



# Finance Act 2016

## 2016 CHAPTER 24

### PART 11

#### ADMINISTRATION, ENFORCEMENT AND SUPPLEMENTARY POWERS

##### *Assessment and returns*

#### **167 Simple assessments**

- (1) Schedule 23 contains provisions about simple assessments by HMRC.
- (2) Paragraphs 1 to 8 of that Schedule have effect in relation to the 2016-17 tax year and subsequent years.
- (3) Paragraph 9 of that Schedule comes into force on such day as the Treasury may appoint by regulations made by statutory instrument.
- (4) Regulations under subsection (3) may—
  - (a) commence paragraph 9 generally or only for specified purposes, and
  - (b) appoint different days for different purposes.

#### **168 Time limit for self assessment tax returns**

- (1) TMA 1970 is amended as follows.
- (2) In section 34 (ordinary time limit of 4 years for assessments), after subsection (2) insert—
  - “(3) In this section “assessment” does not include a self-assessment.”
- (3) After that section insert—

*Status: Point in time view as at 01/04/2017.*

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### **“34A Ordinary time limit for self-assessments**

- (1) Subject to subsections (2) and (3), a self assessment contained in a return under section 8 or 8A may be made and delivered at any time not more than 4 years after the end of the year of assessment to which it relates.
- (2) Nothing in subsection (1) prevents—
  - (a) a person who has received a notice under section 8 or 8A within that period of 4 years from delivering a return including a self-assessment within the period of 3 months beginning with the date of the notice,
  - (b) a person in respect of whom a determination under section 28C has been made from making a self-assessment in accordance with that section within the period allowed by subsection (5)(a) or (b) of that section.
- (3) Subsection (1) has effect subject to the following provisions of this Act and to any other provisions of the Taxes Acts allowing a longer period in any particular class of case.
- (4) This section has effect in relation to self-assessments for a year of assessment earlier than 2012-13 as if—
  - (a) in subsection (1) for the words from “not more” to the end there were substituted “ on or before 5 April 2017 ”, and
  - (b) in subsection (2)(a) for the words “within that period of 4 years” there were substituted “ on or before 5 April 2017. ””

### **169 HMRC power to withdraw notice to file a tax return**

- (1) Section 8B of TMA 1970 (withdrawal of notice under section 8 or 8A) is amended as follows.
- (2) In subsection (2) for the words from “the person” to the end substitute “ HMRC may withdraw the notice (whether at the request of the person or otherwise) ”.
- (3) In subsection (3) for “no request may be made” substitute “ the notice may not be withdrawn ”.
- (4) In subsection (4) omit “, on receiving a request,”.
- (5) In subsection (6)(b) for “agree with the person” substitute “ determine ”.
- (6) In paragraph 17A of Schedule 55 to the Finance Act 2009 (penalty for failure to make returns etc), in sub-paragraph (1)(b) for the words from the beginning to “withdraw” substitute “ HMRC decide to give P a notice under section 8B withdrawing ”.
- (7) The amendments made by this section have effect in relation to any notice under section 8 or 8A of TMA 1970 given in relation to the 2014-15 tax year or any subsequent year (and it is immaterial whether the notice was given before or after the passing of this Act).

