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## SCHEDULES

### SCHEDULE 23

#### DATA-GATHERING POWERS

##### **Modifications etc. (not altering text)**

- C1** Sch. 23 applied by S.I. 2009/470 reg. 33(1) (as substituted (6.4.2013) by [The Education \(Student Loans\) \(Repayment\) \(Amendment\) Regulations 2013 \(S.I. 2013/607\)](#), regs. 1(1), 9))
- C1** Sch. 23 applied (16.6.2016) (with application in accordance with reg. 1 of the amending S.I.) by [The Education \(Postgraduate Masters Degree Loans\) Regulations 2016 \(S.I. 2016/606\)](#), regs. 1(1), 43(1)

#### **PART 1**

##### POWER TO OBTAIN DATA

###### *Power to give notice*

- 1
- (1) An officer of Revenue and Customs may by notice in writing require a relevant data-holder to provide relevant data.
  - (2) Part 2 of this Schedule sets out who is a relevant data-holder.
  - (3) In relation to a relevant data-holder, “relevant data” means data of a kind specified for that type of data-holder in regulations made by the Treasury.
  - (4) The data that a relevant data-holder may be required to provide—
    - (a) may be general data or data relating to particular persons or matters, and
    - (b) may include personal data (such as names and addresses of individuals).
  - (5) A notice under this paragraph is referred to as a data-holder notice.

###### *Purpose of power*

- 2
- (1) The power in paragraph 1(1) is exercisable to assist with the efficient and effective discharge of HMRC's tax functions—
    - (a) whether a particular function or more generally, and
    - (b) whether involving a particular taxpayer or taxpayers generally.
  - (2) It is additional to and is not limited by other powers that HMRC may have to obtain data (for example, in Schedule 36 to FA 2008).
  - (3) But it may not be used (in place of the power in paragraph 1 of that Schedule) to obtain data required for the purpose of checking the relevant data-holder's own tax position.

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- (4) Sub-paragraph (3) does not prevent use of the power in paragraph 1(1) of this Schedule to obtain data about a matter mentioned in paragraph 14(3)(a) (beneficial ownership of certain payments etc).
- (5) Nothing in this paragraph limits the use that may be made of data that have been obtained under this Schedule (see section 17(1) of CRCA 2005).

*Specifying relevant data*

- 3 (1) A data-holder notice must specify the relevant data to be provided.
- (2) Relevant data may not be specified in a data-holder notice unless an officer of Revenue and Customs has reason to believe that the data could have a bearing on chargeable or other periods ending on or after the applicable day.
- (3) The applicable day is the first day of the period of 4 years ending with the day on which the notice is given.

*Compliance*

- 4 (1) Relevant data specified in a data-holder notice must be provided by such means and in such form as is reasonably specified in the notice.
- (2) If the notice specifies that the data are to be provided by sending them somewhere, the data must be sent to such address and within such period as is reasonably specified in the notice.
- (3) If the notice specifies that the data are to be provided by making documents available for inspection somewhere, the documents must be made available for inspection at such place and time as is—
  - (a) reasonably specified in the notice, or
  - (b) agreed between an officer of Revenue and Customs and the data-holder.
- (4) A place used solely as a dwelling may not be specified under sub-paragraph (3)(a).
- (5) A data-holder notice requiring the provision of specified documents requires the documents to be provided only if they are in the data-holder's possession or power.
- (6) A power in this paragraph to specify something in a notice includes power to specify it in a document referred to in the notice.

*Approval by tribunal*

- 5 (1) An officer of Revenue and Customs may ask for the approval of the tribunal before giving a data-holder notice.
- (2) This does not require an officer to do so (but see paragraph 28(3) for the effect of obtaining approval).
- (3) An application for approval under this paragraph may be made without notice (except as required under sub-paragraph (4)).
- (4) The tribunal may not approve the giving of a data-holder notice unless—
  - (a) the application for approval is made by, or with the agreement of, an authorised officer,

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- (b) the tribunal is satisfied that, in the circumstances, the officer giving the notice is justified in doing so,
  - (c) the data-holder has been told that the data are to be required and given a reasonable opportunity to make representations to an officer of Revenue and Customs, and
  - (d) the tribunal has been given a summary of any representations made by the data-holder.
- (5) Paragraphs (c) and (d) of sub-paragraph (4) do not apply to the extent that the tribunal is satisfied that taking the action specified in those paragraphs might prejudice any purpose for which the data are required.
- (6) A decision by the tribunal under this paragraph is final (despite the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007).
- (7) “Authorised officer” means an officer of Revenue and Customs who is, or is a member of a class of officers who are, authorised by the Commissioners for the purposes of this paragraph.

*Power to copy documents*

- 6 An officer of Revenue and Customs may take copies of or make extracts from any document provided pursuant to a data-holder notice.

*Power to retain documents*

- 7 (1) If an officer of Revenue and Customs thinks it reasonable to do so, HMRC may retain documents provided pursuant to a data-holder notice for a reasonable period.
- (2) While a document is being retained, the data-holder may, if the document is reasonably required for any purpose, request a copy of it.
- (3) The retention of a document under this paragraph is not to be regarded as breaking any lien claimed on the document.
- (4) If a document retained under this paragraph is lost or damaged, the Commissioners are liable to compensate the owner of the document for any expenses reasonably incurred in replacing or repairing the document.

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