



Finance Act 2004

2004 CHAPTER 12

PART 7

DISCLOSURE OF TAX AVOIDANCE SCHEMES

308 Duties of promoter

- (1) [^{F1}A person who is a promoter in relation to a notifiable proposal] must, within the prescribed period after the relevant date, provide the Board with prescribed information relating to [^{F2}the] notifiable proposal.
- (2) In subsection (1) “the relevant date” means the [^{F3}earliest] of the following—
 - [^{F4}(za) the date on which the promoter first makes a firm approach to another person in relation to a notifiable proposal,]
 - (a) the date on which the promoter makes [^{F5}the] notifiable proposal available for implementation by any other person, or
 - (b) the date on which the promoter first becomes aware of any transaction forming part of notifiable arrangements implementing the notifiable proposal.
- (3) [^{F6}A person who is a promoter in relation to notifiable arrangements] must, within the prescribed period after the date on which he first becomes aware of any transaction forming part of [^{F7}the notifiable] arrangements, provide the Board with prescribed information relating to those arrangements, unless those arrangements implement a proposal in respect of which notice has been given under subsection (1).
- [^{F8}(4) Subsection (4A) applies where a person complies with subsection (1) in relation to a notifiable proposal for arrangements and another person is—
 - (a) also a promoter in relation to the notifiable proposal or is a promoter in relation to a notifiable proposal for arrangements which are substantially the same as the proposed arrangements (whether they relate to the same or different parties), or
 - (b) a promoter in relation to notifiable arrangements implementing the notifiable proposal or notifiable arrangements which are substantially the same as

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notifiable arrangements implementing the notifiable proposal (whether they relate to the same or different parties).

(4A) Any duty of the other person under subsection (1) or (3) in relation to the notifiable proposal or notifiable arrangements is discharged if—

- (a) the person who complied with subsection (1) has notified the identity and address of the other person to HMRC or the other person holds the reference number allocated to the proposed notifiable arrangements under section 311, and
- (b) the other person holds the information provided to HMRC in compliance with subsection (1).

(4B) Subsection (4C) applies where a person complies with subsection (3) in relation to notifiable arrangements and another person is—

- (a) a promoter in relation to a notifiable proposal for arrangements which are substantially the same as the notifiable arrangements (whether they relate to the same or different parties), or
- (b) also a promoter in relation to the notifiable arrangements or notifiable arrangements which are substantially the same (whether they relate to the same or different parties).

(4C) Any duty of the other person under subsection (1) or (3) in relation to the notifiable proposal or notifiable arrangements is discharged if—

- (a) the person who complied with subsection (3) has notified the identity and address of the other person to HMRC or the other person holds the reference number allocated to the notifiable arrangements under section 311, and
- (b) the other person holds the information provided to HMRC in compliance with subsection (3).]

(5) Where a person is a promoter in relation to two or more notifiable proposals or sets of notifiable arrangements which are substantially the same (whether they relate to the same parties or different parties), he need not provide information under subsection (1) or (3) if he has already provided information under either of those subsections in relation to any of the other proposals or arrangements.

[^{F9}(6) The Treasury may by regulations provide for this section to apply with modifications in relation to proposals or arrangements that—

- (a) enable, or might be expected to enable, a person to obtain an advantage in relation to stamp duty land tax, and
- (b) are of a description specified in the regulations.]

Textual Amendments

- F1** Words in s. 308(1) substituted (1.11.2008 except for the purposes of Stamp Duty Land tax, 1.4.2010 in so far as not already in force) by [Finance Act 2008 \(c. 9\)](#), s. 116(2), [Sch. 38 para. 2\(2\)\(a\)](#); [S.I. 2008/1935](#), art. 2(1) (with art. 2(2)); [S.I. 2010/409](#), art. 2
- F2** Word in s. 308(1) substituted (1.11.2008 except for the purposes of Stamp Duty Land tax, 1.4.2010 in so far as not already in force) by [Finance Act 2008 \(c. 9\)](#), s. 116(2), [Sch. 38 para. 2\(2\)\(b\)](#); [S.I. 2008/1935](#), art. 2(1) (with art. 2(2)); [S.I. 2010/409](#), art. 2
- F3** Word in s. 308(2) substituted (1.1.2011) by [Finance Act 2010 \(c. 13\)](#), [Sch. 17 para. 3\(2\)](#); [S.I. 2010/3019](#), art. 2
- F4** S. 308(2)(za) inserted (1.1.2011) by [Finance Act 2010 \(c. 13\)](#), [Sch. 17 para. 3\(3\)](#); [S.I. 2010/3019](#), art. 2

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- F5** Word in s. 308(2)(a) substituted (1.11.2008 except for the purposes of Stamp Duty Land tax, 1.4.2010 in so far as not already in force) by Finance Act 2008 (c. 9), s. 116(2), **Sch. 38 para. 2(3)**; S.I. 2008/1935, art. 2(1) (with art. 2(2)); S.I. 2010/409, art. 2
- F6** Words in s. 308(3) substituted (1.11.2008 except for the purposes of Stamp Duty Land tax, 1.4.2010 in so far as not already in force) by Finance Act 2008 (c. 9), s. 116(2), **Sch. 38 para. 2(4)(a)**; S.I. 2008/1935, art. 2(1) (with art. 2(2)); S.I. 2010/409, art. 2
- F7** Words in s. 308(3) substituted (1.11.2008 except for the purposes of Stamp Duty Land tax, 1.4.2010 in so far as not already in force) by Finance Act 2008 (c. 9), s. 116(2), **Sch. 38 para. 2(4)(b)**; S.I. 2008/1935, art. 2(1) (with art. 2(2)); S.I. 2010/409, art. 2
- F8** S. 308(4)-(4C) substituted for s. 308(4) (1.11.2008 except for the purposes of Stamp Duty Land tax, 1.4.2010 in so far as not already in force) by Finance Act 2008 (c. 9), s. 116(2), **Sch. 38 para. 2(5)**; S.I. 2008/1935, art. 2(1) (with art. 2(2)); S.I. 2010/409, art. 2
- F9** S. 308(6) inserted (17.7.2012) by Finance Act 2012 (c. 14), **s. 215**

Modifications etc. (not altering text)

- C1** S. 308 applied (with modifications) (1.11.2012) by **The Stamp Duty Land Tax (Avoidance Schemes) (Specified Proposals or Arrangements) Regulations 2012** (S.I. 2012/2396), regs. 1, **5, 6**

Commencement Information

- I1** S. 308 wholly in force at 1.8.2004; s. 308 in force for certain purposes at Royal Assent and otherwise in force at 1.8.2004 see s. 319(1)

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2004, Section 308.