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SCHEDULES

SCHEDULE 47

Section 95

AMENDMENT OF INFORMATION AND INSPECTION POWERS

- 1 Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.
- 2 (1) Paragraph 3 (approval etc of taxpayer notices and third party notices) is amended as follows.
 - (2) After sub-paragraph (2) insert—

“(2A) An application for approval under this paragraph may be made without notice (except as required under sub-paragraph (3)).”
 - (3) In sub-paragraph (3)(c), after “is” insert “ to be ”.
- 3 (1) Paragraph 5 (power to obtain information and documents about persons whose identity is not known) is amended as follows.
 - (2) After sub-paragraph (3) insert—

“(3A) An application for approval under this paragraph may be made without notice.”
 - (3) In sub-paragraph (4), for “give its approval for the purpose of” substitute “ approve the giving of a notice under ”.
- 4 In paragraph 6 (notices), insert at the end—

“(4) A decision of the tribunal under paragraph 3, 4 or 5 is final (despite the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007).”
- 5 (1) Paragraph 10 (power to inspect business premises etc) is amended as follows.
 - (2) In sub-paragraph (3), in the definition of “business assets”, for “, excluding documents” substitute “ (but see sub-paragraph (4)) ”.
 - (3) After that sub-paragraph insert—

“(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.”
- 6 (1) Paragraph 11 (power to inspect premises used in connection with taxable supplies etc) is amended as follows.
 - (2) In sub-paragraph (1)—
 - (a) in paragraph (a), after “supplied” insert “ or documents relating to such goods ”,

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- (b) in paragraph (b), after “acquired” insert “ or documents relating to such goods ”, and
 - (c) in paragraph (c), after “as” insert “ or in connection with ”.
- (3) In sub-paragraph (2)(c), for “such goods” substitute “ the supply of goods under taxable supplies, the acquisition of goods from other member States under taxable acquisitions or fiscal warehousing ”.
- (4) In sub-paragraph (4)—
 - (a) for “sub-paragraph (1)” substitute “ this paragraph ”, and
 - (b) for “in that sub-paragraph” substitute “ here ”.
- 7 In paragraph 12(5) (carrying out inspections)—
 - (a) for “with the approval of” substitute “ in respect of an inspection approved by ”, and
 - (b) for “it is given with that approval” substitute “ the inspection has been so approved ”.
- 8 (1) Paragraph 13 (approval of inspections) is amended as follows.
 - (2) After sub-paragraph (1) insert—
 - “(1A) An application for approval under this paragraph may be made without notice.”
 - (3) Insert at the end—
 - “(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).”
- 9 (1) Paragraph 21 (taxpayer notices) is amended as follows.
 - (2) In sub-paragraph (6), after “that” (in the first place) insert “ , as regards the person, ”.
 - (3) In sub-paragraph (7), for “that” (in the third place) substitute “ the ”.
 - (4) In sub-paragraph (8)—
 - (a) after “repayments” insert “ of tax or withholding of income ”, and
 - (b) after “64(2)” insert “ or (2A) ”.
 - (5) After sub-paragraph (8) insert—
 - “(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.”
- 10 (1) Paragraph 35 (special cases: groups of undertakings) is amended as follows.
 - (2) In sub-paragraph (2)—
 - (a) for “paragraph 2” substitute “—
 - (a) paragraph 2(2)”, and
 - (b) insert at the end “, and
 - (b) the references in paragraph 3(5) to naming the taxpayer are to making that statement and naming the parent undertaking.”
 - (3) For sub-paragraph (4) substitute—

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“(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) paragraph 21 (restrictions on giving taxpayer notice where taxpayer has made return) applies 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.”

(4) In sub-paragraph (5), for the words after “the notice” substitute “—

- (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.”

(5) Omit sub-paragraph (6).

11 (1) Paragraph 37 (special cases: partnerships) is amended as follows.

(2) For sub-paragraph (2) substitute—

“(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.”

(3) In sub-paragraph (3)—

- (a) omit “to any person (other than one of the partners)”,
- (b) for “paragraph 2” substitute “—
 - (a) paragraph 2(2)”, and
- (c) insert at the end “, and

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(b) the references in paragraph 3(5) to naming the taxpayer are to making that statement and naming the partnership.”

(4) In sub-paragraph (4)—

- (a) after “notice” insert “ given to a person other than one of the partners ”, and
- (b) in paragraph (b), for “each of the partners” substitute “ any of the partners in the partnership ”.

(5) For sub-paragraph (5) substitute—

“(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) In sub-paragraph (6), for the words after “the notice” substitute “—

- (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.”

(7) Omit sub-paragraph (7).

