

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 36

Section 113

INFORMATION AND INSPECTION POWERS

Modifications etc. (not altering text)

- C1** Sch. 36 applied (with modifications) (E.W.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations 2009 \(S.I. 2009/470\)](#), regs. 1(1), **60(1)(2)** (with reg. 1(4)(6))
- C2** Sch. 36 applied (with modifications) (N.I.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/128\)](#), regs. 1(1), **28(2)(3)**
- C3** Sch. 36 applied (with modifications) (N.I.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/128\)](#), regs. 1(1), **56**
- C4** Sch. 36 applied (with modifications) (E.W.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations 2009 \(S.I. 2009/470\)](#), regs. 1(1), **33(2)(3)** (with reg. 1(4)(6))
- C5** Sch. 36 applied (with modifications) (N.I.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/128\)](#), regs. 1(1), **55(1)(2)**
- C6** Sch. 36 applied (with modifications) (E.W.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations 2009 \(S.I. 2009/470\)](#), regs. 1(1), **61** (with reg. 1(4)(6))
- C7** Sch. 36 modified (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), **Sch. 1 para. 36(1)**
- C8** Sch. 36 modified (22.3.2011) by [National Insurance Contributions Act 2011 \(c. 3\)](#), **ss. 9(5)**, 13(2)
- C9** Sch. 36 applied (with modifications) (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\)](#), regs. 1, **5**
- C10** Sch. 36 applied (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\)](#), regs. 1, **5(1)**
- C11** Sch. 36 applied (with modifications) (with application in accordance with reg. 1 of the amending S.I.) by [The Education \(Postgraduate Master's Degree Loans\) Regulations 2016 \(S.I. 2016/606\)](#), regs. 1(1), **78(1)(2)**
- C12** Sch. 36 applied (with modifications) (with application in accordance with reg. 1 of the amending S.I.) by [The Education \(Postgraduate Master's Degree Loans\) Regulations 2016 \(S.I. 2016/606\)](#), regs. 1(1), **77(1)(2)**
- C13** Sch. 36 applied (with modifications) (with application in accordance with reg. 1 of the amending S.I.) by [The Education \(Postgraduate Master's Degree Loans\) Regulations 2016 \(S.I. 2016/606\)](#), regs. 1(1), **43(2)(3)**
- C14** Sch. 36 applied (with modifications) (1.1.2017) by [Finance Act 2016 \(c. 24\)](#), s. 162(2), **Sch. 20 paras. 18-21**; S.I. 2016/1249, reg. 2
- C15** Sch. 36 applied (with modifications) (with effect in accordance with s. 121(6) of the amending Act) by 2014 c. 26, **s. 272A** (as inserted by [Finance Act 2021 \(c. 26\)](#), **Sch. 30 para. 4**)
- C16** Sch. 36 applied (with modifications) (with effect in accordance with Sch. 16 para. 62 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 16 paras. 40-43** (as amended (with effect in accordance with s. 123(12) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **s. 123(4)-(7)**)
- C17** Sch. 36 applied (24.2.2022) by [Finance Act 2022 \(c. 3\)](#), **Sch. 14 para. 17(1)**
- C18** Sch. 36 applied (with modifications) (24.2.2022) by [Finance Act 2022 \(c. 3\)](#), Sch. 13 para. 6(1)(3)
- C19** Sch. 36 modified (24.2.2022) by [Finance Act 2022 \(c. 3\)](#), **Sch. 14 para. 18**
- C20** Sch. 36 applied (with modifications) (1.5.2023) by [The Value Added Tax \(Margin Schemes and Removal or Export of Goods: VAT-related Payments\) Order 2023 \(S.I. 2023/68\)](#), arts. 1(1), **12** (with art. 1(2))

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PART 1

POWERS TO OBTAIN INFORMATION AND DOCUMENTS

Modifications etc. (not altering text)

C21 Sch. 36 applied (with modifications) (with effect in accordance with Sch. 16 para. 62 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 16 paras. 40-43](#)

Power to obtain information and documents from taxpayer

- 1 (1) An officer of Revenue and Customs may by notice in writing require a person (“the taxpayer”)—
- (a) to provide information, or
 - (b) to produce a document,
- if the information or document is reasonably required by the officer for the purpose of checking the taxpayer's tax position [^{F1}or for the purpose of collecting a tax debt of the taxpayer].
- (2) In this Schedule, “taxpayer notice” means a notice under this paragraph.

Textual Amendments

F1 Words in [Sch. 36 para. 1\(1\)](#) inserted (with effect in accordance with s. 127(8) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [s. 127\(2\)](#)

Commencement Information

I1 Sch. 36 para. 1 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Power to obtain information and documents from third party

- 2 (1) An officer of Revenue and Customs may by notice in writing require a person—
- (a) to provide information, or
 - (b) to produce a document,
- if the information or document is reasonably required by the officer for the purpose of checking the tax position of another person whose identity is known to the officer (“the taxpayer”) [^{F2}or for the purpose of collecting a tax debt of the taxpayer].
- (2) A third party notice must name the taxpayer to whom it relates, unless the [^{F3}tribunal] has approved the giving of the notice and disapplied this requirement under paragraph 3.
- (3) In this Schedule, “third party notice” means a notice under this paragraph.

Textual Amendments

F2 Words in [Sch. 36 para. 2\(1\)](#) inserted (with effect in accordance with s. 127(8) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [s. 127\(3\)](#)

F3 Word in Sch. 36 para. 2(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), [art. 1\(2\)](#), [Sch. 1 para. 471\(2\)](#)

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Commencement Information

I2 Sch. 36 para. 2 in force at 1.4.2009 by S.I. 2009/404, art. 2

Approval etc of taxpayer notices and third party notices

- 3 (1) An officer of Revenue and Customs may not give a third party notice without—
- (a) the agreement of the taxpayer, or
 - (b) the approval of the [F⁴tribunal] .
- (2) An officer of Revenue and Customs may ask for the approval of the [F⁵tribunal] to the giving of any taxpayer notice or third party notice (and for the effect of obtaining such approval see paragraphs 29, 30 and 53 (appeals against notices and offence)).
- [F⁶(2A) An application for approval under this paragraph may be made without notice (except as required under sub-paragraph (3)).]
- (3) The [F⁷tribunal] may not approve the giving of a taxpayer notice or third party notice unless—
- (a) an application for approval is made by, or with the agreement of, an authorised officer of Revenue and Customs,
 - (b) the [F⁸tribunal] is satisfied that, in the circumstances, the officer giving the notice is justified in doing so,
 - (c) the person to whom the notice is [F⁹to be] addressed has been told that the information or documents referred to in the notice are required and given a reasonable opportunity to make representations to an officer of Revenue and Customs,
 - (d) the [F⁷tribunal] has been given a summary of any representations made by that person, and
 - (e) in the case of a third party notice, the taxpayer has been given a summary of the reasons why an officer of Revenue and Customs requires the information and documents.
- (4) Paragraphs (c) to (e) of sub-paragraph (3) do not apply to the extent that the [F¹⁰tribunal] is satisfied that taking the action specified in those paragraphs might prejudice the assessment or collection of tax.
- (5) Where the [F¹¹tribunal] approves the giving of a third party notice under this paragraph, it may also disapply the requirement to name the taxpayer in the notice if it is satisfied that the officer has reasonable grounds for believing that naming the taxpayer might seriously prejudice the assessment or collection of tax.

Textual Amendments

- F4** Word in Sch. 36 para. 3(1)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(3)(a)**
- F5** Word in Sch. 36 para. 3(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(3)(b)**
- F6** Sch. 36 para. 3(2A) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 47 para. 2(2)**
- F7** Word in Sch. 36 para. 3(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(3)(c)(i)**

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- F8** Word in Sch. 36 para. 3(3)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(3)(c)(ii)**
- F9** Word in Sch. 36 para. 3(3)(c) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 47 para. 2(3)**
- F10** Word in Sch. 36 para. 3(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(3)(d)**
- F11** Word in Sch. 36 para. 3(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(3)(e)**

Commencement Information

- I3** Sch. 36 para. 3 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2**

Copying third party notice to taxpayer

- 4 (1) An officer of Revenue and Customs who gives a third party notice must give a copy of the notice to the taxpayer to whom it relates, unless the [^{F12}tribunal] has disappplied this requirement.
- (2) The [^{F13}tribunal] may not disapply that requirement unless—
- (a) an application for approval is made by, or with the agreement of, an authorised officer of Revenue and Customs, and
 - (b) the [^{F14}tribunal] is satisfied that the officer has reasonable grounds for believing that giving a copy of the notice to the taxpayer might prejudice the assessment or collection of tax.

Textual Amendments

- F12** Word in Sch. 36 para. 4(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(4)(a)**
- F13** Word in Sch. 36 para. 4(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(4)(b)(i)**
- F14** Word in Sch. 36 para. 4(2)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(4)(b)(ii)**

Commencement Information

- I4** Sch. 36 para. 4 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2**

[^{F15}Power to obtain information and documents from financial institutions

Textual Amendments

- F15** [Sch. 36 para. 4A](#) and cross-heading inserted (with effect in accordance with s. 126(9) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **s. 126(2)**

- 4A (1) An officer of Revenue and Customs may by notice in writing require a financial institution—
- (a) to provide information, or
 - (b) to produce a document,
- if conditions A and B are met.

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- (2) Condition A is that the information or document is, in the reasonable opinion of the officer giving the notice, of a kind that it would not be onerous for the institution to provide or produce.
- (3) Condition B is that the information or document is reasonably required by the officer—
 - (a) for the purpose of checking the tax position of another person whose identity is known to the officer (“the taxpayer”), or
 - (b) for the purpose of collecting a tax debt of the taxpayer.
- (4) In this Schedule, “financial institution notice” means a notice under this paragraph.
- (5) A financial institution notice may be given by an officer of Revenue and Customs only if—
 - (a) the officer is an authorised officer of Revenue and Customs, or
 - (b) an authorised officer of Revenue and Customs has agreed to the giving of the notice.
- (6) A financial institution notice must name the taxpayer to whom it relates.
- (7) An officer of Revenue and Customs—
 - (a) must give a copy of a financial institution notice to the taxpayer to whom it relates, and
 - (b) must give the taxpayer a summary of the reasons why an officer of Revenue and Customs requires the information and documents.
- (8) An application (without notice) may be made to the tribunal by, or with the agreement of, an authorised officer of Revenue and Customs to disapply any of the requirements under sub-paragraph (6) or (7).
- (9) The tribunal must grant the application to disapply the requirement under sub-paragraph (6) if it is satisfied that the officer has reasonable grounds for believing that naming the taxpayer might seriously prejudice the assessment or collection of tax.
- (10) The tribunal must grant the application to disapply a requirement under sub-paragraph (7) if it is satisfied that complying with the requirement might prejudice the assessment or collection of tax.]

Power to obtain information and documents about persons whose identity is not known

- 5 (1) An authorised officer of Revenue and Customs may by notice in writing require a person—
 - (a) to provide information, or
 - (b) to produce a document,if the condition in sub-paragraph (2) is met.
- (2) That condition is that the information or document is reasonably required by the officer for the purpose of checking the ^{F16}... tax position of [^{F17}or for the purpose of collecting a tax debt of]—
 - (a) a person whose identity is not known to the officer, or
 - (b) a class of persons whose individual identities are not known to the officer.

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- (3) An officer of Revenue and Customs may not give a notice under this paragraph without the approval of the [^{F18}tribunal] .
- [^{F19}(3A) An application for approval under this paragraph may be made without notice.]
- (4) The [^{F20}tribunal] may not [^{F21}approve the giving of a notice under] this paragraph unless it is satisfied that—
- (a) the notice would meet the condition in sub-paragraph (2),
 - (b) there are reasonable grounds for believing that the person or any of the class of persons to whom the notice relates may have failed or may fail to comply with any provision of [^{F22}the law (including the law of a territory outside the United Kingdom) relating to tax],
 - (c) any such failure is likely to have led or to lead to serious prejudice to the assessment or collection of ^{F23}... tax, and
 - (d) the information or document to which the notice relates is not readily available from another source.
- ^{F24}(5)

Textual Amendments

- F16** Word in [Sch. 36 para. 5\(2\)](#) omitted (1.4.2012 with application in accordance with [Sch. 24 para. 2\(5\)\(b\)](#)) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 24 para. 2\(2\)\(5\)\(a\)](#)
- F17** Words in [Sch. 36 para. 5\(2\)](#) inserted (with effect in accordance with s. 127(8) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [s. 127\(4\)](#)
- F18** Word in [Sch. 36 para. 5\(3\)](#) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 471\(2\)](#)
- F19** [Sch. 36 para. 5\(3A\)](#) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 3\(2\)](#)
- F20** Word in [Sch. 36 para. 5\(4\)](#) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 471\(2\)](#)
- F21** Words in [Sch. 36 para. 5\(4\)](#) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 3\(3\)](#)
- F22** Words in [Sch. 36 para. 5\(4\)\(b\)](#) substituted (1.4.2012 with application in accordance with [Sch. 24 para. 2\(5\)\(b\)](#)) by [Finance Act 2011 \(c. 11\)](#), [Sch. 24 para. 2\(3\)\(a\)\(5\)\(a\)](#)
- F23** Word in [Sch. 36 para. 5\(4\)\(c\)](#) omitted (1.4.2012 with application in accordance with [Sch. 24 para. 2\(5\)\(b\)](#)) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 24 para. 2\(3\)\(b\)\(5\)\(a\)](#)
- F24** [Sch. 36 para. 5\(5\)](#) omitted (1.4.2012 with application in accordance with [Sch. 24 para. 2\(5\)\(b\)](#)) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 24 para. 2\(4\)\(5\)\(a\)](#)

Modifications etc. (not altering text)

- C22** [Sch. 36 para. 5](#) applied (with modifications) (24.2.2022) by [Finance Act 2022 \(c. 3\)](#), [Sch. 14 para. 19](#)

Commencement Information

- I5** [Sch. 36 para. 5](#) in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

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[^{F25}Power to obtain information about persons whose identity can be ascertained

Textual Amendments

F25 Sch. 36 para. 5A and cross-heading inserted (with effect in accordance with s. 224(7) of the amending Act) by Finance Act 2012 (c. 14), s. 224(2)

- 5A (1) An authorised officer of Revenue and Customs may by notice in writing require a person to provide relevant information about another person (“the taxpayer”) if conditions A to D are met.
- (2) Condition A is that the information is reasonably required by the officer for the purpose of checking the tax position of the taxpayer [^{F26}or for the purpose of collecting a tax debt of the taxpayer].
- (3) Condition B is that—
- the taxpayer's identity is not known to the officer, but
 - the officer holds information from which the taxpayer's identity can be ascertained.
- (4) Condition C is that the officer has reason to believe that—
- the person will be able to ascertain the taxpayer's identity from the information held by the officer, and
 - the person obtained relevant information about the taxpayer in the course of carrying on a business.
- (5) Condition D is that the taxpayer's identity cannot readily be ascertained by other means from the information held by the officer.
- (6) “Relevant information” means all or any of the following—
- name,
 - last known address, and
 - date of birth (in the case of an individual).
- (7) This paragraph applies for the purpose of checking the tax position of [^{F27}, or for the purpose of collecting a tax debt of,] a class of persons as for the purpose of checking the tax position of [^{F27}, or for the purpose of collecting a tax debt of,] a single person (and references to “the taxpayer” are to be read accordingly).]

Textual Amendments

- F26** Words in Sch. 36 para. 5A(2) inserted (with effect in accordance with s. 127(8) of the amending Act) by Finance Act 2021 (c. 26), s. 127(5)(a)
- F27** Words in Sch. 36 para. 5A(7) inserted (with effect in accordance with s. 127(8) of the amending Act) by Finance Act 2021 (c. 26), s. 127(5)(b)

Notices

- 6 (1) In this Schedule, “information notice” means a notice under paragraph 1, 2, [^{F28}4A,]^{F29} 5 or 5A].

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- (2) An information notice may specify or describe the information or documents to be provided or produced.
- (3) If an information notice is given with the approval of the [^{F30}tribunal], it must state that it is given with that approval.
- [^{F31}(4) A decision of the tribunal under paragraph 3, 4 [^{F32}, 4A] or 5 is final (despite the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007).]

Textual Amendments

- F28** Word in Sch. 36 para. 6(1) inserted (with effect in accordance with s. 126(9) of the amending Act) by Finance Act 2021 (c. 26), s. 126(3)(a)
- F29** Words in Sch. 36 para. 6(1) substituted (with effect in accordance with s. 224(7) of the amending Act) by Finance Act 2012 (c. 14), s. 224(3)
- F30** Word in Sch. 36 para. 6(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 471(2)
- F31** Sch. 36 para. 6(4) inserted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 4
- F32** Word in Sch. 36 para. 6(4) inserted (with effect in accordance with s. 126(9) of the amending Act) by Finance Act 2021 (c. 26), s. 126(3)(b)

Modifications etc. (not altering text)

- C23** Sch. 36 para. 6(2) applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153A(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C24** Sch. 36 para. 6(2) applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159A(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C25** Sch. 36 para. 6(2) applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 6(3)
- C26** Sch. 36 para. 6(2) applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 19(2)
- C27** Sch. 36 para. 6(2) applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 10(4)

Commencement Information

- I6** Sch. 36 para. 6 in force at 1.4.2009 by S.I. 2009/404, art. 2

Complying with notices

- 7 (1) Where a person is required by an information notice to provide information or produce a document, the person must do so—
- (a) within such period, and
 - (b) at such time, by such means and in such form (if any),
- as is reasonably specified or described in the notice.
- (2) Where an information notice requires a person to produce a document, it must be produced for inspection—
- (a) at a place agreed to by that person and an officer of Revenue and Customs, or
 - (b) at such place as an officer of Revenue and Customs may reasonably specify.

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- (3) An officer of Revenue and Customs must not specify a place that is used solely as a dwelling.
- (4) The production of a document in compliance with an information notice is not to be regarded as breaking any lien claimed on the document.

