



# Finance Act 2020

## 2020 CHAPTER 14

### PART 4

#### MISCELLANEOUS AND FINAL

##### *Administration*

#### **104 Returns relating to LLP not carrying on business etc with view to profit**

(1) In TMA 1970 after section 12ABZA insert—

##### **“12ABZAA Returns relating to LLP not carrying on business etc with view to profit**

- (1) This section applies where—
- (a) a person delivers a purported partnership return (“the relevant return”) in respect of a period (“the relevant period”),
  - (b) the relevant return—
    - (i) is made on the basis that the activities of a limited liability partnership (“the LLP”) are treated, under section 863 of ITTOIA 2005 or section 1273 of CTA 2009, as carried on in partnership by its members (“the purported partnership”), and
    - (ii) relates to the purported partnership, but
  - (c) the LLP does not carry on a business with a view to profit in the relevant period (and, accordingly, its activities are not treated as mentioned in paragraph (b)(i)).
- (2) For the purposes of the relevant enactments, treat the relevant return as a partnership return (and, accordingly, anything done under a relevant enactment in connection with the relevant return has the same effect as it would have if done in connection with a partnership return in a corresponding partnership case).

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*Status: Point in time view as at 22/07/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2020, Section 104. (See end of Document for details)*

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- (3) “Relevant enactment” means—
- (a) any of the following—
    - (i) sections 12AC and 28B (enquiries into partnership returns),
    - (ii) Part 4 of FA 2014 (follower notices and accelerated payment notices), and
  - (b) any enactment relating to, or applying for the purposes of, an enactment within paragraph (a).
- (4) In relation to the relevant return, the relevant enactments apply with the necessary modifications, including in particular the following—
- (a) “partner” includes purported partner, and
  - (b) “partnership” includes the purported partnership.
- (5) In this section—
- “business” includes trade or profession;
- “corresponding partnership case” means a corresponding case in which the limited liability partnership in question carries on a business with a view to profit in the relevant period;
- “purported partner” means any person who was a member of the LLP in the relevant period;
- “purported partnership return” means anything that—
- (a) purports to be a partnership return, and
  - (b) is in a form, and is delivered in a way, that a partnership return could have been made and delivered in a corresponding partnership case.”

(2) The amendment made by subsection (1) is treated as always having been in force.

(3) However, that amendment does not apply in relation to a purported partnership return if—

    - (a) before 11 March 2020, a court or tribunal determined, in proceedings to which a limited liability partnership was a party, that the purported partnership return was not a return under section 12AA of TMA 1970, and
    - (b) at the beginning of 11 March 2020, the order of the court or tribunal giving effect to that determination had not been set aside or overturned on appeal.

(4) In Part 1 of Schedule 14 to F(No.2)A 2017 (digital reporting and record-keeping for income tax etc: amendments of TMA 1970), after paragraph 10B insert—

“10BA(1) Section 12ABZAA (returns relating to LLP not carrying on business etc with view to profit) is amended as follows.

(2) For subsection (2) substitute—

“(2) For the purposes of the relevant enactments—

- (a) where the relevant return purports to be a section 12AA partnership return, treat it as a section 12AA partnership return;
  - (b) where the relevant return purports to be a Schedule A1 partnership return, treat it as a Schedule A1 partnership return,
- (and, accordingly, anything done under a relevant enactment in connection with the relevant return has the same effect as it would have

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if done in connection with a section 12AA or Schedule A1 partnership return (as the case may be) in a corresponding partnership case.”

- (3) In subsection (5), in the definition of “purported partnership return”—
- (a) in paragraph (a), for “partnership return” substitute “section 12AA or Schedule A1 partnership return”;
  - (b) in paragraph (b), for “partnership return” substitute “section 12AA or Schedule A1 partnership return (as the case may be)”.

- (5) The reference in section 61(6) of F(No.2)A 2017 (commencement) to Schedule 14 to that Act is to be read as a reference to that Schedule as amended by subsection (4) of this section.

**Status:**

Point in time view as at 22/07/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2020, Section 104.