



Finance Act 2019

2019 CHAPTER 1

PART 4

ADMINISTRATION AND ENFORCEMENT

Time limits for assessments etc

80 Offshore matters or transfers: income tax and capital gains tax

- (1) TMA 1970 is amended as follows.
- (2) After section 36 insert—

“36A Loss of tax involving offshore matter or offshore transfer

- (1) This section applies in a case involving a loss of income tax or capital gains tax, where—
 - (a) the lost tax involves an offshore matter, or
 - (b) the lost tax involves an offshore transfer which makes the lost tax significantly harder to identify.
- (2) An assessment on a person (“the taxpayer”) may be made at any time not more than 12 years after the end of the year of assessment to which the lost tax relates.

This is subject to section 36(1A) above and any other provision of the Taxes Acts allowing a longer period.

- (3) Lost income tax or capital gains tax “involves an offshore matter” if it is charged on or by reference to—
 - (a) income arising from a source in a territory outside the United Kingdom,
 - (b) assets situated or held in a territory outside the United Kingdom,
 - (c) income or assets received in a territory outside the United Kingdom,

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- (d) activities carried on wholly or mainly in a territory outside the United Kingdom, or
 - (e) anything having effect as if it were income, assets or activities of a kind described above.
- (4) Lost income tax or capital gains tax “involves an offshore transfer” if—
- (a) it does not involve an offshore matter, and
 - (b) the income or the proceeds of the disposal on or by reference to which it is charged, or any part of the income or proceeds, is transferred to a territory outside the United Kingdom before the relevant date.
- (5) In subsection (4)—
- “relevant date” means—
- (a) in a case where the taxpayer (or a person acting on the taxpayer’s behalf) delivered a return under the Taxes Acts to HMRC for the year of assessment to which the lost tax relates and in which information relating to the lost tax was required to be provided, the date on which the return was delivered, and
 - (b) in any other case, 31 January in the year of assessment after that to which the lost tax relates;
- references to income or proceeds transferred include references to assets derived from or representing the income or proceeds.
- (6) Where lost tax involves an offshore transfer, the cases in which the transfer makes the lost tax significantly harder to identify include any case where, because of the transfer—
- (a) HMRC was significantly less likely to become aware of the lost tax, or
 - (b) HMRC was likely to become aware of the lost tax only at a significantly later time.
- (7) But an assessment may not be made under subsection (2) if—
- (a) before the time limit that would otherwise apply for making the assessment, HMRC received relevant overseas information on the basis of which HMRC could reasonably have been expected to become aware of the lost tax, and
 - (b) it was reasonable to expect the assessment to be made before that time limit.
- (8) In subsection (7)(a) “relevant overseas information” means information which is provided to HMRC by an authority in a territory outside the United Kingdom under—
- (a) any provision of EU law relating to any tax, or
 - (b) an agreement to which the United Kingdom and that territory are parties, with or without other parties.
- (9) An assessment may also not be made under subsection (2) to the extent that liability to the lost tax arises as a result of an adjustment under Part 4 of TIOPA 2010 (transfer pricing adjustments).
- (10) In this section “assets” has the meaning given in section 21(1) of the 1992 Act, but also includes sterling.

- (11) Section 36(2) to (3A) applies for the purposes of this section (as if references to section 36(1) or (1A) were to subsection (1) of this section).””
- (3) In section 37A (effect of assessment where allowances transferred), after “or (1A)” insert “or 36A”.
- (4) In section 40 (personal representatives), in subsection (1), for “or 36” substitute “, 36 or 36A”.
- (5) The amendments made by this section have effect—
- (a) in relation to assessments on a person relating to the 2013-14 year of assessment and subsequent years of assessment, where the loss of tax is brought about carelessly by that person or by a person acting on that person’s behalf, and
 - (b) in any other case, in relation to assessments relating to the 2015-16 year of assessment and subsequent years of assessment.