Modifications etc. (not altering text)

- C28** Sch. 36 para. 7 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153A(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C29** Sch. 36 para. 7 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159A(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C30** Sch. 36 para. 7 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 10(4)
- C31** Sch. 36 para. 7 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 6(3)
- C32** Sch. 36 para. 7 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 19(2)
- C33** Sch. 36 para. 7 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, Sch. 7A para. 66(1) (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with Sch. 5 para. 28))

Commencement Information

- I7** Sch. 36 para. 7 in force at 1.4.2009 by S.I. 2009/404, art. 2

Producing copies of documents

- 8
- (1) Where an information notice requires a person to produce a document, the person may comply with the notice by producing a copy of the document, subject to any conditions or exceptions set out in regulations made by the Commissioners.
 - (2) Sub-paragraph (1) does not apply where—
 - (a) the notice requires the person to produce the original document, or
 - (b) an officer of Revenue and Customs subsequently makes a request in writing to the person for the original document.
 - (3) Where an officer of Revenue and Customs requests a document under sub-paragraph (2)(b), the person to whom the request is made must produce the document—
 - (a) within such period, and
 - (b) at such time and by such means (if any),as is reasonably requested by the officer.

Modifications etc. (not altering text)

- C34** Sch. 36 para. 8 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153A(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C35** Sch. 36 para. 8 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159A(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C36** Sch. 36 para. 8 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 19(2)

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- C37** Sch. 36 para. 8 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 10(4)**
- C38** Sch. 36 para. 8 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 6(3)**
- C39** Sch. 36 para. 8 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, **Sch. 7A para. 66(1)** (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with **Sch. 5 para. 28**))

Commencement Information

- I8** Sch. 36 para. 8 in force at 1.4.2009 by S.I. 2009/404, **art. 2**

Restrictions and special cases

- 9 This Part of this Schedule has effect subject to Parts 4 and 6 of this Schedule.

Commencement Information

- I9** Sch. 36 para. 9 in force at 1.4.2009 by S.I. 2009/404, **art. 2**

PART 2

POWERS TO INSPECT [F³³PREMISES AND OTHER PROPERTY]

Textual Amendments

- F33** Words in Sch. 36 Pt. 2 heading substituted (1.4.2010) by The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 1, **Sch. para. 15**

Power to inspect business premises etc

- 10 (1) An officer of Revenue and Customs may enter a person's business premises and inspect—
- (a) the premises,
 - (b) business assets that are on the premises, and
 - (c) business documents that are on the premises,
- if the inspection is reasonably required for the purpose of checking that person's tax position.
- (2) The powers under this paragraph do not include power to enter or inspect any part of the premises that is used solely as a dwelling.
- (3) In this Schedule—
- “business assets” means assets that an officer of Revenue and Customs has reason to believe are owned, leased or used in connection with the carrying on of a business by any person [F³⁴(but see sub-paragraph (4))],
- “business documents” means documents (or copies of documents)—
- (a) that relate to the carrying on of a business by any person, and

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(b) that form part of any person's statutory records, and
“business premises”, in relation to a person, means premises (or any part of premises) that an officer of Revenue and Customs has reason to believe are (or is) used in connection with the carrying on of a business by or on behalf of the person.

[^{F35}(4) For the purposes of this Schedule, “business assets” does not include documents, other than—

- (a) documents that are trading stock for the purposes of Chapter 11A of Part 2 of ITTOIA 2005 (see section 172A of that Act), and
- (b) documents that are plant for the purposes of Part 2 of CAA 2001.]

[^{F36}(5) In sub-paragraph (1), the reference to a person's tax position does not include a reference to a person's position as regards soft drinks industry levy.]

Textual Amendments

- F34** Words in Sch. 36 para. 10(3) substituted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 5(2)
- F35** Sch. 36 para. 10(4) inserted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 5(3)
- F36** Sch. 36 para. 10(5) inserted (6.4.2018) by Finance Act 2017 (c. 10), s. 61(1), Sch. 11 para. 1(2); S.I. 2018/464, art. 2(e)

Modifications etc. (not altering text)

- C40** Sch. 36 para. 10(2) applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153B(4) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C41** Sch. 36 para. 10(2) applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159B(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))

Commencement Information

- I10** Sch. 36 para. 10 in force at 1.4.2009 by S.I. 2009/404, art. 2

[^{F37}Power to inspect business premises etc of involved third parties

Textual Amendments

- F37** Sch. 36 para. 10A and cross-heading inserted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 3; S.I. 2009/3054, art. 2

- 10A (1) An officer of Revenue and Customs may enter business premises of an involved third party (see paragraph 61A) and inspect—
- (a) the premises,
 - (b) business assets that are on the premises, and
 - (c) relevant documents that are on the premises,
- if the inspection is reasonably required by the officer for the purpose of checking the position of any person or class of persons as regards a relevant tax.
- (2) The powers under this paragraph may be exercised whether or not the identity of that person is, or the individual identities of those persons are, known to the officer.
- (3) The powers under this paragraph do not include power to enter or inspect any part of the premises that is used solely as a dwelling.

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) In relation to an involved third party, “relevant documents” and “relevant tax” are defined in paragraph 61A.]

Power to inspect premises used in connection with taxable supplies etc

- 11 (1) This paragraph applies where an officer of Revenue and Customs has reason to believe that—
- (a) premises are used in connection with the supply of goods under taxable supplies and goods to be so supplied [^{F38}or documents relating to such goods] are on those premises,
 - (b) ^{F39}... or
 - (c) premises are used as [^{F40}or in connection with] a fiscal warehouse.
- (2) An officer of Revenue and Customs may enter the premises and inspect—
- (a) the premises,
 - (b) any goods that are on the premises, and
 - (c) any documents on the premises that appear to the officer to relate to [^{F41}the supply of goods under taxable supplies ^{F42}... or fiscal warehousing].
- (3) The powers under this paragraph do not include power to enter or inspect any part of the premises that is used solely as a dwelling.
- (4) Terms used both in [^{F43}this paragraph] and in VATA 1994 have the same meaning [^{F44}here] as they have in that Act.

Textual Amendments

- F38** Words in Sch. 36 para. 11(1)(a) inserted (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 47 para. 6(2)(a)**
- F39** Sch. 36 para. 11(1)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 113(2)(a)** (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F40** Words in Sch. 36 para. 11(1)(c) inserted (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 47 para. 6(2)(c)**
- F41** Words in Sch. 36 para. 11(2)(c) substituted (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 47 para. 6(3)**
- F42** Words in Sch. 36 para. 11(2)(c) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 113(2)(b)** (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F43** Words in Sch. 36 para. 11(4) substituted (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 47 para. 6(4)(a)**
- F44** Word in Sch. 36 para. 11(4) substituted (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 47 para. 6(4)(b)**

Modifications etc. (not altering text)

- C42** Sch. 36 para. 11 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. 78(1)** (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**)
- C43** Sch. 36 para. 11 modified (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by 1994 c. 23, **Sch. 9ZB para. 26(4)** (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**)

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

I11 Sch. 36 para. 11 in force at 1.4.2009 by S.I. 2009/404, art. 2

Carrying out inspections ^[F45] under paragraph 10, 10A or 11

Textual Amendments

F45 Words in Sch. 36 para. 12 cross-heading inserted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 4(3); S.I. 2009/3054, art. 2

- 12 (1) An inspection under ^[F46] paragraph 10, 10A or 11] may be carried out only—
- (a) at a time agreed to by the occupier of the premises, or
 - (b) if sub-paragraph (2) is satisfied, at any reasonable time.
- (2) This sub-paragraph is satisfied if—
- (a) the occupier of the premises has been given at least 7 days' notice of the time of the inspection (whether in writing or otherwise), or
 - (b) the inspection is carried out by, or with the agreement of, an authorised officer of Revenue and Customs.
- (3) An officer of Revenue and Customs seeking to carry out an inspection under sub-paragraph (2)(b) must provide a notice in writing as follows—
- (a) if the occupier of the premises is present at the time the inspection is to begin, the notice must be provided to the occupier,
 - (b) if the occupier of the premises is not present but a person who appears to the officer to be in charge of the premises is present, the notice must be provided to that person, and
 - (c) in any other case, the notice must be left in a prominent place on the premises.
- (4) The notice referred to in sub-paragraph (3) must state the possible consequences of obstructing the officer in the exercise of the power.
- (5) If a notice referred to in sub-paragraph (3) is given ^[F47] in respect of an inspection approved by] the ^[F48] tribunal] (see paragraph 13), it must state that ^[F49] the inspection has been so approved].

Textual Amendments

F46 Words in Sch. 36 para. 12(1) substituted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 4(2); S.I. 2009/3054, art. 2

F47 Words in Sch. 36 para. 12(5) substituted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 7(a)

F48 Word in Sch. 36 para. 12(5) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 471(2)

F49 Words in Sch. 36 para. 12(5) substituted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 7(b)

Modifications etc. (not altering text)

C44 Sch. 36 para. 12 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153B(4) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))

C45 Sch. 36 para. 12 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159B(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

C46 Sch. 36 para. 12 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 15(3)**

C47 Sch. 36 para. 12 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 21(5)**

Commencement Information

I12 Sch. 36 para. 12 in force at 1.4.2009 by S.I. 2009/404, **art. 2**

[^{F50}Powers to inspect property for valuation etc

Textual Amendments

F50 Sch. 36 paras. 12A, 12B and cross-headings inserted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), **Sch. 48 para. 5**; S.I. 2009/3054, **art. 2**

- 12A (1) An officer of Revenue and Customs may enter and inspect premises for the purpose of valuing the premises if the valuation is reasonably required for the purpose of checking any person's position as regards income tax or corporation tax.
- (2) An officer of Revenue and Customs may enter premises and inspect—
- (a) the premises, and
 - (b) any other property on the premises,
- for the purpose of valuing, measuring or determining the character of the premises or property.
- (3) Sub-paragraph (2) only applies if the valuation, measurement or determination is reasonably required for the purpose of checking any person's position as regards—
- (a) capital gains tax,
 - (b) corporation tax in respect of chargeable gains,
 - (c) inheritance tax,
 - (d) stamp duty land tax,^{F51} ...
 - (e) stamp duty reserve tax^{F52}, or
 - (f) annual tax on enveloped dwellings.]
- (4) A person who the officer considers is needed to assist with the valuation, measurement or determination may enter and inspect the premises or property with the officer.

Textual Amendments

F51 Word in Sch. 36 para. 12A(3) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), **Sch. 34 para. 2(a)**

F52 Sch. 36 para. 12A(3)(f) and word inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 34 para. 2(b)**

Carrying out inspections under paragraph 12A

- 12B (1) An inspection under paragraph 12A may be carried out only if condition A or B is satisfied.
- (2) Condition A is that—

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- (a) the inspection is carried out at a time agreed to by a relevant person, and
 - (b) the relevant person has been given notice in writing of the agreed time of the inspection.
- (3) “Relevant person” means—
- (a) the occupier of the premises, or
 - (b) if the occupier cannot be identified or the premises are vacant, a person who controls the premises.
- (4) Condition B is that—
- (a) the inspection has been approved by the tribunal, and
 - (b) any relevant person specified by the tribunal has been given at least 7 days' notice in writing of the time of the inspection.
- (5) A notice under sub-paragraph (4)(b) must state the possible consequences of obstructing the officer in the exercise of the power.
- (6) If a notice is given under this paragraph in respect of an inspection approved by the tribunal (see paragraph 13), it must state that the inspection has been so approved.
- (7) An officer of Revenue and Customs seeking to carry out an inspection under paragraph 12A must produce evidence of authority to carry out the inspection if asked to do so by—
- (a) the occupier of the premises, or
 - (b) any other person who appears to the officer to be in charge of the premises or property.]

Approval of [^{F53}tribunal]

Textual Amendments

F53 Word in Sch. 36 para. 13 heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(5)(a)**

- 13 (1) An officer of Revenue and Customs may ask the [^{F54}tribunal] to approve an inspection under this Part of this Schedule [^{F55}(and for the effect of obtaining such approval see paragraph 39 (penalties))].
- [^{F56}(1A) An application for approval under this paragraph may be made without notice [^{F57}(except as required under sub-paragraph (2A))].]
- (2) The [^{F54}tribunal] may not approve an inspection [^{F58}under paragraph 10, 10A or 11] unless—
- (a) an application for approval is made by, or with the agreement of, an authorised officer of Revenue and Customs, and
 - (b) the [^{F59}tribunal] is satisfied that, in the circumstances, the inspection is justified.
- [^{F60}(2A) The tribunal may not approve an inspection under paragraph 12A unless—
- (a) an application for approval is made by, or with the agreement of, an authorised officer of Revenue and Customs,

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- (b) the person whose tax position is the subject of the proposed inspection has been given a reasonable opportunity to make representations to the officer of Revenue and Customs about that inspection,
- (c) the occupier of the premises has been given a reasonable opportunity to make such representations,
- (d) the tribunal has been given a summary of any representations made, and
- (e) the tribunal is satisfied that, in the circumstances, the inspection is justified.

(2B) Paragraph (c) of sub-paragraph (2A) does not apply if the tribunal is satisfied that the occupier of the premises cannot be identified.]

[^{F61}(3) A decision of the tribunal under this paragraph is final (despite the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007).]

Textual Amendments

- F54** Word in Sch. 36 para. 13 substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(5)(b)**
- F55** Words in Sch. 36 para. 13(1) inserted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 96(3), **Sch. 48 para. 6(2)**; [S.I. 2009/3054](#), art. 2
- F56** Sch. 36 para. 13(1A) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 47 para. 8(2)**
- F57** Words in Sch. 36 para. 13(1A) inserted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 96(3), **Sch. 48 para. 6(3)**; [S.I. 2009/3054](#), art. 2
- F58** Words in Sch. 36 para. 13(2) inserted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 96(3), **Sch. 48 para. 6(4)**; [S.I. 2009/3054](#), art. 2
- F59** Word in Sch. 36 para. 13(2)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(5)(c)**
- F60** Sch. 36 para. 13(2A)(2B) inserted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 96(3), **Sch. 48 para. 6(5)**; [S.I. 2009/3054](#), art. 2
- F61** Sch. 36 para. 13(3) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 47 para. 8(3)**

Modifications etc. (not altering text)

- C48** Sch. 36 para. 13(1A) applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153B\(7\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#))
- C49** Sch. 36 para. 13(1A) applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by [2004 c. 12, s. 159B\(6\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 7, 8\(3\)](#))
- C50** Sch. 36 para. 13(1A) applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), s. 6(2)(3), **Sch. 1 para. 15(6)**
- C51** Sch. 36 para. 13(1A) applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), s. 6(2)(3), **Sch. 2 para. 21(8)**
- C52** Sch. 36 para. 13(2)(3) applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153B\(7\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#))
- C53** Sch. 36 para. 13(2)(3) applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by [2004 c. 12, s. 159B\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 7, 8\(3\)](#))
- C54** Sch. 36 para. 13(2)(3) applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), s. 6(2)(3), **Sch. 1 para. 15(6)**
- C55** Sch. 36 para. 13(2)(3) applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), s. 6(2)(3), **Sch. 2 para. 21(8)**

Commencement Information

- I13** Sch. 36 para. 13 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2**

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Restrictions and special cases

- 14 This Part of this Schedule has effect subject to Parts 4 and 6 of this Schedule.

Commencement Information

- I14** Sch. 36 para. 14 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

PART 3

FURTHER POWERS

Power to copy documents

- 15 Where a document (or a copy of a document) is produced to, or inspected by, an officer of Revenue and Customs, such an officer may take copies of, or make extracts from, the document.

Modifications etc. (not altering text)

- C56** Sch. 36 para. 15 applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153B\(4\)](#) (as inserted by [Finance Act 2014 \(c. 26\), Sch. 7 paras. 3, 5\(1\)](#))
- C57** Sch. 36 para. 15 applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153A\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\), Sch. 7 paras. 3, 5\(1\)](#))
- C58** Sch. 36 para. 15 applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by [2004 c. 12, s. 159A\(2\)](#) (as inserted by [Finance Act 2014 \(c. 26\), Sch. 7 paras. 7, 8\(3\)](#))
- C59** Sch. 36 para. 15 applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by [2004 c. 12, s. 159B\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\), Sch. 7 paras. 7, 8\(3\)](#))
- C60** Sch. 36 para. 15 applied (with effect in accordance with [Sch. 5 para. 25\(1\)\(2\)](#) of the amending Act) by [2010 c. 8, Sch. 7A para. 66\(1\)](#) (as inserted by [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 5 para. 2](#) (with [Sch. 5 para. 28](#)))

Commencement Information

- I15** Sch. 36 para. 15 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Power to remove documents

- 16 (1) Where a document is produced to, or inspected by, an officer of Revenue and Customs, such an officer may—
- remove the document at a reasonable time, and
 - retain it for a reasonable period,
- if it appears to the officer to be necessary to do so.
- (2) Where a document is removed in accordance with sub-paragraph (1), the person who produced the document may request—
- a receipt for the document, and
 - if the document is reasonably required for any purpose, a copy of the document,
- and an officer of Revenue and Customs must comply with such a request without charge.

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) The removal of a document under this paragraph is not to be regarded as breaking any lien claimed on the document.
- (4) Where a document removed under this paragraph is lost or damaged, the Commissioners are liable to compensate the owner of the document for any expenses reasonably incurred in replacing or repairing the document.
- (5) In this paragraph references to a document include a copy of a document.

Modifications etc. (not altering text)

- C61** Sch. 36 para. 16 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153B(4) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C62** Sch. 36 para. 16 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153A(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C63** Sch. 36 para. 16 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159B(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C64** Sch. 36 para. 16 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159A(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C65** Sch. 36 para. 16 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, Sch. 7A para. 66(1) (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with Sch. 5 para. 28))

Commencement Information

- I16** Sch. 36 para. 16 in force at 1.4.2009 by S.I. 2009/404, art. 2

Power to mark assets and to record information

- 17 The powers under Part 2 of this Schedule include—
- (a) power to mark business assets, and anything containing business assets, for the purpose of indicating that they have been inspected, and
- (b) power to obtain and record information (whether electronically or otherwise) relating to the premises, [^{F62}property, goods,] assets and documents that have been inspected.

Textual Amendments

- F62** Words in Sch. 36 para. 17(b) inserted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 7; S.I. 2009/3054, art. 2

Commencement Information

- I17** Sch. 36 para. 17 in force at 1.4.2009 by S.I. 2009/404, art. 2

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PART 4

RESTRICTIONS ON POWERS

Documents not in person's possession or power

- 18 An information notice only requires a person to produce a document if it is in the person's possession or power.

