



# Finance Act 2014

## 2014 CHAPTER 26

### PART 4

#### FOLLOWER NOTICES AND ACCELERATED PAYMENTS

##### Modifications etc. (not altering text)

- C1** Pt. 4 applied (with modifications) by 1992 c. 7 (N.I.), s. 11A(1)(3) (as inserted (with effect in accordance with Sch. 1 para. 35 of the amending Act) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 1 para. 12](#))
- C2** Pt. 4 applied (with modifications) by 1992 c. 4, s. 11A(1)(3) (as inserted (with effect in accordance with Sch. 1 para. 35 of the amending Act) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 1 para. 3](#))
- C3** Pt. 4 modified (12.4.2015) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 2 Pt. 1](#) (with [Sch. 2 paras. 33, 35](#))
- C4** Pt. 4 applied (with modifications) by [Social Security Contributions and Benefits Act 1992 \(c. 4\)](#), [s. 16\(1\)\(d\)](#) (as inserted (12.4.2015) by [National Insurance Contributions Act 2015 \(c. 5\)](#), [Sch. 2 para. 32](#))
- C5** Pt. 4 applied (with modifications) (retrospective) by [1970 c. 9, s. 12ABZAA\(4\)](#) (as inserted (17.7.2014) by [2020 c. 14, s. 104\(1\)\(2\)](#) (with [s. 104\(3\)](#)))

### CHAPTER 1

#### INTRODUCTION

##### *Overview*

## 199 Overview of Part 4

In this Part—

- (a) sections 200 to 203 set out the main defined terms used in the Part,

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- (b) Chapter 2 makes provision for follower notices and for penalties if account is not taken of judicial rulings which lay down principles or give reasoning relevant to tax cases,
- (c) Chapter 3 makes—
  - (i) provision for accelerated payments to be made on account of tax,
  - (ii) provision restricting the circumstances in which payments of tax can be postponed pending an appeal,<sup>F1</sup>...
  - (iii) provision to enable a court to prevent repayment of tax, for the purpose of protecting the public revenue<sup>F2</sup>, and
  - (iv) provision restricting the surrender of losses and other amounts for the purposes of group relief.]
- (d) Chapter 4—
  - (i) makes special provision about the application of this Part in relation to stamp duty land tax and annual tax for enveloped dwellings,
  - (ii) confers a power to extend the provisions of this Part to other taxes, and
  - (iii) makes amendments consequential on this Part.

#### Textual Amendments

- F1** Word in s. 199(c)(ii) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 2](#)
- F2** S. 199(c)(iv) and preceding word inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 2](#)

### *Main definitions*

#### 200 “Relevant tax”

In this Part, “relevant tax” means—

- (a) income tax,
- (b) capital gains tax,
- (c) corporation tax, including any amount chargeable as if it were corporation tax or treated as if it were corporation tax,
- [<sup>F3</sup>(ca) apprenticeship levy,]
- (d) inheritance tax,
- (e) stamp duty land tax, and
- (f) annual tax on enveloped dwellings.

#### Textual Amendments

- F3** S. 200(ca) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [s. 104\(4\)](#) (with s. 117)

#### 201 “Tax advantage” and “tax arrangements”

- (1) This section applies for the purposes of this Part.
- (2) “Tax advantage” includes—
  - (a) relief or increased relief from tax,

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- (b) repayment or increased repayment of tax,
  - (c) avoidance or reduction of a charge to tax or an assessment to tax,
  - (d) avoidance of a possible assessment to tax,
  - (e) deferral of a payment of tax or advancement of a repayment of tax, and
  - (f) avoidance of an obligation to deduct or account for tax.
- (3) Arrangements are “tax arrangements” if, having regard to all the circumstances, it would be reasonable to conclude that the obtaining of a tax advantage was the main purpose, or one of the main purposes, of the arrangements.
- (4) “Arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

## 202 “Tax enquiry” and “return”

- (1) This section applies for the purposes of this Part.
- (2) “Tax enquiry” means—
- (a) an enquiry under section 9A or 12AC of TMA 1970 (enquiries into self-assessment returns for income tax and capital gains tax), including an enquiry by virtue of notice being deemed to be given under section 9A of that Act by virtue of section 12AC(6) of that Act,
  - (b) an enquiry under paragraph 5 of Schedule 1A to that Act (enquiry into claims made otherwise than by being included in a return),
  - (c) an enquiry under paragraph 24 of Schedule 18 to FA 1998 (enquiry into company tax return for corporation tax etc), including an enquiry by virtue of notice being deemed to be given under that paragraph by virtue of section 12AC(6) of TMA 1970,
  - (d) an enquiry under paragraph 12 of Schedule 10 to FA 2003 (enquiries into SDLT returns),
  - (e) an enquiry under paragraph 8 of Schedule 33 to FA 2013 (enquiries into annual tax for enveloped dwellings returns), or
  - (f) a deemed enquiry under subsection (6).
- (3) The period during which an enquiry is in progress—
- (a) begins with the day on which notice of enquiry is given, and
  - (b) ends with the day on which the enquiry is completed.
- (4) Subsection (3) is subject to subsection (6).
- (5) In the case of inheritance tax, each of the following is to be treated as a return—
- (a) an account delivered by a person under section 216 or 217 of IHTA 1984 (including an account delivered in accordance with regulations under section 256 of that Act);
  - (b) a statement or declaration which amends or is otherwise connected with such an account produced by the person who delivered the account;
  - (c) information or a document provided by a person in accordance with regulations under section 256 of that Act;
- and such a return is to be treated as made by the person in question.
- (6) An enquiry is deemed to be in progress, in relation to a return to which subsection (5) applies, during the period which—

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- (a) begins with the time the account is delivered or (as the case may be) the statement, declaration, information or document is produced, and
- (b) ends when the person is issued with a certificate of discharge under section 239 of that Act, or is discharged by virtue of section 256(1)(b) of that Act, in respect of the return (at which point the enquiry is to be treated as completed).

### 203 “Tax appeal”

In this Part “tax appeal” means—

- (a) an appeal under section 31 of TMA 1970 (income tax: appeals against amendments of self-assessment, amendments made by closure notices under section 28A or 28B of that Act, etc), including an appeal under that section by virtue of regulations under Part 11 of ITEPA 2003 (PAYE),
- (b) an appeal under paragraph 9 of Schedule 1A to TMA 1970 (income tax: appeals against amendments made by closure notices under paragraph 7(2) of that Schedule, etc),
- (c) an appeal under section 705 of ITA 2007 (income tax: appeals against counteraction notices),
- (d) an appeal under paragraph 34(3) or 48 of Schedule 18 to FA 1998 (corporation tax: appeals against amendment of a company's return made by closure notice, assessments other than self-assessments, etc),
- (e) an appeal under section 750 of CTA 2010 (corporation tax: appeals against counteraction notices),
- [<sup>F4</sup>(ea) an appeal under section 114 of FA 2016 (apprenticeship levy: appeal against an assessment),]
- (f) an appeal under section 222 of IHTA 1984 (appeals against HMRC determinations) other than an appeal made by a person against a determination in respect of a transfer of value at a time when a tax enquiry is in progress in respect of a return made by that person in respect of that transfer,
- (g) an appeal under paragraph 35 of Schedule 10 to FA 2003 (stamp duty land tax: appeals against amendment of self-assessment, discovery assessments, etc),
- (h) an appeal under paragraph 35 of Schedule 33 to FA 2013 (annual tax on enveloped dwellings: appeals against amendment of self-assessment, discovery assessments, etc), or
- (i) an appeal against any determination of—
  - (i) an appeal within paragraphs (a) to (h), or
  - (ii) an appeal within this paragraph.

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#### Textual Amendments

**F4** S. 203(ea) inserted (15.9.2016) by Finance Act 2016 (c. 24), s. 104(5) (with s. 117)

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## CHAPTER 2

### FOLLOWER NOTICES

#### *Giving of follower notices*

#### **204 Circumstances in which a follower notice may be given**

- (1) HMRC may give a notice (a “follower notice”) to a person (“P”) if Conditions A to D are met.
- (2) Condition A is that—
  - (a) a tax enquiry is in progress into a return or claim made by P in relation to a relevant tax, or
  - (b) P has made a tax appeal (by notifying HMRC or otherwise) in relation to a relevant tax, but that appeal has not yet been—
    - (i) determined by the tribunal or court to which it is addressed, or
    - (ii) abandoned or otherwise disposed of.
- (3) Condition B is that the return or claim or, as the case may be, appeal is made on the basis that a particular tax advantage (“the asserted advantage”) results from particular tax arrangements (“the chosen arrangements”).
- (4) Condition C is that HMRC is of the opinion that there is a judicial ruling which is relevant to the chosen arrangements.
- (5) Condition D is that no previous follower notice has been given to the same person (and not withdrawn) by reference to the same tax advantage, tax arrangements, judicial ruling and tax period.
- (6) A follower notice may not be given after the end of the period of 12 months beginning with the later of—
  - (a) the day on which the judicial ruling mentioned in Condition C is made, and
  - (b) the day the return or claim to which subsection (2)(a) refers was received by HMRC or (as the case may be) the day the tax appeal to which subsection (2)(b) refers was made.

#### **205 “Judicial ruling” and circumstances in which a ruling is “relevant”**

- (1) This section applies for the purposes of this Chapter.
- (2) “Judicial ruling” means a ruling of a court or tribunal on one or more issues.
- (3) A judicial ruling is “relevant” to the chosen arrangements if—
  - (a) it relates to tax arrangements,
  - (b) the principles laid down, or reasoning given, in the ruling would, if applied to the chosen arrangements, deny the asserted advantage or a part of that advantage, and
  - (c) it is a final ruling.
- (4) A judicial ruling is a “final ruling” if it is—
  - (a) a ruling of the Supreme Court, or
  - (b) a ruling of any other court or tribunal in circumstances where—

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- (i) no appeal may be made against the ruling,
  - (ii) if an appeal may be made against the ruling with permission, the time limit for applications has expired and either no application has been made or permission has been refused,
  - (iii) if such permission to appeal against the ruling has been granted or is not required, no appeal has been made within the time limit for appeals, or
  - (iv) if an appeal was made, it was abandoned or otherwise disposed of before it was determined by the court or tribunal to which it was addressed.
- (5) Where a judicial ruling is final by virtue of sub-paragraph (ii), (iii) or (iv) of subsection (4)(b), the ruling is treated as made at the time when the sub-paragraph in question is first satisfied.

