

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Paragraph 12. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 11A

DISCLOSURE OF AVOIDANCE SCHEMES

Textual Amendments

- F1** Sch. 11A inserted (22.7.2004 for specified purposes, 1.8.2004 in so far as not already in force) by [Finance Act 2004 \(c. 12\), s. 19\(2\), Sch. 2 para. 2; S.I. 2004/1934, art. 2](#)

Modifications etc. (not altering text)

- C1** Sch. 11A modified (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 66\(2\)\(4\)](#)

Penalty assessments

- 12 (1) Where any person is liable under paragraph 10 to a penalty of an amount determined under paragraph 11, the Commissioners may, subject to sub-paragraph (3), assess the amount due by way of penalty and notify it to him accordingly.
- (2) The fact that any conduct giving rise to a penalty under paragraph 10 may have ceased before an assessment is made under this paragraph shall not affect the power of the Commissioners to make such an assessment.

[^{F2}(3) In a case where—

- (a) the penalty falls to be calculated by reference to the VAT saving as determined under paragraph 11(3), and
- (b) the notional tax cannot readily be attributed to any one or more prescribed accounting periods,

the notional tax shall be treated for the purposes of this Schedule as attributable to such period or periods as the Commissioners may determine to the best of their judgment and notify to the person liable for the penalty.

(3A) In sub-paragraph (3) “the notional tax” means—

- (a) the VAT that would, but for the scheme, have been shown in returns as payable by or to the taxable person, or
- (b) any amount that would, but for the scheme, have been the amount of the non-deductible tax of the taxable person.]

- (4) No assessment to a penalty under this paragraph shall be made more than two years from the time when facts sufficient, in the opinion of the Commissioners, to indicate that there has been a failure to comply with paragraph 6 in relation to a notifiable scheme came to the Commissioners' knowledge.
- (5) Where the Commissioners notify a person of a penalty in accordance with sub-paragraph (1), the notice of assessment shall specify—

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- (a) the amount of the penalty,
 - (b) the reasons for the imposition of the penalty,
 - (c) how the penalty has been calculated, and
 - (d) any reduction of the penalty in accordance with section 70.
- (6) Where a person is assessed under this paragraph to an amount due by way of penalty and is also assessed under section 73(1), (2), (7), (7A) or (7B) for any of the prescribed accounting periods to which the assessment under this paragraph relates, the assessments may be combined and notified to him as one assessment, but the amount of the penalty shall be separately identified in the notice.
- (7) If an amount is assessed and notified to any person under this paragraph, then unless, or except to the extent that, the assessment is withdrawn or reduced, that amount shall be recoverable as if it were VAT due from him.
- (8) Subsection (10) of section 76 (notification to certain persons acting for others) applies for the purposes of this paragraph as it applies for the purposes of that section.]

Textual Amendments

- F2** Sch. 11A para. 12(3)(3A) substituted for Sch. 11A para. 12(3) (1.8.2005) by [Finance \(No. 2\) Act 2005](#) (c. 22), s. 6(2), [Sch. 1 para. 8](#); S.I. 2005/2010, [art. 2](#) (with [art. 4](#))

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