

SCHEDULES

SCHEDULE 34

PROMOTERS OF TAX AVOIDANCE SCHEMES: THRESHOLD CONDITIONS

PART 1

MEETING THE THRESHOLD CONDITIONS: GENERAL

Restrictive contractual terms

- 11 (1) A person (“P”) meets this condition if P enters into an agreement with another person (“C”) which relates to a relevant proposal or relevant arrangements in relation to which P is a promoter, on terms which—
- (a) impose a contractual obligation on C which falls within sub-paragraph (2) or (3), or
 - (b) impose on C both obligations within sub-paragraph (4) and obligations within sub-paragraph (5).
- (2) A contractual obligation falls within this sub-paragraph if it prevents or restricts the disclosure by C to HMRC of information relating to the proposals or arrangements, whether or not by referring to a wider class of persons.
- (3) A contractual obligation falls within this sub-paragraph if it requires C to impose on any tax adviser to whom C discloses information relating to the proposals or arrangements a contractual obligation which prevents or restricts the disclosure of that information to HMRC by the adviser.
- (4) A contractual obligation falls within this sub-paragraph if it requires C to—
- (a) meet (in whole or in part) the costs of, or contribute to a fund to be used to meet the costs of, any proceedings relating to arrangements in relation to which P is a promoter (whether or not implemented by C), or
 - (b) take out an insurance policy which insures against the risk of having to meet the costs connected with proceedings relating to arrangements which C has implemented and in relation to which P is a promoter.
- (5) A contractual obligation falls within this paragraph if it requires C to obtain the consent of P before—
- (a) entering into any agreement with HMRC regarding arrangements which C has implemented and in relation to which P is a promoter, or
 - (b) withdrawing or discontinuing any appeal against any decision regarding such arrangements.
- (6) In sub-paragraph (5)(b), the reference to withdrawing or discontinuing an appeal includes any action or inaction which results in an appeal being discontinued.
- (7) In this paragraph—

Status: This is the original version (as it was originally enacted).

“proceedings” includes any sort of proceedings for resolving disputes (and not just proceedings in court), whether commenced or contemplated;

“tax adviser” means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that person or by another tax adviser of that person).