
Changes to legislation: Income Tax (Earnings and Pensions) Act 2003, Cross Heading: Enquiries is up to date with all changes known to be in force on or before 22 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 2

^{F1} ... SHARE INCENTIVE PLANS

Textual Amendments

- F1** Word in Sch. 2 title omitted (6.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 14, 89](#) (with [Sch. 8 paras. 90-96](#))

^{F1}PART 10

NOTIFICATION OF PLANS, ANNUAL RETURNS AND ENQUIRIES

Textual Amendments

- F1** Sch. 2 Pt. 10 substituted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 8 paras. 28, 89](#) (with [Sch. 8 paras. 90-96](#))

Enquiries

- 81F (1) This paragraph applies if notice is given in relation to a SIP under paragraph 81A.
- (2) HMRC may enquire into the SIP if HMRC give notice to the company of HMRC's intention to do so no later than—
- (a) 6 July in the tax year following the tax year in which the initial notification deadline falls, or
 - (b) if the notice under paragraph 81A is given after the initial notification deadline, 6 July in the second tax year following the relevant tax year.
- (3) HMRC may enquire into the SIP if HMRC give notice to the company of HMRC's intention to do so no later than 12 months after the date on which a declaration within paragraph 81B(7) is given to HMRC.
- (4) Sub-paragraph (5) applies if (at any time) HMRC have reasonable grounds for believing that requirements of Parts 2 to 9 of this Schedule—
- (a) are not met in relation to the SIP, or
 - (b) have not been met in relation to the SIP.
- (5) HMRC may enquire into the SIP if HMRC give notice to the company of HMRC's intention to do so.
- (6) Notice may be given, and an enquiry may be conducted, under sub-paragraph (2), (3) or (5) even though the termination condition has been met in relation to the SIP.

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- 81G (1) An enquiry under paragraph 81F(2), (3) or (5) is completed when HMRC give the company a notice (a “closure notice”) stating—
- (a) that HMRC have completed the enquiry, and
 - (b) that—
 - (i) paragraph 81H is to apply,
 - (ii) paragraph 81I is to apply, or
 - (iii) neither paragraph 81H nor paragraph 81I is to apply.
- (2) If the company receives notice under paragraph 81F(2), (3) or (5), the company may make an application to the tribunal for a direction requiring a closure notice for the enquiry to be given within a specified period.
- (3) The application is to be subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).
- (4) The tribunal must give a direction unless satisfied that HMRC have reasonable grounds for not giving the closure notice within the specified period.
- 81H (1) This paragraph applies if HMRC decide—
- (a) that requirements of Parts 2 to 9 of this Schedule—
 - (i) are not met in relation to the SIP, or
 - (ii) have not been met in relation to the SIP, and
 - (b) that the situation is, or was, so serious that this paragraph should apply.
- (2) If this paragraph applies—
- (a) the SIP is not to be a Schedule 2 SIP with effect from—
 - (i) such relevant time as is specified in the closure notice, or
 - (ii) if no relevant time is specified, the time of the giving of the closure notice, and
 - (b) the company is liable for a penalty of an amount decided by HMRC.
- (3) Sub-paragraph (2)(a) does not affect the operation of the SIP code in relation to shares appropriated to, or acquired on behalf of, an individual under the SIP before the time mentioned in sub-paragraph (2)(a)(i) or (ii) (as the case may be).
- (4) In particular, if the SIP was a Schedule 2 SIP when the shares were appropriated to, or acquired on behalf of, the individual, the SIP is to continue to be a Schedule 2 SIP in relation to those shares.
- (5) The penalty under sub-paragraph (2)(b) must not exceed an amount equal to twice HMRC's reasonable estimate of—
- (a) the total income tax for which participants in the SIP have not been liable, or will not be liable in the future, and
 - (b) the total contributions under Part 1 of SSCBA 1992 or SSCB(NI)A 1992 for which any persons have not been liable, or will not be liable in the future,
- in consequence of the SIP having been a Schedule 2 SIP at any relevant time before the time mentioned in sub-paragraph (2)(a)(i) or (ii) (as the case may be).
- (6) The liabilities covered by sub-paragraph (5) include liabilities for income tax or contributions which a person has not had, or will not have, in consequence of sub-paragraphs (3) and (4).

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- (7) In this paragraph “relevant time” means any time before the giving of the closure notice when requirements of Parts 2 to 9 of this Schedule were not met in relation to the SIP.
- 81I (1) This paragraph applies if HMRC decide—
- (a) that requirements of Parts 2 to 9 of this Schedule—
 - (i) are not met in relation to the SIP, or
 - (ii) have not been met in relation to the SIP, but
 - (b) that the situation is not, or was not, so serious that paragraph 81H should apply.
- (2) If this paragraph applies, the company—
- (a) is liable for a penalty of an amount decided by HMRC, and
 - (b) must, no later than 90 days after the relevant day, secure that the requirements of Parts 2 to 9 of this Schedule are met in relation to the SIP.
- (3) The penalty under sub-paragraph (2)(a) must not exceed £5,000.
- (4) In sub-paragraph (2)(b) “the relevant day” means—
- (a) the last day of the period in which notice of an appeal under paragraph 81K(2)(b) may be given, or
 - (b) if notice of such an appeal is given, the day on which the appeal is determined or withdrawn.
- (5) Sub-paragraph (2)(b) does not apply if the termination condition was met in relation to the SIP before the giving of the closure notice or is met before the end of the 90 day period mentioned in sub-paragraph (2)(b).
- (6) If the company fails to comply with sub-paragraph (2)(b), HMRC may give the company a notice stating that that is the case (a “default notice”).
- (7) If the company is given a default notice—
- (a) the SIP is not to be a Schedule 2 SIP with effect from—
 - (i) such relevant time as is specified in the default notice, or
 - (ii) if no relevant time is specified, the time of the giving of the default notice, and
 - (b) the company is liable for a further penalty of an amount decided by HMRC.
- (8) Sub-paragraph (7)(a) does not affect the operation of the SIP code in relation to shares appropriated to, or acquired on behalf of, an individual under the SIP before the time mentioned in sub-paragraph (7)(a)(i) or (ii) (as the case may be).
- (9) In particular, if the SIP was a Schedule 2 SIP when the shares were appropriated to, or acquired on behalf of, the individual, the SIP is to continue to be a Schedule 2 SIP in relation to those shares.
- (10) The penalty under sub-paragraph (7)(b) must not exceed an amount equal to twice HMRC's reasonable estimate of—
- (a) the total income tax for which participants in the SIP have not been liable, or will not be liable in the future, and
 - (b) the total contributions under Part 1 of SSCBA 1992 or SSCB(NI)A 1992 for which any persons have not been liable, or will not be liable in the future,

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in consequence of the SIP having been a Schedule 2 SIP at any relevant time before the time mentioned in sub-paragraph (7)(a)(i) or (ii) (as the case may be).

- (11) The liabilities covered by sub-paragraph (10) include liabilities for income tax or contributions which a person has not had, or will not have, in consequence of sub-paragraphs (8) and (9).
- (12) In this paragraph “relevant time” means any time before the giving of the default notice when requirements of Parts 2 to 9 of this Schedule were not met in relation to the SIP.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 452(2)(aa) inserted by [2013 c. 29 Sch. 23 para. 11](#)
- s. 707A inserted by [2024 c. 3 s. 36\(4\)](#)