

STATUTORY INSTRUMENTS

**2015 No. 878**

**TAXES**

**The International Tax Compliance Regulations 2015**

<i>Made</i>	- - - -	<i>24th March 2015</i>
<i>Laid before the House of Commons</i>	- - - -	<i>25th March 2015</i>
<i>Coming into force</i>	- -	<i>15th April 2015</i>

The Treasury make these Regulations in exercise of the powers conferred by section 136 of the Finance Act 2002 <sup>M1</sup> and section 222(1), (2) and (3) of the Finance Act 2013 <sup>M2</sup>:

**Marginal Citations**

- M1** 2002 c. 23.
- M2** 2013 c. 29.

*Introductory*

**Citation, commencement, effect and interpretation** **U.K.**

1.—(1) These Regulations may be cited as the International Tax Compliance Regulations 2015 and come into force on 15th April 2015.

(2) These Regulations have effect for and in connection with the implementation of obligations arising under the agreements and arrangements listed in paragraph (3) and apply separately in relation to each of those agreements or arrangements except where the context otherwise requires.

(3) The agreements and arrangements are—

<sup>F1</sup>(a) .....

<sup>F2</sup>(b) the following arrangements relating to the CRS—

(i) the arrangements entered into, [<sup>F3</sup>at [<sup>F4</sup>19th April 2020]], by the United Kingdom with another territory for the exchange of tax information for the purposes of the adoption and implementation of the CRS; <sup>F5</sup> ...

<sup>F6</sup>(ii) .....

(c) the agreement reached between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America to improve

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international tax compliance and to implement FATCA, signed on 12th September 2012<sup>M3</sup> (“the FATCA agreement”).

[<sup>F7</sup>(3A) In these Regulations, “the CRS” means the common reporting standard for automatic exchange of financial account information developed by the Organisation for Economic Co-operation and Development [<sup>F8</sup>, including the commentary on the common reporting standard].]

(4) These Regulations have effect from—

- (a) 1st January 2016 in relation to <sup>F9</sup>... the CRS, and
- (b) 15th April 2015 in relation to the FATCA agreement.

(5) In these Regulations, a reference to “relevant agreement” means such agreement or arrangement referred to in paragraph (3) as the context requires, as that agreement or arrangement has effect from time to time.

[<sup>F10</sup>(5A) For the purposes of these Regulations—

- (a) “financial institution” has the same meaning in relation to the FATCA agreement as it does in section 1.1471-5(e)(1)(i)-(iv) of the US Treasury Regulations, and
- (b) “investment entity” has the same meaning in relation to the FATCA agreement as it does in the US Treasury Regulations.]

(6) Any expression which is defined in a relevant agreement but not in section 222 or 235 of FA 2013 or in these Regulations has the same meaning in these Regulations as in the relevant agreement.

#### Textual Amendments

- F1** Reg. 1(3)(a) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(2)(a)(i)**
- F2** Reg. 1(3)(b) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **3(1)**
- F3** Words in reg. 1(3)(b)(i) substituted (16.5.2019) by [The International Tax Compliance \(Amendment\) Regulations 2019 \(S.I. 2019/881\)](#), regs. 1, **2(2)**
- F4** Words in reg. 1(3)(b)(i) substituted (13.5.2020) by [The International Tax Compliance \(Amendment\) Regulations 2020 \(S.I. 2020/438\)](#), regs. 1, **2(2)** (with reg. 3)
- F5** Word in reg. 1(3)(b)(i) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(2)(a)(ii)**
- F6** Reg. 1(3)(b)(ii) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(2)(a)(ii)**
- F7** Reg. 1(3A) inserted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **3(2)**
- F8** Words in reg. 1(3A) inserted (31.12.2020) by [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(2)(b)**
- F9** Words in reg. 1(4)(a) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(2)(c)**
- F10** Reg. 1(5A) inserted (20.11.2015) by [The International Tax Compliance \(Amendment\) Regulations 2015 \(S.I. 2015/1839\)](#), regs. 1, **2(2)**

#### Marginal Citations

- M3** That agreement, as signed on that date, is contained in a Command Paper published by the Stationery Office Ltd with the title “Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA” (Cm 8445, 2012); the Command Paper is available on the Official Documents website at <http://www.official-documents.gov.uk/document/cm84/8445/8445.pdf>.

**Meaning of “reportable account” U.K.**

2.—(1) In these Regulations, a “reportable account” means—

- (a) an account which is a reportable account within the meaning of the relevant agreement,
- (b) in relation to a reporting financial institution under <sup>F11</sup>... the CRS, an account that is a pre-existing entity account with an account balance or value that does not exceed US\$250,000 as of 31st December 2015, <sup>F12</sup>...

<sup>F13</sup>(ba) in relation to a reporting financial institution under the CRS, an account meeting the description at Section III(A) of the CRS, and]

- (c) in relation to a reporting financial institution under the FATCA agreement, an account meeting the description at paragraph II.A, III.A or IV.A of Annex I of the agreement.

(2) But—

- (a) in relation to a reporting financial institution under <sup>F14</sup>... the CRS, an account listed as an excluded account in Schedule 2 is not a reportable account,
- (b) in relation to a reporting financial institution under the FATCA agreement, an account is not a reportable account if—
  - (i) the account holder is deceased or is a personal representative (within the meaning of section 989 of ITA 2007),
  - (ii) the account is held to comply with an order or judgment made or given in legal proceedings, or
  - (iii) the funds held in the account are held solely as security for the performance of a party's obligation under a contract for the disposal of an estate or interest in land or of tangible moveable property, and

<sup>F15</sup>(c) in relation to a reporting financial institution—

- (i) for the purposes of <sup>F16</sup>... the CRS, a dormant account (other than an annuity contract) with a balance that does not exceed US\$1,000, or
- (ii) an account within <sup>F17</sup>paragraph (1)(b), (ba) or (c)],

is not a reportable account for a calendar year if there is an election by the institution which has effect for that year to treat all such accounts, or a clearly identified group of such accounts, as not being reportable accounts.]

(3) An election under paragraph (2)(c) must be made for each calendar year for which the election is to have effect in the return required by regulation 6 for that year.

(4) The reporting financial institution must apply the account balance aggregation and currency rules in the relevant agreement for the purposes of determining whether an account maintained by the institution is within paragraph (1)(b) or (c).

(5) The account balance aggregation and currency rules are—

- <sup>F18</sup>(a) .....
- (b) in Section VII.C of the CRS, and
- (c) in paragraph VI.C of Annex I to the FATCA agreement.

(6) In applying the account balance aggregation and currency rules for the purposes of a relevant agreement and these Regulations, an account balance that has a negative value is treated as having a nil value.

(7) In determining the balance or value of an account denominated in a currency other than US dollars for the purposes of a relevant agreement and for the purposes of paragraph (1)(b) or (c), the

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institution must translate the relevant dollar threshold amounts into the other currency by reference to the spot rate of exchange on the date for which the institution is determining the threshold amounts.

(8) For the purposes of a relevant agreement and these Regulations, an account held by an individual as a partner of a partnership is treated as an entity account and is not treated as an individual account.

[<sup>F19</sup>(9) An account is a dormant account if—

- (a) the account holder has not initiated a transaction with regard to the account or any other account held by the account holder with the reporting financial institution in the previous three years,
- (b) the account holder has not communicated with the reporting financial institution regarding the account or any other account held by the account holder with the reporting financial institution in the previous six years,
- (c) the account is treated as a dormant account under the reporting financial institution's normal operating procedures, and
- (d) in the case of a cash value insurance contract, the reporting financial institution has not communicated with the account holder regarding the account or any other account held by the account holder with the reporting financial institution in the previous six years.]

