

**Changes to legislation:** Finance Act 2016, PART 5 is up to date with all changes known to be in force on or before 25 May 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 5

##### GENERAL

##### *Interpretation*

- 19 (1) In this Schedule—
- “asset” has the same meaning as in TCGA 1992 (but also includes currency in sterling);
  - “asset-based income tax” has the meaning given in paragraph 2(7);
  - “HMRC” means Her Majesty's Revenue and Customs;
  - “investigation period” has the meaning given in paragraph 6(4);
  - “offshore PLR” has the meaning given in paragraph 5;
  - “standard amount of the asset-based penalty” has the meaning given in paragraph 7;
  - “standard offshore tax penalty” has the meaning given in paragraph 2.
- (2) Terms used in relation to a penalty imposed under Schedule 24 to FA 2007, Schedule 41 to FA 2008 [<sup>F1</sup>Schedule 55 to FA 2009 or Part 1 of Schedule 18 to FA 2017] have the same meaning as in the Schedule under which the penalty was imposed.
- (3) References in this Schedule to capital gains tax do not include capital gains tax payable by companies in respect of chargeable gains accruing to them to the extent that those gains are NRCGT gains in respect of which the companies are chargeable to capital gains tax under section 14D or 188D of TCGA 1992 (see section 1(2A) (b) of that Act).

##### Textual Amendments

- F1** Words in [Sch. 22 para. 19\(2\)](#) substituted (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\(8\)](#)

##### Commencement Information

- I1** Sch. 22 para. 19 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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*Consequential amendments etc*

- 20 (1) In section 103ZA to TMA 1970 (disapplication of sections 100 to 103 in case of certain penalties), omit the “or” at the end of paragraph (h), and at the end insert “, or (j) Schedule 22 to the Finance Act 2016 (asset-based penalty)”.
- (2) In section 107A of that Act (relevant trustees)—
- (a) in subsection (2)(a), after “Schedule 55 to the Finance Act 2009” insert “ or Schedule 22 to the Finance Act 2016 ”;
  - (b) after subsection (3)(a) insert—
    - “(aa) in relation to a penalty under Schedule 22 to the Finance Act 2016, or to interest under section 101 of the Finance Act 2009 on such a penalty, the time when the relevant act or omission occurred;”;
  - (c) in the words after paragraph (c), after “paragraph” insert “ (aa) and ”.
- (3) In Schedule 24 to FA 2007 (penalties for errors), in paragraph 12 (interaction with other penalties etc), in sub-paragraph (2A) at the end insert “ or Schedule 22 to FA 2016 (asset-based penalty) ”.
- (4) In Schedule 41 to FA 2008 (penalties for failure to notify), in paragraph 15 (interaction with other penalties etc), in sub-paragraph (1A) at the end insert “ or Schedule 22 to FA 2016 (asset-based penalty). ”
- (5) In Schedule 55 to FA 2009 (penalty for failure to make return etc), in paragraph 17 (interaction with other penalties etc), in sub-paragraph (2), at the end insert “, or (d) a penalty under Schedule 22 to FA 2016 (asset-based penalty).”

**Commencement Information**

**I2** [Sch. 22 para. 20](#) in force at 1.4.2017 with effect in accordance with reg. 2(b) by [S.I. 2017/277](#), [reg. 2\(b\)](#)

- 21 Section 97A of TMA 1970 (two or more tax-geared penalties in respect of same tax) does not apply in relation to an asset-based penalty imposed under this Schedule.

**Commencement Information**

**I3** [Sch. 22 para. 21](#) 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\(3\)](#)