

Status: Point in time view as at 01/04/2010.

Changes to legislation: Finance Act 2009, SCHEDULE 48 is up to date with all changes known to be in force on or before 02 April 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)

SCHEDULES

SCHEDULE 48

Section 96

EXTENSION OF INFORMATION AND INSPECTION POWERS

- 1 Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.
- 2 In paragraph 5(4)(b) (power to obtain information and documents about persons whose identity is not known), for the words from “, VATA 1994” to the end substitute “ or any other enactment relating to UK tax ”.

Commencement Information

- II** Sch. 48 para. 2 in force at 1.4.2010 for the purposes of the amendment made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

- 3 After paragraph 10 insert—

“Power to inspect business premises etc of involved third parties

- 10A(1) An officer of Revenue and Customs may enter business premises of an involved third party (see paragraph 61A) and inspect—

- (a) the premises,
- (b) business assets that are on the premises, and
- (c) relevant documents that are on the premises,

if the inspection is reasonably required by the officer for the purpose of checking the position of any person or class of persons as regards a relevant tax.

- (2) The powers under this paragraph may be exercised whether or not the identity of that person is, or the individual identities of those persons are, known to the officer.
- (3) The powers under this paragraph do not include power to enter or inspect any part of the premises that is used solely as a dwelling.
- (4) In relation to an involved third party, “relevant documents” and “relevant tax” are defined in paragraph 61A.”

Commencement Information

- I2** Sch. 48 para. 3 in force at 1.4.2010 for the purposes of the amendment made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

- 4 (1) Paragraph 12 (carrying out inspections) is amended as follows.
- (2) In sub-paragraph (1), for “this Part of this Schedule” substitute “ paragraph 10, 10A or 11 ”.

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(3) Accordingly, in the heading, insert at the end “*under paragraph 10, 10A or 11*”.

Commencement Information

I3 Sch. 48 para. 4 in force at 1.4.2010 for the purposes of the amendments made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

5 After that paragraph insert—

“Powers to inspect property for valuation etc

12A(1) An officer of Revenue and Customs may enter and inspect premises for the purpose of valuing the premises if the valuation is reasonably required for the purpose of checking any person's position as regards income tax or corporation tax.

(2) An officer of Revenue and Customs may enter premises and inspect—

- (a) the premises, and
- (b) any other property on the premises,

for the purpose of valuing, measuring or determining the character of the premises or property.

(3) Sub-paragraph (2) only applies if the valuation, measurement or determination is reasonably required for the purpose of checking any person's position as regards—

- (a) capital gains tax,
- (b) corporation tax in respect of chargeable gains,
- (c) inheritance tax,
- (d) stamp duty land tax, or
- (e) stamp duty reserve tax.

(4) A person who the officer considers is needed to assist with the valuation, measurement or determination may enter and inspect the premises or property with the officer.

Carrying out inspections under paragraph 12A

12B(1) An inspection under paragraph 12A may be carried out only if condition A or B is satisfied.

(2) Condition A is that—

- (a) the inspection is carried out at a time agreed to by a relevant person, and
- (b) the relevant person has been given notice in writing of the agreed time of the inspection.

(3) “Relevant person” means—

- (a) the occupier of the premises, or
- (b) if the occupier cannot be identified or the premises are vacant, a person who controls the premises.

(4) Condition B is that—

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- (a) the inspection has been approved by the tribunal, and
 - (b) any relevant person specified by the tribunal has been given at least 7 days' notice in writing of the time of the inspection.
- (5) A notice under sub-paragraph (4)(b) must state the possible consequences of obstructing the officer in the exercise of the power.
- (6) If a notice is given under this paragraph in respect of an inspection approved by the tribunal (see paragraph 13), it must state that the inspection has been so approved.
- (7) An officer of Revenue and Customs seeking to carry out an inspection under paragraph 12A must produce evidence of authority to carry out the inspection if asked to do so by—
 - (a) the occupier of the premises, or
 - (b) any other person who appears to the officer to be in charge of the premises or property.”