#### Textual Amendments

- F11** Words in reg. 2(1)(b) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(3)(a)**
- F12** Word in reg. 2(1)(b) omitted (17.5.2017) by virtue of [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **4(1)(a)**
- F13** Reg. 2(1)(ba) inserted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **4(1)(b)**
- F14** Words in reg. 2(2)(a) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(3)(a)**
- F15** Reg. 2(2)(c) substituted (20.11.2015) by [The International Tax Compliance \(Amendment\) Regulations 2015 \(S.I. 2015/1839\)](#), regs. 1, **2(3)**
- F16** Words in reg. 2(2)(c) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(3)(a)**
- F17** Words in reg. 2(2)(c)(ii) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **4(2)**
- F18** Reg. 2(5)(a) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(3)(b)**
- F19** Reg. 2(9) inserted (20.11.2015) by [The International Tax Compliance \(Amendment\) Regulations 2015 \(S.I. 2015/1839\)](#), regs. 1, **2(4)**

### *Obligations in relation to financial accounts*

#### Due diligence requirements **U.K.**

3.—[<sup>F20</sup>(1) A reporting financial institution must establish and maintain arrangements that are designed to identify in respect of a financial account—

- (a) the territory in which an account holder or a controlling person is resident for the purposes of—
  - (i) income tax,
  - (ii) corporation tax, or

- (iii) any tax imposed by the law of that territory that is of a similar character to either of those taxes, and
- (b) whether it is a reportable account.
- (2) A reporting financial institution must comply with paragraph (1) by applying the due diligence procedures set out in the relevant agreement.
  - (2A) A reporting financial institution must keep a record of—
    - (a) the steps taken to comply with this regulation, and
    - (b) the information collected in the course of identifying the matters referred to in paragraph (1).
  - (2B) A reporting financial institution must keep the records required by paragraph (2A) for a period of—
    - (a) in respect of an account identified as a reportable account, five years beginning with the end of the year in which the account is last included in a return made under regulation 6(1), or
    - (b) in respect of an account which is not a reportable account, five years beginning with the end of the last year in which the reporting financial institution relied upon the due diligence procedures to treat the account as not being a reportable account.]
- (3) The due diligence procedures are—
  - <sup>F21</sup>(a) .....
  - <sup>F22</sup>(b) in relation to a reporting financial institution under the CRS, set out in Sections II to VII of the CRS [<sup>F23</sup>and the alternative procedure provided in the optional provision in paragraph 13 of the commentary to Section VII of the CRS],]
  - (c) in relation to a reporting financial institution under the FATCA agreement, set out in Annex I to that agreement.
  - <sup>F24</sup>(4) <sup>F25</sup> .....
  - <sup>F26</sup>(4A) .....
- (4B) Where a provision of the CRS does not specify a deadline for the requirements of that provision to be satisfied [<sup>F27</sup>that deadline is—
  - (a) in Section VIII(B)(8)(b) (qualified credit card issuer), Section VIII(C)(10) (new account) and Section VIII(C)(17)(f)(ii) (excluded accounts), 1 January 2016,
  - (b) in Section VIII B(9)(d) (exempt collective investment vehicle), 1 January 2018, and
  - (c) in all other cases, 31 December 2015.]]
- (5) In applying the due diligence procedures, accounts within [<sup>F28</sup>regulation 2(1)(b), (ba) and (c)] in respect of which no election under regulation 2(2)(c) has been made are treated as new accounts or pre-existing accounts as the case may be.

**Textual Amendments**

- F20** Reg. 3(1)-(2B) substituted for reg. 3(1)(2) (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **5(1)**
- F21** Reg. 3(3)(a) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(4)(a)**
- F22** Reg. 3(3)(b) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **5(2)**

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- F23** Words in reg. 3(3)(b) inserted (31.12.2020) by The International Tax Compliance (Amendment) (No. 2) (EU Exit) Regulations 2020 (S.I. 2020/1300), regs. 1, **2(4)(b)**
- F24** Reg. 3(4)-(4B) substituted for reg. 3(4) (17.5.2017) by The International Tax Compliance (Amendment) Regulations 2017 (S.I. 2017/598), regs. 1(1), **5(3)**
- F25** Reg. 3(4) omitted (31.12.2020) by virtue of The International Tax Compliance (Amendment) (No. 2) (EU Exit) Regulations 2020 (S.I. 2020/1300), regs. 1, **2(4)(c)**
- F26** Reg. 3(4A) omitted (31.12.2020) by virtue of The International Tax Compliance (Amendment) (No. 2) (EU Exit) Regulations 2020 (S.I. 2020/1300), regs. 1, **2(4)(c)**
- F27** Words in reg. 3(4B) substituted (31.12.2020) by The International Tax Compliance (Amendment) (No. 2) (EU Exit) Regulations 2020 (S.I. 2020/1300), regs. 1, **2(4)(d)**
- F28** Words in reg. 3(5) substituted (17.5.2017) by The International Tax Compliance (Amendment) Regulations 2017 (S.I. 2017/598), regs. 1(1), **5(4)**

#### Modification of due diligence requirements: <sup>F29</sup>... the CRS **U.K.**

4. A reporting financial institution under <sup>F30</sup>... the CRS may—
- apply the due diligence procedures for new accounts to pre-existing accounts, and
  - apply the due diligence procedures for high value accounts to low value accounts.

#### Textual Amendments

- F29** Words in reg. 4 heading omitted (31.12.2020) by virtue of The International Tax Compliance (Amendment) (No. 2) (EU Exit) Regulations 2020 (S.I. 2020/1300), regs. 1, **2(5)**
- F30** Words in reg. 4 omitted (31.12.2020) by virtue of The International Tax Compliance (Amendment) (No. 2) (EU Exit) Regulations 2020 (S.I. 2020/1300), regs. 1, **2(5)**

#### Modifications of due diligence requirements: FATCA agreement **U.K.**

5.—(1) A reporting financial institution under the FATCA agreement may modify the due diligence requirements as follows.

(2) In the case of an account within paragraph II.B or II.C of Annex I to the FATCA agreement, the due diligence requirements do not include the requirement to carry out the electronic search described in paragraph II.B (1) of that Annex if—

- the institution has established that the account holder is a specified U.S. person from documentary evidence mentioned in paragraph VI.D of Annex I of the agreement, and
- it has done so in order to meet its obligations under a Qualifying Intermediary agreement as mentioned in that paragraph.

(3) In the case of an account with paragraph II.D or II.E of Annex I to the FATCA agreement, the due diligence requirements do not include the requirement to carry out the electronic searches described in paragraph II.B (1) or II.D (1) of that Annex or the requirement to carry out the paper record search described in paragraph II.D (2) of that Annex if—

- the institution has established the account holder is a specified U.S. person from documentary evidence mentioned in paragraph VI.D of that Annex, and
- it has done so in order to meet its obligations under a Qualifying Intermediary agreement as mentioned in that paragraph.

(4) The reporting financial institution may rely on evidence that a person is a specified U.S. person obtained in relation to another financial account if the due diligence procedures in the relevant U.S. Treasury Regulations would allow such reliance.



(5) For the purposes of this regulation references to the documentary evidence set out in paragraph VI.D of Annex I of the FATCA agreement are to be treated as if the words “other than a Form W-8 or W-9” were omitted.

