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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 5**

##### MISCELLANEOUS PROVISION AND INTERPRETATION

###### *Application of provisions of TMA 1970*

- 43 Subject to the provisions of this Schedule, the following provisions of TMA 1970 apply for the purposes of this Schedule as they apply for the purposes of the Taxes Acts—
- (a) section 108 (responsibility of company officers),
  - (b) section 114 (want of form), and
  - (c) section 115 (delivery and service of documents).

###### *Regulations*

- 44 (1) Regulations under this Schedule are to be made by statutory instrument.
- (2) The first regulations to be made under paragraph 1(3) may not be made unless the instrument containing them has been laid in draft before, and approved by a resolution of, the House of Commons.
- (3) Subject to sub-paragraph (2), a statutory instrument containing regulations under this Schedule is subject to annulment in pursuance of a resolution of the House of Commons.

###### *Tax*

- 45 (1) In this Schedule “tax” means any or all of the following—
- (a) income tax,
  - (b) capital gains tax,
  - (c) corporation tax,
  - [<sup>F1</sup>(ca) diverted profits tax,]

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- (d) VAT,
  - (e) insurance premium tax,
  - (f) inheritance tax,
  - (g) stamp duty land tax,
  - (h) stamp duty reserve tax,
  - (i) petroleum revenue tax,
  - (j) aggregates levy,
  - (k) climate change levy,
  - (l) landfill tax, and
  - (m) relevant foreign tax.
- (2) “Corporation tax” includes any amount assessable or chargeable as if it were corporation tax.
- (3) “VAT” means—
- (a) value added tax charged in accordance with VATA 1994, <sup>F2</sup>...
  - <sup>F2</sup>(b) .....
- and includes any amount that is recoverable under paragraph 5(2) of Schedule 11 to VATA 1994 (amounts shown on invoices as VAT).
- (4) “Relevant foreign tax” means—
- (a) a tax of a member State <sup>F3</sup>... which is covered by the provisions for the exchange of information under the [<sup>F4</sup>Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation] (as amended from time to time), and
  - (b) any tax or duty which is imposed under the law of a territory in relation to which arrangements having effect by virtue of section 173 of FA 2006 (international tax enforcement arrangements) have been made and which is covered by the arrangements.

#### Textual Amendments

- F1** Sch. 23 para. 45(1)(ca) inserted (with effect in accordance with s. 116(1) of the amending Act) by [Finance Act 2015 \(c. 11\), s. 105\(1\)](#)
- F2** Sch. 23 para. 45(3)(b) and word omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 120](#) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F3** Words in Sch. 23 para. 45(4)(a) omitted (31.12.2020) by virtue of [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\), regs. 1, 20\(3\)\(b\)](#) (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Sch. 23 para. 45(4) substituted (1.1.2013) by [The European Administrative Co-Operation \(Taxation\) Regulations 2012 \(S.I. 2012/3062\), regs. 1\(1\), 6\(2\)](#)

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

- C1** Sch. 23 para. 45(1) modified (temp.) (with effect in accordance with [Sch. 10 para. 43](#) of the amending Act) (as amended (5.1.2023) by S.I. 2022/1321, regs. 1, 2(2)) by [Finance Act 2022 \(c. 3\), Sch. 10 para. 30\(2\)](#)

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### *Statutory records*

- 46 (1) For the purposes of this Schedule data form part of a data-holder's statutory records if they are data that the data-holder is required to keep and preserve under or by virtue of any enactment relating to tax.
- (2) Data cease to form part of a data-holder's statutory records when the period for which the data are required to be preserved under or by virtue of that enactment has expired.

### *General interpretation*

- 47 In this Schedule—
- “address” includes an electronic address;
  - “body of persons” has the same meaning as in TMA 1970;
  - “chargeable period” means a tax year, accounting period or other period for which a tax is charged;
  - “charity” has the meaning given by paragraph 1(1) of Schedule 6 to FA 2010;
  - “the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;
  - “company” has the meaning given by section 288(1) of TCGA 1992;
  - “data” includes information held in any form;
  - “the data-holder”, in relation to a data-holder notice, means the person to whom the notice is addressed;
  - “data-holder notice” is defined in paragraph 1;
  - “dividend” includes any kind of distribution;
  - “document” includes a copy of a document (see also section 114 of FA 2008);
  - “employment”, “employee” and “employer” have the same meaning as in Parts 2 to 7 of ITEPA 2003 (see, in particular, sections 4 and 5 of that Act);
  - “HMRC” means Her Majesty's Revenue and Customs;
  - “local authority” has the meaning given in section 999 of ITA 2007;
  - “provide” includes make available for inspection;
  - “specify” includes describe;
  - “securities” includes—
    - (a) shares and stock,
    - (b) debentures, including debenture stock, loan stock, bonds, certificates of deposit and other instruments creating or acknowledging indebtedness, and
    - (c) warrants or other instruments entitling the holder to subscribe for or otherwise acquire anything within paragraph (a) or (b),issued by or on behalf of a person resident in, or a government or public or local authority of, any country (including a country outside the United Kingdom);
  - “shares” is to be construed in accordance with [F5section 99] of TCGA 1992;
  - “tax functions” means functions relating to tax;
  - “the tribunal” means the First-tier Tribunal or, where determined by or under the Tribunal Procedure Rules, the Upper Tribunal.

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#### **Textual Amendments**

**F5** Words in [Sch. 23 para. 47](#) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Collective Investment Schemes and Offshore Funds \(Amendment of the Taxation of Chargeable Gains Act 1992\) Regulations 2017 \(S.I. 2017/1204\)](#), regs. 1(1), **15**

- 48 A reference in this Schedule to providing data includes—
- (a) preparing and delivering a return, statement or declaration, and
  - (b) providing documents.
- 49 (1) A reference in this Schedule to the carrying on of a business also includes—
- (a) the letting of property,
  - (b) the activities of a charity, and
  - (c) the activities of a government department, a local authority, a local authority association or any other public authority.
- (2) “Local authority association” has the meaning given in section 1000 of ITA 2007.

#### *Crown application*

- 50 This Schedule applies to the Crown but not to Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947).

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