## **206 Content of a follower notice**

A follower notice must—

- (a) identify the judicial ruling in respect of which Condition C in section 204 is met,
- (b) explain why HMRC considers that the ruling meets the requirements of section 205(3), and
- (c) explain the effects of sections 207 to 210.

### *Representations*

## **207 Representations about a follower notice**

- (1) Where a follower notice is given under section 204, P has 90 days beginning with the day that notice is given to send written representations to HMRC objecting to the notice on the grounds that—
- (a) Condition A, B or D in section 204 was not met,
  - (b) the judicial ruling specified in the notice is not one which is relevant to the chosen arrangements, or
  - (c) the notice was not given within the period specified in subsection (6) of that section.
- (2) HMRC must consider any representations made in accordance with subsection (1).
- (3) Having considered the representations, HMRC must determine whether to—
- (a) confirm the follower notice (with or without amendment), or
  - (b) withdraw the follower notice,
- and notify P accordingly.

### *Penalties*

## **208 Penalty if corrective action not taken in response to follower notice**

- (1) This section applies where a follower notice is given to P (and not withdrawn).

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- (2) P is liable to pay a penalty if the necessary corrective action is not taken in respect of the denied advantage (if any) before the specified time.
- (3) In this Chapter “the denied advantage” means so much of the asserted advantage (see section 204(3)) as is denied by the application of the principles laid down, or reasoning given, in the judicial ruling identified in the follower notice under section 206(a).
- (4) The necessary corrective action is taken in respect of the denied advantage if (and only if) P takes the steps set out in subsections (5) and (6).
- (5) The first step is that—
  - (a) in the case of a follower notice given by virtue of section 204(2)(a), P amends a return or claim to counteract the denied advantage;
  - (b) in the case of a follower notice given by virtue of section 204(2)(b), P takes all necessary action to enter into an agreement with HMRC (in writing) for the purpose of relinquishing the denied advantage.
- (6) The second step is that P notifies HMRC—
  - (a) that P has taken the first step, and
  - (b) of the denied advantage and (where different) the additional amount which has or will become due and payable in respect of tax by reason of the first step being taken.
- (7) In determining the additional amount which has or will become due and payable in respect of tax for the purposes of subsection (6)(b), it is to be assumed that, where P takes the necessary action as mentioned in subsection (5)(b), the agreement is then entered into.
- (8) In this Chapter—

“the specified time” means—

  - (a) if no representations objecting to the follower notice were made by P in accordance with subsection (1) of section 207, the end of the 90 day post-notice period;
  - (b) if such representations were made and the notice is confirmed under that section (with or without amendment), the later of—
    - (i) the end of the 90 day post-notice period, and
    - (ii) the end of the 30 day post-representations period;

“the 90 day post-notice period” means the period of 90 days beginning with the day on which the follower notice is given;

“the 30 day post-representations period” means the period of 30 days beginning with the day on which P is notified of HMRC's determination under section 207.
- (9) No enactment limiting the time during which amendments may be made to returns or claims operates to prevent P taking the first step mentioned in subsection (5)(a) before the tax enquiry is closed (whether or not before the specified time).
- (10) No appeal may be brought, by virtue of a provision mentioned in subsection (11), against an amendment made by a closure notice in respect of a tax enquiry to the extent that the amendment takes into account an amendment made by P to a return or claim in taking the first step mentioned in subsection (5)(a) (whether or not that amendment was made before the specified time).

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- (11) The provisions are—
- (a) section 31(1)(b) or (c) of TMA 1970,
  - (b) paragraph 9 of Schedule 1A to TMA 1970,
  - (c) paragraph 34(3) of Schedule 18 to FA 1998,
  - (d) paragraph 35(1)(b) of Schedule 10 to FA 2003, and
  - (e) paragraph 35(1)(b) of Schedule 33 to FA 2013.

### **[<sup>F5</sup>208A Additional penalty for unreasonable tax appeal**

- (1) In the case of a follower notice given by virtue of section 204(2)(a) in relation to a tax enquiry into a return or claim made by P, this section applies where—
  - (a) P makes a tax appeal addressed to the tribunal in relation to the return or claim, and
  - (b) P is assessed to a penalty under section 208.
- (2) In the case of a follower notice given by virtue of section 204(2)(b) in relation to a tax appeal made by P, this section applies where—
  - (a) the tax appeal is addressed to the tribunal, and
  - (b) P is assessed to a penalty under section 208.
- (3) P is liable to pay a penalty (in addition to the penalty under section 208) if P or P's representative is found to have acted unreasonably in bringing or conducting relevant proceedings.
- (4) For the purposes of subsection (3), P or P's representative is found to have acted unreasonably in bringing or conducting relevant proceedings if (and only if) subsection (5) or (6) applies.
- (5) This subsection applies if—
  - (a) the proceedings are struck out—
    - (i) because there is no reasonable prospect of P's case, or part of it, succeeding, or
    - (ii) because of something that P or P's representative has done (or not done),
  - (b) the appeal period has ended, and
  - (c) the proceedings have not been reinstated or (where the strike out was not automatic) the decision to strike out the proceedings has not been set aside or overturned on appeal.
- (6) This subsection applies if—
  - (a) on an application by HMRC, the tribunal to which the proceedings are addressed makes a declaration that P or P's representative acted unreasonably in bringing or conducting the proceedings,
  - (b) the appeal period has ended, and
  - (c) the decision to make the declaration has not been set aside or overturned on appeal.
- (7) The powers of the tribunal in relation to relevant proceedings are to be taken to include the power to make a declaration for the purposes of subsection (6)(a).



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- (8) For the purposes of this section, the following are “relevant proceedings” in relation to P—
- (a) where the whole of the proceedings on P's tax appeal relate to the chosen arrangements, the whole of those proceedings;
  - (b) where part only of the proceedings on P's tax appeal relates to the chosen arrangements, that part of those proceedings;
  - (c) proceedings before the Upper Tribunal on any further appeal by P in relation to relevant proceedings within paragraph (a) or (b) (where those proceedings were determined by the First-tier Tribunal).
- (9) For the purposes of subsection (8), P's tax appeal is the tax appeal mentioned in subsection (1)(a) or (2)(a) (as the case may be).
- (10) For the purposes of this section, “the appeal period” is—
- (a) the period during which an appeal could be brought against the striking out of the proceedings or, as the case may be, the decision to make the declaration under subsection (6)(a) (ignoring any possibility of an appeal out of time), or
  - (b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of.
- (11) For the purposes of subsection (10), an appeal includes an application to reinstate proceedings that have been struck out or for the tribunal to set aside its decision.
- (12) In this section, “tribunal” means the First-tier Tribunal or Upper Tribunal.]

#### Textual Amendments

- F5** S. 208A inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 28 para. 2](#)

### 209 Amount of a section 208 [<sup>F6</sup>or 208A] penalty

- (1) The penalty under section 208 is [<sup>F7</sup>30%] of the value of the denied advantage.
- [<sup>F8</sup>(1A) The penalty under section 208A is 20% of the value of the denied advantage.]
- (2) Schedule 30 contains provision about how the denied advantage is valued for the purposes of calculating penalties under this section.
- (3) Where P before the [<sup>F9</sup>relevant time] —
- (a) amends a return or claim to counteract part of the denied advantage only, or
  - (b) takes all necessary action to enter into an agreement with HMRC (in writing) for the purposes of relinquishing part of the denied advantage only,
- in subsections (1) [<sup>F10</sup>, (1A)] and (2) the references to the denied advantage are to be read as references to the remainder of the denied advantage.
- [<sup>F11</sup>(4) The “relevant time” means—
- (a) in the case of a penalty under section 208, the specified time;
  - (b) in the case of a penalty under section 208A, the day after the end of the appeal period.

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- (5) “The appeal period” has the same meaning for the purposes of this section as it has for the purposes of section 208A (see section 208A(10) and (11)).]

#### Textual Amendments

- F6** Words in s. 209 heading inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 3(2)**
- F7** Word in s. 209(1) substituted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 3(3)**
- F8** S. 209(1A) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 3(4)**
- F9** Words in s. 209(3) substituted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 3(5)(a)**
- F10** Words in s. 209(3) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 3(5)(b)**
- F11** S. 209(4)(5) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 3(6)**

## 210 Reduction of a section 208 penalty for co-operation

- (1) Where—
- (a) P is liable to pay a penalty under section 208 of the amount specified in section 209(1),
  - (b) the penalty has not yet been assessed, and
  - (c) P has co-operated with HMRC,
- HMRC may reduce the amount of that penalty to reflect the quality of that co-operation.
- (2) In relation to co-operation, “quality” includes timing, nature and extent.
- (3) P has co-operated with HMRC only if P has done one or more of the following—
- (a) provided reasonable assistance to HMRC in quantifying the tax advantage;
  - (b) counteracted the denied advantage;
  - (c) provided HMRC with information enabling corrective action to be taken by HMRC;
  - (d) provided HMRC with information enabling HMRC to enter an agreement with P for the purpose of counteracting the denied advantage;
  - (e) allowed HMRC to access tax records for the purpose of ensuring that the denied advantage is fully counteracted.
- (4) But nothing in this section permits HMRC to reduce a penalty to less than 10% of the value of the denied advantage.