81 Offshore matters or transfers: inheritance tax

- (1) IHTA 1984 is amended as follows.
- (2) In section 240 (underpayments), in subsection (3), at the end insert “and to section 240B (underpayments involving offshore matter etc).”
- (3) After section 240A insert—

“240B Underpayments involving offshore matters etc

- (1) This section applies in a case within section 240(2) which involves a loss of tax in relation to a chargeable transfer, where—
- (a) the lost tax involves an offshore matter, or
 - (b) the lost tax involves an offshore transfer which makes the lost tax significantly harder to identify.
- (2) Proceedings for the recovery of the lost tax may be brought at any time not more than 12 years after the later of the dates in section 240(2)(a) and (b).
- (3) Lost tax “involves an offshore matter” if it is charged on or by reference to property which is situated or held in a territory outside the United Kingdom at, or immediately after, the time of the chargeable transfer.
- (4) Lost tax “involves an offshore transfer” if—
- (a) it does not involve an offshore matter, and
 - (b) the property is transferred to a territory outside the United Kingdom at a relevant time.
- (5) In subsection (4)(b) “relevant time” means a time after the chargeable transfer but before—
- (a) the date on which an account under section 216 is delivered to HMRC in relation to the chargeable transfer, or
 - (b) any later date on which an account under section 217 is so delivered.

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- (6) Where lost tax involves an offshore transfer, the cases in which the transfer makes the lost tax significantly harder to identify include any case where, because of the transfer—
 - (a) HMRC was significantly less likely to become aware of the lost tax, or
 - (b) HMRC was likely to become aware of the lost tax only at a significantly later time.
- (7) But proceedings may not be brought under this section if—
 - (a) before the last date on which the proceedings could otherwise be brought, HMRC received relevant overseas information on the basis of which HMRC could reasonably have been expected to become aware of the lost tax, and
 - (b) it was reasonable to expect the proceedings to be brought before that date.
- (8) In subsection (7)(a) “relevant overseas information” means information which is provided to HMRC by an authority in a territory outside the United Kingdom under—
 - (a) any provision of EU law relating to any tax, or
 - (b) an agreement to which the United Kingdom and that territory are parties, with or without other parties.
- (9) This section is subject to any provision of this Act which allows for a longer period for the bringing of proceedings.”
- (4) The amendments made by this section have effect—
 - (a) in a case involving loss of tax brought about carelessly by a person liable for the tax (or a person acting on behalf of such a person), in relation to chargeable transfers taking place on or after 1 April 2013, and
 - (b) in any other case, in relation to chargeable transfers taking place on or after 1 April 2015.
- (5) Section 240(8) of IHTA 1984 applies to the reference to “person liable for the tax” in subsection (4)(a).

Security deposits

82 Construction industry scheme and corporation tax etc

- (1) In Chapter 3 of Part 3 of FA 2004 (construction industry scheme)—
 - (a) in the italic heading before section 69, after “returns” insert “, security”;
 - (b) after section 70 insert—

“70A Security for payments to HMRC

- (1) The Commissioners for Her Majesty’s Revenue and Customs may by regulations make provision for and in connection with requiring the giving, by prescribed persons and in prescribed circumstances, of security for the payment of amounts that a person is or may be liable to pay to the Commissioners under this Chapter.

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- (2) Regulations under this section must provide that security may be required only where an officer of Revenue and Customs considers it necessary for the protection of the revenue.
 - (3) Regulations under this section must provide for a right of appeal against—
 - (a) decisions to require security to be given;
 - (b) decisions as to the amount, terms or duration of any security required.
 - (4) A person commits an offence if—
 - (a) the person fails to comply with a requirement to give security that is imposed by regulations under this section, and
 - (b) the failure continues for such period as is prescribed.
 - (5) A person who commits an offence under subsection (4) is liable on summary conviction—
 - (a) in England and Wales, to a fine;
 - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
 - (6) In this section—

“prescribed” means prescribed in regulations under this section;
“security” includes further security.”
- (2) In Schedule 18 to FA 1998 (company tax returns, assessments and related matters), after paragraph 88 insert—

