



Finance Act 2014

2014 CHAPTER 26

PART 5

PROMOTERS OF TAX AVOIDANCE SCHEMES

[^{F1}Defeat notices

[^{F1}241B Judicial ruling upholding asserted tax advantage: effect on defeat notice

- (1) If the relevant defeat to which a single defeat notice relates is overturned (see subsection (5)), the notice has no further effect on and after the day on which it is overturned.
- (2) Subsection (3) applies if one (and only one) of the relevant defeats in respect of which a double defeat notice was given is overturned.
- (3) The notice is to be treated for the purposes of this Part (including this section) as if it had always been a single defeat notice given (in respect of the other of the two relevant defeats) on the date on which the notice was in fact given.

The look-forward period for the notice is accordingly unchanged.

- (4) If both the relevant defeats to which a double defeat notice relates are overturned (on the same date), that notice has no further effect on and after that date.
- (5) A relevant defeat specified in a defeat notice is “overturned” if—
 - (a) the notice could not have specified that relevant defeat if paragraph 9 of Schedule 34A had effect with the substitution of “100% of the tested arrangements” for “75% of the tested arrangements”, and
 - (b) at a time when the notice has effect a court or tribunal upholds a corresponding tax advantage which has been asserted in connection with any of the related arrangements to which the relevant defeat relates (see paragraph 5(2) of Schedule 34A).

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Accordingly the relevant defeat is overturned on the day on which the judicial ruling mentioned in paragraph (b) becomes final.

- (6) If a defeat notice ceases to have effect as a result of subsection (1) or (4) an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, must notify the person to whom the notice was given that it has ceased to have effect.
- (7) If subsection (3) has effect in relation to a defeat notice, an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, must notify the person of the effect of that subsection.
- (8) For the purposes of this section, a tax advantage is “asserted” in connection with any arrangements if a person makes a return, claim or election on the basis that the tax advantage arises from those arrangements.
- (9) In relation to the arrangements mentioned in paragraph (b) of subsection (5) “corresponding tax advantage” means a tax advantage corresponding to any tax advantage the counteraction of which contributed to the relevant defeat mentioned in that paragraph.
- (10) For the purposes of this section a court or tribunal “upholds” a tax advantage if—
 - (a) the court or tribunal makes a ruling to the effect that no part of the tax advantage is to be counteracted, and
 - (b) that judicial ruling is final.
- (11) In this section references to “counteraction” include anything referred to as a counteraction in any of Conditions A to F in paragraphs 11 to 16 of Schedule 34A.]

Textual Amendments

F1 Ss. 241A, 241B and cross-heading inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 160\(3\)](#)

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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. 212(4)(f) and word inserted by [2021 c. 26 Sch. 27 para. 43\(b\)\(ii\)](#)
- s. 212(5)(a)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(ii\)](#)
- s. 212(5)(b)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(iv\)](#)
- s. 212(5)(c)(iv) and word inserted by [2021 c. 26 Sch. 27 para. 43\(c\)\(v\)](#)
- Sch. 31 para. 2(3)(b) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(iii\)](#)
- Sch. 31 para. 2(4A) inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(c\)](#)
- Sch. 31 para. 3(1A) inserted by [2017 c. 32 Sch. 14 para. 45\(3\)\(b\)](#)
- Sch. 31 para. 5(b) inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(c\)](#)
- Sch. 31 para. 2(3)(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(ii\)](#)
- Sch. 31 para. 5(a) words inserted by [2017 c. 32 Sch. 14 para. 45\(4\)\(b\)](#)
- Sch. 31 para. 2(3)(a) words renumbered as Sch. 31 para. 2(3)(a) by [2017 c. 32 Sch. 14 para. 45\(2\)\(a\)\(i\)](#)
- Sch. 31 para. 5(a) words renumbered as Sch. 31 para. 5(a) by [2017 c. 32 Sch. 14 para. 45\(4\)\(a\)](#)
- Sch. 32 para. 1(2)(b) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(iii\)](#)
- Sch. 32 para. 1(3A) inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(c\)](#)
- Sch. 32 para. 1(2)(a) words inserted by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(ii\)](#)
- Sch. 32 para. 1(2)(a) words renumbered as Sch. 32 para. 1(2)(a) by [2017 c. 32 Sch. 14 para. 46\(2\)\(a\)\(i\)](#)