

Status: Point in time view as at 28/04/2022.

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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 2

RELEVANT DATA-HOLDERS

Introduction

- 8 (1) This Part of this Schedule sets out who is a relevant data-holder for the purposes of this Schedule.
- (2) Descriptions of the various types of data-holder are to be read as including anyone who was previously of such a description.

Salaries, fees, commission etc

- 9 (1) Each of the following is a relevant data-holder—
- (a) an employer,
 - (b) a person who is concerned in making payments to or in respect of another person's employees with respect to their employment with that other person,
 - (c) an approved agent within the meaning of section 714 of ITEPA 2003 (which relates to payroll giving), and
 - (d) a person who carries on a business in connection with which relevant payments are or are likely to be made.
- (2) Relevant payments are—
- (a) payments for or in connection with services provided by persons who are not employed in the business, or
 - (b) periodical or lump sum payments in respect of any copyright, public lending right, right in a registered design or design right.
- (3) Payments are taken to be made in connection with a business if they are made—
- (a) in the course of carrying on the business or a part of it, or
 - (b) in connection with the formation, acquisition, development or disposal of the business or a part of it.

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- (4) Sub-paragraph (1)(d) applies to the carrying on of any other kind of activity as it applies to the carrying on of a business, but only if the activity is being carried on by a body of persons (and references in sub-paragraphs (2) and (3) to the business are to be read accordingly).
- (5) A reference in this paragraph to the making of payments includes—
- (a) the provision of benefits, and
 - (b) the giving of any other valuable consideration.
- 10 (1) This paragraph applies if—
- (a) services that an individual provides or is obliged to provide under an agency contract are treated under section 44(2) of ITEPA 2003 as the duties of an employment held by the individual with the agency, or
 - (b) remuneration receivable under or in consequence of arrangements falling within section 45 of that Act is treated as earnings from an employment held by an individual with the agency.
- (2) For the purposes of paragraph 9—
- (a) the individual is treated as being employed by the agency, and
 - (b) payments made to the individual under or in consequence of the agency contract, or treated as earnings under section 45 of ITEPA 2003, do not count as “relevant payments”.
- (3) “Agency contract” and “remuneration” have the same meaning as in Chapter 7 of Part 2 of ITEPA 2003.
- 11 (1) This paragraph applies if—
- (a) a person (“A”) performs in the United Kingdom duties of an employment,
 - (b) the employment is under or with a person resident outside and not resident in the United Kingdom,
 - (c) the duties performed in the United Kingdom are performed for a continuous period of not less than 30 days, and
 - (d) those duties are performed for the benefit of a person (“B”) resident or carrying on a trade, profession or vocation in the United Kingdom.
- (2) For the purposes of paragraph 9—
- (a) B is treated as if B were an employer, but
 - (b) only the name and place of residence of A may be specified for a relevant data-holder of B's type in regulations made under paragraph 1(3).
- Interest etc*
- 12 (1) A person by or through whom interest is paid or credited is a relevant data-holder.
- (2) For the purposes of this paragraph, the following are to be treated as interest—
- (a) a dividend in respect of a share in a building society,
 - (b) an amount to which a person holding a deeply discounted security is entitled on the redemption of that security,
 - (c) a foreign dividend, and
 - (d) an alternative finance return.
- (3) In sub-paragraph (2)—

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“alternative finance return” means—

(a) an alternative finance return within the meaning of Part 10A of ITA 2007, and

(b) an alternative finance return within the meaning of Part 6 of CTA 2009;
“building society” means a building society within the meaning of the Building Societies Act 1986;

“deeply discounted security” has the same meaning as in Chapter 8 of Part 4 of ITTOIA 2005;

“foreign dividend” means any annual payment, interest or dividend payable out of, or in respect of the funds or securities of—

(a) a body of persons that is not resident in the United Kingdom, or

(b) a government or public or local authority in a country outside the United Kingdom.

Income, assets etc belonging to others

- 13 A person who (in whatever capacity) is in receipt of money or value of or belonging to another is a relevant data-holder.

[^{F1} Merchant acquirers etc

Textual Amendments

- F1** Sch. 23 para. 13A and cross-heading inserted (with application in accordance with s. 228(2) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), s. 228(1)

- 13A (1) A person who has a contractual obligation to make payments to retailers in settlement of payment card transactions is a relevant data-holder.

(2) In this paragraph—

“payment card” includes a credit card, a charge card and a debit card;

“payment card transaction” means any transaction in which a payment card is accepted as payment;

“retailer” means a person who accepts a payment card as payment for any transaction.

(3) In this paragraph any reference to a payment card being accepted as payment includes a reference to any account number or other indicators associated with a payment card being accepted as payment.]

[^{F2} Providers of electronic stored-value payment services

Textual Amendments

- F2** Sch. 23 paras. 13B, 13C and cross-headings inserted (with application in accordance with s. 176(2) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), s. 176(1)

- 13B (1) A person who provides electronic stored-value payment services is a relevant data-holder.