“Security for payments

- 88A
- (1) The Commissioners for Her Majesty’s Revenue and Customs may by regulations make provision for and in connection with requiring the giving, by prescribed persons and in prescribed circumstances, of security for the payment of tax that a company is or may be liable to pay.
 - (2) Regulations under this paragraph must provide that security may be required only where an officer of Revenue and Customs considers it necessary for the protection of the revenue.
 - (3) Regulations under this paragraph must provide for a right of appeal against—
 - (a) decisions to require security to be given;
 - (b) decisions as to the amount, terms or duration of any security required.
 - (4) A person commits an offence if—
 - (a) the person fails to comply with a requirement to give security that is imposed by regulations under this paragraph, and
 - (b) the failure continues for such period as is prescribed.
 - (5) A person who commits an offence under sub-paragraph (4) is liable on summary conviction—
 - (a) in England and Wales, to a fine;

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- (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (6) In this paragraph—
 - “prescribed” means prescribed in regulations under this paragraph;
 - “security” includes further security.”
- (3) In section 684(4A) of ITEPA 2003 (failure to comply with requirement under PAYE regulations to give security), for “on summary conviction to a fine not exceeding level 5 on the standard scale” substitute
 - “on summary conviction—
 - (a) in England and Wales, to a fine;
 - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale”.

International agreements

83 Resolution of double taxation disputes

In Chapter 2 of Part 2 of TIOPA 2010 (double taxation relief: miscellaneous provisions) after section 128 insert—

“International dispute-resolution instruments and agreements

128A Power by regulations to give effect to international obligations etc

- (1) The Treasury may make regulations for, or in connection with, giving effect to or enabling effect to be given to—
 - (a) [Council Directive \(EU\) 2017/1852](#) of 10 October 2017 on tax dispute resolution mechanisms in the European Union (“the Directive”);
 - (b) any instrument modifying or supplementing the Directive;
 - (c) any international agreements or arrangements that deal with—
 - (i) matters dealt with by the Directive,
 - (ii) matters that are similar to any of those dealt with by the Directive, or
 - (iii) any other matters that relate to or are connected with the resolution of disputes in relation to double taxation arrangements.
- (2) The provision that may be made by regulations under this section includes (in particular)—
 - (a) provision as to the effect of any arrangements that the Commissioners for Her Majesty’s Revenue and Customs may make with authorities of territories outside the United Kingdom;
 - (b) provision conferring or imposing functions, rights or obligations, or authorising the conferral or imposition of functions, rights or obligations, on a person (including a commission, tribunal or court);

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- (c) provision under which the Commissioners or other persons may exercise discretions;
 - (d) provision about procedure in relation to the resolution of disputes;
 - (e) provision about costs, expenses and fees;
 - (f) provision imposing penalties or creating criminal offences;
 - (g) provision about appeals;
 - (h) provision about the form and manner in which, or time within which, things are to be done;
 - (i) provision supplementing section 128B.
- (3) The regulations may—
- (a) make provision having effect in relation to periods before the regulations come into force;
 - (b) make provision by reference to an instrument or document as it has effect from time to time;
 - (c) make provision about things done, or to be done, in territories outside the United Kingdom;
 - (d) make different provision for different purposes;
 - (e) make consequential, incidental, supplemental, transitional, transitory or saving provision;
 - (f) make provision amending, repealing, revoking or disapplying, or modifying the effect of, any enactment (whenever passed or made).
- (4) The regulations may not create a criminal offence punishable on indictment with imprisonment for more than two years.
- (5) Regulations under this section containing anything that amends or repeals a provision of primary legislation may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the House of Commons.
- In this subsection “primary legislation” means—
- (a) an Act,
 - (b) an Act of the Scottish Parliament,
 - (c) a Measure or Act of the National Assembly for Wales, or
 - (d) Northern Ireland legislation.
- (6) In subsections (2) and (3) and sections 128B and 128C, a reference to a commission, tribunal, court or other person includes a reference to a commission, tribunal, court or other person in a territory outside the United Kingdom.