Commencement Information

I4 Sch. 48 para. 5 in force at 1.4.2010 for the purposes of the amendment made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

- 6
- (1) Paragraph 13 (approval of tribunal) is amended as follows.
 - (2) In sub-paragraph (1), insert at the end “(and for the effect of obtaining such approval see paragraph 39 (penalties))”.
 - (3) In sub-paragraph (1A) (inserted by Schedule 47), insert at the end “ (except as required under sub-paragraph (2A)) ”.
 - (4) In sub-paragraph (2), after “an inspection” insert “ under paragraph 10, 10A or 11 ”.
 - (5) After that sub-paragraph insert—
 - “(2A) The tribunal may not approve an inspection under paragraph 12A unless—
 - (a) an application for approval is made by, or with the agreement of, an authorised officer of Revenue and Customs,
 - (b) the person whose tax position is the subject of the proposed inspection has been given a reasonable opportunity to make representations to the officer of Revenue and Customs about that inspection,
 - (c) the occupier of the premises has been given a reasonable opportunity to make such representations,
 - (d) the tribunal has been given a summary of any representations made, and
 - (e) the tribunal is satisfied that, in the circumstances, the inspection is justified.
 - (2B) Paragraph (c) of sub-paragraph (2A) does not apply if the tribunal is satisfied that the occupier of the premises cannot be identified.”

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Commencement Information

- I5** Sch. 48 para. 6 in force at 1.4.2010 for the purposes of the amendments made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

- 7 In paragraph 17(b) (power to record information), after “premises,” insert “property, goods, ”.

Commencement Information

- I6** Sch. 48 para. 7 in force at 1.4.2010 for the purposes of the amendment made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

- 8 (1) Paragraph 21 (restrictions on giving taxpayer notices) is amended as follows.
- (2) In sub-paragraph (7), for “VAT position” substitute “ position as regards any tax other than income tax, capital gains tax or corporation tax ”.
- (3) In the heading, insert at the end “*following tax return*”.

Commencement Information

- I7** Sch. 48 para. 8 in force at 1.4.2010 for the purposes of the amendments made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

- 9 After that paragraph insert—

“Taxpayer notices following land transaction return

- 21A (1) Where a person has delivered a land transaction return under section 76 of FA 2003 (returns for purposes of stamp duty land tax) in respect of a transaction, a taxpayer notice may not be given for the purpose of checking that person's stamp duty land tax position in relation to that transaction.
- (2) Sub-paragraph (1) does not apply where, or to the extent that, any of conditions A to C is met.
- (3) Condition A is that a notice of enquiry has been given in respect of—
- (a) the return, or
 - (b) a claim (or an amendment of a claim) made by the person in connection with the transaction,
- and the enquiry has not been completed.
- (4) In sub-paragraph (3) “notice of enquiry” means a notice under paragraph 12 of Schedule 10, or paragraph 7 of Schedule 11A, to FA 2003.
- (5) Condition B is that, as regards the person, an officer of Revenue and Customs has reason to suspect that—
- (a) an amount that ought to have been assessed to stamp duty land tax in respect of the transaction may not have been assessed,
 - (b) an assessment to stamp duty land tax in respect of the transaction may be or have become insufficient, or

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(c) relief from stamp duty land tax in respect of the transaction may be or have become excessive.

(6) Condition C is that the notice is given for the purpose of obtaining any information or document that is also required for the purpose of checking that person's position as regards a tax other than stamp duty land tax.”

Commencement Information

I8 Sch. 48 para. 9 in force at 1.4.2010 for the purposes of the amendment made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

10 In paragraph 28 (restrictions on inspection of business documents), and in the heading before that paragraph, omit “*business*”.

Commencement Information

I9 Sch. 48 para. 10 in force at 1.4.2010 for the purposes of the amendment made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

11 After paragraph 34 insert—

“Involved third parties

34A(1) This paragraph applies to a third party notice or a notice under paragraph 5 if—

- (a) it is given to an involved third party (see paragraph 61A),
- (b) it is given for the purpose of checking the position of a person, or a class of persons, as regards the relevant tax, and
- (c) it refers only to relevant information or relevant documents.

(2) In relation to such a third party notice—

- (a) paragraph 3(1) (approval etc of third party notices) does not apply,
- (b) paragraph 4(1) (copying third party notices to taxpayer) does not apply, and
- (c) paragraph 30(1) (appeal) has effect as if it permitted an appeal on any grounds.

