
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Paragraph 10. (See end of Document for details)

SCHEDULES

SCHEDULE 6

PARTNERSHIPS

PART 5

RETURNS CONCLUSIVE AS TO SHARES OF PROFITS AND LOSSES

- 10 (1) TMA 1970 is amended as follows.
- (2) After section 12ABZA (as inserted by this Act) insert—

“12ABZB Partnership return conclusive as to partnership shares

- (1) A partnership return is conclusive for tax purposes as to—
- (a) whether a person does or does not have a share in the profits or losses of the partnership for any period, and
 - (b) what the share of any person in those profits or losses is.
- (2) That applies even where the person would not otherwise be chargeable to tax on profits of the partnership.
- (3) If there is a dispute between the person mentioned in subsection (1)(a) or (b) and any one or more partners in the partnership about whether what is given in a partnership return is correct as to the matters mentioned in that subsection, a party to the dispute may refer it to the tribunal for determination.
- (4) That does not include a dispute to the extent that it is in substance about the amount (before sharing) of the partnership's profits or losses for a period.
- (5) A referral under subsection (3) must be made before the end of the period of 12 months beginning with the day after—
- (a) the day on which the partnership return was delivered, or
 - (b) if the dispute relates to an amendment to the return made under section 12ABA (amendment of partnership return by taxpayer), the day on which the amendment was made.
- (6) Where a dispute is referred to the tribunal under subsection (3)—
- (a) the party referring it must at the same time give notice of the referral to—
 - (i) HMRC, and
 - (ii) the reporting partner, and
 - (b) the reporting partner must give notice of the referral to—
 - (i) every other partner in the partnership, and

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Paragraph 10. (See end of Document for details)

(ii) any other person appearing to the reporting partner to be a party to the dispute.

But notice need not be given under this subsection to anyone who referred the dispute.

(7) Where the tribunal determines that what is given in the partnership return as to the matters referred to in subsection (1)(a) or (b) is not correct—

- (a) the tribunal must determine what the return should have given, and
- (b) HMRC must amend the return accordingly.

(8) Where a partnership return is amended under subsection (7)(b), HMRC must by notice to any party to the proceedings or any partner in the partnership amend—

- (a) their return under section 8 or 8A of this Act, or
- (b) their company tax return,

if the amendments are necessary to give effect to the consequences of the amendment of the partnership return.

(9) Where at any time after a referral is made under subsection (3) but before the tribunal determines the dispute the reporting partner gives notice to HMRC that all the partners in the partnership (whether or not party to the proceedings) have agreed in writing that the partnership return—

- (a) is correct without variation, or
- (b) requires correcting in a particular manner,

the like consequences shall ensue for all purposes as would have ensued if, at the time the agreement was made, the tribunal had determined the dispute in accordance with the terms of the agreement.

(10) Subsection (9) does not apply if—

- (a) within the period of 30 days beginning with the date of the agreement, a party to the agreement gives notice to the other parties to the agreement that the party wishes to repudiate or resile from the agreement, or
- (b) within the period of 30 days beginning with the date on which it receives notice of the agreement, HMRC gives notice to the reporting partner of its objection to the agreement.

(11) A partnership return which has been the subject of a referral under subsection (3) may not be the subject of another referral under that subsection, unless that other referral—

- (a) relates to a dispute arising in consequence of an amendment of the partnership return under section 12ABA (amendment of partnership return by taxpayer), and
- (b) is the first referral following the amendment.

(12) In this section—

“reporting partner” means the partner who made and delivered the partnership return or that partner's successor;

references to a partner in a partnership are to a person who was a partner in it at any time during the period in respect of which the partnership return was made.”

