

Status: Point in time view as at 12/02/2019.

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SCHEDULES

[^{F1}SCHEDULE 7A

INTEREST RESTRICTION RETURNS

Textual Amendments

- F1** Sch. 7A inserted (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 5 para. 2](#) (with [Sch. 5 para. 28](#))

PART 4

ENQUIRY INTO INTEREST RESTRICTION RETURN

Notice of enquiry

- 40 (1) An officer of Revenue and Customs may enquire into an interest restriction return submitted by a reporting company if the officer gives notice to the company of the officer's intention to do so (“notice of enquiry”).
- (2) The general rule is that an interest restriction return which has been the subject of one notice of enquiry may not be the subject of another.
- (3) If a return (“the previous return”) is superseded by an interest restriction return submitted under paragraph 8 (“the revised return”), notice of enquiry may be given in relation to the revised return even though notice of enquiry has been given in relation to the previous return.
- (4) But see paragraph 43(5) for a limitation in certain circumstances on the scope of an enquiry into an interest restriction return submitted under paragraph 8.
- (5) The power to give notice of enquiry into an interest restriction return for a period of account of a worldwide group does not restrict the power to give notice of enquiry into a company tax return of a company that is a member of the group at any time in that period.
- (6) Accordingly, an amendment of the company's company tax return may be required as a result of an enquiry into the interest restriction return even though a closure notice has been given in respect of an enquiry into that company tax return.
- (7) But see paragraph 43(2) for a limitation on the scope of an enquiry into an interest restriction return so far as affecting amounts in a company tax return.

Normal time limits for opening enquiry

- 41 (1) This paragraph applies where an interest restriction return is submitted by a reporting company for a period of account.

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- (2) Notice of enquiry may be given at any time before whichever is the latest of—
- (a) the end of the period of 39 months beginning with the end of the period of account;
 - (b) the end of the period of 6 months beginning with the day on which the reporting company was appointed; and
 - (c) the end of 31 January, 30 April, 31 July or 31 October next following the first anniversary of the day on which an officer of Revenue and Customs receives the revised return.
- (3) If—
- (a) estimated information (or information deriving from estimated information) is included in an interest restriction return for a period of account in reliance on paragraph 27, and
 - (b) a period of 36 months beginning with the end of that period of account has passed without the information becoming final,
- notice of enquiry may be given at any time up to and including the end of the period of 12 months beginning with the end of that 36-month period.
- (4) This paragraph is subject to paragraph 42 (which allows notices of enquiry to be given after the time allowed by this paragraph or an enquiry previously closed to be re-opened).

Extended time limits for opening enquiries: discovery of errors

- 42 (1) Notice of enquiry may be given later than the time allowed under paragraph 41, or a closed enquiry may be re-opened, if—
- (a) an officer of Revenue and Customs discovers that an interest restriction return submitted to an officer of Revenue and Customs does not, or might not, comply with the requirements of paragraph 20(3) in any respect,
 - (b) there would be, or might be, an increase in tax payable by any company for any accounting period if the return had complied with those requirements in that respect,
 - (c) the discovery is made after the time allowed under paragraph 41 or after an enquiry into the return has been closed, and
 - (d) the officer could not, at the relevant time and by reference to the relevant information, have been reasonably expected to be aware of the respects in which the return might not comply with those requirements.
- (2) For this purpose “the relevant time” means—
- (a) in a case where no notice of enquiry has been given within the time allowed under paragraph 41, when an officer of Revenue and Customs ceased to be entitled to give a notice, or
 - (b) in a case where an enquiry has been closed, when the officer gave the closure notice.
- (3) For this purpose “the relevant information” means information which—
- (a) is contained in the interest restriction return in question or either of the two returns for the immediately preceding periods of account of the group,
 - (b) is contained in any documents, financial statements or other accounts or information produced or provided to an officer of Revenue or Customs for the purposes of an enquiry into the interest restriction return in question or