(3) In relation to such a notice under paragraph 5—

- (a) sub-paragraphs (3) and (4) of that paragraph (approval of tribunal) have effect as if they permitted, but did not require, an authorised officer of Revenue and Customs to obtain the approval of the tribunal, and
- (b) paragraph 31 (appeal) has effect as if it permitted an appeal on any grounds.

(4) The involved third party may not appeal against a requirement in the notice to provide any information, or produce any document, that forms part of the involved third party's statutory records.

(5) In relation to an involved third party, “relevant documents”, “relevant information” and “relevant tax” are defined in paragraph 61A.

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Registered pension schemes etc

- 34B (1) This paragraph applies to a third party notice or a notice under paragraph 5 if it refers only to information or documents that relate to any pensions matter.
- (2) “Pensions matter” means any matter relating to—
- (a) a registered pension scheme,
 - (b) an annuity purchased with sums or assets held for the purposes of a registered pension scheme or a pre-2006 pension scheme, or
 - (c) an employer-financed retirement benefits scheme.
- (3) In relation to such a third party notice—
- (a) paragraph 3(1) (approval etc of third party notices) does not apply,
 - (b) paragraph 4(1) (copying third party notices to taxpayer) does not apply, and
 - (c) paragraph 30(1) (appeal) has effect as if it permitted an appeal on any grounds.
- (4) In relation to such a notice under paragraph 5—
- (a) sub-paragraphs (3) and (4) of that paragraph (approval of tribunal) have effect as if they permitted, but did not require, an authorised officer of Revenue and Customs to obtain the approval of the tribunal, and
 - (b) paragraph 31 (appeal) has effect as if it permitted an appeal on any grounds.
- (5) A person may not appeal against a requirement in the notice to provide any information, or produce any document, that forms part of any person's statutory records.
- (6) Where the notice relates to a matter within sub-paragraph (2)(a) or (b), the officer of Revenue and Customs who gives the notice must give a copy of the notice to the scheme administrator in relation to the pension scheme.
- (7) Where the notice relates to a matter within sub-paragraph (2)(c), the officer of Revenue and Customs who gives the notice must give a copy of the notice to the responsible person in relation to the employer-financed retirement benefits scheme.
- (8) Sub-paragraphs (6) and (7) do not apply if the notice is given to a person who, in relation to the scheme or annuity to which the notice relates, is a prescribed description of person.

Registered pension schemes etc: interpretation

- 34C In paragraph 34B—
- “employer-financed retirement benefits scheme” has the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see sections 393A and 393B of that Act);
- “pension scheme” has the same meaning as in Part 4 of FA 2004;
- “pre-2006 pension scheme” means a scheme that, at or in respect of any time before 6 April 2006, was—

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- (a) a retirement benefits scheme approved for the purposes of Chapter 1 of Part 14 of ICTA,
- (b) a former approved superannuation fund (as defined in paragraph 1(3) of Schedule 36 to FA 2004),
- (c) a relevant statutory scheme (as defined in section 611A of ICTA) or a pension scheme treated as if it were such a scheme, or
- (d) a personal pension scheme approved under Chapter 4 of Part 14 of ICTA;

“prescribed” means prescribed by regulations made by the Commissioners;

“registered pension scheme” means a pension scheme that is or has been a registered pension scheme within the meaning of Part 4 of FA 2004 or in relation to which an application for registration under that Part of that Act has been made;

“responsible person”, in relation to an employer-financed retirement benefits scheme, has the same meaning as in Chapter 2 of Part 6 of ITEPA 2003 (see section 399A of that Act);

“scheme administrator”, in relation to a pension scheme, has the same meaning as in Part 4 of FA 2004 (see section 270 of that Act).”

Commencement Information

I10 Sch. 48 para. 11 in force at 1.4.2010 for the purposes of the amendment made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

- 12 In paragraph 35 (special cases: groups of undertakings), in sub-paragraph (4A)(c) (inserted by Schedule 47)—
- (a) for “paragraph 21” substitute “ paragraphs 21 and 21A ”, and
 - (b) for “applies” substitute “ apply ”.

