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## SCHEDULES

### SCHEDULE 21

#### PENALTIES RELATING TO OFFSHORE MATTERS AND OFFSHORE TRANSFERS

##### *Amendments to Schedule 41 to the Finance Act 2008 (c. 9)*

5 Schedule 41 to FA 2008 (penalties: failure to notify etc) is amended as follows.

**Commencement Information**

**II** [Sch. 21 para. 5](#) in force at 1.4.2017 with effect in accordance with reg. 2 by [S.I. 2017/259, reg. 2](#)

- 6 (1) Paragraph 12 (reductions for disclosure) is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) Paragraph 13 provides for reductions in penalties—
- (a) under paragraph 1 where P discloses a relevant failure that involves a domestic matter, and
  - (b) under paragraphs 2 to 4 where P discloses a relevant act or failure.
- (1A) Paragraph 13A provides for reductions in penalties under paragraph 1 where P discloses a relevant failure that involves an offshore matter or an offshore transfer.
- (1B) Sub-paragraph (2) applies where P discloses—
- (a) a relevant failure that involves a domestic matter,
  - (b) a non-deliberate relevant failure that involves an offshore matter, or
  - (c) a relevant act or failure giving rise to a penalty under any of paragraphs 2 to 4.”
- (3) In sub-paragraph (2), for “a” substitute “ the ”.
- (4) After sub-paragraph (2) insert—
- “(2A) Sub-paragraph (2B) applies where P discloses—
- (a) a deliberate relevant failure (whether concealed or not) that involves an offshore matter, or
  - (b) a relevant failure that involves an offshore transfer.
- (2B) P discloses the failure by—
- (a) telling HMRC about it,
  - (b) giving HMRC reasonable help in quantifying the tax unpaid by reason of it,
  - (c) allowing HMRC access to records for the purpose of checking how much tax is so unpaid, and

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- (d) providing HMRC with additional information.
- (2C) The Treasury must make regulations setting out what is meant by “additional information” for the purposes of sub-paragraph (2B)(d).
- (2D) Regulations under sub-paragraph (2C) are to be made by statutory instrument.
- (2E) An instrument containing regulations under sub-paragraph (2C) is subject to annulment in pursuance of a resolution of the House of Commons.”
- (5) At the end insert—
- “(5) Paragraph 6A(4) to (5) applies to determine whether a failure involves an offshore matter, an offshore transfer or a domestic matter for the purposes of this paragraph.
- (6) In this paragraph “relevant failure” means a failure to comply with a relevant obligation.”

#### Commencement Information

**I2** Sch. 21 para. 6(1)-(3)(5) in force at 1.4.2017 with effect in accordance with reg. 2 by S.I. 2017/259, reg. 2

**I3** Sch. 21 para. 6(4) in force at 8.3.2017 for specified purposes by S.I. 2017/259, reg. 3

**I4** Sch. 21 para. 6(4) in force at 1.4.2017 in so far as not already in force and with effect in accordance with reg. 2 of the commencing S.I. by S.I. 2017/259, reg. 2

- 7 In paragraph 13 (amount of reduction for disclosure), for the Table in sub-paragraph (3) substitute—

<i>“Standard %</i>	<i>Minimum % for prompted disclosure</i>	<i>Minimum % for unprompted disclosure</i>
30%	case A: 10% case B: 20%	case A: 0% case B: 10%
70%	35%	20%
100%	50%	30%”

#### Commencement Information

**I5** Sch. 21 para. 7 in force at 1.4.2017 with effect in accordance with reg. 2 by S.I. 2017/259, reg. 2

- 8 After paragraph 13 insert—
- “13A(1) If a person who would otherwise be liable to a penalty of a percentage shown in column 1 of the Table (a “standard percentage”) has made a disclosure, HMRC must reduce the standard percentage to one that reflects the quality of the disclosure.
- (2) But the standard percentage may not be reduced to a percentage that is below the minimum shown for it—
- (a) for a prompted disclosure, in column 2 of the Table, and
- (b) for an unprompted disclosure, in column 3 of the Table.

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- (3) Where the Table shows a different minimum for case A and case B—
- (a) the case A minimum applies if HMRC becomes aware of the failure less than 12 months after the time when the tax first becomes unpaid by reason of the failure;
  - (b) otherwise, the case B minimum applies.

<i>Standard %</i>	<i>Minimum % for prompted disclosure</i>	<i>Minimum % for unprompted disclosure</i>
30%	case A: 10% case B: 20%	case A: 0% case B: 10%
37.5%	case A: 12.5% case B: 25%	case A: 0% case B: 12.5%
45%	case A: 15% case B: 30%	case A: 0% case B: 15%
60%	case A: 20% case B: 40%	case A: 0% case B: 20%
70%	45%	30%
87.5%	53.75%	35%
100%	60%	40%
105%	62.5%	40%
125%	72.5%	50%
140%	80%	50%
150%	85%	55%
200%	110%	70%”

**Commencement Information**

**16** [Sch. 21 para. 8](#) in force at 1.4.2017 with effect in accordance with reg. 2 by [S.I. 2017/259](#), [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\(3\)](#)