### Reporting obligation **U.K.**

6.—<sup>F31</sup>(1) A reporting financial institution must, in respect of the first reporting year and every following calendar year, make a return setting out the information required to be reported under the relevant agreement in relation to—

- (a) each reportable account that is maintained by the institution at any time during the calendar year in question, and
- (b) each pre-existing account identified as a reportable account by the institution at any time during the calendar year in question.]

(2) The first reporting year is—

- (a) the calendar year 2014 in relation to an account identified as a reportable account for the purposes of the FATCA agreement,
- (b) the calendar year 2016 in relation to an account identified as a reportable account for the purposes of <sup>F32</sup>... the CRS.

(3) The information required to be reported is—

- <sup>F33</sup>(a) .....
- <sup>F34</sup>(b) in relation to an account identified as a reportable account for the purposes of the CRS, set out in Section I of the CRS (ignoring paragraph F of Section I),]
- (c) in relation to an account identified as a reportable account for the purposes of the FATCA agreement, set out in Article 2(2) of that agreement.

(4) The return must be submitted electronically in accordance with regulation 7 on or before 31st May of the year following the calendar year to which the return relates.

(5) For the purposes of the information required to be reported under the relevant agreement—

- (a) interest includes any amount that is chargeable as interest under Part 4 of ITTOIA 2005 <sup>M4</sup>,
- (b) references to the balance or value of an account include a nil balance or value, and
- (c) references to paying an amount include crediting an amount.

#### Textual Amendments

- F31** Reg. 6(1) substituted (with application in accordance with reg. 1(2) of the amending S.I.) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **6(1)**
- F32** Words in reg. 6(2)(b) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(6)(a)**
- F33** Reg. 6(3)(a) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(6)(b)**
- F34** Reg. 6(3)(b) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **6(2)**

#### Marginal Citations

- M4** 2005 c. 5.

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### **Electronic return system** U.K.

- 7.—(1) The return must be made electronically using an electronic return system.
- (2) The form and manner of an electronic return system is specified in specific or general directions given by the Commissioners for Her Majesty's Revenue and Customs.
- (3) A return which is made otherwise than in accordance with paragraphs (1) and (2) is treated as not having been made.
- (4) An electronic return system must incorporate an electronic validation process.
- (5) Unless the contrary is proved—
- (a) the use of an electronic return system is presumed to have resulted in the making of the return only if this has been successfully recorded as such by the relevant electronic validation process,
  - (b) the time of making the return is presumed to be the time recorded as such by the relevant electronic validation process, and
  - (c) the person delivering the return is presumed to be the person identified as such by any relevant feature of the electronic return system.
- (6) A return made behalf of a reporting financial institution is taken to have been made by that institution, unless the institution proves that the return was made without the institution's authority.

### **Modifications of reporting requirements: FATCA** U.K.

- 8.—(1) In relation to an account identified as a reportable account for the purposes of the FATCA agreement, the information required to be reported is modified as follows.
- (2) In the case of all reportable accounts for the calendar year 2014, the information required to be reported is provided in Article 3(3)(a)(1) of the FATCA agreement.
- (3) In the case of custodial accounts for the calendar year 2015, the information required to be reported is provided in Article 3(3)(a)(2) of the FATCA agreement.
- (4) In the case of pre-existing accounts—
- (a) for calendar years before 2017—
    - (i) there is no requirement to include a U.S. federal taxpayer identifying number if the reporting financial institution does not hold that number, but
    - (ii) if the account holder is an individual whose date of birth the institution does hold, the institution must include the account holder's date of birth instead, and
  - (b) for the calendar year 2017 and subsequent years, if a reporting financial institution does not hold a U.S. federal taxpayer identifying number that it is required to report, the institution must obtain that number from the account holder.

### **Additional due diligence and reporting obligations in relation to payments to a non-participating financial institution: FATCA** U.K.

- 9.—(1) In relation to a reporting financial institution under the FATCA agreement, the due diligence requirements and the information required to be reported are modified as follows in relation to payments to a non-participating financial institution.
- (2) A reporting financial institution must establish and maintain arrangements that are designed to identify payments made by the institution to a non-participating financial institution in the calendar year 2015 or 2016,
- (3) “Payment” here does not include consideration given by the reporting financial institution for the provision of goods or services to it.



(4) A reporting financial institution must apply the due diligence procedures set out in paragraph IV.D (3) of Annex I of the FATCA agreement to identify whether a financial institution is a non-participating financial institution.

(5) In respect of any case in the calendar years 2015 and 2016 when a reporting financial institution is within the terms of sub-paragraph 1(e) of Article 4 of the FATCA agreement, the institution must make a disclosure of information in accordance with the requirements of that sub-paragraph.

(6) A reporting financial institution must in respect of each of the calendar years 2015 and 2016 prepare a return setting out the information set out in Article 4(1)(b) of the FATCA agreement.

(7) The return must be submitted electronically in accordance with regulation 7 on or before 31st May of the year following the calendar year to which the return relates.

(8) For the purposes of this regulation, “non-participating financial institution” includes anyone who is treated as a non-participating financial institution as a result of sub-paragraph 5(a) of Article 4 of the FATCA agreement.

#### **Notification to individual reportable persons** U.K.

**10.**—(1) A reporting financial institution must notify each individual reportable person or individual specified U.S. person that information relating to that person which is required to be reported under regulation 6 will be reported to HMRC and may be transferred to the government of another territory in accordance with a relevant agreement.

(2) The notification must be made by 31st January in the calendar year following the first year in which the account held by the individual is a reportable account maintained by the reporting financial institution.

#### **Non-resident reporting financial institution's UK representative** U.K.

**11.**—(1) If a reporting financial institution is not resident in the United Kingdom, the obligations of the institution under these Regulations are to be treated as if they were also the obligations of any UK representative of the institution.

(2) “UK representative” has the same meaning as it has in—

- (a) Chapter 6 of Part 22 of CTA 2010, in relation to a reporting financial institution that is within the charge to corporation tax, and
- (b) Chapter 2C of Part 14 of ITA 2007, in relation to any other reporting financial institution.

(3) For the purposes of this regulation—

- (a) a reporting financial institution which is a partnership is resident in the United Kingdom if the control and management of the business of the partnership as a reporting financial institution takes place there, and
- (b) a reporting financial institution which is not a partnership is resident in the United Kingdom if it is resident in the United Kingdom for corporation tax or income tax purposes.

#### **Use of service providers** U.K.

**12.** A reporting financial institution may use a service provider to undertake the due diligence requirements under regulations 3 to 5 and the reporting obligations under regulations 6 and 9, but in such cases those obligations continue to be the obligations of the institution.

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## <sup>F35</sup>Client notification obligations

### Textual Amendments

**F35** Regs. 12A-12F and cross-heading inserted (30.9.2016) by [The International Tax Compliance \(Client Notification\) Regulations 2016 \(S.I. 2016/899\)](#), regs. 1, 3

### Interpretation of regulations 12A to 12F **U.K.**

**12A.**—(1) In this regulation and regulations 12B to 12F—

“connected person” means a person connected with the specified financial institution, specified relevant person or relevant person in question within the meaning of “connected” given in section 1122 of CTA 2010;

“officer”, in relation to a specified relevant person or a connected person, includes—

- (i) where a person is a body corporate, a director, manager or secretary;
- (ii) where a person is a partnership, a partner.

“offshore advice or services” has the meaning given in paragraph (2);

“overseas person” means a person who would be a specified financial institution or specified relevant person if they carried on business in the United Kingdom;

“relevant period” means the period of one year ending with 30th September 2016;

“specified client” means an individual who is identified—

- (i) as a specified client of a specified financial institution under regulation 12B, or
- (ii) as a specified client of a specified relevant person under regulation 12C;

<sup>F36</sup> ...

