

Changes to legislation: Finance Act 2008, Part 6 is up to date with all changes known to be in force on or before 06 February 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

SCHEDULE 36

INFORMATION AND INSPECTION POWERS

Modifications etc. (not altering text)

- C1 Sch. 36 modified (24.2.2022) by [Finance Act 2022 \(c. 3\)](#), **Sch. 14 para. 18**
- C1 Sch. 36 applied (with modifications) (with effect in accordance with Sch. 16 para. 62 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **Sch. 16 paras. 40–43** (as amended (with effect in accordance with s. 123(12) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **s. 123(4)–(7)**)
- C1 Sch. 36 applied (with modifications) (24.2.2022) by [Finance Act 2022 \(c. 3\)](#), **Sch. 13 para. 6(1)(3)**
- C1 Sch. 36 modified (22.3.2011) by [National Insurance Contributions Act 2011 \(c. 3\)](#), **ss. 9(5)**, 13(2)
- C1 Sch. 36 applied (24.2.2022) by [Finance Act 2022 \(c. 3\)](#), **Sch. 14 para. 17(1)**
- C1 Sch. 36 applied (with modifications) (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\)](#), **regs. 1, 5**
- C1 Sch. 36 modified (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), **Sch. 1 para. 36(1)**
- C1 Sch. 36 applied (with modifications) (with effect in accordance with s. 121(6) of the amending Act) by [2014 c. 26](#), **s. 272A** (as inserted by [Finance Act 2021 \(c. 26\)](#), **Sch. 30 para. 4**)
- C1 Sch. 36 applied (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\)](#), **regs. 1, 5(1)**
- C1 Sch. 36 applied (with modifications) (E.W.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations 2009 \(S.I. 2009/470\)](#), **regs. 1(1), 33(2)(3)** (with [reg. 1\(4\)\(6\)](#))
- C1 Sch. 36 applied (with modifications) (N.I.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/128\)](#), **regs. 1(1), 55(1)(2)**
- C1 Sch. 36 applied (with modifications) (E.W.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations 2009 \(S.I. 2009/470\)](#), **regs. 1(1), 60(1)(2)** (with [reg. 1\(4\)\(6\)](#))
- C1 Sch. 36 applied (with modifications) (N.I.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/128\)](#), **regs. 1(1), 28(2)(3)**
- C1 Sch. 36 applied (with modifications) (E.W.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations 2009 \(S.I. 2009/470\)](#), **regs. 1(1), 61** (with [reg. 1\(4\)\(6\)](#))
- C1 Sch. 36 applied (with modifications) (with application in accordance with [reg. 1](#) of the amending S.I.) by [The Education \(Postgraduate Master's Degree Loans\) Regulations 2016 \(S.I. 2016/606\)](#), **regs. 1(1), 78(1)(2)**
- C1 Sch. 36 applied (with modifications) (with application in accordance with [reg. 1](#) of the amending S.I.) by [The Education \(Postgraduate Master's Degree Loans\) Regulations 2016 \(S.I. 2016/606\)](#), **regs. 1(1), 77(1)(2)**
- C1 Sch. 36 applied (with modifications) (N.I.) (6.4.2009) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/128\)](#), **regs. 1(1), 56**
- C1 Sch. 36 applied (with modifications) (with application in accordance with [reg. 1](#) of the amending S.I.) by [The Education \(Postgraduate Master's Degree Loans\) Regulations 2016 \(S.I. 2016/606\)](#), **regs. 1(1), 43(2)(3)**
- C1 Sch. 36 applied (with modifications) (1.5.2023) by [The Value Added Tax \(Margin Schemes and Removal or Export of Goods: VAT-related Payments\) Order 2023 \(S.I. 2023/68\)](#), **arts. 1(1), 12** (with [art. 1\(2\)](#))
- C1 Sch. 36 applied (with modifications) (1.1.2017) by [Finance Act 2016 \(c. 24\)](#), **s. 162(2)**, **Sch. 20 paras. 18–21**; [S.I. 2016/1249](#), **reg. 2**