## 211 Assessment of a section 208 penalty

- (1) Where a person is liable for a penalty under section 208, HMRC may assess the penalty.
- (2) Where HMRC assess the penalty, HMRC must—
- (a) notify the person who is liable for the penalty, and

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- (b) state in the notice a tax period in respect of which the penalty is assessed.
- (3) A penalty under section 208 must be paid before the end of the period of 30 days beginning with the day on which the person is notified of the penalty under subsection (2).
- (4) An assessment—
  - (a) is to be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for by this Chapter),
  - (b) may be enforced as if it were an assessment to tax, and
  - (c) may be combined with an assessment to tax.
- (5) No penalty under section 208 may be notified under subsection (2) later than—
  - (a) in the case of a follower notice given by virtue of section 204(2)(a) (tax enquiry in progress), the end of the period of 90 days beginning with the day the tax enquiry is completed, and
  - (b) in the case of a follower notice given by virtue of section 204(2)(b) (tax appeal pending), the end of the period of 90 days beginning with the earliest of—
    - (i) the day on which P takes the necessary corrective action (within the meaning of section 208(4)),
    - (ii) the day on which a ruling is made on the tax appeal by P, or any further appeal in that case, which is a final ruling (see section 205(4)), and
    - (iii) the day on which that appeal, or any further appeal, is abandoned or otherwise disposed of before it is determined by the court or tribunal to which it is addressed.
- (6) In this section a reference to an assessment to tax, in relation to inheritance tax, is to a determination.

#### [<sup>F12</sup>211A Assessment of a section 208A penalty

- (1) Where a person is liable for a penalty under section 208A, HMRC must—
  - (a) assess the penalty,
  - (b) notify the person who is liable for the penalty, and
  - (c) state in the notice a tax period in respect of which the penalty is assessed.
- (2) A penalty under section 208A must be paid before the end of the period of 30 days beginning with the day on which the person is notified of the penalty under subsection (1).
- (3) Subsection (4) of section 211 applies to an assessment under this section as it applies to an assessment under that section.
- (4) An assessment of a penalty under section 208A must be made before the end of the period of 90 days beginning with the day after the end of the appeal period.
- (5) “The appeal period” has the same meaning for the purposes of this section as it has for the purposes of section 208A (see section 208A(10) and (11)).]

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### Textual Amendments

**F12** S. 211A inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 28 para. 4](#)

## 212 Aggregate penalties

- (1) Subsection (2) applies where—
- (a) two or more penalties are incurred by the same person and fall to be determined by reference to an amount of tax to which that person is chargeable,
  - (b) one of those penalties is incurred under section 208, and
  - (c) one or more of the other penalties are incurred under a relevant penalty provision.
- (2) The aggregate of the amounts of the penalties mentioned in subsection (1)(b) and (c) [<sup>F13</sup>and any penalty under section 208A that is additional to the penalty mentioned in subsection (1)(b)], so far as determined by reference to that amount of tax, must not exceed—
- (a) the relevant percentage of that amount, or
  - (b) in a case where at least one of the penalties is under paragraph 5(2)(b) or 6(3)(b), (4)(b) or (5)(b) of Schedule 55 to FA 2009, £300 (if greater).
- (3) In the application of section 97A of TMA 1970 (multiple penalties), no account is to be taken of a penalty under section 208 [<sup>F14</sup>or 208A].
- (4) “Relevant penalty provision” means—
- (a) Schedule 24 to FA 2007 (penalties for errors),
  - (b) Schedule 41 to FA 2008 (penalties: failure to notify etc), <sup>F15</sup>...
  - (c) Schedule 55 to FA 2009 (penalties for failure to make returns etc)[<sup>F16</sup>, <sup>F17</sup>...
  - (d) Part 5 of Schedule 18 to FA 2016 (serial tax avoidance).][<sup>F18</sup>, or
  - (e) section 212A of FA 2013 (general anti-abuse rule).]
- (5) “The relevant percentage” means—
- (a) 200% in a case where at least one of the penalties is determined by reference to the percentage in—
    - (i) paragraph 4(4)(c) of Schedule 24 to FA 2007,
    - (ii) paragraph 6(4)(a) of Schedule 41 to FA 2008, or
    - (iii) paragraph 6(3A)(c) of Schedule 55 to FA 2009,
  - (b) 150% in a case where paragraph (a) does not apply and at least one of the penalties is determined by reference to the percentage in—
    - (i) paragraph 4(3)(c) of Schedule 24 to FA 2007,
    - (ii) paragraph 6(3)(a) of Schedule 41 to FA 2008, or
    - (iii) paragraph 6(3A)(b) of Schedule 55 to FA 2009,
  - <sup>F19</sup>(ba) 125% in a case where neither paragraph (a) nor paragraph (b) applies and at least one of the penalties is determined by reference to the percentage in—
    - (i) paragraph 4(2)(c) of Schedule 24 to FA 2007,
    - (ii) paragraph 6(2)(a) of Schedule 41 to FA 2008, or
    - (iii) paragraph 6(3A)(a) of Schedule 55 to FA 2009,]

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- (c) 140% in a case where [<sup>F20</sup>none of paragraphs (a) to (ba) applies] and at least one the penalties is determined by reference to the percentage in—
  - (i) paragraph 4(4)(b) of Schedule 24 to FA 2007,
  - (ii) paragraph 6(4)(b) of Schedule 41 to FA 2008,
  - (iii) paragraph 6(4A)(c) of Schedule 55 to FA 2009,
- (d) 105% in a case where [<sup>F21</sup>none of paragraphs (a) to (c) applies] and at least one of the penalties is determined by reference to the percentage in—
  - (i) paragraph 4(3)(b) of Schedule 24 to FA 2007,
  - (ii) paragraph 6(3)(b) of Schedule 41 to FA 2008,
  - (iii) paragraph 6(4A)(b) of Schedule 55 to FA 2009, and
- (e) in any other case, 100%.

#### Textual Amendments

- F13** Words in s. 212(2) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 5(2)**
- F14** Words in s. 212(3) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), **Sch. 28 para. 5(3)**
- F15** Word in s. 212(4)(b) omitted (with effect in accordance with Sch. 18 para. 63 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 18 para. 60(a)**
- F16** S. 212(4)(d) and preceding word inserted (with effect in accordance with Sch. 18 para. 63 of the amending Act) by Finance Act 2016 (c. 24), **Sch. 18 para. 60(b)**
- F17** Word in s. 212(4)(c) omitted (with effect in accordance with s. 158(15) of the amending Act) by virtue of Finance Act 2016 (c. 24), **s. 158(11)(a)**
- F18** S. 212(4)(e) and preceding word inserted (with effect in accordance with s. 158(15) of the amending Act) by Finance Act 2016 (c. 24), **s. 158(11)(b)**
- F19** S. 212(5)(ba) inserted by 2015 c. 11, Sch. 20 para. 21(2) (as inserted by Finance Act 2021 (c. 26), **Sch. 28 para. 14**)
- F20** Words in s. 212(5)(c) substituted (10.6.2021) by 2015 c. 11, Sch. 20 para. 21(3) (as inserted by Finance Act 2021 (c. 26), **Sch. 28 para. 14**)
- F21** Words in s. 212(5)(d) substituted (10.6.2021) by 2015 c. 11, Sch. 20 para. 21(4) (as inserted by Finance Act 2021 (c. 26), **Sch. 28 para. 14**)

#### 213 Alteration of assessment of a section 208 [<sup>F22</sup>or 208A] penalty

- (1) After notification of an assessment has been given to a person under section 211(2) [<sup>F23</sup>or 211A(1)], the assessment may not be altered except in accordance with this section or on appeal.
- (2) A supplementary assessment may be made in respect of a penalty if an earlier assessment operated by reference to an underestimate of the value of the denied advantage.
- (3) An assessment or supplementary assessment may be revised as necessary if it operated by reference to an overestimate of the denied advantage; and, where more than the resulting assessed penalty has already been paid by the person to HMRC, the excess must be repaid.

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### Textual Amendments

- F22** Words in s. 213 heading inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), Sch. 28 para. 6(2)
- F23** Words in s. 213(1) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by Finance Act 2021 (c. 26), Sch. 28 para. 6(3)

## 214 Appeal against a section 208 penalty

- (1) P may appeal against a decision of HMRC that a penalty is payable by P under section 208.
- (2) P may appeal against a decision of HMRC as to the amount of a penalty payable by P under section 208.
- (3) The grounds on which an appeal under subsection (1) may be made include in particular—
  - (a) that Condition A, B or D in section 204 was not met in relation to the follower notice,
  - (b) that the judicial ruling specified in the notice is not one which is relevant to the chosen arrangements,
  - (c) that the notice was not given within the period specified in subsection (6) of that section, or
  - (d) that it was reasonable in all the circumstances for P not to have taken the necessary corrective action (see section 208(4)) in respect of the denied advantage.
- (4) An appeal under this section must be made within the period of 30 days beginning with the day on which notification of the penalty is given under section 211.
- (5) An appeal under this section is to be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC's review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).
- (6) Subsection (5) does not apply—
  - (a) so as to require a person to pay a penalty before an appeal against the assessment of the penalty is determined, or
  - (b) in respect of any other matter expressly provided for by this Part.
- (7) In this section a reference to an assessment to tax, in relation to inheritance tax, is to a determination.
- (8) On an appeal under subsection (1), the tribunal may affirm or cancel HMRC's decision.
- [<sup>F24</sup>(8A) If the tribunal cancels a decision of HMRC that a penalty is payable by P under section 208, any penalty additional to that penalty to which P is liable under section 208A is also cancelled.]
- (9) On an appeal under subsection (2), the tribunal may—
  - (a) affirm HMRC's decision, or
  - (b) substitute for HMRC's decision another decision that HMRC had power to make.

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- (10) The cancellation under subsection (8) of HMRC's decision on the ground specified in subsection (3)(d) does not affect the validity of the follower notice, or of any accelerated payment notice or partner payment notice under Chapter 3 related to the follower notice.
- (11) In this section “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of subsection (5)).

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**Textual Amendments**

**F24** S. 214(8A) inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 28 para. 7](#)

**[<sup>F25</sup>214A Appeal against a section 208A penalty**

- (1) P may appeal against a decision of HMRC that a penalty is payable by P under section 208A.
- (2) P may appeal against a decision of HMRC as to the amount of a penalty payable by P under section 208A.
- (3) An appeal under subsection (1) may be made only on one or more of the following grounds—
- (a) that section 208A did not apply when the decision was made or no longer applies;
  - (b) that the condition in section 208A(3) was not met when the decision was made or is no longer met;
  - (c) that the penalty was not assessed before the end of the period mentioned in section 211A(4).
- (4) An appeal under this section must be made within the period of 30 days beginning with the day on which notification of the penalty is given under section 211A.
- (5) On an appeal under subsection (1), the tribunal may affirm or cancel HMRC's decision.
- (6) On an appeal under subsection (2), the tribunal may—
- (a) affirm HMRC's decision, or
  - (b) substitute for HMRC's decision another decision that HMRC had power to make.
- (7) Subsections (5) to (7) of section 214 apply to an appeal under this section as they apply to an appeal under that section.
- (8) In this section “tribunal” has the meaning it has for the purposes of section 214 (see section 214(5) and (11)).]

