



# Finance Act 2019

## 2019 CHAPTER 1

### PART 4 **U.K.**

#### ADMINISTRATION AND ENFORCEMENT

##### *Time limits for assessments etc*

#### **80 Offshore matters or transfers: income tax and capital gains tax **U.K.****

- (1) TMA 1970 is amended as follows.
- (2) After section 36 insert—

##### **“36A Loss of tax involving offshore matter or offshore transfer**

- (1) This section applies in a case involving a loss of income tax or capital gains tax, where—
  - (a) the lost tax involves an offshore matter, or
  - (b) the lost tax involves an offshore transfer which makes the lost tax significantly harder to identify.
- (2) An assessment on a person (“the taxpayer”) may be made at any time not more than 12 years after the end of the year of assessment to which the lost tax relates.

This is subject to section 36(1A) above and any other provision of the Taxes Acts allowing a longer period.

- (3) Lost income tax or capital gains tax “involves an offshore matter” if it is charged on or by reference to—
  - (a) income arising from a source in a territory outside the United Kingdom,
  - (b) assets situated or held in a territory outside the United Kingdom,
  - (c) income or assets received in a territory outside the United Kingdom,

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- (d) activities carried on wholly or mainly in a territory outside the United Kingdom, or
  - (e) anything having effect as if it were income, assets or activities of a kind described above.
- (4) Lost income tax or capital gains tax “involves an offshore transfer” if—
- (a) it does not involve an offshore matter, and
  - (b) the income or the proceeds of the disposal on or by reference to which it is charged, or any part of the income or proceeds, is transferred to a territory outside the United Kingdom before the relevant date.
- (5) In subsection (4)—
- “relevant date” means—
- (a) in a case where the taxpayer (or a person acting on the taxpayer's behalf) delivered a return under the Taxes Acts to HMRC for the year of assessment to which the lost tax relates and in which information relating to the lost tax was required to be provided, the date on which the return was delivered, and
  - (b) in any other case, 31 January in the year of assessment after that to which the lost tax relates;
- references to income or proceeds transferred include references to assets derived from or representing the income or proceeds.
- (6) Where lost tax involves an offshore transfer, the cases in which the transfer makes the lost tax significantly harder to identify include any case where, because of the transfer—
- (a) HMRC was significantly less likely to become aware of the lost tax, or
  - (b) HMRC was likely to become aware of the lost tax only at a significantly later time.
- (7) But an assessment may not be made under subsection (2) if—
- (a) before the time limit that would otherwise apply for making the assessment, HMRC received relevant overseas information on the basis of which HMRC could reasonably have been expected to become aware of the lost tax, and
  - (b) it was reasonable to expect the assessment to be made before that time limit.
- (8) In subsection (7)(a) “relevant overseas information” means information which is provided to HMRC by an authority in a territory outside the United Kingdom under—
- (a) any provision of EU law relating to any tax, or
  - (b) an agreement to which the United Kingdom and that territory are parties, with or without other parties.
- (9) An assessment may also not be made under subsection (2) to the extent that liability to the lost tax arises as a result of an adjustment under Part 4 of TIOPA 2010 (transfer pricing adjustments).
- (10) In this section “assets” has the meaning given in section 21(1) of the 1992 Act, but also includes sterling.

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- (11) Section 36(2) to (3A) applies for the purposes of this section (as if references to section 36(1) or (1A) were to subsection (1) of this section).””
- (3) In section 37A (effect of assessment where allowances transferred), after “or (1A)” insert “ or 36A ”.
- (4) In section 40 (personal representatives), in subsection (1), for “or 36” substitute “ , 36 or 36A ”.
- (5) The amendments made by this section have effect—
- in relation to assessments on a person relating to the 2013-14 year of assessment and subsequent years of assessment, where the loss of tax is brought about carelessly by that person or by a person acting on that person's behalf, and
  - in any other case, in relation to assessments relating to the 2015-16 year of assessment and subsequent years of assessment.

## 81 Offshore matters or transfers: inheritance tax **U.K.**

- (1) IHTA 1984 is amended as follows.
- (2) In section 240 (underpayments), in subsection (3), at the end insert “ and to section 240B (underpayments involving offshore matter etc). ”
- (3) After section 240A insert—

### “240B Underpayments involving offshore matters etc

- (1) This section applies in a case within section 240(2) which involves a loss of tax in relation to a chargeable transfer, where—
- the lost tax involves an offshore matter, or
  - the lost tax involves an offshore transfer which makes the lost tax significantly harder to identify.
- (2) Proceedings for the recovery of the lost tax may be brought at any time not more than 12 years after the later of the dates in section 240(2)(a) and (b).
- (3) Lost tax “involves an offshore matter” if it is charged on or by reference to property which is situated or held in a territory outside the United Kingdom at, or immediately after, the time of the chargeable transfer.
- (4) Lost tax “involves an offshore transfer” if—
- it does not involve an offshore matter, and
  - the property is transferred to a territory outside the United Kingdom at a relevant time.
- (5) In subsection (4)(b) “relevant time” means a time after the chargeable transfer but before—
- the date on which an account under section 216 is delivered to HMRC in relation to the chargeable transfer, or
  - any later date on which an account under section 217 is so delivered.

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- (6) Where lost tax involves an offshore transfer, the cases in which the transfer makes the lost tax significantly harder to identify include any case where, because of the transfer—
- (a) HMRC was significantly less likely to become aware of the lost tax, or
  - (b) HMRC was likely to become aware of the lost tax only at a significantly later time.
- (7) But proceedings may not be brought under this section if—
- (a) before the last date on which the proceedings could otherwise be brought, HMRC received relevant overseas information on the basis of which HMRC could reasonably have been expected to become aware of the lost tax, and
  - (b) it was reasonable to expect the proceedings to be brought before that date.
- (8) In subsection (7)(a) “relevant overseas information” means information which is provided to HMRC by an authority in a territory outside the United Kingdom under—
- (a) any provision of EU law relating to any tax, or
  - (b) an agreement to which the United Kingdom and that territory are parties, with or without other parties.
- (9) This section is subject to any provision of this Act which allows for a longer period for the bringing of proceedings.”
- (4) The amendments made by this section have effect—
- (a) in a case involving loss of tax brought about carelessly by a person liable for the tax (or a person acting on behalf of such a person), in relation to chargeable transfers taking place on or after 1 April 2013, and
  - (b) in any other case, in relation to chargeable transfers taking place on or after 1 April 2015.
- (5) Section 240(8) of IHTA 1984 applies to the reference to “person liable for the tax” in subsection (4)(a).

**Changes to legislation:**

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