



Finance Act 2004

2004 CHAPTER 12

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 2

CORPORATION TAX: GENERAL

Penalties: temporary relaxation

33 Provision not at arm's length: temporary relaxation of liability to penalty

- (1) This section has effect in relation to—
- the years of assessment 2004-05 and 2005-06, and
 - accounting periods beginning on or after 1st January 2004 and ending on or before 31st March 2006,
- and in the following provisions of this section “relevant period” means any of those years of assessment or accounting periods.
- (2) In this section “records relating to an arm's length provision” means such records as might have been requisite for the purpose of making and delivering a correct and complete return, so far as relating to the determination of the provision asserted to be the arm's length provision for the purposes of Schedule 28AA to the Taxes Act 1988 in a case where that Schedule applies.
- (3) In relation to any relevant period, the following provisions (which provide for penalties for failure to keep and preserve records for purposes of returns)—
- section 12B(5) of the Taxes Management Act 1970 (c. 9), and
 - paragraph 23 of Schedule 18 to the Finance Act 1998 (c. 36),
- do not apply if the records which the person in question fails to keep or preserve are records relating to an arm's length provision.

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- (4) In the application of subsection (2) in relation to paragraph 23 of Schedule 18 to the Finance Act 1998—
- (a) for “requisite” substitute “ needed ”, and
 - (b) for “making and delivering” substitute “ delivering ”.
- (5) Where a person delivers an incorrect return for any relevant period, he shall not be regarded as doing so negligently for the purposes of—
- (a) section 95 of the Taxes Management Act 1970, or
 - (b) paragraph 20 of Schedule 18 to the Finance Act 1998,
- by reason only of his failure, or the failure of any other person, to keep or preserve records relating to an arm’s length provision.
- (6) For the purposes of section 95A of the Taxes Management Act 1970, where a partner delivers an incorrect partnership return for any relevant period—
- (a) he shall not be regarded as doing so negligently, and
 - (b) his doing so shall not be regarded as attributable to negligent conduct on the part of any relevant partner,
- by reason only of his failure, or the failure of any other person, to keep or preserve records relating to an arm’s length provision.
- (7) For the purposes of section 99 of the Taxes Management Act 1970 (penalty for assisting in preparation of incorrect documents) a person shall not be taken to know that a return is incorrect by reason only of his failure, or the failure of any other person, to keep or preserve records relating to an arm’s length provision.

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

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

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)