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SCHEDULES

SCHEDULE 24

PENALTIES FOR ERRORS

Modifications etc. (not altering text)

- C1 Sch. 24 applied (N.I.) (1.4.2008) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2000](#) (S.R. 2000/121), [regs. 7\(2A\)\(b\)](#), 26(4) (as amended by S.R. 2008/129, [regs. 1](#), 3(a), 4)
- C1 Sch. 24 applied (6.4.2008) by [The Social Security \(Contributions\) Regulations 2001](#) (S.I. 2001/1004), Sch. 4 paras. 22(7), [31\(8\)](#) (as amended by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2008](#) (S.I. 2008/636), [regs. 1\(3\)\(b\)](#), 7)
- C1 Sch. 24 applied (N.I.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2009](#) (S.R. 2009/128), [regs. 1\(1\)](#), 9(3)(b), 35(4), 54(8)(b)
- C1 Sch. 24 applied (E.W.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations 2009](#) (S.I. 2009/470), [regs. 1\(1\)](#), 13(3)(b), 40(4), 59(8)(b) (with [reg. 1\(4\)\(6\)](#))
- C1 Sch. 24 applied (with modifications) by SI 2001/1004 reg. 81(1)(1A) (as substituted (with application in accordance with [reg. 1\(3\)](#) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment No. 4\) Regulations 2010](#) (S.I. 2010/721), [regs. 1\(2\)](#), [4](#))
- C1 Sch. 24 modified (8.4.2010) by [Finance Act 2010](#) (c. 13), [Sch. 1 para. 37](#)
- C1 Sch. 24 applied (6.4.2008) by [The Social Security \(Contributions\) Regulations 2001](#) (S.I. 2001/1004), [reg. 81\(1\)\(1A\)](#), Sch. 4 paras. 21A(8), 21D(9), 21F(12), 22(7), [31\(8\)](#) (as amended by S.I. 2008/636, [reg. 7](#); S.I. 2010/721, [reg. 4](#); S.I. 2012/821, [reg. 11](#))
- C1 Sch. 24 applied (with modifications) (19.4.2013) by [The Small Charitable Donations Regulations 2013](#) (S.I. 2013/938), [regs. 1](#), [15](#)

PART 3

PROCEDURE

Assessment

- 13 (1) [^{F1}Where a person] becomes liable for a penalty under paragraph 1[^{F2}, 1A] or 2 HMRC shall—
- (a) assess the penalty,
 - (b) [^{F3}notify the person], and
 - (c) state in the notice a tax period in respect of which the penalty is assessed [^{F4}(subject to sub-paragraph (1ZB))].

[^{F5}(1ZA) Sub-paragraph (1ZB) applies where—

- (a) a person is at any time liable for two or more penalties relating to PAYE returns, or for two or more penalties relating to CIS returns, and
- (b) the penalties (“the relevant penalties”) are assessed in respect of more than one tax period (“the relevant tax periods”).