<sup>F37</sup> ...

(2) “Offshore advice or services” means advice or services relating to—

- (a) a financial account in a participating jurisdiction or the United States of America;
- (b) a source of relevant foreign income, as defined by section 830 of ITTOIA 2005, arising from a participating jurisdiction or the United States of America;
- (c) a source of employment income, as defined by section 7(2) of ITEPA 2003, arising from a participating jurisdiction or the United States of America;
- (d) an asset, as defined by section 21 of TCGA 1992, which is held or situated in a participating jurisdiction or the United States of America.

(3) [<sup>F38</sup>In these Regulations] “specified financial institution” means a financial institution under <sup>F39</sup>... the CRS, unless that financial institution is—

- (a) a non-reporting financial institution under <sup>F40</sup>... the CRS, or
- (b) a financial institution that, if it was an NFE, would be an active NFE under <sup>F41</sup>... Section VIII(D)(9)(h) of the CRS (organisations with charitable or other non-profit purposes).

(4) [<sup>F42</sup>In these Regulations] “specified relevant person” means a relevant person who, in the relevant period, has—

- (a) provided offshore advice or services in the course of business, or
- (b) referred an individual to a connected person outside the United Kingdom for the provision of advice or services relating to the individual’s personal tax affairs.

- (5) For the purpose of determining whether a person is a specified relevant person—
- (a) offshore advice or services must be disregarded if—
    - (i) they were provided to an individual by the relevant person only in connection with the preparation and delivery on behalf of that individual of returns and accounts, statements and documents required under section 8 of TMA 1970,
    - (ii) they were provided to an employee or officer of the relevant person, or
    - (iii) they were provided to an employee or officer of a connected person;
  - (b) a referral must be disregarded if—
    - (i) the individual was an employee or officer of the relevant person, or
    - (ii) the individual was an employee or officer of a connected person.
- (6) Where a specified financial institution is also a specified relevant person, regulations 12B to 12F apply as if it were only a specified financial institution.

#### Textual Amendments

- F36** Words in reg. 12A(1) omitted (17.5.2017) by virtue of [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **7(1)(a)**
- F37** Words in reg. 12A(1) omitted (17.5.2017) by virtue of [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **7(1)(b)**
- F38** Words in reg. 12A(3) inserted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **7(2)**
- F39** Words in reg. 12A(3) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(7)(a)**
- F40** Words in reg. 12A(3)(a) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(7)(a)**
- F41** Words in reg. 12A(3)(b) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(7)(b)**
- F42** Words in reg. 12A(4) inserted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **7(3)**

#### Identifying specified clients: specified financial institution **U.K.**

- 12B.**—(1) A specified financial institution must identify all of its specified clients.
- (2) In order to identify its specified clients, a specified financial institution must use either—
- (a) the services approach set out in paragraphs (3) and (4), or
  - (b) the high value approach set out in paragraph (5).
- (3) An individual is a specified client of a specified financial institution under the services approach if—
- (a) the specified financial institution reasonably believes that the individual was resident in the United Kingdom for income tax purposes for the tax year 2015-16 or will be so resident for the tax year 2016-17,
  - (b) the individual is an account holder with the specified financial institution on 30th September 2016, and
  - (c) in any part of the relevant period, the specified financial institution has—
    - (i) maintained a financial account in a participating jurisdiction or the United States of America in relation to which the individual is an account holder, or

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(ii) referred the individual to another specified financial institution (wherever located) for the other specified financial institution to provide a financial account for the individual in a participating jurisdiction or the United States of America.

(4) In paragraph (3)(c)(i), “financial account” does not include a financial account which the specified financial institution is prevented by legal or regulatory obligations in force on 30th September 2016 from providing as a new account.

(5) An individual is a specified client of a specified financial institution under the high value approach if—

- (a) the specified financial institution reasonably believes that the individual was resident in the United Kingdom for income tax purposes for the tax year 2015-16 or will be so resident for the tax year 2016-17, and
- (b) the individual is an account holder of a high value account maintained by the specified financial institution on 30th September 2016.

### **Identifying specified clients: specified relevant person U.K.**

**12C.**—(1) A specified relevant person must identify all of that person’s specified clients.

(2) In order to identify its specified clients, a specified relevant person must use either—

- (a) the specific approach set out in paragraphs (3) and (4), or
- (b) the general approach set out in paragraphs (5) and (6).

(3) An individual is a specified client of a specified relevant person under the specific approach if—

- (a) at any time in the relevant period, the specified relevant person has—
  - (i) provided the individual with offshore advice or services relating to the individual’s personal tax affairs, or
  - (ii) referred the individual to a connected person outside the United Kingdom for the provision of such advice or services, and
- (b) paragraph (4) does not apply to the individual.

(4) This paragraph applies to an individual if—

- (a) the specified relevant person reasonably believes that the individual was not resident in the United Kingdom for income tax purposes for the tax year 2015-16 and will not be so resident for the tax year 2016-17,
- (b) on 30th September 2016 the specified relevant person has no reasonable expectation of providing further advice or services to the individual, or
- (c) the specified relevant person has prepared and delivered, or reasonably expects to prepare and deliver, a return under section 8 of TMA 1970 on behalf of the individual disclosing the effect of the offshore advice or services referred to in paragraph (3)(a).

(5) An individual is a specified client of a specified relevant person under the general approach if—

- (a) the specified relevant person has provided the individual with any advice or services relating to the individual’s personal tax affairs in the relevant period, and
- (b) paragraph (6) does not apply to the individual.

(6) This paragraph applies to an individual if—

- (a) the specified relevant person reasonably believes that the individual was not resident in the United Kingdom for income tax purposes for the tax year 2015-16 and will not be so resident for the tax year 2016-17, or

(b) on 30th September 2016 the specified relevant person has no reasonable expectation of providing further advice or services to the individual.

(7) A specified relevant person may choose to exclude an individual from being a specified client under the general approach if the specified relevant person has prepared and delivered, or reasonably expects to prepare and deliver, a return under section 8 of TMA 1970 on behalf of the individual in respect of the tax year to which the advice or services relate.

#### **Client exchange of tax information notifications** U.K.

**12D.**—(1) A specified financial institution or specified relevant person must make client exchange of tax information notifications to all of its specified clients on or before 31st August 2017.

(2) Paragraph (1) does not apply in relation to a specified client if—

- (a) a specified financial institution or specified relevant person is aware that a connected person, who is not an overseas person, has already made a client exchange of tax information notification to that specified client, or
- (b) despite maintaining proper records, a specified financial institution or specified relevant person holds insufficient information on 30th September 2016 to be able to contact the specified client.

#### **Client exchange of tax information notifications: overseas persons** U.K.

**12E.**—(1) A specified financial institution or specified relevant person having control of an overseas person must take all such steps as are reasonably open to it to ensure that the overseas person makes a client exchange of tax information notification on or before 31st August 2017 to all individuals to whom paragraph (2) applies.

(2) This paragraph applies to an individual who—

- (a) the overseas person reasonably believes to have been resident in the United Kingdom for income tax purposes at any time in the relevant period, and
- (b) either—
  - (i) was an account holder in relation to a financial account maintained by the overseas person in a participating jurisdiction or the United States of America in the relevant period, or
  - (ii) was provided with offshore advice or services relating to the individual's personal tax affairs by the overseas person in the relevant period.

