

Changes to legislation: Tax Credits Act 2002, SCHEDULE 2 is up to date with all changes known to be in force on or before 09 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 2

Section 34

PENALTIES: SUPPLEMENTARY

Textual Amendments

- F1** Sch. 2 repealed (1.2.2019 with savings in relation to specified cases in art. 3 of the commencing S.I.) by Welfare Reform Act 2012 (c. 5), s. 150(3), Sch. 14 Pt. 1; S.I. 2019/167, arts. 2, 3

Determination of penalties by Board

- 1 (1) The Board may make a determination—
- (a) imposing a penalty under section 31, 32(2)(b) or (3) or 33, and
 - (b) setting it at such amount as, in their opinion, is appropriate.
- (2) The Board must give notice of a determination of a penalty under this paragraph to the person on whom the penalty is imposed.
- (3) The notice must state the date on which it is given and give details of the right to appeal against the determination under section 38.
- (4) After the notice of a determination under this paragraph has been given the determination must not be altered except on appeal.
- (5) A penalty determined under this paragraph becomes payable at the end of the period of thirty days beginning with the date on which the notice of determination is given.

Commencement Information

- II** Sch. 2 wholly in force at 6.4.2003; Sch. 2 not in force at Royal Assent, see s. 61; Sch. 2 in force for certain purposes at 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by S.I. 2002/1727, art. 2

- 2 (1) On an appeal ^{F2}... under section 38 against the determination of a penalty under [^{F3}paragraph 1 that is notified to the First-tier tribunal, the tribunal] may—
- (a) if it appears that no penalty has been incurred, set the determination aside,
 - (b) if the amount determined appears to be appropriate, confirm the determination,
 - (c) if the amount determined appears to be excessive, reduce it to such other amount (including nil) as [^{F4}the First-tier Tribunal considers] appropriate, or
 - (d) if the amount determined appears to be insufficient, increase it to such amount not exceeding the permitted maximum as [^{F4}the First-tier Tribunal considers] appropriate.
- [^{F5}(2) In addition to any right of appeal on a point of law under section 11(2) of the Tribunals, Courts and Enforcement Act 2007, the person liable to the penalty may

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appeal to the Upper Tribunal against the amount of the penalty which has been determined under sub-paragraph (1), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.

(2A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (2) as it applies to the right of appeal under section 11(2) of that Act.

(2B) On an appeal under this paragraph the Upper Tribunal has the same powers as are conferred on the First-tier Tribunal by virtue of this paragraph.]

Textual Amendments

- F2** Words in Sch. 2 para. 2(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 318(2)(a)**
- F3** Words in Sch. 2 para. 2(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 318(2)(b)**
- F4** Words in Sch. 2 para. 2(1)(c)(d) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 318(2)(c)**
- F5** Sch. 2 para. 2(2)-(2B) substituted for Sch. 2 para. 2(2) (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 318(3)**

Commencement Information

- I2** Sch. 2 wholly in force at 6.4.2003; Sch. 2 not in force at Royal Assent, see s. 61; Sch. 2 in force for certain purposes at 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), **art. 2**

Penalty proceedings before [^{F6}tribunal]

3 (1) The Board may commence proceedings for a penalty under section 32(2)(a)[^{F7} before the tribunal].

[^{F8}(2) The person liable to the penalty shall be a party to the proceedings.]

[^{F9}(3) “tribunal” is to be read in accordance with section 47C of the Taxes Management Act 1970.]

Textual Amendments

- F6** Word in Sch. 2 para. 3 substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 319(2)**
- F7** Words in Sch. 2 para. 3(1) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 319(3)**
- F8** Sch. 2 para. 3(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 319(4)**
- F9** Sch. 2 para. 3(3) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 319(5)**

Commencement Information

- I3** Sch. 2 wholly in force at 6.4.2003; Sch. 2 not in force at Royal Assent, see s. 61; Sch. 2 in force for certain purposes at 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), **art. 2**

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- 4 [F10(1) In addition to any right of appeal on a point of law under section 11(2) of the Tribunals, Courts and Enforcement Act 2007, the person liable to the penalty may appeal to the Upper Tribunal against the determination of a penalty in proceedings under paragraph 2(1), but not against any decision which falls under section 11(5)(d) or (e) of that Act and was made in connection with the determination of the amount of the penalty.
- (1A) Section 11(3) and (4) of the Tribunals, Courts and Enforcement Act 2007 applies to the right of appeal under sub-paragraph (1) as it applies to the right of appeal under section 11(2) of that Act.]
- (2) On any such appeal the [F11Upper Tribunal] may—
- if it appears that no penalty has been incurred, set the determination aside,
 - if the amount determined appears to be appropriate, confirm the determination,
 - if the amount determined appears to be excessive, reduce it to such other amount (including nil) as the [F11Upper Tribunal] considers appropriate, or
 - if the amount determined appears to be insufficient, increase it to such amount not exceeding the permitted maximum as the [F11Upper Tribunal] considers appropriate.