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- either of the two returns for the immediately preceding periods of account of the group,
- (c) is information the existence of which, and the relevance of which as regards the situation mentioned in sub-paragraph (1)(b), could reasonably be expected to be inferred by an officer of Revenue and Customs from information falling with paragraph (a) or (b) of this sub-paragraph, or
 - (d) is information the existence of which, and the relevance of which as regards the situation mentioned in sub-paragraph (1)(b), are notified in writing to an officer of Revenue and Customs by the reporting company for the period of account or a person acting on its behalf.
- (4) Notice of enquiry into an interest restriction return for a period of account may not be given, or a closed enquiry may not be re-opened, as a result of this paragraph more than the applicable number of years after the end of the period of account.
- (5) The “applicable number of years” is—
- (a) 20 years in a case involving deliberate non-compliance by the reporting company for the period of account or by a qualifying person,
 - (b) 6 years in a case involving careless non-compliance by the reporting company for the period of account or by a qualifying person, and
 - (c) 4 years in any other case.
- (6) For this purpose “qualifying person” means—
- (a) a person acting on behalf of the reporting company for the period of account, or
 - (b) a person who was a partner of the reporting company for the period of account at the relevant time.
- (7) For the purposes of this paragraph an enquiry is “closed” when a closure notice is given in relation to the enquiry.

Scope of enquiry

- 43 (1) An enquiry into an interest restriction return extends to anything contained, or required to be contained, in the return (including any election included in the return).
- (2) But the enquiry does not extend to an enquiry into an amount—
- (a) which is contained, or required to be contained, in a company tax return of a UK group company, and
 - (b) which is taken into account in any calculation required for the purposes of the interest restriction return.
- (3) Sub-paragraph (2) does not affect—
- (a) any question as to whether or not, as a result of this Part of this Act, the amount falls to be left out of account, or to be brought into account, in any accounting period of the company, or
 - (b) the way in which, by reference to that amount and other matters, any provision of this Part of this Act has effect to determine whether or not the amount, or any other amount, is to be left out of, or brought into account, in any accounting period (whether of that company or another company).

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- (4) Nor does sub-paragraph (2) limit the operation of any provision of Part 4 of Schedule 18 to FA 1998 (determinations and assessments made by officers of Revenue and Customs).
- (5) If—
- (a) at any time an enquiry into an interest restriction return (“the previous return”) has been closed, and
 - (b) the previous return is subsequently superseded by an interest restriction return submitted under paragraph 8 (“the revised return”),
- the enquiry into the revised return extends only to matters arising as a result of information that was not included in the previous return.
- (6) For this purpose an enquiry is “closed” when a closure notice is given in relation to the enquiry.

Enquiry into return for wrong period or wrong group

- 44 (1) If it appears to an officer of Revenue and Customs that the period of account for which an interest restriction return has been submitted is or may be the wrong period, the power to enquire into the return includes power to enquire into the period for which the return ought to have been made.
- (2) If sub-paragraph (1) applies, paragraph 41 (normal time limits for opening enquiry) has effect as if the return were one that had been submitted for the correct period of account.
- (3) If it appears to an officer of Revenue and Customs that the worldwide group (“the relevant group”) in relation to which an interest restriction return has been submitted—
- (a) consists of, or may consist of, two or more worldwide groups,
 - (b) includes, or may include, entities that are members of a different worldwide group or groups, or
 - (c) does not include, or may not include, entities that should be members of the relevant group,
- the power to enquire into the return includes power to enquire into the returns for the periods of account of the worldwide groups which ought to have been made.

Amendment of self-assessment during enquiry to prevent loss of tax

- 45 (1) If after notice of enquiry has been given into an interest restriction return but before the enquiry is completed, an officer of Revenue and Customs forms the opinion that—
- (a) the amount stated in the self-assessment of a company as the amount of tax payable is insufficient,
 - (b) the deficiency is attributable to matters in relation to which the enquiry extends, and
 - (c) unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,
- the officer may by notice to the company amend its self-assessment to make good the deficiency.

