

1 Information powers

Schedule 1 makes provision about HMRC's information powers.

SCHEDULE 1

Section 1

INFORMATION POWERS

PART 1

INTRODUCTORY

- 1 Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.

PART 2

FINANCIAL INSTITUTION NOTICES

- 2 After paragraph 4 insert –

“Power to obtain information and documents from financial institutions

- 4A (1) An officer of Revenue and Customs may by notice in writing require a financial institution –
- (a) to provide information, or
 - (b) to produce a document,
- if conditions A and B are met.
- (2) Condition A is that the information or document is, in the reasonable opinion of the officer giving the notice, of a kind that it would not be onerous for the institution to provide or produce.
- (3) Condition B is that the information or document is reasonably required by the officer –
- (a) for the purpose of checking the tax position of another person whose identity is known to the officer (“the taxpayer”), or
 - (b) for the purpose of collecting a tax debt of the taxpayer.
- (4) In this Schedule, “financial institution notice” means a notice under this paragraph.
- (5) A financial institution notice may be given by an officer of Revenue and Customs only if –
- (a) the officer is an authorised officer of Revenue and Customs, or
 - (b) an authorised officer of Revenue and Customs has agreed to the giving of the notice.
- (6) A financial institution notice must name the taxpayer to whom it relates.
- (7) An officer of Revenue and Customs –
- (a) must give a copy of a financial institution notice to the taxpayer to whom it relates, and
 - (b) must give the taxpayer a summary of the reasons why an officer of Revenue and Customs requires the information and documents.

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- (8) An application (without notice) may be made to the tribunal by, or with the agreement of, an authorised officer of Revenue and Customs to disapply any of the requirements under sub-paragraph (6) or (7).
- (9) The tribunal must grant the application to disapply the requirement under sub-paragraph (6) if it is satisfied that the officer has reasonable grounds for believing that naming the taxpayer might seriously prejudice the assessment or collection of tax.
- (10) The tribunal must grant the application to disapply a requirement under sub-paragraph (7) if it is satisfied that complying with the requirement might prejudice the assessment or collection of tax.”
- 3 (1) Paragraph 6 (notices) is amended as follows.
- (2) In sub-paragraph (1), after “2,” insert “4A.”
- (3) In sub-paragraph (4), after “4” insert “, 4A”.
- 4 After paragraph 61 insert –

“Financial institution

61ZA(1) In this Schedule “financial institution” means –

- (a) a financial institution under the CRS other than one which is such an institution because (and only because) it is an investment entity within section VIII (A)(6)(b) of the CRS, or
- (b) a person who issues credit cards.
- (2) In this paragraph “the CRS” means the common reporting standard for automatic exchange of financial account information developed by the Organisation for Economic Co-operation and Development, as that standard has effect from time to time.”

PART 3

OTHER AMENDMENTS

Power to give information notice for purpose of collecting a tax debt

- 5 In paragraph 1(1) (taxpayer notices), at the end insert “or for the purpose of collecting a tax debt of the taxpayer”.
- 6 In paragraph 2(1) (third party notices), at the end insert “or for the purpose of collecting a tax debt of the taxpayer”.
- 7 In paragraph 5(2) (persons whose identities are not known), after “tax position of” insert “or for the purposes of collecting a tax debt of”.
- 8 In paragraph 5A (persons whose identity can be ascertained) –
- (a) in sub-paragraph (2), at the end insert “or for the purposes of collecting a tax debt of the taxpayer”, and
- (b) in sub-paragraph (7), after “tax position of”, in both places, insert “, or for the purpose of collecting a tax debt of,”.

9 After paragraph 63 insert –

“Tax debts: collection

- 63A (1) In this Schedule a reference to collecting a tax debt of a person is a reference to taking any steps for, or in connection with, the recovery of –
- (a) an amount of tax due from the person, or
 - (b) any other amount due from the person in connection with any tax.
- (2) It does not matter whether or not another person is, or has been, at any time liable to pay the tax or other amount.”

Increased daily default penalty

- 10 The existing text of paragraph 47 (right to appeal against penalty) is renumbered as sub-paragraph (1) and after that sub-paragraph as renumbered insert –
- “(2) But sub-paragraph (1)(b) does not give a right of appeal against the amount of an increased daily penalty payable as a result of paragraph 49A.”
- 11 In paragraph 48 (procedure on appeal against penalty) –
- (a) in sub-paragraph (3), for “paragraph 47(a)” substitute “paragraph 47(1)(a)”, and
 - (b) in sub-paragraph (4), for “paragraph 47(b)” substitute “paragraph 47(1)(b)”.
- 12 (1) Paragraph 49A (increased daily penalty) is amended as follows.
- (2) In sub-paragraph (1)(c), for “imposed” substitute “assessable”.
 - (3) In sub-paragraph (2), for “imposed” substitute “assessable”.
 - (4) For sub-paragraphs (3) and (4) substitute –
- “(3) If the tribunal decides that an increased daily penalty should be assessable –
- (a) the tribunal must determine the day from which the increased daily penalty is to apply and the maximum amount of that penalty (“the new maximum amount”), and
 - (b) from that day, paragraph 40(2) has effect in the person’s case as if the new maximum amount were substituted for the amount for the time being specified there.
- (4) The new maximum amount may not be more than £1,000.”
- (5) In sub-paragraph (5), in the opening words, for “the amount” substitute “the new maximum amount”.
 - (6) In sub-paragraph (6), at the end insert “but as if the reference in paragraph 41(2)(a) to this Act were to FA 2021”.
- 13 (1) Paragraph 49B is amended as follows.