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Paragraph 10. (See end of Document for details)

- (3) In section 12ABA(1) (amendment of partnership return by taxpayer), after “partnership return” insert “ (including anything included in the return by virtue of section 12ABZB(7)(b) (amendment of partnership return following referral to tribunal)) ”.
- (4) In section 12AC (enquiry into partnership return)—
- (a) in subsection (2), after paragraph (c) insert—
 - “(d) if a dispute in relation to the return is referred to a tribunal under section 12ABZB(3) of this Act, up to and including the quarter day next following the first anniversary of the day on which HMRC received notification of the referral.”;
 - (b) in subsection (3), at the end insert “ or in consequence of the referral of a dispute about the return under section 12ABZB(3) of this Act ”;
 - (c) in subsection (4), for “, subject to the following limitation” substitute “ and including anything included in the return by virtue of section 12ABZB(7)(b), subject to the following limitations ”;
 - (d) after subsection (5) insert—
 - “(5A) If the notice of enquiry is given as a result of the referral of a dispute under section 12ABZB(3) of this Act—
 - (a) at a time when it is no longer possible to give notice of enquiry under subsection (2)(a) or (b) above,
 - (b) after a final closure notice has been issued in relation to an enquiry into the return, or
 - (c) after a partial closure notice has been issued in such an enquiry in relation to the matters to which the dispute relates or which are affected by it,the enquiry into the return is limited to the matters to which the dispute relates or which are affected by it.”
- (5) In section 12AD (amendment of partnership return by taxpayer during enquiry)—
- (a) in the heading, after “taxpayer” insert “, or referral of dispute,”;
 - (b) in subsection (1)—
 - (i) after “taxpayer” insert “, or a dispute about the return is referred to the tribunal under section 12ABZB(3) of this Act,”;
 - (ii) after “the amendment”, in both places it occurs, insert “ or dispute ”;
 - (c) in subsection (2), after “amendment” insert “ or dispute ”.
- (6) In section 28B(2)(b) (completion of enquiry into partnership return), after “return” insert “ (including anything included in the return by virtue of section 12ABZB(7)(b) (amendment of partnership return following reference to tribunal)) ”.
- (7) In section 30B(1) (amendment of partnership return where loss of tax discovered), in the words after paragraph (c), after “return” insert “ (including anything included in the return by virtue of section 12ABZB(7)(b) (amendment of partnership return following reference to tribunal)) ”.
- (8) In section 55 (recovery of tax not postponed)—
- (a) in subsection (8B), for “and (8D)” substitute “ to (8E) ”;
 - (b) in subsection (8C)—
 - (i) in paragraph (c), omit the final “or”;

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2018, Paragraph 10. (See end of Document for details)

- (ii) after paragraph (c) insert—
 - “(ca) any amount of tax specified in the notice by virtue of an amendment made under section 227(7A) of that Act, or”;
- (c) after subsection (8D) insert—
 - “(8E) If the payment of an amount of tax within subsection (8C)(ca) is postponed by virtue of this section immediately before notice of the amendment is given, it ceases to be so postponed with effect from the time that the notice of the amendment is given, and the tax is due and payable on or before—
 - (a) the last day of the period of 30 days beginning with the day on which the notice is given, or
 - (b) if later, the last day on which it would have been payable under subsection (8D) if it had been included in the amount specified in the accelerated payment notice or partner payment notice when that notice was given.”
- (9) In section 59B(5)(b) (payment of tax following amendment of self-assessment), after “section” insert “ 12ABZB(8), ”.
- (10) In Schedule 3ZA (date by which payment to be made after amendment or correction of self-assessment), in paragraph 7 (amendment consequential on correction of partnership return by Revenue)—
 - (a) in the heading, at the end insert “ or tribunal determination of partnership dispute ”;
 - (b) in sub-paragraph (1), after “under” insert “ section 12ABZB(8)(a) of this Act (consequential amendment of partner's personal or trustee return where partnership return corrected following reference to tribunal) or ”;
 - (c) in sub-paragraph (2), after “section” insert “ 12ABZB(8)(a) or ”.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2018, Paragraph 10.