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- (2) In sub-paragraph (1) the reference to a company is to a company that was a member of the group at any time in the period of account for which the interest restriction return was submitted.
- (3) An appeal may be brought, by notice, against an amendment of a company's self-assessment by an officer of Revenue and Customs under this paragraph.
- (4) Notice of appeal must be given—
 - (a) within 30 days after the amendment was notified to the company,
 - (b) to the officer of Revenue and Customs by whom the notice of amendment was given.
- (5) None of the steps mentioned in section 49A(2)(a) to (c) of TMA 1970 (reviews of the matter or notification of appeal to tribunal) may be taken in relation to the appeal before the completion of the enquiry.
- (6) In this paragraph “self-assessment” has the meaning given by paragraph 7 of Schedule 18 to FA 1998.

Revision of interest restriction return during enquiry

- 46
- (1) This paragraph applies if a reporting company submits a revised interest restriction return at a time when an enquiry is in progress into the previous return.
 - (2) The submission of the revised return does not restrict the scope of the enquiry but the revisions may be taken into account (together with any matter arising) in the enquiry.
 - (3) So far as the revised return affects the tax payable by a company, it does not take effect until the enquiry is completed (and, accordingly, paragraph 70 has effect subject to this sub-paragraph).
 - (4) But sub-paragraph (3) does not affect any claim by the company under section 59DA of TMA 1970 (claim for repayment in advance of liability being established).
 - (5) The submission of a revised return whose effect is deferred under sub-paragraph (3) takes effect as follows—
 - (a) if the conclusions in the closure notice state either—
 - (i) that the revisions were not taken into account in the enquiry, or
 - (ii) that no revision of the revised return is required arising from the enquiry,the revision takes effect on the completion of the enquiry, and
 - (b) in any other case, the revisions take effect as part of the steps required to be taken in order to give effect to the conclusions stated in the closure notice.
 - (6) For the purposes of this paragraph the period during which an enquiry into an interest restriction return is in progress is the whole of the period—
 - (a) beginning with the day on which an officer of Revenue and Customs gives notice of enquiry into the return, and
 - (b) ending with the day on which the enquiry is completed.

Completion of enquiry

- 47
- (1) An enquiry into an interest restriction return submitted by a reporting company is completed when an officer of Revenue and Customs by notice (a “closure notice”)—

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- (a) informs the company that the officer has completed the enquiry, and
 - (b) states the officer's conclusions.
- (2) The closure notice takes effect when it is given.
- (3) If an officer of Revenue and Customs concludes that the return should have been made for one or more different periods of account of the group, the closure notice must designate the period of account (or periods of account) for which the return should have been made.
- (4) If an officer of Revenue and Customs concludes that an interest restriction return in relation to a worldwide group should have been submitted—
- (a) in relation to one or more different worldwide groups, or
 - (b) in relation to a different membership,
- the closure notice must designate each period of account of a worldwide group for which an interest restriction return should have been made or for which an interest restriction return should have been submitted in relation to a different membership.
- (5) If the officer concludes that the group in relation to which the return was submitted has a different membership, the designation under sub-paragraph (4) must also include details of the members of the group that the officer considers are UK group companies.
- (6) If the officer concludes that the return should have been submitted in relation to one or more different worldwide groups, the designation under sub-paragraph (4) must also include—
- (a) sufficient details to identify the different worldwide group or groups, and
 - (b) details of the members of the group that the officer considers are UK group companies.
- (7) A designation by a closure notice of a period of account under this paragraph must specify the dates on which the period of account begins and ends.
- (8) In this paragraph references to UK group companies, in relation to a period of account, do not include UK group companies that are dormant throughout the period.

Direction to complete enquiry

- 48 (1) An application may be made at any time to the tribunal for a direction that an officer of Revenue and Customs gives a closure notice in respect of an enquiry into an interest restriction return within a specified period.
- (2) The application is to be made by the reporting company for the period of account of the group for which the return was submitted.
- (3) The application is subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).
- (4) The tribunal must give a direction unless satisfied that an officer of Revenue and Customs has reasonable grounds for not giving a closure notice within a specified period.

