

FINANCE ACT 2015

EXPLANATORY NOTES

INTRODUCTION

Section 93: Preliminary Notice

Summary

1. This section governs the issue of a preliminary notice to a company if a designated HM Revenue & Customs officer believes the company to be within the scope of the diverted profits tax.

Details of the Section

2. Subsection (1) requires a designated HM Revenue & Customs officer to issue a preliminary notice to a company for an accounting period where the officer has reason to believe the company is within the scope of the diverted profits tax because one or more of sections 80, 81 or 86 apply.
3. Subsection (2) refers to sections 96 and 97 for the purposes of calculating taxable diverted profits for the purposes of a preliminary notice.
4. Subsection (3) stipulates what information and explanations must be included in a preliminary notice.
5. Subsection (4) allows for the contents of the notice to be determined to the best of the designated HMRC officer's information and belief where the officer otherwise has insufficient information available to determine or identify the matters set out in subsection (3).
6. Subsection (5) sets a time limit of 24 months from the end of the accounting period in which to issue a preliminary notice for that accounting period. This time limit is subject to subsection (6).
7. Subsection (6) extends the time limit for issuing a preliminary notice to four years from the end of the relevant accounting period. Two conditions must be met. Firstly, no notification of potential liability has been received under section 92 in respect of the accounting period. Secondly, a designated HMRC officer believes that an amount of diverted profits tax that ought to have been charged in relation to that accounting period has not been charged.
8. Subsection (7) requires a copy of the notice to be sent to "UKPE" where section 81 applies. "UKPE" is the United Kingdom permanent establishment as defined in section 81. A copy of the notice must be sent to "the avoided PE", where section 86 applies. "The avoided PE" is the person defined as such in section 86.

*These notes refer to the Finance Act 2015 (c.11)
which received Royal Assent on 26 March 2015*

Background Note

9. The diverted profits tax is a new charge on diverted profits. The main objective is to counteract contrived arrangements used by large groups (typically multinational enterprises) that result in the erosion of the UK tax base.