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**Textual Amendments**

**F25** S. 214A inserted (with effect in accordance with Sch. 28 para. 15 of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 28 para. 8](#)

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### *Partners and partnerships*

#### **215 Follower notices: treatment of partners and partnerships**

Schedule 31 makes provision about the application of this Chapter in relation to partners and partnerships.

#### *Appeals out of time*

#### **216 Late appeal against final judicial ruling**

- (1) This section applies where a final judicial ruling (“the original ruling”) is the subject of an appeal by reason of a court or tribunal granting leave to appeal out of time.
- (2) If a follower notice has been given identifying the original ruling under section 206(a), the notice is suspended until such time as HMRC notify P that—
  - (a) the appeal has resulted in a judicial ruling which is a final ruling, or
  - (b) the appeal has been abandoned or otherwise disposed of (before it was determined).
- (3) Accordingly the period during which the notice is suspended does not count towards the periods mentioned in section 208(8).
- (4) When a follower notice is suspended under subsection (2), HMRC must notify P as soon as reasonably practicable.
- (5) If the new final ruling resulting from the appeal is not a judicial ruling which is relevant to the chosen arrangements (see section 205), the follower notice ceases to have effect at the end of the period of suspension.
- (6) In any other case, the follower notice continues to have effect after the end of the period of suspension and, in a case within subsection (2)(a), is treated as if it were in respect of the new final ruling resulting from the appeal.
- (7) The notice given under subsection (2) must—
  - (a) state whether subsection (5) or (6) applies, and
  - (b) where subsection (6) applies in a case within subsection (2)(a), make any amendments to the follower notice required to reflect the new final ruling.
- (8) No new follower notice may be given in respect of the original ruling unless the appeal has been abandoned or otherwise disposed of before it is determined by the court or tribunal to which it is addressed.
- (9) Nothing in this section prevents a follower notice being given in respect of a new final ruling resulting from the appeal.
- (10) Where the appeal is abandoned or otherwise disposed of before it is determined by the court or tribunal to which it is addressed, for the purposes of the original ruling the period beginning when leave to appeal out of time was granted, and ending when the appeal is disposed of, does not count towards the period of 12 months mentioned in section 204(6).



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### *Transitional provision*

#### **217 Transitional provision**

(1) In the case of judicial rulings made before the day on which this Act is passed, this Chapter has effect as if for section 204(6) there were substituted—

“(6) A follower notice may not be given after—

- (a) the end of the period of 24 months beginning with the day on which this Act is passed, or
- (b) the end of the period of 12 months beginning with the day the return or claim to which subsection (2)(a) refers was received by HMRC or (as the case may be) with the day the tax appeal to which subsection (2)(b) refers was made,

whichever is later.”

(2) Accordingly, the reference in section 216(10) to the period of 12 months includes a reference to the period of 24 months mentioned in the version of section 204(6) set out in subsection (1) above.

### *Defined terms*

#### **218 Defined terms used in Chapter 2**

For the purposes of this Chapter—

- “arrangements” has the meaning given by section 201(4);
- “the asserted advantage” has the meaning given by section 204(3);
- “the chosen arrangements” has the meaning given by section 204(3);
- “the denied advantage” has the meaning given by section 208(3);
- “follower notice” has the meaning given by section 204(1);
- “HMRC” means Her Majesty's Revenue and Customs;
- “judicial ruling”, and “relevant” in relation to a judicial ruling and the chosen arrangements, have the meaning given by section 205;
- “relevant tax” has the meaning given by section 200;
- “the specified time” has the meaning given by section 208(8);
- “tax advantage” has the meaning given by section 201(2);
- “tax appeal” has the meaning given by section 203;
- “tax arrangements” has the meaning given by section 201(3);
- “tax enquiry” has the meaning given by section 202(2);
- “tax period” means a tax year, accounting period or other period in respect of which tax is charged;
- “P” has the meaning given by section 204(1);
- “the 30 day post-representations period” has the meaning given by section 208(8);
- “the 90 day post-notice period” has the meaning given by section 208(8).

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## CHAPTER 3

### ACCELERATED PAYMENT

#### *Accelerated payment notices*

#### **219 Circumstances in which an accelerated payment notice may be given**

- (1) HMRC may give a notice (an “accelerated payment notice”) to a person (“P”) if Conditions A to C are met.
- (2) Condition A is that—
  - (a) a tax enquiry is in progress into a return or claim made by P in relation to a relevant tax, or
  - (b) P has made a tax appeal (by notifying HMRC or otherwise) in relation to a relevant tax but that appeal has not yet been—
    - (i) determined by the tribunal or court to which it is addressed, or
    - (ii) abandoned or otherwise disposed of.
- (3) Condition B is that the return or claim or, as the case may be, appeal is made on the basis that a particular tax advantage (“the asserted advantage”) results from particular arrangements (“the chosen arrangements”).
- (4) Condition C is that one or more of the following requirements are met—
  - (a) HMRC has given (or, at the same time as giving the accelerated payment notice, gives) P a follower notice under Chapter 2—
    - (i) in relation to the same return or claim or, as the case may be, appeal, and
    - (ii) by reason of the same tax advantage and the chosen arrangements;
  - (b) the chosen arrangements are DOTAS arrangements;
  - (c) a GAAR counteraction notice has been given in relation to the asserted advantage or part of it and the chosen arrangements (or is so given at the same time as the accelerated payment notice) in a case where the stated opinion of at least two of the members of the sub-panel of the GAAR Advisory Panel which considered the matter under paragraph 10 of Schedule 43 to FA 2013 was as set out in paragraph 11(3)(b) of that Schedule (entering into tax arrangements not reasonable course of action etc).
  - <sup>F26</sup>(d) a notice has been given under paragraph 8(2) or 9(2) of Schedule 43A to FA 2013 (notice of final decision after considering Panel's opinion about referred or counteracted arrangements) in relation to the asserted advantage or part of it and the chosen arrangements (or is so given at the same time as the accelerated payment notice) in a case where the stated opinion of at least two of the members of the sub-panel of the GAAR Advisory Panel about the other arrangements (see subsection (8)) was as set out in paragraph 11(3)(b) of Schedule 43 to FA 2013;
  - (e) a notice under paragraph 8(2) of Schedule 43B to FA 2013 (GAAR: generic referral of tax arrangements) has been given in relation to the asserted advantage or part of it and the chosen arrangements (or is so given at the same time as the accelerated payment notice) in a case where the stated opinion of at least two of the members of the sub-panel of the GAAR Advisory Panel which considered the generic referral in respect of those arrangements under

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paragraph 6 of Schedule 43B to FA 2013 was as set out in paragraph 6(4)(b) of that Schedule.]

- (5) “DOTAS arrangements” means—
- (a) <sup>F27</sup>... arrangements to which HMRC has allocated a reference number under section 311 of FA 2004,
  - (b) <sup>F28</sup>... arrangements implementing a <sup>F28</sup>... proposal where HMRC has allocated a reference number under that section to the proposed <sup>F28</sup>... arrangements, or
  - (c) arrangements in respect of which [<sup>F29</sup>a person] must provide prescribed information under section 312(2) [<sup>F30</sup>or 312ZA(2)] of that Act by reason of the arrangements being substantially the same as <sup>F31</sup>... arrangements within paragraph (a) or (b).
- (6) But the <sup>F32</sup>... arrangements within subsection (5) do not include arrangements in relation to which HMRC has given notice under section 312(6) [<sup>F33</sup>or 312ZA(4)] of FA 2004 (notice that [<sup>F34</sup>persons] not under duty imposed to notify client of reference number).
- (7) “GAAR counteraction notice” means a notice under paragraph 12 of Schedule 43 to FA 2013 (notice of final decision to counteract under the general anti-abuse rule).
- [<sup>F35</sup>(8) In subsection (4)(d) “other arrangements” means—
- (a) in relation to a notice under paragraph 8(2) of Schedule 43A to FA 2013, the referred arrangements (as defined in that paragraph);
  - (b) in relation to a notice under paragraph 9(2) of that Schedule, the counteracted arrangements (as defined in paragraph 2 of that Schedule).]

#### Textual Amendments

- F26** S. 219(4)(d)(e) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(19\)](#)
- F27** Word in s. 219(5)(a) omitted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(a\), 44](#)
- F28** Word in s. 219(5)(b) omitted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(b\), 44](#)
- F29** Words in s. 219(5)(c) substituted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(c\)\(i\), 44](#)
- F30** Words in s. 219(5)(c) inserted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(c\)\(ii\), 44](#)
- F31** Word in s. 219(5)(c) omitted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(c\)\(iii\), 44](#)
- F32** Word in s. 219(6) omitted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(d\)\(i\), 44](#)
- F33** Words in s. 219(6) inserted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(d\)\(ii\), 44](#)
- F34** Word in s. 219(6) substituted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 31 paras. 43\(2\)\(d\)\(iii\), 44](#)
- F35** S. 219(8) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(20\)](#)

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## 220 Content of notice given while a tax enquiry is in progress

(1) This section applies where an accelerated payment notice is given by virtue of section 219(2)(a) (notice given while a tax enquiry is in progress).

(2) The notice must—

- (a) specify the paragraph or paragraphs of section 219(4) by virtue of which the notice is given,
- (b) specify the payment [<sup>F36</sup>(if any)] required to be made under section 223 and the requirements of that section, <sup>F37</sup>...
- (c) explain the effect of sections 222 and 226, and of the amendments made by sections 224 and 225 (so far as relating to the relevant tax in relation to which the accelerated payment notice is given)<sup>F38</sup>, and
- (d) if the denied advantage consists of or includes an asserted surrenderable amount, specify that amount and any action which is required to be taken in respect of it under section 225A.]

