

SCHEDULES

SCHEDULE 8

DIGITAL SERVICES TAX: RETURNS, ENQUIRIES, ASSESSMENTS AND APPEALS

PART 6

HMRC ASSESSMENTS

Assessments where loss of tax discovered

- 19 (1) If, in respect of an accounting period of a group, an officer of Revenue and Customs discovers that—
- (a) an amount of tax that ought to have been assessed has not been assessed, or
 - (b) an assessment to tax is or has become insufficient,
- the officer may make an assessment (a “discovery assessment”) in the amount or further amount which ought in the officer’s opinion to be charged in order to make good to the Crown the loss of tax.
- (2) This is subject to the restrictions in paragraph 20.

Restrictions on assessments

- 20 (1) If a DST return has been delivered in respect of the accounting period, the power to make a discovery assessment—
- (a) may only be made in the two cases specified in sub-paragraphs (2) and (3), and
 - (b) may not be made in the circumstances specified in sub-paragraph (5).
- (2) The first case is where the situation mentioned in paragraph 19(1) was brought about carelessly or deliberately on the part of—
- (a) a relevant person, or
 - (b) a person acting on behalf of a relevant person.
- (3) The second case is where an officer of Revenue and Customs, at the time the officer—
- (a) ceased to be entitled to give a notice of enquiry into the return, or
 - (b) completed an enquiry into the return,
- could not have been reasonably expected, on the basis of the information made available to the officer before that time, to be aware of the situation mentioned in paragraph 19(1).
- (4) For this purpose information is regarded as made available to the officer of Revenue and Customs if—
- (a) it is contained in the DST return for the accounting period in question or either of the two immediately preceding accounting periods,

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- (b) it is contained in any documents produced or information provided by the responsible member for the purposes of an enquiry into any such return, or
 - (c) it is information the existence of which, and the relevance of which as regards the situation mentioned in paragraph 19(1)—
 - (i) could reasonably be expected to be inferred by the officer of Revenue and Customs from information falling within paragraph (a) or (b), or
 - (ii) are notified in writing to an officer of Revenue and Customs by the responsible member or another person acting on the responsible member's behalf.
- (5) No discovery assessment may be made if—
- (a) the situation mentioned in paragraph 19(1) is attributable to a mistake in the return as to the basis on which the tax liability ought to have been calculated, and
 - (b) the return was in fact made on the basis or in accordance with the practice generally prevailing at the time it was made.

Time limits for discovery assessments

- 21 (1) The general rule is that no discovery assessment may be made more than 4 years after the end of the accounting period to which it relates.
- (2) An assessment in a case involving a loss of tax brought about carelessly by a relevant person (or a person acting on their behalf) may be made at any time not more than 6 years after the end of the accounting period to which it relates.
- (3) An assessment in a case involving a loss of tax—
- (a) brought about deliberately by a relevant person (or a person acting on their behalf), or
 - (b) attributable to a failure by the responsible member to comply with an obligation under section 54,
- may be made at any time not more than 20 years after the end of the accounting period to which it relates.

Assessment procedure etc

- 22 (1) Where notice of a discovery assessment is issued, the notice must be served on the responsible member.
- (2) The notice must state—
- (a) the tax due,
 - (b) the date on which the notice is issued, and
 - (c) the time within which any appeal against the assessment must be made.
- (3) After notice of the assessment has been served under this paragraph, the assessment may not be altered except as provided for by or under this Part of this Act.
- (4) Where an officer of Revenue and Customs has—
- (a) decided to make an assessment to tax, and
 - (b) taken all other decisions needed for arriving at the amount of the assessment,

the officer may entrust to some other officer of Revenue and Customs the responsibility for completing the assessing procedure, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the assessment.

Liability to amounts charged by way of discovery assessment

- 23 (1) This paragraph applies where—
- (a) notice of a discovery assessment has been issued under paragraph 22, and
 - (b) no appeal has been brought against the assessment under paragraph 33(1)(c).
- (2) The responsible member is liable to the tax due, subject as follows.
- (3) The responsible member may make a request to an officer of Revenue and Customs for one or more other relevant persons to be liable to the tax due (or any part of it).
- (4) The request must be made within 30 days of the date of issue of the notice of assessment.
- (5) Within 30 days of receiving the request, the officer must—
- (a) either agree to the request or refuse it,
 - (b) notify the responsible member of the decision, and
 - (c) if the officer agrees to the request, give effect to it by making all necessary adjustments.
- (6) An officer may not agree to the request unless satisfied it is reasonable in all the circumstances.
- (7) A request or notification under this paragraph must be in writing.