

Status: Point in time view as at 01/01/2017.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Finance Act 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 20

PENALTIES FOR ENABLERS OF OFFSHORE TAX EVASION OR NON-COMPLIANCE

PART 1

LIABILITY FOR PENALTY

Appeals

- 12 A person may appeal against—
- (a) a decision of HMRC that a penalty under paragraph 1 is payable by that person, or
 - (b) a decision of HMRC as to the amount of a penalty under paragraph 1 payable by the person.

Commencement Information

11 Sch. 20 para. 12 in force at 1.1.2017 by S.I. 2016/1249, reg. 2

- 13 (1) An appeal under paragraph 12 is to be treated in the same way as an appeal against an assessment to the tax at stake (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).
- (2) Sub-paragraph (1) does not apply—
- (a) so as to require the person bringing the appeal to pay a penalty before an appeal against the assessment of the penalty is determined,
 - (b) in respect of any other matter expressly provided for by this Schedule.

Commencement Information

12 Sch. 20 para. 13 in force at 1.1.2017 by S.I. 2016/1249, reg. 2

- 14 (1) On an appeal under paragraph 12(a) that is notified to the tribunal, the tribunal may affirm or cancel HMRC's decision.
- (2) On an appeal under paragraph 12(b) that is notified to the tribunal, the tribunal may—
- (a) affirm HMRC's decision, or
 - (b) substitute for that decision another decision that HMRC had power to make.
- (3) If the tribunal substitutes its own decision for HMRC's, the tribunal may rely on paragraph 7 or 9 (or both)—

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- (a) to the same extent as HMRC (which may mean applying the same percentage reduction as HMRC to a different starting point),
 - (b) to a different extent, but only if the tribunal thinks that HMRC's decision in respect of the application of that paragraph was flawed.
- (4) In sub-paragraph (3)(b) “flawed” means flawed when considered in the light of the principles applicable in proceedings for judicial review.
- (5) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 13(1)).

Commencement Information

I3 [Sch. 20 para. 14](#) in force at 1.1.2017 by [S.I. 2016/1249](#), [reg. 2](#)

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