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- (1ZB) A notice under sub-paragraph (1) in respect of any of the relevant penalties may, instead of stating the tax period in respect of which the penalty is assessed, state the tax year or the part of a tax year to which the penalty relates.
- (1ZC) For that purpose, a relevant penalty relates to the tax year or the part of a tax year in which the relevant tax periods fall.
- (1ZD) For the purposes of sub-paragraph (1ZA)—
 “a PAYE return” means a return for the purposes of PAYE regulations;
 “a CIS return” means a return for the purposes of regulations under section 70(1)(a) of FA 2004 in connection with deductions on account of tax under the Construction Industry Scheme.]
- [^{F6}(1A) A penalty under paragraph 1, 1A or 2 must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.]
- (2) An assessment—
 (a) shall be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for by this Act),
 (b) may be enforced as if it were an assessment to tax, and
 (c) may be combined with an assessment to tax.
- (3) An assessment of a penalty under paragraph 1 [^{F7} or 1A] must be made [^{F8}before the end of the] period of 12 months beginning with—
 (a) the end of the appeal period for the decision correcting the inaccuracy, or
 (b) if there is no assessment [^{F9}to the tax concerned] within paragraph (a), the date on which the inaccuracy is corrected.
- (4) An assessment of a penalty under paragraph 2 must be made [^{F10}before the end of the period of 12 months beginning with—
 (a) the end of the appeal period for the assessment of tax which corrected the understatement, or
 (b) if there is no assessment within paragraph (a), the date on which the understatement is corrected.]
- (5) For the purpose of sub-paragraphs (3) and (4) a reference to an appeal period is a reference to the period during which—
 (a) an appeal could be brought, or
 (b) an appeal that has been brought has not been determined or withdrawn.
- (6) Subject to sub-paragraphs (3) and (4), a supplementary assessment may be made in respect of a penalty if an earlier assessment operated by reference to an underestimate of potential lost revenue.
- [^{F11}(7) In this Part of this Schedule references to an assessment to tax, in relation to inheritance tax and stamp duty reserve tax, are to a determination.]

Textual Amendments

- F1** Words in Sch. 24 para. 13(1) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 12\(2\)\(a\)](#); S.I. 2009/571, art. 2
- F2** Word in Sch. 24 para. 13(1) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 12\(2\)\(b\)](#); S.I. 2009/571, art. 2

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- F3** Words in Sch. 24 para. 13(1) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 12\(2\)\(c\)](#); [S.I. 2009/571](#), art. 2
- F4** Words in Sch. 24 para. 13(1)(c) inserted (with effect in accordance with Sch. 50 para. 16(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 50 para. 1\(2\)](#)
- F5** Sch. 24 para. 13(1ZA)-(1ZD) inserted (with effect in accordance with Sch. 50 para. 16(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 50 para. 1\(3\)](#)
- F6** Sch. 24 para. 13(1A) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 12\(3\)](#); [S.I. 2009/571](#), art. 2
- F7** Words in Sch. 24 para. 13(3) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 12\(4\)\(a\)](#); [S.I. 2009/571](#), art. 2
- F8** Words in Sch. 24 para. 13(3) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 12\(4\)\(b\)](#); [S.I. 2009/571](#), art. 2
- F9** Words in Sch. 24 para. 13(3) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 12\(4\)\(c\)](#); [S.I. 2009/571](#), art. 2
- F10** Words in Sch. 24 para. 13(4) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 12\(5\)](#); [S.I. 2009/571](#), art. 2
- F11** Sch. 24 para. 13(7) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 57 para. 5](#)

Commencement Information

- II** Sch. 24 para. 13 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

Suspension

- 14 (1) HMRC may suspend all or part of a penalty for a careless inaccuracy under paragraph 1 by notice in writing to P.
- (2) A notice must specify—
- what part of the penalty is to be suspended,
 - a period of suspension not exceeding two years, and
 - conditions of suspension to be complied with by P.
- (3) HMRC may suspend all or part of a penalty only if compliance with a condition of suspension would help P to avoid becoming liable to further penalties under paragraph 1 for careless inaccuracy.
- (4) A condition of suspension may specify—
- action to be taken, and
 - a period within which it must be taken.
- (5) On the expiry of the period of suspension—
- if P satisfies HMRC that the conditions of suspension have been complied with, the suspended penalty or part is cancelled, and
 - otherwise, the suspended penalty or part becomes payable.
- (6) If, during the period of suspension of all or part of a penalty under paragraph 1, P becomes liable for another penalty under that paragraph, the suspended penalty or part becomes payable.

