
Changes to legislation: Finance Act 2014, Cross Heading: Restrictive contractual terms is up to date with all changes known to be in force on or before 20 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) View outstanding changes

SCHEDULES

SCHEDULE 34

PROMOTERS OF TAX AVOIDANCE SCHEMES: THRESHOLD CONDITIONS

PART 1

MEETING THE THRESHOLD CONDITIONS: GENERAL

Restrictive contractual terms

- 11 (1) A person (“P”) meets this condition if P enters into an agreement with another person (“C”) which relates to a relevant proposal or relevant arrangements in relation to which P is a promoter, on terms which—
- (a) impose a contractual obligation on C which falls within sub-paragraph (2) or (3), or
 - (b) impose on C both obligations within sub-paragraph (4) and obligations within sub-paragraph (5).
- (2) A contractual obligation falls within this sub-paragraph if it prevents or restricts the disclosure by C to HMRC of information relating to the proposals or arrangements, whether or not by referring to a wider class of persons.
- (3) A contractual obligation falls within this sub-paragraph if it requires C to impose on any tax adviser to whom C discloses information relating to the proposals or arrangements a contractual obligation which prevents or restricts the disclosure of that information to HMRC by the adviser.
- (4) A contractual obligation falls within this sub-paragraph if it requires C to—
- (a) meet (in whole or in part) the costs of, or contribute to a fund to be used to meet the costs of, any proceedings relating to arrangements in relation to which P is a promoter (whether or not implemented by C), or
 - (b) take out an insurance policy which insures against the risk of having to meet the costs connected with proceedings relating to arrangements which C has implemented and in relation to which P is a promoter.
- (5) A contractual obligation falls within this paragraph if it requires C to obtain the consent of P before—
- (a) entering into any agreement with HMRC regarding arrangements which C has implemented and in relation to which P is a promoter, or
 - (b) withdrawing or discontinuing any appeal against any decision regarding such arrangements.
- (6) In sub-paragraph (5)(b), the reference to withdrawing or discontinuing an appeal includes any action or inaction which results in an appeal being discontinued.
- (7) In this paragraph—

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“proceedings” includes any sort of proceedings for resolving disputes (and not just proceedings in court), whether commenced or contemplated;

“tax adviser” means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that person or by another tax adviser of that person).

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)