(3) The payment required to be made under section 223 is an amount equal to the amount which a designated HMRC officer determines, to the best of that officer's information and belief, as the understated tax [<sup>F39</sup>(and disregarding any dispute which has been referred to a tribunal under section 12ABZB(3) of TMA 1970 but not yet determined)].

(4) “The understated tax” means the additional amount that would be due and payable in respect of tax if—

- (a) in the case of a notice given by virtue of section 219(4)(a) (cases where a follower notice is given)—
  - (i) it were assumed that the explanation given in the follower notice in question under section 206(b) is correct, and
  - (ii) the necessary corrective action were taken under section 208 in respect of what the designated HMRC officer determines, to the best of that officer's information and belief, as the denied advantage;
- (b) in the case of a notice given by virtue of section 219(4)(b) (cases where the DOTAS requirements are met), such adjustments were made as are required to counteract what the designated HMRC officer determines, to the best of that officer's information and belief, as the denied advantage;
- (c) in the case of a notice given by virtue of section 219(4)(c)<sup>F40</sup>, (d) or (e)] (cases involving counteraction under the general anti-abuse rule), such of the adjustments set out in the GAAR counteraction notice as have effect to counteract the denied advantage were made.

<sup>F41</sup>(4A) “Asserted surrenderable amount” means so much of a surrenderable loss as a designated HMRC officer determines, to the best of that officer's information and belief, to be an amount—

- (a) which would not be a surrenderable loss of P if the position were as stated in paragraphs (a), (b) or (c) of subsection (4), and
- (b) which is not the subject of a claim by P for relief from corporation tax reflected in the understated tax amount (and hence in the payment required to be made under section 223).

(4B) “Surrenderable loss” means a loss or other amount within section 99(1) of CTA 2010 (or part of such a loss or other amount).]

(5) “The denied advantage”—

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- (a) in the case of a notice given by virtue of section 219(4)(a), has the meaning given by section 208(3),
  - (b) in the case of a notice given by virtue of section 219(4)(b), means so much of the asserted advantage as is not a tax advantage which results from the chosen arrangements or otherwise, and
  - (c) in the case of a notice given by virtue of section 219(4)(c)<sup>F42</sup>, (d) or (e)] , means so much of the asserted advantage as would be counteracted by making the adjustments set out in the GAAR counteraction notice.
- (6) If a notice is given by reason of two or all of the requirements in section 219(4) being met, [<sup>F43</sup>any payment specified under subsection (2)(b) or amount specified under subsection (2)(d)] is to be determined as if the notice were given by virtue of such one of them as is stated in the notice as being used for this purpose.
- (7) “The GAAR counteraction notice” means the notice [<sup>F44</sup>under—
- (a) paragraph 12 of Schedule 43 to FA 2013,
  - (b) paragraph 8 or 9 of Schedule 43A to that Act, or
  - (c) paragraph 8 of Schedule 43B to that Act,
- as the case may be.]

#### Textual Amendments

- F36** Words in s. 220(2)(b) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 3\(2\)\(a\)](#)
- F37** Word in s. 220(2)(b) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 3\(2\)\(b\)](#)
- F38** S. 220(2)(d) and preceding word inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 3\(2\)\(b\)](#)
- F39** Words in s. 220(3) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 6 para. 13\(2\)](#)
- F40** Words in s. 220(4)(c) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 157\(21\)\(a\)](#)
- F41** S. 220(4A)(4B) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 3\(3\)](#)
- F42** Words in s. 220(5)(c) inserted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 157\(21\)\(b\)](#)
- F43** Words in s. 220(6) substituted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 3\(4\)](#)
- F44** Words in s. 220(7) substituted (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 157\(21\)\(c\)](#)

## 221 Content of notice given pending an appeal

- (1) This section applies where an accelerated payment notice is given by virtue of section 219(2)(b) (notice given pending an appeal).
- (2) The notice must—
- (a) specify the paragraph or paragraphs of section 219(4) by virtue of which the notice is given,
  - (b) specify the disputed tax [<sup>F45</sup>(if any)], <sup>F46</sup>...
  - (c) explain the effect of section 222 and of the amendments made by sections 224 and 225 so far as relating to the relevant tax in relation to which the accelerated payment notice is given<sup>F47</sup>, and

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- (d) if the denied advantage consists of or includes an asserted surrenderable amount (within the meaning of section 220(4A)), specify that amount and any action which is required to be taken in respect of it under section 225A.]
- (3) “The disputed tax” means so much of the amount of the charge to tax arising in consequence of—
- (a) the amendment or assessment to tax appealed against, or
  - (b) where the appeal is against a conclusion stated by a closure notice, that conclusion,
- as a designated HMRC officer determines, to the best of the officer's information and belief, as the amount required to ensure the counteraction of what that officer so determines as the denied advantage [<sup>F48</sup>(and disregarding any dispute which has been referred to a tribunal under section 12ABZB(3) of TMA 1970 but not yet determined)].
- (4) “The denied advantage” has the same meaning as in section 220(5).
- (5) If a notice is given by reason of two or all of the requirements in section 219(4) being met, the denied advantage is to be determined as if the notice were given by virtue of such one of them as is stated in the notice as being used for this purpose.
- (6) In this section a reference to an assessment to tax, in relation to inheritance tax, is to a determination.

#### Textual Amendments

- F45** Words in s. 221(2)(b) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 4\(2\)\(a\)](#)
- F46** Word in s. 221(2)(b) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 4\(2\)\(b\)](#)
- F47** S. 221(2)(d) and preceding word inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 4\(2\)\(b\)](#)
- F48** Words in s. 221(3) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 6 para. 13\(2\)](#)

## 222 Representations about a notice

- (1) This section applies where an accelerated payment notice has been given under section 219 (and not withdrawn).
- (2) P has 90 days beginning with the day that notice is given to send written representations to HMRC—
- (a) objecting to the notice on the grounds that Condition A, B or C in section 219 was not met, <sup>F49</sup>...
  - (b) objecting to the amount specified in the notice under section 220(2)(b) or section 221(2)(b) [<sup>F50</sup>, or
  - (c) objecting to the amount specified in the notice under section 220(2)(d) or section 221(2)(d).]
- (3) HMRC must consider any representations made in accordance with subsection (2).
- (4) Having considered the representations, HMRC must—
- (a) if representations were made under subsection (2)(a), determine whether—
    - (i) to confirm the accelerated payment notice (with or without amendment), or

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- (ii) to withdraw the accelerated payment notice, <sup>F51</sup>...
  - (b) if representations were made under subsection (2)(b) (and the notice is not withdrawn under paragraph (a)), determine whether a different amount [<sup>F52</sup>(or no amount)] ought to have been specified under section 220(2)(b) or section 221(2)(b), and then—
    - (i) confirm the amount specified in the notice, <sup>F53</sup>...
    - (ii) amend the notice to specify a different amount [<sup>F54</sup>, or
  - (iii) remove from the notice the provision made under section 220(2)(b) or section 221(2)(b), and]
  - <sup>F55</sup>(c) if representations were made under subsection (2)(c) (and the notice is not withdrawn under paragraph (a)), determine whether a different amount (or no amount) ought to have been specified under section 220(2)(d) or 221(2)(d), and then—
    - (i) confirm the amount specified in the notice,
    - (ii) amend the notice to specify a different amount, or
    - (iii) remove from the notice the provision made under section 220(2)(d) or section 221(2)(d),]
- and notify P accordingly.

#### Textual Amendments

- F49** Word in s. 222(2)(a) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(2\)](#)
- F50** S. 222(2)(c) and preceding word inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(2\)](#)
- F51** Word in s. 222(4)(a) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(3\)\(a\)](#)
- F52** Words in s. 222(4)(b) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(3\)\(b\)](#)
- F53** Word in s. 222(4)(b) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(3\)\(c\)](#)
- F54** S. 222(4)(b)(iii) and preceding word inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(3\)\(c\)](#)
- F55** S. 222(4)(c) inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 5\(3\)\(c\)](#)

#### Forms of accelerated payment

### 223 Effect of notice given while tax enquiry is in progress<sup>F56</sup>: accelerated payment]

- <sup>F57</sup>(1) This section applies where—
  - (a) an accelerated payment notice is given by virtue of section 219(2)(a) (notice given while a tax enquiry is in progress) (and not withdrawn), and
  - (b) an amount is stated in the notice in accordance with section 220(2)(b).]
- (2) P must make a payment (“the accelerated payment”) to HMRC of [<sup>F58</sup>that amount].
- (3) The accelerated payment is to be treated as a payment on account of the understated tax (see section 220).
- (4) The accelerated payment must be made before the end of the payment period.
- (5) “The payment period” means—
  - (a) if P made no representations under section 222, the period of 90 days beginning with the day on which the accelerated payment notice is given, and

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- (b) if P made such representations, whichever of the following periods ends later—
- (i) the 90 day period mentioned in paragraph (a);
  - (ii) the period of 30 days beginning with the day on which P is notified under section 222 of HMRC's determination.
- (6) But where the understated tax would be payable by instalments by virtue of an election made under section 227 of IHTA 1984, to the extent that the accelerated payment relates to tax payable by an instalment which falls to be paid at a time after the payment period, the accelerated payment must be made no later than that time.
- (7) If P pays any part of the understated tax before the accelerated payment in respect of it, the accelerated payment is treated to that extent as having been paid at the same time.
- (8) Any tax enactment which relates to the recovery of a relevant tax applies to an amount to be paid on account of the relevant tax under this section in the same manner as it applies to an amount of the relevant tax.
- (9) “Tax enactment” means provisions of or made under—
- (a) the Tax Acts,
  - (b) any enactment relating to capital gains tax,
  - (c) IHTA 1984 or any other enactment relating to inheritance tax,
  - (d) Part 4 of FA 2003 or any other enactment relating to stamp duty land tax, or
  - (e) Part 3 of FA 2013 or any other enactment relating to annual tax on enveloped dwellings.

