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SCHEDULES

SCHEDULE 8

DIGITAL SERVICES TAX: RETURNS, ENQUIRIES, ASSESSMENTS AND APPEALS

PART 4

ENQUIRY INTO RETURN

Notice of enquiry

- 6 (1) An officer of Revenue and Customs may enquire into a DST return if, within the time allowed, the officer gives notice to the responsible member of the officer's intention to do so.
- (2) The time allowed is—
- (a) if the return was delivered on or before the filing date, up to the end of the period of 12 months after the filing date;
 - (b) if the return was delivered after the filing date, up to and including the quarter day next following the first anniversary of the day on which the return was delivered;
 - (c) if the return is amended under paragraph 3, up to and including the quarter day next following the first anniversary of the day on which the return was amended.

The quarter days are 31 January, 30 April, 31 July and 31 October.

- (3) A return that has been the subject of one notice of enquiry may not be the subject of another, except one given in consequence of an amendment (or another amendment) of the return under paragraph 3.
- (4) A notice under this paragraph is referred to as a “notice of enquiry”.

Scope of enquiry

- 7 (1) An enquiry extends to anything contained in the return, or required to be contained in the return, including anything that relates—
- (a) to the question of whether tax is chargeable in respect of the accounting period, or
 - (b) to the amount of tax so chargeable.

This is subject to the following exception.

- (2) If the notice of enquiry is given as a result of an amendment of the return under paragraph 3—
- (a) at a time when it is no longer possible to give notice of enquiry under paragraph 6(2)(a) or (b), or

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(b) after an enquiry into a return has been completed,
 the enquiry into the return is limited to matters to which the amendment relates or
 that are affected by the amendment.

Amendment of self-assessment during enquiry to prevent loss of tax

- 8 (1) If at a time when an enquiry is in progress into a DST return an officer of Revenue
 and Customs forms the opinion—
- (a) that the amount stated in the self-assessment contained in the return as the
 amount of tax payable is insufficient, and
 - (b) that unless the assessment is immediately amended there is likely to be a loss
 of tax to the Crown,
- the officer may by notice in writing to the responsible member amend the assessment
 to make good the deficiency.
- (2) In the case of an enquiry that under paragraph 7(2) is limited to matters arising from
 an amendment of the return, sub-paragraph (1) applies only so far as the deficiency
 is attributable to the amendment.
- (3) For the purposes of this paragraph the period during which an enquiry is in progress
 is the whole of the period—
- (a) beginning with the day on which notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.

Amendment of return by responsible member during enquiry

- 9 (1) This paragraph applies if a DST return is amended under paragraph 3 at a time when
 an enquiry is in progress into the return.
- (2) The amendment does not restrict the scope of the enquiry but may be taken into
 account (together with any matters arising) in the enquiry.
- (3) While the enquiry is in progress, so far as the amendment affects the amount stated
 in the self-assessment as the amount of tax payable, the amendment does not take
 effect in relation to any matter to which it relates or which is affected by it.
- (4) An amendment whose effect is deferred under sub-paragraph (3) takes effect as
 follows—
- (a) if the conclusions in a closure notice state either—
 - (i) that the amendment was not taken into account in the enquiry, or
 - (ii) that no amendment of the return is required arising from the enquiry,
 the amendment takes effect when the closure notice is issued (see paragraph
 14);
 - (b) in any other case, the amendment takes effect as part of the amendments
 made by the closure notice.
- (5) For the purposes of this paragraph the period during which an enquiry is in progress
 is the whole of the period—
- (a) beginning with the day on which notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.

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Referral of questions to the tribunal during enquiry

- 10 (1) At any time when an enquiry is in progress into a DST return any question arising in connection with the subject-matter of the enquiry may be referred to the tribunal for determination.
- (2) Notice of referral must be given to the tribunal, jointly by the responsible member and an officer of Revenue and Customs.
- (3) More than one notice of referral may be given under this paragraph in relation to an enquiry.
- (4) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—
- (a) beginning with the day on which notice of enquiry is given, and
 - (b) ending with the day on which the enquiry is completed.

Withdrawal of notice of referral

- 11 An officer of Revenue and Customs or the responsible member may withdraw a notice of referral under paragraph 10.

Effect of referral on enquiry

- 12 (1) While proceedings on a referral under paragraph 10 are in progress in relation to an enquiry—
- (a) no closure notice may be given in relation to the enquiry (see paragraph 14), and
 - (b) no application may be made for a direction to give such a notice.
- (2) For the purposes of this paragraph proceedings on a referral are in progress where—
- (a) notice of referral has been given,
 - (b) the notice has not been withdrawn, and
 - (c) the questions referred have not been finally determined.
- (3) For the purposes of sub-paragraph (2)(c) a question referred is finally determined when—
- (a) it has been determined by the tribunal, and
 - (b) there is no further possibility of the determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

Effect of determination

- 13 (1) The determination of a question referred to the tribunal under paragraph 10 is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.
- (2) The determination must be taken into account by an officer of Revenue and Customs—
- (a) in reaching the officer's conclusions on the enquiry, and
 - (b) in formulating any amendments of the return required to give effect to those conclusions.

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- (3) The question determined may not be reopened on an appeal, except to the extent that it could be reopened if it had been determined as a preliminary issue in that appeal.

Completion of enquiry

- 14 (1) An enquiry is completed when an officer of Revenue and Customs by notice (a “closure notice”) informs the responsible member that the enquiry is complete and states the conclusions reached in the enquiry.
- (2) A closure notice must either—
- (a) state that in the opinion of an officer of Revenue and Customs no amendment of the return is required, or
 - (b) make the amendments of the return required to give effect to the conclusions stated in the notice.
- (3) A closure notice takes effect when it is issued.

Direction to complete enquiry

- 15 (1) The responsible member may apply to the tribunal for a direction that an officer of Revenue and Customs give a closure notice under paragraph 14 within a specified period.
- (2) The tribunal hearing the application must give a direction unless satisfied that HMRC have reasonable grounds for not giving an enquiry closure notice within a specified period.
- (3) Paragraphs 44 (settling of appeals by agreement) and 51 (tribunal determinations) apply to an application under sub-paragraph (1) as they apply to an appeal under paragraph 33, subject to any necessary modifications.

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