#### **Making client exchange of tax information client notifications** U.K.

**12F.**—(1) A client exchange of tax information notification is made to a specified client or an individual to whom regulation 12E(2) applies if—

- (a) it is in the form set out in Part 1 of Schedule 3,
- (b) it is accompanied by a covering message which includes—
  - (i) the name of the specified client, and
  - (ii) the statement set out in the relevant paragraph of Part 2 of that Schedule, and
- (c) it is given in accordance with paragraph (3) or (4).

(2) The relevant paragraph in Part 2 of Schedule 3 is—

- (a) paragraph 2 in the case of a client exchange of tax information notification made by a specified financial institution or an overseas person who would be a specified financial institution if they carried on business in the United Kingdom, or

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- (b) paragraph 3 in the case of a client exchange of tax information notification made by a specified relevant person or an overseas person who would be a specified relevant person if they carried on business in the United Kingdom.
- (3) A client exchange of tax information notification is given in accordance with this paragraph if it is sent or supplied in a paper copy.
- (4) A client exchange of tax information notification is given in accordance with this paragraph if it is given by email by a specified relevant person who—
  - (a) wholly or mainly communicated with individuals by e-mail when providing advice or services to them in the relevant period, and
  - (b) reasonably believes that the specified client will become aware of the content of a client exchange of tax information notification given to them by e-mail.
- (5) If it appears appropriate to a specified financial institution, a specified relevant person or an overseas person, the client exchange of tax information notification and covering message set out in Schedule 3 may be translated into a language other than English or produced in a Braille or audible form.]

#### [<sup>F43</sup> **Provision of information** **U.K.**

**12G.**—(1) In order to determine whether or not the obligations arising under these Regulations have been complied with, an officer of Revenue and Customs may require a reporting financial institution, UK representative, specified financial institution or specified relevant person to provide such information as the officer reasonably requires as specified by written notice.

- (2) The information required by notice under paragraph (1) must be provided—
  - (a) within such period, being no less than 14 days, and
  - (b) by such means and in such form,

as is reasonably required by the officer of Revenue and Customs.]

#### **Textual Amendments**

**F43** Reg. 12G inserted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017](#) (S.I. 2017/598), regs. 1(1), **8**

### *Penalties for breach of obligations*

#### [<sup>F44</sup> **Liable persons** **U.K.**

**12H.**—(1) Where in regulations 13, 14, 15 and 16—

- (a) a reporting financial institution, UK representative or specified financial institution is made liable to a penalty, and
- (b) the institution or representative is a partnership or trust,

the liability to the penalty falls upon a liable person of the institution or representative.

- (2) In paragraph (1), “liable person” means, in relation to—
  - (a) a partnership, a partner of the partnership,
  - (b) a trust which is not a collective investment scheme, a trustee of the trust, or
  - (c) a trust which is a collective investment scheme, a trustee, manager or operator of the scheme.



- (3) In this regulation “collective investment scheme” means—
- (a) an investment trust within the meaning of the Corporation Tax Acts,
  - (b) a venture capital trust within the meaning of Part 6 of ITA 2007, or
  - (c) any arrangements that are a “collective investment scheme” within the meaning of the Financial Services and Markets Act 2000.]

**Textual Amendments**

**F44** Reg. 12H inserted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017](#) (S.I. 2017/598), regs. 1(1), **9(1)**

**Penalties for failure to comply with Regulations** **U.K.**

[<sup>F45</sup>13.—(1) If a reporting financial institution or UK representative fails to comply with any obligation under regulations 2 to 11 or regulation 12G, the institution or representative is liable to a penalty of £300.

(2) If a specified financial institution or specified relevant person fails to comply with any obligation under regulations 12B to 12E, the institution or person is liable to a penalty of £3,000.

(3) If a specified financial institution or specified relevant person fails to comply with any obligation under regulation 12G, the institution or person is liable to a penalty of £300.]

**Textual Amendments**

**F45** Reg. 13 substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017](#) (S.I. 2017/598), regs. 1(1), **10**

**Daily default penalty** **U.K.**

14. [<sup>F46</sup>Subject to regulation 21] if—

- (a) a penalty under regulation 13 is assessed, and
- (b) the failure in question continues after [<sup>F47</sup>the person liable to the penalty has been notified] of the assessment,

[<sup>F48</sup>that 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.

**Textual Amendments**

**F46** Words in reg. 14 inserted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017](#) (S.I. 2017/598), regs. 1(1), **11(a)**

**F47** Words in reg. 14 substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017](#) (S.I. 2017/598), regs. 1(1), **11(b)**

**F48** Words in reg. 14 substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017](#) (S.I. 2017/598), regs. 1(1), **11(c)**

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## Penalties for inaccurate information **U.K.**

15.—(1) [<sup>F49</sup>A reporting financial institution or UK representative] is liable to a penalty not exceeding £3,000 if—

- (a) in complying with an obligation under regulation 6 [<sup>F50</sup>the institution or representative] 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 the due diligence requirements in regulation 3 (as modified by regulations 4 or 5 where those regulations apply), or
  - (b) deliberate <sup>F51</sup>....
- (3) Condition B is that the [<sup>F52</sup>reporting financial institution or UK representative] 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 [<sup>F53</sup>reporting financial institution or UK representative] —
- (a) discovers the inaccuracy some time later, and
  - (b) fails to take reasonable steps to inform HMRC.

### Textual Amendments

- F49** Words in reg. 15(1) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **12(1)(a)**
- F50** Words in reg. 15(1) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **12(1)(b)**
- F51** Words in reg. 15(2)(b) omitted (17.5.2017) by virtue of [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **12(2)**
- F52** Words in reg. 15(3) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **12(3)**
- F53** Words in reg. 15(4) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **12(3)**

## FATCA agreement penalty: non-participating financial institutions **U.K.**

16.—(1) In relation to payments that are required to be identified under regulation 9(2), [<sup>F54</sup>a reporting financial institution or a UK representative] 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 9.

(2) But in relation to a calendar year, [<sup>F55</sup>a reporting financial institution's or UK representative's] liability for penalties under this regulation is subject to a limit of £3000.

### Textual Amendments

- F54** Words in reg. 16(1) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **13(1)**
- F55** Words in reg. 16(2) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **13(2)**

## Matters to be disregarded in relation to liability to penalties **U.K.**

17.—(1) Liability to a penalty under regulation 13, 14 or 16 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,
- (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 **U.K.**

18.—(1) If a person becomes liable to a penalty under any of regulations 13 to 16, an officer of Revenue and Customs may assess the penalty.

(2) If an officer does so, the officer must notify the person [<sup>F56</sup>of the assessment] .

(3) An assessment of a penalty under regulation [<sup>F57</sup>13(2)] , 14 or 16(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 [<sup>F58</sup>13(1),] 15 or 16(1)(b) must be made—

- (a) within the period of 12 months beginning with the date on which the inaccuracy [<sup>F59</sup>or failure] 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.

### Textual Amendments

- F56** Words in [reg. 18\(2\)](#) inserted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), [regs. 1\(1\), 14](#)
- F57** Word in [reg. 18\(3\)](#) substituted (30.9.2016) by [The International Tax Compliance \(Client Notification\) Regulations 2016 \(S.I. 2016/899\)](#), [regs. 1, 5\(a\)](#)
- F58** Word in [reg. 18\(4\)](#) inserted (30.9.2016) by [The International Tax Compliance \(Client Notification\) Regulations 2016 \(S.I. 2016/899\)](#), [regs. 1, 5\(b\)](#)
- F59** Words in [reg. 18\(4\)\(a\)](#) inserted (30.9.2016) by [The International Tax Compliance \(Client Notification\) Regulations 2016 \(S.I. 2016/899\)](#), [regs. 1, 5\(c\)](#)

## Right to appeal against penalty **U.K.**

19. A person may appeal against a penalty assessment—

- (a) on the grounds that liability to a penalty under any of regulations 13 to 16 does not arise, or
- (b) as to the amount of [<sup>F60</sup>a penalty under regulation 14 or 15] .