128B Giving effect to requirements under section 128A regulations

- (1) Subsection (2) applies if anything in regulations under section 128A requires the Commissioners for Her Majesty’s Revenue and Customs to give effect to an agreement, decision or opinion made or given by—
- (a) the Commissioners (or their authorised representative),
 - (b) the competent authority of a territory outside the United Kingdom, or
 - (c) any commission, tribunal, court or other person.

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- (2) The Commissioners are to give effect to the agreement, decision or opinion despite anything in any enactment, and any such adjustment as is appropriate in consequence may be made.
- (3) An adjustment under subsection (2) may be made by way of discharge or repayment of tax, the allowance of credit against tax payable in the United Kingdom, the making of an assessment or otherwise.

128C Disclosure under international obligations etc

- (1) The obligation as to secrecy imposed by any enactment does not prevent—
 - (a) the Commissioners for Her Majesty’s Revenue and Customs,
 - (b) a person who is or was an authorised Revenue and Customs official,
 - (c) a person who is or was a member of a committee or other body established by the Commissioners for Her Majesty’s Revenue and Customs (or jointly by the Commissioners and an authority of a territory outside the United Kingdom), or
 - (d) a person specified, or of a description specified, in regulations made by the Treasury,
 from disclosing information required to be disclosed under a relevant instrument or agreement in pursuance of a request made by any person.
- (2) In this section—
 - “relevant instrument or agreement” means an instrument, agreement or arrangement referred to, or of a kind referred to, in section 128A(1);
 - “Revenue and Customs official” means—
 - (a) a Commissioner for Her Majesty’s Revenue and Customs;
 - (b) an officer of Revenue and Customs;
 - (c) a person acting on behalf of the Commissioners for Her Majesty’s Revenue and Customs;
 - (d) a person acting on behalf of an officer of Revenue and Customs.”

84 International tax enforcement: disclosable arrangements

- (1) The Treasury may, for the purpose of securing compliance with an obligation of the government of the United Kingdom under an international tax provision, make regulations requiring persons who participate in arrangements of a description specified in the regulations to disclose information about those arrangements.
- (2) Regulations under this section may—
 - (a) require information to be disclosed in such form and manner, and at such intervals, as may be specified in the regulations;
 - (b) require persons to disclose information about arrangements that they participated in before (as well as after) the coming into force of this section;
 - (c) provide for the imposition of penalties in respect of a contravention of, or non-compliance with, a requirement of the regulations, including provision about appeals in relation to the imposition of a penalty;
 - (d) make different provision for different purposes.
- (3) For the purposes of subsections (1) and (2)—

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- “arrangements” includes any scheme, transaction or series of transactions;
- “participate”, in relation to arrangements, includes being involved in, or facilitating, the arrangements in any way (for example, by receiving any benefit from them or by designing, marketing or providing services in connection with them, or arranging for others to do so);
- “international tax provision” means any provision of—
- (a) any arrangements specified in an Order in Council made under section 173 of FA 2006 (international tax enforcement arrangements), or
 - (b) [Council Directive 2011/16/EU](#) of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive [77/799/EEC](#), as amended from time to time.
- (4) Regulations under this section may make consequential, supplementary, incidental, transitional or saving provision (and may do so by amending, repealing or revoking an enactment whenever passed or made).
 - (5) Regulations under this section are to be made by statutory instrument.
 - (6) A statutory instrument containing regulations under this section which amend or repeal an enactment contained in an Act may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the House of Commons.
 - (7) A statutory instrument containing any other regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.
 - (8) No regulations may be made under this section unless the Chancellor of the Exchequer has laid before the House of Commons a report on how the powers in this section are to be exercised in each of the scenarios in subsection (9).
 - (9) The scenarios to be considered in the report under subsection (8) are—
 - (a) if either—
 - (i) a negotiated withdrawal agreement, or
 - (ii) a framework for the future relationship with the European Union, has not been ratified under section 13 of the European Union (Withdrawal) Act 2018 at the time of the United Kingdom ceasing to be a member of the European Union, and
 - (b) if both—
 - (i) a negotiated withdrawal agreement, and
 - (ii) a framework for the future relationship with the European Union, have been ratified under section 13 of the European Union (Withdrawal) Act 2018 at the time of the United Kingdom ceasing to be a member of the European Union.

