

*Status: Point in time view as at 17/07/2014.*

*Changes to legislation: Finance Act 2014, Paragraph 2 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 35

#### PROMOTERS OF TAX AVOIDANCE SCHEMES: PENALTIES

##### *Penalties for failure to comply*

- 2 (1) A person who fails to comply with a duty imposed by or under this Part mentioned in column 1 of the Table is liable to a penalty not exceeding the amount shown in relation to that provision in column 2 of the Table.

TABLE

<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Maximum penalty (£)</i>
Section 249(1) (duty to notify clients of monitoring notice)	5,000
Section 249(3) (duty to publicise monitoring notice)	1,000,000
Section 249(10) (duty to include information on correspondence etc)	1,000,000
Section 251 (duty of promoter to notify clients and intermediaries of reference number)	5,000
Section 252 (duty of those notified to notify others of promoter's number)	5,000
Section 253 (duty to notify HMRC of reference number)	the relevant amount (see subparagraph (3))
Section 255 (duty to provide information or produce document)	1,000,000
Section 257 (ongoing duty to provide information or produce document)	1,000,000
Section 258 (duty of person dealing with non-resident promoter)	1,000,000
Section 259 (monitored promoter: duty to provide information about clients)	5,000
Section 260 (intermediaries: duty to provide information about clients)	5,000
Section 261 (duty to provide information about clients following an enquiry)	10,000

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Section 262 (duty to provide information required to 5,000 monitor compliance with conduct notice)

Section 263 (duty to provide information about 5,000 address)

Section 265 (duty to provide information to 5,000 promoter)

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- (2) In relation to a failure to comply with section 249(1), 251, 252, 259 or 260 the maximum penalty specified in column 2 of the Table is a maximum penalty which may be imposed in respect of each person to whom the failure relates.
- (3) In relation to a failure to comply with section 253, the “relevant amount” is—
- (a) £5,000, unless paragraph (b) or (c) applies;
  - (b) £7,500, where a person has previously failed to comply with section 253 on one (and only one) occasion during the period of 36 months ending with the date on which the current failure occurred;
  - (c) £10,000, where a person has previously failed to comply with section 253 on two or more occasions during the period mentioned in paragraph (b).
- (4) The amount of a penalty imposed under sub-paragraph (1) is to be arrived at after taking account of all relevant considerations, including the desirability of setting it at a level which appears appropriate for deterring the person, or other persons, from similar failures to comply on future occasions having regard (in particular)—
- (a) in the case of a penalty imposed for a failure to comply with section 255 or 257, to the amount of fees received, or likely to have been received, by the person in connection with the monitored proposal, arrangements implementing the monitored proposal or monitored arrangements to which the information or document required as a result of section 255 or 257 relates;
  - (b) in the case of a penalty imposed in relation to a failure to comply with section 258(4) or (5), to the amount of any tax advantage gained, or sought to be gained, by the person in relation to the monitored arrangements or the arrangements implementing the monitored proposal.

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