STATUTORY INSTRUMENTS

2021 No. 980

TAXES

The Tax Avoidance Schemes (Information) (Amendment) Regulations 2021

Made - - - -	*8th September 2021*
Laid before the House of Commons	*9th September 2021*
Coming into force - -	*30th September 2021*

The Commissioners for Her Majesty's Revenue and Customs make these Regulations in exercise of the powers conferred by sections 312(2) and (5), 312ZA(2), 312A(2) and (2A), 312B(2), 313(1) and (3), 313ZA(3), 313ZB(2) and (3)(a), 313ZC(5), 317(2) and 318(1) of the Finance Act 2004(**a**) and now exercisable by them(**b**).

Citation and commencement

1. These Regulations may be cited as the Tax Avoidance Schemes (Information) (Amendment) Regulations 2021 and come into force on 30th September 2021.

Amendment of the Tax Avoidance Schemes (Information) Regulations 2012

2. The Tax Avoidance Schemes (Information) Regulations 2012(**c**) are amended as follows.

3. In regulation 6—

(a) in the heading, after "sections 312" insert ", 312ZA";

(b) for "(duty of promoter to notify client of number)" substitute "(duty of promoter to notify client of number: section 311(2)(**d**) case), section 312ZA(2) (duty to notify client of reference number: section 311(3) case)";

(c) in paragraph (a), at the end insert "or the person under the duty in section 312ZA(2)";

(**a**) 2004 c. 12; section 312 was substituted by paragraph 4 of Schedule 38 to the Finance Act 2008 (c. 9) and amended by paragraph 6 of Schedule 31 to the Finance Act 2021 (c. 26). Section 312ZA was inserted by paragraph 7 of Schedule 31 to the Finance Act 2021. Section 312A was inserted by paragraph 4 of Schedule 38 to the Finance Act 2008 and amended by paragraph 5 of Schedule 17 to the Finance Act 2015 (c. 11) and paragraph 8 of Schedule 31 to the Finance Act 2021. Section 312B was inserted by section 223(2) of the Finance Act 2013 (c. 29) and amended by paragraph 9 of Schedule 31 to the Finance Act 2021. Section 313 was relevantly amended by paragraph 5 of Schedule 38 to the Finance Act 2008 and paragraph 10 of Schedule 31 to the Finance Act 2021. Section 313ZA was inserted by paragraph 6 of Schedule 17 to the Finance Act 2010 (c. 13) and amended by paragraph 11 of Schedule 31 to the Finance Act 2021. Section 313ZB was inserted by section 223(3) of the Finance Act 2013 and amended by paragraph 12 of Schedule 31 to the Finance Act 2021. Section 313ZC was inserted by paragraph 9 of Schedule 17 to the Finance Act 2015 and amended by paragraph 13 of Schedule 31 to the Finance Act 2021. Section 317(2) was amended by paragraph 8 of Schedule 17 to the Finance Act 2010.

(**b**) The functions of the Commissioners of Inland Revenue ("the Board") were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference in an enactment, instrument or other document to the Commissioners of Inland Revenue, however expressed, shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(**c**) S.I. 2012/1836; relevant amending instruments are S.I. 2013/2592, 2015/948 and 2017/1171.

(**d**) Section 311 of the Finance Act 2004 was substituted by paragraph 5 of Schedule 31 to the Finance Act 2021.

(d) in paragraph (b), for "notifiable arrangements or proposal" substitute "arrangements or proposed arrangements";

(e) for paragraph (c), substitute—

"(c) the reference number (or if more than one, any one reference number) allocated by HMRC under section 311 (allocation of reference number to arrangements) to—

(i) the arrangements or proposed arrangements; or

(ii) any arrangements substantially the same as the arrangements or proposed arrangements;";

(f) for paragraph (d)(i), substitute—

"(i) sent to the client by the promoter or the person under the duty in section 312ZA(2); or (as the case may be)".

4. For regulation 7 substitute—

"Time for providing information under section 312A

7. The prescribed period for a notification under section 312A(2) or (2A) is the period of 30 days beginning with—

(a) the day on which the prescribed information is notified to the client by—

(i) the promoter under section 312; or

(ii) the person under the duty in section 312ZA(2) under section 312ZA; or

(b) if later, the day on which the client first becomes aware of any transaction forming part of the arrangements or proposed arrangements.".

5. In regulation 8A—

(a) in paragraph (1), for "(duty of client to provide information to promoter)" substitute "(duty of client to provide information)";

(b) for paragraph (1)(a), substitute—

"(a) the prescribed period is 10 days beginning with the later of—

(i) the day that the client receives the reference number allocated by HMRC under section 311 to the arrangements; and

(ii) the day the client first enters into a transaction which forms part of the arrangements;".