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PART 6

SPECIAL CASES

Supply of goods or services etc

- 34 (1) This paragraph applies to a taxpayer notice or third party notice that refers only to information or documents that form part of any person's statutory records and relate to—
- (a) the supply of goods or services,
 - (b) ^{F1}... or
 - (c) the importation of goods ^{F2}... in the course of carrying on a business.
- (2) Paragraph 3(1) (requirement for consent to, or approval of, third party notice) does not apply to such a notice.
- (3) Where a person is given such a notice, the person may not appeal ^{F3}... against the notice or any requirement in the notice.
- (4) Sections 5 ^{F4}... and 15 of, and Schedule 4 to, VATA 1994, and any orders made under those provisions, apply for the purposes of this paragraph as if it were part of that Act.

Textual Amendments

- F1** Sch. 36 para. 34(1)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 113(3)(a)(i)** (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F2** Words in Sch. 36 para. 34(1)(c) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 113(3)(a)(ii)** (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F3** Words in Sch. 36 para. 34(3) 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. 471(11)**
- F4** Word in Sch. 36 para. 34(4) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 113(3)(b)** (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

Modifications etc. (not altering text)

- C1** Sch. 36 para. 34 modified (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by 1994 c. 23, **Sch. 9ZA para. 78(2)** (as inserted by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), Sch. 2 para. 2 (with s. 3(4), **Sch. 2 para. 7(7)-(10)**); S.I. 2020/1642, **reg. 9**)

Commencement Information

- I1** Sch. 36 para. 34 in force at 1.4.2009 by [S.I. 2009/404](#), **art. 2**

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^{F5}Involved third parties

Textual Amendments

- F5** Sch. 36 paras. 34A-34C and cross-headings inserted (1.4.2010) by Finance Act 2009 (c. 10), s. 96(3), Sch. 48 para. 11; S.I. 2009/3054, art. 2

^{F6}34A

Textual Amendments

- F6** Sch. 36 para. 34A omitted (with effect in accordance with Sch. 23 para. 65 of the amending Act) by virtue of Finance Act 2011 (c. 11), Sch. 23 paras. 62(2), 65(1)(a) (with Sch. 23 paras. 50, 65(1)(b))

Registered pension schemes etc

34B (1) This paragraph applies to a third party notice or a notice under paragraph 5 if it refers only to information or documents that relate to any pensions matter.

(2) “Pensions matter” means any matter relating to—

- (a) a registered pension scheme,
- (b) an annuity purchased with sums or assets held for the purposes of a registered pension scheme or a pre-2006 pension scheme, ^{F7}...
- (c) an employer-financed retirement benefits scheme,
[a QROPS or former QROPS, or
- ^{F8}(d)
- (e) an annuity purchased with sums or assets held for the purposes of a QROPS or former QROPS.]

(3) In relation to such a third party notice—

- (a) paragraph 3(1) (approval etc of third party notices) does not apply,
- (b) paragraph 4(1) (copying third party notices to taxpayer) does not apply, and
- (c) paragraph 30(1) (appeal) has effect as if it permitted an appeal on any grounds.

(4) In relation to such a notice under paragraph 5—

- (a) sub-paragraphs (3) and (4) of that paragraph (approval of tribunal) have effect as if they permitted, but did not require, an authorised officer of Revenue and Customs to obtain the approval of the tribunal, and
- (b) paragraph 31 (appeal) has effect as if it permitted an appeal on any grounds.

[In relation to a notice to which this paragraph applies that refers only to information ^{F9}(4A) or documents relating to a matter within sub-paragraph (2)(d) or (e), paragraph 20 (old documents) has effect as if the reference to 6 years were to 10 years.]

(5) A person may not appeal against a requirement in the notice to provide any information, or produce any document, that forms part of any person's statutory records.

