

Amendments to Schedule 18: Serial Tax Avoidance

Summary

1. These amendments ensure that those who pursue tax avoidance through partnerships or through companies which they control are brought within the scope of the Serial Tax Avoidance regime.
2. Two amendments make minor alterations to ensure the clauses work correctly as intended.

Details of the amendments

3. Amendment 102 amends Paragraph 12 to include as a defeat GAAR counteractions which become final when users of the same arrangements are bound to a Panel opinion.
4. Amendments 103 to 107 make changes to Paragraphs 13 and 14 to bring partnerships within the scope of those paragraphs.
5. Amendment 108 amends Paragraph 18 to allow HMRC to publish details of a partnership including its trading name and the names of the partners when it incurs three relevant defeats.
6. Amendment 109 amends Paragraph 22 to define a relevant defeat for the purposes of Reasonable Excuse.
7. Amendment 110 inserts seven new paragraphs.
8. New paragraph 46A provides that where a person incurs a relevant defeat, warning notices are also issued to those associated with that person.
9. New paragraph 46B defines association.
10. New paragraph 46C provides that when a tax avoidance scheme is used in connection with a partnership return and is defeated, the defeat is treated as a defeat for each person who was a partner in the partnership, each of whom will receive a warning notice under Paragraph 2. The defeat is treated as a defeat for anyone who was a partner during the period covered by the return.
11. New paragraph 46D defines the conditions which must apply for a partnership defeat to be treated as a defeat of the partners. These are that the partnership return was made on the basis that a tax advantage arose for a partner and:
 - The defeat follows a GAAR counteraction notice;
 - The defeat follows a Follower Notice; or
 - The defeated arrangements were DOTAS arrangements
12. New Paragraph 46E provides for the information to be included on a partnership information notice and when it must be submitted to HMRC.
13. New Paragraph 46F provides that a correction made to a partnership return as a result of an

unprompted disclosure will not be treated as a defeat for the Schedule.

14. Amendment 113 amends Paragraph 51 to define how a tax advantage arises in relation to a partnership return

Background Note

15. This regime has been introduced to change the behavior of those who persistently engage in tax avoidance schemes, often using more than one scheme on a return or using schemes on a number of successive returns. These tax avoiders do not see a significant risk resulting from their behaviour. The new regime allows HMRC to place users of defeated tax avoidance schemes on warning and provides that they will face targeted sanctions if they persist in their behavior. These sanctions will escalate in their impact for taxpayers who fail to amend their behaviour. This will discourage such avoiders from continuing to engage in tax avoidance and to dissuade others from becoming serial tax avoiders.