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## *Judgment debts*

### **170 Rate of interest applicable to judgment debts etc: Scotland**

- (1) This section applies if—
  - (a) a sum is payable to or by the Commissioners under a decree or extract issued in any court proceedings relating to a taxation matter (a “tax-related judgment debt”), and
  - (b) interest in relation to the tax-related judgment debt is included in or payable under the decree or extract.
- (2) In a case where the rate of interest in relation to the tax-related judgment debt is stated in the decree or extract, the rate stated in relation to that debt may not exceed (and may not be capable of exceeding)—
  - (a) in the case of a sum payable to the Commissioners, the late payment interest rate, and
  - (b) in the case of a sum payable by the Commissioners, the special repayment rate.
- (3) In a case where the rate of interest in relation to the tax-related judgment debt is not stated in the decree or extract but provided for by an enactment or rule of court (whenever passed or made), that enactment or rule is to have effect in relation to the debt as if for the rate for which it provides there were substituted—
  - (a) in the case of a sum payable to the Commissioners, the late payment interest rate, and
  - (b) in the case of a sum payable by the Commissioners, the special repayment rate.
- (4) This section has effect in relation to interest for periods beginning on or after the day on which this Act is passed, regardless of—
  - (a) the date of the decree or extract in question, and
  - (b) whether interest begins to run on or after the day on which this Act is passed, or began to run before that date.
- (5) In this section—
  - “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
  - “enactment” includes an Act of the Scottish Parliament or an instrument made under such an Act;
  - “late payment interest rate” means the rate provided for in regulations made by the Treasury under section 103(1) of FA 2009;
  - “special repayment rate” has the same meaning as in section 52 of F(No.2)A 2015 (and subsections (7) to (10) of that section apply for the purposes of this section as they apply for the purposes of that section);
  - “taxation matter” means anything the collection and management of which is the responsibility of the Commissioners (or was the responsibility of the Commissioners of Inland Revenue or Commissioners of Customs and Excise);
  - “working day” means any day other than a non-business day as defined in section 92 of the Bills of Exchange Act 1882.
- (6) This section extends to Scotland only.

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## 171 Rate of interest applicable to judgment debts etc: Northern Ireland

- (1) This section applies if a sum payable to or by the Commissioners under a judgment or order given or made in any court proceedings relating to a taxation matter (a “tax-related judgment debt”) carries interest.
- (2) In a case where the rate of interest is specified in the judgment (in the case of the High Court) or directed by the judge (in the case of a county court), the rate specified or directed in relation to that debt may not exceed (and may not be capable of exceeding)
  - (a) in the case of a sum payable to the Commissioners, the late payment interest rate, and
  - (b) in the case of a sum payable by the Commissioners, the special repayment rate.
- (3) In a case where the rate of interest in relation to the tax-related judgment debt is not specified in the judgment or directed by the judge but provided for by an enactment or rule of court (whenever passed or made), that enactment or rule is to have effect in relation to the debt as if for the rate for which it provides there were substituted—
  - (a) in the case of a sum payable to the Commissioners, the late payment interest rate, and
  - (b) in the case of a sum payable by the Commissioners, the special repayment rate.
- (4) This section has effect in relation to interest for periods beginning on or after the day on which this Act is passed, regardless of—
  - (a) the date of the judgment or order in question, and
  - (b) whether interest begins to run on or after the day on which this Act is passed, or began to run before that date.
- (5) In this section—
  - “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
  - “enactment” includes Northern Ireland legislation or an instrument made under such legislation;
  - “late payment interest rate” means the rate provided for in regulations made by the Treasury under section 103(1) of FA 2009;
  - “special repayment rate” has the same meaning as in section 52 of F(No.2) A 2015 (and subsections (7) to (10) of that section apply for the purposes of this section as they apply for the purposes of that section);
  - “taxation matter” means anything the collection and management of which is the responsibility of the Commissioners (or was the responsibility of the Commissioners of Inland Revenue or Commissioners of Customs and Excise);
  - “working day” means any day other than a non-business day as defined in section 92 of the Bills of Exchange Act 1882.
- (6) This section extends to Northern Ireland only.

## 172 Rate of interest applicable to judgment debts etc: England and Wales

- (1) In section 52 of F(No. 2)A 2015 (rates of interest applicable to judgment debts etc in taxation matters: England and Wales), in subsection (15), in the definition of “taxation matter” omit “, other than national insurance contributions,”.

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- (2) This section has effect in relation to interest for periods beginning on or after the day on which this Act is passed, regardless of—
  - (a) the date of the judgment or order in question, and
  - (b) whether interest begins to run on or after the day on which this Act is passed, or began to run before that date.
- (3) This section extends to England and Wales only.

#### *Enforcement powers*

### **173 Gift aid: power to impose penalties on charities and intermediaries**

- (1) At the end of section 428 of ITA 2007 insert—
  - (5) The regulations may also make provision—
    - (a) for the imposition of a penalty of a specified amount (which must not exceed £3000) for a failure to comply with a specified requirement imposed by the regulations,
    - (b) for the assessment and recovery of the penalty (which may include provision about the reduction of the penalty in specified circumstances), and
    - (c) conferring a right of appeal against a decision that a penalty is payable.”
- (2) The amendment made by this section comes into force on such day as the Treasury may by regulations made by statutory instrument appoint.