Modifications etc. (not altering text)

- C66** Sch. 36 paras. 18-20 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153A(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C67** Sch. 36 paras. 18-20 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159A(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C68** Sch. 36 paras. 18-20 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 6(3)
- C69** Sch. 36 paras. 18-20 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 10(4)
- C70** Sch. 36 paras. 18-20 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 19(2)
- C71** Sch. 36 para. 18 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, Sch. 7A para. 66(1) (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with Sch. 5 para. 28))

Commencement Information

- I18** Sch. 36 para. 18 in force at 1.4.2009 by S.I. 2009/404, art. 2

Types of information

- 19 (1) An information notice does not require a person to provide or produce—
- (a) information that relates to the conduct of a pending appeal relating to tax or any part of a document containing such information,
 - ^{F63}(aa) information that relates to the conduct of a pending appeal under the Savings (Government Contributions) Act 2017 or any part of a document containing such information,] or
 - (b) journalistic material (as defined in section 13 of the Police and Criminal Evidence Act 1984 (c. 60)) or information contained in such material.
- (2) An information notice does not require a person to provide or produce personal records (as defined in section 12 of the Police and Criminal Evidence Act 1984) or information contained in such records, subject to sub-paragraph (3).
- (3) An information notice may require a person—
- (a) to produce documents, or copies of documents, that are personal records, omitting any information whose inclusion (whether alone or with other information) makes the original documents personal records (“personal information”), and
 - (b) to provide any information contained in such records that is not personal information.

^{F64}(4)

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

F64 (5)

Textual Amendments

- F63** Sch. 36 para. 19(1)(aa) inserted (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\), ss. 5\(3\), 6\(2\)\(3\)](#)
- F64** Sch. 36 para. 19(4)(5) omitted (retrospectively) by [Finance \(No. 2\) Act 2023 \(c. 30\), s. 32\(5\)\(7\)](#)

Modifications etc. (not altering text)

- C66** Sch. 36 paras. 18-20 applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153A\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\), Sch. 7 paras. 3, 5\(1\)](#))
- C67** Sch. 36 paras. 18-20 applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by [2004 c. 12, s. 159A\(2\)](#) (as inserted by [Finance Act 2014 \(c. 26\), Sch. 7 paras. 7, 8\(3\)](#))
- C68** Sch. 36 paras. 18-20 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\), s. 6\(2\)\(3\), Sch. 1 para. 6\(3\)](#)
- C69** Sch. 36 paras. 18-20 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\), s. 6\(2\)\(3\), Sch. 1 para. 10\(4\)](#)
- C70** Sch. 36 paras. 18-20 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\), s. 6\(2\)\(3\), Sch. 2 para. 19\(2\)](#)
- C72** Sch. 36 para. 19 applied (with effect in accordance with [Sch. 5 para. 25\(1\)\(2\)](#) of the amending Act) by [2010 c. 8, Sch. 7A para. 66\(1\)](#) (as inserted by [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 5 para. 2 \(with Sch. 5 para. 28\)](#))

Commencement Information

- I19** Sch. 36 para. 19 in force at 1.4.2009 by [S.I. 2009/404, art. 2](#)

Old documents

- 20 An information notice may not require a person to produce a document if the whole of the document originates more than 6 years before the date of the notice, unless the notice is given by, or with the agreement of, an authorised officer.

Modifications etc. (not altering text)

- C66** Sch. 36 paras. 18-20 applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153A\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\), Sch. 7 paras. 3, 5\(1\)](#))
- C67** Sch. 36 paras. 18-20 applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by [2004 c. 12, s. 159A\(2\)](#) (as inserted by [Finance Act 2014 \(c. 26\), Sch. 7 paras. 7, 8\(3\)](#))
- C68** Sch. 36 paras. 18-20 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\), s. 6\(2\)\(3\), Sch. 1 para. 6\(3\)](#)
- C69** Sch. 36 paras. 18-20 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\), s. 6\(2\)\(3\), Sch. 1 para. 10\(4\)](#)
- C70** Sch. 36 paras. 18-20 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\), s. 6\(2\)\(3\), Sch. 2 para. 19\(2\)](#)
- C73** Sch. 36 para. 20 applied (with effect in accordance with [Sch. 5 para. 25\(1\)\(2\)](#) of the amending Act) by [2010 c. 8, Sch. 7A para. 66\(1\)](#) (as inserted by [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 5 para. 2 \(with Sch. 5 para. 28\)](#))

Commencement Information

- I20** Sch. 36 para. 20 in force at 1.4.2009 by [S.I. 2009/404, art. 2](#)

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Taxpayer notices [F65] following tax return]

Textual Amendments

F65 Words in Sch. 36 para. 21 cross-heading inserted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 8(3); S.I. 2009/3054, art. 2

- 21 (1) Where a person has made a tax return in respect of a chargeable period under section 8, 8A or 12AA of TMA 1970 (returns for purpose of income tax and capital gains tax), a taxpayer notice may not be given for the purpose of checking that person's income tax position or capital gains tax position in relation to the chargeable period.
- (2) Where a person has made a tax return in respect of a chargeable period under paragraph 3 of Schedule 18 to FA 1998 (company tax returns), a taxpayer notice may not be given for the purpose of checking that person's corporation tax position in relation to the chargeable period.
- (3) Sub-paragraphs (1) and (2) do not apply where, or to the extent that, any of conditions A to [F66E] is met.
- (4) Condition A is that a notice of enquiry has been given in respect of—
- (a) the return, or
 - (b) a claim or election (or an amendment of a claim or election) made by the person in relation to the chargeable period in respect of the tax (or one of the taxes) to which the return relates (“relevant tax”),
- and the enquiry has not been completed [F67] so far as relating to the matters to which the taxpayer notice relates].
- (5) In sub-paragraph (4), “notice of enquiry” means a notice under—
- (a) section 9A or 12AC of, or paragraph 5 of Schedule 1A to, TMA 1970, or
 - (b) paragraph 24 of Schedule 18 to FA 1998.
- (6) Condition B is that [F68, as regards the person,] an officer of Revenue and Customs has reason to suspect that—
- (a) an amount that ought to have been assessed to relevant tax for the chargeable period may not have been assessed,
 - (b) an assessment to relevant tax for the chargeable period may be or have become insufficient, or
 - (c) relief from relevant tax given for the chargeable period may be or have become excessive.
- (7) Condition C is that the notice is given for the purpose of obtaining any information or document that is also required for the purpose of checking [F69, the] person's [F70] position as regards any tax other than income tax, capital gains tax or corporation tax].
- (8) Condition D is that the notice is given for the purpose of obtaining any information or document that is required (or also required) for the purpose of checking the person's position as regards any deductions or repayments [F71] of tax or withholding of income] referred to in paragraph 64(2) [F72] or (2A)] (PAYE etc).

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F73}(8A) Condition E is that the notice is given for the purpose of obtaining any specified relevant transfer pricing information or documents.
- (8B) For the purposes of Condition E, information or documents are “specified relevant transfer pricing information or documents” if—
- (a) they are relevant transfer pricing records specified, or of a description specified, in regulations under section 12B of TMA 1970 or paragraph 21 of Schedule 18 to FA 1998 (duties to keep and preserve records), and
 - (b) the relevant person is required to keep and preserve those records under either or both of those provisions.
- (8C) For the purposes of [subsection \(8B\)](#), the “relevant person” means—
- (a) in the case of a tax return made in respect of a chargeable period under section 8A or 12AA of TMA 1970 (trustee’s and partnership returns)—
 - (i) the person, or
 - (ii) a person who was required by a notice under the section concerned to make and deliver the return;
 - (b) in any other case, the person.]
- [^{F74}(9) In this paragraph references to the person who made the return are only to that person in the capacity in which the return was made.]

Textual Amendments

- F66** Word in [Sch. 36 para. 21\(3\)](#) substituted (11.7.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 5 para. 6\(2\)\(a\)](#)
- F67** Words in [Sch. 36 para. 21\(4\)](#) inserted (with effect in accordance with [Sch. 15 para. 44](#) of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 15 para. 36](#)
- F68** Words in [Sch. 36 para. 21\(6\)](#) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 9\(2\)](#)
- F69** Word in [Sch. 36 para. 21\(7\)](#) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 9\(3\)](#)
- F70** Words in [Sch. 36 para. 21\(7\)](#) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 96(3), [Sch. 48 para. 8\(2\)](#); [S.I. 2009/3054](#), art. 2
- F71** Words in [Sch. 36 para. 21\(8\)](#) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 9\(4\)\(a\)](#)
- F72** Word in [Sch. 36 para. 21\(8\)](#) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 9\(4\)\(b\)](#)
- F73** [Sch. 36 para. 21\(8A\)-\(8C\)](#) inserted (11.7.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 5 para. 6\(2\)\(b\)](#)
- F74** [Sch. 36 para. 21\(9\)](#) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 9\(5\)](#)

Modifications etc. (not altering text)

- C74** [Sch. 36 para. 21](#) applied (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 1 para. 36\(2\)](#)

Commencement Information

- I21** [Sch. 36 para. 21](#) in force at 1.4.2009 by [S.I. 2009/404](#), art. 2

[^{F75}Application of paragraph 21 in case of returns under Schedule 2 to FA 2019

Textual Amendments

- F75** [Sch. 36 para. 21ZA](#) and cross-heading substituted (with effect in accordance with [Sch. 2 para. 32\(1\)](#) of the amending Act) by [Finance Act 2019 \(c. 1\)](#), [Sch. 2 para. 28\(2\)](#)

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- 21ZA (1) For the purposes of paragraph 21 any reference to the making by a person of a return under section 8 or 8A of TMA 1970 includes the making by the person of a return under Schedule 2 to FA 2019.
- (2) In the application of paragraph 21 in relation to a return under Schedule 2 to FA 2019, the return is to be treated as if it required a self-assessment of an amount of capital gains tax.
- (3) For the purposes of paragraph 21, the definition of “the notice of enquiry” in its application to a return under Schedule 2 to FA 2019 needs to be read in the light of the provision made by paragraph 20 of that Schedule.]

[^{F76}Taxpayer notices following land transaction return

Textual Amendments

F76 Sch. 36 para. 21A and cross-heading inserted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 9; S.I. 2009/3054, art. 2

- 21A (1) Where a person has delivered a land transaction return under section 76 of FA 2003 (returns for purposes of stamp duty land tax) in respect of a transaction, a taxpayer notice may not be given for the purpose of checking that person's stamp duty land tax position in relation to that transaction.
- (2) Sub-paragraph (1) does not apply where, or to the extent that, any of conditions [^{F77}A to D] is met.
- (3) Condition A is that a notice of enquiry has been given in respect of—
- (a) the return, or
 - (b) a claim (or an amendment of a claim) made by the person in connection with the transaction,
- and the enquiry has not been completed.
- (4) In sub-paragraph (3) “notice of enquiry” means a notice under paragraph 12 of Schedule 10, or paragraph 7 of Schedule 11A, to FA 2003.
- (5) Condition B is that, as regards the person, an officer of Revenue and Customs has reason to suspect that—
- (a) an amount that ought to have been assessed to stamp duty land tax in respect of the transaction may not have been assessed,
 - (b) an assessment to stamp duty land tax in respect of the transaction may be or have become insufficient, or
 - (c) relief from stamp duty land tax in respect of the transaction may be or have become excessive.
- (6) Condition C is that the notice is given for the purpose of obtaining any information or document that is also required for the purpose of checking that person's position as regards a tax other than stamp duty land tax.]
- [^{F78}(7) Condition D is that relief from stamp duty land tax has been given in respect of the transaction and the notice is given for the purpose of checking whether—
- (a) the relief is withdrawn to any extent under a provision mentioned in section 81 or 81ZA of FA 2003, or

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- (b) paragraph 6 of Schedule 6B to FA 2003 (transfers involving multiple dwellings) applies.
- (8) Where condition D is met (and not any of conditions A to C), a taxpayer notice may not be given by virtue of this paragraph after the end of the period of 4 years beginning with the effective date of the transaction (but see sub-paragraph (9) in relation to PAIF seeding relief and COACS seeding relief).
- (9) Where condition D is met because the notice is given for the purpose of checking whether the relief is withdrawn to any extent under a paragraph of Schedule 7A to FA 2003 (PAIF seeding relief and COACS seeding relief), the reference in sub-paragraph (8) to the effective date of the transaction is to be read as a reference to the first day of the control period within the meaning of that Schedule (see paragraph 21 of that Schedule).
- (10) “Effective date” has the same meaning for the purposes of sub-paragraph (8) as for the purposes of Part 4 of FA 2003 (see section 119 of that Act).]

Textual Amendments

- F77** Words in [Sch. 36 para. 21A\(2\)](#) substituted (with effect in accordance with Sch. 34 para. 9 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 34 para. 8\(2\)](#)
- F78** [Sch. 36 para. 21A\(7\)-\(10\)](#) inserted (with effect in accordance with Sch. 34 para. 9 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 34 para. 8\(3\)](#)

[^{F79} Annual tax on enveloped dwellings: taxpayer notices following return

Textual Amendments

- F79** [Sch. 36 para. 21B](#) and cross-heading inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 34 para. 3](#)

- 21B (1) Where a person has delivered, for a chargeable period with respect to a single-dwelling interest—
- (a) an annual tax on enveloped dwellings return, or
 - (b) a return of the adjusted chargeable amount,
- a taxpayer notice may not be given for the purpose of checking the person's annual tax on enveloped dwellings position as regards the matters dealt with in that return.
- (2) Sub-paragraph (1) does not apply where, or to the extent that, any of conditions A to C is met.
- (3) Condition A is that notice of enquiry has been given in respect of—
- (a) the return, or
 - (b) a claim (or an amendment of a claim) made by the person in relation to the chargeable period,
- and the enquiry has not been completed.
- (4) In sub-paragraph (3) “notice of enquiry” means a notice under paragraph 8 of Schedule 33 to FA 2013 or paragraph 7 of Schedule 11A to FA 2003 (as applied by paragraphs 28(2) and 31(3) of Schedule 33 to FA 2013).

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) Condition B is that, as regards the person, an officer of Revenue and Customs has reason to suspect that—
- (a) an amount that ought to have been assessed to annual tax on enveloped dwellings for the chargeable period may not have been assessed,
 - (b) an assessment to annual tax on enveloped dwellings for the chargeable period may be or have become insufficient, or
 - (c) relief from annual tax on enveloped dwellings for the chargeable period may be or have become excessive.
- (6) Condition C is that the notice is given for the purpose of obtaining any information or document that is also required for the purpose of checking that person's position as regards a tax other than annual tax on enveloped dwellings.
- (7) In this Schedule references to a “single-dwelling interest” are to be read in accordance with section 108 of FA 2013.]

Deceased persons

- 22 An information notice given for the purpose of checking the tax position of a person who has died may not be given more than 4 years after the person's death.

Commencement Information

I22 Sch. 36 para. 22 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Privileged communications between professional legal advisers and clients

- 23 (1) An information notice does not require a person—
- (a) to provide privileged information, or
 - (b) to produce any part of a document that is privileged.
- (2) For the purpose of this Schedule, information or a document is privileged if it is information or a document in respect of which a claim to legal professional privilege, or (in Scotland) to confidentiality of communications as between client and professional legal adviser, could be maintained in legal proceedings.
- (3) The Commissioners may by regulations make provision for the resolution by the [^{F80}tribunal] of disputes as to whether any information or document is privileged.
- (4) The regulations may, in particular, make provision as to—
- (a) the custody of a document while its status is being decided, ^{F81} ...
 - ^{F81}(b)

Textual Amendments

F80 Word in Sch. 36 para. 23(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 471\(6\)\(a\)](#)

F81 Sch. 36 para. 23(4)(b) and word omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 471\(6\)\(b\)](#)

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Modifications etc. (not altering text)

- C75** Sch. 36 paras. 23-27 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153A(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C76** Sch. 36 paras. 23-27 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159A(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C77** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 10(4)
- C78** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 19(2)
- C79** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 6(3)
- C80** Sch. 36 para. 23 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, Sch. 7A para. 66(1) (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with Sch. 5 para. 28))

Commencement Information

- I23** Sch. 36 para. 23 in force at 1.4.2009 by S.I. 2009/404, art. 2

Auditors

- 24 (1) An information notice does not require a person who has been appointed as an auditor for the purpose of an enactment—
- (a) to provide information held in connection with the performance of the person's functions under that enactment, or
 - (b) to produce documents which are that person's property and which were created by that person or on that person's behalf for or in connection with the performance of those functions.
- (2) Sub-paragraph (1) has effect subject to paragraph 26.

Modifications etc. (not altering text)

- C75** Sch. 36 paras. 23-27 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153A(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C76** Sch. 36 paras. 23-27 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159A(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C77** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 10(4)
- C78** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 19(2)
- C79** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 6(3)
- C81** Sch. 36 paras. 24-27 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, Sch. 7A para. 66(1) (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with Sch. 5 para. 28))

Commencement Information

- I24** Sch. 36 para. 24 in force at 1.4.2009 by S.I. 2009/404, art. 2

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Tax advisers

- 25 (1) An information notice does not require a tax adviser—
- (a) to provide information about relevant communications, or
 - (b) to produce documents which are the tax adviser's property and consist of relevant communications.
- (2) Sub-paragraph (1) has effect subject to paragraph 26.
- (3) In this paragraph—
- “relevant communications” means communications between the tax adviser and—
- (a) a person in relation to whose tax affairs he has been appointed, or
 - (b) any other tax adviser of such a person,
- the purpose of which is the giving or obtaining of advice about any of those tax affairs, and
- “tax adviser” means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that person or by another tax adviser of that person).

Modifications etc. (not altering text)

- C75** Sch. 36 paras. 23-27 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153A(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C76** Sch. 36 paras. 23-27 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159A(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C77** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 10(4)
- C78** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 19(2)
- C79** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 6(3)
- C81** Sch. 36 paras. 24-27 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, Sch. 7A para. 66(1) (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with Sch. 5 para. 28))

Commencement Information

- I25** Sch. 36 para. 25 in force at 1.4.2009 by S.I. 2009/404, art. 2

Auditors and tax advisers: supplementary

- 26 (1) Paragraphs 24(1) and 25(1) do not have effect in relation to—
- (a) information explaining any information or document which the person to whom the notice is given has, as tax accountant, assisted any client in preparing for, or delivering to, HMRC, or
 - (b) a document which contains such information.
- (2) In the case of a notice given under paragraph 5, paragraphs 24(1) and 25(1) do not have effect in relation to—
- (a) any information giving the identity or address of a person to whom the notice relates or of a person who has acted on behalf of such a person, or

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(b) a document which contains such information.

(3) Paragraphs 24(1) and 25(1) are not disapplied by sub-paragraph (1) or (2) if the information in question has already been provided, or a document containing the information in question has already been produced, to an officer of Revenue and Customs.

