
Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance (No. 2) Act 2023. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 14

ADMINISTRATION OF MULTINATIONAL TOP-UP TAX

PART 11

PENALTIES

Penalties payable in connection with this Schedule

40 This Part of this Schedule sets out penalties payable in connection with this Schedule, as follows—

- (a) paragraph 41 amends Schedule 41 to FA 2008 to impose a penalty on a filing member of a multinational group that fails to register with or otherwise notify HMRC under Part 3 of this Schedule;
- (b) paragraph 42 imposes a penalty on a filing member of a registered group that fails to submit an information return or overseas return notification under Part 4 of this Schedule;
- (c) paragraph 43 imposes a penalty on a filing member of a registered group that fails to submit a self-assessment return or below-threshold notification under Part 5 of this Schedule;
- (d) paragraph 45 amends Schedule 24 to FA 2007 to impose a penalty on a filing member of a multinational group that provides inaccurate information to HMRC;
- (e) paragraph 46 imposes a penalty on a filing member of a multinational group that fails to keep or preserve records under Part 9 of this Schedule.

41 In paragraph 1 of Schedule 41 to FA 2008 (penalties for failure to notify etc), in the table after the entry relating to digital services tax insert—

“Multinational top-up tax	Obligation of a filing member of a multinational group under Part 3 of Schedule 14 to FA 2023.”.
---------------------------	--

42 (1) A penalty is payable if the filing member fails to submit an information return or overseas return notification by the submission date, unless paragraph 44 (reasonable excuse) applies.

(2) The penalty is—

- (a) £100, if the return or notification is submitted within three months after the submission date;
- (b) £200, if the return or notification is submitted within six months after the submission date;
- (c) £200 plus the additional penalty amount, in any other case.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance (No. 2) Act 2023. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (3) For a third successive failure, the amount referred to in—
- (a) [sub-paragraph \(2\)\(a\)](#) is increased to £500;
 - (b) [sub-paragraph \(2\)\(b\)](#) and [\(c\)](#) is increased to £1,000.
- (4) For this purpose, a “third successive failure” occurs where—
- (a) the duty to submit a return or notification applies in relation to a group for three successive accounting periods,
 - (b) the member was liable to a penalty under [this paragraph](#) in respect of each of the first two accounting periods, and
 - (c) the member is liable to a penalty under [this paragraph](#) in respect of the third accounting period.
- (5) The additional penalty amount is £60 multiplied by the number of days, after the day six months after the submission date, on which the filing member fails to submit the return or notification.
- (6) The submission date is the last date the filing member is permitted to submit the return or notification under [Part 4](#) of this Schedule.
- 43 (1) A penalty is payable if the filing member fails to submit a self-assessment return or below-threshold notification by the submission date, unless [paragraph 44](#) (reasonable excuse) applies.
- (2) The penalty is—
- (a) £100, if the return or notification is submitted within three months after the submission date;
 - (b) £200, if the return or notification is submitted within six months after the submission date;
 - (c) the higher of £200 and 10% of the unpaid tax, if the return or notification is submitted within twelve months after the submission date;
 - (d) the higher of £200 and 20% of the unpaid tax, in any other case.
- (3) For a third successive failure, the amount referred to in—
- (a) [sub-paragraph \(2\)\(a\)](#) is increased to £500;
 - (b) [sub-paragraph \(2\)\(b\)](#), [\(c\)](#) and [\(d\)](#) is increased to £1,000.
- (4) For this purpose, a “third successive failure” occurs where—
- (a) the duty to submit a return or notification applies in relation to a group for three successive accounting periods,
 - (b) the member was liable to a penalty under [this paragraph](#) in respect of each of the first two accounting periods, and
 - (c) the member is liable to penalty under [this paragraph](#) in respect of the third accounting period.
- (5) The “unpaid tax” means the total amount of tax payable by members of the group for the accounting period which remains unpaid on the date when the liability to the penalty under [this paragraph](#) arises.
- (6) The submission date is the last date the filing member is permitted to submit the return or notification under [Part 5](#) of this Schedule.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance (No. 2) Act 2023. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- 44 (1) [This paragraph](#) applies if the filing member satisfies HMRC or (on appeal) the tribunal that there is a reasonable excuse for the failure to submit the return or notification (as the case may be).
- (2) For that purpose—
- (a) an insufficiency of funds is not a reasonable excuse,
 - (b) where the member relies on any other person to do anything, that is not a reasonable excuse unless the member took reasonable care to avoid the failure, and
 - (c) where the member had a reasonable excuse for the failure but the excuse has ceased, the member is to be treated as having continued to have the excuse only if the failure is remedied without unreasonable delay after the excuse ceased.

