

Status: Point in time view as at 11/07/2023.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1998, Part III. (See end of Document for details)

SCHEDULES

SCHEDULE 18

COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

Modifications etc. (not altering text)

- C1 Sch. 18 restricted (31.7.1998) by 1988 c. 1, s. 754B(10) (as inserted (31.7.1998 with effect as mentioned in Sch. 17 para. 37 of 1998 c. 36) by 1998 c. 36, s. 113, Sch. 17 para. 11)
- C1 Sch. 18 modified (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 68(c); S.I. 2005/1126, art. 2(2)(h)
- C1 Sch. 18 applied (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), s. 61
- C1 Sch. 18 applied (with modifications) (6.4.2006) by The Registered Pension Schemes (Accounting and Assessment) Regulations 2005 (S.I. 2005/3454), regs. 1, 13
- C1 Sch. 18 excluded (17.7.2013) by Finance Act 2013 (c. 29), s. 210(6)(b)
- C1 Sch. 18: power to amend conferred (12.2.2019) by Finance Act 2019 (c. 1), s. 87(5)(a)(6)
- C1 Sch. 18 applied (with modifications) (22.7.2020) by Finance Act 2020 (c. 14), Sch. 16 para. 11(4) (with Sch. 16 para. 11(5))
- C1 Sch. 18 applied (with modifications) (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), s. 303(7)(8) (with s. 303(6))

PART III

DUTY TO KEEP AND PRESERVE RECORDS

Duty to keep and preserve records

- 21 (1) A company which may be required to deliver a company tax return for any period must—
- (a) keep such records as may be needed to enable it to deliver a correct and complete return for the period, and
 - (b) preserve those records in accordance with this paragraph.
- (2) The records must be preserved [^{F1}until the end of the relevant day.]
- [^{F2}(2A) In this paragraph “relevant day” means—
- (a) the sixth anniversary of the end of the period for which the company may be required to deliver a company tax return, or
 - (b) such earlier day as may be specified in writing by the Commissioners for Her Majesty's Revenue and Customs (and different days may be specified for different cases).]

(3) If the company is required to deliver a company tax return by notice given before the end of [^{F3}the relevant day], the records must be preserved until any later date on which—

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- (a) any enquiry into the return is completed, or
 - (b) if there is no enquiry, [^{F4}an officer of Revenue and Customs] no longer [^{F5}has] power to enquire into the return.
- (4) If the company is required to deliver a company tax return by notice given after the end of [^{F6}the relevant day] and has in its possession at that time any records that may be needed to enable it to deliver a correct and complete return, it is under a duty to preserve those records until the date on which—
- (a) any enquiry into the return is completed, or
 - (b) if there is no enquiry, [^{F4}an officer of Revenue and Customs] no longer [^{F5}has] power to enquire into the return.
- (5) The records required to be kept and preserved under this paragraph include records of—
- (a) all receipts and expenses in the course of the company’s activities, and the matters in respect of which the receipts and expenses arise, and
 - (b) in the case of a trade involving dealing in goods, all sales and purchases made in the course of the trade.
- [^{F7}(5A) The Commissioners for Her Majesty’s Revenue and Customs may by regulations—
- (a) provide that the records required to be kept and preserved under this paragraph include, or do not include, records specified in the regulations, and
 - (b) provide that those records include supporting documents so specified.
- [Regulations under this paragraph may make provision, in relation to relevant transfer pricing records specified, or of a description specified, in the regulations—
- ^{F8}(5AA) (a) as to the form or manner in which those records are to be kept and preserved;
- (b) by reference to things specified in the transfer pricing guidelines (within the meaning of section 164 of TIOPA 2010 (interpretation in accordance with OECD principles)).]
- (5B) Regulations under this paragraph may—
- (a) make different provision for different cases, and
 - (b) make provision by reference to things specified in a notice published by the Commissioners for Her Majesty’s Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice).]

[^{F9}(6) For the purposes of this paragraph—

 - (a) records are “relevant transfer pricing records” if the Commissioners for His Majesty’s Revenue and Customs reasonably consider that the records may relate to the calculation of profits or losses in accordance with Part 4 of TIOPA 2010 (transfer pricing);
 - (b) “supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.]

Textual Amendments

- F1** Words in Sch. 18 para. 21(2) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), [Sch. 37 para. 8\(2\)](#); [S.I. 2009/402, art. 2](#)
- F2** Sch. 18 para. 21(2A) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), [Sch. 37 para. 8\(3\)](#); [S.I. 2009/402, art. 2](#)

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- F3** Words in Sch. 18 para. 21(3) substituted (1.4.2009) by Finance Act 2008 (c. 9), s. 115(2), **Sch. 37 para. 8(4)**; S.I. 2009/402, art. 2
- F4** Words in Sch. 18 substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)
- F5** Words in Sch. 18 substituted (18.4.2005) by virtue of Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 68(c)**; S.I. 2005/1126, art. 2(2)(h)
- F6** Words in Sch. 18 para. 21(4) substituted (1.4.2009) by Finance Act 2008 (c. 9), s. 115(2), **Sch. 37 para. 8(5)**; S.I. 2009/402, art. 2
- F7** Sch. 18 para. 21(5A)(5B) inserted (1.4.2009) by Finance Act 2008 (c. 9), s. 115(2), **Sch. 37 para. 8(6)**; S.I. 2009/402, art. 2
- F8** Sch. 18 para. 21(5AA) inserted (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 5 para. 1(2)** (with Sch. 5 para. 7)
- F9** Sch. 18 para. 21(6) substituted (11.7.2023) by Finance (No. 2) Act 2023 (c. 30), **Sch. 5 para. 1(3)** (with Sch. 5 para. 7)

