

STATUTORY INSTRUMENTS

2015 No. 878

The International Tax Compliance Regulations 2015

Penalties for breach of obligations

[^{F1}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

F1 [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.**

[^{F2}**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

- F2** 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. [^{F3}Subject to regulation 21] if—

- (a) a penalty under regulation 13 is assessed, and
- (b) the failure in question continues after [^{F4}the person liable to the penalty has been notified] of the assessment,

[^{F5}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

- F3** 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)**
- F4** 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)**
- F5** Words in reg. 14 substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **11(e)**

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

15.—(1) [^{F6}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 [^{F7}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 ^{F8}....

(3) Condition B is that the [^{F9}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 [^{F10}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

- F6** 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)**
- F7** 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)**

- F8** 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)**
- F9** 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)**
- F10** 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), [^{F11}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, [^{F12}a reporting financial institution's or UK representative's] liability for penalties under this regulation is subject to a limit of £3000.

Textual Amendments

- F11** 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)**
- F12** 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 [^{F13}of the assessment] .

(3) An assessment of a penalty under regulation [^{F14}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 [^{F15}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 [^{F16}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

- F13** 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](#)
- F14** 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\(a\)](#)
- F15** 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\(b\)](#)
- F16** 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 [^{F17}a penalty under regulation 14 or 15] .

Textual Amendments

- F17** 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](#)

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 ^{M1} 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

- M1** 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.**

[^{F18}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

F18 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—

- [^{F19}(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.

Changes to legislation: There are currently no known outstanding effects for the The International Tax Compliance Regulations 2015, Penalties for breach of obligations. (See end of Document for details)

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Textual Amendments

F19 Reg. 22(2)(a) substituted (17.5.2017) by [The International Tax Compliance \(Amendment\) Regulations 2017 \(S.I. 2017/598\)](#), regs. 1(1), **17**

Changes to legislation:

There are currently no known outstanding effects for the The International Tax Compliance Regulations 2015, Penalties for breach of obligations.