

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: Finance Act 2009, SCHEDULE 57 is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 57

Section 109

#### AMENDMENTS RELATING TO PENALTIES

#### PART 1

##### AMENDMENTS OF SCHEDULE 24 TO FA 2007

- 1 Schedule 24 to FA 2007 (penalties for errors) is amended as follows.
- 2 In paragraph 2 (under-assessment by HMRC), insert at the end—
  - “(4) In this paragraph (and in Part 2 of this Schedule so far as relating to this paragraph)—
    - (a) “assessment” includes determination, and
    - (b) accordingly, references to an under-assessment include an under-determination.”
- 3 In paragraph 5 (normal rule for calculating potential lost revenue), for sub-paragraph (4)(b) substitute—
  - “(b) any relief under subsection (4) of section 419 of ICTA (relief in respect of repayment etc of loan) which is deferred under subsection (4A) of that section;”.
- 4 In paragraph 9(1)(b) and (c) (reductions for disclosure), for “supply or false information” substitute “supply of false information”.
- 5 In paragraph 13 (assessment), insert at the end—
  - “(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.”
- 6 For paragraph 16(2) (appeals) substitute—
  - “(2) 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.”
- 7 (1) Paragraph 19 (companies: officers' liability) is amended as follows.
  - (2) In sub-paragraph (3)—
    - (a) after “a body corporate” insert “other than a limited liability partnership”,
    - (b) in paragraph (a), omit the “or” at the end, and
    - (c) after that paragraph insert—
      - “(aa) a manager, and”.
  - (3) After that sub-paragraph insert—

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“(3A) In the application of sub-paragraph (1) to a limited liability partnership, “officer” means a member.”

(4) Insert at the end—

“(6) In this paragraph “company” means any body corporate or unincorporated association, but does not include a partnership, a local authority or a local authority association.”

8 Omit paragraph 28(da) (interpretation of references to assessment).

9 In paragraphs 30 and 31 (consequential amendments) for “paragraph 7” substitute “ paragraphs 7 and 7B ”.

## PART 2

### AMENDMENTS OF SCHEDULE 41 TO FA 2008

10 Schedule 41 to FA 2008 (penalties for failure to notify and certain other wrongdoing) is amended as follows.

11 For paragraph 18(2) (appeals) substitute—

“(2) 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.”

12 (1) Paragraph 22 (companies: officers' liability) is amended as follows.

(2) In sub-paragraph (3)—

- (a) after “a body corporate” insert “ other than a limited liability partnership ”,
- (b) in paragraph (a), omit the “or” at the end,
- (c) after that paragraph insert—  
 “(aa) a manager, and”.

(3) After that sub-paragraph insert—

“(3A) In the application of sub-paragraph (1) to a limited liability partnership, “officer” means a member.”

(4) Insert at the end—

“(6) In this paragraph “company” means any body corporate or unincorporated association, but does not include a partnership, a local authority or a local authority association.”

## PART 3

### OTHER AMENDMENTS

13 (1) TMA 1970 is amended as follows.

(2) In section 100(2) (determination of penalties by officer), omit paragraph (g) and the “or” before it.

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(3) After section 103 insert—

**“103ZA Disapplication of sections 100 to 103 in the case of certain penalties**

Sections 100 to 103 do not apply to a penalty under—

- (a) Schedule 24 to FA 2007 (penalties for errors),
- (b) Schedule 36 to FA 2008 (information and inspection powers),
- (c) Schedule 41 to that Act (penalties for failure to notify and certain other wrongdoing),
- (d) Schedule 55 to FA 2009 (penalties for failure to make returns etc), or
- (e) Schedule 56 to that Act (penalties for failure to make payments on time).”

14 In FA 2008 omit—

- (a) paragraph 74 of Schedule 36 (information and inspection powers), and
- (b) paragraph 20(3) of Schedule 40 (amendment of Schedule 24 to FA 2007).

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