

*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 2012, PART 2. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 38

#### TAX AGENTS: DISHONEST CONDUCT

##### **Modifications etc. (not altering text)**

- C1** Sch. 38 applied by S.I. 2009/470, reg. 33(1) (as substituted (6.4.2013) by [The Education \(Student Loans\) \(Repayment\) \(Amendment\) Regulations 2013 \(S.I. 2013/607\)](#), regs. 1(1), **9**)
- C1** Sch. 38 applied (with application in accordance with reg. 1(2) of the amending S.I.) by [The Social Security \(Contributions\) \(Amendment and Application of Schedule 38 to the Finance Act 2012\) Regulations 2013 \(S.I. 2013/622\)](#), regs. 1, **41**
- C1** Sch. 38 applied (with application in accordance with reg. 1 of the amending S.I.) by [The Education \(Postgraduate Masters Degree Loans\) Regulations 2016 \(S.I. 2016/606\)](#), regs. 1(1), **24(2)**
- C1** Sch. 38 applied (with application in accordance with reg. 1 of the amending S.I.) by [The Education \(Postgraduate Masters Degree Loans\) Regulations 2016 \(S.I. 2016/606\)](#), regs. 1(1), **43(1)**

### PART 2

#### ESTABLISHING DISHONEST CONDUCT

##### *Conduct notice*

- 4 (1) This paragraph applies if HMRC determine that an individual is engaging in or has engaged in dishonest conduct.
- (2) An authorised officer (or an officer of Revenue and Customs with the approval of an authorised officer) may notify the individual of that determination.
- (3) The notice must state the grounds on which the determination was made.
- (4) For the effect of notifying the individual, see paragraphs 7(2) and 29(2).
- (5) A notice under this paragraph is referred to as a “conduct notice”.
- (6) In relation to a conduct notice, a reference to “the determination” is to the determination forming the subject of the notice.

##### **Commencement Information**

- II** Sch. 38 para. 4 in force at 1.4.2013 by [S.I. 2013/279](#), **art. 2**

##### *Appeal against determination*

- 5 (1) An individual to whom a conduct notice is given may appeal against the determination.

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- (2) Notice of appeal must be given—
  - (a) in writing to the officer who gave the conduct notice, and
  - (b) within the period of 30 days beginning with the day on which the conduct notice was given.
- (3) It must state the grounds of appeal.
- (4) On an appeal that is notified to the tribunal, the tribunal may confirm or set aside the determination.
- (5) Subject to this paragraph, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to an appeal under this paragraph as they have effect in relation to an appeal against an assessment to income tax.
- (6) Setting aside a determination does not prevent a further conduct notice being given in respect of the same conduct if further evidence emerges.

**Commencement Information**

**I2** Sch. 38 para. 5 in force at 1.4.2013 by [S.I. 2013/279](#), [art. 2](#)

*Offence of concealment etc in connection with conduct notice*

- 6 (1) A person (“P”) commits an offence if, after a relevant event has occurred, P—
  - (a) conceals, destroys or otherwise disposes of a material document, or
  - (b) arranges for the concealment, destruction or disposal of a material document.
- (2) A “relevant event” occurs if—
  - (a) a conduct notice is given to an individual, or
  - (b) an individual is informed by an officer of Revenue and Customs that a conduct notice will be or is likely to be given to the individual.
- (3) A “material document” is any document that could be sought under paragraph 8 as a result of the giving of the conduct notice.
- (4) If P acts after the event described in sub-paragraph (2)(a), no offence is committed if P acts—
  - (a) after the determination has been set aside,
  - (b) more than 4 years after the conduct notice was given, or
  - (c) without knowledge of that event.
- (5) If P acts before that event but after the event described in sub-paragraph (2)(b), no offence is committed if P acts—
  - (a) more than 2 years after the individual was, or was last, so informed, or
  - (b) without knowledge of the event described in sub-paragraph (2)(b).
- (6) P acts without knowledge of an event if P—
  - (a) is not the individual with respect to whom the event has occurred, and
  - (b) does not know, and could not reasonably be expected to know, that the event has occurred.
- (7) A person guilty of an offence under this paragraph is liable—

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- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

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**Commencement Information**

**I3** Sch. 38 para. 6 in force at 1.4.2013 by [S.I. 2013/279](#), **art. 2**

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