



# Finance Act 2020

## 2020 CHAPTER 14

### PART 2

#### DIGITAL SERVICES TAX

##### *Supplementary*

#### 65 Anti-avoidance

- (1) Any tax advantage that would (apart from this section) arise from relevant avoidance arrangements is to be counteracted by the making of such adjustments as are just and reasonable.
- (2) The adjustments (whether or not made by an officer of Revenue and Customs) may be made by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.
- (3) Arrangements are “relevant avoidance arrangements” if their main purpose, or one of their main purposes, is to enable a person to obtain a tax advantage.
- (4) But arrangements are not “relevant avoidance arrangements” if the obtaining of any tax advantage that would (apart from this section) arise from them can reasonably be regarded as consistent with—
  - (a) any principles on which the provisions of this Part that are relevant to the arrangements are based (whether express or implied), and
  - (b) the policy objectives of those provisions.
- (5) In this section—
  - “arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);
  - “tax” means digital services tax (and “tax advantage” is to be construed accordingly);
  - “tax advantage” includes—
    - (a) avoidance or reduction of a charge to tax or an assessment to tax,

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- (b) repayment or increased repayment of tax,
- (c) avoidance of a possible assessment to tax, and
- (d) deferral of a payment of tax or advancement of a repayment of tax.

## **66 Notice requiring payment from other group members**

- (1) This section applies where any DST liability relating to a group for an accounting period is unpaid at the end of the period of 3 months after the relevant date.
- (2) A designated officer may give a notice (a “payment notice”) to a relevant person requiring that person, within 30 days of the giving of the notice, to pay all unpaid DST liabilities relating to the group for the accounting period.
- (3) A payment notice must state—
  - (a) the amount of any digital services tax or penalty that remains unpaid,
  - (b) the date any digital services tax or penalty first became payable, and
  - (c) the relevant person’s right of appeal.
- (4) A payment notice may not be given more than 3 years and 6 months after the relevant date.
- (5) If the DST liability arose because of a determination under Part 5 of Schedule 8, the relevant date is the date on which the notice of determination is issued.
- (6) If the DST liability arose because of a self-assessment, the relevant date is the later of—
  - (a) the date on which the tax becomes due and payable;
  - (b) in a case where the DST return is delivered after the filing date, the date on which the return is delivered;
  - (c) if notice of enquiry is given, the date on which the enquiry is completed;
  - (d) if more than one notice of enquiry is given, the date on which the last notice is given;
  - (e) if as a result of such an enquiry the DST return is amended, the date on which the notice of the amendment is issued;
  - (f) if there is an appeal against such an amendment, the date on which the appeal is finally determined.
- (7) If the DST liability arose because of an assessment under Part 6 or 7 of Schedule 8, the relevant date is—
  - (a) if there is no appeal against the assessment, the date on which the notice of assessment is issued, or
  - (b) if there is such an appeal, the date on which the appeal is finally determined.
- (8) If the DST liability arose because of a penalty, the relevant date is the date on which the notice of the penalty is issued.
- (9) A payment notice may be given anywhere in the world, to any relevant person (whether or not resident in the United Kingdom).
- (10) Schedule 9 makes further provision about payment notices.
- (11) In this section—

“designated officer” means an officer of Revenue and Customs who has been designated by the Commissioners for the purposes of this Part;

“DST liability”, in relation to a group for an accounting period, means—

- (a) a liability of a relevant person to digital services tax in respect of that period, or
- (b) a liability of a person to a penalty for anything done (or not done) in respect of the accounting period;

“the filing date” has the same meaning as in Schedule 8 (see paragraph 1(1));

“relevant person” means any person who was a member of the group in the accounting period.

- (12) The reference in subsection (6) to a self-assessment includes a reference to a self-assessment that supersedes a determination (see paragraph 18 of Schedule 8).
- (13) In this section references to “digital services tax” include references to interest on digital services tax.

#### **67 Interest on overdue DST**

- (1) Digital services tax carries interest at the applicable rate from the date when the tax becomes due and payable until payment.
- (2) This applies even if the date when the tax becomes due and payable is—
  - (a) a Saturday or Sunday,
  - (b) Good Friday, Christmas Day, a bank holiday or other public holiday, or
  - (c) a day specified in an order made under section 2 of the Banking and Financial Dealings Act 1971 (power to suspend financial dealings).
- (3) In this section “the applicable rate” means the rate applicable under section 178 of FA 1989.

#### **68 Interest on overpaid DST etc**

- (1) Where a payment in respect of a person’s digital services tax liability for an accounting period is made before the due date, the payment carries interest at the applicable rate from the later of—
  - (a) the date the payment is made, and
  - (b) 6 months and 13 days from the start of the accounting period,until the due date.
- (2) Where a repayment of digital services tax paid by a person for an accounting period falls to be made, the repayment carries interest at the applicable rate—
  - (a) from the due date or, if later, the date the digital services tax was paid, and
  - (b) until the order for repayment is issued.
- (3) Where a repayment of digital services tax is a repayment of tax paid by a person on different dates, it is to be treated so far as possible as a repayment of tax paid on a later (rather than an earlier) date among those dates.
- (4) Where—
  - (a) interest has been paid to a person under this section,

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- (b) there is a change in the person’s assessed liability,
  - (c) the change does not correct (wholly or in part) an error made by an officer of Revenue and Customs, and
  - (d) as a result of the change (and in particular not as a result of an error in the calculation of interest) it appears to an officer of Revenue and Customs that some or all of the interest ought not to have been paid,
- the interest that ought not to have been paid may be recovered from the person.
- (5) For the purposes of subsection (4)(b) there is a change in a person’s assessed liability if (and only if)—
- (a) an assessment, or an amendment of an assessment, of the amount of digital services tax payable by the person for the accounting period in question is made, or
  - (b) an HMRC determination of that amount is made,
- whether or not any previous assessment or determination has been made.
- (6) In this section—
- “the applicable rate” has the same meaning as in section 67;
  - “the due date”, in relation to an accounting period, means the date digital services tax for the accounting period becomes due and payable;
  - “error” includes—
    - (a) any computational error, and
    - (b) the allowance of a claim that ought not to have been allowed;
  - “HMRC determination” means a determination under Part 5 of Schedule 8.

## **69 Recovery of DST liability**

- (1) Any amount due by way of DST liability is recoverable as a debt due to the Crown.
- (2) In this section “DST liability” has the same meaning as in section 66.

## **70 Minor and consequential amendments**

Schedule 10 contains minor and consequential amendments.

## **71 Review of DST**

- (1) The Treasury must, before the end of 2025, conduct a review of digital services tax and prepare a report of the review.
- (2) The Treasury must lay a copy of the report before Parliament.