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- (2) In this paragraph “electronic stored-value payment services” means services by means of which monetary value is stored electronically for the purpose of payments being made in respect of transactions to which the provider of those services is not a party.

Business intermediaries

- 13C (1) A person who—
- (a) provides services to enable or facilitate transactions between suppliers and their customers or clients (other than services provided solely to enable payments to be made), and
 - (b) receives information about such transactions in the course of doing so, is a relevant data-holder.
- (2) In this paragraph “suppliers” means persons supplying goods or services in the course of business.
- (3) For the purposes of this paragraph, information about transactions includes information that is capable of indicating the likely quantity or value of transactions.]

Money service businesses

- [^{F3}13D(1) A person is a relevant data-holder if the person—
- (a) carries on any of the activities in sub-paragraph (2) by way of business,
 - (b) is a relevant person within the meaning of regulation 8(1) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692), and
 - (c) is not an excluded credit institution.
- (2) The activities referred to in sub-paragraph (1)(a) are—
- (a) operating a currency exchange office;
 - (b) transmitting money (or any representation of monetary value) by any means;
 - (c) cashing cheques which are made payable to customers.
- (3) An excluded credit institution is a credit institution which has permission to carry on the regulated activity of accepting deposits—
- (a) under Part 4A of the Financial Services and Markets Act 2000 (permission to carry on regulated activities), ^{F4}...
 - ^{F5}(b)
- (4) Sub-paragraph (3) is to be read with section 22 of and Schedule 2 to the Financial Services and Markets Act 2000, and any order under that section (classes of regulated activities).
- (5) In this paragraph “credit institution” has the meaning given by Article 4.1(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms.]

Textual Amendments

- F3** Sch. 23 para. 13D and cross-heading inserted (with application in accordance with s. 69(2) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 69(1)

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| <p>F4 Word in Sch. 23 para. 13D(3)(a) omitted (31.12.2020) by virtue of The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, 20(3)(a)(i) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)</p> <p>F5 Sch. 23 para. 13D(3)(b) omitted (31.12.2020) by virtue of The Taxes (Amendments) (EU Exit) Regulations 2019 (S.I. 2019/689), regs. 1, 20(3)(a)(ii) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)</p> |
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Payments derived from securities

- 14 (1) Each of the following is a relevant data-holder—
- (a) a person who is the registered or inscribed holder of securities,
 - (b) a person who receives a payment derived from securities or would be entitled to do so if a payment were made,
 - (c) a person who receives a payment treated by the company that makes it as a payment to which section 1033 of CTA 2010 applies (purchase by unquoted trading company of own shares), and
 - (d) a person who receives a chargeable payment within the meaning of Chapter 5 of Part 23 of CTA 2010 (company distributions: demergers).
- (2) But, for a relevant data-holder of a type described in this paragraph, data may only be specified in regulations under paragraph 1(3) if the data concern a matter mentioned in sub-paragraph (3).
- (3) The matters are—
- (a) whether the relevant data-holder is the beneficial owner (or sole beneficial owner) of the securities or payment in question,
 - (b) if not—
 - (i) details of the beneficial owner (or other beneficial owners), and
 - (ii) if those details are not known or if different, details of the person for whom the securities are held or to whom the payment is or may be paid on, and
 - (c) if there is more than one beneficial owner or more than one person of the kind mentioned in paragraph (b)(ii), their respective interests in the securities or payment.
- (4) “Payment derived from securities” includes in particular—
- (a) an amount (whether of income or capital) that is payable out of or in respect of securities or rights attaching to securities, and
 - (b) a payment that is representative of any such amount.
- 15 (1) A person who makes a payment derived from securities that has been received from or is paid on behalf of another is a relevant data-holder.
- (2) “Payment derived from securities” has the same meaning as in paragraph 14.

Grants and subsidies out of public funds

- 16 (1) A person by whom a payment out of public funds is made by way of grant or subsidy is a relevant data-holder.
- (2) For these purposes, a payment is a payment out of public funds if it is provided directly or indirectly by—
- (a) the Crown,

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- (b) any government, public or local authority whether in the United Kingdom or elsewhere, or
- (c) any EU institution.

Licences, approvals etc

- 17 (1) A person by whom licences or approvals are issued or a register is maintained is a relevant data-holder.
- (2) “ Register ” includes—
- (a) any record or list that a local authority maintains, and
 - (b) any record or list that any other person is required or permitted to maintain by or under an enactment.

Modifications etc. (not altering text)

C1 Sch. 23 para. 17 modified (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\), ss. 39\(5\), 216\(3\); S.I. 2018/393, reg. 2\(a\)](#)

Rent and other payments arising from land

- 18 (1) Each of the following is a relevant data-holder—
- (a) a lessee (or successor in title of a lessee),
 - (b) an occupier of land,
 - (c) a person having the use of land, and
 - (d) a person who, as agent, manages land or is in receipt of rent or other payments arising from land.
- (2) The reference to a person who manages land includes a person who markets property to potential tenants, searches for tenants or provides similar services.

