
STATUTORY INSTRUMENTS

2023 No. 38

The International Tax Enforcement
(Disclosable Arrangements) Regulations 2023

PART 3

Penalties for breach of obligations

Penalties for failure to comply with regulations

13.—(1) A person who fails to comply with any of the provisions of these Regulations specified in paragraph (2) is liable—

- (a) to a penalty not exceeding
 - (i) £5,000, or
 - (ii) in the case of a provision mentioned in sub-paragraphs (a) to (f) and (h), if that amount appears to an officer of Revenue and Customs to be inappropriately low after taking into account all relevant considerations, £600 for each day during the initial period, and
- (b) if the failure continues after a penalty is imposed under sub-paragraph (a), to a further penalty or penalties not exceeding £600 for each day on which the failure continues after the day on which the penalty under sub-paragraph (a) was imposed (but excluding any day for which a penalty under this regulation has already been imposed).

(2) The provisions are—

- (a) regulation 3(2) (obligation on intermediary to disclose),
- (b) regulation 4 (when information is required to be disclosed),
- (c) regulation 5(2) (obligation on intermediary to notify client where legal professional privilege exclusion applies),
- (d) regulation 7(2) (reportable taxpayer required to disclose in certain circumstances),
- (e) regulation 7(4) (time period for reportable taxpayer’s disclosure),
- (f) regulation 8(2) (disclosure of arrangements entered into on or after 25th June 2018 and before 28th March 2023),
- (g) regulation 9 (notification of disclosure), and
- (h) regulation 11 (provision of information).

(3) For the purposes of this regulation and regulation 15 “relevant considerations” include—

- (a) the desirability of a penalty being set at a level which appears appropriate for deterring the person, or other persons, from similar failures to comply on future occasions having regard (in particular)—
 - (i) in the case of a penalty for an intermediary’s failure to comply with any obligation, to the amount of any fees received, or likely to have been received, by the intermediary in connection with the CRS avoidance arrangement or opaque offshore structure, and

- (ii) in the case of a penalty for a reportable taxpayer’s failure to comply with any obligation, to the amount of advantage gained, or sought to be gained, by the reportable taxpayer in relation to any tax in relation to the CRS avoidance arrangement or opaque offshore structure,
- (b) whether the failure giving rise to the penalty was deliberate,
- (c) any procedures maintained by the person liable to the penalty to secure the identification of CRS avoidance arrangements or opaque offshore structures and compliance with obligations under these Regulations, and
- (d) the reasonably foreseeable consequences of the failure.
- (4) In this regulation “the initial period” means the period—
- (a) beginning with the relevant day, and
- (b) ending on the earlier of—
- (i) the day on which the penalty under paragraph (1)(a)(ii) is determined, and
- (ii) the last day before the failure ceases.
- (5) For the purpose of paragraph (4), “the relevant day” is the day specified in relation to the failure in the following table.

<i>Failure</i>	<i>Relevant day</i>
A failure to comply with regulation 3(2)	The first day after the end of the period specified in regulation 4
A failure to comply with regulation 4	The first day after the end of the period specified in regulation 4
A failure to comply with regulation 5(2)	The first day after the end of the period specified in regulation 4
A failure to comply with regulation 7(2)	The first day after the end of the period specified in regulation 7(4)
A failure to comply with regulation 7(4)	The first day after the end of the period specified in regulation 7(4)
A failure to comply with regulation 8(2)	26th September 2023
A failure to comply with regulation 11	The first day after the latest time by which regulation 11 must be complied with as specified in the notice under that regulation
