



# Finance Act 2014

## 2014 CHAPTER 26

### PART 4

#### FOLLOWER NOTICES AND ACCELERATED PAYMENTS

### CHAPTER 2

#### FOLLOWER NOTICES

#### *Penalties*

#### **[<sup>F1</sup>208A Additional penalty for unreasonable tax appeal**

- (1) In the case of a follower notice given by virtue of section 204(2)(a) in relation to a tax enquiry into a return or claim made by P, this section applies where—
  - (a) P makes a tax appeal addressed to the tribunal in relation to the return or claim, and
  - (b) P is assessed to a penalty under section 208.
- (2) In the case of a follower notice given by virtue of section 204(2)(b) in relation to a tax appeal made by P, this section applies where—
  - (a) the tax appeal is addressed to the tribunal, and
  - (b) P is assessed to a penalty under section 208.
- (3) P is liable to pay a penalty (in addition to the penalty under section 208) if P or P's representative is found to have acted unreasonably in bringing or conducting relevant proceedings.
- (4) For the purposes of subsection (3), P or P's representative is found to have acted unreasonably in bringing or conducting relevant proceedings if (and only if) subsection (5) or (6) applies.
- (5) This subsection applies if—

*Status: Point in time view as at 10/06/2021.*

*Changes to legislation: Finance Act 2014, Section 208A is up to date with all changes known to be in force on or before 25 August 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)*

- (a) the proceedings are struck out—
    - (i) because there is no reasonable prospect of P's case, or part of it, succeeding, or
    - (ii) because of something that P or P's representative has done (or not done),
  - (b) the appeal period has ended, and
  - (c) the proceedings have not been reinstated or (where the strike out was not automatic) the decision to strike out the proceedings has not been set aside or overturned on appeal.
- (6) This subsection applies if—
- (a) on an application by HMRC, the tribunal to which the proceedings are addressed makes a declaration that P or P's representative acted unreasonably in bringing or conducting the proceedings,
  - (b) the appeal period has ended, and
  - (c) the decision to make the declaration has not been set aside or overturned on appeal.
- (7) The powers of the tribunal in relation to relevant proceedings are to be taken to include the power to make a declaration for the purposes of subsection (6)(a).
- (8) For the purposes of this section, the following are “relevant proceedings” in relation to P—
- (a) where the whole of the proceedings on P's tax appeal relate to the chosen arrangements, the whole of those proceedings;
  - (b) where part only of the proceedings on P's tax appeal relates to the chosen arrangements, that part of those proceedings;
  - (c) proceedings before the Upper Tribunal on any further appeal by P in relation to relevant proceedings within paragraph (a) or (b) (where those proceedings were determined by the First-tier Tribunal).
- (9) For the purposes of subsection (8), P's tax appeal is the tax appeal mentioned in subsection (1)(a) or (2)(a) (as the case may be).
- (10) For the purposes of this section, “the appeal period” is—
- (a) the period during which an appeal could be brought against the striking out of the proceedings or, as the case may be, the decision to make the declaration under subsection (6)(a) (ignoring any possibility of an appeal out of time), or
  - (b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of.
- (11) For the purposes of subsection (10), an appeal includes an application to reinstate proceedings that have been struck out or for the tribunal to set aside its decision.
- (12) In this section, “tribunal” means the First-tier Tribunal or Upper Tribunal.]

#### Textual Amendments

- F1** S. 208A inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 28 para. 2](#)

**Status:**

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**Changes to legislation:**

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