

SCHEDULES

SCHEDULE 51

Section 233

WITHDRAWAL OF NOTICE TO FILE ETC

TMA 1970

- 1 TMA 1970 is amended in accordance with paragraphs 2 to 5.
- 2 (1) Section 7 (notice of liability to income tax and capital gains tax) is amended as follows.
 - (2) In subsection (1)—
 - (a) for paragraph (b) substitute—

“(b) falls within subsection (1A) or (1B),” and
 - (b) for “six months from the end of that year” substitute “the notification period”.
 - (3) After subsection (1) insert—

“(1A) A person falls within this subsection if the person has not received a notice under section 8 requiring a return for the year of assessment of the person’s total income and chargeable gains.

(1B) A person falls within this subsection if the person—

 - (a) has received a notice under section 8 requiring a return for the year of assessment of the person’s total income and chargeable gains, and
 - (b) has received a notice under section 8B withdrawing the notice under section 8.

(1C) In subsection (1) “the notification period” means—

 - (a) in the case of a person who falls within subsection (1A), the period of 6 months from the end of the year of assessment, or
 - (b) in the case of a person who falls within subsection (1B)—
 - (i) the period of 6 months from the end of the year of assessment, or
 - (ii) the period of 30 days beginning with the day after the day on which the notice under section 8 was withdrawn,

whichever ends later.”
 - (4) In subsection (2), for the words from “shall have effect” to the end substitute “and subsections (1A) to (1C) have effect as if references to a notice under section 8 were references to a notice under section 8A.”
- 3 After section 8A insert—

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“8B Withdrawal by HMRC of notice under section 8 or 8A

- (1) This section applies to a person who is given a notice under section 8 or 8A.
- (2) Before the end of the withdrawal period, the person may request HMRC to withdraw the notice.
- (3) But no request may be made if—
 - (a) the person has made a return under section 8 or 8A in pursuance of the notice under that section, or
 - (b) the person has been served with notice of a determination under section 28C by virtue of the notice under section 8 or 8A having been given to the person.
- (4) If, on receiving a request, HMRC decide to withdraw the notice under section 8 or 8A they must do so by giving the person a notice under this section.
- (5) A notice under this section must specify the date on which the notice under section 8 or 8A is withdrawn.
- (6) For the purposes of subsection (2) “the withdrawal period” means—
 - (a) the period of 2 years beginning with the end of the year of assessment to which the notice under section 8 or 8A relates, or
 - (b) in exceptional circumstances, such extended period as HMRC may agree with the person.
- (7) Withdrawal of a notice given to a person under section 8 or 8A in relation to a year of assessment does not prevent HMRC from giving the person a further notice under that section in relation to that year.
- (8) See paragraph 17A of Schedule 55 to FA 2009 as to the cancellation of liability to a penalty under any paragraph of that Schedule by including provision in a notice under this section.”

4 After section 12AA insert—

“12AAA Withdrawal by HMRC of notice under section 12AA

- (1) This section applies to a partner who is required by a notice under section 12AA to deliver a return.
- (2) Before the end of the withdrawal period, the partner may request HMRC to withdraw the notice.
- (3) But no request may be made if the partner has delivered a return under section 12AA in pursuance of the notice.
- (4) If, on receiving a request, HMRC decide to withdraw the notice under section 12AA they must do so by giving the partner a notice under this section.
- (5) A notice under this section must specify the date on which the notice under section 12AA is withdrawn.
- (6) For the purposes of subsection (2) “the withdrawal period” means—