#### **Commencement Information**

- II** [S. 173\(1\)](#) in force at 14.11.2016 for the purposes of the amendment made by that provision by [S.I. 2016/1010, reg. 3](#)

### **174 Proceedings under customs and excise Acts: prosecuting authority**

- (1) Part 11 of CEMA 1979 (arrest of persons, forfeiture and legal proceedings) is amended as set out in subsections (2) and (3).
- (2) In section 146A(7) (definition of prosecuting authority)—
  - (a) in the opening words, for “prosecution” substitute “prosecuting”;
  - (b) in paragraph (b), omit “the Commissioners or”;
  - (c) in paragraph (c), for “the Commissioners” substitute “the Director of Public Prosecutions for Northern Ireland”.
- (3) In section 150(1) (joint and several liability), for the words from “the Director” to “Ireland” substitute “prosecuting authority (within the meaning of section 146A)”.
- (4) In consequence of subsection (3), in Schedule 4 to the Commissioners for Revenue and Customs Act 2005, omit paragraph 25.
- (5) The amendments made by this section apply in relation to proceedings commenced on or after the day on which this Act is passed.

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## **175 Detention and seizure under CEMA 1979: notice requirements etc**

- (1) CEMA 1979 is amended as follows.
- (2) Schedule 2A (detention of things as liable to forfeiture) is amended as set out in subsections (3) and (4).
- (3) In paragraph 3(2) (exceptions to requirement of notice of detention)—
  - (a) omit the “or” at the end of paragraph (b), and after that paragraph insert—
    - “(ba) a person who has (or appears to have) possession or control of the thing being detained,”;
  - (b) in paragraph (c), after “on” insert “ or from ”;
  - (c) at the end insert “, or
    - (d) in the case of any thing detained on or from a vehicle, the driver of the vehicle.”
- (4) In paragraph 4(2) (unauthorised removal or disposal of things detained: definition of “responsible person”), for paragraphs (a) and (b) substitute—
  - “(a) the person whose offence or suspected offence occasioned the detention,
  - (b) the owner or any of the owners of the thing detained or any servant or agent of such an owner,
  - (c) a person who has (or appears to have) possession or control of the thing being detained,
  - (d) in the case of any thing detained on a ship or aircraft, the master or commander,
  - (e) in the case of any thing detained on a vehicle, the driver of the vehicle, or
  - (f) a person whom the person who detains the thing reasonably believes to be a person within any of paragraphs (a) to (e).”
- (5) In Schedule 3 (seizure and forfeiture), in paragraph 1(2) (exceptions to requirement of notice of seizure)—
  - (a) after paragraph (b) insert—
    - “(ba) a person who has (or appears to have) possession or control of the thing being seized; or”;
  - (b) in paragraph (c), for “in” substitute “ on or from ”;
  - (c) at the end insert “, or
    - (d) in the case of any thing seized on or from a vehicle, the driver of the vehicle.”
- (6) The amendments made by this section have effect in relation to things detained or seized on or after the day on which this Act is passed.

## **176 Data-gathering powers: providers of payment or intermediary services**

- (1) In Part 2 of Schedule 23 to FA 2011 (data-gathering powers: relevant data-holders), after paragraph 13A insert—

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### **“Providers of electronic stored-value payment services**

- 13B (1) A person who provides electronic stored-value payment services is a relevant data-holder.
- (2) In this paragraph “electronic stored-value payment services” means services by means of which monetary value is stored electronically for the purpose of payments being made in respect of transactions to which the provider of those services is not a party.

### **Business intermediaries**

- 13C (1) A person who—
- (a) provides services to enable or facilitate transactions between suppliers and their customers or clients (other than services provided solely to enable payments to be made), and
  - (b) receives information about such transactions in the course of doing so,
- is a relevant data-holder.
- (2) In this paragraph “suppliers” means persons supplying goods or services in the course of business.
- (3) For the purposes of this paragraph, information about transactions includes information that is capable of indicating the likely quantity or value of transactions.”