Payment of unlawful advance corporation tax

85 Interest in respect of unlawful ACT

- (1) This section applies where—
 - (a) on any date before 12 December 2012, a person started proceedings against the Commissioners in the High Court or the Court of Session,
 - (b) the proceedings include a claim arising out of a relevant payment, and

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- (c) the claim has not been settled, discontinued or finally determined.
- (2) “Relevant payment” means a payment of unlawful ACT that—
- (a) was made by the person on or after 1 January 1996 or in the period of 6 years ending immediately before the date the proceedings were started, and
 - (b) was set off or repaid (wholly or in part) before the proceedings were started.
- (3) The person is entitled to an order requiring the Commissioners to pay to the person—
- (a) an amount (“the principal amount”) equal to the amount of interest that would have accrued if simple interest had accrued on the relevant payment at the appropriate rate for the period beginning with the date the payment was made and ending with—
 - (i) the date as regards which the unlawful ACT was set off, or
 - (ii) the date the unlawful ACT was repaid, and
 - (b) simple interest at the appropriate rate on the principal amount for the period beginning with the day after the date mentioned in paragraph (a)(i) or (ii) and ending with the date the principal amount is paid.
- (4) “The appropriate rate” is, in relation to any day, the rate specified in the following table in respect of that day.

<i>Period</i>	<i>Rate per year (%)</i>
1 October 1993 to 31 March 1997	8
1 April 1997 to 5 January 1999	6
6 January 1999 to 5 March 1999	5
6 March 1999 to 5 February 2000	4
6 February 2000 to 5 May 2001	5
6 May 2001 to 5 November 2001	4
6 November 2001 to 5 August 2003	3
6 August 2003 to 5 December 2003	2
6 December 2003 to 5 September 2004	3
6 September 2004 to 5 September 2005	4
6 September 2005 to 5 September 2006	3
6 September 2006 to 5 August 2007	4
6 August 2007 to 5 January 2008	5
6 January 2008 to 5 November 2008	4
6 November 2008 to 5 December 2008	3
6 December 2008 to 5 January 2009	2
6 January 2009 to 26 January 2009	1
27 January 2009 to 29 October 2018	0.5
30 October 2018 onwards	0.5 or such other rate as the Treasury may by regulations specify in respect of a period specified in the regulations

- (5) Where the unlawful ACT was repaid, any amount of interest or repayment supplement paid by the Commissioners on the making of the repayment is to be deducted from the principal amount (and subsection (3)(b) has effect accordingly).
- (6) Where part of the unlawful ACT has been set off or repaid at one time, and part of it has been set off or repaid at another time or has not been set off or repaid, for the purposes of this section treat each part as a separate payment.
- (7) In this section—
“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs (or, in relation to any time before the commencement of section 5 of the Commissioners for Revenue and Customs Act 2005, the Commissioners of Inland Revenue);
“set off or repaid”: references to a payment of unlawful ACT being set off or repaid are—
(a) to it being set against a liability to corporation tax of any person, or
(b) to it being repaid by the Commissioners;
“settled” means settled by agreement;
“unlawful ACT” means advance corporation tax that was unlawfully levied.
- (8) The Treasury may by regulations substitute for the date for the time being specified in subsection (1)(a) such later date as they consider appropriate.
- (9) Regulations under this section are to be made by statutory instrument.
- (10) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