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- (6) Where the notice relates to a matter within sub-paragraph (2)(a) or (b), the officer of Revenue and Customs who gives the notice must give a copy of the notice to the scheme administrator in relation to the pension scheme.
- (7) Where the notice relates to a matter within sub-paragraph (2)(c), the officer of Revenue and Customs who gives the notice must give a copy of the notice to the responsible person in relation to the employer-financed retirement benefits scheme.
- [Where the notice relates to a matter within sub-paragraph (2)(d) or (e), the officer ^{F10}(7A) of Revenue and Customs who gives the notice must give a copy of the notice to the scheme manager in relation to the pension scheme.]
- (8) Sub-paragraphs (6) [^{F11}to (7A)] do not apply if the notice is given to a person who, in relation to the scheme or annuity to which the notice relates, is a prescribed description of person.

Textual Amendments

- F7** Word in Sch. 36 para. 34B(2)(b) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), s. 54(2)(a)
- F8** Sch. 36 para. 34B(2)(d)(e) inserted (17.7.2013) by Finance Act 2013 (c. 29), s. 54(2)(a)
- F9** Sch. 36 para. 34B(4A) inserted (17.7.2013) by Finance Act 2013 (c. 29), s. 54(2)(b)
- F10** Sch. 36 para. 34B(7A) inserted (17.7.2013) by Finance Act 2013 (c. 29), s. 54(2)(c)
- F11** Words in Sch. 36 para. 34B(8) substituted (17.7.2013) by Finance Act 2013 (c. 29), s. 54(2)(d)

Modifications etc. (not altering text)

- C2** Sch. 36 paras. 34B, 34C modified (17.7.2013) by Finance Act 2013 (c. 29), s. 54(4)

Registered pension schemes etc: interpretation

34C In paragraph 34B—

“employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see sections 393A and 393B of that Act);

“pension scheme” has the same meaning as in Part 4 of FA 2004;

“pre-2006 pension scheme” means a scheme that, at or in respect of any time before 6 April 2006, was—

- (a) a retirement benefits scheme approved for the purposes of Chapter 1 of Part 14 of ICTA,
- (b) a former approved superannuation fund (as defined in paragraph 1(3) of Schedule 36 to FA 2004),
- (c) a relevant statutory scheme (as defined in section 611A of ICTA) or a pension scheme treated as if it were such a scheme, or
- (d) a personal pension scheme approved under Chapter 4 of Part 14 of ICTA;

“prescribed” means prescribed by regulations made by the Commissioners;

[^{F12}“QROPS” and “former QROPS” have the meanings given by section 169(8) of FA 2004;]

“registered pension scheme” means a pension scheme that is or has been a registered pension scheme within the meaning of Part 4 of FA 2004 or in

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relation to which an application for registration under that Part of that Act has been made;

“responsible person”, in relation to an employer-financed retirement benefits scheme, has the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see section 399A of that Act);

“scheme administrator”, in relation to a pension scheme, has the same meaning as in Part 4 of FA 2004 (see section 270 of that Act);

[^{F12}“scheme manager”, in relation to a pension scheme, has the meaning given by section 169(3) of FA 2004.]

Textual Amendments

F12 Words in [Sch. 36 para. 34C](#) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [s. 54\(3\)](#)

Modifications etc. (not altering text)

C2 [Sch. 36 paras. 34B, 34C](#) modified (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [s. 54\(4\)](#)

Groups of undertakings

- 35 (1) This paragraph applies where an undertaking is a parent undertaking in relation to another undertaking (a subsidiary undertaking).
- (2) Where a third party notice is given to any person for the purpose of checking the tax position of the parent undertaking and any of its subsidiary undertakings,^[F13]—
- (a) paragraph 2(2)] only requires the notice to state this and name the parent undertaking ^[F14], and
 - (b) the references in paragraph 3(5) to naming the taxpayer are to making that statement and naming the parent undertaking.]
- (3) In relation to such a notice—
- (a) in paragraphs 3 and 4 (approval etc of notices and copying third party notices to taxpayer), the references to the taxpayer have effect as if they were references to the parent undertaking, but
 - (b) in paragraph 30(2) (no appeal in relation to taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to the parent undertaking and each of its subsidiary undertakings.
- ^[F15](4) Where a third party notice is given to the parent undertaking for the purpose of checking the tax position of more than one subsidiary undertaking—
- (a) paragraph 2(2) only requires the notice to state this, and
 - (b) the references in paragraph 3(5) to naming the taxpayer are to making that statement.
- (4A) In relation to such a notice—
- (a) in paragraph 3 (approval etc of notices), sub-paragraphs (1) and (3)(e) do not apply,
 - (b) paragraph 4(1) (copying third party notices to taxpayer) does not apply,
 - (c) ^[F16]paragraphs 21 and 21A] (restrictions on giving taxpayer notice where taxpayer has made return) ^[F17]apply] as if the notice was a taxpayer notice or taxpayer notices given to each subsidiary undertaking (or, if the notice

