

Status: Point in time view as at 16/11/2017.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2017, Cross Heading: “Involves an offshore matter” and “involves an offshore transfer”. (See end of Document for details)

SCHEDULES

SCHEDULE 18

REQUIREMENT TO CORRECT CERTAIN OFFSHORE TAX NON-COMPLIANCE

PART 1

LIABILITY FOR PENALTY FOR FAILURE TO CORRECT

“Involves an offshore matter” and “involves an offshore transfer”

- 9 (1) This paragraph applies to any tax non-compliance consisting of a failure to comply with an obligation under section 7 of TMA 1970 to notify chargeability to income tax or capital gains tax.
- (2) The tax non-compliance “involves an offshore matter” if the potential loss of revenue is charged on or by reference to—
- (a) income arising from a source in a territory outside the UK,
 - (b) assets situated or held in a territory outside the UK,
 - (c) activities carried on wholly or mainly in a territory outside the UK, or
 - (d) anything having effect as if it were income, assets or activities of a kind described above.
- (3) The tax non-compliance “involves an offshore transfer” if—
- (a) it does not involve an offshore matter, and
 - (b) the applicable condition is satisfied (see sub-paragraphs (4) and (5)).
- (4) Where the tax at stake is income tax the applicable condition is satisfied if the income on or by reference to which tax is charged, or any part of the income—
- (a) was received in a territory outside the UK, or
 - (b) was transferred on or before 5 April 2017 to a territory outside the UK.
- (5) Where the tax at stake is capital gains tax, the applicable condition is satisfied if the proceeds of the disposal on or by reference to which the tax is charged, or any part of the proceeds—
- (a) were received in a territory outside the UK, or
 - (b) were transferred on or before 5 April 2017 to a territory outside the UK.
- (6) In the case of a transfer falling within sub-paragraph (4)(b) or (5)(b), references to the income or proceeds transferred are to be read as including references to any assets derived from or representing the income or proceeds.
- (7) In this paragraph and paragraphs 10 and 11 “assets” has the meaning given in section 21(1) of TCGA 1992, but also includes sterling.
- 10 (1) This paragraph applies where—

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- (a) any tax non-compliance by a person consists of a failure to comply with an obligation to deliver a return or other document, and
 - (b) a complete and accurate return or other document would have included information that would have enabled or assisted HMRC to assess the person's liability to tax.
- (2) The tax non-compliance “involves an offshore matter” if the liability to tax that would have been shown in the return or other document is or includes a liability to tax charged on or by reference to—
- (a) income arising from a source in a territory outside the UK,
 - (b) assets situated or held in a territory outside the UK,
 - (c) activities carried on wholly or mainly in a territory outside the UK, or
 - (d) anything having effect as if it were income, assets or activities of a kind described above.
- (3) Where the tax at stake is inheritance tax, assets are treated for the purposes of sub-paragraph (2) as situated or held in a territory outside the UK if they are so situated or held immediately after the transfer of value by reason of which inheritance tax becomes chargeable.
- (4) The tax non-compliance “involves an offshore transfer” if—
- (a) it does not involve an offshore matter, and
 - (b) the applicable condition is satisfied in respect of the liability to tax that would have been shown by the return or other document (see sub-paragraphs (5) to (7)).
- (5) Where the tax at stake is income tax the applicable condition is satisfied if the income on or by reference to which tax is charged, or any part of the income—
- (a) was received in a territory outside the UK, or
 - (b) was transferred on or before 5 April 2017 to a territory outside the UK.
- (6) Where the tax at stake is capital gains tax, the applicable condition is satisfied if the proceeds of the disposal on or by reference to which the tax is charged, or any part of the proceeds—
- (a) was received in a territory outside the UK, or
 - (b) was transferred on or before 5 April 2017 to a territory outside the UK.
- (7) Where the liability to tax which would have been shown in the document is a liability to inheritance tax, the applicable condition is satisfied if—
- (a) the disposition that gives rise to the transfer of value by reason of which the tax becomes chargeable involves a transfer of assets, and
 - (b) after that disposition but on or before 5 April 2017 the assets, or any part of the assets, are transferred to a territory outside the UK.
- (8) In the case of a transfer falling within sub-paragraph (5)(b), (6)(b) or (7)(b), references to the income or proceeds transferred are to be read as including references to any assets derived from or representing the income or proceeds.
- 11 (1) This paragraph applies to any tax non-compliance by a person if—
- (a) the tax non-compliance consists of delivering or giving HMRC a return or other document which contains an inaccuracy, and
 - (b) the inaccuracy relates to information that would have enabled or assisted HMRC to assess the person's liability to tax.

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- (2) The tax non-compliance to which this paragraph applies “involves an offshore matter” if the information that should have been given in the tax document relates to—
 - (a) income arising from a source in a territory outside the UK,
 - (b) assets situated or held in a territory outside the UK,
 - (c) activities carried on wholly or mainly in a territory outside the UK, or
 - (d) anything having effect as if it were income, assets or activities of a kind described above.
- (3) Where the tax at stake is inheritance tax, assets are treated for the purposes of sub-paragraph (2) as situated or held in a territory outside the UK if they are so situated or held immediately after the transfer of value by reason of which inheritance tax becomes chargeable.
- (4) Tax non-compliance to which this paragraph applies “involves an offshore transfer” if—
 - (a) it does not involve an offshore matter, and
 - (b) the applicable condition is satisfied in respect of the liability to tax that would have been shown by the return or other document (see sub-paragraphs (5) to (7)).
- (5) Where the tax at stake is income tax the applicable condition is satisfied if the income on or by reference to which the tax is charged, or any part of the income—
 - (a) was received in a territory outside the UK, or
 - (b) was transferred on or before 5 April 2017 to a territory outside the UK.
- (6) Where the tax at stake is capital gains tax, the applicable condition is satisfied if—
 - (a) the information that should have been given in the tax document relates to the proceeds of the disposal on or by reference to which the tax is charged, and
 - (b) the proceeds, or any part of the proceeds—
 - (i) were received in a territory outside the UK, or
 - (ii) were transferred on or before 5 April 2017 to a territory outside the UK.
- (7) Where the tax at stake is inheritance tax, the applicable condition is satisfied if—
 - (a) the information that should have been given in the tax document relates to the disposition that gives rise to the transfer of value by reason of which the tax becomes payable relates to a transfer of assets, and
 - (b) after that disposition but on or before 5 April 2017 the assets or any part of the assets are transferred to a territory outside the UK.
- (8) In the case of a transfer falling within sub-paragraph (5)(b), (6)(b) or (7)(b), references to the income, proceeds or assets transferred are to be read as including references to any assets derived from or representing the income, proceeds or assets.

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