

Status: Point in time view as at 15/09/2016.

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SCHEDULES

SCHEDULE 18

SERIAL TAX AVOIDANCE

PART 2

ENTRY INTO THE REGIME AND BASIC CONCEPTS

Condition E

- 16 (1) Condition E is that the arrangements are disclosable VAT arrangements to which P is a party and—
- (a) the arrangements relate to the position with respect to VAT of a person other than P (“S”) who has made supplies of goods or services to P,
 - (b) the arrangements might be expected to enable P to obtain a tax advantage in connection with those supplies of goods or services,
 - (c) the arrangements have been counteracted, and
 - (d) the counteraction is final.
- (2) For the purposes of this paragraph the arrangements are “counteracted” if—
- (a) HMRC assess S to tax or take any other action on a basis which prevents P from obtaining (or obtaining the whole of) the tax advantage in question, or
 - (b) adjustments, other than taxpayer emendations, are made in relation to S’s VAT affairs on a basis such as is mentioned in paragraph (a).
- (3) For the purposes of this paragraph a counteraction is “final” when the assessment, adjustments or action in question, and any amounts arising from the assessment, adjustments or action, can no longer be varied, on appeal or otherwise.
- (4) For the purposes of sub-paragraph (1) the time when it falls to be determined whether or not the arrangements are disclosable VAT arrangements is when the counteraction becomes final.
- (5) The following are “taxpayer emendations” for the purposes of sub-paragraph (2)—
- (a) an adjustment made by S at a time when neither P nor S had reason to believe that HMRC had begun or were about to begin enquiries into the affairs of S or P relating to VAT;
 - (b) an adjustment (by way of an assessment or otherwise) made by HMRC with respect to S’s tax position as a result of a disclosure made by S which meets the conditions in sub-paragraph (6).
- (6) The conditions are that the disclosure—
- (a) is a full and explicit disclosure of an inaccuracy in a return or other document or of a failure to comply with an obligation, and

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- (b) was made at a time when neither S nor P had reason to believe that HMRC were about to begin enquiries into the affairs of S or P relating to VAT.

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