
STATUTORY INSTRUMENTS

2004 No. 1864

The Tax Avoidance Schemes (Information) Regulations 2004

Prescribed information under section 313: timing and manner of delivery

8.—(1) For the purposes of section 313 (duty of parties to notifiable arrangements to notify the Board of number, etc.)—

- (a) the prescribed information is—
 - (i) the reference number allocated by the Board under section 311 to the notifiable arrangements or proposed notifiable arrangements; and
 - (ii) the year of assessment, tax year or accounting period (as the case may be) in which, or the date on which, the person making the notification expects a tax advantage to be obtained; and
- (b) the prescribed times at which a person who is a party to notifiable arrangements must provide the Board with information under that section are those specified in whichever of paragraphs (2) to (6) are applicable in his case.

(2) In the case of a person who—

- (a) expects an advantage to arise in respect of his liability to pay, entitlement to a repayment of, or to a deferment of his liability to pay, income tax or capital gains tax as a result of notifiable arrangements; and
- (b) is required to make a return to the Board by a notice under section 8 or 8A of the Taxes Management Act 1970 (income tax and capital gains tax: personal return and trustee's return)(1), in respect of income tax or capital gains tax,

the prescribed information shall be included in the return under that section which relates to the year of assessment in which he is notified of the reference number under section 311 or 312 (as the case may be), or in which the advantage is expected to arise if earlier; and (in any case) in the return for each subsequent year of assessment until the advantage ceases to apply to him.

This paragraph does not apply if the advantage arises in respect of a partner's share of partnership profits or gains, and is subject to the qualifications in paragraph (6).

(3) In the case of a partnership—

- (a) which expects an advantage to arise in respect of a partner's liability to pay, entitlement to a repayment of, or to a deferment of the partner's liability to pay any of the prescribed taxes in respect of partnership profits or gains as a result of notifiable arrangements; and
- (b) in respect of which a return is required to be made to the Board by virtue of a notice under section 12AA of the Taxes Management Act 1970 (partnership return)(2) in respect of any of the prescribed taxes,

(1) 1970 c. 9. Section 8 was substituted, together with section 8A, by section 90(1) of the Finance Act 1990 (c. 29) and was amended by section 104(1) to (3) of the Finance Act 1995 (c. 4) and section 121(1) to (3) of, and Part 5(6) of Schedule 41 to, the Finance Act 1996 (c. 8). Section 8A was amended by section 178(2) of the Finance Act 1994, sections 103(3) and (4) and 104(1) of the Finance Act 1995 and section 121(1) to (3) of, and Part 5(6) of Schedule 41 to, the Finance Act 1996.

(2) Section 12AA was inserted by section 184 of the Finance Act 1994 and was amended by sections 104(6) and 115(4) of the Finance Act 1995, sections 121(6) and (7), 123(1) to (3) and 124(4) of, and Part 5(6) of Schedule 41 to, the Finance Act 1996, paragraph 3 of Schedule 19 to the Finance Act 1998 and paragraph 18 of Schedule 29 to the Finance Act 2001 (c. 9).

the prescribed information shall be included in the returns specified in paragraph (4) covering the period in which the person required to make the return in question is notified of the reference number under section 311 or 312 (as the case may be), or in which the advantage is expected to arise, if earlier; and (in any case) in the return covering each such period until the advantage ceases to apply to the partner in question.

- (4) The returns referred to in paragraph (3) are—
- (a) the partnership's return under section 12AA of the Taxes Management Act 1970, and
 - (b) the return under section 8 or 8A of that Act, or under paragraph 3 of Schedule 18 to the Finance Act 1998, of the partner in respect of whom an advantage is expected.
- (5) In the case of a company which—
- (a) expects a tax advantage to arise in respect of its liability to pay, entitlement to a repayment of, or to a deferment of its liability to pay, corporation tax as a result of notifiable arrangements; and
 - (b) is required to make a return to the Board by a notice under paragraph 3 of Schedule 18 to the Finance Act 1998 (company tax return), in respect of corporation tax,

the prescribed information shall be notified to the Board in the return under that paragraph covering the period in which the company is notified of the reference number under section 311 or 312 (as the case may be), or in which the advantage is expected to arise if earlier; and (in any case) in the return covering each subsequent period until the tax advantage ceases to apply to the company.

This paragraph does not apply if the advantage arises in respect of a partner's share of partnership profits or gains, and is subject to the qualifications in paragraph (6).

(6) In the case of a person who is the employer of an employee, by reason of whose employment a tax advantage is expected to arise to any person in respect of income tax, corporation tax or capital gains tax as a result of notifiable arrangements falling within Part 1 of the Schedule to the Arrangements Regulations, the prescribed information shall be notified to the Board—

- (a) in the return required under regulation 73 of the Income Tax (Pay As You Earn) Regulations 2003⁽³⁾ which relates to the tax year in which—
 - (i) the employer is notified under section 311 or 312 (as the case may be) of the reference number allocated by the Board under section 311, or
 - (ii) if earlier in the tax year in which the tax advantage is first expected to arise; and
 - (b) in the return required under that regulation for each subsequent tax year until the tax advantage ceases to apply.
- (7) In the case of a person who would be obliged to comply with paragraph (2), (3), (5) or (6), but is not otherwise required, in respect of a year of assessment, accounting period or tax year—
- (a) in the case of notifiable arrangements to which paragraph (2) applies, to make a return under any of the provisions mentioned in paragraph (2)(b),
 - (b) in the case of notifiable arrangements to which paragraph (3) applies, to make a return under any of the provisions referred to in paragraph (4),
 - (c) in the case of notifiable arrangements to which paragraph (5) applies, to make the return mentioned in that paragraph, or
 - (d) in a case to which paragraph (6) applies, to make the return mentioned in that paragraph,
- the person must provide the information specified in paragraph (8) to the Board by the appropriate date.
- (8) The information specified in this paragraph is—

(3) [S.I. 2003/2682](#).

- (a) the name and address of the person providing it;
 - (b) any National Insurance number, tax reference number, PAYE reference number or other personal identifier allocated by the Board to the person to whom the information relates;
 - (c) the reference number allocated to the scheme by the Board under section 311;
 - (d) the year of assessment, accounting period or tax year in which, or the date on which, the person providing the information expects to obtain a tax advantage by virtue of the notifiable arrangements;
 - (e) the name of the person providing the declaration as to the accuracy and completeness of the notification;
 - (f) the capacity in which the person mentioned in sub-paragraph (e) is acting.
- (9) For the purposes of paragraph (7) “the appropriate date” is—
- (a) in a case falling within sub-paragraph (a), 31st January next following the end of the tax year in question;
 - (b) in a case falling within sub-paragraph (b), the earliest date by which the person in question could be required to file a return under section 12AA of the Taxes Management Act 1970, determined in accordance with whichever of subsections (4) and (5) of that section applies to him;
 - (c) in a case falling within sub-paragraph (c), the date defined as the filing date for the purposes of paragraph 14 of Schedule 18 to the Finance Act 1998⁽⁴⁾ in respect of the period of account in question; and
 - (d) in a case falling within sub-paragraph (d), the date by which the return under regulation 73 of the Income Tax (Pay As You Earn) Regulations 2003 would be due in respect of the tax year in question.
- (10) References in this regulation to information being included in a return include that information being so included by way of an amendment to the return.

(4) Paragraph 14 was amended by Part 3(16) of Schedule 40 to the Finance Act 2002.