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SCHEDULES

SCHEDULE 18

SERIAL TAX AVOIDANCE

Modifications etc. (not altering text)

- C1** Sch. 18 modified (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by 1994 c. 23, Sch. 9ZA para. 79 (as inserted by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 2 para. 2](#) (with s. 3(4), [Sch. 2 para. 7\(7\)-\(10\)](#)); S.I. 2020/1642, reg. 9)

PART 2

ENTRY INTO THE REGIME AND BASIC CONCEPTS

Condition D

- 15 (1) Condition D is that—
- (a) P is a taxable person;
 - (b) the arrangements are disclosable VAT arrangements to which P is a party,
 - (c) P has relied on the arrangements (see sub-paragraph (2));
 - (d) the arrangements have been counteracted, and
 - (e) the counteraction is final.
- (2) For the purposes of sub-paragraph (1) P “relies on the arrangements” if—
- (a) P makes a return or claim on the basis that a relevant tax advantage arises, or
 - (b) P fails to discharge a relevant obligation (“the disputed obligation”) and there is reason to believe that P’s failure to discharge that obligation is connected with those arrangements.
- (3) For the purposes of sub-paragraph (2) “relevant tax advantage” means a tax advantage which the arrangements might be expected to enable P to obtain.
- (4) For the purposes of sub-paragraph (2) an obligation is a “relevant obligation” if the arrangements might be expected to have the result that the obligation does not arise.
- (5) For the purposes of this paragraph the arrangements are “counteracted” if—
- (a) adjustments, other than taxpayer emendations, are made in respect of P’s tax position—
 - (i) on the basis that the whole or part of the relevant tax advantage mentioned in sub-paragraph (2)(a) does not arise, or
 - (ii) on the basis that the disputed obligation does (or did) arise, or

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- (b) an assessment to tax is made, or any other action is taken by HMRC, on the basis mentioned in paragraph (a)(i) or (ii) (otherwise than by way of an adjustment).
- (6) For the purposes of this paragraph a counteraction is “final” when the assessment, adjustments or action in question, and any amounts arising from the assessment, adjustments or action, can no longer be varied, on appeal or otherwise.
- (7) For the purposes of sub-paragraph (1) the time at which it falls to be determined whether or not the arrangements are disclosable VAT arrangements is when the counteraction becomes final.
- (8) The following are “taxpayer emendations” for the purposes of sub-paragraph (5)—
- (a) an adjustment made by P at a time when P had no reason to believe that HMRC had begun or were about to begin enquiries into P's affairs relating to VAT;
 - (b) an adjustment made by HMRC with respect to P's tax position (by way of an assessment or otherwise) as a result of a disclosure made by P which meets the conditions in sub-paragraph (9).
- (9) The conditions are that the disclosure—
- (a) is a full and explicit disclosure of an inaccuracy in a return or other document or of a failure to comply with an obligation, and
 - (b) was made at a time when P had no reason to believe that HMRC were about to begin enquiries into P's affairs relating to VAT.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)