



# Finance Act 2012

## 2012 CHAPTER 14

### PART 9

#### MISCELLANEOUS MATTERS

##### *International matters*

#### **218 Agreement between UK and Switzerland**

- (1) Schedule 36 contains provision giving effect to—
  - (a) an agreement signed on 6 October 2011 between the United Kingdom and the Swiss Confederation on co-operation in the area of taxation, as amended by a protocol signed by them on 20 March 2012 and by a mutual agreement signed by them on 18 April 2012 implementing article XVIII of that protocol, and
  - (b) the joint declaration (concerning a tax finality payment) forming an integral part of that protocol.
- (2) Schedule 36 comes into force on the day on which the agreement of 6 October 2011 enters into force.
- (3) In section 23 of the Constitutional Reform and Governance Act 2010, after subsection (2A) insert—

“(2B) Section 20 does not apply to any treaty referred to in section 218(1) of the Finance Act 2012.”

#### **219 Penalties: offshore income etc**

In paragraph 21A of Schedule 24 to FA 2007 (classification of territories), in subparagraph (4)—

- (a) omit “and” at the end of paragraph (b), and
- (b) at the end of paragraph (c) insert—
  - “(d) the existence of any other arrangements between the UK and that territory for co-operation in the area of taxation, and

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- (e) the quality of any such other arrangements (in particular, the extent to which the co-operation provided for in them assists or is likely to assist in the protection of revenue raised from taxation in the UK).”

## **220 International military headquarters, EU forces, etc**

Schedule 37 contains provision about the tax treatment of international military headquarters, EU forces, etc.

### *Financial sector regulation*

## **221 Tax consequences of financial sector regulation**

- (1) The Treasury may by regulations make provision about the tax consequences in relation to securities of any regulatory requirement imposed<sup>[F1]</sup>, or which appears to the Treasury likely to be imposed,] by any EU legislation (whenever adopted) or enactment on—
- (a) persons who are authorised persons for the purposes of the Financial Services and Markets Act 2000 (see section 31 of that Act), or
  - (b) parent undertakings (as defined in section 420 of that Act) of such persons.
- (2) Regulations under this section may, in particular, make provision—
- (a) charging any tax or granting, withdrawing or restricting an exemption or other relief from any tax, and
  - (b) about the treatment of arrangements the purpose, or one of the main purposes, of which is to secure a tax advantage.
- (3) Regulations under this section may provide that a reference in the regulations—
- (a) to any EU legislation or enactment,
  - (b) to any document, or
  - (c) to any provision of any EU legislation, enactment or document
- is to be construed as a reference to that legislation, enactment, document or provision as amended from time to time.
- (4) Regulations under this section—
- (a) may apply (with or without modifications) or disapply any enactment,
  - (b) may modify, amend, repeal or revoke any enactment,
  - (c) may make different provision for different cases or different purposes, and
  - (d) may include incidental, consequential, supplementary or transitional provision.
- [F2(4A) Where regulations under this section make provision about the tax consequences of any regulatory requirement which appears to the Treasury likely to be imposed by any EU legislation or enactment—
- (a) the regulations may be made (and, accordingly, may have effect) before the proposed legislation or enactment is adopted, passed or made, and
  - (b) failure after the regulations are made to adopt, pass or make the proposed legislation or enactment does not affect the validity of the regulations.]
- (5) Regulations under this section are to be made by statutory instrument.

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- (6) No regulations may be made under this section unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of the House of Commons.
- (7) In this section—
- “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable and whether involving a single transaction or two or more transactions;
  - “enactment” includes an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978), and includes an enactment whenever passed or made;
  - “tax” includes stamp duty;
  - “tax advantage” means—
    - (a) a relief from tax (including a tax credit) or increased relief from tax,
    - (b) a repayment of tax or increased repayment of tax,
    - (c) the avoidance, reduction or delay of a charge to tax or an assessment to tax, or
    - (d) the avoidance of a possible assessment to tax.