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- names the subsidiary undertakings to which it relates, to each of those undertakings),
- (d) paragraph 30(1) (appeal) has effect as if it permitted an appeal on any grounds, and
 - (e) in paragraph 30(2) (no appeal in relation to taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to the parent undertaking or any of its subsidiary undertakings.]
- (5) Where a notice is given under paragraph 5 to the parent undertaking for the purpose of checking the tax position of one or more subsidiary undertakings whose identities are not known to the officer giving [F18—
- (a) sub-paragraphs (3) and (4) of that paragraph (approval of tribunal) have effect as if they permitted, but did not require, the officer to obtain the approval of the tribunal, and
 - (b) paragraph 31 (appeal) has effect as if it permitted an appeal on any grounds, but the parent undertaking may not appeal against a requirement in the notice to produce any document that forms part of the statutory records of the parent undertaking or any of its subsidiary undertakings.]
- F19(6)
- (7) In this paragraph “parent undertaking”, “subsidiary undertaking” and “undertaking” have the same meaning as in the Companies Acts (see sections 1161 and 1162 of, and Schedule 7 to, the Companies Act 2006 (c. 46)).

Textual Amendments

- F13** Words in Sch. 36 para. 35(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 10\(2\)\(a\)](#)
- F14** Sch. 36 para. 35(2)(b) and word inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 10\(2\)\(b\)](#)
- F15** Sch. 36 para. 35(4) (4A) substituted for Sch. 36 para. 35(4) (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 10\(3\)](#)
- F16** Words in [Sch. 36 para. 35\(4A\)\(c\)](#) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 96(3), [Sch. 48 para. 12\(a\)](#); [S.I. 2009/3054](#), art. 2
- F17** Word in [Sch. 36 para. 35\(4A\)\(c\)](#) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 96(3), [Sch. 48 para. 12\(b\)](#); [S.I. 2009/3054](#), art. 2
- F18** Words in Sch. 36 para. 35(5) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 10\(4\)](#)
- F19** Sch. 36 para. 35(6) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 10\(5\)](#)

Commencement Information

- I2** Sch. 36 para. 35 in force at 1.4.2009 by [S.I. 2009/404](#), art. 2

Change of ownership of companies

- 36 (1) Sub-paragraph (2) applies where it appears to the Commissioners that—
- (a) there has been a change in the ownership of a company, and
 - (b) in connection with that change a person (“the seller”) may be or become liable to be assessed and charged to corporation tax under [F20section 710 or 713 of CTA 2010].
- (2) Paragraph 21 (restrictions on giving taxpayer notice where taxpayer has made tax return) does not apply in relation to a taxpayer notice given to the seller.

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- (3) [^{F21}Chapter 7 of Part 14 of CTA 2010] applies for the purposes of determining when there has been a change in the ownership of a company.

Textual Amendments

- F20** Words in Sch. 36 para. 36(1)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 582(2)(a) (with Sch. 2)
- F21** Words in Sch. 36 para. 36(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 582(2)(b) (with Sch. 2)

Commencement Information

- I3** Sch. 36 para. 36 in force at 1.4.2009 by S.I. 2009/404, art. 2

Partnerships

- 37 (1) This paragraph applies where a business is carried on by two or more persons in partnership.

[^{F22}(2) Where, in respect of a chargeable period, any of the partners has—

- (a) made a tax return under section 12AA of TMA 1970 (partnership returns), or
- (b) made a claim or election in accordance with section 42(6)(b) of TMA 1970 (partnership claims and elections),

paragraph 21 (restrictions where taxpayer has made tax return) has effect as if that return, claim or election had been made by each of the partners.]

