



# Finance Act 2007

## 2007 CHAPTER 11

### PART 6

#### INVESTIGATION, ADMINISTRATION ETC

##### *Other administration*

### **93 Mandatory electronic filing of returns**

- (1) Section 135 of FA 2002 (mandatory electronic filing) is amended as follows.
- (2) In subsection (7), after paragraph (b) insert—
  - “(ba) to specify other consequences of contravention of, or failure to comply with, the regulations (which may include disregarding a return delivered otherwise than by the use of electronic communications);”.
- (3) In subsection (10), for the definition of “taxation matter” substitute—

““taxation matter” means any matter relating to a tax (or duty) for which the Commissioners are responsible.”
- (4) Section 76 of VATA 1994 (assessment) is amended as follows.
- (5) In subsection (1), after paragraph (c) insert—

“or

  - (d) a penalty under regulations made under section 135 of the Finance Act 2002 (mandatory electronic filing of returns) in connection with VAT,”.
- (6) In that subsection, before “may have ceased” insert “ or the regulations ”.
- (7) In subsection (3), insert at the end—

“; and

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- (f) in the case of a penalty under regulations made under section 135 of the Finance Act 2002, the relevant period is the prescribed accounting period in respect of which the contravention of, or failure to comply with, the regulations occurred.”
- (8) In section 83 of VATA 1994 (appeals), after paragraph (zb) insert—
  - “(zc) a decision of the Commissioners about the application of regulations under section 135 of the Finance Act 2002 (mandatory electronic filing of returns) in connection with VAT (including, in particular, a decision as to whether a requirement of the regulations applies and a decision to impose a penalty);”.
- (9) In section 84 of VATA 1994 (appeals), after subsection (6A) insert—
  - “(6B) Nothing in section 83(zc) shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty except in so far as it is necessary to reduce it to the amount which is appropriate under regulations made under section 135 of the Finance Act 2002.”

#### **94 Mandatory electronic payment**

- (1) Section 204 of FA 2003 (mandatory electronic payment by large employers) is amended as follows.
- (2) For subsections (1) and (2) substitute—
  - “(1) The Commissioners for Her Majesty's Revenue and Customs may make regulations requiring a person to use electronic means in making specified payments under legislation relating to a tax (or duty) for which the Commissioners are responsible.
  - (2) The regulations may provide for exceptions.”
- (3) In subsection (5)(b), for “the Inland Revenue” substitute “ Her Majesty's Revenue and Customs ”.
- (4) In subsection (6)(a), for “the Inland Revenue” substitute “ Her Majesty's Revenue and Customs ”.
- (5) In subsection (8)—
  - (a) in paragraph (a), for “a contravention of, or any failure to comply with,” substitute “ a contravention by a large employer of, or any failure by a large employer to comply with, ”, and
  - (b) in paragraph (b), for “taxation matter within the care and management of the Commissioners” substitute “ matter relating to a tax (or duty) for which the Commissioners are responsible ”.
- (6) In subsection (12)—
  - (a) for the definition of “the Inland Revenue” substitute—
    - ““Her Majesty's Revenue and Customs” includes a person acting under the authority of the Commissioners in relation to payment by electronic means;”, and
  - (b) after that definition insert—

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““large employer” means a person paying PAYE income to 250 or more recipients (and regulations under this section may make provision as to the date or period by reference to which this is to be determined and the circumstances in which a person is to be treated as paying PAYE income to a recipient);”.

- (7) The heading accordingly becomes “ **Mandatory electronic payment** ”.
- (8) In section 205(1) of FA 2003 (application of section 204 for other purposes)—
- (a) after “taxation” insert “ (or duty) ”, and
  - (b) for “the Commissioners of Inland Revenue” substitute “ the Commissioners for Her Majesty's Revenue and Customs ”.

## **95 Payment by cheque**

- (1) The Commissioners may make regulations providing for a payment to HMRC made by cheque to be treated as made when the cheque clears, as defined in the regulations.
- (2) Section 70A of TMA 1970 (payment by cheque treated as made on receipt by HMRC) is subject to regulations under subsection (1).
- (3) Regulations under subsection (1)—
- (a) may make provision generally or only for specified purposes,
  - (b) may make different provision for different purposes, and
  - (c) may include incidental, consequential or transitional provision.
- (4) Regulations under subsection (1)—
- (a) shall be made by statutory instrument, and
  - (b) shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) In this section—
- (a) “the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs, and
  - (b) “HMRC” means Her Majesty's Revenue and Customs.
- (6) In section 204 of FA 2003 (electronic payment), insert at the end—
- “(13) Regulations under section 95(1) of the Finance Act 2007 (payment by cheque) may, in particular, provide for a payment which is made by cheque in contravention of regulations under this section to be treated as made when the cheque clears, as defined in the regulations under that section.”
- (7) In section 70A of TMA 1970 (payments by cheque), insert at the end—
- “(3) This section is subject to regulations under section 95(1) of the Finance Act 2007 (payment by cheque).”
- (8) In VATA 1994, after section 58A insert—

### **“58B Payment by cheque**

Regulations under section 95(1) of the Finance Act 2007 (payment by cheque) may, in particular, provide for a payment which is made by cheque in

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contravention of regulations under section 25(1) above to be treated as made when the cheque clears, as defined in the regulations under section 95(1) of that Act.”

## 96 Enquiry into returns

- (1) In section 9A(2)(a) of TMA 1970 (period during which HMRC can open enquiry into return), for “after the filing date;” substitute “ after the day on which the return was delivered; ”.
- (2) In section 12AC(2)(a) of TMA 1970 (period during which HMRC can open enquiry into partnership return), for “after the filing date;” substitute “ after the day on which the return was delivered; ”.
- (3) In paragraph 24(2) of Schedule 18 to FA 1998 (period during which HMRC can open enquiry into company tax return), for “from the filing date.” substitute “ from the day on which the return was delivered (subject to sub-paragraph (6)). ”
- (4) In paragraph 24 of that Schedule, insert at the end—
  - “(6) In the case of a company which is a member of a group other than a small group, the 12-month period in sub-paragraph (2) shall start not from the day on which the return was delivered but from the filing date.
  - (7) In sub-paragraph (6) “group” and “small group” have the same meaning as in sections 383(2) and 474(1) of the Companies Act 2006 (or, until their commencement, as in the provisions that they replicate).”
- (5) The amendments made by subsections (1) and (2) apply to returns which relate to the tax year 2007-08 or a later tax year.
- (6) The amendments made by subsections (3) and (4) apply to returns which relate to accounting periods ending after 31st March 2008.

## 97 Penalties for errors

- (1) Schedule 24 contains provisions imposing penalties on taxpayers who—
  - (a) make errors in certain documents sent to HMRC, or
  - (b) unreasonably fail to report errors in assessments by HMRC.
- (2) That Schedule comes into force in accordance with provision made by the Treasury by order.
- (3) An order—
  - (a) may commence a provision generally or only for specified purposes,
  - (b) may make different provision for different purposes, and
  - (c) may include incidental, consequential or transitional provision.
- (4) The power to make an order is exercisable by statutory instrument.

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