

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, Paragraph 9. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 43C

PENALTY UNDER SECTION 212A [^{F1}OR 212B]: SUPPLEMENTARY PROVISION

Textual Amendments

- F1** Words in Sch. 43C heading inserted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 32 para. 13\(2\)](#)
- F1** Sch. 43C inserted (15.9.2016) (with effect in accordance with s. 158(15) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 158\(3\)](#)

Appeal against penalty

- 9 (1) A person may appeal against—
- (a) the imposition of a penalty under section 212A [^{F2}or 212B], or
 - (b) the amount assessed under paragraph 5.
- [Where the penalty is under section 212B, an appeal against it must be brought by ^{F3}(1A) the responsible partner.]
- (2) An appeal under sub-paragraph (1)(a) may only be made on the grounds that the arrangements were not abusive or there was no tax advantage to be counteracted.
 - (3) An appeal under sub-paragraph (1)(b) may only be made on the grounds that the assessment was based on an overestimate of the value of the counteracted advantage (whether because the estimate was made by reference to adjustments which were not just and reasonable or for any other reason).
 - (4) An appeal under this paragraph must be made within the period of 30 days beginning with the day on which notification of the penalty is given under paragraph 5(2).
 - (5) An appeal under this paragraph is to be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC's review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).
 - (6) Sub-paragraph (5) does not apply—
 - (a) so as to require a person 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 Part.
 - (7) On an appeal against the penalty the tribunal may affirm or cancel HMRC's decision.
 - (8) On an appeal against the amount of the penalty the tribunal may—
 - (a) affirm HMRC's decision, or

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(b) substitute for HMRC's decision another decision that HMRC has power to make.

(9) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of sub-paragraph (5)).]

Textual Amendments

- F2** Words in Sch. 43C para. 9(1)(a) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(9)(a)**
- F3** Sch. 43C para. 9(1A) inserted (with effect in accordance with s. 124(2) of the amending Act) by Finance Act 2021 (c. 26), **Sch. 32 para. 13(9)(b)**

Modifications etc. (not altering text)

- C1** Sch. 43C para. 9(5) modified by 2014 c. 7, s. 10A(5) (as inserted (with effect in accordance with s. 157(30) of the amending Act) by Finance Act 2016 (c. 24), **s. 157(17)**)

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