



# Finance Act 2014

## 2014 CHAPTER 26

### PART 5

#### PROMOTERS OF TAX AVOIDANCE SCHEMES

##### *Penalties*

#### **274 Penalties**

Schedule 35 contains provision about penalties for failure to comply with provisions of this Part.

#### **275 Failure to comply with Part 7 of the Finance Act 2004**

In section 98C of TMA 1970 (notification under Part 7 of FA 2004), after subsection (2E) insert—

“(2EA) Where a person fails to comply with—

- (a) section 309 of that Act and the promoter for the purposes of that section is a monitored promoter for the purposes of Part 5 of the Finance Act 2014, or
- (b) section 310 of that Act and the arrangements for the purposes of that section are arrangements of such a monitored promoter,

then for the purposes of section 118(2) of this Act legal advice which the person took into account is to be disregarded in determining whether the person had a reasonable excuse, if the advice was given or procured by that monitored promoter.

(2EB) In determining for the purpose of section 118(2) of this Act whether or not a person who is a monitored promoter within the meaning of Part 5 of the Finance Act 2014 had a reasonable excuse for a failure to do anything required to be done under a provision mentioned in subsection (2), reliance on legal advice is to be taken automatically not to constitute a reasonable excuse if either—

*Status: Point in time view as at 17/07/2014.*

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- (a) the advice was not based on a full and accurate description of the facts, or
- (b) the conclusions in the advice that the person relied on were unreasonable.”

## 276 Limitation of defence of reasonable care

- (1) Subsection (2) applies where—
  - (a) a person gives HMRC a document of a kind listed in the Table in paragraph 1 of Schedule 24 to FA 2007 (penalties for providing inaccurate documents to HMRC), and
  - (b) the document contains an inaccuracy.
- (2) In determining whether or not the inaccuracy was careless for the purposes of paragraph 3(1)(a) of Schedule 24 to FA 2007, reliance by the person on legal advice relating to relevant arrangements in relation to which a monitored promoter is a promoter is to be disregarded if the advice was given or procured by a person who was a monitored promoter in relation to the arrangements.

## 277 Extended time limit for assessment

- (1) In section 36 of TMA 1970 (loss of tax brought about carelessly or deliberately), in subsection (1A)—
  - (a) omit the “or” following paragraph (b), and
  - (b) at the end of paragraph (c) insert “or
    - (d) attributable to arrangements which were expected to give rise to a tax advantage in respect of which the person was under an obligation to notify the Commissioners for Her Majesty's Revenue and Customs under section 253 of the Finance Act 2014 (duty to notify Commissioners of promoter reference number) but failed to do so.”.
- (2) In paragraph 12B of Schedule 2 to OTA 1975 (extended time limits for assessment of petroleum revenue tax)—
  - (a) in sub-paragraph (1), after “sub-paragraph (2)” insert “ and (2A) ”,
  - (b) after sub-paragraph (2) insert—
    - “(2A) In a case involving a relevant situation brought about by arrangements which were expected to give rise to a tax advantage in respect of which a participator (or a person acting on behalf of a participator) was under an obligation to notify the Board under section 253 of the Finance Act 2014 (duty to notify Commissioners of promoter reference number) but failed to do so, an assessment (or an amendment of an assessment) on the participator may be made at any time not more than 20 years after the end of the relevant chargeable period.”,
    - (c) in sub-paragraph (5), for “or (2)” substitute “, (2) or (2A) ”, and
    - (d) in sub-paragraph (6), for “or (2)” substitute “, (2) or (2A) ”.
- (3) In section 240 of IHTA 1984 (underpayments)—
  - (a) in subsection (3) for “and (5)” substitute “ to (5A) ”,

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- (b) in subsection (5), for “those dates” substitute “ the dates in subsection (2)(a) and (b) ”,
  - (c) after subsection (5) insert—
    - “(5A) Proceedings in a case involving a loss of tax attributable to arrangements which were expected to give rise to a tax advantage in respect of which a person liable for the tax was under an obligation to make a report under section 253 of the Finance Act 2014 (duty to notify Commissioners of promoter reference number) but failed to do so, may be brought at any time not more than 20 years after the later of the dates in subsection (2)(a) and (b).”, and
  - (d) in subsection (8), for “, (5) and (6)” substitute “ to (6) ”.
- (4) In paragraph 46 of Schedule 18 to FA 1998 (general time limits for assessments to corporation tax), in sub-paragraph (2A)—
- (a) omit the “or” following paragraph (b), and
  - (b) at the end of paragraph (c) insert “or
    - (d) attributable to arrangements which were expected to give rise to a tax advantage in respect of which the company was under an obligation to notify the Commissioners for Her Majesty's Revenue and Customs under section 253 of the Finance Act 2014 (duty to notify Commissioners of promoter reference number) but failed to do so.”.
- (5) In paragraph 31 of Schedule 10 to FA 2003 (time limit for assessment of stamp duty land tax), in sub-paragraph (2A)—
- (a) omit the “or” following paragraph (b), and
  - (b) at the end of paragraph (c) insert “or
    - (d) attributable to arrangements which were expected to give rise to a tax advantage in respect of which the person was under an obligation to notify the Commissioners for Her Majesty's Revenue and Customs under section 253 of the Finance Act 2014 (duty to notify Commissioners of promoter reference number) but failed to do so.”.
- (6) In paragraph 25 of Schedule 33 to FA 2013 (time limit for assessment: annual tax on enveloped dwellings), in sub-paragraph (4)—
- (a) omit the “or” following paragraph (b), and
  - (b) at the end of paragraph (c) insert “, or
    - (d) attributable to arrangements which were expected to give rise to a tax advantage in respect of which the person was under an obligation to notify the Commissioners for Her Majesty's Revenue and Customs under section 253 of FA 2014 (duty to notify Commissioners of promoter reference number) but failed to do so.”.

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