
STATUTORY INSTRUMENTS

2015 No. 878

The International Tax Compliance Regulations 2015

Penalties for breach of obligations

Penalties for failure to comply with Regulations

13. A person is liable to a penalty of £300 if the person fails to comply with any obligation under these Regulations.

Daily default penalty

14. If—

- (a) a penalty under regulation 13 is assessed, and
- (b) the failure in question continues after the person has been notified of the assessment,

the person is liable to a further penalty, for each subsequent day on which the failure continues, of an amount not exceeding £60 for each such day.

Penalties for inaccurate information

15.—(1) A person is liable to a penalty not exceeding £3,000 if—

- (a) in complying with an obligation under regulation 6 the person provides inaccurate information, and
- (b) condition A, B or C is met.

(2) Condition A is that the inaccuracy is—

- (a) due to a failure to comply with the due diligence requirements in regulation 3 (as modified by regulations 4 or 5 where those regulations apply), or
- (b) deliberate on the part of the person.

(3) Condition B is that the person knows of the inaccuracy at the time the information is provided but does not inform HMRC at that time.

(4) Condition C is that the person—

- (a) discovers the inaccuracy some time later, and
- (b) fails to take reasonable steps to inform HMRC.

FATCA agreement penalty: non-participating financial institutions

16.—(1) In relation to payments that are required to be identified under regulation 9(2), a person is liable to—

- (a) a penalty of £300 for each failure to report a payment, and
- (b) a penalty of £300 for each failure to set out a payment accurately in a report made under regulation 9.

(2) But in relation to a calendar year, a person's liability for penalties under this regulation is subject to a limit of £3000.

Matters to be disregarded in relation to liability to penalties

17.—(1) Liability to a penalty under regulation 13, 14 or 16 does not arise if the person satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that there is a reasonable excuse for the failure.

(2) For the purposes of this regulation neither of the following is a reasonable excuse—

- (a) that there is an insufficiency of funds to do something,
- (b) that a person relies upon another person to do something.

(3) If a person had a reasonable excuse for a failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

Assessment of penalties

18.—(1) If a person becomes liable to a penalty under any of regulations 13 to 16, an officer of Revenue and Customs may assess the penalty.

(2) If an officer does so, the officer must notify the person.

(3) An assessment of a penalty under regulation 13, 14 or 16(1)(a) must be made within the period of 12 months beginning with the date on which the person became liable to the penalty.

(4) An assessment of a penalty under regulation 15 or 16(1)(b) must be made—

- (a) within the period of 12 months beginning with the date on which the inaccuracy first came to the attention of an officer of Revenue and Customs, and
- (b) within the period of 6 years beginning with the date on which the person became liable to the penalty.

Right to appeal against penalty

19. A person may appeal against a penalty assessment—

- (a) on the grounds that liability to a penalty under any of regulations 13 to 16 does not arise, or
- (b) as to the amount of such a penalty.

Procedure on appeal against penalty

20.—(1) Notice of an appeal under regulation 19 must be given—

- (a) in writing,
- (b) before the end of the period of 30 days beginning with the date on which notification under regulation 18 was given,
- (c) to HMRC.

(2) It must state the grounds of appeal.

(3) On an appeal under regulation 19(a) that is notified to the tribunal, the tribunal may confirm or cancel the assessment.

(4) On an appeal under regulation 19(b) that is notified to the tribunal, the tribunal may—

- (a) confirm the assessment, or
- (b) substitute another assessment that the officer of Revenue and Customs had power to make.

(5) Subject to this regulation and regulation 22, the provisions of Part 5 of TMA 1970(1) relating to appeals have effect in relation to appeals under regulation 19 as they have effect in relation to an appeal against an assessment to income tax.

Increased daily default penalty

21.—(1) This paragraph applies if—

- (a) a penalty under regulation 14 is assessed under regulation 18,
- (b) the failure in respect of which that assessment is made continues for more than 30 days beginning with the date on which notification of that assessment is given, and
- (c) the person has been told that an application may be made under this paragraph for an increased daily penalty to be imposed.

(2) If this regulation applies, an officer of Revenue and Customs may make an application to the tribunal for an increased daily penalty to be imposed on the person.

(3) If the tribunal decides that an increased daily penalty should be imposed then for each applicable day on which the failure continues—

- (a) the person is not liable to a penalty under regulation 14 in respect of the failure, and
 - (b) the person is liable instead to a penalty under this regulation of an amount determined by the tribunal.
- (4) The tribunal may not determine an amount exceeding £1000 for each applicable day.
- (5) If a person becomes liable to a penalty under this regulation, HMRC must notify the person.
- (6) The notification must specify the day from which the increased penalty is to apply.
- (7) That day and any subsequent day is an “applicable day” for the purposes of this regulation.

Enforcement of penalties

22.—(1) A penalty under these Regulations must be paid before the end of the period of 30 days beginning with the date mentioned in paragraph (2).

(2) That date is—

- (a) the date on which the assessment under regulation 18 or notification under regulation 21(5) is given in respect of the penalty, or
- (b) if a notice of appeal under regulation 20 is given, the date on which the appeal is finally determined or withdrawn.

(3) A penalty under these Regulations may be enforced as if it were income tax charged in an assessment and due and payable.

(1) 1970 c. 9. The Taxes Management Act 1970 was relevantly amended by sections 45(1) and 67(2) of the Finance (No. 2) Act 1975 (c. 45); section 68 of the Finance Act 1982 (c. 39); section 156(2) and (4) of the Finance Act 1989 (c. 26); section 199 of and paragraphs 18(1) and (2) of Schedule 19 to the Finance Act 1994 (c. 9); paragraph 28 of Schedule 19 to the Finance Act 1998 (c. 36); section 88 of and paragraph 31 of Schedule 29 to the Finance Act 2001 (c. 9); paragraph 21 of Schedule 1 to the Constitutional Reform Act 2005 (c. 4); paragraph 257(a) and (b) of Schedule 1 to and Part 1 of Schedule 3 to the Income Tax Act 2007 (c. 3); section 119(12)(a) of the Finance Act 2008 (c. 9); paragraph 31 of Schedule 7 to the Taxation (International and Other Provisions) Act 2010 (c. 8); S.I. 1994/1813 and 2009/56.