



Finance Act 2007

2007 CHAPTER 11

PART 7

MISCELLANEOUS

Other miscellaneous measures

105 Amendments connected with Gambling Act 2005

Schedule 25 contains amendments that are consequential on, or otherwise connected with, the Gambling Act 2005 (c. 19).

106 VED: exempt vehicles

(1) In section 5 of VERA 1994 (exempt vehicles), after subsection (2) insert—

“(3) The Secretary of State may by order amend Schedule 2 in order to make provision about the descriptions of—

- (a) tractors, and
- (b) vehicles used for purposes relating to agriculture, horticulture or forestry,

that are to be exempt vehicles.

(4) An order under subsection (3) may in particular repeal any of paragraphs 20A to 20D of Schedule 2.”

(2) In section 60(3) of that Act (orders subject to affirmative procedure), after “under” insert “ section 5(3) or ”.

107 Limitation period in old actions for mistake of law relating to direct tax

(1) Section 32(1)(c) of the Limitation Act 1980 (c. 58) (extended period for bringing action in case of mistake) does not apply in relation to any action brought before 8th September 2003 for relief from the consequences of a mistake of law relating to

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- a taxation matter under the care and management of the Commissioners of Inland Revenue.
- (2) Subsection (1) has effect regardless of how the grounds on which the action was brought were expressed and of whether it was also brought otherwise than for such relief.
- (3) But subsection (1) does not have effect in relation to an action, or so much of an action as relates to a cause of action, if—
- (a) the action, or cause of action, has been the subject of a judgment of the House of Lords given before 6th December 2006 as to the application of section 32(1)(c) in relation to such relief, or
 - (b) the parties to the action are, in accordance with a group litigation order, bound in relation to the action, or cause of action, by a judgment of the House of Lords in another action given before that date as to the application of section 32(1)(c) in relation to such relief.
- (4) If the judgment of any court was given on or after 6th December 2006 but before the day on which this Act is passed, the judgment is to be taken to have been what it would have been had subsections (1) to (3) been in force at all times since the action was brought (and any defence of limitation which would have been available had been raised).
- (5) And any payment made to satisfy a liability under the judgment which (in consequence of subsection (4)) is to be taken not to have been imposed is repayable (with interest from the date of the payment).
- (6) In this section—
- “group litigation order” means an order of a court providing for the case management of actions which give rise to common or related issues of fact or law, and
- “judgment” includes order (and “given” includes made).

108 Disclosure of tax avoidance schemes

- (1) Part 7 of FA 2004 (disclosure of tax avoidance schemes) is amended as follows.
- (2) After section 306 insert—

“306A Doubt as to notifiability

- (1) HMRC may apply to the Special Commissioners for an order that—
- (a) a proposal is to be treated as notifiable, or
 - (b) arrangements are to be treated as notifiable.
- (2) An application must specify—
- (a) the proposal or arrangements in respect of which the order is sought, and
 - (b) the promoter.
- (3) On an application the Special Commissioners may make the order only if satisfied that HMRC—
- (a) have taken all reasonable steps to establish whether the proposal or arrangements are notifiable, and

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- (b) have reasonable grounds for suspecting that the proposal or arrangements may be notifiable.
- (4) Reasonable steps under subsection (3)(a) may (but need not) include taking action under section 313A or 313B.
- (5) Grounds for suspicion under subsection (3)(b) may include—
 - (a) the fact that the relevant arrangements fall within a description prescribed under section 306(1)(a);
 - (b) an attempt by the promoter to avoid or delay providing information or documents about the proposal or arrangements under or by virtue of section 313A or 313B;
 - (c) the promoter's failure to comply with a requirement under or by virtue of section 313A or 313B in relation to another proposal or other arrangements.
- (6) Where an order is made under this section in respect of a proposal or arrangements, the prescribed period for the purposes of section 308(1) or (3) in so far as it applies by virtue of the order—
 - (a) shall begin after a date prescribed for the purpose, and
 - (b) may be of a different length than the prescribed period for the purpose of other applications of section 308(1) or (3).
- (7) An order under this section in relation to a proposal or arrangements is without prejudice to the possible application of section 308, other than by virtue of this section, to the proposal or arrangements.”
- (3) In section 307 (“promoter”), insert at the end—
 - “(6) In the application of this Part to a proposal or arrangements which are not notifiable, a reference to a promoter is a reference to a person who would be a promoter under subsections (1) to (5) if the proposal or arrangements were notifiable.”
- (4) After section 308 insert—

“308A Supplemental information

- (1) This section applies where—
 - (a) a promoter (P) has provided information in purported compliance with section 308(1) or (3), but
 - (b) HMRC believe that P has not provided all the prescribed information.
- (2) HMRC may apply to the Special Commissioners for an order requiring P to provide specified information about, or documents relating to, the notifiable proposal or arrangements.
- (3) The Special Commissioners may make an order under subsection (2) in respect of information or documents only if satisfied that HMRC have reasonable grounds for suspecting that the information or documents—
 - (a) form part of the prescribed information, or
 - (b) will support or explain the prescribed information.