[^{F23}(2A) Where, in respect of a transaction entered into as purchaser by or on behalf of the members of the partnership, any of the partners has—

- (a) delivered a land transaction return under Part 4 of FA 2003 (stamp duty land tax), or
- (b) made a claim under that Part of that Act,

paragraph 21A (restrictions where taxpayer has delivered land transaction return) has effect as if that return had been delivered, or that claim had been made, by each of the partners.]

[^{F24}(2B) Where, in respect of a single-dwelling interest (see paragraph 21B(7)) to which one or more companies are or were entitled as members of a partnership, any member of the partnership has—

- (a) delivered an annual tax on enveloped dwellings return or a return of the adjusted chargeable amount under Part 3 of FA 2013, or
- (b) made a claim under that Part of that Act,

paragraph 21B (restrictions where taxpayer has delivered return) has effect as if that return had been delivered, or that claim had been made, by each member of the partnership.]

- (3) Where a third party notice is given ^{F25}... for the purpose of checking the tax position of more than one of the partners (in their capacity as such), [^{F26}—

- (a) paragraph 2(2)] only requires the notice to state this and give a name in which the partnership is registered for any purpose [^{F27}, and
- (b) the references in paragraph 3(5) to naming the taxpayer are to making that statement and naming the partnership.]

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- (4) In relation to such a notice [^{F28}given to a person other than one of the partners]—
- (a) in paragraphs 3 and 4 (approval etc of notices and copying third party notices to taxpayer), the references to the taxpayer have effect as if they were references to at least one of the partners, and
 - (b) in paragraph 30(2) (no appeal in relation to taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to [^{F29}any of the partners in the partnership].
- [^{F30}(5) In relation to a third party notice given to one of the partners for the purpose of checking the tax position of one or more of the other partners (in their capacity as such)—
- (a) in paragraph 3 (approval etc of notices), sub-paragraphs (1) and (3)(e) do not apply,
 - (b) paragraph 4(1) (copying third party notices to taxpayer) does not apply,
 - (c) paragraph 30(1) (appeal) has effect as if it permitted an appeal on any grounds, and
 - (d) in paragraph 30(2) (no appeal in relation to taxpayer's statutory records), the reference to the taxpayer has effect as if it were a reference to any of the partners in the partnership.]
- (6) Where a notice is given under paragraph 5 to one of the partners for the purpose of checking the tax position of one or more of the other partners whose identities are not known to the officer giving the notice [^{F31}—
- (a) sub-paragraphs (3) and (4) of that paragraph (approval of tribunal) have effect as if they permitted, but did not require, the officer to obtain the approval of the tribunal, and
 - (b) paragraph 31 (appeal) has effect as if it permitted an appeal on any grounds, but the partner to whom the notice is given may not appeal against a requirement in the notice to produce any document that forms part of that partner's statutory records.]

^{F32}(7)

Textual Amendments

- F22** Sch. 36 para. 37(2) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 11\(2\)](#)
- F23** [Sch. 36 para. 37\(2A\)](#) inserted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 96(3), [Sch. 48 para. 13](#); S.I. 2009/3054, art. 2
- F24** [Sch. 36 para. 37\(2B\)](#) inserted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 34 para. 4](#)
- F25** Words in Sch. 36 para. 37(3) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 11\(3\)\(a\)](#)
- F26** Words in Sch. 36 para. 37(3) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 11\(3\)\(b\)](#)
- F27** Sch. 36 para. 37(3)(b) and word inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 11\(3\)\(c\)](#)
- F28** Words in Sch. 36 para. 37(4) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 11\(4\)\(a\)](#)
- F29** Words in Sch. 36 para. 37(4)(b) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 11\(4\)\(b\)](#)
- F30** Sch. 36 para. 37(5) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 11\(5\)](#)
- F31** Sch. 36 para. 37(6)(a)(b) substituted for words (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 11\(6\)](#)
- F32** Sch. 36 para. 37(7) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 11\(7\)](#)