Modifications etc. (not altering text)

- C75** Sch. 36 paras. 23-27 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153A(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C76** Sch. 36 paras. 23-27 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159A(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C77** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 10(4)
- C78** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 19(2)
- C79** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 6(3)
- C81** Sch. 36 paras. 24-27 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, Sch. 7A para. 66(1) (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with Sch. 5 para. 28))

Commencement Information

- I26** Sch. 36 para. 26 in force at 1.4.2009 by S.I. 2009/404, art. 2

27 (1) This paragraph applies where paragraph 24(1) or 25(1) is disapplied in relation to a document by paragraph 26(1) or (2).

(2) An information notice that requires the document to be produced has effect as if it required any part or parts of the document containing the information mentioned in paragraph 26(1) or (2) to be produced.

Modifications etc. (not altering text)

- C75** Sch. 36 paras. 23-27 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153A(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C76** Sch. 36 paras. 23-27 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159A(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C77** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 10(4)
- C78** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 19(2)
- C79** Sch. 36 paras. 23-27 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 6(3)
- C81** Sch. 36 paras. 24-27 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, Sch. 7A para. 66(1) (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with Sch. 5 para. 28))

Commencement Information

- I27** Sch. 36 para. 27 in force at 1.4.2009 by S.I. 2009/404, art. 2

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Corresponding restrictions on inspection of^{F82} ... documents

Textual Amendments

F82 Word in Sch. 36 para. 28 cross-heading omitted (1.4.2010) by virtue of Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 10; S.I. 2009/3054, art. 2

- 28 An officer of Revenue and Customs may not inspect a^{F83} ... document under Part 2 of this Schedule if or to the extent that, by virtue of this Part of this Schedule, an information notice given at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.

Textual Amendments

F83 Word in Sch. 36 para. 28 omitted (1.4.2010) by virtue of Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 10; S.I. 2009/3054, art. 2

Commencement Information

I28 Sch. 36 para. 28 in force at 1.4.2009 by S.I. 2009/404, art. 2

PART 5

APPEALS AGAINST INFORMATION NOTICES

Right to appeal against taxpayer notice

- 29 (1) Where a taxpayer is given a taxpayer notice, the taxpayer may appeal^{F84} ... against the notice or any requirement in the notice.
- (2) Sub-paragraph (1) does not apply to a requirement in a taxpayer notice to provide any information, or produce any document, that forms part of the taxpayer's statutory records.
- (3) Sub-paragraph (1) does not apply if the [^{F85}tribunal] approved the giving of the notice in accordance with paragraph 3.

Textual Amendments

F84 Words in Sch. 36 para. 29(1) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 471(7)(a)

F85 Word in Sch. 36 para. 29(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 471(7)(b)

Modifications etc. (not altering text)

C82 Sch. 36 para. 29 applied (13.8.2009) by 2007 c. 11, Sch. 11 para. 2(7) (as substituted by The Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035), Sch. para. 53)

Commencement Information

I29 Sch. 36 para. 29 in force at 1.4.2009 by S.I. 2009/404, art. 2

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Right to appeal against third party notice

- 30 (1) Where a person is given a third party notice, the person may appeal ^{F86}... against the notice or any requirement in the notice on the ground that it would be unduly onerous to comply with the notice or requirement.
- (2) Sub-paragraph (1) does not apply to a requirement in a third party notice to provide any information, or produce any document, that forms part of the taxpayer's statutory records.
- (3) Sub-paragraph (1) does not apply if the [^{F87}tribunal] approved the giving of the notice in accordance with paragraph 3.

Textual Amendments

F86 Words in Sch. 36 para. 30(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(8)(a)**

F87 Word in Sch. 36 para. 30(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(8)(b)**

Commencement Information

I30 Sch. 36 para. 30 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2**

Right to appeal against notice given under paragraph 5 [^{F88} or 5A]

Textual Amendments

F88 Words in Sch. 36 para. 31 heading inserted (with effect in accordance with [s. 224\(7\)](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **s. 224(5)**

- 31 Where a person is given a notice under paragraph 5 [^{F89} or 5A], the person may appeal ^{F90}... against the notice or any requirement in the notice on the ground that it would be unduly onerous to comply with the notice or requirement.

Textual Amendments

F89 Words in [Sch. 36 para. 31](#) inserted (with effect in accordance with [s. 224\(7\)](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **s. 224(4)**

F90 Words in Sch. 36 para. 31 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(9)**

Commencement Information

I31 Sch. 36 para. 31 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2**

Procedure

- 32 (1) Notice of an appeal under this Part of this Schedule must be given—
- (a) in writing,
 - (b) before the end of the period of 30 days beginning with the date on which the information notice is given, and

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- (c) to the officer of Revenue and Customs by whom the information notice was given.
- (2) Notice of an appeal under this Part of this Schedule must state the grounds of appeal.
- (3) On an appeal [^{F91}that is notified to the tribunal, the tribunal] may—
- confirm the information notice or a requirement in the information notice,
 - vary the information notice or such a requirement, or
 - set aside the information notice or such a requirement.
- (4) Where the [^{F92}tribunal] confirms or varies the information notice or a requirement, the person to whom the information notice was given must comply with the notice or requirement—
- within such period as is specified by the [^{F93}tribunal] , or
 - if the [^{F94}tribunal] does not specify a period, within such period as is reasonably specified in writing by an officer of Revenue and Customs following the [^{F95}tribunal's] decision.
- [^{F96}(5) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007 a decision of the tribunal on an appeal under this Part of this Schedule is final.]
- (6) Subject to this paragraph, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to appeals under this Part of this Schedule as they have effect in relation to an appeal against an assessment to income tax.

Textual Amendments

- F91** Words in Sch. 36 para. 32(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(10)(a)**
- F92** Word in Sch. 36 para. 32(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(10)(b)(i)**
- F93** Word in Sch. 36 para. 32(4)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(10)(b)(ii)**
- F94** Word in Sch. 36 para. 32(4)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(10)(b)(ii)**
- F95** Word in Sch. 36 para. 32(4)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(10)(b)(iii)**
- F96** Sch. 36 para. 32(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(10)(c)**

Modifications etc. (not altering text)

- C83** Sch. 36 para. 32 applied (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 49 para. 4(2)** (with Sch. 49 para. 1)
- C84** [Sch. 36 para. 32](#) applied (13.8.2009) by 2007 c. 11, Sch. 11 para. 2(7) (as substituted by [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#)), **Sch. para. 53**
- C85** Sch. 36 para. 32 applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by 2004 c. 12, **s. 153A(6)** (as inserted by [Finance Act 2014 \(c. 26\)](#), Sch. 7 paras. 3, **5(1)**)
- C86** Sch. 36 para. 32 applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by 2004 c. 12, **s. 159A(5)** (as inserted by [Finance Act 2014 \(c. 26\)](#), Sch. 7 paras. 7, **8(3)**)
- C87** [Sch. 36 para. 32](#) applied (with modifications) (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), s. 6(2)(3), **Sch. 1 para. 10(7)**

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- C88** Sch. 36 para. 32 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 19(5)**
- C89** Sch. 36 para. 32 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 6(6)**
- C90** Sch. 36 para. 32 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, **Sch. 7A para. 66(2)** (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with **Sch. 5 para. 28**))

Commencement Information

- I32** Sch. 36 para. 32 in force at 1.4.2009 by S.I. 2009/404, **art. 2**

Special cases

- 33 This Part of this Schedule has effect subject to Part 6 of this Schedule.

Commencement Information

- I33** Sch. 36 para. 33 in force at 1.4.2009 by S.I. 2009/404, **art. 2**

PART 6

SPECIAL CASES

Supply of goods or services etc

- 34 (1) This paragraph applies to a taxpayer notice or third party notice that refers only to information or documents that form part of any person's statutory records and relate to—
- the supply of goods or services,
 - ^{F97}... or
 - the importation of goods ^{F98}... in the course of carrying on a business.
- (2) Paragraph 3(1) (requirement for consent to, or approval of, third party notice) does not apply to such a notice.
- (3) Where a person is given such a notice, the person may not appeal ^{F99}... against the notice or any requirement in the notice.
- (4) Sections 5 ^{F100}... and 15 of, and Schedule 4 to, VATA 1994, and any orders made under those provisions, apply for the purposes of this paragraph as if it were part of that Act.

Textual Amendments

- F97** Sch. 36 para. 34(1)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 113(3)(a)(i)** (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F98** Words in Sch. 36 para. 34(1)(c) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 113(3)(a)(ii)** (with savings and transitional provisions in S.I. 2019/105

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(as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

F99 Words in Sch. 36 para. 34(3) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 471(11)**

F100 Word in Sch. 36 para. 34(4) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 113(3)(b)** (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

Modifications etc. (not altering text)

C91 Sch. 36 para. 34 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. 78(2)** (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**)

Commencement Information

I34 Sch. 36 para. 34 in force at 1.4.2009 by S.I. 2009/404, **art. 2**

[^{F101}Involved third parties

Textual Amendments

F101 Sch. 36 paras. 34A-34C and cross-headings inserted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), **Sch. 48 para. 11**; S.I. 2009/3054, art. 2

^{F102}34A

Textual Amendments

F102 Sch. 36 para. 34A omitted (with effect in accordance with Sch. 23 para. 65 of the amending Act) by virtue of Finance Act 2011 (c. 11), **Sch. 23 paras. 62(2), 65(1)(a)** (with Sch. 23 paras. 50, 65(1)(b))

Registered pension schemes etc

34B (1) This paragraph applies to a third party notice or a notice under paragraph 5 if it refers only to information or documents that relate to any pensions matter.

(2) “Pensions matter” means any matter relating to—

- (a) a registered pension scheme,
- (b) an annuity purchased with sums or assets held for the purposes of a registered pension scheme or a pre-2006 pension scheme, ^{F103}...
- (c) an employer-financed retirement benefits scheme,

[a QROPS or former QROPS, or
^{F104}(d)

- (e) an annuity purchased with sums or assets held for the purposes of a QROPS or former QROPS.]

(3) In relation to such a third party notice—

- (a) paragraph 3(1) (approval etc of third party notices) does not apply,
- (b) paragraph 4(1) (copying third party notices to taxpayer) does not apply, and

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- (c) paragraph 30(1) (appeal) has effect as if it permitted an appeal on any grounds.
- (4) In relation to such a notice under paragraph 5—
- (a) sub-paragraphs (3) and (4) of that paragraph (approval of tribunal) have effect as if they permitted, but did not require, an authorised officer of Revenue and Customs to obtain the approval of the tribunal, and
- (b) paragraph 31 (appeal) has effect as if it permitted an appeal on any grounds.
- [In relation to a notice to which this paragraph applies that refers only to information ^{F105}(4A) or documents relating to a matter within sub-paragraph (2)(d) or (e), paragraph 20 (old documents) has effect as if the reference to 6 years were to 10 years.]
- (5) A person may not appeal against a requirement in the notice to provide any information, or produce any document, that forms part of any person's statutory records.
- (6) Where the notice relates to a matter within sub-paragraph (2)(a) or (b), the officer of Revenue and Customs who gives the notice must give a copy of the notice to the scheme administrator in relation to the pension scheme.
- (7) Where the notice relates to a matter within sub-paragraph (2)(c), the officer of Revenue and Customs who gives the notice must give a copy of the notice to the responsible person in relation to the employer-financed retirement benefits scheme.
- [Where the notice relates to a matter within sub-paragraph (2)(d) or (e), the officer ^{F106}(7A) of Revenue and Customs who gives the notice must give a copy of the notice to the scheme manager in relation to the pension scheme.]
- (8) Sub-paragraphs (6) [^{F107}to (7A)] do not apply if the notice is given to a person who, in relation to the scheme or annuity to which the notice relates, is a prescribed description of person.

Textual Amendments

F103 Word in Sch. 36 para. 34B(2)(b) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), s. 54(2)(a)

F104 Sch. 36 para. 34B(2)(d)(e) inserted (17.7.2013) by Finance Act 2013 (c. 29), s. 54(2)(a)

F105 Sch. 36 para. 34B(4A) inserted (17.7.2013) by Finance Act 2013 (c. 29), s. 54(2)(b)

F106 Sch. 36 para. 34B(7A) inserted (17.7.2013) by Finance Act 2013 (c. 29), s. 54(2)(c)

F107 Words in Sch. 36 para. 34B(8) substituted (17.7.2013) by Finance Act 2013 (c. 29), s. 54(2)(d)

Modifications etc. (not altering text)

C92 Sch. 36 paras. 34B, 34C modified (17.7.2013) by Finance Act 2013 (c. 29), s. 54(4)

Registered pension schemes etc: interpretation]

34C In paragraph 34B—

“employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see sections 393A and 393B of that Act);

“pension scheme” has the same meaning as in Part 4 of FA 2004;

“pre-2006 pension scheme” means a scheme that, at or in respect of any time before 6 April 2006, was—

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- (a) a retirement benefits scheme approved for the purposes of Chapter 1 of Part 14 of ICTA,
- (b) a former approved superannuation fund (as defined in paragraph 1(3) of Schedule 36 to FA 2004),
- (c) a relevant statutory scheme (as defined in section 611A of ICTA) or a pension scheme treated as if it were such a scheme, or
- (d) a personal pension scheme approved under Chapter 4 of Part 14 of ICTA;

“prescribed” means prescribed by regulations made by the Commissioners;

[^{F108}“QROPS” and “former QROPS” have the meanings given by section 169(8) of FA 2004;]

“registered pension scheme” means a pension scheme that is or has been a registered pension scheme within the meaning of Part 4 of FA 2004 or in relation to which an application for registration under that Part of that Act has been made;

“responsible person”, in relation to an employer-financed retirement benefits scheme, has the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see section 399A of that Act);

“scheme administrator”, in relation to a pension scheme, has the same meaning as in Part 4 of FA 2004 (see section 270 of that Act);

[^{F108}“scheme manager”, in relation to a pension scheme, has the meaning given by section 169(3) of FA 2004.]

Textual Amendments

F108 Words in Sch. 36 para. 34C inserted (17.7.2013) by Finance Act 2013 (c. 29), s. 54(3)

Modifications etc. (not altering text)

C92 Sch. 36 paras. 34B, 34C modified (17.7.2013) by Finance Act 2013 (c. 29), s. 54(4)

Groups of undertakings

- 35 (1) This paragraph applies where an undertaking is a parent undertaking in relation to another undertaking (a subsidiary undertaking).
- (2) Where a third party notice is given to any person for the purpose of checking the tax position of the parent undertaking and any of its subsidiary undertakings, [^{F109}—
- (a) paragraph 2(2)] only requires the notice to state this and name the parent undertaking [^{F110}, and
 - (b) the references in paragraph 3(5) to naming the taxpayer are to making that statement and naming the parent undertaking.]
- (3) In relation to such a notice—
- (a) in paragraphs 3 and 4 (approval etc of notices and copying third party notices to taxpayer), the references to the taxpayer have effect as if they were references to the parent undertaking, but
 - (b) in paragraph 30(2) (no appeal in relation to taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to the parent undertaking and each of its subsidiary undertakings.

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- [^{F111}(4) Where a third party notice is given to the parent undertaking for the purpose of checking the tax position of more than one subsidiary undertaking—
- (a) paragraph 2(2) only requires the notice to state this, and
 - (b) the references in paragraph 3(5) to naming the taxpayer are to making that statement.
- (4A) In relation to such a notice—
- (a) in paragraph 3 (approval etc of notices), sub-paragraphs (1) and (3)(e) do not apply,
 - (b) paragraph 4(1) (copying third party notices to taxpayer) does not apply,
 - (c) [^{F112}paragraphs 21 and 21A] (restrictions on giving taxpayer notice where taxpayer has made return) [^{F113}apply] as if the notice was a taxpayer notice or taxpayer notices given to each subsidiary undertaking (or, if the notice names the subsidiary undertakings to which it relates, to each of those undertakings),
 - (d) paragraph 30(1) (appeal) has effect as if it permitted an appeal on any grounds, and
 - (e) in paragraph 30(2) (no appeal in relation to taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to the parent undertaking or any of its subsidiary undertakings.]
- (5) Where a notice is given under paragraph 5 to the parent undertaking for the purpose of checking the tax position of one or more subsidiary undertakings whose identities are not known to the officer giving [^{F114}—
- (a) sub-paragraphs (3) and (4) of that paragraph (approval of tribunal) have effect as if they permitted, but did not require, the officer to obtain the approval of the tribunal, and
 - (b) paragraph 31 (appeal) has effect as if it permitted an appeal on any grounds, but the parent undertaking may not appeal against a requirement in the notice to produce any document that forms part of the statutory records of the parent undertaking or any of its subsidiary undertakings.]
- ^{F115}(6)
- (7) In this paragraph “parent undertaking”, “subsidiary undertaking” and “undertaking” have the same meaning as in the Companies Acts (see sections 1161 and 1162 of, and Schedule 7 to, the Companies Act 2006 (c. 46)).

Textual Amendments

- F109** Words in Sch. 36 para. 35(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\), Sch. 47 para. 10\(2\)\(a\)](#)
- F110** Sch. 36 para. 35(2)(b) and word inserted (21.7.2009) by [Finance Act 2009 \(c. 10\), Sch. 47 para. 10\(2\)\(b\)](#)
- F111** Sch. 36 para. 35(4) (4A) substituted for Sch. 36 para. 35(4) (21.7.2009) by [Finance Act 2009 \(c. 10\), Sch. 47 para. 10\(3\)](#)
- F112** Words in Sch. 36 para. 35(4A)(c) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 96\(3\), Sch. 48 para. 12\(a\)](#); S.I. 2009/3054, art. 2
- F113** Word in Sch. 36 para. 35(4A)(c) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\), s. 96\(3\), Sch. 48 para. 12\(b\)](#); S.I. 2009/3054, art. 2
- F114** Words in Sch. 36 para. 35(5) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\), Sch. 47 para. 10\(4\)](#)
- F115** Sch. 36 para. 35(6) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\), Sch. 47 para. 10\(5\)](#)

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

I35 Sch. 36 para. 35 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Change of ownership of companies

- 36 (1) Sub-paragraph (2) applies where it appears to the Commissioners that—
- (a) there has been a change in the ownership of a company, and
 - (b) in connection with that change a person (“the seller”) may be or become liable to be assessed and charged to corporation tax under [^{F116}section 710 or 713 of CTA 2010].
- (2) Paragraph 21 (restrictions on giving taxpayer notice where taxpayer has made tax return) does not apply in relation to a taxpayer notice given to the seller.
- (3) [^{F117}Chapter 7 of Part 14 of CTA 2010] applies for the purposes of determining when there has been a change in the ownership of a company.

