

## SCHEDULES

### SCHEDULE 8

#### DIGITAL SERVICES TAX: RETURNS, ENQUIRIES, ASSESSMENTS AND APPEALS

#### PART 5

#### HMRC DETERMINATIONS

##### *Determination of tax chargeable if no return delivered*

- 16 (1) An officer of Revenue and Customs may determine to the best of the officer's information and belief the total amount of tax payable by relevant persons for an accounting period ("an HMRC determination") if the conditions in sub-paragraph (2) are met.
- (2) The conditions in this sub-paragraph are met if—
- (a) no DST return for the accounting period has been delivered by the end of the filing date, and
  - (b) the officer has reasonable grounds for believing the responsible member is under a duty to deliver a DST return for the accounting period.
- (3) Notice of an HMRC determination—
- (a) must state the date on which it is issued, and
  - (b) must be served on the responsible member.
- (4) No HMRC determination may be made more than 3 years after the filing date.

##### *Determination to have effect as a self-assessment*

- 17 (1) An HMRC determination has effect for enforcement purposes as if it were a self-assessment (within the meaning of paragraph 2(2)).
- (2) In sub-paragraph (1) "for enforcement purposes" means for the purposes of provisions providing for—
- (a) tax-related penalties,
  - (b) collection and recovery of tax, and
  - (c) interest on overdue tax.
- (3) Nothing in this paragraph affects any liability to a penalty for failure to deliver a return.

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*Status: This is the original version (as it was originally enacted).*

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*Determination superseded by actual self-assessment*

- 18 (1) If, after an HMRC determination has been made, a DST return is delivered for the accounting period, the self-assessment included in the return supersedes the determination.
- (2) Sub-paragraph (1) does not apply to a return delivered—
- (a) more than 3 years after the day on which the power to make the determination first became exercisable, or
  - (b) more than 12 months after the date of the determination,
- whichever is the later.
- (3) Where—
- (a) proceedings have been begun for the recovery of any tax charged by an HMRC determination, and
  - (b) before the proceedings are concluded the determination is superseded by a self-assessment,
- the proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not been paid.
- (4) Where—
- (a) action is being taken under Part 1 of Schedule 8 to F(No.2)A 2015 (enforcement of deduction from accounts) for the recovery of an amount (“the original amount”) of tax charged by an HMRC determination, and
  - (b) before that action is concluded, the determination is superseded by a self-assessment,
- that action may be continued as if it were an action for the recovery of so much of the tax charged by the self-assessment as is due and payable, has not been paid and does not exceed the original amount.