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SCHEDULES

SCHEDULE 20

PENALTIES FOR ENABLERS OF OFFSHORE TAX EVASION OR NON-COMPLIANCE

PART 1

LIABILITY FOR PENALTY

Liability for penalty

- 1 (1) A penalty is payable by a person (P) who has enabled another person (Q) to carry out offshore tax evasion or non-compliance, where conditions A and B are met.
- (2) For the purposes of this Schedule—
- (a) Q carries out “offshore tax evasion or non-compliance” by—
- (i) committing a relevant offence, or
- (ii) engaging in conduct that makes Q liable (if the applicable conditions are met) to a relevant civil penalty,
- where the tax at stake is income tax, capital gains tax or inheritance tax, and
- (b) P “has enabled” Q to carry out offshore tax evasion or non-compliance if P has encouraged, assisted or otherwise facilitated conduct by Q that constitutes offshore tax evasion or non-compliance.
- (3) The relevant offences are—
- (a) an offence of cheating the public revenue involving offshore activity, or
- (b) an offence under section 106A of TMA 1970 (fraudulent evasion of income tax) involving offshore activity,
- (c) an offence under section 106B, 106C or 106D of TMA 1970 (offences relating to certain failures to comply with section 7 or 8 by a taxpayer chargeable to income tax or capital gains tax on or by reference to offshore income, assets or liabilities).
- (4) The relevant civil penalties are—
- (a) a penalty under paragraph 1 of Schedule 24 to FA 2007 (errors in taxpayer's document) involving an offshore matter or an offshore transfer (within the meaning of that Schedule),
- (b) a penalty under paragraph 1 of Schedule 41 to FA 2008 (failure to notify etc) in relation to a failure to comply with section 7(1) of TMA 1970 involving offshore activity,
- (c) a penalty under paragraph 6 of Schedule 55 to FA 2009 (failure to make return for 12 months) involving offshore activity,
- (d) a penalty under paragraph 1 of Schedule 21 to FA 2015 (penalties in connection with relevant offshore asset moves).

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- (5) Condition A is that P knew when P's actions were carried out that they enabled, or were likely to enable, Q to carry out offshore tax evasion or non-compliance.
- (6) Condition B is that—
- (a) in the case of offshore tax evasion or non-compliance consisting of the commission of a relevant offence, Q has been convicted of the offence and the conviction is final, or
 - (b) in the case of offshore tax evasion or non-compliance consisting of conduct that makes Q liable to a relevant penalty—
 - (i) Q has been found to be liable to such a penalty, assessed and notified, and the penalty is final, or
 - (ii) a contract has been made between the Commissioners for Her Majesty's Revenue and Customs and Q under which the Commissioners undertake not to assess the penalty or (if it has been assessed) not to take proceedings to recover it.
- (7) For the purposes of sub-paragraph (6)(a)—
- (a) “convicted of the offence” means convicted of the full offence (and not for example of an attempt), and
 - (b) a conviction becomes final when the time allowed for bringing an appeal against it expires or, if later, when any appeal against conviction has been determined.
- (8) For the purposes of sub-paragraph (6)(b)(i) a penalty becomes final when the time allowed for any appeal or further appeal relating to it expires or, if later, any appeal or final appeal relating to it is determined.
- (9) It is immaterial for the purposes of condition B that—
- (a) any offence of which Q was convicted, or
 - (b) any penalty for which Q was found to be liable,
- relates also to other tax evasion or non-compliance by Q.
- (10) In this Schedule “other tax evasion or non-compliance by Q” means conduct by Q that—
- (a) constitutes an offence of cheating the public revenue or an offence of fraudulent evasion of tax, or
 - (b) makes Q liable to a penalty under any provision of the Taxes Acts, but does not constitute offshore tax evasion or non-compliance.
- (11) Nothing in condition B affects the law of evidence as to the relevance if any of a conviction, assessment of a penalty or contract mentioned in sub-paragraph (6) for the purpose of proving that condition A is met in relation to P.
- (12) In this Schedule “conduct” includes a failure to act.

Commencement Information

II Sch. 20 para. 1 in force at 1.1.2017 by S.I. 2016/1249, reg. 2

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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\(3\)](#)