- (2) This section applies in relation to relevant data with a bearing on any period (whether before, on or after the day on which this Act is passed).

## **177 Data-gathering powers: daily penalties for extended default**

- (1) Part 4 of Schedule 23 to FA 2011 (data-gathering powers: penalties) is amended as follows.
- (2) In paragraph 38 (increased daily default penalty)—
- (a) in sub-paragraphs (1)(c) and (2), for “imposed” substitute “ assessable ”;
  - (b) for sub-paragraphs (3) and (4) substitute—
    - “(3) If the tribunal decides that an increased daily penalty should be assessable—
    - (a) the tribunal must determine the day from which the increased daily penalty is to apply and the maximum amount of that penalty (“the new maximum amount”);
    - (b) from that day, paragraph 31 has effect in the data-holder's case as if “the new maximum amount” were substituted for “£60”.
  - (4) The new maximum amount may not be more than £1,000.”;
  - (c) in sub-paragraph (5), for “the amount” substitute “ the new maximum amount ”.
- (3) In paragraph 39—

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- (a) in sub-paragraph (1), for “a data-holder becomes liable to a penalty” substitute “the tribunal makes a determination”;
  - (b) in sub-paragraph (2), for “the day from which the increased penalty is to apply” substitute “new maximum amount and the day from which it applies”;
  - (c) omit sub-paragraph (3).
- (4) In paragraph 40 (enforcement of penalties), in sub-paragraph (2)(a) omit “or 39”.
- (5) At the end of paragraph 36 (right to appeal against penalty), the existing text of which becomes sub-paragraph (1), insert—
- “(2) But sub-paragraph (1)(b) does not give a right of appeal against the amount of an increased daily penalty payable by virtue of paragraph 38.”

### *Payment*

#### **178 Extension of provisions about set-off to Scotland**

- (1) Sections 130 and 131 of FA 2008 (which deal with the availability of set-off in England and Wales and Northern Ireland) extend also to Scotland.
- (2) Accordingly, those sections are amended as follows.
- (3) In section 130—
- (a) omit subsection (10), and
  - (b) in the heading omit “: England and Wales and Northern Ireland”.
- (4) In section 131—
- (a) in subsection (5), in paragraph (a), after “winding up order” insert “or award of sequestration”;
  - (b) in that subsection, omit the “or” at the end of paragraph (d) and after paragraph (e) insert “, or
    - (f) that person's estate becomes vested in any other person as that person's trustee under a trust deed (within the meaning of the Bankruptcy (Scotland) Act 1985).”, and
  - (c) omit subsection (9).

### *Raw tobacco*

#### **179 Raw tobacco approval scheme**

- (1) After section 8J of TPDA 1979 insert—

##### **“8K Raw tobacco: definitions**

- (1) The following definitions apply for the purposes of sections 8L to 8U.
- (2) “Raw tobacco” means the leaves or any other part of a plant of the genus *Nicotiana* but does not include—
- (a) any part of a living plant, or
  - (b) a tobacco product.



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- (3) “Controlled activity” means any activity involving raw tobacco.

#### **8L Raw tobacco: requirement for approval**

- (1) A person may not carry on a controlled activity otherwise than in accordance with an approval given by the Commissioners under this section.
- (2) The Commissioners may approve a person to carry on a controlled activity only if satisfied that—
- (a) the person is a fit and proper person to carry on the activity, and
  - (b) the activity will not be carried on for the purpose of, or with a view to, the fraudulent evasion of the duty of excise charged on tobacco products under section 2(1).
- (3) An approval may—
- (a) specify the period of approval, and
  - (b) be subject to conditions or restrictions.
- (4) The Commissioners may at any time for reasonable cause revoke or vary the terms of an approval.

#### **8M Regulations about approval etc.**

The Commissioners may, by or under regulations, make provision—

- (a) regulating the approval of persons under section 8L,
- (b) about the form, manner and content of an application for approval,
- (c) specifying conditions or restrictions to which an approval is subject,
- (d) regulating the variation or revocation of an approval, or of any condition or restriction to which an approval is subject, and
- (e) about the surrender or transfer of an approval.