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Commencement Information

I4 Sch. 36 para. 37 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

^{F33}Information in connection with herd basis election

Textual Amendments

F33 [Sch. 36 paras. 37A, 37B](#) and cross-headings inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), [Sch. 47 para. 12](#)

- 37A (1) This paragraph applies to a taxpayer notice given to a person carrying on a trade in relation to which a herd basis election is made if the notice refers only to information or documents that relate to—
- (a) the animals kept for the purposes of the trade, or
 - (b) the products of those animals.
- (2) Paragraph 21 (restrictions on giving taxpayer notice where taxpayer has made tax return) does not apply in relation to the notice.
- (3) “Herd basis election” means an election under Chapter 8 of Part 2 of ITTOIA 2005 or Chapter 8 of Part 3 of CTA 2009.

Information from persons liable to counteraction of tax advantage

- 37B (1) This paragraph applies to a taxpayer notice given to a person if—
- (a) it appears to an officer of Revenue and Customs that a counteraction provision may apply to the person by reason of one or more transactions, and
 - (b) the notice refers only to information or documents relating to the transaction (or, if there are two or more transactions, any of them).
- (2) Paragraph 21 (restrictions on giving taxpayer notice where taxpayer has made tax return) does not apply in relation to the notice.
- (3) “Counteraction provision” means—
- ^{F34}(a)
 - (b) section 684 of ITA 2007 (person liable to counteraction of income tax advantage)]^{F35}, or
 - (c) section 733 of CTA 2010 (company liable to counteraction of corporation tax advantage).]

Textual Amendments

- F34** [Sch. 36 para. 37B\(3\)\(a\)](#) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 582\(3\)\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F35** [Sch. 36 para. 37B\(3\)\(c\)](#) and word inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 582\(3\)\(b\)](#) (with [Sch. 2](#))

Changes to legislation: Finance Act 2008, Part 6 is up to date with all changes known to be in force on or before 06 February 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

^{F36}Specified relevant transfer pricing documents

Textual Amendments

F36 Sch. 36 para. 37C and cross-heading inserted (11.7.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 5 para. 6\(3\)](#)

- 37C (1) This paragraph applies to an information notice given to a relevant person in an MNE Group (“A”) to the extent that the notice refers to specified relevant transfer pricing documents.
- (2) Paragraph 18 (documents not in person’s possession or power) does not apply in relation to a specified relevant transfer pricing document that—
- (a) is not in A’s possession or power, but
 - (b) is in the power or possession of another relevant person in the MNE Group concerned (“B”),
- (and accordingly the information notice may require A to produce the document).
- (3) For the purposes of this paragraph—
- (a) documents are “specified relevant transfer pricing documents” if—
 - (i) they are relevant transfer pricing records specified, or of a description specified, in regulations under section 12B of TMA 1970 or paragraph 21 of Schedule 18 to FA 1998 (duties to keep and preserve records), and
 - (ii) A is required to keep and preserve those records under either or both of those provisions;
 - (b) “MNE Group” has the same meaning as in the Taxes (Base Erosion and Profit Shifting) (Country-by-Country Reporting) Regulations 2016 ([S.I. 2016/237](#)) (see regulation 2(3) of those Regulations);
 - (c) “relevant person in an MNE Group” means—
 - (i) a company,
 - (ii) a trustee of a trust, or
 - (iii) a partner in a partnership,
 where that company, the trustees or the partnership, together with one or more other enterprises, constitutes an MNE Group.]

Application to the Crown

- 38 This Schedule (other than Part 8) applies to the Crown, but not to Her Majesty in Her private capacity (within the meaning of the Crown Proceedings Act 1947 (c. 44)).

Commencement Information

I5 Sch. 36 para. 38 in force at 1.4.2009 by [S.I. 2009/404](#), [art. 2](#)

Changes to legislation:

Finance Act 2008, Part 6 is up to date with all changes known to be in force on or before 06 February 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.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 41 para. 6(1A) inserted by [2015 c. 11 Sch. 20 para. 10\(2\)](#)
- Sch. 41 para. 6A(A1)(1) substituted for Sch. 41 para. 6A(1) by [2015 c. 11 Sch. 20 para. 11\(2\)](#)