- 45 In paragraph 1 of Schedule 24 to FA 2007 (penalties for errors etc), in the table after the entry relating to digital services tax returns insert—

“Multinational top-up tax	Overseas return notification and information provided with it
Multinational top-up tax	Self-assessment return and information provided with it
Multinational top-up tax	Below-threshold notification and information provided with it”.

- 46 (1) A penalty is payable if—
- (a) the member breaches their obligations under [Part 9](#) of this Schedule in relation to an accounting period, and
 - (b) HMRC is not satisfied that any facts which HMRC reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence provided to HMRC.
- (2) The penalty is £3,000.

Penalties under paragraphs 42, 43 and 46: administration and supplemental provision

- 47 Paragraphs [48](#) and [49](#) apply in relation to a penalty payable under [paragraph 42, 43 or 46](#).
- 48 (1) HMRC must—
- (a) assess the penalty, and
 - (b) notify the member of the assessment.
- (2) The assessment of a penalty—
- (a) is to be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for by [this Schedule](#)),
 - (b) may be enforced as if it were an assessment to tax (save that interest is not to accrue on a penalty under [paragraph 33](#)), and
 - (c) may be combined with an assessment to tax.
- (3) A supplementary assessment may be made in respect of a penalty if an earlier assessment is based on an amount of tax due and payable that is found by HMRC to be an underestimate or insufficient.

Changes to legislation: There are outstanding changes not yet made by the [legislation.gov.uk](https://www.legislation.gov.uk) editorial team to *Finance (No. 2) Act 2023*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (4) [Sub-paragraph \(5\)](#) applies if—
 - (a) an assessment in respect of a penalty is based on a liability to tax shown in a self-assessment return, and
 - (b) that liability is found by HMRC to be excessive.
 - (5) HMRC may by notice amend the assessment so it is based on the correct amount.
 - (6) An amendment under [sub-paragraph \(5\)](#)—
 - (a) does not affect when the penalty must be paid;
 - (b) may be made after the last day on which the assessment in question could have been made (under [sub-paragraph \(7\)](#)).
 - (7) An assessment of a penalty must be made before the end of the period of 12 months beginning with—
 - (a) the end of the appeal period for the assessment of the liability to tax shown in the self-assessment return, or
 - (b) if there is no such assessment, the date on which that liability is ascertained or it is ascertained that the liability is nil.
 - (8) In [sub-paragraph \(7\)](#) “appeal period” means the period during which—
 - (a) an appeal could be brought, or
 - (b) an appeal that has been brought has not been determined or withdrawn.
 - (9) A penalty must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.
- 49 (1) If HMRC thinks it right because of special circumstances, HMRC may reduce the penalty.
- (2) In [sub-paragraph \(1\)](#) “special circumstances” does not include—
 - (a) ability to pay, or
 - (b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.
 - (3) In [sub-paragraph \(1\)](#) the reference to reducing a penalty includes a reference to—
 - (a) staying a penalty, and
 - (b) agreeing a compromise in relation to proceedings in respect of a penalty.

Multiple penalties in respect of same accounting period

- 50 (1) This paragraph applies where a person incurs more than one penalty in respect of multinational top-up tax in the same accounting period.
- (2) The amount of each penalty after the first is to be reduced so that the total amount of all such penalties in the period does not exceed the greatest amount incurred for any such penalty.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance (No. 2) Act 2023. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

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):

