or (7), it shall be deemed to be an amount of tax due and payable from him and may be recovered accordingly and the amount of tax **and penalty, if any**, shall be paid by the person, whether or not that person appeals against the assessment, to the Director General unless or except to the extent that the assessment has been withdrawn or reduced.

(Insert s50 FA 2015 w.e.f. 1/1/2016)

(9) The Director General may make any alteration in or addition to the assessment made under this section as he deems fit to ensure the correctness thereof and shall forthwith notify the person in writing.