
STATUTORY INSTRUMENTS

2014 No. 1506

The International Tax Compliance (United States of America) Regulations 2014

Penalties for breach of obligations

Penalties for failure to comply with Regulations

16. A person is liable to a penalty of £300 if the person fails to comply with any obligation under these Regulations otherwise than regulation 15.

Daily default penalty

17. If—

- (a) a penalty under regulation 16 is assessed, and
- (b) the failure in question continues after the person has been notified of the assessment,

the person is liable to a further penalty, for each subsequent day on which the failure continues, of an amount not exceeding £60 for each such day.

Penalties for inaccurate information: reportable accounts

18.—(1) A person is liable to a penalty not exceeding £3,000 if—

- (a) in complying with an obligation under regulation 12 the person provides inaccurate information, and
- (b) condition A, B or C is met.

(2) Condition A is that the inaccuracy is—

- (a) due to a failure to comply with regulation 11, or
- (b) deliberate on the part of the person.

(3) Condition B is that the person knows of the inaccuracy at the time the information is provided but does not inform HMRC at that time.

(4) Condition C is that the person—

- (a) discovers the inaccuracy some time later, and
- (b) fails to take reasonable steps to inform HMRC.

Penalties for failure to report or accurately report payments to non-participating financial institutions

19.—(1) In relation to payments that are required to be identified under regulation 14(1), a person is liable to—

- (a) a penalty of £300 for each failure to report a payment, and

(b) a penalty of £300 for each failure to set out a payment accurately in a report made under regulation 15.

(2) But in relation to a calendar year, a person's liability for penalties under this regulation is subject to a limit of £3000.

Matters to be disregarded in relation to liability to penalties

20.—(1) Liability to a penalty under any of regulations 16, 17 or 19 does not arise if the person satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that there is a reasonable excuse for the failure.

(2) For the purposes of this regulation neither of the following is a reasonable excuse—

- (a) that there is an insufficiency of funds to do something, or
- (b) that a person relies upon another person to do something.

(3) If a person had a reasonable excuse for a failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

Assessment of penalties

21.—(1) If the reporting financial institution becomes liable to a penalty under any of regulations 16 to 19, an officer of Revenue and Customs may assess the penalty.

(2) If an officer does so, the officer must notify the institution.

(3) An assessment of a penalty under regulation 16, 17 or 19(1)(a) must be made within the period of 12 months beginning with the date on which the person became liable to the penalty.

(4) An assessment of a penalty under regulation 18 or 19(1)(b) must be made—

- (a) within the period of 12 months beginning with the date on which the inaccuracy first came to the attention of an officer of Revenue and Customs, and
- (b) within the period of 6 years beginning with the date on which the person became liable to the penalty.

Right to appeal against penalty

22. A person may appeal against a penalty assessment—

- (a) on the grounds that liability to a penalty under any of regulations 16 to 19 does not arise, or
- (b) as to the amount of such a penalty.

Procedure on appeal against penalty

23.—(1) Notice of an appeal under regulation 22 must be given—

- (a) in writing,
- (b) before the end of the period of 30 days beginning with the date on which notification under regulation 16 was given, and
- (c) to HMRC.

(2) It must state the grounds of appeal.

(3) On an appeal under regulation 22(a) that is notified to the tribunal, the tribunal may confirm or cancel the assessment.

(4) On an appeal under regulation 22(b) that is notified to the tribunal, the tribunal may—

- (a) confirm the assessment, or
- (b) substitute another assessment that the officer of Revenue and Customs had power to make.

(5) Subject to this regulation and regulation 25, the provisions of Part 5 of TMA 1970(1) relating to appeals have effect in relation to appeals under regulation 22 as they have effect in relation to an appeal against an assessment to income tax.

Increased daily default penalty

24.—(1) This paragraph applies if—

- (a) a penalty under regulation 17 is assessed under regulation 21,
- (b) the failure in respect of which that assessment is made continues for more than 30 days beginning with the date on which notification of that assessment is given, and
- (c) the person has been told that an application may be made under this paragraph for an increased daily penalty to be imposed.

(2) If this regulation applies, an officer of Revenue and Customs may make an application to the tribunal for an increased daily penalty to be imposed on the person.

(3) If the tribunal decides that an increased daily penalty should be imposed then for each applicable day on which the failure continues—

- (a) the person is not liable to a penalty under regulation 17 in respect of the failure, and
- (b) the person is liable instead to a penalty under this regulation of an amount determined by the tribunal.

(4) The tribunal may not determine an amount exceeding £1000 for each applicable day.

(5) If a person becomes liable to a penalty under this regulation, HMRC must notify the person.

(6) The notification must specify the day from which the increased penalty is to apply.

(7) That day and any subsequent day is an “applicable day” for the purposes of this regulation.

Enforcement of penalties

25.—(1) A penalty under these Regulations must be paid before the end of the period of 30 days beginning with the date mentioned in paragraph (2).

(2) That date is—

- (a) the date on which the assessment under regulations 21 or notification under 24(5) is given in respect of the penalty, or
- (b) if a notice of appeal under regulation 22 is given, the date on which the appeal is finally determined or withdrawn.

(3) A penalty under these Regulations may be enforced as if it were income tax charged in an assessment and due and payable.

(1) 1970 c. 9. The Taxes Management Act 1970 was relevantly amended by sections 45(1) and 67(2) of the Finance (No. 2) Act 1975 (c. 45); section 68 of the Finance Act 1982 (c. 39); section 156(2) and (4) of the Finance Act 1989 (c. 26); section 199 of and paragraphs 18(1) and (2) of Schedule 19 to the Finance Act 1994 (c. 9); paragraph 28 of Schedule 19 to the Finance Act 1998 (c. 36); section 88 of and paragraph 31 of Schedule 29 to the Finance Act 2001 (c. 9); paragraph 21 of Schedule 1 to the Constitutional Reform Act 2005 (c. 4); paragraph 257(a) and (b) of Schedule 1 to and Part 1 of Schedule 3 to the Income Tax Act 2007 (c. 3); section 119(12)(a) of the Finance Act 2008 (c. 9); paragraph 31 of Schedule 7 to the Taxation (International and Other Provisions) Act 2010 (c. 8); S.I. 1994/1813 and 2009/56.