- s. 131(2)(3) substituted for s. 131(2) by 2024 c. 3 Sch. 12 para. 5(3)
- s. 147A inserted by 2024 c. 3 Sch. 12 para. 8(1)
- s. 148A-148C inserted by 2024 c. 3 Sch. 12 para. 8(3)
- s. 150(6A) inserted by 2024 c. 3 Sch. 12 para. 50(5)(b)
- s. 151(1)(c) and word inserted by 2024 c. 3 Sch. 12 para. 9(2)(d)
- s. 151(1)(aa) inserted by 2024 c. 3 Sch. 12 para. 9(2)(c)
- s. 151(6A) inserted by 2024 c. 3 Sch. 12 para. 9(4)
- s. 151(8) inserted by 2024 c. 3 Sch. 12 para. 9(6)
- s. 159(1)(a)(b) substituted for words by 2024 c. 3 Sch. 12 para. 12(2)
- s. 159(2)(a)(b) substituted for words by 2024 c. 3 Sch. 12 para. 12(3)
- s. 159(3)(a)(b) substituted for words by 2024 c. 3 Sch. 12 para. 12(4)
- s. 159(4) inserted by 2024 c. 3 Sch. 12 para. 12(5)
- s. 165(2)(a)(i)(ii) s. 165(2)(a)(b) become s. 165(2)(a)(i)(ii) by 2024 c. 3 Sch. 12 para. 50(6)(b)
- s. 168(12) inserted by 2024 c. 3 Sch. 12 para. 14(8)
- s. 170(2A) inserted by 2024 c. 3 Sch. 12 para. 14(9)(b)
- s. 176A-176C and cross-heading inserted by 2024 c. 3 Sch. 12 para. 8(6)
- s. 176D-176F and cross-heading inserted by 2024 c. 3 Sch. 12 para. 16(1)
- s. 178(1A)(1B) inserted by 2024 c. 3 Sch. 12 para. 17(4)
- s. 178(5)(6) inserted by 2024 c. 3 Sch. 12 para. 17(6)
- s. 179(1A) inserted by 2024 c. 3 Sch. 12 para. 17(7)(a)
- s. 179(3A)(3B) inserted by 2024 c. 3 Sch. 12 para. 17(7)(b)
- s. 180(8)(b)(ii)(iia) substituted for s. 180(8)(b)(ii) by 2024 c. 3 Sch. 12 para. 19(4)
- s. 183A inserted by 2024 c. 3 Sch. 12 para. 20(5)
- s. 195(7A) inserted by 2024 c. 3 Sch. 12 para. 25(1)
- s. 196(1)(e) and words inserted by 2024 c. 3 Sch. 12 para. 22(1)(b)
- s. 196(1A) inserted by 2024 c. 3 Sch. 12 para. 21(1)(b)
- s. 197(4)(d)(e) inserted by 2024 c. 3 Sch. 12 para. 23(b)
- s. 197(5)(c) and word inserted by 2024 c. 3 Sch. 12 para. 22(2)(e)
- s. 197(6A) inserted by 2024 c. 3 Sch. 12 para. 21(2)
- s. 197(7A) inserted by 2024 c. 3 Sch. 12 para. 24
- s. 197A inserted by 2024 c. 3 Sch. 12 para. 25(2)
- s. 198A inserted by 2024 c. 3 Sch. 12 para. 26
- s. 211(1)-(1C) substituted for s. 211(1) by 2024 c. 3 Sch. 12 para. 27(a)
- s. 213(6A) inserted by 2024 c. 3 Sch. 12 para. 28
- s. 232(3A) inserted by 2024 c. 3 Sch. 12 para. 4(6)
- s. 232A inserted by 2024 c. 3 Sch. 12 para. 2(2)
- s. 236(2A) inserted by 2024 c. 3 Sch. 12 para. 31(3)
- s. 251A inserted by 2024 c. 3 Sch. 12 para. 29(1)
- s. 253(2)(b)(va) inserted by 2024 c. 3 Sch. 12 para. 56(10)(c)(iii)
- s. 255(2A) inserted by 2024 c. 3 Sch. 12 para. 34(1)(a)
- s. 255(4)-(6) inserted by 2024 c. 3 Sch. 12 para. 34(1)(c)
- s. 256A inserted by 2024 c. 3 Sch. 12 para. 35(1)
- s. 262(1A)-(1D) inserted by 2024 c. 3 Sch. 12 para. 36
- s. 267(3A) inserted by 2024 c. 3 Sch. 12 para. 42(1)(a)
- s. 267(3B)-(3D) inserted by 2024 c. 3 Sch. 12 para. 43(1)(b)
- s. 267A inserted by 2024 c. 3 Sch. 12 para. 42(2)
- s. 268A inserted by 2024 c. 3 Sch. 12 para. 2(4)

