

SCHEDULES

SCHEDULE 38

TAX AGENTS: DISHONEST CONDUCT

PART 4

SANCTIONS FOR DISHONEST CONDUCT

Penalty for dishonest conduct

- 26 (1) An individual who engages in dishonest conduct is liable to a penalty.
- (2) Subject to paragraph 27, the penalty to which the individual is liable is to be—
- (a) no less than £5,000, and
 - (b) no more than £50,000.
- (3) In assessing the amount of the penalty, regard must be had to—
- (a) whether the individual disclosed the dishonest conduct,
 - (b) whether that disclosure was prompted or unprompted,
 - (c) the quality of that disclosure, and
 - (d) the quality of the individual’s compliance with any file access notice in connection with the dishonest conduct.
- (4) An individual “discloses” dishonest conduct by—
- (a) telling HMRC about it,
 - (b) giving HMRC reasonable help in identifying the client or clients concerned and in quantifying the loss of tax revenue (if any) brought about by it, and
 - (c) allowing HMRC access to records for the purpose of ensuring that any such loss is recovered or otherwise properly accounted for.
- (5) A disclosure is “unprompted” if it is made at a time when the individual has no reason to believe that HMRC have discovered or are about to discover the dishonest conduct.
- (6) Otherwise, a disclosure is “prompted”.
- (7) In relation to disclosure or compliance, “quality” includes timing, nature and extent.