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Commencement Information

- I2** Sch. 24 para. 14 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

Appeal

- 15 (1) [^{F12}A person may] appeal against a decision of HMRC that a penalty is payable [^{F13}by the person].
- (2) [^{F12}A person may] appeal against a decision of HMRC as to the amount of a penalty payable [^{F13}by the person].
- (3) [^{F12}A person may] appeal against a decision of HMRC not to suspend a penalty payable [^{F13}by the person].
- (4) [^{F12}A person may] appeal against a decision of HMRC setting conditions of suspension of a penalty payable [^{F13}by the person].

Textual Amendments

F12 Words in Sch. 24 para. 15 substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 13\(a\)](#); [S.I. 2009/571](#), [art. 2](#)

F13 Words in Sch. 24 para. 15 substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 13\(b\)](#); [S.I. 2009/571](#), [art. 2](#)

Commencement Information

- I3** Sch. 24 para. 15 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

- [^{F14}16 (1) An appeal under this Part of this Schedule shall be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).
- (2) [^{F15}Sub-paragraph (1) does not apply—
- (a) so as to require P to pay a penalty before an appeal against the assessment of the penalty is determined, or
- (b) in respect of any other matter expressly provided for by this Act.]]

Textual Amendments

F14 Sch. 24 para. 16 substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), [art. 1\(2\)](#), [Sch. 1 para. 466](#)

F15 Sch. 24 para. 16(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 57 para. 6](#)

- 17 (1) On an appeal under paragraph 15(1) the ^{F16}... tribunal may affirm or cancel HMRC's decision.
- (2) On an appeal under paragraph 15(2) the ^{F17}... tribunal may—

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- (a) affirm HMRC's decision, or
 - (b) substitute for HMRC's decision another decision that HMRC had power to make.
- (3) If the ^{F18}... tribunal substitutes its decision for HMRC's, the ^{F18}... tribunal may rely on paragraph 11—
- (a) to the same extent as HMRC (which may mean applying the same percentage reduction as HMRC to a different starting point), or
 - (b) to a different extent, but only if the ^{F18}... tribunal thinks that HMRC's decision in respect of the application of paragraph 11 was flawed.
- (4) On an appeal under paragraph 15(3)—
- (a) the ^{F19}... tribunal may order HMRC to suspend the penalty only if it thinks that HMRC's decision not to suspend was flawed, and
 - (b) if the ^{F20}... tribunal orders HMRC to suspend the penalty—
 - (i) P may appeal ^{F21}... against a provision of the notice of suspension, and
 - (ii) the ^{F22}... tribunal may order HMRC to amend the notice.
- (5) On an appeal under paragraph 15(4) the ^{F23}... tribunal—
- (a) may affirm the conditions of suspension, or
 - (b) may vary the conditions of suspension, but only if the ^{F23}... tribunal thinks that HMRC's decision in respect of the conditions was flawed.
- [^{F24}(5A) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 16(1)).]
- (6) In sub-paragraphs (3)(b), (4)(a) and (5)(b) “flawed” means flawed when considered in the light of the principles applicable in proceedings for judicial review.
- (7) Paragraph 14 (see in particular paragraph 14(3)) is subject to the possibility of an order under this paragraph.

Textual Amendments

- F16** Word in Sch. 24 para. 17(1) 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. 467(2)**
- F17** Word in Sch. 24 para. 17(2) 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. 467(2)**
- F18** Word in Sch. 24 para. 17(3) 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. 467(2)**
- F19** Word in Sch. 24 para. 17(4)(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. 467(3)(a)**
- F20** Word in Sch. 24 para. 17(4)(b) 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. 467(3)(b)(i)**
- F21** Words in Sch. 24 para. 17(4)(b)(i) 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. 467(3)(b)(ii)**
- F22** Word in Sch. 24 para. 17(4)(b)(ii) 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. 467(3)(b)(iii)**
- F23** Word in Sch. 24 para. 17(5) 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. 467(4)**

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F24 Sch. 24 para. 17(5A) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 467(5)**

Commencement Information

I4 Sch. 24 para. 17 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), **art. 2** (with [art. 3](#))

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