

Status: Point in time view as at 27/07/1993.

*Changes to legislation: There are currently no known outstanding effects
for the Finance Act 1993, Part I. (See end of Document for details)*

SCHEDULES

SCHEDULE 21

OIL TAXATION: SUPPLEMENTARY PROVISIONS ABOUT INFORMATION

PART I

RESTRICTIONS ON POWERS UNDER SECTION 187

- 1 References in this Part of this Schedule to subsection (2), subsection (3) or
 subsection (5) are references to those subsections of section 187 of this Act.
- 2 Before a notice is given to a person by the Board under subsection (2), subsection (3)
 or subsection (5), the person must have been given a reasonable opportunity to
 deliver (or, in the case of subsection (3), to deliver or make available) the documents
 in question or to furnish the particulars in question; and the Board must not apply
 for consent under subsection (5) until the person has been given that opportunity.
- 3 (1) Subject to sub-paragraph (2) below, where a notice is given to any person under
 subsection (3), the Board shall give a copy of the notice to the taxpayer to whom
 it relates.
- (2) If, on an application by the Board, a Special Commissioner so directs, a copy of a
 notice under subsection (3) need not be given to the taxpayer to whom it relates;
 but such a direction shall not be given unless the Commissioner is satisfied that the
 Board has reasonable grounds for suspecting the taxpayer of fraud.
- 4 (1) A notice under subsection (2) does not oblige a person to deliver documents or
 furnish particulars relating to the conduct of any pending appeal by him.
- (2) A notice under subsection (3) or subsection (5) does not oblige a person to deliver
 or make available documents relating to the conduct of a pending appeal by the
 taxpayer.
- (3) In this paragraph, “appeal” means appeal relating to tax.
- 5 To comply with a notice under subsection (2), and as an alternative to delivering
 documents to comply with a notice under subsection (3) or subsection (5), copies
 of documents may be delivered instead of the originals; but—
- (a) the copies must be photographic or otherwise by way of facsimile; and
- (b) if so required by the Board in the case of any documents specified in
 the requirement, the originals must be made available for inspection by
 a named officer of the Board (failure to comply with this requirement
 counting as failure to comply with the notice).
- 6 (1) A notice under subsection (3) does not oblige a person to deliver or make available
 any document the whole of which originates more than six years before the date of
 the notice.

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- (2) Sub-paragraph (1) above does not apply where the notice is so expressed as to exclude the restrictions of that sub-paragraph; and it can only be so expressed where the Board has applied to a Special Commissioner for, and obtained, his approval.
- (3) For the purpose of sub-paragraph (2) above, the Commissioner shall give approval only if satisfied, on the Board's application, that there is reasonable ground for believing that tax has, or may have been, lost to the Crown owing to the fraud of the taxpayer.
- 7 A notice under subsection (3) or subsection (5) does not oblige a barrister, advocate or a solicitor to deliver or make available, without his client's consent, any document with respect to which a claim to professional privilege could be maintained.
- 8 (1) Subject to paragraphs 9 and 10 below, a notice under subsection (3) or subsection (5)
- (a) does not oblige a person who has been appointed as an auditor for the purposes of any enactment to deliver or make available documents which are his property and were created by him or on his behalf for or in connection with the performance of his functions under that enactment; and
- (b) does not oblige a tax adviser to deliver or make available documents which are his property and consist of relevant communications.
- (2) In sub-paragraph (1) above "relevant communications" means communications between the tax adviser and—
- (a) a person in relation to whose tax affairs he has been appointed, or
- (b) any other tax adviser of such a person,
- the purpose of which is the giving or obtaining of advice about any of those tax affairs; and in this paragraph "tax adviser" means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that other person or by another tax adviser of his).
- 9 (1) Subject to paragraph 11 below, paragraph 8 above shall not have effect in relation to any document which contains information explaining any information, return, accounts or other document which the person to whom the notice is given has, as tax accountant, assisted any client of his in preparing for, or delivering to, the Board.
- (2) For the purposes of this paragraph, a person stands in relation to another as a tax accountant at any time when he assists the other in the preparation or delivery of any information, return, accounts or other document which he knows will be, or is or are likely to be, used for any purpose of tax; and his clients are those to whom he stands or has stood in that relationship.
- 10 Subject to paragraph 11 below, in the case of a notice under subsection (5), paragraph 8 above shall not have effect in relation to any document which contains information giving the identity or address of any taxpayer to whom the notice relates or of any person who has acted on behalf of any such person.
- 11 Paragraph 8 above is not disapplied by paragraph 9 or paragraph 10 above in the case of any document if—
- (a) the information within paragraph 9 or paragraph 10 is contained in some other document; and
- (b) either—

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- (i) that other document, or a copy of it, has been delivered to the Board, or
 - (ii) that other document has been inspected by an officer of the Board.
- 12 Where paragraph 8 above is disapplied by paragraph 9 or paragraph 10 above in the case of a document, the person to whom the notice is given either shall deliver the document to the Board or make it available for inspection by an officer of the Board or shall—
- (a) deliver to the Board a copy (which is photographic or otherwise by way of facsimile) of any parts of the document which contain the information within paragraph 9 or paragraph 10; and
 - (b) if so required by the Board, make available for inspection by a named officer of the Board such parts of the document as contain that information;
- and failure to comply with any requirement under sub-paragraph (b) above shall constitute a failure to comply with the notice.

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