Dealing etc in securities

- 19 (1) Each of the following is a relevant data-holder—
- (a) a person who effects or is a party to securities transactions wholly or partly on behalf of others (whether as agent or principal),
 - (b) a person who, in the course of business, acts as registrar or administrator in respect of securities transactions (including a person who manages a clearing house ^[F6] or a central securities depository as defined in point (1) of Article 2(1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories] for any terminal market in securities),
 - (c) a person who makes a payment derived from securities to anyone other than the registered or inscribed holder of the securities,
 - (d) a person who makes a payment derived from bearer securities, and
 - (e) an accountable person within the meaning of the Stamp Duty Reserve Tax Regulations 1986 (S.I. 1986/1711).
- (2) “ Payment derived from securities ” has the same meaning as in paragraph 14 (and “ payment derived from bearer securities ” is to be read accordingly).

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- (3) “ Securities transactions ” means—
- (a) transactions in securities,
 - (b) transactions under which a representative payment has been, is to be or may be made, or
 - (c) the making or receipt of a representative payment.
- (4) In sub-paragraph (3)—
- “ representative payment ” means a payment that is representative of an amount payable out of or in respect of securities or rights attaching to securities;
- “ transactions in securities ” means transactions, of whatever description, relating to securities, and includes in particular—
- (a) the purchase, sale or exchange of securities,
 - (b) issuing or securing the issue of new securities,
 - (c) applying or subscribing for new securities, and
 - (d) altering or securing the alteration of rights attached to securities.

Textual Amendments

- F6** Words in Sch. 23 para. 19(1)(b) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), reg. 1, Sch. para. 15(a) (with regs. 7(4), 9(1))

Dealing in other property

- 20 Each of the following is a relevant data-holder—
- (a) the committee or other person or body of persons responsible for managing a clearing house [^{F7}or a central securities depository (as defined in paragraph 19)] for any terminal market in commodities,
 - (b) an auctioneer,
 - (c) a person carrying on a business of dealing in any description of tangible movable property, and
 - (d) a person carrying on a business of acting as an agent or intermediary in dealings in any description of tangible movable property.

Textual Amendments

- F7** Words in Sch. 23 para. 20(a) inserted (28.11.2017) by The Central Securities Depositories Regulations 2017 (S.I. 2017/1064), reg. 1, Sch. para. 15(b) (with regs. 7(4), 9(1))

Lloyd's

- 21 A person who is registered as managing agent at Lloyd's in relation to a syndicate of underwriting members of Lloyd's is a relevant data-holder.

Investment plans etc

- 22 Each of the following is a relevant data-holder—
- (a) a plan manager (see section 696 of ITTOIA 2005), and

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- (b) an account provider in relation to a child trust fund (as defined in section 3 of the Child Trust Funds Act 2004).

Petroleum activities

- 23 Each of the following is a relevant data-holder—
- (a) the holder of a licence granted under Part 1 of the Petroleum Act 1998, and
 - (b) the responsible person in relation to an oil field (within the meaning of Part 1 of OTA 1975).

Insurance activities

- 24 Each of the following is a relevant data-holder—
- (a) a person who is involved (in any capacity) in an insurance business (as defined for the purposes of Part 3 of FA 1994),
 - (b) a person who makes arrangements for persons to enter into contracts of insurance, and
 - (c) a person who is concerned in a business that is not an insurance business and who has been involved in the entering into of a contract of insurance that provides cover for any matter associated with the business.

Environmental activities

- 25 A person who is involved (in any capacity) in any of the following activities is a relevant data-holder—
- (a) subjecting aggregate to exploitation in [^{F8}England, Wales or Northern Ireland] (as defined for the purposes of Part 2 of FA 2001) or connected activities,
 - (b) making or receiving supplies of taxable commodities (as defined for the purposes of Schedule 6 to FA 2000) or connected activities, and
 - (c) [^{F9}disposal of material] (as defined for the purposes of Part 3 of FA 1996).

Textual Amendments

- F8** Words in Sch. 23 para. 25(a) substituted (with effect in accordance with s. 18(4) of the amending Act) by [Scotland Act 2016 \(c. 11\), s. 72\(3\)](#), [Sch. 1 para. 13](#)
- F9** Words in [Sch. 23 para. 25\(c\)](#) substituted (with effect in accordance with s. 42(2), Sch. 12 para. 29(1) of the amending Act) by [Finance Act 2018 \(c. 3\), Sch. 12 para. 28](#)

Settlements

- 26 (1) Each of the following is a relevant data-holder—
- (a) a person who makes a settlement,
 - (b) the trustees of a settlement,
 - (c) a beneficiary under a settlement, and
 - (d) any other person to whom income is payable under a settlement.
- (2) Section 620 of ITTOIA 2005 (meaning of “settlement” etc) applies for the purposes of this paragraph.

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Charities

27 A charity is a relevant data-holder.

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