#### Textual Amendments

- F1** Words in s. 221(1) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\), s. 295\(2\)](#)
- F2** S. 221(4A) inserted (17.7.2014) by [Finance Act 2014 \(c. 26\), s. 295\(3\)](#)

### *Incapacitated persons and minors*

## **222 Removal of special provision for incapacitated persons and minors**

- (1) In TMA 1970 omit—
- (a) section 42(8) (procedure for making claims etc on behalf of incapacitated persons),
  - (b) section 72 (trustees, guardians, etc of incapacitated persons), and
  - (c) section 73 (further provision as to infants).
- (2) In Part 4 of FA 2003 (stamp duty land tax), omit section 106(1) and (2) (persons acting in a representative capacity on behalf of incapacitated persons and minors).
- (3) Accordingly, incapacitated persons are (and minors remain) assessable and chargeable to the taxes in question.
- (4) In consequence of the amendments made by subsections (1) and (2)—
- (a) in section 118(1) of TMA 1970, omit the definitions of “incapacitated person” and “infant”,
  - (b) omit paragraphs 33 and 34 of Schedule 1 to the Age of Legal Capacity (Scotland) Act 1991,
  - (c) in paragraph 5 of Schedule 2 to the Social Security Contributions and Benefits Act 1992—
    - (i) omit paragraph (a) (and the “or” after it), and
    - (ii) in paragraph (b), for “such” substitute “ Class 4 ”,

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- (d) in paragraph 5 of Schedule 2 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992—
  - (i) omit paragraph (a) (and the “or” after it), and
  - (ii) in paragraph (b), for “such” substitute “ Class 4 ”, and
- (e) in section 81B(4) of FA 2003, omit paragraph (b) (and the “or” before it).
- (5) The amendments made by subsections (1) and (4)(a) to (d) have effect for the tax year 2012-13 and subsequent tax years.
- (6) The amendments made by subsections (2) and (4)(e) have effect in relation to land transactions of which the effective date is on or after the day on which this Act is passed.

### *Administration*

#### **223 Tax agents: dishonest conduct**

- (1) Schedule 38 contains provision about tax agents who engage in dishonest conduct.
- (2) That Schedule comes into force on such day as the Treasury may by order appoint.
- (3) An order under subsection (2)—
  - (a) may make different provision for different purposes, and
  - (b) may include transitional provision and savings.
- (4) The Treasury may by order make any incidental, supplemental, consequential, transitional or saving provision in consequence of Schedule 38.
- (5) An order under subsection (4) may—
  - (a) make different provision for different purposes, and
  - (b) make provision amending, repealing or revoking any provision made by or under an Act (whenever passed or made).
- (6) An order under this section is to be made by statutory instrument.
- (7) A statutory instrument containing an order under subsection (4) is subject to annulment in pursuance of a resolution of the House of Commons.

#### **224 Information powers**

- (1) Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.
- (2) After paragraph 5 insert—

##### **5A “Power to obtain information about persons whose identity can be ascertained**

- (1) An authorised officer of Revenue and Customs may by notice in writing require a person to provide relevant information about another person (“the taxpayer”) if conditions A to D are met.
- (2) Condition A is that the information is reasonably required by the officer for the purpose of checking the tax position of the taxpayer.