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- (4) A requirement by virtue of subsection (2) shall be treated as part of P's duty under section 308(1) or (3).
- (5) In so far as P's duty under section 308(1) or (3) arises out of a requirement by virtue of subsection (2) above, the prescribed period shall begin after a date prescribed for the purpose.
- (6) In so far as P's duty under section 308(1) or (3) arises out of a requirement by virtue of subsection (2) above, the prescribed period—
 - (a) may be of a different length than the prescribed period for the purpose of other applications of section 308(1) or (3), and
 - (b) may be extended by HMRC by direction.”
- (5) After section 313 insert—

“313A Pre-disclosure enquiry

- (1) Where HMRC suspect that a person (P) is the promoter of a proposal or arrangements which may be notifiable, they may by written notice require P to state—
 - (a) whether in P's opinion the proposal or arrangements are notifiable by P, and
 - (b) if not, the reasons for P's opinion.
- (2) A notice must specify the proposal or arrangements to which it relates.
- (3) For the purpose of subsection (1)(b)—
 - (a) it is not sufficient to refer to the fact that a lawyer or other professional has given an opinion,
 - (b) the reasons must show, by reference to this Part and regulations under it, why P thinks the proposal or arrangements are not notifiable by P, and
 - (c) in particular, if P asserts that the arrangements do not fall within any description prescribed under section 306(1)(a), the reasons must provide sufficient information to enable HMRC to confirm the assertion.
- (4) P must comply with a requirement under or by virtue of subsection (1) within—
 - (a) the prescribed period, or
 - (b) such longer period as HMRC may direct.

313B Reasons for non-disclosure: supporting information

- (1) Where HMRC receive from a person (P) a statement of reasons why a proposal or arrangements are not notifiable by P, HMRC may apply to the Special Commissioners for an order requiring P to provide specified information or documents in support of the reasons.
- (2) P must comply with a requirement under or by virtue of subsection (1) within—
 - (a) the prescribed period, or

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- (b) such longer period as HMRC may direct.
- (3) The power under subsection (1)—
 - (a) may be exercised more than once, and
 - (b) applies whether or not the statement of reasons was received under section 313A(1)(b).”
- (6) After section 314 insert—

“314A Order to disclose

- (1) HMRC may apply to the Special Commissioners for an order that—
 - (a) a proposal is notifiable, or
 - (b) arrangements are notifiable.
- (2) An application must specify—
 - (a) the proposal or arrangements in respect of which the order is sought, and
 - (b) the promoter.
- (3) On an application the Special Commissioners may make the order only if satisfied that section 306(1)(a) to (c) applies to the relevant arrangements.”
- (7) After section 317 insert—

“317A Special Commissioners: procedure

Sections 56B to 56D of the Taxes Management Act 1970 (procedure) shall apply (with any necessary modifications) to applications under this Part as to appeals.”

- (8) In section 318(1) (interpretation)—
 - (a) after the definition of “corporation tax” insert—

““HMRC” means the Commissioners for Her Majesty’s Revenue and Customs;” and
 - (b) after the definition of “reference number” insert—

““the Special Commissioners” has the meaning given by section 4 of the Taxes Management Act 1970;”.
- (9) In section 98C of TMA 1970 (notifications under Part 7 of FA 2004)—
 - (a) in subsection (2), at the end insert—

“, and

 - (e) sections 313A and 313B (duty of promoter to respond to inquiry).”, and
 - (b) after that subsection insert—

“(2A) Where a failure to comply with a provision mentioned in subsection (2) concerns a proposal or arrangements in respect of which an order has been made under section 306A of the Finance Act 2004 (doubt as to notifiability), the amount specified in subsection (1) (b) above shall be increased to the prescribed sum.