Textual Amendments

F116 Words in [Sch. 36 para. 36\(1\)\(b\)](#) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 582\(2\)\(a\)](#) (with [Sch. 2](#))

F117 Words in [Sch. 36 para. 36\(3\)](#) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 582\(2\)\(b\)](#) (with [Sch. 2](#))

Commencement Information

I36 Sch. 36 para. 36 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Partnerships

- 37 (1) This paragraph applies where a business is carried on by two or more persons in partnership.
- [^{F118}(2) Where, in respect of a chargeable period, any of the partners has—
- (a) made a tax return under section 12AA of TMA 1970 (partnership returns), or
 - (b) made a claim or election in accordance with section 42(6)(b) of TMA 1970 (partnership claims and elections),
- paragraph 21 (restrictions where taxpayer has made tax return) has effect as if that return, claim or election had been made by each of the partners.]
- [^{F119}(2A) Where, in respect of a transaction entered into as purchaser by or on behalf of the members of the partnership, any of the partners has—
- (a) delivered a land transaction return under Part 4 of FA 2003 (stamp duty land tax), or
 - (b) made a claim under that Part of that Act,
- paragraph 21A (restrictions where taxpayer has delivered land transaction return) has effect as if that return had been delivered, or that claim had been made, by each of the partners.]
- [^{F120}(2B) Where, in respect of a single-dwelling interest (see paragraph 21B(7)) to which one or more companies are or were entitled as members of a partnership, any member of the partnership has—

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- (a) delivered an annual tax on enveloped dwellings return or a return of the adjusted chargeable amount under Part 3 of FA 2013, or
 - (b) made a claim under that Part of that Act,
- paragraph 21B (restrictions where taxpayer has delivered return) has effect as if that return had been delivered, or that claim had been made, by each member of the partnership.]

- (3) Where a third party notice is given ^{F121}... for the purpose of checking the tax position of more than one of the partners (in their capacity as such), [^{F122}—
- (a) paragraph 2(2)] only requires the notice to state this and give a name in which the partnership is registered for any purpose [^{F123}, and
 - (b) the references in paragraph 3(5) to naming the taxpayer are to making that statement and naming the partnership.]

- (4) In relation to such a notice [^{F124}given to a person other than one of the partners]—
- (a) in paragraphs 3 and 4 (approval etc of notices and copying third party notices to taxpayer), the references to the taxpayer have effect as if they were references to at least one of the partners, and
 - (b) in paragraph 30(2) (no appeal in relation to taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to [^{F125}any of the partners in the partnership].

- ^{F126}(5) In relation to a third party notice given to one of the partners for the purpose of checking the tax position of one or more of the other partners (in their capacity as such)—
- (a) in paragraph 3 (approval etc of notices), sub-paragraphs (1) and (3)(e) do not apply,
 - (b) paragraph 4(1) (copying third party notices to taxpayer) does not apply,
 - (c) paragraph 30(1) (appeal) has effect as if it permitted an appeal on any grounds, and
 - (d) in paragraph 30(2) (no appeal in relation to taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to any of the partners in the partnership.]

- (6) Where a notice is given under paragraph 5 to one of the partners for the purpose of checking the tax position of one or more of the other partners whose identities are not known to the officer giving the notice [^{F127}—
- (a) sub-paragraphs (3) and (4) of that paragraph (approval of tribunal) have effect as if they permitted, but did not require, the officer to obtain the approval of the tribunal, and
 - (b) paragraph 31 (appeal) has effect as if it permitted an appeal on any grounds, but the partner to whom the notice is given may not appeal against a requirement in the notice to produce any document that forms part of that partner's statutory records.]

^{F128}(7)

Textual Amendments

F118 Sch. 36 para. 37(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 11\(2\)](#)

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- F119** Sch. 36 para. 37(2A) inserted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 13; S.I. 2009/3054, art. 2
- F120** Sch. 36 para. 37(2B) inserted (17.7.2013) by Finance Act 2013 (c. 29), Sch. 34 para. 4
- F121** Words in Sch. 36 para. 37(3) omitted (21.7.2009) by virtue of Finance Act 2009 (c. 10), Sch. 47 para. 11(3)(a)
- F122** Words in Sch. 36 para. 37(3) substituted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 11(3)(b)
- F123** Sch. 36 para. 37(3)(b) and word inserted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 11(3)(c)
- F124** Words in Sch. 36 para. 37(4) inserted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 11(4)(a)
- F125** Words in Sch. 36 para. 37(4)(b) substituted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 11(4)(b)
- F126** Sch. 36 para. 37(5) substituted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 11(5)
- F127** Sch. 36 para. 37(6)(a)(b) substituted for words (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 11(6)
- F128** Sch. 36 para. 37(7) omitted (21.7.2009) by virtue of Finance Act 2009 (c. 10), Sch. 47 para. 11(7)

Commencement Information

- I37** Sch. 36 para. 37 in force at 1.4.2009 by S.I. 2009/404, art. 2

^{F129}Information in connection with herd basis election

Textual Amendments

- F129** Sch. 36 paras. 37A, 37B and cross-headings inserted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 12

- 37A (1) This paragraph applies to a taxpayer notice given to a person carrying on a trade in relation to which a herd basis election is made if the notice refers only to information or documents that relate to—
 - (a) the animals kept for the purposes of the trade, or
 - (b) the products of those animals.
- (2) Paragraph 21 (restrictions on giving taxpayer notice where taxpayer has made tax return) does not apply in relation to the notice.
- (3) “Herd basis election” means an election under Chapter 8 of Part 2 of ITTOIA 2005 or Chapter 8 of Part 3 of CTA 2009.

Information from persons liable to counteraction of tax advantage

- 37B (1) This paragraph applies to a taxpayer notice given to a person if—
 - (a) it appears to an officer of Revenue and Customs that a counteraction provision may apply to the person by reason of one or more transactions, and
 - (b) the notice refers only to information or documents relating to the transaction (or, if there are two or more transactions, any of them).
- (2) Paragraph 21 (restrictions on giving taxpayer notice where taxpayer has made tax return) does not apply in relation to the notice.
- (3) “Counteraction provision” means—
 - ^{F130}(a)

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- (b) section 684 of ITA 2007 (person liable to counteraction of income tax advantage)]^{F131}, or
- (c) section 733 of CTA 2010 (company liable to counteraction of corporation tax advantage).]

Textual Amendments

F130 Sch. 36 para. 37B(3)(a) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 582(3)(a), **Sch. 3 Pt. 1** (with Sch. 2)

F131 Sch. 36 para. 37B(3)(c) and word inserted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 582(3)(b)** (with Sch. 2)

^{F132}Specified relevant transfer pricing documents

Textual Amendments

F132 Sch. 36 para. 37C and cross-heading inserted (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 5 para. 6(3)**

- 37C (1) This paragraph applies to an information notice given to a relevant person in an MNE Group (“A”) to the extent that the notice refers to specified relevant transfer pricing documents.
- (2) Paragraph 18 (documents not in person’s possession or power) does not apply in relation to a specified relevant transfer pricing document that—
- (a) is not in A’s possession or power, but
 - (b) is in the power or possession of another relevant person in the MNE Group concerned (“B”),
- (and accordingly the information notice may require A to produce the document).
- (3) For the purposes of this paragraph—
- (a) documents are “specified relevant transfer pricing documents” if—
 - (i) they are relevant transfer pricing records specified, or of a description specified, in regulations under section 12B of TMA 1970 or paragraph 21 of Schedule 18 to FA 1998 (duties to keep and preserve records), and
 - (ii) A is required to keep and preserve those records under either or both of those provisions;
 - (b) “MNE Group” has the same meaning as in the Taxes (Base Erosion and Profit Shifting) (Country-by-Country Reporting) Regulations 2016 (**S.I. 2016/237**) (see regulation 2(3) of those Regulations);
 - (c) “relevant person in an MNE Group” means—
 - (i) a company,
 - (ii) a trustee of a trust, or
 - (iii) a partner in a partnership,

where that company, the trustees or the partnership, together with one or more other enterprises, constitutes an MNE Group.]

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Application to the Crown

- 38 This Schedule (other than Part 8) applies to the Crown, but not to Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947 (c. 44)).

Commencement Information

- I38** Sch. 36 para. 38 in force at 1.4.2009 by S.I. 2009/404, art. 2

PART 7

PENALTIES

Modifications etc. (not altering text)

- C93** Sch. 36 Pt. 7 applied (13.8.2009) by 2007 c. 11, **Sch. 11 para. 2(7)** (as substituted by The Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035), Sch. para. 53)
- C94** Sch. 36 Pt. 7 applied (1.4.2011) by 1979 c. 2, **s. 118G(2)** (as inserted by Finance (No. 3) Act 2010 (c. 33), s. 29(2), **Sch. 13 para. 15(3)**; S.I. 2011/777, art. 2)
- C95** Sch. 36 Pt. 7 applied (with modifications) (14.10.2013) by S.I. 2006/208, **reg. 5** (as inserted (E.W.S.) by The Registered Pension Schemes and Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/2259), regs. 1, **21**) (as amended (6.4.2015) by The Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2015 (S.I. 2015/673), regs. 1, **6(a)**)
- C96** Sch. 36 Pt. 7 modified (with effect in accordance with Sch. 3 Pt. 3 of the amending Act) by 2010 c. 4, **s. 269DM(5)** (as inserted by Finance (No. 2) Act 2015 (c. 33), **Sch. 3 para. 1**)
- C97** Sch. 36 Pt. 7 modified (with effect in accordance with Sch. 3 Pt. 3 of the amending Act) by 2010 c. 8, **s. 371UBA(5)** (as inserted by Finance (No. 2) Act 2015 (c. 33), **Sch. 3 para. 10(5)**)
- C98** Sch. 36 Pt. 7 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, **Sch. 7A para. 66(1)** (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with **Sch. 5 para. 28**))
- C99** Sch. 36 Pt. 7 modified (14.7.2022) by Energy (Oil and Gas) Profits Levy Act 2022 (c. 40), **s. 12(5)** (with ss. 15(1), 16(1))

^{F133} ... penalties [^{F134}for failure to comply or obstruction]

Textual Amendments

- F133** Word in Sch. 36 para. 39 cross-heading omitted (21.7.2009) by virtue of Finance Act 2009 (c. 10), **Sch. 47 para. 13(3)(a)**
- F134** Words in Sch. 36 para. 39 cross-heading inserted (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 47 para. 13(3)(b)**

- 39 (1) This paragraph applies to a person who—
- fails to comply with an information notice, or
 - deliberately obstructs an officer of Revenue and Customs in the course of an inspection under Part 2 of this Schedule that has been approved by the [^{F135}tribunal].
- (2) [^{F136}The person] is liable to a penalty of £300.

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- (3) The reference in this paragraph to a person who fails to comply with an information notice includes a person who conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, a document in breach of paragraph 42 or 43.

Textual Amendments

F135 Word in Sch. 36 para. 39(1)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(2)**

F136 Words in Sch. 36 para. 39(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 47 para. 13(2)**

Modifications etc. (not altering text)

C100 Sch. 36 para. 39(2) applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153C\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#))

C101 Sch. 36 para. 39(2) applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by [2004 c. 12, s. 159C\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 7, 8\(3\)](#))

Commencement Information

I39 Sch. 36 para. 39 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2**

Daily default penalties

- 40 (1) This paragraph applies if the failure or obstruction mentioned in paragraph 39(1) continues after the date on which a penalty is imposed under that paragraph in respect of the failure or obstruction.
- (2) The person is liable to a further penalty or penalties not exceeding £60 for each subsequent day on which the failure or obstruction continues.

Modifications etc. (not altering text)

C102 Sch. 36 para. 40 applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153C\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#))

C103 Sch. 36 para. 40 applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by [2004 c. 12, s. 159C\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 7, 8\(3\)](#))

Commencement Information

I40 Sch. 36 para. 40 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2**

^{F137}Penalties for inaccurate information and documents

Textual Amendments

F137 Sch. 36 para. 40A and cross-heading inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 47 para. 15**

- 40A (1) This paragraph applies if—
- (a) in complying with an information notice, a person provides inaccurate information or produces a document that contains an inaccuracy, and
 - (b) condition [^{F138}A, B or C] is met.

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- (2) Condition A is that the inaccuracy is careless or deliberate.
- (3) An inaccuracy is careless if it is due to a failure by the person to take reasonable care.
[Condition B is that the person knows of the inaccuracy at the time the information is
F139(3A) provided or the document produced but does not inform HMRC at that time.]
- (4) Condition [F140C] is that the person—
 - (a) discovers the inaccuracy some time later, and
 - (b) fails to take reasonable steps to inform HMRC.
- (5) The person is liable to a penalty not exceeding £3,000.
- (6) Where the information or document contains more than one inaccuracy, a penalty is payable for each inaccuracy.]

Textual Amendments

- F138** Words in Sch. 36 para. 40A(1)(b) substituted (with effect in accordance with Sch. 24 para. 3(5) of the amending Act) by Finance Act 2011 (c. 11), Sch. 24 para. 3(2)
- F139** Sch. 36 para. 40A(3A) inserted (with effect in accordance with Sch. 24 para. 3(5) of the amending Act) by Finance Act 2011 (c. 11), Sch. 24 para. 3(3)
- F140** Word in Sch. 36 para. 40A(4) substituted (with effect in accordance with Sch. 24 para. 3(5) of the amending Act) by Finance Act 2011 (c. 11), Sch. 24 para. 3(4)

Modifications etc. (not altering text)

- C104** Sch. 36 para. 40A applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153E(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C105** Sch. 36 para. 40A applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159D(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))

Power to change amount of^{F141}... penalties

Textual Amendments

- F141** Words in Sch. 36 para. 41 cross-heading omitted (21.7.2009) by virtue of Finance Act 2009 (c. 10), Sch. 47 para. 16(5)

- 41 (1) If it appears to the Treasury that there has been a change in the value of money since the last relevant date, they may by regulations substitute for the sums for the time being specified in paragraphs 39(2) [F142, 40(2) and 40A(5)] such other sums as appear to them to be justified by the change.
- (2) In sub-paragraph (1) [F143, in relation to a specified sum,] “relevant date” means—
 - (a) the date on which this Act is passed, and
 - (b) each date on which the power conferred by that sub-paragraph has been exercised [F144; in relation to that sum].
- (3) Regulations under this paragraph do not apply to [F145—
 - (a)] any failure or obstruction which began before the date on which they come into force [F146, or

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- (b) an inaccuracy in any information or document provided to HMRC before that date.]

Textual Amendments

- F142** Words in Sch. 36 para. 41(1) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 16\(2\)](#)
F143 Words in Sch. 36 para. 41(2) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 16\(3\)\(a\)](#)
F144 Words in Sch. 36 para. 41(2)(b) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 16\(3\)\(b\)](#)
F145 Word in Sch. 36 para. 41(3) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 16\(4\)\(a\)](#)
F146 Sch. 36 para. 41(3)(b) and word inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 16\(4\)\(b\)](#)

Commencement Information

- I41** Sch. 36 para. 41 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Concealing, destroying etc documents following information notice

- 42 (1) A person must not conceal, destroy or otherwise dispose of, or arrange for the concealment, destruction or disposal of, a document that is the subject of an information notice addressed to the person (subject to sub-paragraphs (2) and (3)).
- (2) Sub-paragraph (1) does not apply if the person acts after the document has been produced to an officer of Revenue and Customs in accordance with the information notice, unless an officer of Revenue and Customs has notified the person in writing that the document must continue to be available for inspection (and has not withdrawn the notification).
- (3) Sub-paragraph (1) does not apply, in a case to which paragraph 8(1) applies, if the person acts after the expiry of the period of 6 months beginning with the day on which a copy of the document was produced in accordance with that paragraph unless, before the expiry of that period, an officer of Revenue and Customs made a request for the original document under paragraph 8(2)(b).

Modifications etc. (not altering text)

- C106** Sch. 36 para. 42 applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153A\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#))
C107 Sch. 36 para. 42 applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by [2004 c. 12, s. 159A\(2\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 7, 8\(3\)](#))
C108 Sch. 36 para. 42 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), s. 6(2)(3), [Sch. 1 para. 10\(4\)](#)
C109 Sch. 36 para. 42 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), s. 6(2)(3), [Sch. 2 para. 19\(2\)](#)
C110 Sch. 36 para. 42 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), s. 6(2)(3), [Sch. 1 para. 6\(3\)](#)

Commencement Information

- I42** Sch. 36 para. 42 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

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Concealing, destroying etc documents following informal notification

- 43 (1) A person must not conceal, destroy or otherwise dispose of, or arrange for the concealment, destruction or disposal of, a document if an officer of Revenue and Customs has informed the person that the document is, or is likely, to be the subject of an information notice addressed to that person (subject to sub-paragraph (2)).
- (2) Sub-paragraph (1) does not apply if the person acts after—
- (a) at least 6 months has expired since the person was, or was last, so informed, or
 - (b) an information notice has been given to the person requiring the document to be produced.

Modifications etc. (not altering text)

- C111** Sch. 36 para. 43 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153A(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C112** Sch. 36 para. 43 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159A(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C113** Sch. 36 para. 43 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 6(3)
- C114** Sch. 36 para. 43 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 19(2)
- C115** Sch. 36 para. 43 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 10(4)

Commencement Information

- I43** Sch. 36 para. 43 in force at 1.4.2009 by S.I. 2009/404, art. 2

Failure to comply with time limit

- 44 A failure by a person to do anything required to be done within a limited period of time does not give rise to liability to a penalty under paragraph 39 or 40 if the person did it within such further time, if any, as an officer of Revenue and Customs may have allowed.

Modifications etc. (not altering text)

- C116** Sch. 36 paras. 44-49 applied (with modifications) (21.7.2009) by Finance Act 2009 (c. 10), Sch. 49 para. 5(3) (with Sch. 49 para. 1)
- C117** Sch. 36 paras. 44-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153C(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C118** Sch. 36 paras. 44-49 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159C(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C119** Sch. 36 paras. 44-49 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 16(5)
- C120** Sch. 36 paras. 44-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 22(5)
- C121** Sch. 36 para. 44 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 12(2)

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

I44 Sch. 36 para. 44 in force at 1.4.2009 by S.I. 2009/404, **art. 2**

Reasonable excuse

- 45 (1) Liability to a penalty under paragraph 39 or 40 does not arise if the person satisfies HMRC or ^{F147}[^{F147}(on an appeal notified to the tribunal) the tribunal] that there is a reasonable excuse for the failure or the obstruction of an officer of Revenue and Customs.
- (2) For the purposes of this paragraph—
- (a) an insufficiency of funds is not a reasonable excuse unless attributable to events outside the person's control,
 - (b) where the person relies on any other person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the failure or obstruction, and
 - (c) where the person had a reasonable excuse for the failure or obstruction but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied, or the obstruction stops, without unreasonable delay after the excuse ceased.

