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 3

POWER TO OBTAIN TAX AGENT'S FILES ETC

Modifications etc. (not altering text)

C1 Sch. 38 Pt. 3 applied (N.I.) by 1992 c. 8, s. 104ZA(2A) (as inserted (1.4.2013) by Finance Act 2012 (c. 14), **Sch. 38 para. 57**; S.I. 2013/279, art. 2)

C2 Sch. 38 Pt. 3 applied (E.W.S.) by 1992 c. 5, s. 110ZA(2A) (as inserted (1.4.2013) by Finance Act 2012 (c. 14), **Sch. 38 para. 56**; S.I. 2013/279, art. 2)

Circumstances in which power is exercisable

7 (1) The power in paragraph 8 is exercisable only in case A or case B and only with the approval of the tribunal.

(2) Case A is where a conduct notice has been given to an individual and either—

(a) the time allowed for giving notice of appeal against the determination has expired without any such notice being given, or

(b) notice of appeal against the determination was given within that time, but the appeal has been withdrawn or the determination confirmed.

(3) Case B is where—

(a) an individual has been convicted of an offence relating to tax that involves fraud or dishonesty,

(b) the offence was committed after the individual became a tax agent (whether or not the individual was still a tax agent when it was committed and regardless of the capacity in which it was committed),

(c) either—

(i) the time allowed for appealing against the conviction has expired without any such appeal being brought, or

(ii) an appeal against the conviction was brought within that time, but the appeal has been withdrawn or the conviction upheld, and

(d) no more than 12 months have elapsed since the date on which paragraph (c) was satisfied.

(4) For the purposes of this paragraph, a determination or conviction that is appealed is not considered to have been confirmed or upheld until—

(a) the time allowed for bringing any further appeal has expired, or

(b) if a further appeal is brought within that time, that further appeal has been withdrawn or determined.

(5) In this Schedule, a reference to "the tax agent" is—

(a) in a case falling within case A, a reference to the individual mentioned in sub-paragraph (2), and

(b) in a case falling within case B, a reference to the individual mentioned in sub-paragraph (3).

(6) It does not matter whether the individual is still a tax agent when the power in paragraph 8 is to be exercised.

Commencement Information

I1 Sch. 38 para. 7 in force at 1.4.2013 by S.I. 2013/279, **art. 2**

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 2012, Cross Heading: Circumstances in which power is exercisable.