### Textual Amendments

- F60** Words in [reg. 19\(b\)](#) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), [regs. 1\(1\), 15](#)

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## Procedure on appeal against penalty **U.K.**

- 20.**—(1) Notice of an appeal under regulation 19 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 18 was given,
  - (c) to HMRC.
- (2) It must state the grounds of appeal.
- (3) On an appeal under regulation 19(a) that is notified to the tribunal, the tribunal may confirm or cancel the assessment.
- (4) On an appeal under regulation 19(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 22, the provisions of Part 5 of TMA 1970<sup>M5</sup> relating to appeals have effect in relation to appeals under regulation 19 as they have effect in relation to an appeal against an assessment to income tax.

### Marginal Citations

**M5** 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](#).

## Increased daily default penalty **U.K.**

- [<sup>F61</sup>**21.**—(1) Paragraph (2) applies if—
- (a) a person is liable to a penalty under regulation 14 and a penalty is assessed under regulation 18, and
  - (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.
- (2) Where this paragraph applies, an officer of Revenue and Customs may make an application to the tribunal for permission to assess an increased daily penalty under regulation 14.
- (3) An officer of Revenue and Customs must notify the person liable to the penalty of an application under paragraph (2) at the time of making it.
- (4) If the tribunal determines that an increased daily penalty may be assessed then for each applicable day on which the failure continues, the person's liability to a penalty under regulation 14 shall be for that increased amount.
- (5) The tribunal may not determine that an increased daily penalty may be assessed for an amount exceeding £1000 for each applicable day.
- (6) If the tribunal determines that an increased daily penalty may be assessed, HMRC must notify the person liable to the penalty.

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

(8) That day and any subsequent day is an “applicable day” for the purposes of paragraph (4) and (5).]

#### Textual Amendments

**F61** Reg. 21 substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **16**

### Enforcement of penalties **U.K.**

**22.**—(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—

[<sup>F62</sup>(a) the date on which the assessment of the penalty under regulation 18 is notified in respect of the penalty, or]

(b) if a notice of appeal under regulation 20 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.

#### Textual Amendments

**F62** Reg. 22(2)(a) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **17**

### Supplementary

### Anti-avoidance **U.K.**

**23.** If—

(a) [<sup>F63</sup>a reporting financial institution, UK representative, specified financial institution or specified relevant person] enters into any arrangements, and

(b) the main purpose, or one of the main purposes, of [<sup>F64</sup>the institution or representative] in entering into the arrangements is to avoid any obligation under these Regulations,

these Regulations are to have effect as if the arrangements had not been entered into.

#### Textual Amendments

**F63** Words in reg. 23 substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **18(a)**

**F64** Words in reg. 23 substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **18(b)**

### Definitions **U.K.**

**24.**—(1) In these Regulations—

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“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs,  
 “the tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal,  
 “US Treasury Regulations” mean the US Regulations Relating to Information Reporting by Foreign Financial Institutions and Other Foreign Entities <sup>M6</sup>.

(2) The following table lists the places where expressions that apply for the purposes of these Regulations are defined or otherwise explained—

Expression	Regulations	F65	The CRS	The FATCA agreement
		...		
account holder		F65	Section VIII(E) (1) of the CRS	Article 1(1)(ee)
		...		
annuity contract		F65	Section VIII(C) (6) of the CRS	
		...		
[ <sup>F66</sup> CRS]	[ <sup>F66</sup> regulation 1(3A)]			
cash value		F65	Section VIII(C)	
insurance contract		...	(7) of the CRS	
the Commissioners	regulation 24(1)			
controlling person		F65	Section VIII(D) (6) of the CRS	Article 1(1)(mm)
		...		
[ <sup>F66</sup> custodial account]		F65	[ <sup>F66</sup> Section VIII(C)(3) of the CRS]	[ <sup>F66</sup> Article 1(1)(u)]
		...		
F67	F67			
		...		
entity		F65	Section VIII(E) (3) of the CRS	Article 1(1)(hh)
		...		
excluded accounts	Schedule 2	F65	Section VIII(C) (17) of the CRS	
		...		
the FATCA agreement	regulation 1(3)(c)			
financial account		F65	Section VIII(C) of the CRS	Article 1(1)(s)
		...		
financial institution	[ <sup>F68</sup> regulation 1(5A)]	F65	[ <sup>F68</sup> Section VIII(A)(3) of the CRS ]	
		...		
[ <sup>F69</sup> high value account]		F65	[ <sup>F69</sup> Section VIII(C)(15) of the CRS]	[ <sup>F69</sup> Section II(D) of Annex I]
		...		



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[ <sup>F69</sup> NFE]		F65	[ <sup>F69</sup> Section VIII(D)(7) of the CRS]	
		...		
[ <sup>F70</sup> investment entity]	[ <sup>F70</sup> regulation 1(5A)]	F65	[ <sup>F70</sup> Section VIII(A)(6) of the CRS]	
		...		
[ <sup>F71</sup> subject to paragraph (3) new account		F65	Section VIII(C) (10) of the CRS	
		...		
non-participating financial institution				Article 1(1)(r)
[ <sup>F72</sup> non-reporting financial institution]		F65	[ <sup>F72</sup> Section VIII(B)(1) of the CRS]	
		...		
participating jurisdiction	Schedule 1	F65	Section VIII(D) (5) of the CRS	
		...		
[ <sup>F73</sup> subject to regulation 3(4A) (a) and paragraph (3)]	[ <sup>F74</sup> pre-existing account]	F75	[ <sup>F76</sup> subject to paragraph (3), the replacement for Section VIII(C) (9) of the CRS in paragraph 82 of the commentary to Section VIII of the CRS]	[ <sup>F74</sup> Article 1(1) (aa)]
		...		
[ <sup>F74</sup> pre-existing entity account]		F65	[ <sup>F74</sup> Section VIII(C)(13) of the CRS]	[ <sup>F74</sup> Section IV of Annex I]
		...		
[ <sup>F77</sup> related entity]	[ <sup>F75</sup> regulation 2]	F65	[ <sup>F78</sup> the replacement for Section VIII(E) (4) of the CRS in paragraph 82 of the commentary to Section VIII of the CRS]	
		...		
reportable account	regulation 2	F65	Section VIII(D) (1) of the CRS	Article 1(1)(bb)
		...		
[ <sup>F77</sup> reportable jurisdiction]			[ <sup>F77</sup> Section VIII(D)(4) of the CRS]	
reporting financial institution		F65	Section VIII(A) (1) of the CRS	Article 1(1)(n)
		...		

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reportable person	F65 ...	[ <sup>F79</sup> Section VIII(D)(2) of the CRS]
relevant agreement	Regulation 1(5)	
[ <sup>F77</sup> specified financial institution]	[ <sup>F77</sup> regulation 12A(3)]	
[ <sup>F77</sup> specified relevant person]	[ <sup>F77</sup> regulation 12A(4)]	
specified U.S. person		Article 1(1)(gg)
the tribunal	regulation 24(1)	
[ <sup>F77</sup> UK representative]	[ <sup>F77</sup> regulation 11(2)]	
U.S. reportable account		Article 1(1)(dd) and paragraph I.B of Annex I
U.S. Treasury Regulations	regulation 24(1)	

[<sup>F80</sup>(3) In respect of the accounts listed in paragraph (4)—

- (a) “new account” means a financial account maintained by a reporting financial institution opened on or after 13th May 2020;
- (b) “pre-existing account” means—
  - (i) a financial account maintained by a reporting financial institution as of 12th May 2020, or
  - (ii) a financial account within [<sup>F81</sup>the replacement for Section VIII(C)(9) of the CRS in paragraph 82 of the commentary to Section VIII of the CRS], but in the application of that provision the references to “subparagraph C(9)(a)” are to be read as references to paragraph (i) of this sub-paragraph.

