

FINANCE ACT 2013

EXPLANATORY NOTES

INTRODUCTION

Section 223: Disclosure of Tax Avoidance Schemes

Summary

1. [Section 223](#) relates to the Disclosure of Tax Avoidance Schemes (DOTAS). In particular, it relates to the existing requirement for the promoter of a disclosed scheme to provide HM Revenue & Customs (HMRC) with information concerning clients (a client list). Firstly, it provides a power for HMRC to require the promoter to provide further information about parties to the scheme in cases where it suspects the reported clients are not the only parties to the scheme. Secondly, it introduces a requirement for the client to provide information to the promoter that will enable HMRC to identify the client. This section also makes the client and promoter liable to a penalty for the failure to provide such information.

Details of the Section

2. This section inserts two new information provisions into Part 7 Finance Act 2004 (Part 7). Both contain powers for regulations to prescribe the detail of the information to be provided and the time limits for providing it.
3. Paragraph (2) inserts new section 312B into Part 7. It provides that the client of a promoter must provide that promoter with prescribed information that will enable HMRC to identify the client.
4. Paragraph (3) inserts new section 313ZB into Part 7. It provides that HMRC can, in cases where it suspects the client identified on a promoter client list is not the only party to the arrangements, require the promoter to provide further prescribed information about parties to the arrangements.
5. Paragraph (4) applies penalty provisions in section 98C Taxes Management to a failure by a promoter or client to comply with the new provisions.

Background

6. The primary legislation for the DOTAS regime is mainly contained in Part 7 consisting of sections 306 to 319. Penalties for failure by a person to comply with a Part 7 requirement to provide information are provided for in section 98C of the Taxes Management Act 1970.
7. [Part 7](#) requires certain persons, normally a scheme promoter, who is the designer and seller of the scheme, to provide information to HMRC about tax avoidance schemes falling within certain descriptions prescribed in regulations. This gives HMRC an early warning of new schemes, the opportunity to consider changes in the law to close any loopholes identified, or challenge the scheme where it does not agree with the tax effect claimed.

*These notes refer to the Finance Act 2013 (c.29)
which received Royal Assent on 17 July 2013*

8. HMRC may issue a Scheme Reference Number (SRN) to the promoter of a disclosed scheme. The promoter is required to pass the SRN to each client it becomes aware of entering into the scheme. A client who is not the user is required to pass the SRN on to the user if it knows who that is. The user is required to report the SRN to HMRC, usually on the relevant return in which the tax liability or claim is affected by the scheme.
9. Promoters who issue SRNs to clients are also required to provide a quarterly return of these client names and addresses (i.e. a client list). This informs risk assessment of the scheme and allows HMRC to cross-check against the relevant returns for the scheme users.
10. Currently, the information that promoters are required to provide on client lists is the client's name and address. Frequently, this is insufficient in order for the user of the scheme to be matched to a person in HMRC's records (for example, the promoter's data may be out of date or the client may be merely an intermediary).
11. The section provides for the client to be required to provide prescribed information to the promoter within prescribed time limits. That information will consist primarily of the client's unique tax reference number (UTR) or national insurance number (NINO). Regulations (under section 312ZA of Part 7) in turn require the promoter to include that information in a client list.
12. The section also provides that where HMRC suspects that the client is not the user of the scheme, it may require the promoter to produce further information about users of the scheme and other parties involved in the selling and execution of the scheme.
13. Failure to provide information required or requested under the new powers will make the promoter or the promoter's client, as appropriate, liable to a penalty not exceeding £5,000.
14. This section implements proposals consulted upon in *Lifting the Lid on Tax Avoidance*, which ran from 23 July to 15 October 2012.