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- (a) in the case of a partnership which includes one or more companies, the period of 2 years beginning with the end of the period in respect of which the return under section 12AA was required by the notice under that section,
 - (b) in the case of any other partnership, the period of 2 years beginning with the end of the year of assessment to which the notice under section 12AA relates, or
 - (c) in the case of any partnership, such extended period as HMRC may agree with the partner in exceptional circumstances.
- (7) Withdrawal of a notice under section 12AA in relation to the period in respect of which the return under that section was required or year of assessment (as the case may be) does not prevent HMRC from serving a further notice under section 12AA requiring a partner to deliver a return in relation to that period or year.
- (8) References in subsections (2) to (6) to the partner include references to a successor of the partner (see section 12AA(11)).
- (9) See paragraph 17B of Schedule 55 to FA 2009 as to the cancellation of liability to a penalty under any paragraph of that Schedule by including provision in a notice under this section.”
- 5 In section 59B (payment of income and capital gains tax), after subsection (4) insert—
- “(4ZA) In a case in which the notice required by section 7 was given following the receipt of a notice under section 8B, subsections (3) and (4) apply as if—
- (a) the reference to the notice required by section 7 were a reference to the original notice required by that section, and
 - (b) the references to notice under section 8 or 8A were references to the original notice under that section.
- (4ZB) In subsection (4ZA) the references to original notices are to notices given before the notice under section 8B.”

FA 2008

- 6 (1) Paragraph 7 of Schedule 41 to FA 2008 (potential lost revenue in respect of failure to comply with relevant obligation) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) In the case of an obligation under section 7 of TMA 1970 which arises by virtue of subsection (1B) of that section, the potential lost revenue is so much of any income tax or capital gains tax to which P is liable in respect of the tax year in question as is, by reason of the failure to comply with the obligation—
- (a) where the period specified in subsection (1C)(b)(ii) of that section applies and ends after the relevant date, unpaid at the end of that period, or
 - (b) in any other case, unpaid on the relevant date.
- (1B) For the purposes of sub-paragraph (1A) the relevant date is—
- (a) 31 January following the tax year, or

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- (b) if, after that date, HMRC refund a payment on account in respect of the tax year to P, the day after the refund is issued.”
- (3) In sub-paragraph (2), after “and a tax year” insert “(not falling within sub-paragraph (1A))”.

FA 2009

- 7 (1) Paragraph 3 of Schedule 53 to FA 2009 (late payment interest start date: amendments and discovery assessments etc) is amended as follows.
- (2) In sub-paragraph (3)—
 - (a) for “as required” substitute “in accordance with a requirement”, and
 - (b) after “tax)” insert “that arose by virtue of subsection (1A) of that section”.
- (3) After that sub-paragraph insert—

“(3A) In the case of a person (“P”) who failed to give notice in accordance with a requirement under section 7 of TMA 1970 that arose by virtue of subsection (1B) of that section, the reference in sub-paragraph (1)(c) to an assessment which ought to have been made by P is a reference to the assessment which P would have been required to make if no notice relating to the year of assessment concerned had been withdrawn under section 8B of that Act.”
- 8 In Schedule 55 to that Act (penalty for failure to make returns etc), after paragraph 17 insert—

“Cancellation of penalty

- 17A (1) This paragraph applies where—
 - (a) P is liable for a penalty under any paragraph of this Schedule in relation to a failure to make a return falling within item 1 or 2 in the Table, and
 - (b) P makes a request under section 8B of TMA 1970 for HMRC to withdraw a notice under section 8 or 8A of that Act.
- (2) The notice under section 8B of TMA 1970 may include provision under this paragraph cancelling liability to the penalty from the date specified in the notice.
- 17B (1) This paragraph applies where—
 - (a) P is liable for a penalty under any paragraph of this Schedule in relation to a failure to make a return falling within item 3 in the Table, and
 - (b) a request is made under section 12AAA of TMA 1970 for HMRC to withdraw a notice under section 12AA of that Act.
- (2) The notice under section 12AAA of TMA 1970 may include provision under this paragraph cancelling liability to the penalty from the date specified in the notice.”

Commencement

- 9 (1) The amendments made by this Schedule have effect—

Status: This is the original version (as it was originally enacted).

- (a) in relation to a return under section 12AA of TMA 1970 for a partnership which includes one or more companies, in respect of a return for a relevant period beginning on or after 6 April 2012, and
 - (b) in relation to a return under that section for any other partnership, or a return under section 8 or 8A of that Act, in respect of a return for a year of assessment beginning on or after 6 April 2012.
- (2) In sub-paragraph (1)(a), “relevant period” means a period in respect of which a return is required.