



# Finance Act 2004

## 2004 CHAPTER 12

### PART 7

#### DISCLOSURE OF TAX AVOIDANCE SCHEMES

#### **[<sup>F1</sup>316C Publication by HMRC**

[<sup>F2</sup>(1) HMRC may publish information about—

- (a) any arrangements, or proposed arrangements, to which a reference number is allocated under section 311;
- (b) where the reference number is allocated in a case within section 311(2), any person who is a promoter in relation to the arrangements or, in the case of proposed arrangements, the proposal;
- (c) where the reference number is allocated in a case within section 311(3), any person who is or has been—
  - (i) a promoter in relation to the arrangements or proposed arrangements, or
  - (ii) otherwise involved in the supply of the arrangements or proposed arrangements.]

(2) The information that may be published is (subject to subsection (4))—

- (a) any information relating to arrangements within subsection (1)(a), or a person within subsection (1)(b) [<sup>F3</sup>or (c)], that is prescribed information for the purposes of section [<sup>F4</sup>any provision of this Part];
- [<sup>F5</sup>(b) any ruling of a court or tribunal relating to—
  - (i) arrangements within subsection (1)(a);
  - (ii) a person within subsection (1)(b), in that person's capacity as a promoter;
  - (iii) a person within subsection (1)(c), in that person's capacity as a promoter or a person otherwise involved in the supply of arrangements or proposed arrangements;]
- (c) the number of persons in any period who enter into transactions forming part of [<sup>F6</sup>... arrangements within subsection (1)(a);

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- (d) whether arrangements within subsection (1)(a) are APN relevant (see subsection (7));
  - (e) any other information that HMRC considers it appropriate to publish for the purpose of identifying arrangements within subsection (1)(a) or a person within subsection (1)(b) [<sup>F7</sup>or (c)].
- (3) The information may be published in any manner that HMRC considers appropriate.
- (4) No information may be published under this section that identifies a person who enters into a transaction forming part of <sup>F8</sup>... arrangements within subsection (1)(a).
- [ No information may be published under this section in respect of a person involved <sup>F9</sup>(4A) in the supply of arrangements or proposed arrangements where there are reasonable grounds for believing that the person's involvement is limited to activities subject to legal professional privilege.]
- (5) But where a person [<sup>F10</sup>within subsection (1)(b) or (c)] is also a person mentioned in subsection (4), nothing in subsection (4) is to be taken as preventing the publication under this section of information so far as relating to the person's activities [<sup>F11</sup>as a promoter or a person involved in the supply of arrangements or proposed arrangements].
- (6) Before publishing any information under this section that identifies a person as [<sup>F12a</sup>person within subsection (1)(b) or (c)], HMRC must—
- (a) inform the person that they are considering doing so, and
  - (b) give the person reasonable opportunity to make representations about whether it should be published.
- [ Where the reference number is allocated in a case within section 311(3)—
- <sup>F13</sup>(6A) (a) information that identifies a person within subsection (1)(c) may not be published for the first time after the end of the period of one year beginning with the day on which the reference number is allocated;
- (b) no information that identifies a person within subsection (1)(c) may be published (or continue to be published) after the end of the period of one year beginning with the day on which it is first published.
- (6B) In determining a period of one year for the purposes of subsection (6A)(a) or (b), no account is to be taken of any period during which HMRC are prohibited from publishing the information because of proceedings before a court or tribunal.]
- (7) Arrangements are “APN relevant” for the purposes of subsection (2)(d) if HMRC has indicated in a publication that it may exercise (or has exercised) its power under section 219 of the Finance Act 2014 (accelerated payment notices) by virtue of the arrangements being DOTAS arrangements within the meaning of that section.]

#### Textual Amendments

- F1** Ss. 316C, 316D inserted (with application in accordance with Sch. 17 para. 21 of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 17 para. 17](#)
- F2** S. 316C(1) substituted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 16\(2\)](#), 44
- F3** Words in s. 316C(2)(a) inserted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 16\(3\)\(a\)\(i\)](#), 44

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- F4** Words in s. 316C(2)(a) substituted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 16\(3\)\(a\)\(ii\)](#), 44
- F5** S. 316C(2)(b) substituted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 16\(3\)\(b\)](#), 44
- F6** Word in s. 316C(2)(c) omitted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 16\(3\)\(c\)](#), 44
- F7** Words in s. 316C(2)(e) inserted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 16\(3\)\(d\)](#), 44
- F8** Word in s. 316C(4) omitted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by virtue of [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 16\(4\)](#), 44
- F9** S. 316C(4A) inserted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 16\(5\)](#), 44
- F10** Words in s. 316C(5) substituted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 16\(6\)\(a\)](#), 44
- F11** Words in s. 316C(5) substituted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 16\(6\)\(b\)](#), 44
- F12** Words in s. 316C(6) substituted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 16\(7\)](#), 44
- F13** S. 316C(6A)(6B) inserted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 31 paras. 16\(8\)](#), 44

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2004, Section 316C.