86 Section 85: supplementary

- (1) This section supplements section 85.
- (2) Nothing in section 85 limits the remedies that a court may award in respect of the claim.
- (3) However—
(a) a person is not entitled to an order under section 85 in respect of a relevant payment if the person has obtained any other relevant remedy in respect of the relevant payment, and
(b) a person who has obtained an order under section 85 in respect of a relevant payment is not entitled to any other relevant remedy in respect of the relevant payment.
- (4) In subsection (3) “relevant remedy” means a remedy for the loss of use of the amount of the relevant payment during the period mentioned in section 85(3)(a) (or during some similar period).
- (5) Any interest or repayment supplement paid by the Commissioners on the making of—
(a) a repayment of a relevant payment, or
(b) a repayment of corporation tax occurring as a result of a relevant payment, is not regarded as a relevant remedy in respect of the relevant payment.

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- (6) Where the right to bring a claim arising out of a payment of unlawful ACT has been transferred from the person who made the payment (“the payor”) to another person (“the successor”)—
- (a) in section 85(1) the reference to “a person” is to the payor or the successor;
 - (b) in section 85(2) the reference to “the person” is to the payor;
 - (c) in section 85(3) the reference to “the person” is to the successor.
- (7) Any amount paid by the Commissioners to a person on a day by virtue of section 85 is to be brought into account when calculating, for tax purposes, the profits (or income) of the person for any period which includes that day.

Voluntary returns

87 Voluntary returns

- (1) In Part 2 of TMA 1970 (returns of income and gains), after section 12C insert—

“Voluntary returns

12D Returns made otherwise than pursuant to a notice

- (1) This section applies where—
- (a) a person delivers a purported return (“the relevant return”) under section 8, 8A or 12AA (“the relevant section”) for a year of assessment or other period (“the relevant period”),
 - (b) no notice under the relevant section has been given to the person in respect of the relevant period, and
 - (c) HMRC treats the relevant return as a return made and delivered in pursuance of such a notice.
- (2) For the purposes of the Taxes Acts—
- (a) treat a relevant notice as having been given to the person on the day the relevant return was delivered, and
 - (b) treat the relevant return as having been made and delivered in pursuance of that notice (and, accordingly, treat it as if it were a return under the relevant section).
- (3) “Relevant notice” means—
- (a) in relation to section 8 or 8A, a notice under that section in respect of the relevant period;
 - (b) in relation to section 12AA, a notice under section 12AA(3) requiring the person to deliver a return in respect of the relevant period, on or before the day the relevant return was delivered (or, if later, the earliest day that could be specified under section 12AA).
- (4) In subsection (1)(a) “purported return” means anything that—
- (a) is in a form, and is delivered in a way, that a corresponding return could have been made and delivered had a relevant notice been given, and
 - (b) purports to be a return under the relevant section.

- (5) Nothing in this section affects sections 34 to 36 or any other provisions of the Taxes Acts specifying a period for the making or delivering of any assessment (including self-assessment) to income tax or capital gains tax.”
- (2) In Schedule 18 to FA 1998 (company tax returns etc) at the end of Part 2 insert—

“Voluntary returns

- 20A (1) This paragraph applies where—
- (a) a company delivers a purported return (“the relevant return”) for a period (“the relevant period”),
 - (b) no notice under paragraph 3 has been given to the company in respect of the relevant period, and
 - (c) Her Majesty’s Revenue and Customs treats the relevant return as a return made and delivered in pursuance of such a notice.
- (2) For the purposes of the Taxes Acts—
- (a) treat a relevant notice as having been given to the company on the day the relevant return was delivered, and
 - (b) treat the relevant return as having been made and delivered in pursuance of that notice (and, accordingly, treat it as if it were a company tax return under paragraph 3).
- (3) “Relevant notice” means a notice under paragraph 3 requiring the company to deliver a return for the relevant period.
- (4) In sub-paragraph (1)(a) “purported return” means anything that—
- (a) is in a form, and is delivered in a way, that a corresponding return could have been made and delivered had a relevant notice been given, and
 - (b) purports to be a company tax return.
- (5) Nothing in this paragraph affects paragraph 46 or any other provisions of the Taxes Acts specifying a time limit for the making of an assessment.”
- (3) The amendments made by this section are treated as always having been in force.
- (4) However, those amendments do not apply in relation to a purported return delivered by a person if, before 29 October 2018—
- (a) the person made an appeal under the Taxes Acts, or a claim for judicial review, and
 - (b) the ground (or one of the grounds) for the making of the appeal or claim was that the purported return was not a return under section 8, 8A or 12AA of TMA 1970 or paragraph 3 of Schedule 18 to FA 1998 because no relevant notice was given.
- (5) The Treasury may by regulations—
- (a) make such amendments of relevant tax legislation as they consider appropriate in consequence of subsection (1) or (2);
 - (b) make such amendments of section 12D of TMA 1970 (inserted by subsection (1) of this section) as they consider appropriate in connection with the coming into force of section 61 of, and Schedule 14 to, F(No.2)A 2017 (digital reporting and record keeping for income tax etc).