(4) The accounts are—

- (a) non-registered pension arrangements where the annual contributions are limited to £50,000 and funds contributed cannot be accessed before the age of 55 except in circumstances of serious ill health;
- (b) Premium Bonds issued by the UK National Savings and Investments;
- (c) Fixed Interest Savings Certificates issued by the UK National Savings and Investments; and
- (d) Index Linked Savings Certificates issued by the UK National Savings and Investments.]

#### Textual Amendments

**F65** Words in [reg. 24\(2\)](#) omitted (31.12.2020) by virtue of [The International Tax Compliance \(Amendment\) \(No. 2\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1300\)](#), regs. 1, **2(8)(c)**

- F66** Words in reg. 24(2) substituted (17.5.2017) by The International Tax Compliance (Amendment) Regulations 2017 (S.I. 2017/598), regs. 1(1), **19(a)**
- F67** Words in reg. 24(2) omitted (31.12.2020) by virtue of The International Tax Compliance (Amendment) (No. 2) (EU Exit) Regulations 2020 (S.I. 2020/1300), regs. 1, **2(8)(a)**
- F68** Words in reg. 24(2) substituted (20.11.2015) by The International Tax Compliance (Amendment) Regulations 2015 (S.I. 2015/1839), regs. 1, **2(5)(a)**
- F69** Words in reg. 24(2) inserted (30.9.2016) by The International Tax Compliance (Client Notification) Regulations 2016 (S.I. 2016/899), regs. 1, **6(a)**
- F70** Words in reg. 24(2) inserted (20.11.2015) by The International Tax Compliance (Amendment) Regulations 2015 (S.I. 2015/1839), regs. 1, **2(5)(b)**
- F71** Words in reg. 24(2) inserted (13.5.2020) by The International Tax Compliance (Amendment) Regulations 2020 (S.I. 2020/438), regs. 1, **2(4)(a)(i)** (with reg. 3)
- F72** Words in reg. 24(2) inserted (30.9.2016) by The International Tax Compliance (Client Notification) Regulations 2016 (S.I. 2016/899), regs. 1, **6(b)**
- F73** Words in reg. 24(2) inserted (13.5.2020) by The International Tax Compliance (Amendment) Regulations 2020 (S.I. 2020/438), regs. 1, **2(4)(a)(ii)** (with reg. 3)
- F74** Words in reg. 24(2) substituted (17.5.2017) by The International Tax Compliance (Amendment) Regulations 2017 (S.I. 2017/598), regs. 1(1), **19(c)**
- F75** Words in reg. 24(2) omitted (31.12.2020) by virtue of The International Tax Compliance (Amendment) (No. 2) (EU Exit) Regulations 2020 (S.I. 2020/1300), regs. 1, **2(8)(b)**
- F76** Words in reg. 24(2) substituted (31.12.2020) by The International Tax Compliance (Amendment) (No. 2) (EU Exit) Regulations 2020 (S.I. 2020/1300), regs. 1, **2(8)(d)(i)**
- F77** Words in reg. 24(2) inserted (17.5.2017) by The International Tax Compliance (Amendment) Regulations 2017 (S.I. 2017/598), regs. 1(1), **19(b)**
- F78** Words in reg. 24(2) substituted (31.12.2020) by The International Tax Compliance (Amendment) (No. 2) (EU Exit) Regulations 2020 (S.I. 2020/1300), regs. 1, **2(8)(d)(ii)**
- F79** Words in reg. 24(2) substituted (20.11.2015) by The International Tax Compliance (Amendment) Regulations 2015 (S.I. 2015/1839), regs. 1, **2(5)(c)**
- F80** Reg. 24(3)(4) inserted (13.5.2020) by The International Tax Compliance (Amendment) Regulations 2020 (S.I. 2020/438), regs. 1, **2(4)(b)** (with reg. 3)
- F81** Words in reg. 24(3)(b)(ii) substituted (31.12.2020) by The International Tax Compliance (Amendment) (No. 2) (EU Exit) Regulations 2020 (S.I. 2020/1300), regs. 1, **2(8)(e)**

**Marginal Citations**

- M6** The Regulations can be found on the US Department of the Treasury website at <http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA.aspx>.

**Revocation** **U.K.**

**25.** The International Tax Compliance (United States of America) Regulations 2014 <sup>M7</sup> are revoked.

**Marginal Citations**

- M7** S.I. 2014/1506.

*Alun Cairns*  
*David Evennett*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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<sup>F82</sup>SCHEDULE 1 **U.K.**

Regulation 1(3)(b)

**Textual Amendments**

**F82** Sch. 1 omitted (17.5.2017) by virtue of [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **20**

SCHEDULE 2 **U.K.**

Regulation 2(2)(a)

Excluded accounts

**U.K.**

For the purposes of the DAC and the CRS the following are excluded accounts.

**Certain Retirement Accounts or Products** **U.K.**

1. Pension schemes registered with HMRC under Part 4 of FA 2004 <sup>M8</sup>.

**Marginal Citations**

**M8** 2004 c. 12.

- <sup>F83</sup>2. ....

**Textual Amendments**

**F83** Sch. 2 para. 2 omitted (13.5.2020) by virtue of [The International Tax Compliance \(Amendment\) Regulations 2020 \(S.I. 2020/438\)](#), regs. 1, **2(5)** (with reg. 3)

3. Immediate needs annuities within section 725 ITTOIA 2005 <sup>M9</sup>.

**Marginal Citations**

**M9** 2005 c. 5.

**Certain Tax-favoured Accounts and Products** **U.K.**

4. An account within the meaning of the Individual Savings Account Regulations 1998 <sup>M10</sup>.

**Marginal Citations**

**M10** [S.I. 1998/1870](#), relevantly amended by [S.I. 2002/1974](#), 2007/2119, 2008/704, 2009/1994, 2010/2957, 2011/782 and 2011/1780.

5. A child trust fund within the meaning of the Child Trust Funds Act 2004 <sup>M11</sup>.

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**Marginal Citations**

M11 2004 c. 6.

<sup>F84</sup>6. ....

**Textual Amendments**

F84 Sch. 2 para. 6 omitted (13.5.2020) by virtue of [The International Tax Compliance \(Amendment\) Regulations 2020 \(S.I. 2020/438\)](#), regs. 1, **2(5)** (with reg. 3)

7. Children's Bonds issued by the UK National Savings and Investments.

<sup>F85</sup>8. ....

**Textual Amendments**

F85 Sch. 2 para. 8 omitted (13.5.2020) by virtue of [The International Tax Compliance \(Amendment\) Regulations 2020 \(S.I. 2020/438\)](#), regs. 1, **2(5)** (with reg. 3)

<sup>F86</sup>9. ....

**Textual Amendments**

F86 Sch. 2 para. 9 omitted (13.5.2020) by virtue of [The International Tax Compliance \(Amendment\) Regulations 2020 \(S.I. 2020/438\)](#), regs. 1, **2(5)** (with reg. 3)

10. Tax Exempt Savings Plans issued by a friendly society within the meaning of the Friendly Societies Act 1992 <sup>M12</sup>.

