

Changes to legislation: Finance Act 1998, Cross Heading: Transfer pricing records: carelessness is up to date with all changes known to be in force on or before 09 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 18

COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

Modifications etc. (not altering text)

- C1 Sch. 18 restricted (31.7.1998) by 1988 c. 1, s. 754B(10) (as inserted (31.7.1998 with effect as mentioned in Sch. 17 para. 37 of 1998 c. 36) by 1998 c. 36, s. 113, Sch. 17 para. 11)
- C1 Sch. 18 modified (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 68(c); S.I. 2005/1126, art. 2(2)(h)
- C1 Sch. 18 applied (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), s. 61
- C1 Sch. 18 applied (with modifications) (6.4.2006) by The Registered Pension Schemes (Accounting and Assessment) Regulations 2005 (S.I. 2005/3454), regs. 1, 13
- C1 Sch. 18 excluded (17.7.2013) by Finance Act 2013 (c. 29), s. 210(6)(b)
- C1 Sch. 18: power to amend conferred (12.2.2019) by Finance Act 2019 (c. 1), s. 87(5)(a)(6)
- C1 Sch. 18 applied (with modifications) (22.7.2020) by Finance Act 2020 (c. 14), Sch. 16 para. 11(4) (with Sch. 16 para. 11(5))
- C1 Sch. 18 applied (with modifications) (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), s. 303(7)(8) (with s. 303(6))

PART V

REVENUE DETERMINATIONS AND ASSESSMENTS

^{F1}Transfer pricing records: carelessness

Textual Amendments

- F1 Sch. 18 para. 49A and cross-heading inserted (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), Sch. 5 para. 2

49A (1) This paragraph applies where—

- (a) the situation mentioned in paragraph 41(1) or (2) has been brought about by a person within any of paragraphs (a) to (c) of paragraph 43 (“P”) as regards a relevant accounting period of a company,
- (b) the situation relates to the calculation of profits or losses in accordance with Part 4 of TIOPA 2010 (transfer pricing) for the purposes of that period, and
- (c) the company has failed to comply, in relation to specified relevant transfer pricing records that relate to the calculation, with either or both of—
 - (i) paragraph 21 (duty to keep and preserve records), and
 - (ii) an information notice (within the meaning of Schedule 36 to the Finance Act 2008 (information and inspection powers)).

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- (2) It is to be presumed for the purposes of this Part of this Schedule that the situation mentioned in paragraph 41(1) or (2) was brought about carelessly by P, unless—
- (a) the situation was brought about deliberately by P, or
 - (b) the company satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that P took reasonable care to avoid the situation.
- (3) For the purposes of this paragraph—
- (a) “relevant accounting period of a company” means an accounting period in respect of which—
 - (i) the company, together with one or more other enterprises, constitutes an MNE Group within the meaning of the Taxes (Base Erosion and Profit Shifting) (Country-by-Country Reporting) Regulations 2016 ([S.I. 2016/237](#)) (see regulation 2(3) of those Regulations), and
 - (ii) the MNE Group meets the threshold requirement within the meaning of those Regulations (see regulations 3(2) to (4) of those Regulations);
 - (b) records are “specified relevant transfer pricing records” if—
 - (i) they are relevant transfer pricing records specified, or of a description specified, in regulations under paragraph 21 (duties to keep and preserve records), and
 - (ii) the company is required to keep and preserve those records under that paragraph.]

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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. 18 para. 52(2B)(b)-(d) omitted by [2024 c. 3 Sch. 2 para. 10\(3\)](#)
- Sch. 18 Pt. 9C repealed by [2009 c. 4 Sch. 1 para. 454\(11\)Sch. 3 Pt. 1](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 18 Pt. 9C repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 454(11), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2))
- Sch. 18 Pt. 9C title substituted by [2006 c. 25 Sch. 3 para. 9](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 18 Pt. 9C repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 454(11), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2))