#### Textual Amendments

- F56** Words in s. 223 heading inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 6\(4\)](#)
- F57** S. 223(1) substituted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 6\(2\)](#)
- F58** Words in s. 223(2) substituted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 6\(3\)](#)

## 224 Restriction on powers to postpone tax payments pending initial appeal

- (1) In section 55 of TMA 1970 (recovery of tax not postponed), after subsection (8A) insert—
- “(8B) Subsections (8C) and (8D) apply where a person has been given an accelerated payment notice or partner payment notice under Chapter 3 of Part 4 of the Finance Act 2014 and that notice has not been withdrawn.
- (8C) Nothing in this section enables the postponement of the payment of (as the case may be)—
- (a) the understated tax to which the payment specified in the notice under section 220(2)(b) of that Act relates,
  - (b) the disputed tax specified in the notice under section 221(2)(b) of that Act, or
  - (c) the understated partner tax to which the payment specified in the notice under paragraph 4(1)(b) of Schedule 32 to that Act relates.
- (8D) Accordingly, if the payment of an amount of tax within subsection (8C)(b) is postponed by virtue of this section immediately before the accelerated



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payment notice is given, it ceases to be so postponed with effect from the time that notice is given, and the tax is due and payable—

- (a) if no representations were made under section 222 of that Act in respect of the notice, on or before the last day of the period of 90 days beginning with the day the notice or partner payment notice is given, and
- (b) if representations were so made, on or before whichever is later of—
  - (i) the last day of the 90 day period mentioned in paragraph (a), and
  - (ii) the last day of the period of 30 days beginning with the day on which HMRC's determination in respect of those representations is notified under section 222 of that Act.”

(2) In section 242 of IHTA 1984 (recovery of tax), after subsection (3) insert—

- “(4) Where a person has been given an accelerated payment notice under Chapter 3 of Part 4 of the Finance Act 2014 and that notice has not been withdrawn, nothing in this section prevents legal proceedings being taken for the recovery of (as the case may be)—
- (a) the understated tax to which the payment specified in the notice under section 220(2)(b) of that Act relates, or
  - (b) the disputed tax specified in the notice under section 221(2)(b) of that Act.”

(3) In Schedule 10 to FA 2003 (SDLT: returns, enquiries, assessments and appeals), in paragraph 39 (direction by the tribunal to postpone payment), after sub-paragraph (8) insert—

“(9) Sub-paragraphs (10) and (11) apply where a person has been given an accelerated payment notice under Chapter 3 of Part 4 of the Finance Act 2014 and that notice has not been withdrawn.

(10) Nothing in this paragraph enables the postponement of the payment of (as the case may be)—

- (a) the understated tax to which the payment specified in the notice under section 220(2)(b) of that Act relates, or
- (b) the disputed tax specified in the notice under section 221(2)(b) of that Act.

(11) Accordingly, if the payment of an amount of tax within sub-paragraph (10) (b) is postponed by virtue of this paragraph immediately before the accelerated payment notice is given, it ceases to be so postponed with effect from the time that notice is given, and the tax is due and payable—

- (a) if no representations were made under section 222 of that Act in respect of the notice, on or before the last day of the period of 90 days beginning with the day the notice is given, and
- (b) if representations were so made, on or before whichever is later of—
  - (i) the last day of the 90 day period mentioned in paragraph (a), and
  - (ii) the last day of the period of 30 days beginning with the day on which HMRC's determination in respect of those representations is notified under section 222 of that Act.”

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- (4) In paragraph 40 of that Schedule (agreement to postpone payment of tax), after sub-paragraph (3) insert—

“(4) Sub-paragraphs (9) to (11) of paragraph 39 apply for the purposes of this paragraph as they apply for the purposes of paragraph 39.”

- (5) In Schedule 33 to FA 2013 (annual tax on enveloped dwellings: returns, enquiries, assessments and appeals), in paragraph 48 (application for payment of tax to be postponed), after sub-paragraph (8) insert—

“(8A) Sub-paragraphs (8B) and (8C) apply where a person has been given an accelerated payment notice under Chapter 3 of Part 4 of FA 2014 and that notice has not been withdrawn.

(8B) Nothing in this paragraph enables the postponement of the payment of (as the case may be)—

- (a) the understated tax to which the payment specified in the notice under section 220(2)(b) of that Act relates, or
- (b) the disputed tax specified in the notice under section 221(2)(b) of that Act.

(8C) Accordingly, if the payment of an amount of tax within sub-paragraph (8B) (b) is postponed by virtue of this paragraph immediately before the accelerated payment notice is given, it ceases to be so postponed with effect from the time that notice is given, and the tax is due and payable—

- (a) if no representations were made under section 222 of that Act in respect of the notice, on or before the last day of the period of 90 days beginning with the day the notice is given, and
- (b) if representations were so made, on or before whichever is later of—
  - (i) the last day of the 90 day period mentioned in paragraph (a), and
  - (ii) the last day of the period of 30 days beginning with the day on which HMRC's determination in respect of those representations is notified under section 222 of that Act.”

- (6) In paragraph 49 of that Schedule (agreement to postpone payment of tax), after sub-paragraph (3) insert—

“(4) Sub-paragraphs (8A) to (8C) of paragraph 48 apply for the purposes of this paragraph as they apply for the purposes of paragraph 48.”

## 225 Protection of the revenue pending further appeals

- (1) In section 56 of TMA 1970 (payment of tax where there is a further appeal), after subsection (3) insert—

“(4) Subsection (5) applies where—

- (a) an accelerated payment notice or partner payment notice has been given to a party to the appeal under Chapter 3 of Part 4 of the Finance Act 2014 (and not withdrawn), and

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- (b) the assessment has effect, or partly has effect, to counteract the whole or part of the asserted advantage (within the meaning of section 219(3) of that Act) by reason of which the notice was given.
  - (5) If, on the application of HMRC, the relevant court or tribunal considers it necessary for the protection of the revenue, it may direct that subsection (2) does not apply so far as the tax relates to the counteraction of the whole or part of the asserted advantage, and—
    - (a) give permission to withhold all or part of any repayment, or
    - (b) require the provision of adequate security before repayment is made.
  - (6) “Relevant court or tribunal” means the tribunal or court from which permission or leave to appeal is sought.”
- (2) In Schedule 10 to FA 2003 (SDLT: returns, enquiries, assessments and appeals), in paragraph 43 (payment of stamp duty land tax where there is a further appeal), after sub-paragraph (2) insert—
  - “(3) Sub-paragraph (4) applies where—
    - (a) an accelerated payment notice has been given to a party to the appeal under Chapter 3 of Part 4 of the Finance Act 2014 (and not withdrawn), and
    - (b) the assessment to which the appeal relates has effect, or partly has effect, to counteract the whole or part of the asserted advantage (within the meaning of section 219(3) of that Act) by reason of which the notice was given.
  - (4) If, on the application of HMRC, the relevant court or tribunal considers it necessary for the protection of the revenue, it may direct that sub-paragraph (1) does not apply so far as the stamp duty land tax relates to the counteraction of the whole or part of the asserted advantage, and—
    - (a) give permission to withhold all or part of any repayment, or
    - (b) require the provision of adequate security before repayment is made.
  - (5) “Relevant court or tribunal” means the tribunal or court from which permission or leave to appeal is sought.”
- (3) In Schedule 33 to FA 2013 (annual tax on enveloped dwellings: returns, enquiries, assessments and appeals), in paragraph 53 (payment of tax where there is a further appeal), after sub-paragraph (2) insert—
  - “(3) Sub-paragraph (4) applies where—
    - (a) an accelerated payment notice has been given to a party to the appeal under Chapter 3 of Part 4 of FA 2014 (and not withdrawn), and
    - (b) the assessment to which the appeal relates has effect, or partly has effect, to counteract the whole or part of the asserted advantage (within the meaning of section 219(3) of that Act) by reason of which the notice was given.
  - (4) If, on the application of HMRC, the relevant court or tribunal considers it necessary for the protection of the revenue, it may direct that sub-

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paragraph (1) does not apply so far as the tax relates to the counteraction of the whole or part of the asserted advantage, and—

- (a) give permission to withhold all or part of any repayment, or
  - (b) require the provision of adequate security before repayment is made.
- (5) “Relevant court or tribunal” means the tribunal or court from which permission or leave to appeal is sought.”

*f<sup>59</sup>Prevention of surrender of losses*

**Textual Amendments**

**F59** S. 225A and cross-heading inserted (with effect in accordance with Sch. 18 para. 12(1) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 7](#)

**225A Effect of notice: surrender of losses ineffective, etc**

- (1) This section applies where—
  - (a) an accelerated payment notice is given (and not withdrawn), and
  - (b) an amount is specified in the notice in accordance with section 220(2)(d) or 221(2)(d).
- (2) P may not consent to any claim for group relief in respect of the amount so specified.
- (3) Subject to subsection (2), paragraph 75 (other than sub-paragraphs (7) and (8)) of Schedule 18 to FA 1998 (reduction in amount available for surrender) has effect as if the amount so specified ceased to be an amount available for surrender at the time the notice was given to P.
- (4) For the purposes of subsection (3), paragraph 75 of that Schedule has effect as if, in sub-paragraph (2) of that paragraph for “within 30 days” there were substituted “before the end of the payment period (within the meaning of section 223(5) of the Finance Act 2014) ”.
- (5) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made in accordance with paragraph 75(6) of Schedule 18 to FA 1998 where, pursuant to subsection (3), a claimant company receives—
  - (a) notice of the withdrawal of consent under paragraph 75(3) of that Schedule, or
  - (b) a copy of a notice containing directions under paragraph 75(4) of that Schedule.
- (6) Subsection (7) applies where—
  - (a) a company makes such an amendment to its company tax return at a time when an enquiry is in progress into the return, and
  - (b) paragraph 31(3) of that Schedule prevents the amendment from taking effect until the enquiry is completed.
- (7) Section 219 (circumstances in which an accelerated payment notice may be given) has effect, in its application to that company in a case where section 219(2)(a) applies (tax enquiry in progress), as if—

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- (a) for the purposes of section 219(3), that amendment to the return had not been made,
  - (b) in section 219(4), after paragraph (c) there were inserted—
    - “(d) P has amended its company tax return, in accordance with paragraph 75(6) of Schedule 18 to FA 1998, in circumstances where pursuant to section 225A(3), P has received—
      - (i) notice of the withdrawal of consent under paragraph 75(3) of that Schedule, or
      - (ii) a copy of a notice containing directions under paragraph 75(4) of that Schedule,but paragraph 31(3) of that Schedule prevents that amendment having effect.”
  - (c) in section 220(4), after paragraph (c) there were inserted—
    - “(d) in the case of a notice given by virtue of section 219(4)(d) (cases involving withdrawal of consent for losses claimed), it were assumed that P had never made the claim to group relief to which the amendment to its company tax return relates.”,
    - and
  - (d) in section 227(10), for “or (c)” there were substituted “ , (c) or (d) ”.
- (8) Subsections (2) and (3) are subject to—
- (a) section 227(14) to (16) (provision about claims for group relief, and consents to claims, following amendment or withdrawal of an accelerated payment notice), and
  - (b) section 227A (provision about claims for group relief, and consents to claims, once tax position finally determined).]