**Marginal Citations**

M12 1992 c. 40.

11. A share incentive plan approved by HMRC under Schedule 2 to ITEPA 2003 <sup>M13</sup>.

**Marginal Citations**

M13 2003 c. 1.

12. A SAYE option scheme approved by HMRC under Schedule 3 to ITEPA 2003.

13. A CSOP scheme approved by HMRC under Schedule 4 to ITEPA 2003.

<sup>F87</sup>14. ....

**Textual Amendments**

F87 Sch. 2 paras. 14, 15 omitted (20.11.2015) by virtue of [The International Tax Compliance \(Amendment\) Regulations 2015 \(S.I. 2015/1839\)](#), regs. 1, **2(7)**

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<sup>F87</sup> 15. ....

.....

**Textual Amendments**

**F87** Sch. 2 paras. 14, 15 omitted (20.11.2015) by virtue of [The International Tax Compliance \(Amendment\) Regulations 2015 \(S.I. 2015/1839\)](#), regs. 1, **2(7)**

<sup>F88</sup> SCHEDULE 3 **U.K.**

Regulation 12F

.....

**Textual Amendments**

**F88** Sch. 3 inserted (30.9.2016) by [The International Tax Compliance \(Client Notification\) Regulations 2016 \(S.I. 2016/899\)](#), regs. 1, **7**

PART 1 **U.K.**

1. The form of a client exchange of tax information notification is—



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## If you have money or other assets abroad, you could owe tax in the UK

### Things are changing – the tax world is becoming more transparent

- HM Revenue and Customs (HMRC) is getting tougher on those not paying the right amount of tax across their offshore tax affairs.
- From 2016, HMRC is getting **new** financial information about our customers from more than 100 jurisdictions – including details about overseas accounts, structures, trusts, and investments.
- HMRC is already using information, supplied by overseas banks, insurers, and wealth and assets managers, to identify the minority who are not paying what they owe.

### Are you confident that your UK tax affairs are up-to-date?

You need to regularly check that you have declared all of your UK tax liabilities and, if needed, bring your tax affairs up-to-date. This is your responsibility.

Personal circumstances change. For example, you may have recently inherited assets overseas. Tax laws change too. All of this means that previous advice can be out-of-date, with costly consequences.

- **If you are confident that your tax affairs are up-to-date and complete, then you don't need to do anything further.**
- If you are unsure, we recommend that you speak to a tax adviser to find out if you need to take action now.
- If you find that you need to bring your tax affairs up-to-date, it can be easier than you think. You can choose to do this now using HMRC's straightforward online disclosure facility at [www.gov.uk/guidance/worldwide-disclosure-facility-make-a-disclosure](http://www.gov.uk/guidance/worldwide-disclosure-facility-make-a-disclosure)

If you have not paid the right amount of tax and choose not to take action now, you need to know that:

- HMRC will find out about your money and assets overseas through **new** information from more than 100 jurisdictions.
- Penalties are increasing for those who are not paying the right amount of tax on their offshore assets, and you can even face criminal prosecution. Under new rules, you could face further penalties based on the value of the asset as well as the tax due, resulting in potentially life-changing consequences.

If you choose to delay in coming forward, it's very likely to cost you more and there is also more chance that HMRC will come for you.

### Come to us before we come for you

#### Remember

- **If you are confident that your tax affairs are up-to-date, and you have declared all of your UK tax liabilities, then you don't need to do anything further.**

We are already using early financial information to identify the minority who are not paying what they owe.

If you need to bring your tax affairs up-to-date, it is your responsibility to do so – act now at [www.gov.uk/guidance/worldwide-disclosure-facility-make-a-disclosure](http://www.gov.uk/guidance/worldwide-disclosure-facility-make-a-disclosure)

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## PART 2 **U.K.**

2. The statement in this paragraph is—

“Financial institutions in more than 100 jurisdictions around the world are being legally required to find out the tax residence of their account holders and report details of their accounts, structures, trusts, and investments to be exchanged with the appropriate tax authorities. As a UK tax resident, any overseas accounts you have will be sent to HM Revenue & Customs (HMRC). This gives HMRC unprecedented levels of information to check that, as in most cases, the right tax has been paid.

If you have already declared all of your past and present income or gains to HMRC, including from overseas, you do not need to worry. But if you are in any doubt, HMRC recommends that you read the factsheet attached to help you decide now what to do next.”

3. The statement in this paragraph is—

“From 2016, HM Revenue & Customs (HMRC) is getting an unprecedented amount of information about people’s overseas accounts, structures, trusts, and investments from more than 100 jurisdictions worldwide, thanks to agreements to increase global tax transparency. This gives HMRC unprecedented levels of information to check that, as in most cases, the right tax has been paid.

If you have already declared all of your past and present income or gains to HMRC, including from overseas, you do not need to worry. But if you are in any doubt, HMRC recommends that you read the factsheet attached to help you decide now what to do next.]

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made to give effect to the agreements and arrangements reached between the Government of the United Kingdom and other jurisdictions to improve international tax compliance. The agreements and arrangements are-

- Council Directive 2011/16/EU (“the DAC”);
- the Multilateral Competent Authority Agreement on the Automatic Exchange of Financial Account Information signed by the Government of the United Kingdom of Great Britain and Northern Ireland on 29th October 2014, this implements the Common Reporting Standard developed by the Organisation for Economic Co-Operation and Development which has been agreed by the jurisdictions listed in Schedule 1 (“the CRS”);
- the agreement reached between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America to improve international tax compliance and to implement FATCA, signed on 12th September 2012 (“the FATCA agreement”).

Regulation 1 provides for citation, commencement, effect and interpretation. It identifies and defines the above agreements and arrangements and provides that a reference to one of the agreements or arrangements (“relevant agreement”) is a reference to how the agreement takes effect from time to time.

Regulation 2 defines “reportable account” and makes provision for a reporting financial institution to elect for a calendar year to treat certain accounts as if they were not reportable accounts.

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Regulation 3 requires reporting financial institutions to establish and maintain arrangements to identify reportable accounts and the tax residence of holders of accounts and to apply the appropriate due diligence requirements.

Regulations 4 and 5 modify the due diligence requirements in specified cases.

Regulation 6 requires reporting financial institutions to make an electronic return in respect of every calendar year from a year specified in that regulation.

Regulation 7 sets out provisions in relation to the electronic return and makes provision as to the form and manner of the return to be specified in specific or general directions given by the Commissioners for Her Majesty's Revenue and Customs.

Regulations 8 and 9 modify the reporting and due diligence requirements in relation to certain cases in respect of the FATCA agreement.

Regulation 10 imposes a notification obligation.

Regulation 11 is concerned with the position of reporting financial institutions that are not resident in the United Kingdom, in such a case the obligations of an institution are to be treated as if they were also the obligations of its UK representative.

Regulation 12 permits the use of service providers to undertake the identification and reporting obligations in regulations 6 and 7.

Regulations 13 to 22 make provision for penalties for breach of obligations under these Regulations.

Regulation 23 is an anti-avoidance provision.

Regulation 24 contains definitions.

Regulation 25 revokes the International Tax Compliance (United States of America) Regulations 2014 (S.I. 2014/1506) as these Regulations replace those Regulations.

Schedule 1 sets out the participation jurisdictions in relation to the CRS.

Schedule 2 sets out excluded accounts for the purposes of the DAC and the CRS.

A transposition note which sets out how the main elements of the DAC are transposed into UK law is annexed to the Explanatory Memorandum covering this instrument.

A Tax Information and Impact Note covering this instrument was published on 18th March 2015 and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

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