12 After paragraph 37 insert—

“Information in connection with herd basis election

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—

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- (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—
 - (a) section 703 of ICTA (company liable to counteraction of corporation tax advantage), or
 - (b) section 684 of ITA 2007 (person liable to counteraction of income tax advantage).”
- 13 (1) Paragraph 39 (standard penalties) is amended as follows.
- (2) In sub-paragraph (2), for “A person to whom this paragraph applies” substitute “The person”.
- (3) In the heading—
 - (a) omit “*Standard*”, and
 - (b) insert at the end “*for failure to comply or obstruction*”.
- 14 In the heading before paragraph 40 (daily default penalties), insert at the end “*;for failure to comply or obstruction*”
- 15 After that paragraph insert—

“Penalties for inaccurate information and documents

- 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 A or B is met.
- (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.
- (4) Condition B 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.”
- 16 (1) Paragraph 41 (power to change amount of penalties) is amended as follows.
- (2) In sub-paragraph (1), for “and 40(2)” substitute “, 40(2) and 40A(5)”.
- (3) In sub-paragraph (2)—
 - (a) after “(1)” insert “, in relation to a specified sum, ”, and

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- (b) in paragraph (b), insert at the end “in relation to that sum”.
- (4) In sub-paragraph (3)—
- (a) after “to” insert “—
(a)”,
and
 - (b) insert at the end “, or
(b) an inaccuracy in any information or document provided to HMRC before that date.”
- (5) Accordingly, in the heading omit “*standard and daily default*”.
- 17 (1) Paragraph 46 (assessment of penalty) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) for “or 40” substitute “, 40 or 40A ”,
 - (b) omit “HMRC may”,
 - (c) at the beginning of paragraph (a), insert “ HMRC may ”, and
 - (d) at the beginning of paragraph (b), insert “ if they do so, they must ”.
- (3) In sub-paragraph (2), for “within 12 months of the relevant date” substitute “ within the period of 12 months beginning with the date on which the person became liable to the penalty, subject to sub-paragraph (3) ”.
- (4) For sub-paragraph (3) substitute—
- “(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.”

(5) Accordingly, in the heading omit “*standard penalty or daily default*”.

18 (1) Paragraph 47 (right to appeal) is amended as follows.

(2) In paragraph (a), for “or 40” substitute “, 40 or 40A ”.

(3) Accordingly, in the heading, omit “*standard penalty or daily default*”.

19 In the heading before paragraph 48 (procedure on appeal), omit “*standard penalty or daily default*”.

20 (1) Paragraph 49 (enforcement) is amended as follows.

(2) In sub-paragraph (1), for “or 40” substitute “, 40 or 40A ”.

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- (3) In sub-paragraph (2), for “or 40” substitute “, 40 or 40A ”.
 - (4) Accordingly, in the heading, omit “*standard penalty or daily default*”.
- 21 (1) Paragraph 63 (tax) is amended as follows.
- (2) In sub-paragraph (3)—
 - (a) omit the “and” at the end of paragraph (a), and
 - (b) for the words following paragraph (b) substitute “, and
 - (c) amounts listed in sub-paragraph (3A).”
 - (3) After that sub-paragraph insert—
 - “(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).”
- 22 (1) Paragraph 64 (tax position) is amended as follows.
- (2) In sub-paragraph (1)(c), after “with” insert “ the person's liability to pay ”.
 - (3) After sub-paragraph (2) insert—
 - “(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).”

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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. 102(4)(za) inserted by [2010 c. 33 Sch. 9 para. 3\(3\)](#)
- Sch. 53 para. 2A-2D and cross-heading inserted by [2010 c. 33 Sch. 9 para. 7](#)
- Sch. 53 para. 6A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 8](#)
- Sch. 53 para. 11A11B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 17](#)
- Sch. 53 para. 14A and cross-heading inserted by [2010 c. 33 Sch. 9 para. 18](#)
- Sch. 54 para. 9B9C and cross-heading inserted by [2010 c. 33 Sch. 9 para. 11](#) (Sch. 54 para. 9B is amended before it comes into force by [2016 c. 24, Sch. 1 para. 66\(5\)](#))
- Sch. 54 para. 12A12B and cross-heading inserted by [2010 c. 33 Sch. 9 para. 19](#)
- Sch. 54 Pt. A1 inserted by [2010 c. 33 Sch. 9 para. 10](#) (Sch. 9 para. 10 is amended before it comes into force by [2017 c. 32, Sch. 4 para. 182](#))
- Sch. 55 para. 6(3A)(za) inserted by [2015 c. 11 Sch. 20 para. 15\(2\)\(a\)](#)
- Sch. 55 para. 6(4A)(za) inserted by [2015 c. 11 Sch. 20 para. 15\(3\)\(a\)](#)
- Sch. 55 para. 17(4)(ba) inserted by [2015 c. 11 Sch. 20 para. 19](#)
- Sch. 56 para. 3(1)(d) omitted by [2021 c. 26 Sch. 27 para. 40\(4\)\(c\)](#)