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- (6) In subsection (5)(a) “relevant tax legislation” means—
- (a) TMA 1970,
 - (b) Schedule 18 to FA 1998, or
 - (c) any other enactment relating to income tax, corporation tax or capital gains tax.
- (7) Regulations under this section are to be made by statutory instrument.
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

Interest

88 Interest under section 178 of FA 1989 and section 101 of FA 2009

- (1) Where, before the day on which this Act is passed—
- (a) regulations under subsection (1) of section 178 of FA 1989 provide for a rate of interest for the purposes of an enactment to which that section applies, but
 - (b) no order was made under subsection (7) of that section appointing a day for that enactment,
- the rate has effect for any period of time beginning on or after the day on which the regulations came into force even though no such order was made.
- (2) In section 178 of FA 1989 (setting of rates of interest)—
- (a) in subsection (2), omit paragraph (u);
 - (b) in subsection (3)(f), after “provide that” insert “rates or”;
 - (c) omit subsection (7) (but this repeal does not affect any order already made under that subsection).
- (3) In Schedule 35 to FA 2014 (promoters of tax avoidance schemes), in paragraph 11 (interest on penalties)—
- (a) in sub-paragraph (1), for the words from “at the rate” to the end substitute “in accordance with section 101 of FA 2009”;
 - (b) omit sub-paragraph (2).
- (4) In the Taxes (Interest Rate) Regulations 1989 ([S.I. 1989/1297](#))—
- (a) in regulation 3(1), after paragraph (e) insert—
 - “(f) section 14(4) of the Ports Act 1991 (for any period of time beginning on or after the day on which the Finance Act 2019 is passed), and
 - (g) paragraph 8 of Schedule 1 to the Employment Act 2002 (for any period of time beginning on or after the day on which the Finance Act 2019 is passed),”;
 - (b) after regulation 5 insert—

“5A Applicable rate of interest for diverted profits tax

For the purposes of section 79 of the Finance Act 2015, the rate applicable under section 178 of the Finance Act 1989 is—

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- (a) 3% per annum for the period beginning with 1 October 2015 and ending with 5 April 2017, and
 - (b) 2.5% per annum thereafter.”
- (5) Regulations under section 178(1) of FA 1989 may revoke or amend the provision made in the Taxes (Interest Rate) Regulations 1989 by subsection (4).
- (6) Section 101 of FA 2009 is to be regarded as having come into force on 6 May 2014 for the purposes of—
 - (a) penalties under paragraphs 6B to 6D of Schedule 55 to FA 2009, in the case of returns falling within item 4 in the Table in paragraph 1 of that Schedule (real time information for PAYE);
 - (b) penalties under paragraphs 5 to 8 of Schedule 56 to FA 2009, in the case of payments of tax falling within item 2 or 4 of the Table in paragraph 1 of that Schedule (PAYE and CIS amounts);
 - (c) a penalty under section 208 or 226 of FA 2014 (penalties relating to follower notices, accelerated payment notices and partner payment notices), where the penalty relates to income tax payable under PAYE regulations.