#### **8N Exemptions from requirement for approval**

- (1) The Commissioners may by regulations provide that section 8L(1) does not apply in relation to a person (an “exempt person”) who—
- (a) carries on any controlled activity, or a controlled activity of a specified description, and
  - (b) meets the conditions (if any) specified by or under the regulations.
- (2) The regulations may require an exempt person to comply with specified requirements or restrictions relating to the carrying on of a controlled activity.
- (3) The regulations may, in particular—
- (a) specify the maximum quantity of raw tobacco that may be involved in a controlled activity carried on by an exempt person;
  - (b) require an exempt person to keep records relating to the activity.

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### **8O Raw tobacco: penalties**

- (1) A person who contravenes section 8L(1) is liable to a penalty of an amount equal to the amount of duty that would be charged on the relevant quantity of smoking tobacco.
- (2) A person who contravenes a requirement or restriction imposed by regulations under section 8N is liable to a penalty of—
  - (a) £250, or
  - (b) if less, an amount equal to the amount of duty that would be charged on the relevant quantity of smoking tobacco.
- (3) The relevant quantity of smoking tobacco is equal to the quantity by weight of the raw tobacco in respect of which the controlled activity contravening section 8L(1) or (as the case may be) regulations under section 8N has been carried on.
- (4) In this section a reference to “smoking tobacco” is a reference to tobacco products within section 1(1)(d) (“other smoking tobacco”).

### **8P Penalties under section 8O: special reduction**

- (1) If the Commissioners think it right because of special circumstances, they may reduce a penalty under section 8O.
- (2) In subsection (1) “special circumstances” does not include ability to pay.
- (3) In subsection (1) the reference to reducing a penalty includes a reference to—
  - (a) staying a penalty, and
  - (b) agreeing a compromise in relation to proceedings for a penalty.

### **8Q Penalties under section 8O: assessment of penalty**

- (1) Where a person becomes liable for a penalty under section 8O—
  - (a) the Commissioners may assess the penalty, and
  - (b) if they do so, they must notify the person liable.
- (2) A notice under subsection (1)(b) must state the contravention in respect of which the penalty is assessed.
- (3) A penalty payable under section 8O must be paid before the end of the period of 30 days beginning with the day on which the notification of the penalty is issued.
- (4) An assessment is to be treated as an amount of duty due from the person liable for the penalty and may be recovered accordingly.
- (5) An assessment may not be made later than one year after evidence of facts sufficient in the opinion of the Commissioners to indicate the contravention comes to their knowledge.
- (6) Two or more contraventions may be treated by the Commissioners as a single contravention for the purposes of assessing a penalty payable under section 8O.

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### **8R Penalties under section 8O: reasonable excuse**

- (1) A person is not liable to a penalty under section 8O in respect of a contravention if—
  - (a) the contravention is not deliberate, and
  - (b) the person satisfies the Commissioners that there is a reasonable excuse for the contravention.
- (2) For the purposes of subsection (1)(b)—
  - (a) where the person relies on another person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the contravention;
  - (b) where the person had a reasonable excuse for the relevant act or failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the contravention is remedied without unreasonable delay after the excuse has ceased.

### **8S Penalties under section 8O: double jeopardy**

A person is not liable to a penalty under section 8O in respect of a contravention in respect of which the person has been convicted of an offence.

### **8T Forfeiture of raw tobacco**

Where a person carries on a controlled activity in relation to raw tobacco in contravention of section 8L(1) or a requirement or restriction imposed by regulations under section 8N, the raw tobacco is liable to forfeiture.

### **8U Raw tobacco: application of Customs and Excise Management Act 1979**

The Commissioners may by regulations provide that specified provisions of the Customs and Excise Management Act 1979 apply (with or without modification)—

- (a) in relation to persons who carry on controlled activities as they apply in relation to revenue traders whose trade or business relates to tobacco products, and
  - (b) in relation to raw tobacco as they apply in relation to tobacco products.”
- (2) In section 9 of TPDA 1979 (regulations)—
  - (a) in subsection (1), after “statutory instrument and” insert “, subject to subsection (1A),”, and
  - (b) after subsection (1) insert—

“(1A) A statutory instrument containing regulations under section 8M, 8N or 8U is subject to annulment in pursuance of a resolution of the House of Commons.”
- (3) In section 13A(2) of FA 1994 (customs and excise reviews and appeals: “relevant decisions”), after paragraph (g) insert—

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“(gb) any decision by HMRC that a person is liable to a penalty, or as to the amount of the person's liability, under section 8O of the Tobacco Products Duty Act 1979;”.