Preservation of information [F10 etc]

Textual Amendments

- F10** Word in Sch. 18 para. 22 cross-heading substituted (1.4.2009) by Finance Act 2008 (c. 9), s. 115(2), **Sch. 37 para. 9(5)**; S.I. 2009/402, art. 2

22 [F11(1) The duty under paragraph 21 to preserve records may be discharged—
(a) by preserving them in any form and by any means, or
(b) by preserving the information contained in them in any form and by any means,
subject to sub-paragraph (3) and any conditions or exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.]

[F12(2)]

(3) [F13Sub-paragraph (1)(b) does not apply in the case of the following kinds of records]—

- (a) any statement in writing such as is mentioned in—
 - (i) [F14section 1100(1) of the Corporation Tax Act 2010] (amount [F15of distribution, but formerly amount] of qualifying distribution and tax credit), or

- [F16(ii) section 495(1) or 975(2) or (4) of the Income Tax Act 2007 (statements about deduction of income tax),]

provided by the company or person there mentioned whether after the making of a request or otherwise;

- [F17(b) any record (however described) which is required by regulations under section 70(1)(c) of the Finance Act 2004 to be given to a sub-contractor (within the meaning of section 58 of that Act) on the making of a payment to which section 61 of that Act (deductions on account of tax) applies;]

- (c) any record relating to an amount of tax—
 - (i) paid under the law of a territory outside the United Kingdom, or
 - [F18(ii) which would have been payable under the law of a territory outside the United Kingdom (“territory F”) but for a development relief.]

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- [^{F19}(4) In sub-paragraph (3)(c) “development relief” means a relief—
- (a) given under the law of territory F with a view to promoting industrial, commercial, scientific, educational or other development in a territory outside the United Kingdom, and
 - (b) about which provision is made in arrangements which have effect under section 2(1) of TIOPA 2010 (double taxation relief by agreement with territories outside the United Kingdom).]

Textual Amendments

- F11** Sch. 18 para. 22(1) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), **Sch. 37 para. 9(2)**; [S.I. 2009/402](#), art. 2
- F12** Sch. 18 para. 22(2) omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 115(2), **Sch. 37 para. 9(3)**; [S.I. 2009/402](#), art. 2
- F13** Words in Sch. 18 para. 22(3) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), **Sch. 37 para. 9(4)**; [S.I. 2009/402](#), art. 2
- F14** Words in Sch. 18 para. 22(3)(a)(i) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 297(6)** (with Sch. 2)
- F15** Words in Sch. 18 para. 22(3)(a)(i) inserted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 1 para. 58(3)(b)**
- F16** Sch. 18 para. 22(3)(a)(ii) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 385(4)** (with Sch. 2)
- F17** Sch. 18 para. 22(3)(b) substituted (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 12 para. 16(2)**
- F18** Sch. 18 para. 22(3)(c)(ii) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 8 para. 54(3)** (with Sch. 9 paras. 1-9, 22)
- F19** Sch. 18 para. 22(4) inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 8 para. 54(4)** (with Sch. 9 paras. 1-9, 22)

Penalty for failure to keep and preserve records

- 23 (1) A company which fails to comply with paragraph 21 in relation to an accounting period is liable to a penalty not exceeding £3,000, subject to the following exceptions.
- (2) No penalty is incurred if the records which the company fails to keep or preserve are records which might have been needed only for the purposes of claims, elections or notices not included in the return.
- (3) No penalty is incurred if—
- (a) the records which the company fails to keep or preserve are statements in writing such as are mentioned in—
 - (i) [^{F20}section 1100(1) of the Corporation Tax Act 2010] (amount [^{F21}of distribution, but formerly amount] of qualifying distribution and tax credit), or
 - [^{F22}(ii) section 495(1) or 975(2) or (4) of the Income Tax Act 2007 (statements about deduction of income tax),]
 provided by the company or person there mentioned whether after the making of a request or otherwise, and

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- (b) [^{F4}an officer of Revenue and Customs][^{F5}is] satisfied that any facts which [^{F5}he] reasonably [^{F5}requires] to be proved, and which would have been proved by the records, are proved by other documentary evidence furnished to [^{F5}him].

Textual Amendments

- F4** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F5** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)
- F20** Words in Sch. 18 para. 23(3)(a)(i) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 297\(7\)](#) (with Sch. 2)
- F21** Words in Sch. 18 para. 23(3)(a)(i) inserted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 1 para. 58\(3\)\(b\)](#)
- F22** Sch. 18 para. 23(3)(a)(ii) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 385\(4\)](#) (with Sch. 2)

Modifications etc. (not altering text)

- C1** Sch. 18 para. 23 excluded (with effect in accordance with s. 33(1) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), s. 33(3)(b)

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