Textual Amendments

F147 Words in Sch. 36 para. 45(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(12)**

Modifications etc. (not altering text)

- C116** Sch. 36 paras. 44-49 applied (with modifications) (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 49 para. 5(3)** (with [Sch. 49 para. 1](#))
- C117** Sch. 36 paras. 44-49 applied (20.3.2014) (with effect in accordance with [Sch. 7 para. 5\(1\)](#) of the amending Act) by [2004 c. 12, s. 153C\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 3, 5\(1\)](#))
- C118** Sch. 36 paras. 44-49 applied (with effect in accordance with [Sch. 7 para. 8\(1\)](#) of the amending Act) by [2004 c. 12, s. 159C\(3\)](#) (as inserted by [Finance Act 2014 \(c. 26\)](#), [Sch. 7 paras. 7, 8\(3\)](#))
- C119** Sch. 36 paras. 44-49 applied (with modifications) (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), s. 6(2)(3), **Sch. 1 para. 16(5)**
- C120** Sch. 36 paras. 44-49 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), s. 6(2)(3), **Sch. 2 para. 22(5)**
- C122** Sch. 36 para. 45 applied (17.1.2017) by [Savings \(Government Contributions\) Act 2017 \(c. 2\)](#), s. 6(2)(3), **Sch. 2 para. 12(2)**
- C123** Sch. 36 paras. 45-49 applied (with modifications) (19.3.2019) by [The Delivery of Tax Information through Software \(Ancillary Metadata\) Regulations 2019 \(S.I. 2019/360\)](#), regs. 1(1), **4(3)-(6)**

Commencement Information

I45 Sch. 36 para. 45 in force at 1.4.2009 by S.I. 2009/404, **art. 2**

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

F148 Assessment of ... penalty

Textual Amendments

F148 Words in Sch. 36 para. 46 cross-heading omitted (21.7.2009) by virtue of Finance Act 2009 (c. 10), Sch. 47 para. 17(5)

- 46 (1) Where a person becomes liable for a penalty under paragraph 39 ^{F149}, 40 or 40A],
^{F150} ... —
- (a) ^{F151}HMRC may] assess the penalty, and
- (b) ^{F152}if they do so, they must] notify the person.
- (2) An assessment of a penalty under paragraph 39 or 40 must be made ^{F153}within the period of 12 months beginning with the date on which the person became liable to the penalty, subject to sub-paragraph (3)].
- ^{F154}(3) In a case involving an information notice against which a person may appeal, an assessment of a penalty under paragraph 39 or 40 must be made within the period of 12 months beginning with the latest of the following—
- (a) the date on which the person became liable to the penalty,
- (b) the end of the period in which notice of an appeal against the information notice could have been given, and
- (c) if notice of such an appeal is given, the date on which the appeal is determined or withdrawn.
- (4) An assessment of a penalty under paragraph 40A must be made—
- (a) within the period of 12 months beginning with the date on which the inaccuracy first came to the attention of an officer of Revenue and Customs, and
- (b) within the period of 6 years beginning with the date on which the person became liable to the penalty.]

Textual Amendments

F149 Words in Sch. 36 para. 46(1) substituted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 17(2)(a)

F150 Words in Sch. 36 para. 46(1) omitted (21.7.2009) by virtue of Finance Act 2009 (c. 10), Sch. 47 para. 17(2)(b)

F151 Words in Sch. 36 para. 46(1)(a) inserted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 17(2)(c)

F152 Words in Sch. 36 para. 46(1)(b) inserted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 17(2)(d)

F153 Words in Sch. 36 para. 46(2) substituted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 17(3)

F154 Sch. 36 para. 46(3) (4) substituted for Sch. 36 para. 46(3) (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 17(4)

Modifications etc. (not altering text)

C116 Sch. 36 paras. 44-49 applied (with modifications) (21.7.2009) by Finance Act 2009 (c. 10), Sch. 49 para. 5(3) (with Sch. 49 para. 1)

C117 Sch. 36 paras. 44-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153C(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))

C118 Sch. 36 paras. 44-49 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159C(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- C119** Sch. 36 paras. 44-49 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 16(5)**
- C120** Sch. 36 paras. 44-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 22(5)**
- C123** Sch. 36 paras. 45-49 applied (with modifications) (19.3.2019) by The Delivery of Tax Information through Software (Ancillary Metadata) Regulations 2019 (S.I. 2019/360), regs. 1(1), **4(3)-(6)**
- C124** Sch. 36 paras. 46-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. **153D(8)** (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, **5(1)**)
- C125** Sch. 36 paras. 46-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. **153E(2)** (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, **5(1)**)
- C126** Sch. 36 paras. 46-49 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. **159D(2)** (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, **8(3)**)
- C127** Sch. 36 paras. 46-49 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 17(6)**
- C128** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 20(8)**
- C129** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 5(8)**
- C130** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 23(3)**
- C131** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 12(8)**
- C132** Sch. 36 para. 46(1) applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 12(2)**

Commencement Information

- I46** Sch. 36 para. 46 in force at 1.4.2009 by S.I. 2009/404, **art. 2**

^{F155}Right to appeal against ... penalty

Textual Amendments

- F155** Words in Sch. 36 para. 47 cross-heading omitted (21.7.2009) by virtue of Finance Act 2009 (c. 10), **Sch. 47 para. 18(3)**

⁴⁷^{F156}(1)] A person may appeal ^{F157}... against any of the following decisions of an officer of Revenue and Customs—

- (a) a decision that a penalty is payable by that person under paragraph 39 [^{F158}, 40 or 40A], or
- (b) a decision as to the amount of such a penalty.

[^{F159}(2) But sub-paragraph (1)(b) does not give a right of appeal against the amount of an increased daily penalty payable as a result of paragraph 49A.]

Textual Amendments

- F156** Sch. 36 para. 47 renumbered as Sch. 36 para. 47(1) (10.6.2021) by Finance Act 2021 (c. 26), **Sch. 34 para. 3**
- F157** Words in Sch. 36 para. 47 omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 471(13)**
- F158** Words in Sch. 36 para. 47(a) substituted (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 47 para. 18(2)**

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

F159 Sch. 36 para. 47(2) inserted (10.6.2021) by Finance Act 2021 (c. 26), **Sch. 34 para. 3**

Modifications etc. (not altering text)

- C116** Sch. 36 paras. 44-49 applied (with modifications) (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 49 para. 5(3)** (with Sch. 49 para. 1)
- C117** Sch. 36 paras. 44-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, **s. 153C(3)** (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, **5(1)**)
- C118** Sch. 36 paras. 44-49 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, **s. 159C(3)** (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, **8(3)**)
- C119** Sch. 36 paras. 44-49 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 16(5)**
- C120** Sch. 36 paras. 44-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 22(5)**
- C123** Sch. 36 paras. 45-49 applied (with modifications) (19.3.2019) by The Delivery of Tax Information through Software (Ancillary Metadata) Regulations 2019 (S.I. 2019/360), regs. 1(1), **4(3)-(6)**
- C124** Sch. 36 paras. 46-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, **s. 153D(8)** (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, **5(1)**)
- C125** Sch. 36 paras. 46-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, **s. 153E(2)** (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, **5(1)**)
- C126** Sch. 36 paras. 46-49 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, **s. 159D(2)** (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, **8(3)**)
- C127** Sch. 36 paras. 46-49 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 17(6)**
- C128** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 20(8)**
- C129** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 5(8)**
- C130** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 23(3)**
- C131** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 12(8)**
- C133** Sch. 36 paras. 47-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 12(2)**

Commencement Information

- I47** Sch. 36 para. 47 in force at 1.4.2009 by S.I. 2009/404, **art. 2**

F160 Procedure on appeal against ... penalty

Textual Amendments

- F160** Words in Sch. 36 para. 48 cross-heading omitted (21.7.2009) by virtue of Finance Act 2009 (c. 10), **Sch. 47 para. 19**

- 48 (1) Notice of an appeal under paragraph 47 must be given—
- (a) in writing,
 - (b) before the end of the period of 30 days beginning with the date on which the notification under paragraph 46 was issued, and
 - (c) to HMRC.
- (2) Notice of an appeal under paragraph 47 must state the grounds of appeal.

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) On an appeal under [F161 paragraph 47(1)(a)] [F162 that is notified to the tribunal, the tribunal] may confirm or cancel the decision.
- (4) On an appeal under [F163 paragraph 47(1)(b)] [F162 that is notified to the tribunal, the tribunal] may—
- (a) confirm the decision, or
 - (b) substitute for the decision another decision that the officer of Revenue and Customs had power to make.
- (5) Subject to this paragraph and paragraph 49, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to appeals under this Part of this Schedule as they have effect in relation to an appeal against an assessment to income tax.

Textual Amendments

- F161** Words in Sch. 36 para. 48(3) substituted (10.6.2021) by Finance Act 2021 (c. 26), Sch. 34 para. 4(a)
- F162** Words in Sch. 36 para. 48(3)(4) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 471(14)
- F163** Words in Sch. 36 para. 48(4) substituted (10.6.2021) by Finance Act 2021 (c. 26), Sch. 34 para. 4(b)

Modifications etc. (not altering text)

- C116** Sch. 36 paras. 44-49 applied (with modifications) (21.7.2009) by Finance Act 2009 (c. 10), Sch. 49 para. 5(3) (with Sch. 49 para. 1)
- C117** Sch. 36 paras. 44-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153C(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C118** Sch. 36 paras. 44-49 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159C(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C119** Sch. 36 paras. 44-49 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 16(5)
- C120** Sch. 36 paras. 44-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 22(5)
- C123** Sch. 36 paras. 45-49 applied (with modifications) (19.3.2019) by The Delivery of Tax Information through Software (Ancillary Metadata) Regulations 2019 (S.I. 2019/360), regs. 1(1), 4(3)-(6)
- C124** Sch. 36 paras. 46-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153D(8) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C125** Sch. 36 paras. 46-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153E(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C126** Sch. 36 paras. 46-49 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159D(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C127** Sch. 36 paras. 46-49 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 17(6)
- C128** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 20(8)
- C129** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 5(8)
- C130** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 23(3)
- C131** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 12(8)
- C133** Sch. 36 paras. 47-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 12(2)

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Commencement Information

I48 Sch. 36 para. 48 in force at 1.4.2009 by S.I. 2009/404, art. 2

^{F164}Enforcement of ... penalty

Textual Amendments

F164 Words in Sch. 36 para. 49 cross-heading omitted (21.7.2009) by virtue of Finance Act 2009 (c. 10), Sch. 47 para. 20(4)

- 49 (1) A penalty under paragraph 39 [^{F165}, 40 or 40A] must be paid—
- (a) before the end of the period of 30 days beginning with the date on which the notification under paragraph 46 was issued, or
 - (b) if a notice of an appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.
- (2) A penalty under paragraph 39 [^{F166}, 40 or 40A] may be enforced as if it were income tax charged in an assessment and due and payable.

Textual Amendments

F165 Words in Sch. 36 para. 49(1) substituted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 20(2)

F166 Words in Sch. 36 para. 49(2) substituted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 20(3)

Modifications etc. (not altering text)

- C116** Sch. 36 paras. 44-49 applied (with modifications) (21.7.2009) by Finance Act 2009 (c. 10), Sch. 49 para. 5(3) (with Sch. 49 para. 1)
- C117** Sch. 36 paras. 44-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153C(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C118** Sch. 36 paras. 44-49 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159C(3) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C119** Sch. 36 paras. 44-49 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 16(5)
- C120** Sch. 36 paras. 44-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 22(5)
- C123** Sch. 36 paras. 45-49 applied (with modifications) (19.3.2019) by The Delivery of Tax Information through Software (Ancillary Metadata) Regulations 2019 (S.I. 2019/360), regs. 1(1), 4(3)-(6)
- C124** Sch. 36 paras. 46-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153D(8) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C125** Sch. 36 paras. 46-49 applied (20.3.2014) (with effect in accordance with Sch. 7 para. 5(1) of the amending Act) by 2004 c. 12, s. 153E(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 3, 5(1))
- C126** Sch. 36 paras. 46-49 applied (with effect in accordance with Sch. 7 para. 8(1) of the amending Act) by 2004 c. 12, s. 159D(2) (as inserted by Finance Act 2014 (c. 26), Sch. 7 paras. 7, 8(3))
- C127** Sch. 36 paras. 46-49 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 17(6)
- C128** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 2 para. 20(8)
- C129** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), Sch. 1 para. 5(8)

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- C130** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 23(3)**
- C131** Sch. 36 paras. 46-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 12(8)**
- C133** Sch. 36 paras. 47-49 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 12(2)**

Commencement Information

- I49** Sch. 36 para. 49 in force at 1.4.2009 by S.I. 2009/404, **art. 2**

[^{F167}Increased daily default penalty

Textual Amendments

- F167** Sch. 36 paras. 49A-49C and cross-heading inserted (with effect in accordance with Sch. 24 para. 4(2) of the amending Act) by Finance Act 2011 (c. 11), **Sch. 24 para. 4(1)**

- 49A (1) This paragraph applies if—
- (a) a penalty under paragraph 40 is assessed under paragraph 46 in respect of a person's failure to comply with a notice under paragraph 5,
 - (b) the failure continues for more than 30 days beginning with the date on which notification of that assessment was issued, and
 - (c) the person has been told that an application may be made under this paragraph for an increased daily penalty to be [^{F168}assessable].
- (2) If this paragraph applies, an officer of Revenue and Customs may make an application to the tribunal for an increased daily penalty to be [^{F169}assessable] on the person.
- [^{F170}(3) If the tribunal decides that an increased daily penalty should be assessable—
- (a) the tribunal must determine the day from which the increased daily penalty is to apply and the maximum amount of that penalty (“the new maximum amount”), and
 - (b) from that day, paragraph 40(2) has effect in the person's case as if the new maximum amount were substituted for the amount for the time being specified there.
- (4) The new maximum amount may not be more than £1,000.]
- (5) But subject to that, in determining [^{F171}the new maximum amount] the tribunal must have regard to—
- (a) the likely cost to the person of complying with the notice,
 - (b) any benefits to the person of not complying with it, and
 - (c) any benefits to anyone else resulting from the person's non-compliance.
- (6) Paragraph 41 applies in relation to the sum specified in sub-paragraph (4) as it applies in relation to the sums mentioned in paragraph 41(1) [^{F172}but as if the reference in paragraph 41(2)(a) to this Act were to FA 2021].

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F168** Word in Sch. 36 para. 49A(1)(c) substituted (10.6.2021) by Finance Act 2021 (c. 26), Sch. 34 para. 5(2)
- F169** Word in Sch. 36 para. 49A(2) substituted (10.6.2021) by Finance Act 2021 (c. 26), Sch. 34 para. 5(3)
- F170** Sch. 36 para. 49A(3)(4) substituted (10.6.2021) by Finance Act 2021 (c. 26), Sch. 34 para. 5(4)
- F171** Words in Sch. 36 para. 49A(5) substituted (10.6.2021) by Finance Act 2021 (c. 26), Sch. 34 para. 5(5)
- F172** Words in Sch. 36 para. 49A(6) inserted (10.6.2021) by Finance Act 2021 (c. 26), Sch. 34 para. 5(6)

49B (1) If [^{F173}the tribunal makes a determination] under paragraph 49A, HMRC must notify the person.

(2) The notification must specify [^{F174}the new maximum amount and the day from which it applies].

^{F175}(3)

Textual Amendments

- F173** Words in Sch. 36 para. 49B(1) substituted (10.6.2021) by Finance Act 2021 (c. 26), Sch. 34 para. 6(2)
- F174** Words in Sch. 36 para. 49B(2) substituted (10.6.2021) by Finance Act 2021 (c. 26), Sch. 34 para. 6(3)
- F175** Sch. 36 para. 49B(3) omitted (10.6.2021) by virtue of Finance Act 2021 (c. 26), Sch. 34 para. 6(4)

^{F176}49C

Textual Amendments

- F176** Sch. 36 para. 49C omitted (10.6.2021) by virtue of Finance Act 2021 (c. 26), Sch. 34 para. 7

Tax-related penalty

- 50 (1) This paragraph applies where—
- (a) a person becomes liable to a penalty under paragraph 39,
 - (b) the failure or obstruction continues after a penalty is imposed under that paragraph,
 - (c) an officer of Revenue and Customs has reason to believe that, as a result of the failure or obstruction, the amount of tax that the person has paid, or is likely to pay, is significantly less than it would otherwise have been,
 - (d) before the end of the period of 12 months beginning with the relevant date ^{F177} ..., an officer of Revenue and Customs makes an application to the Upper Tribunal for an additional penalty to be imposed on the person, and
 - (e) the Upper Tribunal decides that it is appropriate for an additional penalty to be imposed.
- (2) The person is liable to a penalty of an amount decided by the Upper Tribunal.
- (3) In deciding the amount of the penalty, the Upper Tribunal must have regard to the amount of tax which has not been, or is not likely to be, paid by the person.
- (4) Where a person becomes liable to a penalty under this paragraph, HMRC must notify the person.

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) Any penalty under this paragraph is in addition to the penalty or penalties under paragraph 39 or 40.
- (6) In the application of the following provisions, no account shall be taken of a penalty under this paragraph—
- (a) section 97A of TMA 1970 (multiple penalties),
 - (b) paragraph 12(2) of Schedule 24 to FA 2007 (interaction with other penalties), and
 - (c) paragraph 15(1) of Schedule 41 (interaction with other penalties).
- [^{F178}(7) In sub-paragraph (1)(d) “the relevant date” means—
- (a) in a case involving an information notice against which a person may appeal, the latest of—
 - (i) the date on which the person became liable to the penalty under paragraph 39,
 - (ii) the end of the period in which notice of an appeal against the information notice could have been given, and
 - (iii) if notice of such an appeal is given, the date on which the appeal is determined or withdrawn, and
 - (b) in any other case, the date on which the person became liable to the penalty under paragraph 39.]