Commencement Information

I11 Sch. 48 para. 12 in force at 1.4.2010 for the purposes of the amendments made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

- 13 In paragraph 37 (special cases: partnerships), after sub-paragraph (2) insert—
- “(2A) Where, in respect of a transaction entered into as purchaser by or on behalf of the members of the partnership, any of the partners has—
- (a) delivered a land transaction return under Part 4 of FA 2003 (stamp duty land tax), or
 - (b) made a claim under that Part of that Act,
- paragraph 21A (restrictions where taxpayer has delivered land transaction return) has effect as if that return had been delivered, or that claim had been made, by each of the partners.”

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Commencement Information

I12 Sch. 48 para. 13 in force at 1.4.2010 for the purposes of the amendment made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

14 After paragraph 61 insert—

“Involved third parties

61A(1) In this Schedule “involved third party” means a person described in the first column of the Table below.

(2) In this Schedule, in relation to an involved third party, “relevant information”, “relevant document” and “relevant tax” have the meaning given in the corresponding entries in that Table.

	<i>Involved third party</i>	<i>Relevant information and relevant documents</i>	<i>Relevant tax</i>
1.	A body approved by an officer of Revenue and Customs for the purpose of paying donations within the meaning of Part 12 of ITEPA 2003 (donations to charity: payroll giving) (see section 714 of that Act)	Information and documents relating to the donations	Income tax
2.	A plan manager (see section 696 of ITTOIA 2005 (managers of individual investment plans))	Information and documents relating to the plan, including investments which are or have been held under the plan	Income tax
3.	An account provider in relation to a child trust fund (as defined in section 3 of the Child Trust Funds Act 2004)	Information and documents relating to the fund, including investments which are or have been held under the fund	Income tax
4.	A person who is or has been registered as a	Information and documents relating to, and to the	Income tax Capital gains tax Corporation tax

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| | managing agent at Lloyd's in relation to a syndicate of underwriting members of Lloyd's | activities of, the syndicate | |
| 5. | A person involved (in any capacity) in an insurance business (as defined for the purposes of Part 3 of FA 1994) | Information and documents relating to contracts of insurance entered into in the course of the business | Insurance premium tax |
| 6. | A person who makes arrangements for persons to enter into contracts of insurance | Information and documents relating to the contracts | Insurance premium tax |
| 7. | A person who—
(a) is concerned in a business that is not an insurance business (as defined for the purposes of Part 3 of FA 1994), and
(b) has been involved in the entry into a contract of insurance providing cover for any matter associated with that business | Information and documents relating to the contracts | Insurance premium tax |
| 8. | A person who, in relation to a charge to stamp duty reserve tax on an agreement, transfer, issue, appropriation or surrender, is an accountable person (as defined in regulation 2 of the Stamp Duty Reserve Tax Regulations S.I. | Information and documents relating to the agreement, transfer, issue, appropriation or surrender | Stamp duty reserve tax |

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	1986/1711 (as amended from time to time))		
9.	A responsible person in relation to an oil field (as defined for the purposes of Part 1 of OTA 1975)	Information and documents relating to the oil field	Petroleum revenue tax
10.	A person involved (in any capacity) in subjecting aggregate to exploitation in the United Kingdom (as defined for the purposes of Part 2 of FA 2001) or in connected activities	Information and documents relating to matters in which the person is or has been involved	Aggregates levy
11.	A person involved (in any capacity) in making or receiving taxable commodities (as defined for the purposes of Schedule 6 to FA 2000) or in connected activities	Information and documents relating to matters in which the person is or has been involved	Climate change levy
12.	A person involved (in any capacity) with any landfill disposal (as defined for the purposes of Part 3 of FA 1996)	Information and documents relating to the disposal	Landfill tax”.

Commencement Information

I13 Sch. 48 para. 14 in force at 1.4.2010 for the purposes of the amendment made by that paragraph by [S.I. 2009/3054](#), [art. 2](#)

- 15 (1) Paragraph 62 (meaning of “statutory records”) is amended as follows.
- (2) In sub-paragraph (1), for paragraph (b) substitute—
“**(b)** any other enactment relating to a tax,”.
- (3) In sub-paragraph (2)(b), for “VATA 1994 or any other enactment relating to value added tax” substitute “ any other enactment relating to a tax ”.

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Commencement Information

- II4** Sch. 48 para. 15 in force at 1.4.2010 for the purposes of the amendments made by that paragraph by [S.I. 2009/3054](#), **art. 2**

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