



Finance Act 2014

2014 CHAPTER 26

PART 5

PROMOTERS OF TAX AVOIDANCE SCHEMES

Introduction

234 Meaning of “relevant proposal” and “relevant arrangements”

- (1) “Relevant proposal” means a proposal for arrangements which (if entered into) would be relevant arrangements (whether the proposal relates to a particular person or to any person who may seek to take advantage of it).
- (2) Arrangements are “relevant arrangements” if—
 - (a) they enable, or might be expected to enable, any person to obtain a tax advantage, and
 - (b) the main benefit, or one of the main benefits, that might be expected to arise from the arrangements is the obtaining of that advantage.
- (3) “Tax advantage” includes—
 - (a) relief or increased relief from tax,
 - (b) repayment or increased repayment of tax,
 - (c) avoidance or reduction of a charge to tax or an assessment to tax,
 - (d) avoidance of a possible assessment to tax,
 - (e) deferral of a payment of tax or advancement of a repayment of tax, and
 - (f) avoidance of an obligation to deduct or account for tax.
- (4) “Arrangements” includes any agreement, scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.

Status: This is the original version (as it was originally enacted).

235 Carrying on a business “as a promoter”

- (1) A person carrying on a business in the course of which the person is, or has been, a promoter in relation to a relevant proposal or relevant arrangements carries on that business “as a promoter”.
- (2) A person is a “promoter” in relation to a relevant proposal if the person—
 - (a) is to any extent responsible for the design of the proposed arrangements,
 - (b) makes a firm approach to another person in relation to the relevant proposal with a view to making the proposal available for implementation by that person or any other person, or
 - (c) makes the relevant proposal available for implementation by other persons.
- (3) A person is a “promoter” in relation to relevant arrangements if the person—
 - (a) is by virtue of subsection (2)(b) or (c), a promoter in relation to a relevant proposal which is implemented by the arrangements, or
 - (b) is responsible to any extent for the design, organisation or management of the arrangements.
- (4) For the purposes of this Part a person makes a firm approach to another person in relation to a relevant proposal if—
 - (a) the person communicates information about the relevant proposal to the other person at a time when the proposed arrangements have been substantially designed,
 - (b) the communication is made with a view to that other person or any other person entering into transactions forming part of the proposed arrangements, and
 - (c) the information communicated includes an explanation of the tax advantage that might be expected to be obtained from the proposed arrangements.
- (5) For the purposes of subsection (4) proposed arrangements have been substantially designed at any time if by that time the nature of the transactions to form them (or part of them) has been sufficiently developed for it to be reasonable to believe that a person who wished to obtain the tax advantage mentioned in subsection (4)(c) might enter into—
 - (a) transactions of the nature developed, or
 - (b) transactions not substantially different from transactions of that nature.
- (6) A person is not a promoter in relation to a relevant proposal or relevant arrangements by reason of anything done in prescribed circumstances.
- (7) Regulations under subsection (6) may contain provision having retrospective effect.

236 Meaning of “intermediary”

For the purposes of this Part a person (“A”) is an intermediary in relation to a relevant proposal if—

- (a) A communicates information about the relevant proposal to another person in the course of a business,
- (b) the communication is made with a view to that other person, or any other person, entering into transactions forming part of the proposed arrangements, and
- (c) A is not a promoter in relation to the relevant proposal.