(4) In Schedule 5 to FA 1994 (decisions subject to review and appeal) after paragraph 5 insert—

“5A Any decision—

- (a) to refuse an approval under section 8L of the Tobacco Products Duty Act 1979 (raw tobacco: approval to carry on a controlled activity);
- (b) to impose a condition or restriction on, or to revoke or vary the terms of, an approval under that section.”

(5) The amendments made by this section come into force on such day as the Commissioners for Her Majesty's Revenue and Customs may by regulations made by statutory instrument appoint.

(6) Regulations under subsection (5) may appoint different days for different purposes.

#### **Commencement Information**

- I2** S. 179(1) in force at 6.12.2016 for the purposes of the amendment made by that subsection for specified purposes by S.I. 2016/1171, **reg. 2(1)**
- I3** S. 179(1) in force at 1.4.2017 for the purposes of the amendment made by that subsection in so far as not already in force by S.I. 2016/1171, **reg. 2(2)**
- I4** S. 179(2)-(4) in force at 6.12.2016 for the purposes of the amendments made by those subsections by S.I. 2016/1171, **reg. 2(1)**

### *State aids granted through provision of tax advantages*

#### **180 Powers to obtain information about certain tax advantages**

- (1) The powers conferred by this section are only exercisable for the purpose of complying (or enabling another person to comply) with relevant EU obligations.
- (2) The Commissioners may determine that claims made for a tax advantage of a description listed in Part 1 of Schedule 24 must include (or be accompanied by) such information, presented in such form, as the determination may specify.
- (3) For the purposes of subsection (2) “information” includes—
  - (a) information about the claimant (or the claimant's activities),
  - (b) information about the subject-matter of the claim, and
  - (c) other information which relates to the grant of state aid through the provision of the tax advantage in question.
- (4) A determination under subsection (2)—
  - (a) may make different provision for different descriptions of tax advantages or for different cases or circumstances, and
  - (b) may be revoked or amended by another determination.

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- (5) Subsection (6) applies where it appears to the Commissioners that a tax advantage of a description listed in Part 2 of Schedule 24—
  - (a) has been given, or
  - (b) may be given in the future.
- (6) The Commissioners may give the relevant person a notice requiring the person—
  - (a) to supply the Commissioners with the information specified in the request, and
  - (b) if the notice so provides, to present it in the form specified in the request.
- (7) The relevant person must comply with those requirements within the period specified in the notice.
- (8) In subsections (6) and (7) “the relevant person”, in relation to a tax advantage of any description, means the person mentioned in the third column of the entry for that tax advantage in Part 2 of Schedule 24.
- (9) For the purposes of subsection (6) “information” includes—
  - (a) information about—
    - (i) the person to whom the request is given (or their activities),
    - (ii) any other person who is the beneficiary of the tax advantage,
  - (b) information about the tax advantage (including the circumstances in which it was obtained), and
  - (c) any other information which relates to the grant of state aid through the provision of the tax advantage in question.
- (10) A determination under subsection (2) may not apply to claims made before 1 July 2016.
- (11) A notice under subsection (6) may relate to any information required by the Commissioners for the purpose mentioned in subsection (1) (including information which relates to matters arising before this Act is passed).

## **181 Power to publish state aid information**

- (1) The Commissioners may publish any state aid information for the purpose of securing compliance with any relevant EU obligation which requires the publication of that information.
- (2) That power includes power to disclose state aid information to another person for the purpose of securing its publication.
- (3) In this section “state aid information” means information which relates to the grant of state aid through the provision of a tax advantage and includes (but is not limited to) any information mentioned in section 180(3) or (9).
- (4) This section applies to any state aid information (including information which relates to a tax advantage given before the passing of this Act).

