

Status: Point in time view as at 01/04/2017.

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 22

ASSET-BASED PENALTY FOR OFFSHORE INACCURACIES AND FAILURES

PART 2

AMOUNT OF PENALTY

Standard amount of asset-based penalty

- 7 (1) The standard amount of the asset-based penalty is the lower of—
- (a) 10% of the value of the asset, and
 - (b) offshore PLR x 10.
- (2) See also—
- (a) paragraphs 8 and 9, which provide for reductions in the standard amount, and
 - (b) Part 3, which makes provision about the identification and valuation of the asset.

Commencement Information

II Sch. 22 para. 7 in force at 1.4.2017 with effect in accordance with reg. 2(b) by S.I. 2017/277, reg. 2(b)

Reductions for disclosure and co-operation

- 8 (1) HMRC must reduce the standard amount of the asset-based penalty where P does all of the following things—
- (a) makes a disclosure of the inaccuracy or failure relating to the standard offshore tax penalty;
 - (b) provides HMRC with a reasonable valuation of the asset;
 - (c) provides HMRC with information or access to records that HMRC requires from P for the purposes of valuing the asset.
- (2) A reduction under sub-paragraph (1) must reflect the quality of the disclosure, valuation and information provided (and for these purposes “quality” includes timing, nature and extent).
- (3) The Treasury must make regulations setting out the maximum amount of the penalty reduction under sub-paragraph (1).
- (4) The maximum amount may differ according to whether the case involves only unprompted disclosures or involves prompted disclosures.
- (5) A case involves only unprompted disclosures where—

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- (a) in a case where the asset-based penalty relates to only one standard offshore tax penalty, that standard offshore tax penalty was reduced on the basis of an unprompted disclosure, or
 - (b) in a case where the asset-based penalty relates to more than one standard offshore tax penalty, all of those standard offshore tax penalties were reduced on the basis of unprompted disclosures.
- (6) A case involves prompted disclosures where any of the standard offshore tax penalties to which the asset-based penalty relates was reduced on the basis of a prompted disclosure.
- (7) Regulations under sub-paragraph (3) are to be made by statutory instrument.
- (8) A statutory instrument containing regulations under sub-paragraph (3) is subject to annulment in pursuance of a resolution of the House of Commons.
- (9) Regulations under sub-paragraph (3)—
- (a) may make different provision for different purposes;
 - (b) may contain supplemental, incidental, consequential, transitional and transitory provision.

Commencement Information

- I2** [Sch. 22 para. 8](#) in force at 8.3.2017 for specified purposes by [S.I. 2017/277, reg. 2\(a\)](#)
- I3** [Sch. 22 para. 8](#) in force at 1.4.2017 in so far as not already in force and with effect in accordance with reg. 2(b) of the commencing S.I. by [S.I. 2017/277, reg. 2\(b\)](#)

Special reduction

- 9 (1) If HMRC think it right because of special circumstances, they may reduce the standard amount of the asset-based penalty.
- (2) In sub-paragraph (1) “special circumstances” does not include—
- (a) ability to pay, or
 - (b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.
- (3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to—
- (a) staying a penalty, and
 - (b) agreeing a compromise in relation to proceedings for a penalty.

Commencement Information

- I4** [Sch. 22 para. 9](#) 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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