
STATUTORY INSTRUMENTS

2023 No. 38

**The International Tax Enforcement
(Disclosable Arrangements) Regulations 2023**

PART 3

Penalties for breach of obligations

Determination of penalty by First-tier Tribunal: daily penalty under regulation 13(a)(ii)

15.—(1) An officer of Revenue and Customs may commence proceedings before the First-tier Tribunal for a penalty under regulation 13(1)(a)(ii).

(2) The person liable to the penalty must be a party to the proceedings.

(3) The First-tier Tribunal may determine a penalty in proceedings under this regulation.

(4) The amount of a penalty under regulation 13(1)(a)(ii) is to be arrived at after taking account of all relevant considerations.

(5) If the maximum penalty under regulation 13(1)(a)(ii) appears inappropriately low after taking account of those considerations, the penalty is to be of such amount not exceeding £1 million as appears appropriate having regard to those considerations.

(6) Where it appears to an officer of Revenue and Customs that a penalty under regulation 13(1)(a)(ii) has been determined on the basis that the initial period begins with a day later than that which the officer considers to be the relevant day, an officer of Revenue and Customs may commence proceedings for a re-determination of the penalty.

(7) In addition to any right of appeal on a point of law under section 11(2) of TCEA 2007(1), the person liable to the penalty may appeal to the Upper Tribunal against the determination of a penalty in proceedings under paragraph (1), but not against any decision which falls under section 11(5)(d) and (e) of that Act and was made in connection with the determination of the amount of the penalty.

(8) Section 11(3) and (4) of TCEA 2007 applies to the right of appeal under paragraph (7) as it applies to the right of appeal under section 11(2) of that Act.

(9) On any such appeal the Upper Tribunal may—

- (a) if it appears that no penalty has been incurred, set the determination aside,
- (b) if the amount determined appears to be appropriate, confirm the determination,
- (c) if the amount determined appears to be excessive, reduce it to such other amount (including nil) as the Upper Tribunal considers appropriate, or
- (d) if the amount determined appears to be insufficient, increase it to such amount not exceeding the permitted maximum as the Upper Tribunal considers appropriate.

(1) Section 11 of TCEA 2007 was amended by paragraph 5 of Schedule 2 to the Crime and Security Act 2010 (c. 17), paragraph 130 and 131 of Schedule 19 to the Data Protection Act 2018 (c. 12) and sections 116(1) and 181(1) of the Tax Collection and Management (Wales) Act 2016 (2016 anaw 6).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
