
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2010, Paragraph 12. (See end of Document for details)

SCHEDULES

SCHEDULE 10

PENALTIES: OFFSHORE INCOME ETC

Schedule 55 to FA 2009

- 12 After paragraph 6 insert—
- “6A (1) Information is category 1 information if—
- (a) it involves a domestic matter, or
 - (b) it involves an offshore matter and—
 - (i) the territory in question is a category 1 territory, or
 - (ii) it is information which would enable or assist HMRC to assess P's liability to a tax other than income tax or capital gains tax.
- (2) Information is category 2 information if—
- (a) it involves an offshore matter,
 - (b) the territory in question is a category 2 territory, and
 - (c) it is information which would enable or assist HMRC to assess P's liability to income tax or capital gains tax.
- (3) Information is category 3 information if—
- (a) it involves an offshore matter,
 - (b) the territory in question is a category 3 territory, and
 - (c) it is information which would enable or assist HMRC to assess P's liability to income tax or capital gains tax.
- (4) Information “involves an offshore matter” if the liability to tax which would have been shown in the return includes a liability to tax charged on or by reference to—
- (a) income arising from a source in a territory outside the UK,
 - (b) assets situated or held in a territory outside the UK,
 - (c) activities carried on wholly or mainly in a territory outside the UK, or
 - (d) anything having effect as if it were income, assets or activities of a kind described above.
- (5) Information “involves a domestic matter” if the liability to tax which would have been shown in the return includes a liability to tax charged on or by reference to anything not mentioned in sub-paragraph (4)(a) to (d).
- (6) If the information which P withholds falls into more than one category—
- (a) P's failure to make the return is to be treated for the purposes of this Schedule as if it were separate failures, one for each category

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- of information according to the matters which the information involves, and
- (b) for each separate failure, the liability to tax which would have been shown in the return in question is taken to be such share of the liability to tax which would have been shown in the return mentioned in paragraph (a) as is just and reasonable.
- (7) For the purposes of this Schedule—
- (a) paragraph 21A of Schedule 24 to FA 2007 (classification of territories) has effect, but
- (b) an order under that paragraph does not apply to a failure if the filing date is before the date on which the order comes into force.
- (8) Regulations under paragraph 21B of Schedule 24 to FA 2007 (location of assets etc) apply for the purposes of paragraph 6A of this Schedule as they apply for the purposes of paragraph 4A of that Schedule.
- (9) In this paragraph—
- “assets” has the meaning given in section 21(1) of TCGA 1992, but also includes sterling;
- “UK” means the United Kingdom, including the territorial sea of the United Kingdom.”

Commencement Information

- II** Sch. 10 para. 12 partly in force; Sch. 10 para. 12 not in force at Royal Assent see s. 35(2); Sch. 10 para. 12 in force for certain purposes at 6.4.2011 by S.I. 2011/975, art. 2(2) (with art. 5)

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