

*Status: Point in time view as at 08/04/2010.*

*Changes to legislation: Finance Act 2008, SCHEDULE 37 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 37

Section 115

#### RECORD-KEEPING

##### *TMA 1970*

- 1 TMA 1970 is amended as follows.
- 2 (1) Section 12B (records to be kept for purposes of income tax and capital gains tax returns) is amended as follows.
  - (2) In subsection (2)—
    - (a) in paragraph (b), for “in any other case” substitute “ otherwise ”, and
    - (b) after that paragraph insert— “ or (in either case) such earlier day as may be specified in writing by the Commissioners for Her Majesty's Revenue and Customs (and different days may be specified for different cases). ”
  - (3) In subsection (3), omit paragraph (b) and the “and” before it.
  - (4) After that subsection insert—

“(3A) The Commissioners for Her Majesty's Revenue and Customs may by regulations—

    - (a) provide that the records required to be kept and preserved under this section include, or do not include, records specified in the regulations, and
    - (b) provide that those records include supporting documents so specified.”
  - (5) For subsection (4) substitute—

“(4) The duty under subsection (1) or (2A) to preserve records may be discharged—

    - (a) by preserving them in any form and by any means, or
    - (b) by preserving the information contained in them in any form and by any means,

subject to subsection (4A) and any conditions or further exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.”
  - (6) In subsection (4A), for “The records which fall within this subsection are” substitute “ Subsection (4)(b) does not apply in the case of the following kinds of records ”.
  - (7) After subsection (5B) insert—

“(5C) Regulations under this section may—

    - (a) make different provision for different cases, and
    - (b) make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in

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accordance with the regulations (and not withdrawn by a subsequent notice).”

**Commencement Information**

**I1** [Sch. 37 para. 2](#) in force at 1.4.2009 for the purposes of the amendments made by that paragraph by [S.I. 2009/402, art. 2](#)

- 3 (1) Paragraph 2A of Schedule 1A (records to be kept for the purposes of claims) is amended as follows.
- (2) After sub-paragraph (2) insert—
- “(2A) The Commissioners for Her Majesty's Revenue and Customs may by regulations—
- (a) provide that the records required to be kept and preserved under sub-paragraph (1) include, or do not include, records specified in the regulations, and
- (b) provide that those records include supporting documents so specified.”
- (3) For sub-paragraph (3) substitute—
- “(3) The duty under sub-paragraph (1) to preserve records may be discharged—
- (a) by preserving them in any form and by any means, or
- (b) by preserving the information contained in them in any form and by any means,
- subject to sub-paragraph (3A) and any conditions or further exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.
- (3A) Sub-paragraph (3)(b) does not apply in the case of records of the kinds specified in section 12B(4A) or paragraph 22(3) of Schedule 18 to the Finance Act 1998.”
- (4) Insert at the end—
- “(6) Regulations under this paragraph may—
- (a) make different provision for different cases, and
- (b) make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice).
- (7) In this paragraph “supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.”

**Commencement Information**

**I2** [Sch. 37 para. 3](#) in force at 1.4.2009 for the purposes of the amendments made by that paragraph by [S.I. 2009/402, art. 2](#)

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#### VATA 1994

4 Schedule 11 to VATA 1994 (administration, collection and enforcement) is amended as follows.

5 (1) Paragraph 6 (duty to keep records) is amended as follows.

(2) In sub-paragraph (3), for “require”, in the second place, substitute “specify in writing (and different periods may be specified for different cases)”.

(3) For sub-paragraphs (4) to (6) substitute—

“(4) The duty under this paragraph to preserve records may be discharged—

(a) by preserving them in any form and by any means, or

(b) by preserving the information contained in them in any form and by any means,

subject to any conditions or exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.”

#### Commencement Information

**I3** Sch. 37 para. 5 in force at 1.4.2009 for the purposes of the amendments made by that paragraph by S.I. 2009/402, art. 2

6 In paragraph 6A(7) (application of provisions of paragraph 6 where directions under paragraph 6A require records to be kept)—

(a) for “Sub-paragraphs (4) to (6) of paragraph 6 (preservation of information by means approved by the Commissioners) apply” substitute “Sub-paragraph (4) of paragraph 6 (preservation of information) applies”, and

(b) for “they apply” substitute “it applies”.

#### Commencement Information

**I4** Sch. 37 para. 6 in force at 1.4.2009 for the purposes of the amendments made by that paragraph by S.I. 2009/402, art. 2

#### FA 1998

7 Schedule 18 to FA 1998 (company tax returns) is amended as follows.

8 (1) Paragraph 21 (duty to keep and preserve records) is amended as follows.

(2) In sub-paragraph (2), for the words from “for six years” to the end substitute “until the end of the relevant day.”

(3) After that sub-paragraph insert—

“(2A) In this paragraph “relevant day” means—

(a) the sixth anniversary of the end of the period for which the company may be required to deliver a company tax return, or

(b) such earlier day as may be specified in writing by the Commissioners for Her Majesty's Revenue and Customs (and different days may be specified for different cases).”

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- (4) In sub-paragraph (3), for “that six year period” substitute “ the relevant day ”.
- (5) In sub-paragraph (4), for “that six year period” substitute “ the relevant day ”.
- (6) After sub-paragraph (5) insert—
- “(5A) The Commissioners for Her Majesty's Revenue and Customs may by regulations—
- (a) provide that the records required to be kept and preserved under this paragraph include, or do not include, records specified in the regulations, and
- (b) provide that those records include supporting documents so specified.
- (5B) Regulations under this paragraph may—
- (a) make different provision for different cases, and
- (b) make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice).”
- (7) In sub-paragraph (6), omit the first sentence.

#### Commencement Information

**I5** Sch. 37 para. 8 in force at 1.4.2009 for the purposes of the amendments made by that paragraph by S.I. 2009/402, art. 2

- 9 (1) Paragraph 22 (preservation of information instead of original records) is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) The duty under paragraph 21 to preserve records may be discharged—
- (a) by preserving them in any form and by any means, or
- (b) by preserving the information contained in them in any form and by any means,
- subject to sub-paragraph (3) and any conditions or exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.”
- (3) Omit sub-paragraph (2).
- (4) In sub-paragraph (3), for “The records excluded from sub-paragraph (1) are” substitute “ Sub-paragraph (1)(b) does not apply in the case of the following kinds of records ”.
- (5) Accordingly, in the heading before that paragraph, for “*instead of original records*” substitute “ *etc* ”.

#### Commencement Information

**I6** Sch. 37 para. 9 in force at 1.4.2009 for the purposes of the amendments made by that paragraph by S.I. 2009/402, art. 2

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### *Consequential provisions*

- 10 In section 13(6) of FA 1999 (VAT and gold)—
- (a) for “(6)” substitute “ (4) ”,
  - (b) after “above” insert “ , and to records kept in pursuance of such regulations, ”, and
  - (c) insert at the end “ and to records kept in pursuance of that paragraph ”.

#### **Commencement Information**

- I7** [Sch. 37 para. 10](#) in force at 1.4.2009 for the purposes of the amendments made by that paragraph by [S.I. 2009/402](#), [art. 2](#)

- 11 In consequence of the amendments made by paragraph 2 omit—
- (a) section 105(4)(b) of FA 1995, and
  - (b) section 124(2) and (6) of FA 1996.

#### **Commencement Information**

- I8** [Sch. 37 para. 11](#) in force at 1.4.2009 for the purposes of the amendments made by that paragraph by [S.I. 2009/402](#), [art. 2](#)

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