Textual Amendments

F177 Words in [Sch. 36 para. 50\(1\)\(d\)](#) omitted (with effect in accordance with [Sch. 24 para. 5\(4\)](#) of the amending Act) by virtue of [Finance Act 2011 \(c. 11\)](#), [Sch. 24 para. 5\(2\)](#)

F178 [Sch. 36 para. 50\(7\)](#) inserted (with effect in accordance with [Sch. 24 para. 5\(4\)](#) of the amending Act) by [Finance Act 2011 \(c. 11\)](#), [Sch. 24 para. 5\(3\)](#)

Commencement Information

I50 [Sch. 36 para. 50](#) in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Enforcement of tax-related penalty

- 51 (1) A penalty under paragraph 50 must be paid before the end of the period of 30 days beginning with the date on which the notification of the penalty is issued.
- (2) A penalty under paragraph 50 may be enforced as if it were income tax charged in an assessment and due and payable.

Commencement Information

I51 [Sch. 36 para. 51](#) in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[^{F179}Disclosure of third party or financial institution notice

Textual Amendments

F179 Sch. 36 paras. 51A-51C and cross-heading inserted (10.6.2021) by Finance Act 2021 (c. 26), Sch. 34 para. 2

- 51A (1) This paragraph applies if—
- (a) a person (“P”) is given a third party notice or financial institution notice (“the notice”), and
 - (b) the tribunal has disapplied the requirement in paragraph 4(1) or 4A(7)(a) (as the case may be) to give a copy of the notice to the taxpayer to whom it relates.
- (2) The notice may include a requirement that P must not disclose the notice, or anything relating to it, to—
- (a) the taxpayer to whom the notice relates, or
 - (b) any other person, except for a purpose relating to compliance with the notice.
- (3) A requirement imposed under sub-paragraph (2) has effect for a period of 12 months beginning with the day on which P is given the notice unless, before the end of that period—
- (a) the requirement is withdrawn in accordance with sub-paragraph (4), or
 - (b) the period is extended in accordance with sub-paragraph (5).
- (4) An officer of Revenue and Customs may, by notice in writing to P, withdraw a requirement imposed under sub-paragraph (2).
- (5) An officer of Revenue and Customs may—
- (a) by notice in writing to P, extend the period for which a requirement imposed under sub-paragraph (2) has effect for a further period of 12 months (beginning with the day after the last day of the previous period), and
 - (b) do so on one or more occasions.
- (6) An officer of Revenue and Customs may act under sub-paragraph (4) or (5) only if—
- (a) the officer is an authorised officer of Revenue and Customs, or
 - (b) an authorised officer of Revenue and Customs has agreed to the withdrawal of the requirement or the extension of the period (as the case may be).
- (7) An authorised officer of Revenue and Customs may only extend, or agree to the extension of, a period under sub-paragraph (5) if that officer has reasonable grounds for believing that not doing so might prejudice the assessment or collection of tax.]
- [^{F179}51B] (1) A person who breaches a requirement imposed under paragraph 51A (not to disclose a notice or anything relating to it) is liable to a penalty of £1,000.
- (2) If a person becomes liable for a penalty under sub-paragraph (1)—
- (a) HMRC may assess the penalty, and
 - (b) if they do so, they must notify the person.
- (3) The assessment must be made within the period of 12 months beginning with the date on which the breach of the requirement first came to the attention of an officer of Revenue and Customs.

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) Paragraph 41 applies in relation to the sum specified in sub-paragraph (1) above as it applies in relation to the sums mentioned in paragraph 41(1) but as if—
- (a) the reference in paragraph 41(2)(a) to this Act were to FA 2021, and
 - (b) paragraph 41(3) prevented the regulations from applying to any breach committed before the date on which the regulations come into force.]
- [^{F179}51(1) A person may appeal a decision of an officer of Revenue and Customs that a penalty is payable by the person under paragraph 51B.
- (2) Paragraph 48 (procedure on appeal against penalty) applies in relation to an appeal under this paragraph as it applies in relation to an appeal under paragraph 47(1)(a) but as if the reference to the notification under paragraph 46 were to the notification under paragraph 51B(2)(b).
- (3) Paragraph 49 (enforcement of penalty) applies in relation to a penalty under paragraph 51B as it applies in relation to a penalty under paragraph 39 but as if the reference to the notification under paragraph 46 were to the notification under paragraph 51B(2)(b).]

Double jeopardy

- 52 A person is not liable to a penalty under this Schedule in respect of anything in respect of which the person has been convicted of an offence.

Modifications etc. (not altering text)

- C134** Sch. 36 para. 52 applied (with modifications) (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 49 para. 5(3)** (with Sch. 49 para. 1)
- C135** Sch. 36 para. 52 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 17(6)**
- C136** Sch. 36 para. 52 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 22(5)**
- C137** Sch. 36 para. 52 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 20(8)**
- C138** Sch. 36 para. 52 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 23(3)**
- C139** Sch. 36 para. 52 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 12(8)**
- C140** Sch. 36 para. 52 applied (with modifications) (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 16(5)**
- C141** Sch. 36 para. 52 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 1 para. 5(8)**
- C142** Sch. 36 para. 52 applied (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), s. 6(2)(3), **Sch. 2 para. 12(2)**

Commencement Information

- I52** Sch. 36 para. 52 in force at 1.4.2009 by S.I. 2009/404, **art. 2**

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PART 8

OFFENCE

Modifications etc. (not altering text)

- C143** Sch. 36 Pt. 8 applied (1.4.2011) by 1979 c. 2, s. 118G(3) (as inserted by Finance (No. 3) Act 2010 (c. 33), s. 29(2), Sch. 13 para. 15(3); S.I. 2011/777, art. 2)
- C144** Sch. 36 Pt. 8 applied (with effect in accordance with Sch. 5 para. 25(1)(2) of the amending Act) by 2010 c. 8, Sch. 7A para. 66(1) (as inserted by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 2 (with Sch. 5 para. 28))

Concealing etc documents following information notice

- 53 (1) A person is guilty of an offence (subject to sub-paragraphs (2) and (3)) if—
- the person is required to produce a document by an information notice,
 - the [F180tribunal] approved the giving of the notice in accordance with paragraph 3 or 5, and
 - the person conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of, that document.
- (2) Sub-paragraph (1) does not apply if the person acts after the document has been produced to an officer of Revenue and Customs in accordance with the information notice, unless an officer of Revenue and Customs has notified the person in writing that the document must continue to be available for inspection (and has not withdrawn the notification).
- (3) Sub-paragraph (1) does not apply, in a case to which paragraph 8(1) applies, if the person acts after the expiry of the period of 6 months beginning with the day on which a copy of the document was so produced unless, before the expiry of that period, an officer of Revenue and Customs made a request for the original document under paragraph 8(2)(b).

Textual Amendments

- F180** Word in Sch. 36 para. 53(1)(b) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), Sch. 1 para. 471(2)

Commencement Information

- I53** Sch. 36 para. 53 in force at 1.4.2009 by S.I. 2009/404, art. 2

Concealing etc documents following informal notification

- 54 (1) A person is also guilty of an offence (subject to sub-paragraph (2)) if the person conceals, destroys or otherwise disposes of, or arranges for the concealment, destruction or disposal of a document after the person has been informed by an officer of Revenue and Customs in writing that—
- the document is, or is likely, to be the subject of an information notice addressed to that person, and

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) an officer of Revenue and Customs intends to seek the approval of the [F181tribunal] to the giving of the notice under paragraph 3 or 5 in respect of the document.
- (2) A person is not guilty of an offence under this paragraph if the person acts after—
- (a) at least 6 months has expired since the person was, or was last, so informed, or
- (b) an information notice has been given to the person requiring the document to be produced.

Textual Amendments

F181 Word in Sch. 36 para. 54(1)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 471(2)**

Commencement Information

I54 Sch. 36 para. 54 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2**

Fine or imprisonment

- 55 A person who is guilty of an offence under this Part of this Schedule is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

Commencement Information

I55 Sch. 36 para. 55 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2**

PART 9

MISCELLANEOUS PROVISIONS AND INTERPRETATION

Application of provisions of TMA 1970

- 56 Subject to the provisions of this Schedule, the following provisions of TMA 1970 apply for the purposes of this Schedule as they apply for the purposes of the Taxes Acts—
- (a) section 108 (responsibility of company officers),
- (b) section 114 (want of form), and
- (c) section 115 (delivery and service of documents).

Modifications etc. (not altering text)

C145 Sch. 36 para. 56 applied (with effect in accordance with [Sch. 5 para. 25\(1\)\(2\)](#) of the amending Act) by [2010 c. 8, Sch. 7A para. 66\(1\)](#) (as inserted by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 5 para. 2](#) (with [Sch. 5 para. 28](#)))

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

I56 Sch. 36 para. 56 in force at 1.4.2009 by S.I. 2009/404, art. 2

Regulations under this Schedule

- 57 (1) Regulations made by the Commissioners or the Treasury under this Schedule are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under this Schedule is subject to annulment in pursuance of a resolution of the House of Commons.

Commencement Information

I57 Sch. 36 para. 57 in force at 1.4.2009 by S.I. 2009/404, art. 2

General interpretation

- 58 In this Schedule—
- “checking” includes carrying out an investigation or enquiry of any kind,
 - “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs,
 - “document” includes a part of a document (except where the context otherwise requires),
 - “enactment” includes subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)),
 - “HMRC” means Her Majesty’s Revenue and Customs,
 - “premises” includes—
 - (a) any building or structure,
 - (b) any land, and
 - (c) any means of transport,
 - “the Taxes Acts” means—
 - (a) TMA 1970,
 - (b) the Tax Acts, and
 - (c) TCGA 1992 and all other enactments relating to capital gains tax,^{F182}...
 - “taxpayer”, in relation to a taxpayer notice or a third party notice, has the meaning given in paragraph 1(1) or 2(1) (as appropriate) [^{F183}, and] .
 - [^{F184}“tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.]

Textual Amendments

- F182** Word in Sch. 36 para. 58 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 471\(15\)\(a\)](#)
- F183** Word in Sch. 36 para. 58 inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 471\(15\)\(b\)](#)
- F184** Words in Sch. 36 para. 58 inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 471\(15\)\(c\)](#)

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

I58 Sch. 36 para. 58 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Authorised officer of Revenue and Customs

- 59 A reference in a provision of this Schedule to an authorised officer of Revenue and Customs is a reference to an officer of Revenue and Customs who is, or is a member of a class of officers who are, authorised by the Commissioners for the purpose of that provision.

Commencement Information

I59 Sch. 36 para. 59 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Business

- 60 (1) In this Schedule (subject to regulations under this paragraph), references to carrying on a business include—
- (a) the letting of property,
 - (b) the activities of a charity, and
 - (c) the activities of a government department, a local authority, a local authority association and any other public authority.

[^{F185}(1A) A person who under section 41 of FA 1996 is liable to pay landfill tax charged on a taxable disposal is treated for the purposes of this Schedule (subject to regulations under this paragraph) as carrying on a business.]

- (2) In sub-paragraph (1)—

^{F186}
...

“local authority” has the meaning given in section 999 of ITA 2007, and
 “local authority association” has the meaning given in section 1000 of that Act.

- (3) The Commissioners may by regulations provide that for the purposes of this Schedule—
- (a) the carrying on of an activity specified in the regulations, or
 - (b) the carrying on of such an activity (or any activity) by a person specified in the regulations,
- is or is not to be treated as the carrying on of a business.

Textual Amendments

F185 Sch. 36 para. 60(1A) inserted (with effect in accordance with s. 42(2), Sch. 12 para. 29(1) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 12 para. 26\(2\)](#)

F186 Words in Sch. 36 para. 60(2) omitted (1.4.2012) by virtue of [Finance Act 2010 \(c. 13\)](#), [Sch. 6 paras. 24, 34\(2\)](#); [S.I. 2012/736](#), [art. 19](#)

Commencement Information

I60 Sch. 36 para. 60 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Chargeable period

- 61 In this Schedule “chargeable period” means—
- (a) in relation to income tax or capital gains tax, a tax year, and
 - (b) in relation to corporation tax, an accounting period.

Commencement Information

I61 Sch. 36 para. 61 in force at 1.4.2009 by S.I. 2009/404, art. 2

[^{F187}Financial institution

Textual Amendments

F187 Sch. 36 para. 61ZA and cross-heading inserted (with effect in accordance with s. 126(9) of the amending Act) by Finance Act 2021 (c. 26), s. 126(4)

- 61ZA (1) In this Schedule “financial institution” means—
- (a) a financial institution under the CRS other than one which is such an institution because (and only because) it is an investment entity within section VIII (A)(6)(b) of the CRS, or
 - (b) a person who issues credit cards.
- (2) In this paragraph “the CRS” means the common reporting standard for automatic exchange of financial account information developed by the Organisation for Economic Co-operation and Development, as that standard has effect from time to time.]

[^{F188}Involved third parties

Textual Amendments

F188 Sch. 36 para. 61A and cross-heading inserted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 14; S.I. 2009/3054, art. 2

- 61A (1) In this Schedule “involved third party” means a person described in the first column of the Table below.
- (2) In this Schedule, in relation to an involved third party, ^{F189}... “relevant document” and “relevant tax” have the meaning given in the corresponding entries in that Table.

	<i>Involved third party</i>	<i>Relevant</i> <i>^{F190}</i> <i>... documents</i>	<i>Relevant tax</i>
1.	A body approved by an officer of Revenue and Customs for the purpose of paying	[^{F191} Documents] relating to the donations	Income tax

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- donations within the meaning of Part 12 of ITEPA 2003 (donations to charity: payroll giving) (see section 714 of that Act)
2. A plan manager (see section 696 of ITTOIA 2005 (managers of individual investment plans)) [^{F191}Documents] Income tax
relating to the plan, including investments which are or have been held under the plan
 3. An account provider in relation to a child trust fund (as defined in section 3 of the Child Trust Funds Act 2004) [^{F191}Documents] Income tax
relating to the fund, including investments which are or have been held under the fund
 4. A person who is or has been registered as a managing agent at Lloyd's in relation to a syndicate of underwriting members of Lloyd's [^{F191}Documents] Income tax
relating to, and to the activities of, the syndicate Capital gains tax
Corporation tax
 5. A person involved (in any capacity) in an insurance business (as defined for the purposes of Part 3 of FA 1994) [^{F191}Documents] Insurance premium tax
relating to contracts of insurance entered into in the course of the business
 6. A person who makes arrangements for persons to enter into contracts of insurance [^{F191}Documents] Insurance premium tax
relating to the contracts
 7. A person who— [^{F191}Documents] Insurance premium tax
(a) is concerned in a business that is not an insurance business (as defined for
relating to the contracts

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- the purposes of Part 3 of FA 1994), and
- (b) has been involved in the entry into a contract of insurance providing cover for any matter associated with that business
8. A person who, in relation to a charge to stamp duty reserve tax on an agreement, transfer, issue, appropriation or surrender, is an accountable person (as defined in regulation 2 of the Stamp Duty Reserve Tax Regulations S.I. 1986/1711 (as amended from time to time))
9. A responsible person in relation to an oil field (as defined for the purposes of Part 1 of OTA 1975)
10. A person involved (in any capacity) in subjecting aggregate to exploitation in the United Kingdom (as defined for the purposes of Part 2 of FA 2001) or in connected activities
11. A person involved (in any capacity)
- | | | | |
|--|--|---|------------------------|
| | | [^{F191} Documents] relating to the agreement, transfer, issue, appropriation or surrender | Stamp duty reserve tax |
| | | [^{F191} Documents] relating to the oil field | Petroleum revenue tax |
| | | [^{F191} Documents] relating to matters in which the person is or has been involved | Aggregates levy |
| | | [^{F191} Documents] relating to matters | Climate change levy |

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

	in making or receiving [^{F192} supplies of] taxable commodities (as defined for the purposes of Schedule 6 to FA 2000) or in connected activities	in which the person is or has been involved	
12.	A person involved (in any capacity) with any [^{F193} disposal of material] (as defined for the purposes of Part 3 of FA 1996)	[^{F191} Documents] relating to the disposal	Landfill tax
[^{F194} 13.	A person involved (in any capacity) in the production, or importation to or exportation from the United Kingdom, of packaging components (within the meaning of section 48 of FA 2021) or in connected activities	Documents relating to matters in which the person is or has been involved	Plastic packaging tax
14.	A person involved (in any capacity) in the purchase or sale of plastic packaging components (within the meaning of section 48 of FA 2021) or of goods packaged in such components	Documents relating to matters in which the person is or has been involved	Plastic packaging tax]]

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Textual Amendments

- F189** Words in Sch. 36 para. 61A(2) omitted (with effect in accordance with Sch. 23 para. 65 of the amending Act) by virtue of Finance Act 2011 (c. 11), Sch. 23 paras. 62(3)(a), 65(1)(a) (with Sch. 23 paras. 50, 65(1)(b))
- F190** Words in Sch. 36 para. 61A Table omitted (with effect in accordance with Sch. 23 para. 65 of the amending Act) by virtue of Finance Act 2011 (c. 11), Sch. 23 paras. 62(3)(c), 65(1)(a) (with Sch. 23 paras. 50, 65(1)(b))
- F191** Word in Sch. 36 para. 61A Table substituted (with effect in accordance with Sch. 23 para. 65 of the amending Act) by Finance Act 2011 (c. 11), Sch. 23 paras. 62(3)(b), 65(1)(a) (with Sch. 23 paras. 50, 65(1)(b))
- F192** Words in Sch. 36 para. 61A Table inserted (19.7.2011) by Finance Act 2011 (c. 11), Sch. 24 para. 6
- F193** Words in Sch. 36 para. 61A Table substituted (with effect in accordance with s. 42(2), Sch. 12 para. 29(1) of the amending Act) by Finance Act 2018 (c. 3), Sch. 12 para. 26(3)
- F194** Words in Sch. 36 para. 61A Table inserted (10.12.2021 for specified purposes, 1.4.2022 in so far as not already in force and with effect in accordance with s. 85(1)(b) of the amending Act) by Finance Act 2021 (c. 26), s. 85(1)(a), Sch. 15 para. 11(2); S.I. 2021/1409, regs. 3, 4

Statutory records

- 62 (1) For the purposes of this Schedule, information or a document forms part of a person's statutory records if it is information or a document which the person is required to keep and preserve under or by virtue of—
- (a) the Taxes Acts, or
 - [^{F195}(b) any other enactment relating to a tax,]
- subject to the following provisions of this paragraph.
- (2) To the extent that any information or document that is required to be kept and preserved under or by virtue of the Taxes Acts—
- (a) does not relate to the carrying on of a business, and
 - (b) is not also required to be kept or preserved under or by virtue of [^{F196}any other enactment relating to a tax],
- it only forms part of a person's statutory records to the extent that the chargeable period or periods to which it relates has or have ended.
- (3) Information and documents cease to form part of a person's statutory records when the period for which they are required to be preserved by the enactments mentioned in sub-paragraph (1) has expired.