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- (3) Condition B is that—
    - (a) the taxpayer's identity is not known to the officer, but
    - (b) the officer holds information from which the taxpayer's identity can be ascertained.
  - (4) Condition C is that the officer has reason to believe that—
    - (a) the person will be able to ascertain the taxpayer's identity from the information held by the officer, and
    - (b) the person obtained relevant information about the taxpayer in the course of carrying on a business.
  - (5) Condition D is that the taxpayer's identity cannot readily be ascertained by other means from the information held by the officer.
  - (6) “Relevant information” means all or any of the following—
    - (a) name,
    - (b) last known address, and
    - (c) date of birth (in the case of an individual).
  - (7) This paragraph applies for the purpose of checking the tax position of a class of persons as for the purpose of checking the tax position of a single person (and references to “the taxpayer” are to be read accordingly).”
- (3) In paragraph 6 (notices), in sub-paragraph (1), for “or 5” substitute “, 5 or 5A”.
  - (4) In paragraph 31 (right to appeal against notice given under paragraph 5), after “paragraph 5” insert “ or 5A ”.
  - (5) Accordingly, in the heading immediately before paragraph 31, at the end insert “ or 5A ”.
  - (6) In section 18D of TMA 1970 (savings income: content of regulations under section 18B), in subsection (1), for “sections 17 and 18” substitute “ paragraph 1 of Schedule 23 to the Finance Act 2011 (data-gathering powers) ”.
  - (7) The amendments made by subsections (1) to (5) apply for the purpose of checking the tax position of a taxpayer as regards periods or tax liabilities whenever arising (whether before, on or after the day on which this Act is passed).
  - (8) The amendment made by subsection (6) is treated as having come into force on 1 April 2012.

## **225 PAYE regulations: information**

- (1) Section 684 of ITEPA 2003 (PAYE regulations) is amended as follows.
- (2) In the list in subsection (2)—
  - (a) after item 4 insert—
    - “4ZA  
Provision—
      - (a) for authorising or requiring a person who provides with respect to payments of or on account of PAYE income a service that is specified or of a specified description

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(“a relevant payment service”) to supply to Her Majesty's Revenue and Customs information about payments with respect to which the service is provided, or any information the Commissioners may request about features of the service provided or to be provided with respect to particular payments;

- (b) for conferring power on the Commissioners to specify by directions circumstances in which provision made by virtue of paragraph (a) or subsection (4ZB) is not to apply in relation to a payment;
- (c) for securing that a supply of information that is authorised by regulations under paragraph (a) is not treated as breaching any obligation of confidence owed in respect of the information by the person supplying it;
- (d) for prohibiting or restricting the disclosure, otherwise than to Her Majesty's Revenue and Customs, of information by a person to whom it was supplied pursuant to a requirement imposed by virtue of subsection (4ZB);
- (e) for requiring a person who provides, or is to provide, a relevant payment service to take steps (including any steps that may be specified, or further specified, in accordance with item 8A(b)) for facilitating the meeting by persons making payments of obligations imposed by virtue of subsection (4ZB).”, and

(b) after item 8 insert—

“8A

Provision requiring compliance with any directions the Commissioners may give—

- (a) about the form and manner in which any information is to be provided under the regulations;
- (b) specifying, or further specifying, steps for the purposes of item 4ZA(e);
- (c) specifying information that a person making payments of or on account of PAYE income must provide about the method by which the payments are made.”

(3) After subsection (3B) insert—

“(3C) References in items 4ZA and 8A of the above list to directions include directions making different provision for different cases.”

(4) After subsection (4) insert—

“(4ZA) Item 8A in the above list does not prejudice the power of the Commissioners under subsection (1) to make provision in PAYE regulations about the matters mentioned in that item.

(4ZB) The persons to whom PAYE information regulations may require information to be supplied include, in the case of information about a payment, a person who provides, or is to provide, with respect to the payment a service such as is mentioned in item 4ZA(a) in the above list.

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(4ZC) In subsection (4ZB) “PAYE information regulations” means PAYE regulations that require information to be supplied for any purpose authorised by subsections (1) and (2).”

*High value residential property or dwellings*

**226 New tax on ownership of high-value residential properties or dwellings**

The Commissioners for Her Majesty's Revenue and Customs may incur expenditure in preparing for the introduction of a new tax to be charged in respect of high-value residential properties or dwellings owned otherwise than by individuals.

*Miscellaneous reliefs etc*

**227 Repeals of miscellaneous reliefs etc**

Schedule 39 contains repeals of miscellaneous reliefs etc.

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