- s. 272(8)(da) inserted by 2024 c. 3 Sch. 12 para. 44(1)
- s. 272(9)-(11) inserted by 2024 c. 3 Sch. 12 para. 43(3)(b)
- s. 272A inserted by 2024 c. 3 Sch. 12 para. 42(3)
- s. 273(3)(ba) inserted by 2024 c. 3 Sch. 12 para. 44(2)
- s. 273(4)(pa) inserted by 2024 c. 3 Sch. 12 para. 57(3)(c)
- s. 273A273B inserted by 2024 c. 3 Sch. 12 para. 45(1)
- s. 273C inserted by 2024 c. 3 Sch. 12 para. 46
- s. 276(c)(iiia) inserted by 2024 c. 3 Sch. 12 para. 45(2)(b)
- s. 276(aa) inserted by 2024 c. 3 Sch. 12 para. 45(2)(a)
- s. 311A inserted by 2024 c. 3 s. 21(3)
- Sch. 14 para. 37A37B and cross-heading inserted by 2024 c. 3 Sch. 12 para. 2(6)(b)
- Sch. 14 para. 39(1)(aa) inserted by 2024 c. 3 Sch. 12 para. 2(6)(c)(ii)
- Sch. 14 para. 39(2)(aa) inserted by 2024 c. 3 Sch. 12 para. 2(6)(c)(iii)
- Sch. 14 para. 33A inserted by 2024 c. 3 Sch. 12 para. 37(3)
- Sch. 14 para. 6(1A) inserted by 2024 c. 3 Sch. 12 para. 58(1)(a)
- Sch. 14 para. 34(2A) inserted by 2024 c. 3 Sch. 12 para. 58(1)(b)(ii)
- Sch. 14 para. 3(3)-(5) substituted for Sch. 14 para. 3(3) by 2024 c. 3 Sch. 12 para. 2(6)(a)(iii)
- Sch. 15 para. 2(1)(za) inserted by 2024 c. 3 Sch. 12 para. 16(2)
- Sch. 15 para. 2(1)(k) inserted by 2024 c. 3 Sch. 12 para. 40(2)
- Sch. 15 para. 2(1)(l) inserted by 2024 c. 3 Sch. 12 para. 41(4)
- Sch. 15 para. 1(1)(aa) inserted by 2024 c. 3 Sch. 12 para. 58(2)(a)
- Sch. 15 para. 2(1)(ea) inserted by 2024 c. 3 Sch. 12 para. 58(2)(b)(i)
- Sch. 15 para. 2(1)(fa) inserted by 2024 c. 3 Sch. 12 para. 58(2)(b)(ii)
- Sch. 16 para. 10(1) Sch. 16 para. 10 renumbered as Sch. 16 para. 10(1) by 2024 c. 3 Sch. 12 para. 58(3)(a)
- Sch. 16 para. 2(11)(b) inserted by 2024 c. 3 Sch. 12 para. 34(2)(d)(ii)
- Sch. 16 para. 2(3A) inserted by 2024 c. 3 Sch. 12 para. 38(3)
- Sch. 16 para. 2(12)(13) inserted by 2024 c. 3 Sch. 12 para. 38(8)
- Sch. 16 para. 4(3)(d) and word inserted by 2024 c. 3 Sch. 12 para. 39(3)(a)(ii)
- Sch. 16 Pt. 3 inserted by 2024 c. 3 Sch. 12 para. 40(1)
- Sch. 16 para. 10(2)(3) inserted by 2024 c. 3 Sch. 12 para. 58(3)(d)
- Sch. 16 para. 2(1)(b)(ba) substituted for Sch. 16 para. 2(1)(b) by 2024 c. 3 Sch. 12 para. 34(2)(a)
- Sch. 16 para. 3(1)(1A) substituted for Sch. 16 para. 3(1) by 2024 c. 3 Sch. 12 para. 39(2)
- Sch. 16 para. 3(7)-(9) substituted for Sch. 16 para. 3(7)(8) by 2024 c. 3 Sch. 12 para. 29(2)
- Sch. 16 para. 10(1)(a) word substituted by 2024 c. 3 Sch. 12 para. 58(3)(c)
- Sch. 16 para. 10(1) words inserted by 2024 c. 3 Sch. 12 para. 58(3)(b)(ii)
- Sch. 16 para. 10(1) words substituted by 2024 c. 3 Sch. 12 para. 58(3)(b)(i)
- Sch. 16A inserted by 2024 c. 3 Sch. 12 para. 41(1)