



# Finance Act 2019

## 2019 CHAPTER 1

### PART 4

#### ADMINISTRATION AND ENFORCEMENT

##### *International agreements*

### 83 Resolution of double taxation disputes

In Chapter 2 of Part 2 of TIOPA 2010 (double taxation relief: miscellaneous provisions) after section 128 insert—

#### *“International dispute-resolution instruments and agreements*

#### **128A Power by regulations to give effect to international obligations etc**

- (1) The Treasury may make regulations for, or in connection with, giving effect to or enabling effect to be given to—
  - (a) Council [Directive \(EU\) 2017/1852](#) of 10 October 2017 on tax dispute resolution mechanisms in the European Union (“the Directive”);
  - (b) any instrument modifying or supplementing the Directive;
  - (c) any international agreements or arrangements that deal with—
    - (i) matters dealt with by the Directive,
    - (ii) matters that are similar to any of those dealt with by the Directive, or
    - (iii) any other matters that relate to or are connected with the resolution of disputes in relation to double taxation arrangements.
- (2) The provision that may be made by regulations under this section includes (in particular)—

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- (a) provision as to the effect of any arrangements that the Commissioners for Her Majesty's Revenue and Customs may make with authorities of territories outside the United Kingdom;
  - (b) provision conferring or imposing functions, rights or obligations, or authorising the conferral or imposition of functions, rights or obligations, on a person (including a commission, tribunal or court);
  - (c) provision under which the Commissioners or other persons may exercise discretions;
  - (d) provision about procedure in relation to the resolution of disputes;
  - (e) provision about costs, expenses and fees;
  - (f) provision imposing penalties or creating criminal offences;
  - (g) provision about appeals;
  - (h) provision about the form and manner in which, or time within which, things are to be done;
  - (i) provision supplementing section 128B.
- (3) The regulations may—
- (a) make provision having effect in relation to periods before the regulations come into force;
  - (b) make provision by reference to an instrument or document as it has effect from time to time;
  - (c) make provision about things done, or to be done, in territories outside the United Kingdom;
  - (d) make different provision for different purposes;
  - (e) make consequential, incidental, supplemental, transitional, transitory or saving provision;
  - (f) make provision amending, repealing, revoking or disapplying, or modifying the effect of, any enactment (whenever passed or made).
- (4) The regulations may not create a criminal offence punishable on indictment with imprisonment for more than two years.
- (5) Regulations under this section containing anything that amends or repeals a provision of primary legislation may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the House of Commons. In this subsection “primary legislation” means—
- (a) an Act,
  - (b) an Act of the Scottish Parliament,
  - (c) a Measure or Act of the National Assembly for Wales, or
  - (d) Northern Ireland legislation.
- (6) In subsections (2) and (3) and sections 128B and 128C, a reference to a commission, tribunal, court or other person includes a reference to a commission, tribunal, court or other person in a territory outside the United Kingdom.

### **128B Giving effect to requirements under section 128A regulations**

- (1) Subsection (2) applies if anything in regulations under section 128A requires the Commissioners for Her Majesty's Revenue and Customs to give effect to an agreement, decision or opinion made or given by—

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- (a) the Commissioners (or their authorised representative),
  - (b) the competent authority of a territory outside the United Kingdom, or
  - (c) any commission, tribunal, court or other person.
- (2) The Commissioners are to give effect to the agreement, decision or opinion despite anything in any enactment, and any such adjustment as is appropriate in consequence may be made.
- (3) An adjustment under subsection (2) may be made by way of discharge or repayment of tax, the allowance of credit against tax payable in the United Kingdom, the making of an assessment or otherwise.

### **128C Disclosure under international obligations etc**

- (1) The obligation as to secrecy imposed by any enactment does not prevent—
- (a) the Commissioners for Her Majesty's Revenue and Customs,
  - (b) a person who is or was an authorised Revenue and Customs official,
  - (c) a person who is or was a member of a committee or other body established by the Commissioners for Her Majesty's Revenue and Customs (or jointly by the Commissioners and an authority of a territory outside the United Kingdom), or
  - (d) a person specified, or of a description specified, in regulations made by the Treasury,
- from disclosing information required to be disclosed under a relevant instrument or agreement in pursuance of a request made by any person.
- (2) In this section—
- “relevant instrument or agreement” means an instrument, agreement or arrangement referred to, or of a kind referred to, in section 128A(1);
- “Revenue and Customs official” means—
- (a) a Commissioner for Her Majesty's Revenue and Customs;
  - (b) an officer of Revenue and Customs;
  - (c) a person acting on behalf of the Commissioners for Her Majesty's Revenue and Customs;
  - (d) a person acting on behalf of an officer of Revenue and Customs.”

## **84 International tax enforcement: disclosable arrangements**

- (1) The Treasury may, for the purpose of securing compliance with an obligation of the government of the United Kingdom under an international tax provision, make regulations requiring persons who participate in arrangements of a description specified in the regulations to disclose information about those arrangements.
- (2) Regulations under this section may—
- (a) require information to be disclosed in such form and manner, and at such intervals, as may be specified in the regulations;
  - (b) require persons to disclose information about arrangements that they participated in before (as well as after) the coming into force of this section;
  - (c) provide for the imposition of penalties in respect of a contravention of, or non-compliance with, a requirement of the regulations, including provision about appeals in relation to the imposition of a penalty;

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- (d) make different provision for different purposes.
- (3) For the purposes of subsections (1) and (2)—
- “arrangements” includes any scheme, transaction or series of transactions;
- “participate”, in relation to arrangements, includes being involved in, or facilitating, the arrangements in any way (for example, by receiving any benefit from them or by designing, marketing or providing services in connection with them, or arranging for others to do so);
- “international tax provision” means any provision of—
- (a) any arrangements specified in an Order in Council made under section 173 of FA 2006 (international tax enforcement arrangements), or
- (b) Council [Directive 2011/16/EU](#) of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive [77/799/EEC](#), as amended from time to time.
- (4) Regulations under this section may make consequential, supplementary, incidental, transitional or saving provision (and may do so by amending, repealing or revoking an enactment whenever passed or made).
- (5) Regulations under this section are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this section which amend or repeal an enactment contained in an Act may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the House of Commons.
- (7) A statutory instrument containing any other regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.
- (8) No regulations may be made under this section unless the Chancellor of the Exchequer has laid before the House of Commons a report on how the powers in this section are to be exercised in each of the scenarios in subsection (9).
- (9) The scenarios to be considered in the report under subsection (8) are—
- (a) if either—
- (i) a negotiated withdrawal agreement, or
- (ii) a framework for the future relationship with the European Union, has not been ratified under section 13 of the European Union (Withdrawal) Act 2018 at the time of the United Kingdom ceasing to be a member of the European Union, and
- (b) if both—
- (i) a negotiated withdrawal agreement, and
- (ii) a framework for the future relationship with the European Union, have been ratified under section 13 of the European Union (Withdrawal) Act 2018 at the time of the United Kingdom ceasing to be a member of the European Union.

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