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Conclusions of enquiry

- 49 (1) This paragraph applies where a closure notice is given under paragraph 47 to a company by an officer.
- (2) The closure notice must—
- (a) state that, in the officer's opinion, no steps are required to be taken by the company as a result of the enquiry, or
 - (b) state the steps that the company is required to take in order to give effect to the conclusions stated in the notice.
- (3) The closure notice may (but need not) specify the allocated disallowance for particular companies specified in the notice.
- (4) If—
- (a) the return was made for the wrong period, and
 - (b) a period of account designated under paragraph 47(3) begins or ends at any time in that period,
- the closure notice must require the company to take steps to make the return one appropriate to that designated period of account.
- (5) If there is more than one designated period of account within sub-paragraph (4), the closure notice must require the company to submit an interest restriction return for each of those designated periods of account.
- (6) If—
- (a) a period of account of a worldwide group (“the relevant group”) is designated under paragraph 47(4),
 - (b) the company is a member of the relevant group for that period of account, and
 - (c) condition A or B is met,
- the closure notice must require the company to submit an interest restriction return for the designated period of account of the relevant group.
- (7) Condition A is met if the UK group companies comprised in the relevant group were regarded as members of the worldwide group in relation to which the return was made.
- (8) Condition B is met if—
- (a) the relevant group includes UK group companies that were not regarded as members of the group in relation to which the return was made, and
 - (b) the ultimate parent of the relevant group is not the ultimate parent of a worldwide group in relation to which a reporting company has been appointed for a period of account that includes a time falling within the designated period of account of the relevant group.
- (9) If sub-paragraph (6) applies in relation to two or more designated periods of account of a worldwide group (whether those periods are of the same or different groups), the closure notice must require the company to submit separate interest restriction returns for each of the designated periods of account.
- (10) If, as a result of this paragraph, a closure notice requires a company to submit an interest restriction return for a period of account of a worldwide group, the company is treated for the purposes of this Part of this Act as if it had been appointed as the reporting company of the group in relation to the period.

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- (11) For this purpose it does not matter whether the return that was subject to the enquiry was submitted in relation to a different worldwide group.
- (12) Sub-paragraph (10) is ignored in determining the period within which the return must be submitted (as to which, see instead paragraph 50(2)).

Interest restriction returns to be submitted to an officer of Revenue and Customs

- 50 (1) If, as a result of a closure notice given under paragraph 47 (closure notice in respect of a return subject to enquiry), a company is required to submit one or more interest restriction returns, the return or returns must—
- (a) be submitted to an officer of Revenue and Customs,
 - (b) give effect to the conclusions stated in the notice, and
 - (c) contain such consequential provision as the company considers appropriate.
- (2) A return submitted in compliance with the closure notice is of no effect unless it is received by an officer of Revenue and Customs before the end of the period of 3 months beginning with the day on which the closure notice is given to the company.
- (3) A return submitted in compliance with the closure notice—
- (a) must indicate the respects in which it differs from the return that was the subject of the enquiry, and
 - (b) supersedes that return.
- (4) For provision dealing with cases where no return is submitted before the end of the period mentioned in sub-paragraph (2), see paragraph 58.

Return in relation to a worldwide group: other entities part of another group

- 51 (1) This paragraph applies if—
- (a) an enquiry has been made into an interest restriction return (“the original return”) for a period of account of a worldwide group (“the original group”),
 - (b) a closure notice has been given in respect of the enquiry that designates a period of account of a worldwide group under paragraph 47(4) (“the new group”),
 - (c) the new group consists of both UK group companies that were not regarded as members of the original group and other UK group companies, and
 - (d) the ultimate parent of the new group is the ultimate parent of a worldwide group (“the existing group”) in relation to which a reporting company has been appointed for a period of account that includes a time falling within the designated period of account of the new group.
- (2) An officer of Revenue and Customs must give a notice to that company appointing it as the reporting company in relation to each designated period of account of the new group.
- (3) The notice of appointment must be given within the period of 30 days beginning with the day on which the closure notice was given.
- (4) If—
- (a) an interest restriction return has been submitted for a period of account of the existing group, and

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(b) that period of account begins or ends at any time in a designated period of account of the new group,
the return is to be treated as withdrawn.

