
Changes to legislation: Finance Act 2016, Paragraph 5 is up to date with all changes known to be in force on or before 30 April 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 22

ASSET-BASED PENALTY FOR OFFSHORE INACCURACIES AND FAILURES

PART 1

LIABILITY FOR PENALTY

Offshore PLR

- 5 (1) The offshore PLR, in relation to a tax year, is the total of—
- (a) the potential lost revenue (in the case of a standard offshore tax penalty imposed under Schedule 24 to FA 2007 or Schedule 41 to FA 2008 [^{F1}or Schedule 18 to FA 2017]), and
 - (b) the liability to tax (in the case of a standard offshore tax penalty imposed under Schedule 55 to FA 2009),
- by reference to which all of the standard offshore tax penalties imposed on P in relation to the tax year are assessed.
- (2) Sub-paragraphs (3) to (5) apply where—
- (a) a penalty is imposed on P under paragraph 1 of Schedule 24 to FA 2007, paragraph 1 of Schedule 41 to FA 2008 or paragraph 6 of Schedule 55 to FA 2009, and
 - (b) the potential lost revenue or liability to tax by reference to which the penalty is assessed relates to a standard offshore tax penalty and one or more other penalties.

In this paragraph, such a penalty is referred to as a “combined penalty”.

- (3) Only the potential lost revenue or liability to tax relating to the standard offshore tax penalty is to be taken into account in calculating the offshore PLR.
- (4) Where the calculation of the potential lost revenue or liability to tax by reference to which a combined penalty is assessed depends on the order in which income or gains are treated as having been taxed, for the purposes of calculating the offshore PLR—
 - (a) income and gains relating to domestic matters are to be taken to have been taxed before income and gains relating to offshore matters and offshore transfers;
 - (b) income and gains relating to taxes that are not capital gains tax, inheritance tax or asset-based income tax are to be taken to have been taxed before income and gains relating to capital gains tax, inheritance tax and asset-based income tax.
- (5) In a case where it cannot be determined—

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- (a) whether income or gains relate to an offshore matter or offshore transfer or to a domestic matter, or
- (b) whether income or gains relate to capital gains tax, asset-based income tax or inheritance tax or not,

for the purposes of calculating the offshore PLR, the potential lost revenue or liability to tax relating to the standard offshore tax penalty is to be taken to be such share of the total potential lost revenue or liability to tax by reference to which the combined penalty was calculated as is just and reasonable.

- (6) Sub-paragraph (7) applies where—
 - (a) a standard offshore tax penalty or a combined penalty is imposed on P, and
 - (b) there are two or more taxes at stake, including capital gains tax and asset-based income tax.
- (7) Where the calculation of the potential lost revenue or liability to tax by reference to which the penalty is assessed depends on the order in which income or gains are treated as having been taxed, for the purposes of calculating the offshore PLR, income and gains relating to asset-based income tax are to be taken to have been taxed before income and gains relating to capital gains tax.

Textual Amendments

- F1** Words in Sch. 22 para. 5(1)(a) inserted (with effect in accordance with Sch. 18 paras. 2-13 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), [Sch. 18 para. 28\(4\)](#)

Commencement Information

- I1** Sch. 22 para. 5 in force at 1.4.2017 with effect in accordance with reg. 2(b) by [S.I. 2017/277](#), [reg. 2\(b\)](#)

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Changes and effects yet to be applied to :

- Sch. 22 para. 5(1)(b) words inserted by [2021 c. 26 Sch. 27 para. 48\(4\)\(a\)](#)
- Sch. 22 para. 5(2)(a) words substituted by [2021 c. 26 Sch. 27 para. 48\(4\)\(b\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 19 para. 12(5)(b) inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(c\)](#)
- Sch. 19 para. 12(5)(a) word inserted by [2017 c. 32 Sch. 14 para. 49\(2\)\(b\)](#)
- Sch. 19 para. 51(8)(b) words inserted by [2017 c. 32 Sch. 14 para. 48\(2\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(a\)](#)
- Sch. 19 para. 53(1) words inserted by [2017 c. 32 Sch. 14 para. 48\(4\)\(b\)](#)
- Sch. 19 para. 12(5)(a) words renumbered as Sch. 19 para. 12(5)(a) by [2017 c. 32 Sch. 14 para. 49\(2\)\(a\)](#)
- Sch. 19 para. 58(1) words substituted by [2017 c. 32 Sch. 14 para. 48\(5\)](#)
- Sch. 20 para. 1(4)(e) inserted by [2021 c. 26 Sch. 27 para. 47\(2\)](#)
- Sch. 20 para. 3(3)(d) and word inserted by [2021 c. 26 Sch. 27 para. 47\(3\)\(b\)](#)
- Sch. 20 para. 5(5) inserted by [2021 c. 26 Sch. 27 para. 47\(5\)](#)
- Sch. 22 para. 2(4B) inserted by [2021 c. 26 Sch. 27 para. 48\(2\)\(c\)](#)
- Sch. 22 para. 3(4A) inserted by [2021 c. 26 Sch. 27 para. 48\(3\)](#)