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- (2B) Where a failure to comply with a provision mentioned in subsection (2) concerns a proposal or arrangements in respect of which an order has been made under section 314A of the Finance Act 2004 (order to disclose), the amount specified in subsection (1)(b) above shall be increased to the prescribed sum in relation to days falling after the prescribed period.
- (2C) In subsection (2A) and (2B)—
- (a) “the prescribed sum” means a sum prescribed by the Treasury by regulations, and
 - (b) “the prescribed period” means a period beginning with the date of the order under section 314A and prescribed by the Commissioners by regulations.
- (2D) The making of an order under section 314A of that Act does not of itself mean that, for the purposes of section 118(2) of this Act, a person either did or did not have a reasonable excuse for non-compliance before the order was made.
- (2E) Where an order is made under section 314A of that Act then for the purposes of section 118(2) of this Act—
- (a) the person identified in the order as the promoter of the proposal or arrangements cannot, in respect of any time after the end of the period mentioned in subsection (2B), rely on doubt as to notifiability as an excuse for failure to comply with section 308 of that Act, and
 - (b) any delay in compliance with that section after the end of that period is unreasonable unless attributable to something other than doubt as to notifiability.
- (2F) Regulations under subsection (2C)—
- (a) may include incidental or transitional provision,
 - (b) shall be made by statutory instrument,
 - (c) in the case of regulations under subsection (2C)(a), shall not be made unless a draft has been laid before and approved by resolution of the House of Commons, and
 - (d) in the case of regulations under subsection (2C)(b), shall be subject to annulment in pursuance of a resolution of the House of Commons.”
- (10) The amendments made by this section come into force on the passing of this Act; and—
- ^{F1}(a)
 - (b) a power under Part 7 of FA 2004 as amended by this section may be exercised in relation to, or by virtue of, matters arising wholly or partly before the passing of this Act.

Textual Amendments

- F1** S. 108(10)(a) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 465](#)

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109 Meaning of “recognised stock exchange” etc

Schedule 26 contains—

- (a) new definitions of “recognised stock exchange” for the purposes of the Tax Acts and TCGA 1992,
- (b) provision for the valuation for the purposes of TCGA 1992 of certain shares or securities listed on recognised stock exchanges,
- (c) provision for the valuation for the purposes of Chapter 8 of Part 4 of ITTOIA 2005 of strips and securities exchanged for strips, and
- (d) minor and consequential amendments in relation to stock exchanges.

110 Mergers Directive: regulations

- (1) The Treasury may by regulations make provision about—
 - (a) the tax consequences of a merger to form an SE or SCE,
 - (b) the tax consequences of a merger where—
 - (i) each party to the merger is resident in a member State, and
 - (ii) the parties are not all resident in the same member State,
 - (c) the tax consequences of a transfer between companies of a business or part of a business, where—
 - (i) each party to the transfer is resident in a member State, and
 - (ii) the parties are not all resident in the same member State,
 - (d) the tax consequences of a share exchange to which section 135 of TCGA 1992 (exchange of securities) applies where companies A and B are resident in different member States,
 - (e) the residence of an SE or SCE.
- (2) Regulations may, in particular, make provision—
 - (a) about the taxation of chargeable gains (including conferring relief from taxation in relation to transfers or mergers which satisfy specified conditions),
 - (b) conferring relief from taxation on a distribution of a company which satisfies specified conditions,
 - (c) about the treatment of securities issued on a transfer or merger,
 - (d) about the treatment of loan relationships,
 - (e) about the treatment of derivative contracts,
 - (f) about the treatment of intangible fixed assets, and
 - (g) about capital allowances.
- (3) Regulations may make provision only if the Treasury think it necessary or expedient for the purposes of complying with the United Kingdom's obligations under the Mergers Directive.
- (4) In this section—

“the Mergers Directive” means Council Directive [90/434/EEC](#),

“SCE” means an SCE formed in accordance with Council Regulation (EC) [1435/2003](#) on the Statute for a European Cooperative Society, and

“SE” means an SE formed in accordance with Council Regulation (EC) [2157/2001](#) on the Statute for a European Company.
- (5) Regulations under this section may—

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- (a) amend the Taxes Acts,
 - (b) make incidental or consequential amendments of enactments other than the Taxes Acts,
 - (c) make provision having retrospective effect,
 - (d) make provision generally or only for specified cases or circumstances,
 - (e) make different provision for different cases or circumstances,
 - (f) make incidental, consequential or transitional provision.
- (6) In this section “the Taxes Acts” has the meaning given by section 118(1) of TMA 1970.

111 Excise duties: small consignment relief

- (1) The Excise Duties (Small Non-Commercial Consignments) Relief Regulations 1986 (S.I. 1986/938) are revoked.
- (2) The revocation made by subsection (1) does not apply in relation to goods consigned before the day on which this Act is passed.

112 Updating references to Standing Committees

- (1) In section 1(4)(b) of the Provisional Collection of Taxes Act 1968 (c. 2) (circumstances in which a resolution affecting income tax etc ceases to have effect), for “Standing Committee” substitute “ Public Bill Committee ”.
- (2) In section 50(2)(a) of FA 1973 (corresponding provision for stamp duty), for “Standing Committee” substitute “ Public Bill Committee ”.

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