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## SCHEDULES

### SCHEDULE 20

#### PENALTIES IN CONNECTION WITH OFFSHORE MATTERS AND OFFSHORE TRANSFERS

##### *Penalties for errors*

PROSPECTIVE

- 1 Schedule 24 to FA 2007 is amended as follows.

PROSPECTIVE

- 2 (1) Paragraph 4 (penalties payable under paragraph 1) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) If the inaccuracy is in category 0, the penalty is—
- (a) for careless action, 30% of the potential lost revenue,
  - (b) for deliberate but not concealed action, 70% of the potential lost revenue, and
  - (c) for deliberate and concealed action, 100% of the potential lost revenue.”
- (3) In sub-paragraph (2)—
- (a) in paragraph (a), for “30%” substitute “ 37.5% ”,
  - (b) in paragraph (b), for “70%” substitute “ 87.5% ”, and
  - (c) in paragraph (c), for “100%” substitute “ 125% ”.
- (4) In sub-paragraph (5), for “3” substitute “ 4 ”.
- 3 (1) Paragraph 4A (categorisation of inaccuracies) is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(A1) An inaccuracy is in category 0 if—
- (a) it involves a domestic matter,
  - (b) it involves an offshore matter or an offshore transfer, the territory in question is a category 0 territory and the tax at stake is income tax, capital gains tax or inheritance tax, or
  - (c) it involves an offshore matter and the tax at stake is a tax other than income tax, capital gains tax or inheritance tax.
- (1) An inaccuracy is in category 1 if—
- (a) it involves an offshore matter or an offshore transfer,

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- (b) the territory in question is a category 1 territory, and
  - (c) the tax at stake is income tax, capital gains tax or inheritance tax.”
- (3) In sub-paragraph (2)—
  - (a) in paragraph (a), after “matter” insert “ or an offshore transfer ”, and
  - (b) in paragraph (c), for “or capital gains tax” substitute “ , capital gains tax or inheritance tax ”.
- (4) In sub-paragraph (3)—
  - (a) in paragraph (a), after “matter” insert “ or an offshore transfer ”, and
  - (b) in paragraph (c), for “or capital gains tax” substitute “ , capital gains tax or inheritance tax ”.
- (5) After sub-paragraph (4) insert—
  - “(4A) Where the tax at stake is inheritance tax, assets are treated for the purposes of sub-paragraph (4) as situated or held in a territory outside the UK if they are so situated or held immediately after the transfer of value by reason of which inheritance tax becomes chargeable.
  - (4B) An inaccuracy “involves an offshore transfer” if—
    - (a) it does not involve an offshore matter,
    - (b) it is deliberate (whether or not concealed) and results in a potential loss of revenue,
    - (c) the tax at stake is income tax, capital gains tax or inheritance tax, and
    - (d) the applicable condition in paragraph 4AA is satisfied.”
- (6) In sub-paragraph (5), for the words following “revenue” substitute “ and does not involve either an offshore matter or an offshore transfer ”.
- (7) In sub-paragraph (6)(a), after “matters” insert “ or transfers ”.
- (8) In sub-paragraph (7), for ““Category 1”” substitute ““Category 0 territory”, “category 1””.

#### Commencement Information

- II** Sch. 20 para. 3(3)-(7) in force at 1.4.2016 and the amendments therein have effect in accordance with art. 3(2) of the commencing S.I. by [S.I. 2016/456](#), **art. 3(1)**

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After paragraph 4A insert—

- “4A**AI**) This paragraph makes provision in relation to offshore transfers.
- (2) Where the tax at stake is income tax, the applicable condition is satisfied if the income on or by reference to which the tax is charged, or any part of the income—
    - (a) is received in a territory outside the UK, or
    - (b) is transferred before the filing date to a territory outside the UK.
  - (3) Where the tax at stake is capital gains tax, the applicable condition is satisfied if the proceeds of the disposal on or by reference to which the tax is charged, or any part of the proceeds—
    - (a) are received in a territory outside the UK, or

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- (b) are transferred before the filing date to a territory outside the UK.
- (4) Where the tax at stake is inheritance tax, the applicable condition is satisfied if—
  - (a) the disposition that gives rise to the transfer of value by reason of which the tax becomes chargeable involves a transfer of assets, and
  - (b) after that disposition but before the filing date the assets, or any part of the assets, are transferred to a territory outside the UK.
- (5) In the case of a transfer falling within sub-paragraph (2)(b), (3)(b) or (4)(b), references to the income, proceeds or assets transferred are to be read as including references to any assets derived from or representing the income, proceeds or assets.
- (6) In relation to an offshore transfer, the territory in question for the purposes of paragraph 4A is the highest category of territory by virtue of which the inaccuracy involves an offshore transfer.
- (7) “Filing date” means the date when the document containing the inaccuracy is given to HMRC.
- (8) “Assets” has the same meaning as in paragraph 4A.”

**Commencement Information**

- I2** Sch. 20 para. 4 in force at 1.4.2016 and the amendments therein have effect in accordance with art. 3(2) of the commencing S.I. by [S.I. 2016/456](#), [art. 3\(1\)](#)

PROSPECTIVE

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In paragraph 10 (standard percentage reductions for disclosure), in the Table in sub-paragraph (2), at the appropriate places insert—

“37.5%	18.75%	0%”.
“87.5%	43.75%	25%”, and
““125%	62.5%	40%”.

PROSPECTIVE

6	In paragraph 12(5) (interaction with other penalties and late payment surcharges: the relevant percentage)— <ul style="list-style-type: none"><li>(a) before paragraph (a) insert—<ul style="list-style-type: none"><li>“(za) if the penalty imposed under paragraph 1 is for an inaccuracy in category 0, 100%”, and</li></ul></li><li>(b) in paragraph (a), for “100%” substitute “ 125% ”.</li></ul>
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## PROSPECTIVE

- 7 (1) Paragraph 21A (classification of territories) is amended as follows.
- (2) Before sub-paragraph (1) insert—
- “(A1) A category 0 territory is a territory designated as a category 0 territory by order made by the Treasury.”
- (3) For sub-paragraph (2) substitute—
- “(2) A category 2 territory is a territory that is not any of the following—
- (a) a category 0 territory;
- (b) a category 1 territory;
- (c) a category 3 territory.”
- (4) For sub-paragraph (7) substitute—
- “(7) An instrument containing (whether alone or with other provisions) the first order to be made under sub-paragraph (A1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.”
- 8 (1) Paragraph 21B (location of assets etc) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) The Treasury may by regulations make provision for determining for the purposes of paragraph 4AA where—
- (a) income is received or transferred,
- (b) the proceeds of a disposal are received or transferred, or
- (c) assets are transferred.”
- (3) In sub-paragraph (2), for “and capital gains tax” substitute “ , capital gains tax and inheritance tax ”.

### Commencement Information

- I3** Sch. 20 para. 8 in force at 1.4.2016 and the amendments therein have effect in accordance with art. 3(2) of the commencing S.I. by [S.I. 2016/456](#), [art. 3\(1\)](#)

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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):

- Sch. 21 para. 2(e) and word inserted by [2021 c. 26 Sch. 27 para. 44\(3\)\(b\)](#)
- Sch. 21 para. 5(6) inserted by [2021 c. 26 Sch. 27 para. 44\(4\)\(b\)](#)