(2) In sub-paragraph (1), for “a person becomes liable to a penalty” substitute “the tribunal makes a determination”.

(3) In sub-paragraph (2), for the words from “the day” to the end substitute “the new maximum amount and the day from which it applies”.

(4) Omit sub-paragraph (3).

14 Omit paragraph 49C.

Disclosure to taxpayers of notices given to other persons

15 After paragraph 51 insert –

“Disclosure to the taxpayer of third party or financial institution notice

51A (1) This paragraph applies if –

(a) a person (“P”) is given a third party notice or financial institution notice (“the notice”), and

(b) the tribunal has disappplied the requirement in paragraph 4(1) or 4A(7)(a) (as the case may be) to give a copy of the notice to the taxpayer to whom it relates.

(2) The notice may include a requirement that P must not disclose the notice, or anything relating to it, to the taxpayer to whom it relates.

(3) A requirement imposed under sub-paragraph (2) has effect for a period of 12 months beginning with the day on which P is given the notice unless, before the end of that period –

(a) the requirement is withdrawn in accordance with sub-paragraph (4), or

(b) the period is extended in accordance with sub-paragraph (5).

(4) An officer of Revenue and Customs may, by notice in writing to P, withdraw a requirement imposed under sub-paragraph (2).

(5) An officer of Revenue and Customs may –

(a) by notice in writing to P, extend the period for which a requirement imposed under sub-paragraph (2) has effect for a further period of 12 months (beginning with the day after the last day of the previous period), and

(b) do so on one or more occasions.

(6) An officer of Revenue and Customs may act under sub-paragraph (4) or (5) only if –

(a) the officer is an authorised officer of Revenue and Customs, or

(b) an authorised officer of Revenue and Customs has agreed to the withdrawal of the requirement or the extension of the period (as the case may be).

(7) An authorised officer of Revenue and Customs may only extend, or agree to the extension of, a period under sub-paragraph (5) if that officer has reasonable grounds for believing that not doing so might prejudice the assessment or collection of tax.

- 51B (1) A person who breaches a requirement imposed under paragraph 51A (not to disclose a notice or anything relating to it) is liable to a penalty of £1,000.
- (2) If a person becomes liable for a penalty under sub-paragraph (1) –
- (a) HMRC may assess the penalty, and
 - (b) if they do so, they must notify the person.
- (3) The assessment must be made within the period of 12 months beginning with the date on which the breach of the requirement first came to the attention of an officer of Revenue and Customs.
- (4) Paragraph 41 applies in relation to the sum specified in sub-paragraph (1) above as it applies in relation to the sums mentioned in paragraph 41(1) but as if –
- (a) the reference in paragraph 41(2)(a) to this Act were to FA 2021, and
 - (b) paragraph 41(3) prevented the regulations from applying to any breach committed before the date on which the regulations come into force.
- 51C (1) A person may appeal a decision of an officer of Revenue and Customs that a penalty is payable by the person under paragraph 51B.
- (2) Paragraph 48 (procedure on appeal against penalty) applies in relation to an appeal under this paragraph as it applies in relation to an appeal under paragraph 47(1)(a) but as if the reference to the notification under paragraph 46 were to the notification under paragraph 51B(2)(b).
- (3) Paragraph 49 (enforcement of penalty) applies in relation to a penalty under paragraph 51B as it applies in relation to a penalty under paragraph 39 but as if the reference to the notification under paragraph 46 were to the notification under paragraph 51B(2)(b).”

PART 4

REPORTING REQUIREMENTS

- 16 (1) As soon as reasonably practicable after the end of each financial year, the Commissioners for Her Majesty’s Revenue and Customs must provide the Treasury with –
- (a) information about the number of financial institution notices given during that financial year, and
 - (b) such other information (if any) relating to financial institution notices as the Treasury may reasonably require.
- (2) Information received under sub-paragraph (1) must be included in a report laid before the House of Commons by the Treasury.
- (3) The report mentioned in sub-paragraph (2) must be laid not later than 31 January following the end of the financial year to which the information relates.
- (4) For the purposes of this paragraph –

“financial institution notice” means a notice under paragraph 4A of Schedule 36 to FA 2008;

each of the following is a “financial year” –

- (a) the period beginning with the date on which this Schedule comes into force and ending with 31 March 2022, and
- (b) each successive period of 12 months.

PART 5

COMMENCEMENT

- 17 (1) The amendment made by paragraph 2 has effect –
 - (a) for the purpose of checking the tax position of a taxpayer as regards periods or tax liabilities whenever arising, or
 - (b) for the purpose of collecting a tax debt of a taxpayer whenever arising.
- (2) The amendments made by paragraphs 5 to 8 have effect for the purpose of collecting a tax debt of a person whenever arising.
- (3) The amendment made by paragraph 15 has effect in relation to any third party notice or financial institution notice given on or after the day on which this Act is passed.