### *Penalties*

#### **226 Penalty for failure to pay accelerated payment**

- (1) This section applies where an accelerated payment notice is given by virtue of section 219(2)(a) (notice given while tax enquiry is in progress) (and not withdrawn).
- (2) If any amount of the accelerated payment is unpaid at the end of the payment period, P is liable to a penalty of 5% of that amount.
- (3) If any amount of the accelerated payment is unpaid after the end of the period of 5 months beginning with the penalty day, P is liable to a penalty of 5% of that amount.
- (4) If any amount of the accelerated payment is unpaid after the end of the period of 11 months beginning with the penalty day, P is liable to a penalty of 5% of that amount.
- (5) “The penalty day” means the day immediately following the end of the payment period.
- (6) Where section 223(6) (accelerated payment payable by instalments when it relates to inheritance tax payable by instalments) applies to require an amount of the accelerated payment to be paid before a later time than the end of the payment period, references in subsections (2) and (5) to the end of that period are to be read, in relation to that amount, as references to that later time.

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- (7) Paragraphs 9 to 18 (other than paragraph 11(5)) of Schedule 56 to FA 2009 (provisions which apply to penalties for failures to make payments of tax on time) apply, with any necessary modifications, to a penalty under this section in relation to a failure by P to pay an amount of the accelerated payment as they apply to a penalty under that Schedule in relation to a failure by a person to pay an amount of tax.
- [<sup>F60</sup>(8) Where an amendment to an accelerated payment notice made under section 227(7A) (amendment following tribunal determination about partnership return) increases the amount of the accelerated payment, the amount of the increase is to be ignored for the purposes of—
- (a) this section, and
  - (b) any other enactment imposing a penalty or surcharge for non-payment or late payment of tax.]

#### Textual Amendments

**F60** S. 226(8) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 6 para. 13\(3\)](#)

#### *Withdrawal etc of accelerated payment notice*

### **227 Withdrawal, modification or suspension of accelerated payment notice**

- (1) In this section a “Condition C requirement” means one of the requirements set out in Condition C in section 219.
- (2) Where an accelerated payment notice has been given, HMRC may, at any time, by notice given to P—
  - (a) withdraw the notice,
  - (b) where the notice is given by virtue of more than one Condition C requirement being met, withdraw it to the extent it is given by virtue of one of those requirements (leaving the notice effective to the extent that it was also given by virtue of any other Condition C requirement and has not been withdrawn),  
<sup>F61</sup> ...
  - (c) reduce the amount specified in the accelerated payment notice under section 220(2)(b) or 221(2)(b)<sup>[F62]</sup>, or
  - (d) reduce the amount specified in the accelerated payment notice under section 220(2)(d) or 221(2)(d).]
- (3) Where—
  - (a) an accelerated payment notice is given by virtue of the Condition C requirement in section 219(4)(a), and
  - (b) the follower notice to which it relates is withdrawn,
 HMRC must withdraw the accelerated payment notice to the extent it was given by virtue of that requirement.
- (4) Where—
  - (a) an accelerated payment notice is given by virtue of the Condition C requirement in section 219(4)(a), and

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- (b) the follower notice to which it relates is amended under section 216(7)(b) (cases where there is a new relevant final judicial ruling following a late appeal),

HMRC may by notice given to P make consequential amendments (whether under subsection (2)(c) [<sup>F63</sup> or (d)] or otherwise) to the accelerated payment notice.

[<sup>F64</sup>(5) Where an accelerated payment notice is given by virtue of the Condition C requirement in section 219(4)(b), and—

- (a) under section 311(8) or 311B(8) of FA 2004, HMRC withdraw the reference number allocated to the chosen arrangements, or to proposed arrangements implemented by the chosen arrangements, or
- (b) HMRC give notice under section 312(6) or 312ZA(4) of FA 2004, with the result that persons are no longer under the duty in section 312(2) or (as the case may be) section 312ZA(2) of that Act in relation to the chosen arrangements,

HMRC must withdraw the accelerated payment notice, to the extent that it was given by virtue of the Condition C requirement.]

(6) Subsection (7) applies where—

- (a) an accelerated payment notice is withdrawn to the extent that it was given by virtue of a Condition C requirement,
- (b) that requirement is the one stated in the notice for the purposes of section 220(6) or 221(5) (calculation of amount of the accelerated payment or of the denied advantage [<sup>F65</sup>etc]), and
- (c) the notice remains effective to the extent that it was also given by virtue of any other Condition C requirement.

(7) HMRC must, by notice given to P—

- (a) modify the accelerated payment notice so as to state the remaining, or one of the remaining, Condition C requirements for the purposes of section 220(6) or 221(5), <sup>F66</sup>...
- (b) if the amount of the accelerated payment or (as the case may be) the amount of the disputed tax determined on the basis of the substituted Condition C requirement is less than the amount specified in the notice, amend that notice under subsection (2)(c) to substitute the lower amount [<sup>F67</sup>, and
- (c) if the amount of the asserted surrenderable amount is less than the amount specified in the notice, amend the notice under subsection (2)(d) to substitute the lower amount.]

[<sup>F68</sup>(7A) Where—

- (a) an accelerated payment notice is given, and
- (b) a [<sup>F69</sup>section 12AA] partnership return (as defined in Schedule 32) to which the notice relates is amended under section 12ABZB(7)(b) of TMA 1970 (amendment following tribunal determination),

HMRC may by notice given to P make consequential amendments to the accelerated payment notice.]

(8) If a follower notice is suspended under section 216 (appeals against final rulings made out of time) for any period, an accelerated payment notice in respect of the follower notice is also suspended for that period.

(9) Accordingly, the period during which the accelerated payment notice is suspended does not count towards the periods mentioned in the following provisions—

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- (a) section 223;
  - (b) section 55(8D) of TMA 1970;
  - (c) paragraph 39(11) of Schedule 10 to FA 2003;
  - (d) paragraph 48(8C) of Schedule 33 to FA 2013.
- (10) But the accelerated payment notice is not suspended under subsection (8) if it was also given by virtue of section 219(4)(b) or (c) and has not, to that extent, been withdrawn.
- (11) In a case within subsection (10), subsections (6) and (7) apply as they would apply were the notice withdrawn to the extent that it was given by virtue of section 219(4)(a), except that any change made to the notice under subsection (7) has effect during the period of suspension only.
- (12) Where an accelerated payment notice is withdrawn, it is to be treated as never having had effect (and any accelerated payment made in accordance with, or penalties paid by virtue of, the notice are to be repaid).
- [<sup>F70</sup>(12A) Where, as a result of an accelerated payment notice specifying an amount under section 220(2)(d) or 221(2)(d), a notice of consent by P to a claim for group relief in respect of the amount specified (or part of it) became ineffective by virtue of section 225A(3), nothing in subsection (12) operates to revive that notice.]
- (13) If, as a result of a modification made under subsection (2)(c) [<sup>F71</sup>or an amendment made under subsection (7A)], more than the resulting amount of the accelerated payment has already been paid by P, the excess must be repaid.
- [<sup>F72</sup>(13A) If, as a result of an amendment made under subsection (7A), an amount payable to HMRC under section 223(2) is increased, the amount of that increase must be paid before—
- (a) the end of the period of 30 days beginning with the day on which notice of the amendment is given, or
  - (b) if later, the end the payment period (within the meaning given by section 223(5)).]

[<sup>F73</sup>(14) If the accelerated payment notice is amended under subsection (2)(d) or withdrawn—

    - (a) section 225A(2) and (3) (which prevents consent being given to group relief claims) cease to apply in relation to the released amount, and
    - (b) a claim for group relief may be made in respect of any part of the released amount within the period of 30 days after the day on which the notice is amended or withdrawn.

(15) The time limits otherwise applicable to amendment of a company tax return do not apply to the extent that it makes a claim for group relief within the time allowed by subsection (14).

(16) “The released amount” means—

    - (a) in a case where the accelerated payment notice is amended under subsection (2)(d), the amount represented by the reduction, and
    - (b) in a case where the accelerated payment notice is withdrawn, the amount specified under section 220(2)(d) or 221(2)(d).]

