
1 Time limits for assessments involving offshore matters: IT and CGT

(1) TMA 1970 is amended as follows.

(2) After section 36 insert –

“36A Loss of tax involving offshore matter or offshore transfer

(1) This section applies in a case involving a loss of income tax or capital gains tax, where the lost tax involves an offshore matter or an offshore transfer.

(2) An assessment on a person (“the taxpayer”) may be made at any time not more than 12 years after the end of the year of assessment to which the lost tax relates.

This is subject to section 36(1A) above and any other provision of the Taxes Acts allowing a longer period.

(3) Lost income tax or capital gains tax “involves an offshore matter” if it is charged on or by reference to –

- (a) income arising from a source in a territory outside the United Kingdom,
- (b) assets situated or held in a territory outside the United Kingdom,
- (c) activities carried on wholly or mainly in a territory outside the United Kingdom, or
- (d) anything having effect as it were income, assets or activities of a kind described above.

(4) Lost income tax “involves an offshore transfer” if it does not involve an offshore matter and the income on or by reference to which it is charged, or any part of that income, is –

- (a) received in a territory outside the United Kingdom, or
- (b) transferred to a territory outside the United Kingdom before the relevant date.

(5) Lost capital gains tax “involves an offshore transfer” if it does not involve an offshore matter and the proceeds of the disposal on or by reference to which the lost tax is charged are, or any part of the proceeds is –

- (a) received in a territory outside the United Kingdom, or
- (b) transferred to a territory outside the United Kingdom before the relevant date.

(6) In subsections (4) and (5) –

references to income or proceeds transferred include references to assets derived from or representing the income or proceeds;

“relevant date” means –

- (a) in a case where the taxpayer (or a person acting on the taxpayer’s behalf) delivered a return under the Taxes Acts to HMRC for the year of assessment to which the lost tax relates and in which information relating to the lost tax was required to be provided, the date on which the return was delivered, and
- (b) in any other case, 31 January in the year of assessment after that to which the lost tax relates.

- (7) But an assessment may not be made under subsection (2) if—
- (a) before the time limit that would otherwise apply for making the assessment, an officer of Revenue and Customs received information from overseas by mandatory automatic exchange on the basis of which the officer could reasonably have been expected to be aware of the lost tax, and
 - (b) it was reasonable to expect the assessment to be made before that time limit.
- (8) For the purposes of subsection (7)(a), information is received “from overseas by mandatory automatic exchange” if the information—
- (a) is received from an authority in a territory outside the United Kingdom, and
 - (b) was provided under any provision of EU law or of an international agreement requiring the automatic exchange of information.
- For these purposes “international agreement” means any agreement to which the United Kingdom and the territory concerned are parties, with or without other parties.
- (9) An assessment may also not be made under subsection (2) to the extent that liability to the lost tax arises as a result of an adjustment under Part 4 of TIOPA 2010 (transfer pricing adjustments).
- (10) In this section “assets” has the meaning given in section 21(1) of the 1992 Act, but also includes sterling.
- (11) Section 36(2) to (3A) applies for the purposes of this section.”
- (3) In section 37A (effect of assessment where allowances transferred), after “or (1A)” insert “or 36A”.
- (4) In section 40 (personal representatives), in subsection (1), for “or 36” substitute “, 36 or 36A”.
- (5) The amendments made by this section have effect—
- (a) in a case involving a loss of tax brought about carelessly by a person, in relation to assessments on the person relating to the 2013-14 year of assessment and subsequent years of assessment, and
 - (b) in any other case, in relation to assessments relating to the 2015-16 year of assessment and subsequent years of assessment.

2 Time limits for proceedings involving offshore matters: IHT

- (1) IHTA 1984 is amended as follows.
- (2) In section 240 (underpayments), in subsection (3), at the end insert “and to section 240B (underpayments involving offshore matter etc).”
- (3) After section 240A insert –

“240B Underpayments involving offshore matters etc

- (1) This section applies in a case within section 240(2) –
 - (a) which involves a loss of tax in relation to a chargeable transfer, and
 - (b) where the lost tax involves an offshore matter or an offshore transfer.
- (2) Proceedings for the recovery of the lost tax may be brought at any time not more than 12 years after the date in section 240(2)(a) and (b).
- (3) Lost tax “involves an offshore matter” if it is charged on or by reference to property which is situated or held in a territory outside the United Kingdom at, or immediately after, the time of the chargeable transfer.
- (4) Lost tax “involves an offshore transfer” if –
 - (a) if does not involve an offshore matter, and
 - (b) the property is transferred to a territory outside the United Kingdom after the chargeable transfer but before the date on which an account under section 216 is delivered to HMRC in relation to the chargeable transfer (or before any later date on which an account under section 217 is so delivered).
- (5) But proceedings may not be brought under this section if –
 - (a) before the last date on which the proceedings could otherwise be brought, an officer of Revenue and Customs received information from overseas by mandatory automatic exchange on the basis of which the officer could reasonably have been expected to be aware of the lost tax, and
 - (b) it was reasonable to expect the proceedings to be brought before that date.
- (6) For the purposes of subsection (5)(a), information is received “from overseas by mandatory automatic exchange” if the information –
 - (a) is received from an authority in a territory outside the United Kingdom, and
 - (b) was provided under any provision of EU law or of an international agreement requiring the automatic exchange of information.

For these purposes “international agreement” means any agreement to which the United Kingdom and the territory concerned are parties, with or without other parties.
- (7) This section is subject to any provision of this Act which allows for a longer period for the bringing of proceedings.”
- (4) The amendments made by this section have effect –

- (a) in a case involving loss of tax brought about carelessly by a person liable for the tax (or a person acting on behalf of such a person), in relation to chargeable transfers taking place on or after 1 April 2013, and
 - (b) in any other case, in relation to chargeable transfers taking place on or after 1 April 2015.
- (5) Section 240(8) of IHTA 1984 applies to the reference to “person liable for the tax” in subsection (4)(a).