Textual Amendments

- F10** Sch. 2 para. 4(1)(1A) substituted for Sch. 2 para. 4(1) (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 320(2)**
- F11** Words in Sch. 2 para. 4(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 320(3)**

Commencement Information

- I4** Sch. 2 wholly in force at 6.4.2003; Sch. 2 not in force at Royal Assent, see s. 61; Sch. 2 in force for certain purposes at 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), **art. 2**

Mitigation of penalties

- 5 The Board may in their discretion mitigate any penalty under this Part or stay or compound any proceedings for any such penalty and may also, after judgment, further mitigate or entirely remit any such penalty.

Commencement Information

- I5** Sch. 2 wholly in force at 6.4.2003; Sch. 2 not in force at Royal Assent, see s. 61; Sch. 2 in force for certain purposes at 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), **art. 2**

Time limits for penalties

- 6 (1) In the case of a penalty under section 31 relating to a tax credit for a person or persons for the whole or part of a tax year (other than a penalty to which sub-paragraph (3) applies), the Board may determine the penalty at any time before the latest of—

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- (a) the end of the period of one year beginning with the expiry of the period for initiating an enquiry under section 19 into the entitlement of the person, or the joint entitlement of the persons, for the tax year,
 - (b) if such an enquiry is made, the end of the period of one year beginning with the day on which the enquiry is completed, and
 - (c) if a decision relating to the entitlement of the person, or the joint entitlement of the persons, for the tax year is made under section 20(1) or (4), the end of the period of one year beginning with the day on which the decision is made.
- (2) In the case of a penalty under section 32 relating to a tax credit for a person or persons for the whole or part of a tax year (other than a penalty to which sub-paragraph (3) applies), the Board may determine the penalty, or commence proceedings for it, at any time before—
- (a) if an enquiry into the entitlement of the person, or the joint entitlement of the persons, for the tax year is made under section 19, the end of the period of one year beginning with the day on which the enquiry is completed, and
 - (b) otherwise, the end of the period of one year beginning with the expiry of the period for initiating such an enquiry.
- (3) In the case of—
- (a) a penalty under section 31 or 32 relating to a requirement imposed by virtue of regulations under section 25, or
 - (b) a penalty under section 33,
- the Board may determine the penalty, or commence proceedings for it, at any time before the end of the period of six years after the date on which the penalty was incurred or began to be incurred.

Modifications etc. (not altering text)

- C1** Sch. 2 para. 6 modified (E.W.S.) (29.4.2013) by [The Universal Credit \(Transitional Provisions\) Regulations 2013 \(S.I. 2013/386\)](#), reg. 1(2), **Sch. para. 14**

Commencement Information

- I6** Sch. 2 wholly in force at 6.4.2003; Sch. 2 not in force at Royal Assent, see s. 61; Sch. 2 in force for certain purposes at 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), **art. 2**

Recovery of penalties

- 7 (1) A penalty payable under this Part is to be treated for the purposes of Part 6 of the Taxes Management Act 1970 (c. 9) (collection and recovery) as if it were tax charged in an assessment and due and payable.
- (2) Regulations under section 203(2)(a) of the Income and Corporation Taxes Act 1988 (c. 1) (PAYE) apply to a penalty payable under this Part as if it were an underpayment of tax for a previous year of assessment.]

Commencement Information

- I7** Sch. 2 wholly in force at 6.4.2003; Sch. 2 not in force at Royal Assent, see s. 61; Sch. 2 in force for certain purposes at 1.8.2002 and 1.1.2003 and otherwise in force at 6.4.2003 by [S.I. 2002/1727](#), **art. 2**

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2003/962 by [S.I. 2008/3151 art. 3\(2\)](#) (art. 3(2) revoked (14. 7.2014) by S.I. 2014/1848)
- specified provision(s) amendment to earlier commencing SI 2003/962 art. 2(5) by [S.I. 2011/2910 art. 2](#) (Order revoked (14. 7.2014) by S.I. 2014/1848)

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. 35(2)-(12) substituted for s. 35(2) by [2012 c. 5 s. 124](#)
- s. 35(9) words substituted by [2020 c. 17 Sch. 24 para. 443\(1\)](#) (This amendment not applied to legislation.gov.uk. The substitution of s. 35(2)-(12) for s. 35(2) by 2021 c. 5, s. 124 is not yet in force)
- s. 36(10) words repealed by [2012 c. 5 Sch. 14 Pt. 12](#)