## **182 Information powers: supplementary**

- (1) In sections 180 and 181—

“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

*Status: Point in time view as at 01/04/2017.*

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- “relevant EU obligations” means—
- (a) obligations under the General Block Exemption Regulation that relate to the grant of state aid through the provision of a tax advantage, or
  - (b) any corresponding obligations under EU law that apply to the grant of a notified state aid through the provision of a tax advantage.
- (2) The “General Block Exemption Regulation” is [Commission Regulation \(EU\) No 651/2014](#) declaring certain categories of aid to be compatible with the internal market in application of Articles 107 and 108 of the Treaty establishing the European Union (which relate to state aids granted by Member States).
  - (3) The Treasury may by regulations made by statutory instrument amend Part 1 or Part 2 of Schedule 24 by adding, omitting or varying an entry for any description of tax advantage.
  - (4) Regulations under subsection (3) may include incidental or supplemental provision.
  - (5) A statutory instrument containing regulations under subsection (3) is subject to annulment in pursuance of a resolution of the House of Commons.
  - (6) The powers under sections 180 and 181 are in addition to any other powers of the Commissioners to acquire, disclose or publish information.

### *Qualifying transformer vehicles*

#### **183 Qualifying transformer vehicles**

- (1) In this section “qualifying transformer vehicle” means a transformer vehicle which meets conditions which are specified in regulations made by the Treasury.
- (2) The Treasury may by regulations make provision about the treatment for the purposes of any enactment relating to taxation of—
  - (a) qualifying transformer vehicles;
  - (b) investors in qualifying transformer vehicles;
  - (c) transactions involving qualifying transformer vehicles.
- (3) Regulations under subsection (2) may, in particular, disapply, apply (with or without modification) or modify the application of any enactment.
- (4) Without limiting the generality of subsection (2), regulations under that subsection may in particular include—
  - (a) provision for profits or other amounts to be calculated with any adjustments, or on any basis, set out in the regulations;
  - (b) provision conferring, altering or removing an exemption or relief;
  - (c) provision about the treatment of arrangements the purpose, or one of the main purposes, of which is to secure a tax advantage;
  - (d) provision about collection and enforcement (including the withholding of tax);
  - (e) in relation to qualifying transformer vehicles, requirements with regard to the provision of information to investors;
  - (f) in relation to qualifying transformer vehicles or investors in qualifying transformer vehicles, requirements with regard to—
    - (i) the provision of information to Her Majesty's Revenue and Customs,

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- (ii) the preparation of accounts,
  - (iii) the keeping of records, or
  - (iv) other administrative matters.
- (5) Regulations under this section—
  - (a) may provide for Her Majesty's Revenue and Customs to exercise a discretion in dealing with any matter;
  - (b) may make provision by reference to rules, guidance or other documents issued by any person (as they have effect from time to time).
- (6) Regulations under this section may—
  - (a) make different provision for different cases or different purposes (including different provision in relation to different descriptions of qualifying transformer vehicle or, as the case may be, transformer vehicle);
  - (b) contain incidental, supplementary, consequential and transitional provision and savings.
- (7) Regulations under this section are to be made by statutory instrument.
- (8) A statutory instrument containing regulations under subsection (1) is subject to annulment in pursuance of a resolution of the House of Commons.
- (9) But the first set of regulations under subsection (1) may not be made unless a draft has been laid before, and approved by a resolution of, the House of Commons.
- (10) A statutory instrument containing regulations under subsection (2) may not be made unless a draft has been laid before, and approved by a resolution of, the House of Commons.
- (11) In this section—
  - “enactment” includes subordinate legislation (as defined in section 21 of the Interpretation Act 1978);
  - “investors” in relation to a qualifying transformer vehicle means holders of investments issued by the qualifying transformer vehicle; and for this purpose “investment” includes any asset, right or interest;
  - “tax advantage” has the meaning given by section 1139 of CTA 2010;
  - “transformer vehicle” has the same meaning as in section 284A of the Financial Services and Markets Act 2000.

**Status:**

Point in time view as at 01/04/2017.

**Changes to legislation:**

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