#### Textual Amendments

**F61** Word in s. 227(2) omitted (26.3.2015) by virtue of [Finance Act 2015 \(c. 11\)](#), [Sch. 18 para. 8\(2\)](#)



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- F62** S. 227(2)(d) and preceding word inserted (26.3.2015) by Finance Act 2015 (c. 11), Sch. 18 para. 8(2)
- F63** Words in s. 227(4) inserted (26.3.2015) by Finance Act 2015 (c. 11), Sch. 18 para. 8(3)
- F64** S. 227(5) substituted (with application in accordance with Sch. 31 paras. 45, 46 of the amending Act) by Finance Act 2021 (c. 26), Sch. 31 paras. 43(3), 44
- F65** Word in s. 227(6)(b) inserted (26.3.2015) by Finance Act 2015 (c. 11), Sch. 18 para. 8(4)
- F66** Word in s. 227(7) omitted (26.3.2015) by virtue of Finance Act 2015 (c. 11), Sch. 18 para. 8(5)
- F67** S. 227(7)(c) and preceding word inserted (26.3.2015) by Finance Act 2015 (c. 11), Sch. 18 para. 8(5)
- F68** S. 227(7A) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by Finance Act 2018 (c. 3), Sch. 6 para. 13(4)(a)
- F69** Words in s. 227(7A)(b) inserted by 2017 c. 32, Sch. 14 para. 43A (as inserted (15.3.2018) by Finance Act 2018 (c. 3), Sch. 6 para. 15(3))
- F70** S. 227(12A) inserted (26.3.2015) by Finance Act 2015 (c. 11), Sch. 18 para. 8(6)
- F71** Words in s. 227(13) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by Finance Act 2018 (c. 3), Sch. 6 para. 13(4)(b)
- F72** S. 227(13A) inserted (with effect in accordance with Sch. 6 para. 14 of the amending Act) by Finance Act 2018 (c. 3), Sch. 6 para. 13(4)(c)
- F73** S. 227(14)-(16) inserted (26.3.2015) by Finance Act 2015 (c. 11), Sch. 18 para. 8(7)

### *F74* Group relief claims after accelerated payment notices

#### Textual Amendments

- F74** S. 227A and cross-heading inserted (26.3.2015) by Finance Act 2015 (c. 11), Sch. 18 para. 9

## **227A Group relief claims after accelerated payment notices**

- (1) This section applies where as a result of an accelerated payment notice given to P—
- P was prevented from consenting to a claim for group relief in respect of an amount under section 225A(2), or
  - pursuant to section 225A(3), a consent given by P to a claim for group relief in respect of an amount was ineffective.
- (2) If a final determination establishes that the amount P has available to surrender consists of or includes the amount referred to in subsection (1)(a) or (b) or a part of it (“the allowed amount”)—
- section 225A(2) and (3) (which prevents consent being given to group relief claims) ceases to apply in relation to the allowed amount, and
  - a claim for group relief in respect of any part of the allowed amount may be made within the period of 30 days after the relevant time.
- (3) The time limits otherwise applicable to amendment of a company tax return do not apply to an amendment to the extent that it makes a claim for group relief in respect of any part of the allowed amount within the time limit allowed by subsection (2)(b).
- (4) In this section—
- “final determination” means—
- a conclusion stated in a closure notice under paragraph 34 of Schedule 18 to FA 1998 against which no appeal is made;
  - the final determination of a tax appeal within paragraph (d) or (e) of section 203;

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“relevant time” means—

- (a) in a case within paragraph (a) above, the end of the period during which the appeal could have been made;
- (b) in the case within paragraph (b) above, the end of the day on which the final determination occurs.]

### *Partners and partnerships*

## **228 Accelerated partner payments**

Schedule 32 makes provision for accelerated partner payments and modifies this Chapter in relation to partnerships.

### *Defined terms*

## **229 Defined terms used in Chapter 3**

In this Chapter—

- “the accelerated payment” has the meaning given by section 223(2);
- “accelerated payment notice” has the meaning given by section 219(1);
- “arrangements” has the meaning given by section 201(4);
- “the asserted advantage” has the meaning given by section 219(3);
- “the chosen arrangements” has the meaning given by section 219(3), except in Schedule 32 where it has the meaning given by paragraph 3(3) of that Schedule;
- “the denied advantage” has the meaning given by section 220(5), except in paragraph 4 of Schedule 32 where it has the meaning given by paragraph 4(4) of that Schedule;
- “designated HMRC officer” means an officer of Revenue and Customs who has been designated by the Commissioners for the purposes of this Part;
- “follower notice” has the meaning given by section 204(1);
- “HMRC” means Her Majesty's Revenue and Customs;
- “P” has the meaning given by section 219(1);
- “partner payment notice” has the meaning given by paragraph 3 of Schedule 32;
- “relevant tax” has the meaning given by section 200;
- “tax advantage” has the meaning given by section 201(2);
- “tax appeal” has the meaning given by section 203;
- “tax enquiry” has the meaning given by section 202(2).

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## CHAPTER 4

### MISCELLANEOUS AND GENERAL PROVISION

#### *Stamp duty land tax and annual tax on enveloped dwellings*

#### **230 Special case: stamp duty land tax**

- (1) This section applies to modify the application of this Part in the case of—
  - (a) a return or claim in respect of stamp duty land tax, or
  - (b) a tax appeal within section 203(g), or any appeal within section 203(i) which derives from such an appeal.
- (2) If two or more persons acting jointly are the purchasers in respect of the land transaction—
  - (a) anything required or authorised by this Part to be done in relation to P must be done in relation to all of those persons, and
  - (b) any liability of P in respect of an accelerated payment, or a penalty under this Part, is a joint and several liability of all of those persons.
- (3) Subsection (2) is subject to subsections (4) to (8).
- (4) If the land transaction was entered into by or on behalf of the members of a partnership—
  - (a) anything required or authorised to be done under this Part in relation to P is required or authorised to be done in relation to all the responsible partners, and
  - (b) any liability of P in respect of an accelerated payment, or a penalty under this Part, is a joint and several liability of the responsible partners.
- (5) But nothing in subsection (4) enables—
  - (a) an accelerated payment to be recovered from a person who did not become a responsible partner until after the effective date of the transaction in respect of which the tax to which the accelerated payment relates is payable, or
  - (b) a penalty under this Part to be recovered from a person who did not become a responsible partner until after the time when the omission occurred that caused the penalty to become payable.
- (6) Where the trustees of a settlement are liable to pay an accelerated payment or a penalty under this Part, the payment or penalty may be recovered (but only once) from any one or more of the responsible trustees.
- (7) But nothing in subsection (6) enables a penalty to be recovered from a person who did not become a responsible trustee until after the time when the omission occurred that caused the penalty to become payable.
- (8) Where a follower notice or accelerated payment notice is given to more than one person, the power conferred on P by section 207 or 222 is exercisable by each of those persons separately or by two or more of them jointly.
- (9) In this section—
  - “the accelerated payment” has the meaning given by section 223(2);
  - “accelerated payment notice” has the meaning given by section 219(1);

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“effective date”, in relation to a land transaction, has the meaning given by section 119 of FA 2003;

“follower notice” has the meaning given by section 204(1);

“the responsible partners”, in relation to a land transaction, has the meaning given by paragraph 6(2) of Schedule 15 to that Act;

“the responsible trustees” has the meaning given by paragraph 5(3) of Schedule 16 to that Act;

“P”—

(a) in relation to Chapter 2, has the meaning given by section 204(1);

(b) in relation to Chapter 3, has the meaning given by section 219.

### **231 Special case: annual tax on enveloped dwellings**

- (1) This section applies to modify the application of this Part in the case of—
- (a) a return or claim in respect of annual tax on enveloped dwellings, or
  - (b) a tax appeal within section 203(h), or any appeal within section 203(i) which derives from such an appeal.
- (2) If the responsible partners of a partnership are the chargeable person in relation to the tax to which the return or claim or appeal relates—
- (a) anything required or authorised by this Part to be done in relation to P must be done in relation to all of those partners, and
  - (b) any liability of P in respect of an accelerated payment, or a penalty under this Part, is a joint and several liability of all of those persons.
- (3) Where—
- (a) a follower notice is given by virtue of a tax enquiry into the return or claim or the appeal, and
  - (b) by virtue of section 97 or 98 of FA 2013, two or more persons would have been jointly and severally liable for an additional amount of tax had the necessary corrective action been taken before the specified time for the purposes of section 208,
- any liability of P in respect of a penalty under that section is a joint and several liability of all of them.
- (4) Where—
- (a) an accelerated payment notice is given by virtue of a tax enquiry into the return or claim or the appeal, and
  - (b) two or more persons would, by virtue of section 97 or 98 of FA 2013, be jointly and severally liable for the understated tax relating to the accelerated payment specified in the notice or (as the case may be) the disputed tax specified in the notice,
- any liability of P in respect of the accelerated payment or a penalty under section 226 is a joint and several liability of all of them.
- (5) Accordingly—
- (a) where a follower notice is given in a case where subsection (3) applies, or
  - (b) an accelerated payment notice is given in a case to which subsection (4) applies,

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HMRC must also give a copy of the notice to any other person who would be jointly and severally liable for a penalty or payment, in relation to the notice, by virtue of this section.

- (6) Where a follower notice or accelerated payment notice is given to more than one person, the power conferred on P by section 207 or 222 is exercisable by each of those persons separately or by two or more of them jointly.
- (7) In this section—
- “the accelerated payment” has the meaning given by section 223(2);
  - “accelerated payment notice” has the meaning given by section 219(1);
  - “the chargeable person” has the same meaning as in Part 3 of FA 2013 (annual tax on enveloped dwellings);
  - “follower notice” has the same meaning as in Chapter 2;
  - “P”—
    - (a) in relation to Chapter 2, has the meaning given by section 204(1);
    - (b) in relation to Chapter 3, has the meaning given by section 219;
  - “the responsible partners” has the same meaning as in Part 3 of FA 2013 (annual tax on enveloped dwellings).

#### *Extension of Part by order*

### **232 Extension of this Part by order**

- (1) The Treasury may by order amend section 200 (definition of “relevant tax”) so as to extend this Part to any other tax.
- (2) An order under this section may include—
- (a) provision in respect of that other tax corresponding to the provision made by sections 224 and 225,
  - (b) consequential and supplemental provision, and
  - (c) transitional and transitory provision and savings.
- (3) For the purposes of subsection (1) or (2) an order under this section may amend this Part (other than this section) or any other enactment whenever passed or made.
- (4) The power to make orders under this section is exercisable by statutory instrument.
- (5) An order under this section may only be made if a draft of the instrument containing the order has been laid before and approved by a resolution of the House of Commons.
- (6) In this section “tax” includes duty.

#### *Consequential amendments*

### **233 Consequential amendments**

Schedule 33 contains consequential amendments.

**Changes to legislation:**

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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. 212(4)(f) and word inserted by [2021 c. 26 Sch. 27 para. 43\(b\)\(ii\)](#)
- s. 212(5)(a)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(ii\)](#)
- s. 212(5)(b)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(iv\)](#)
- s. 212(5)(c)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(v\)](#)
- Sch. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)