
STATUTORY INSTRUMENTS

2023 No. 38

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

PART 3

Penalties for breach of obligations

Appeals against penalty determinations by HMRC

18.—(1) An appeal may be brought against the determination of a penalty under regulation 14 or 16 and, subject to the following provisions of this regulation, the provisions of the Taxes Management Act 1970(1) relating to appeals have effect in relation to an appeal against such a determination as they have effect in relation to an appeal against an assessment to tax, except that references to the tribunal shall be taken to be references to the First-tier Tribunal.

(2) On any such appeal, section 50(6) to (8) of the Taxes Management Act 1970(2) does not apply but the First-tier 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 First-tier 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 First-tier Tribunal considers appropriate.

(3) In addition to any right of appeal on a point of law under section 11(2) of TCEA 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of the penalty which has been determined under paragraph (2), 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.

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

(5) On an appeal under this regulation the Upper Tribunal has the same powers as are conferred on the First-tier Tribunal by virtue of this regulation.

(1) 1970 c. 9. Part 5 of the Act contains provisions relating to appeals.

(2) Section 50(6) to (8) of the Taxes Management Act 1970 was amended by section 67(2) of the Finance (No. 2) Act 1975 (c. 45), paragraph 17 of Schedule 19 to Finance Act 1994 (c. 9), paragraph 7 of Schedule 19 to the Finance Act 1996 (c. 8), paragraph 30 of Schedule 29 to the Finance Act 2001 (c. 9) and S.I. 1994/1813 and 2009/56.