



Finance Act 2020

2020 CHAPTER 14

PART 4

MISCELLANEOUS AND FINAL

Administration

103 HMRC: exercise of officer functions

- (1) Anything capable of being done by an officer of Revenue and Customs by virtue of a function conferred by or under an enactment relating to taxation may be done by HMRC (whether by means involving the use of a computer or otherwise).
- (2) Accordingly, it follows that HMRC may (among other things)—
 - (a) give a notice under section 8, 8A or 12AA of TMA 1970 (notice to file personal, trustee or partnership return);
 - (b) amend a return under section 9ZB of that Act (correction of personal or trustee return);
 - (c) make an assessment to tax in accordance with section 30A of that Act (assessing procedure);
 - (d) make a determination under section 100 of that Act (determination of penalties);
 - (e) give a notice under paragraph 3 of Schedule 18 to FA 1998 (notice to file company tax return);
 - (f) make a determination under paragraph 2 or 3 of Schedule 14 to FA 2003 (SDLT: determination of penalties).
- (3) Anything done by HMRC in accordance with subsection (1) has the same effect as it would have if done by an officer of Revenue and Customs (or, where the function is conferred on an officer of a particular kind, an officer of that kind).
- (4) In this section—

“HMRC” means Her Majesty's Revenue and Customs;

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references to an officer of Revenue and Customs include an officer of a particular kind, such as an officer authorised for the purposes of an enactment.

- (5) This section is treated as always having been in force.
- (6) However, this section does not apply in relation to anything mentioned in subsection (1) done by HMRC if—
 - (a) before 11 March 2020, a court or tribunal determined that the relevant act was of no effect because it was not done by an officer of Revenue and Customs (or an officer of a particular kind), and
 - (b) at the beginning of 11 March 2020, the order of the court or tribunal giving effect to that determination had not been set aside or overturned on appeal.

104 Returns relating to LLP not carrying on business etc with view to profit

- (1) In TMA 1970 after section 12ABZA insert—

“12ABZAA Returns relating to LLP not carrying on business etc with view to profit

- (1) This section applies where—
 - (a) a person delivers a purported partnership return (“the relevant return”) in respect of a period (“the relevant period”),
 - (b) the relevant return—
 - (i) is made on the basis that the activities of a limited liability partnership (“the LLP”) are treated, under section 863 of ITTOIA 2005 or section 1273 of CTA 2009, as carried on in partnership by its members (“the purported partnership”), and
 - (ii) relates to the purported partnership, but
 - (c) the LLP does not carry on a business with a view to profit in the relevant period (and, accordingly, its activities are not treated as mentioned in paragraph (b)(i)).
- (2) For the purposes of the relevant enactments, treat the relevant return as a partnership return (and, accordingly, anything done under a relevant enactment in connection with the relevant return has the same effect as it would have if done in connection with a partnership return in a corresponding partnership case).
- (3) “Relevant enactment” means—
 - (a) any of the following—
 - (i) sections 12AC and 28B (enquiries into partnership returns),
 - (ii) Part 4 of FA 2014 (follower notices and accelerated payment notices), and
 - (b) any enactment relating to, or applying for the purposes of, an enactment within paragraph (a).
- (4) In relation to the relevant return, the relevant enactments apply with the necessary modifications, including in particular the following—
 - (a) “partner” includes purported partner, and
 - (b) “partnership” includes the purported partnership.

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- (5) In this section—
- “business” includes trade or profession;
 - “corresponding partnership case” means a corresponding case in which the limited liability partnership in question carries on a business with a view to profit in the relevant period;
 - “purported partner” means any person who was a member of the LLP in the relevant period;
 - “purported partnership return” means anything that—
 - (a) purports to be a partnership return, and
 - (b) is in a form, and is delivered in a way, that a partnership return could have been made and delivered in a corresponding partnership case.”
- (2) The amendment made by subsection (1) is treated as always having been in force.
- (3) However, that amendment does not apply in relation to a purported partnership return if—
- (a) before 11 March 2020, a court or tribunal determined, in proceedings to which a limited liability partnership was a party, that the purported partnership return was not a return under section 12AA of TMA 1970, and
 - (b) at the beginning of 11 March 2020, the order of the court or tribunal giving effect to that determination had not been set aside or overturned on appeal.
- (4) In Part 1 of Schedule 14 to F(No.2)A 2017 (digital reporting and record-keeping for income tax etc: amendments of TMA 1970), after paragraph 10B insert—

“10BA(1) Section 12ABZAA (returns relating to LLP not carrying on business etc with view to profit) is amended as follows.

- (2) For subsection (2) substitute—
- “(2) For the purposes of the relevant enactments—
- (a) where the relevant return purports to be a section 12AA partnership return, treat it as a section 12AA partnership return;
 - (b) where the relevant return purports to be a Schedule A1 partnership return, treat it as a Schedule A1 partnership return,
- (and, accordingly, anything done under a relevant enactment in connection with the relevant return has the same effect as it would have if done in connection with a section 12AA or Schedule A1 partnership return (as the case may be) in a corresponding partnership case).”
- (3) In subsection (5), in the definition of “purported partnership return”—
- (a) in paragraph (a), for “partnership return” substitute “section 12AA or Schedule A1 partnership return”;
 - (b) in paragraph (b), for “partnership return” substitute “section 12AA or Schedule A1 partnership return (as the case may be)”.
- (5) The reference in section 61(6) of F(No.2)A 2017 (commencement) to Schedule 14 to that Act is to be read as a reference to that Schedule as amended by subsection (4) of this section.

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105 Interest on unpaid tax in case of disaster etc of national significance

- (1) Section 135 of FA 2008 (interest on unpaid tax in case of disaster etc of national significance) is amended as follows.
- (2) In subsection (2), for the words from “arising” to the end substitute “that—
 - (a) arises under or by virtue of an enactment or a contract settlement, and
 - (b) is of a description (if any) specified in the order.”
- (3) In subsection (4)—
 - (a) after “relief period” insert “, in relation to a deferred amount, ”;
 - (b) in paragraph (b), after “revoked” insert “ or amended so that it ceases to have effect in relation to the deferred amount ”.
- (4) In subsection (10)—
 - (a) at the end of paragraph (a), omit “and”;
 - (b) at the end of paragraph (b) insert “, and
 - (c) may specify different dates in relation to liabilities of different descriptions.”
- (5) The amendments made by this section have effect from 20 March 2020.

Changes to legislation:

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