Textual Amendments

- F195** Sch. 36 para. 62(1)(b) substituted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 15(2); S.I. 2009/3054, art. 2
- F196** Words in Sch. 36 para. 62(2)(b) substituted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 15(3); S.I. 2009/3054, art. 2

Commencement Information

- I62** Sch. 36 para. 62 in force at 1.4.2009 by S.I. 2009/404, art. 2

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Tax

- 63 (1) In this Schedule, except where the context otherwise requires, “tax” means all or any of the following—
- (a) income tax,
 - (b) capital gains tax,
 - (c) corporation tax,
 - [^{F197}(ca) diverted profits tax,]
 - [^{F198}(cb) apprenticeship levy,]
 - [^{F199}(cc) digital services tax,]
 - [^{F200}(cd) multinational top-up tax;]
 - [^{F201}(ce) domestic top-up tax;]
 - (d) VAT,
 - [^{F202}(e) insurance premium tax,
 - (f) inheritance tax,
 - (g) stamp duty land tax,
 - (h) stamp duty reserve tax,
 - [^{F203}(ha) annual tax on enveloped dwellings,]
 - (i) petroleum revenue tax,
 - [^{F204}(iza) plastic packaging tax,]
 - [^{F205}(izb) economic crime (anti-money laundering) levy,]
 - [^{F206}(ia) soft drinks industry levy,]
 - (j) aggregates levy,
 - (k) climate change levy,
 - (l) landfill tax, and
 - (m) relevant foreign tax,]
- and references to “a tax” are to be interpreted accordingly.
- (2) In this Schedule “corporation tax” includes any amount assessable or chargeable as if it were corporation tax.
- (3) In this Schedule “VAT” means—
- (a) value added tax charged in accordance with VATA 1994, ^{F207} ...
 - (b) ^{F208} ... [^{F209}and
 - (c) amounts listed in sub-paragraph (3A).]
- [^{F210}(3A) Those amounts are—
- (a) any amount that is recoverable under paragraph 5(2) of Schedule 11 to VATA 1994 (amounts shown on invoices as VAT), and
 - (b) any amount that is treated as VAT by virtue of regulations under section 54 of VATA 1994 (farmers etc).]
- (4) In this Schedule “relevant foreign tax” means—
- (a) a tax of a member State, other than the United Kingdom, which is covered by the provisions for the exchange of information under [^{F211}Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation] (as amended from time to time), and

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- (b) any tax or duty which is imposed under the law of a territory in relation to which arrangements having effect by virtue of section 173 of FA 2006 (international tax enforcement arrangements) have been made and which is covered by the arrangements.

Textual Amendments

- F197** Sch. 36 para. 63(1)(ca) inserted (with effect in accordance with s. 116(1) of the amending Act) by Finance Act 2015 (c. 11), s. 105(2)
- F198** Sch. 36 para. 63(1)(cb) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 112 (with s. 117)
- F199** Sch. 36 para. 63(1)(cc) inserted (22.7.2020) by Finance Act 2020 (c. 14), Sch. 10 para. 5(2)
- F200** Sch. 36 para. 63(1)(cd) inserted (in relation to accounting periods commencing on or after 31.12.2023) by Finance (No. 2) Act 2023 (c. 30), s. 264, Sch. 14 para. 68(3)
- F201** Sch. 36 para. 63(1)(ce) inserted (in relation to accounting periods commencing on or after 31.12.2023) by Finance (No. 2) Act 2023 (c. 30), s. 278, Sch. 18 para. 7(3)
- F202** Sch. 36 para. 63(1)(e)-(m) substituted for Sch. 36 para. 63(1)(e) and word (1.4.2010) by Finance Act 2009 (c. 10), s. 96(1)(3); S.I. 2009/3054, art. 2
- F203** Sch. 36 para. 63(1)(ha) inserted (17.7.2013) by Finance Act 2013 (c. 29), Sch. 34 para. 5
- F204** Sch. 36 para. 63(1)(iza) inserted (10.12.2021 for specified purposes, 1.4.2022 in so far as not already in force and with effect in accordance with s. 85(1)(b) of the amending Act) by Finance Act 2021 (c. 26), s. 85(1)(a), Sch. 15 para. 11(3); S.I. 2021/1409, regs. 3, 4
- F205** Sch. 36 para. 63(1)(izb) inserted (for the financial year beginning with April 2022 and subsequent financial years) by Finance Act 2022 (c. 3), s. 61
- F206** Sch. 36 para. 63(1)(ia) inserted (6.4.2018) by Finance Act 2017 (c. 10), s. 61(1), Sch. 11 para. 1(3); S.I. 2018/464, art. 2(e)
- F207** Word in Sch. 36 para. 63(3)(a) omitted (21.7.2009) by virtue of Finance Act 2009 (c. 10), Sch. 47 para. 21(2)(a)
- F208** Sch. 36 para. 63(3)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 113(4) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F209** Sch. 36 para. 63(3)(c) substituted for words (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 21(2)(b)
- F210** Sch. 36 para. 63(3A) inserted (21.7.2009) by Finance Act 2009 (c. 10), Sch. 47 para. 21(3)
- F211** Words in Sch. 36 para. 63(4) substituted (1.1.2013) by The European Administrative Co-Operation (Taxation) Regulations 2012 (S.I. 2012/3062), regs. 1(1), 6(1)

Modifications etc. (not altering text)

- C146** Sch. 36 para. 63(1) modified (temp.) (with effect in accordance with Sch. 10 para. 43 of the amending Act) by Finance Act 2022 (c. 3), Sch. 10 para. 30(1) (as amended (5.1.2023) by S.I. 2022/1321, regs. 1, 2(2))

Commencement Information

- I63** Sch. 36 para. 63 in force at 1.4.2009 by S.I. 2009/404, art. 2

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[^{F212}Tax debts: collection

Textual Amendments

F212 Sch. 36 para. 63A and cross-heading inserted (with effect in accordance with s. 127(8) of the amending Act) by Finance Act 2021 (c. 26), s. 127(6)

- 63A (1) In this Schedule a reference to collecting a tax debt of a person is a reference to taking any steps for, or in connection with, the recovery of—
- (a) an amount of tax due from the person, or
 - (b) any other amount due from the person in connection with any tax.
- (2) It does not matter whether or not another person is, or has been, at any time liable to pay the tax or other amount.]

[^{F213}Tax debts: extended meaning of “relevant foreign tax”

Textual Amendments

F213 Sch. 36 para. 63B and cross-heading inserted (with effect in accordance with s. 127(8) of the amending Act) by Finance Act 2021 (c. 26), s. 127(7)

- 63B Where this Schedule applies for the purpose of collecting a tax debt of a person, “relevant foreign tax” is to be taken to include (in addition to what is mentioned in paragraph 63(4)) any tax or duty which is covered by the provisions for the exchange of information under Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (as it had effect immediately before IP completion day).]

Tax position

- 64 (1) In this Schedule, except as otherwise provided, “tax position”, in relation to a person, means the person's position as regards any tax, including the person's position as regards—
- (a) past, present and future liability to pay any tax,
 - (b) penalties and other amounts that have been paid, or are or may be payable, by or to the person in connection with any tax, and
 - (c) claims, elections, applications and notices that have been or may be made or given in connection with [^{F214}the person's liability to pay] any tax,
- and references to a person's position as regards a particular tax (however expressed) are to be interpreted accordingly.
- (2) References in this Schedule to a person's tax position include, where appropriate, a reference to the person's position as regards any deductions or repayments of tax, or of sums representing tax, that the person is required to make—
- (a) under PAYE regulations,
 - (b) under Chapter 3 of Part 3 of FA 2004 or regulations made under that Chapter (construction industry scheme), or
 - (c) by or under any other provision of the Taxes Acts.

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F215}(2A) References in this Schedule to a person's tax position also include, where appropriate, a reference to the person's position as regards the withholding by the person of another person's PAYE income (as defined in section 683 of ITEPA 2003).]
- (3) References in this Schedule to the tax position of a person include the tax position of—
- (a) a company that has ceased to exist, and
 - (b) an individual who has died.
- (4) References in this Schedule to a person's tax position are to the person's tax position at any time or in relation to any period, unless otherwise stated.

Textual Amendments

F214 Words in Sch. 36 para. 64(1)(c) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 22\(2\)](#)

F215 Sch. 36 para. 64(2A) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 22\(3\)](#)

Commencement Information

I64 Sch. 36 para. 64 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

[^{F216}**PART 10**

CONSEQUENTIAL PROVISIONS]

Textual Amendments

F216 Words in Sch. 36 para. 40 cross-heading inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 14](#)

TMA 1970

- 65 TMA 1970 is amended as follows.

Commencement Information

I65 Sch. 36 para. 65 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

- 66 Omit section 19A (power to call for documents for purposes of enquiries).

Commencement Information

I66 Sch. 36 para. 66 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

- 67 Omit section 20 (power to call for documents of taxpayer and others).

Commencement Information

I67 Sch. 36 para. 67 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- 68 (1) Section 20B (restrictions on powers to call for documents under ss20 and 20A) is amended as follows.
- (2) In the heading, for “**ss 20 and**” substitute “**section**”.
- (3) In subsection (1)—
- (a) omit “under section 20(1), (3) or (8A), or”,
 - (b) omit “(or, in the case of section 20(3), to deliver or make available”,
 - (c) omit “, or to furnish the particulars in question”, and
 - (d) omit “section 20(7) or (8A) or, as the case may be,”.
- (4) Omit subsections (1A) and (1B).
- (5) In subsection (2), omit from the beginning to “taxpayer; and”.
- (6) In subsection (3)—
- (a) omit “under section 20(1) or (3) or”, and
 - (b) omit “section 20(3) and (4) and”.
- (7) In subsection (4)—
- (a) omit “section 20(1) or”, and
 - (b) omit “, and as an alternative to delivering documents to comply with a notice under section 20(3) or (8A)”.
- (8) Omit subsections (5), (6) and (7).
- (9) In subsection (8), omit “section 20(3) or (8A) or”.
- (10) Omit subsections (9) to (14).

Commencement Information

I68 Sch. 36 para. 68 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [art. 4](#))

- 69 (1) Section 20BB (falsification etc. of documents) is amended as follows.
- (2) In subsection (1)(a), omit “20 or”.
- (3) In subsection (2)(b), omit “or, in a case within section 20(3) or (8A) above, inspected”.

Commencement Information

I69 Sch. 36 para. 69 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [art. 4](#))

- 70 (1) Section 20D (interpretation) is amended as follows.
- (2) In subsection (2), for “sections 20 and” substitute “section”.
- (3) Omit subsection (3).

Commencement Information

I70 Sch. 36 para. 70 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [art. 4](#))

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

71 In section 29(6)(c) (assessment where loss of tax discovered), omit “, whether in pursuance of a notice under section 19A of this Act or otherwise”.

Commencement Information

I71 Sch. 36 para. 71 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [art. 3](#))

72 Omit section 97AA (failure to produce documents under section 19A).

Commencement Information

I72 Sch. 36 para. 72 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [arts. 3, 5](#))

73 In section 98 (penalties), in the Table—
(a) in the first column, omit the entry for section 767C of ICTA, and
(b) in the second column, omit the entry for section 28(2) of F(No.2)A 1992.

Commencement Information

I73 Sch. 36 para. 73 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [art. 6](#))

^{F217}74

Textual Amendments

F217 Sch. 36 para. 74 omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 57 para. 14\(a\)](#)

75 (1) Section 107A (relevant trustees) is amended as follows.
(2) In subsection (2)(a), for “, 95 or 97AA” substitute “ or 95 ”.
(3) In subsection (3)(a), omit “or 97AA(1)(b)”.

Commencement Information

I74 Sch. 36 para. 75 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [arts. 3, 5](#))

76 In section 118 (interpretation), in the definition of “tax”, omit “20”.

Commencement Information

I75 Sch. 36 para. 76 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [art. 4](#))

77 In Schedule 1A (claims etc. not included in returns), omit paragraphs 6 and 6A (power to call for documents for purposes of enquiries and power to appeal against notice to produce documents).

Commencement Information

I76 Sch. 36 para. 77 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [art. 5](#))

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

National Savings Bank Act 1971 (c. 29)

78 In section 12(3) (secrecy), for the words from “and of section 20(3)” to the end substitute “ and of Schedule 36 to the Finance Act 2008 (powers of officers of Revenue and Customs to obtain information and documents and inspect business premises) ”.

Commencement Information

F177 Sch. 36 para. 78 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2** (with [art. 11](#))

ICTA

79 ICTA is amended as follows.

Commencement Information

F178 Sch. 36 para. 79 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2**

F218⁸⁰

Textual Amendments

F218 [Sch. 36 para. 80](#) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

81 Omit section 767C (change in company ownership: information).

Commencement Information

F179 Sch. 36 para. 81 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2** (with [art. 6](#))

F219⁸²

Textual Amendments

F219 [Sch. 36 para. 82](#) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

FA 1990

83 In section 125 of FA 1990 (information for tax authorities in other member States)

- (a) omit subsections (1) and (2),
- F220**(b)
- F220**(c)
- F220**(d)

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Textual Amendments

F220 Sch. 36 para. 83(b)(c)(d) omitted (13.8.2009) by virtue of [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), [Sch. para. 60\(p\)](#)

Commencement Information

I80 Sch. 36 para. 83 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Social Security Administration Act 1992 (c. 5)

84 In section 110ZA of the Social Security Administration Act 1992 (Class 1, 1A, 1B or 2 contributions: powers to call for documents etc), for subsections (1) and (2) substitute—

“(1) Schedule 36 to the Finance Act 2008 (information and inspection powers) applies for the purpose of checking a person's position as regards relevant contributions as it applies for the purpose of checking a person's tax position, subject to the modifications in subsection (2).

(2) That Schedule applies as if—

- (a) references to any provision of the Taxes Acts were to any provision of this Act or the Contributions and Benefits Act relating to relevant contributions,
- (b) references to prejudice to the assessment or collection of tax were to prejudice to the assessment of liability for, and payment of, relevant contributions,
- (c) the reference to information relating to the conduct of a pending appeal relating to tax were a reference to information relating to the conduct of a pending appeal relating to relevant contributions, and
- (d) paragraphs 21, 35(4)(b), 36 and 37(2) of that Schedule (restrictions on giving taxpayer notice where taxpayer has made tax return) were omitted.”

Commencement Information

I81 Sch. 36 para. 84 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [art. 9](#))

Social Security Administration (Northern Ireland) Act 1992 (c. 8)

85 In section 104ZA of the Social Security Administration (Northern Ireland) Act 1992 (Class 1, 1A, 1B or 2 contributions: powers to call for documents etc), for subsections (1) and (2) substitute—

“(1) Schedule 36 to the Finance Act 2008 (information and inspection powers) applies for the purpose of checking a person's position as regards relevant contributions as it applies for the purpose of checking a person's tax position, subject to the modifications in subsection (2).

(2) That Schedule applies as if—

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) references to any provision of the Taxes Acts were to any provision of this Act or the Contributions and Benefits Act relating to relevant contributions,
- (b) references to prejudice to the assessment or collection of tax were to prejudice to the assessment of liability for, and payment of, relevant contributions,
- (c) the reference to information relating to the conduct of a pending appeal relating to tax were a reference to information relating to the conduct of a pending appeal relating to relevant contributions, and
- (d) paragraphs 21, 35(4)(b), 36 and 37(2) of that Schedule (restrictions on giving taxpayer notice where taxpayer has made tax return) were omitted.”

Commencement Information

I82 Sch. 36 para. 85 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [art. 9](#))

F(No.2)A 1992

86 Omit section 28(1) to (3) (powers of inspection).

Commencement Information

I83 Sch. 36 para. 86 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

VATA 1994

- 87 (1) Schedule 11 to VATA 1994 is amended as follows.
- (2) In paragraph 7 (furnishing information and producing documents), omit sub-paragraphs (2) to (9).
 - (3) In paragraph 10 (entry and search of premises and persons), omit sub-paragraphs (1) to (2A).

Commencement Information

I84 Sch. 36 para. 87 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

FA 1998

88 In Schedule 18 to FA 1998 (company tax returns), omit paragraphs 27, 28 and 29 (notice to produce documents etc. for purposes of enquiry into company tax return, power to appeal against such notices and penalty for failure to produce documents etc).

Commencement Information

I85 Sch. 36 para. 88 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [arts. 7, 8](#))

Changes to legislation: Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

FA 1999

89 In section 13(5) (gold), omit paragraph (c).

Commencement Information

I86 Sch. 36 para. 89 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Tax Credits Act 2002 (c. 21)

90 In section 25 of the Tax Credits Act 2002 (payments of working tax credit by employers), omit subsections (3) and (4).

Commencement Information

I87 Sch. 36 para. 90 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [art. 9](#))

FA 2006

91 Omit section 174 of FA 2006 (international tax enforcement arrangements: information powers).

Commencement Information

I88 Sch. 36 para. 91 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [art. 10](#))

Other repeals

92 In consequence of the preceding provisions of this Part of this Schedule, omit the following—

- (a) section 126 of FA 1988,
- (b) sections 142(2), (3), (4), (6)(a), (7), (8) and (9) and 144(3), (5) and (7) of FA 1989,
- (c) sections 187 and 255 of, and paragraph 29 of Schedule 19 to, FA 1994,
- (d) paragraph 6 of Schedule 1 to the Civil Evidence Act 1995 (c. 38),
- (e) paragraph 17 of Schedule 3, paragraph 3 of Schedule 19 and paragraph 2 of Schedule 22 to FA 1996,
- (f) section 115 of, and paragraphs 36 and 42(6) and (7) of Schedule 19 to, FA 1998,
- (g) section 15(3) of FA 1999,
- (h) paragraphs 21 and 38(4) of Schedule 29 to FA 2001,
- (i) section 20 of FA 2006, and
- (j) paragraph 350 of Schedule 1 to ITA 2007.

Commencement Information

I89 Sch. 36 para. 92 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#) (with [art. 11](#))

Changes to legislation:

Finance Act 2008, SCHEDULE 36 is up to date with all changes known to be in force on or before 28 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Sch. 36 para. 21(1) words inserted by [2017 c. 32 Sch. 14 para. 38\(2\)](#)
- Sch. 36 para. 37(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 38\(3\)](#)

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

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

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

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)