

2021 No. 979

TAXES

**The Indirect Taxes (Disclosure of Avoidance Schemes)
(Amendment) Regulations 2021**

<i>Made</i>	- - - -	<i>8th September 2021</i>
<i>Laid before the House of Commons</i>		<i>9th September 2021</i>
<i>Coming into force</i>	- -	<i>30th September 2021</i>

The Commissioners for Her Majesty's Revenue and Customs make these Regulations in exercise of the powers conferred by paragraphs 23(2), 23A(2), 24(3), 25(2), 26(1) and (3), 27(3) and (4), 28(2), 56(2) and 57 of Schedule 17 to the Finance (No. 2) Act 2017(a).

Citation and commencement

1. These Regulations may be cited as the Indirect Taxes (Disclosure of Avoidance Schemes) (Amendment) Regulations 2021 and come into force on 30th September 2021.

Amendment of the Indirect Taxes (Disclosure of Avoidance Schemes) Regulations 2017

2. The Indirect Taxes (Disclosure of Avoidance Schemes) Regulations 2017(b) are amended as follows.

3. In regulation 2, in the definition of “relevant indirect tax”, omit “notifiable” in both places.

4. In regulation 9—

- (a) for the heading, substitute “Paragraphs 23(2), 23A(2) and 24(3) – duties of promoters, clients and others”;
- (b) in paragraph (1), after “23(2)” insert “, 23A(2)”;
- (c) in paragraph (1)(a), at the end insert “or the person under the duty in paragraph 23A(2) of the Schedule”;
- (d) in paragraph (1)(b), for “notifiable proposal or notifiable arrangement” substitute “proposal or arrangement”;
- (e) for paragraph (1)(c), substitute—

“(c) the reference number (or, if more than one, any one reference number) allocated by HMRC under paragraph 22(5) of the Schedule;”;
- (f) in paragraph (1)(d), for “each” substitute “the”;

(a) 2017 c. 32; paragraph 23(2) was amended by paragraph 25(2) of Schedule 31 to the Finance Act 2021 (c. 26) (“Schedule 31”); paragraph 23A was inserted by paragraph 26 of Schedule 31; paragraph 25(2) was amended by paragraph 29(3) of Schedule 31; paragraph 26(1) was amended by paragraph 31(2) and (3) of Schedule 31; paragraph 27(3) and (4) was amended by paragraph 33(5) and (6) of Schedule 26; and paragraph 28(2) was amended by paragraph 34(3) of Schedule 31.

(b) S.I. 2017/1215.

- (g) at the end of paragraph (2)(a), after “Schedule;” insert—
“(aa) where paragraph 23A(2) of the Schedule applies, “the client” has the same meaning as in paragraph 23A(1) of the Schedule;”.

5. In regulation 10, in the heading, omit “to promoter”.

6. In regulation 11—

- (a) in the heading, omit “notifiable”;
- (b) in paragraph (1)(e)(ii), omit “notifiable” in both places;
- (c) in paragraph (1)(e)(iii), omit “notifiable” in both places;
- (d) in paragraph (2), after “paragraph 23(1)” insert “, 23A(1)”.

7. In regulation 12—

- (a) for the heading, substitute “Paragraph 27(3) of the Schedule – duty to provide details of clients: prescribed information”;
- (b) in paragraph (1), for “each notifiable arrangement to which paragraph 27(1)” substitute “the arrangement or proposed arrangement to which paragraph 27(1) or (1A)”;
- (c) in paragraph (1)(c), after “the promoter” insert “or provider”;
- (d) in paragraph (1)(d), after “the promoter” insert “or provider”;
- (e) in paragraph (2)(a)—
 - (i) after “the promoter” insert “or provider”;
 - (ii) after “paragraph 23(2)” insert “or 23A(2)”;
- (f) in paragraph (2)(b), omit “notifiable”.

8. In regulation 13, for the heading, substitute “Paragraph 27(3) and (4) of the Schedule – duty to provide details of clients: prescribed period”.

9. In regulation 14—

- (a) in paragraph (a)(i), omit “notifiable” in both places;
- (b) in paragraph (a)(ii), omit “notifiable” in both places;
- (c) in paragraph (c), omit “notifiable” in both places.

Jim Harra
Sophie Dean

8th September 2021

Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Indirect Taxes (Disclosure of Avoidance Schemes) Regulations 2017 (“the 2017 Regulations”) to reflect changes made to Schedule 17 to the Finance (No. 2) Act 2017 (“Schedule 17”) by the Finance Act 2021 (c. 26).

Schedule 17 provides for the disclosure to HMRC of information relating to arrangements that enable, or might enable, people to obtain a tax advantage in relation to VAT or another indirect tax. These arrangements are referred to as “notifiable arrangements” or, before they have been put into effect, a “notifiable proposal”. The individuals responsible for them are known as “promoters” and are obliged to disclose them to HMRC, with related duties falling on their clients. HMRC allocates reference numbers to such disclosed arrangements.

The amendments made by the Finance Act 2021 allow HMRC to allocate a reference number to arrangements, or a proposal, that have not been disclosed where HMRC reasonably suspects them to be notifiable. In such circumstances, the amendments also extend the obligations in Schedule 17 to all persons that HMRC reasonably suspects to be supplying the arrangements, or proposal, and their clients. Where a reference number has been allocated on this basis, there is no requirement for the arrangements or proposals to be “notifiable”. These Regulations make consequential amendments to the 2017 Regulations in order to give effect to those amendments, by including references to suppliers of arrangements and proposed arrangements, as well as promoters, and removing references to the arrangements being “notifiable” in circumstances where this is no longer required by Schedule 17.

A Tax Information and Impact Note covering this instrument was published on 21 July 2020 alongside draft legislation amending Schedule 17 and is available on GOV.UK at <https://www.gov.uk/government/publications/new-proposals-for-tackling-promoters-and-enablers-of-tax-avoidance-schemes>. It remains an accurate summary of the impacts that apply to this instrument.

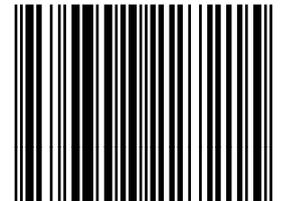
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