(5) Accordingly—

- (a) any notice of enquiry or closure notice in relation to the return is also to be treated as withdrawn,
- (b) any appeal in respect of any matter stated in a closure notice in relation to the return is treated as withdrawn, and
- (c) any determination of any such appeal is treated as being of no effect.

(6) If—

- (a) an interest restriction return for a period of account is treated as withdrawn as a result of sub-paragraph (4), and
- (b) the period of account begins at any time before a designated period of account of the new group,

the notice under sub-paragraph (2) is also to be treated as if it constituted, on the day on which it is given, the appointment of the company in relation to a period of account of the existing group beginning with that time and ending immediately before the beginning of the designated period of account.

(7) If—

- (a) enquiries are open at any time in relation to more than one interest restriction return, and
- (b) this paragraph is capable of applying by reference to a closure notice to be given in respect of any one of those enquiries (so that a worldwide group could be either the original group or the existing group),

an officer of Revenue and Customs must select the company that, in the officer's opinion, ought to be the reporting company in relation to the new group.

(8) For this purpose an enquiry is “open” in relation to an interest restriction return if no closure notice has been given in relation to the enquiry.

Appeal against closure notice or notice under paragraph 51

52 (1) If a closure notice —

- (a) is given to a company under paragraph 47, and
- (b) contains a statement under paragraph 49(2)(b),

the company may appeal against the statement.

(2) If a notice is given to a company under paragraph 51, the company may appeal against the notice.

(3) Notice of appeal under this paragraph must be given—

- (a) within 30 days after the notice was given to the company,
- (b) to the officer of Revenue and Customs by whom the notice in question was given.

New groups without existing reporting company

53 (1) This paragraph applies if—

- (a) a closure notice is given to a company under paragraph 47,

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- (b) a period of account of a worldwide group (“the new group”) is designated under paragraph 47(4) in the closure notice,
 - (c) the company is not a member of the new group at any time in that period of account, and
 - (d) paragraph 51 does not apply.
- (2) An officer of Revenue and Customs may appoint a company to be the reporting company of the new group in relation to that period.
- (3) The appointment—
- (a) must be of a company that was a UK group company at any time during that period and was not dormant throughout that period, and
 - (b) must be made before the end of the period of 3 months beginning with the day on which the closure notice is given to the company.

Matters required to be done on a “just and reasonable” basis

- 54 (1) This paragraph applies if—
- (a) anything is required to be done under any provision of this Part of this Act on a “just and reasonable” basis,
 - (b) in preparing an interest restriction return the reporting company adopts a particular basis for dealing with that thing, and
 - (c) notice of enquiry is given into the return.
- (2) An officer of Revenue and Customs may determine that, in preparing the return, a different just and reasonable basis should have been adopted for dealing with that thing.
- (3) A closure notice given in respect of the return must require the reporting company to whom the notice is given to revise the return to give effect to that determination.
- (4) The officer's determination may be questioned on an appeal under paragraph 52 on the ground that the basis to be adopted is not just and reasonable (but not on any other ground).

References to a reporting company where replaced

- 55 (1) This paragraph applies where—
- (a) the appointment of a reporting company has effect in relation to a period of account of a worldwide group, and
 - (b) another reporting company is appointed in place of that company and the appointment has effect in relation to that period of account.
- (2) Any reference in this Part of this Schedule (however expressed) to the reporting company in relation to that period of account at any time is to the company which is the reporting company at that time in relation to that period of account.]

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