



Finance Act 2014

2014 CHAPTER 26

PART 5

PROMOTERS OF TAX AVOIDANCE SCHEMES

Monitoring notices: procedure and publication

242 Monitoring notices: duty to apply to tribunal

(1) If—

- (a) a conduct notice has effect in relation to a person who is carrying on a business as a promoter, and
- (b) an authorised officer determines that the person
 - [^{F1}(i) has failed to comply with one or more conditions in the notice][^{F2}, or
 - (ii) has provided false or misleading information or documents in relation to the notice,]

the authorised officer must [^{F3}, within the period of 12 months beginning with the day on which the authorised officer makes the determination,] apply to the tribunal for approval to give the person a monitoring notice.

[^{F4}(1A) Where subsection (1B) applies, an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may apply to the tribunal for approval to give a person (“P”) a monitoring notice.

(1B) This subsection applies where—

- (a) within the period of 6 years after a conduct notice ceases to have effect in relation to P, the officer mentioned in subsection (1A) determines that P—
 - (i) failed to comply with one or more conditions in the notice, or
 - (ii) provided false or misleading information or documents in relation to the notice, and
- (b) the officer could not reasonably have been expected to make the determination when the conduct notice had effect.

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- (1C) An application under subsection (1A) may not be made after the period of 12 months beginning with the day on which the officer makes the determination mentioned in subsection (1B)(a).
- (1D) Where subsection (1E) applies, an authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may apply to the tribunal for approval to give a person (“D”) a monitoring notice.
- (1E) This subsection applies where—
- (a) at any time before the end of the period of 6 years after a conduct notice ceases to have effect in relation to a person (“P”), an authorised officer determines (whether before or after the notice ceases to have effect) that P—
 - (i) failed to comply with one or more conditions in the notice, or
 - (ii) provided false or misleading information or documents in relation to the notice,
 - (b) before the end of that period, the authorised officer becomes aware that P has made a relevant transfer within the meaning of paragraph 5 of Schedule 33A (promotion structures) to D (whether before or after the notice ceases to have effect), and
 - (c) the officer could not reasonably have been expected—
 - (i) to apply to the tribunal for approval to give P a monitoring notice, or
 - (ii) to give P a monitoring notice following such an application,
 before the relevant transfer took place.
- (1F) For the purposes of an application under subsection (1D), any act or omission of P by reference to which the determination mentioned in subsection (1E)(a) was made is to be treated as an act or omission of D.
- (1G) An application under subsection (1D) may not be made after the period of 12 months beginning with the day on which the officer makes the determination mentioned in subsection (1E)(a).]
- (2) An application under subsection (1) must include a draft of the monitoring notice.
- (3) Subsection (1) does not apply if—
- (a) the condition (or all the conditions) mentioned in subsection (1)(b) were imposed under subsection (3)(a), (b) or (c) of section 238, and
 - (b) the authorised officer considers that the failure to comply with the condition (or all the conditions, taken together) is such a minor matter that it should be disregarded for the purposes of this section.
- (4) Where an authorised officer makes an application to the tribunal under subsection (1), the officer must at the same time give notice to the person to whom the application relates.
- (5) The notice under subsection (4) must state which condition (or conditions) the authorised officer has determined under subsection (1)(b) that the person has failed to comply with and the reasons for that determination.
- [^{F5}(6) At a time when a notice given under section 237A is provisional, no determination is to be made under subsection (1) in respect of the notice.
- (7) If a promoter fails to comply with conditions in a conduct notice at a time when the conduct notice is provisional, nothing in subsection (6) prevents those failures from

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being taken into account under subsection (1) at any subsequent time when the conduct notice is not provisional.]

Textual Amendments

- F1** Words in s. 242(1)(b) renumbered as s. 242(1)(b)(i) (with effect in accordance with Sch. 30 para. 27(3) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 30 para. 27(1)(a)(i)**
- F2** [S. 242\(1\)\(b\)\(ii\)](#) and word inserted (with effect in accordance with Sch. 30 para. 27(3) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 30 para. 27(1)(a)(ii)**
- F3** Words in s. 242(1) inserted (with effect in accordance with Sch. 30 para. 27(3) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 30 para. 27(1)(b)**
- F4** [S. 242\(1A\)-\(1G\)](#) inserted (with effect in accordance with Sch. 30 para. 27(3) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), **Sch. 30 para. 27(2)**
- F5** [S. 242\(6\)\(7\)](#) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **s. 160(4)**

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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\(2\)\(a\)\(i\)](#)