

FINANCE ACT 2013

EXPLANATORY NOTES

INTRODUCTION

Section 233, Schedule 51: Withdrawing a Notice to File a Self Assessment Return

Summary

8. [Section 233](#) and Schedule 51 provide HM Revenue & Customs (HMRC) with a power to withdraw a notice to file a Self Assessment (SA) tax return (individual, partnership and trustee), on request in certain circumstances. The Schedule also provides for late filing penalties under Schedule 55 to the Finance Act 2009 to be cancelled where HMRC withdraw a notice using this power.

Details of the Schedule

9. Paragraph 2 amends section 7 Taxes Management Act 1970 (TMA 1970). Section 7 TMA 1970 requires every person who is chargeable to income tax or capital gains tax for any year of assessment to notify HMRC that they are chargeable to tax if they have not received a notice under section 8 or 8A TMA 1970 within a specified time period.
10. Sub-paragraphs (2) and (4) make consequential amendments to section 7 of TMA 1970 as a result of the insertion of new subsections (1A) to (1C) by sub-paragraph (3).
11. Sub-paragraph 3 amends section 7 TMA 1970 by inserting new subsections (1A) to (1C). A person to whom new subsection (1A) or (1B) applies must notify HMRC that they are chargeable to tax within the period specified in new subsection (1C).
12. New subsection (1A) applies to a person who has not received a notice to file a SA return under section 8 TMA 1970.
13. New subsection (1B) applies to a person who has received a notice to file a SA tax return under section 8 TMA 1970 and has received a notice under new section 8B TMA 1970 (as inserted by paragraph 3) withdrawing that notice.
14. New subsection (1C) defines “the notification period” as, in the case of a person falling within new subsection (1A), 6 months from the end of the year of assessment and, in the case of a person falling within new subsection (1B), 6 months from the end of the year of assessment or 30 days from the day after the day on which the notice under section 8 TMA 1970 was withdrawn, whichever ends later.
15. Paragraph 3 inserts a new section 8B into TMA 1970 which provides that a person who receives a notice to deliver a personal or trustee SA tax return may make a request to HMRC to withdraw the notice before the end of the withdrawal period.
16. New subsection 8B(3)(a) and (b) explains that a request to withdraw a notice cannot be made if the person or trustee has already submitted a SA tax return or they have received a notice of determination under section 28C TMA 1970.

*These notes refer to the Finance Act 2013 (c.29)
which received Royal Assent on 17 July 2013*

17. New subsections 8B(4) and (5) provide that if HMRC decide to withdraw the section 8 or section 8A notice they must do so by giving the person or trustee a notice specifying the date on which the notice is withdrawn.
18. New subsection 8B(6) defines the “withdrawal period” within which a person or trustee can make a request to withdraw a notice to file a SA return.
19. New subsection 8B(7) provides that the withdrawal of a notice does not prevent the issue of a further notice by HMRC.
20. Paragraph 4 inserts a new section 12AAA into TMA 1970 which provides that a partner who receives a notice to file a partnership tax return may make a request to HMRC to withdraw the notice before the end of the withdrawal period.
21. New subsection 12AAA(3) explains that a request to withdraw a notice cannot be made if the person has already submitted a partnership tax return.
22. New subsections 12AAA(4) and (5) provide that if HMRC decide to withdraw the notice to file a partnership tax return they must do so by giving the partner required to make the return a notice specifying the date on which the notice is withdrawn.
23. New subsection 12AAA(6) defines the “withdrawal period” within which a partner can request the withdrawal of a notice to file a partnership tax return.
24. New subsection 12AAA(7) provides that the withdrawal of a notice to file a partnership return does not prevent the issue of a further notice by HMRC.
25. New subsection 12AAA(8) explains that references to a partner include references to any successor of the partner.
26. Paragraph 5 inserts new subsections (4ZA) and (4ZB) into section 59B TMA 1970. Section 59B sets out the payment dates for income tax and capital gains tax. New subsections (4ZA) and (4ZB) provide that where a further notice to file is issued following withdrawal of a notice under new section 8B, it is to be treated as if it were the original notice to file issued under sections 8 or 8A TMA 1970. This means that the date for payment will be the same as it would have been if the original notice had not been withdrawn.
27. Paragraph 6 amends paragraph 7 to Schedule 41 to FA 2008 by inserting new subparagraphs (1A) and (1B) and making a consequential amendment to paragraph 7(2). Schedule 41 imposes penalties for failing to notify HMRC of, amongst other things, an obligation to notify chargeability to tax under section 7 TMA 1970.
28. New subsection (1A) defines the potential lost revenue where there is a failure to notify chargeability to tax or capital gains in accordance with new section 7(1B) TMA 1970 (as inserted by this Schedule). The potential lost revenue is so much of any income tax or capital gains to which the person is liable in respect of the tax year in question as is, by reason of the failure to comply with the obligation where subsection 1C (b) (ii) applies and ends after the “relevant date” unpaid at the end of that period specified in new section 7(1C) TMA 1970 or any other case unpaid on the relevant date.
29. New subsections (1B)(a) and (b) define the “relevant date” for payment of potential lost revenue as 31 January following the tax year. For potential lost revenue through refunded payments on account after that date the relevant date is the day after the refund was issued.
30. Paragraph 7 amends paragraph 3 of Schedule 53 to FA 2009. It inserts a new subparagraph (3A) which provides that where a person has a notice to file withdrawn under new section 8(B) but has to notify chargeability to income tax or capital gains tax under new subsection 7(1B), late payment interest starts from the due date for payment as would have applied had the original notice to file not been withdrawn.

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31. Paragraph 8 inserts new paragraphs 17A and 17B into Schedule 55 to FA 2009. Schedule 55 imposes penalties for the late filing of returns.
32. New paragraph 17A provides that HMRC may cancel the liability to a late filing penalty where they have agreed to the withdrawal of the notice to file a SA tax return for individuals and trustees under new section 8B TMA 1970 (as inserted by this Schedule).
33. New paragraph 17B provides that HMRC may cancel the liability to a late filing penalty where they have agreed to the withdrawal of the notice to file a SA tax return for partnerships under new section 12AAA.
34. Paragraph 9 provides for the amendments to have effect, in relation to partnerships which include one or more companies, in respect of a relevant period beginning on or after 6 April 2012 and for any other partnership or individual or trustee in respect of a return for a year of assessment beginning on or after 6 April 2012.

Background

35. Under the Self-Assessment (SA) regime anyone sent a notice to file a SA tax return by HMRC is required to complete and file a SA return with HMRC.
36. This Schedule will introduce a new power to enable HMRC to withdraw a notice to file a SA tax return (individual, partnership and trustee) when they agree a SA tax return is not required and cancel any late filing penalties.