



Finance Act 1989

1989 CHAPTER 26

PART III

MISCELLANEOUS AND GENERAL

Miscellaneous

182 Disclosure of information

- (1) A person who discloses any information which he holds or has held in the exercise of tax functions is guilty of an offence if it is information about any matter relevant, for the purposes of those functions, to tax or duty in the case of any identifiable person.
- (2) In this section “tax functions” means functions relating to tax or duty—
 - (a) of the Commissioners, the Board and their officers,
 - (b) of any person carrying out the administrative work of any tribunal mentioned in subsection (3) below, and
 - (c) of any other person providing, or employed in the provision of, services to any person mentioned in paragraph (a) or (b) above.
- (3) The tribunals referred to in subsection (2)(b) above are—
 - (a) the General Commissioners and the Special Commissioners,
 - (b) any value added tax tribunal,
 - (c) any referee or board of referees appointed for the purposes of section 80(3) of the Taxes Management Act 1970 or under section 26(7) of the Capital Allowances Act 1968, and
 - (d) any tribunal established under section 463 of the Taxes Act 1970 or section 706 of the Taxes Act 1988.
- (4) A person who discloses any information which—
 - (a) he holds or has held in the exercise of functions—
 - (i) of the Comptroller and Auditor General and any member of the staff of the National Audit Office, or

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- (ii) of the Parliamentary Commissioner for Administration and his officers,
- (b) is, or is derived from, information which was held by any person in the exercise of tax functions, and
- (c) is information about any matter relevant, for the purposes of tax functions, to tax or duty in the case of any identifiable person,
- is guilty of an offence.
- (5) Subsections (1) and (4) above do not apply to any disclosure of information—
- (a) with lawful authority,
- (b) with the consent of any person in whose case the information is about a matter relevant to tax or duty, or
- (c) which has been lawfully made available to the public before the disclosure is made.
- (6) For the purposes of this section a disclosure of any information is made with lawful authority if, and only if, it is made—
- (a) by a Crown servant in accordance with his official duty,
- (b) by any other person for the purposes of the function in the exercise of which he holds the information and without contravening any restriction duly imposed by the person responsible,
- (c) to, or in accordance with an authorisation duly given by, the person responsible,
- (d) in pursuance of any enactment or of any order of a court, or
- (e) in connection with the institution of or otherwise for the purposes of any proceedings relating to any matter within the general responsibility of the Commissioners or, as the case requires, the Board,
- and in this subsection “the person responsible” means the Commissioners, the Board, the Comptroller or the Parliamentary Commissioner, as the case requires.
- (7) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence—
- (a) he believed that he had lawful authority to make the disclosure in question and had no reasonable cause to believe otherwise, or
- (b) he believed that the information in question had been lawfully made available to the public before the disclosure was made and had no reasonable cause to believe otherwise.
- (8) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, and
- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
- (9) No prosecution for an offence under this section shall be instituted in England and Wales or in Northern Ireland except—
- (a) by the Commissioners or the Board, as the case requires, or
- (b) by or with the consent of the Director of Public Prosecutions or, in Northern Ireland, the Director of Public Prosecutions for Northern Ireland.
- (10) In this section—

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“the Board” means the Commissioners of Inland Revenue,
“the Commissioners” means the Commissioners of Customs and Excise,
“Crown servant” has the same meaning as in the Official Secrets Act 1989,
and
“tax or duty” means any tax or duty within the general responsibility of the
Commissioners or the Board.

(11) In this section—

- (a) references to the Comptroller and Auditor General include the Comptroller and Auditor General for Northern Ireland,
- (b) references to the National Audit Office include the Northern Ireland Audit Office, and
- (c) references to the Parliamentary Commissioner for Administration include the Health Service Commissioner for England, the Health Service Commissioner for Wales, the Health Service Commissioner for Scotland, the Northern Ireland Parliamentary Commissioner for Administration and the Northern Ireland Commissioner for Complaints.

(12) This section shall come into force on the repeal of section 2 of the Official Secrets Act 1911.