
Changes to legislation: Finance Act 2014, Paragraph 220 is up to date with all changes known to be in force on or before 20 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) View outstanding changes

SCHEDULES

SCHEDULE 8

EMPLOYEE SHARE SCHEMES

PART 4

ENTERPRISE MANAGEMENT INCENTIVES

Amendments to Schedule 5 to ITEPA 2003

220 After paragraph 57 insert—

“Penalties

- 57A A company is liable for a penalty of £500 if the company fails—
- (a) to produce a declaration to an officer of Revenue and Customs as required by paragraph 44(5A)(a) before the end of the period mentioned in that provision, or
 - (b) to provide a copy of a declaration to an individual as required by paragraph 44(5A)(b) before the end of the period mentioned in that provision,
- and Her Majesty's Revenue and Customs (“HMRC”) decide that such a penalty should be payable.
- 57B (1) This paragraph applies if a company fails to give a return for a tax year (containing, or accompanied by, all required information) on or before the date mentioned in paragraph 52(5)(b) (“the date for delivery”).
- (2) The company is liable for a penalty of £100.
 - (3) If the company's failure continues after the end of the period of 3 months beginning with the date for delivery, the company is liable for a further penalty of £300.
 - (4) If the company's failure continues after the end of the period of 6 months beginning with the date for delivery, the company is liable for a further penalty of £300.
 - (5) The company is liable for a further penalty under this sub-paragraph if—
 - (a) the company's failure continues after the end of the period of 9 months beginning with the date for delivery,
 - (b) HMRC decide that such a penalty should be payable, and
 - (c) HMRC give notice to the company specifying the period in respect of which the penalty is payable.

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(The company may be liable for more than one penalty under this sub-paragraph.)

- (6) The penalty under sub-paragraph (5) is £10 for each day that the failure continues during the period specified in the notice under sub-paragraph (5) (c).
- (7) The period specified in the notice under sub-paragraph (5)(c)—
 - (a) may begin earlier than the date on which the notice is given, but
 - (b) may not begin until after the end of the period mentioned in sub-paragraph (5)(a) or, if relevant, the end of any period specified in any previous notice under sub-paragraph (5)(c) given in relation to the failure.

57C(1) This paragraph applies if a return under paragraph 52, or any information accompanying such a return—

- (a) is given otherwise than in accordance with paragraph 52A, or
- (b) contains a material inaccuracy—
 - (i) which is careless or deliberate, or
 - (ii) which is not corrected as required by paragraph 52(7).

(2) The company is liable for a penalty of an amount decided by HMRC.

(3) The penalty must not exceed £5,000.

(4) For the purposes of sub-paragraph (1)(b)(i) an inaccuracy is careless if it is due to a failure by the company to take reasonable care.

57D(1) This paragraph applies if a company is liable for a penalty under this Part.

(2) HMRC must assess the penalty and notify the company of the assessment.

(3) Subject to sub-paragraph (4), the assessment must be made no later than 12 months after the date on which the company becomes liable for the penalty.

(4) In the case of a penalty under paragraph 57C(1)(b), the assessment must be made no later than—

- (a) 12 months after the date on which HMRC become aware of the inaccuracy, and
- (b) 6 years after the date on which the company becomes liable for the penalty.

(5) A penalty payable under this Part must be paid—

- (a) no later than 30 days after the date on which the notice under sub-paragraph (2) is given to the company, or
- (b) if notice of appeal is given against the penalty under paragraph 57E(1) or (2), no later than 30 days after the date on which the appeal is determined or withdrawn.

(6) The penalty may be enforced as if it were corporation tax or, if the company is not within the charge to corporation tax, income tax charged in an assessment and due and payable.

(7) Sections 100 to 103 of TMA 1970 do not apply to a penalty under this Part.

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- 57E (1) A company may appeal against a decision of HMRC that the company is liable for a penalty under this Part.
- (2) A company may appeal against a decision of HMRC as to the amount of a penalty payable by the company under this Part.
- (3) Notice of appeal must be given to HMRC no later than 30 days after the date on which the notice under paragraph 57D(2) is given to the company.
- (4) On an appeal under sub-paragraph (1) which is notified to the tribunal, the tribunal may affirm or cancel the decision.
- (5) On an appeal under sub-paragraph (2) which is notified to the tribunal, the tribunal may—
- (a) affirm the amount of the penalty decided, or
 - (b) substitute another amount for that amount.
- (6) Subject to this paragraph and paragraph 57D, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this paragraph as they have effect in relation to an appeal against an assessment to corporation tax or, if the company is not within the charge to corporation tax, income tax.”

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)