

**Changes to legislation:** Finance Act 2016, PART 2 is up to date with all changes known to be in force on or before 12 August 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 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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**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\(3\)](#)