6. In regulation 9—

(a) in paragraph (2)(a), omit "notifiable";

(b) in the words after paragraph (2)(b), omit "notifiable";

(c) in paragraph (3)(a), omit "notifiable";

(d) in the words after paragraph (3)(b), omit "notifiable";

(e) in paragraph (4)(a), omit "notifiable";

(f) in the words after paragraph (4)(b), omit "notifiable";

(g) in paragraph (5)(a), omit "notifiable";

(h) in paragraph (5)(b), omit "notifiable";

(i) in paragraph (6)(a), omit "notifiable".

7. In regulation 10—

(a) in paragraph (2), omit "notifiable";

(b) in paragraph (5)(a), omit "notifiable";

(c) in paragraph (5)(b), omit "notifiable";

(d) in paragraph (5)(c), omit "notifiable";

(e) in paragraph (6)(a), omit "notifiable";

(f) in paragraph (6)(b), omit "notifiable";

(g) in paragraph (6A)(a), omit "notifiable";

(h) in paragraph (6A)(b), omit "notifiable";

(i) in paragraph (6B), omit "notifiable".

8. In regulation 11—

(a) in paragraph (1), for "(duty of parties to notifiable arrangements to notify Board of number, etc)" substitute "(duty of parties to notify HMRC of reference number etc)";

(b) in paragraph (2)(a), omit "notifiable" in both places;

(c) in paragraph (3)(c), omit "notifiable" in both places;

(d) in paragraph (3)(d), omit "notifiable";

(e) in paragraph (4)(b), omit "notifiable" in both places;

(f) in paragraph (5)(d), omit "notifiable" in both places;

(g) in paragraph (5)(g), omit "notifable".

9. In regulation 12, in paragraph (5B), omit "notifiable".

10. In regulation 13—

(a) in paragraph (1), for "(duty of promoter to provide client lists)" substitute "(duty to provide details of clients)";

(b) for paragraph (1)(b)(i), substitute—

"(i) any relevant reference number;";

(c) in paragraph (1)(b)(ii), for "(within the meaning of section 312(3))" substitute "(within the meaning of section 312(3) or section 312ZA(3))";

(d) in paragraph (1)(b)(iii), for "(within the meaning of section 312(3))" substitute "(within the meaning of section 312(3) or section 312ZA(3))";

(e) in paragraph (1)(b)(iv), after "the promoter's" insert "or provider's";

(f) for paragraph (1)(c), substitute—

"(ba) in sub-paragraph (b)(i), "relevant reference number" means a reference number allocated by HMRC under section 311 to—

(i) the arrangements;

(ii) the proposed arrangements; or

(iii) arrangements which are substantially the same as the arrangements or proposed arrangements;

to which the information provided relates;

(c) in sub-paragraph (b)(ii), the address of the client is the address to which the prescribed information has been, or would have been, sent by the promoter under section 312 or the provider under section 312ZA;".

11. In regulation 13A—

(a) in paragraph (1), for "(further information from promoters)" substitute "(enquiry following disclosure of client details)";

(b) in paragraph (1)(a), for "promoter" substitute "service provider";

(c) in paragraph (2), for "promoter" substitute "service provider".

12. In regulation 13B—

(a) in paragraph (1), omit "notifiable";

(b) in paragraph (2)(c)—

(i) for "(arrangements to be given reference number)" substitute "(allocation of reference number to arrangements)";

(ii) omit "notifiable" in both places;

(c) in paragraph (2)(d), omit "notifiable";

(d) in paragraph (2)(e), omit "notifiable";

(e) after paragraph (2)(e), omit "and";

(f) for paragraph (2)(f), substitute—

"(f) the name and address of—

(i) the promoter; or

(ii) the person who is providing (or has provided) services to the employer in connection with the arrangements or proposal; and

(g) if the arrangements were notified under section 308, any name given to the arrangements.".

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 Tax Avoidance Schemes (Information) Regulations 2012 ("the 2012 Regulations") to reflect changes made to Part 7 of the Finance Act 2004 (c. 12) ("Part 7") by the Finance Act 2021 (c. 26).

Part 7 provides for the disclosure to HMRC of information relating to arrangements that enable, or might enable, people to obtain a tax advantage. 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 Part 7 to all persons that HMRC reasonably suspects to be supplying the arrangements, or proposed arrangements, and their clients. These Regulations make consequential amendments to the 2012 Regulations in order to give effect to those amendments, by including references to suppliers of arrangements and proposals, as well as promoters, and removing references to the arrangements being "notifiable" in circumstances where this is no longer required by Part 7.

A Tax Information and Impact Note covering this instrument was published on 21 July 2020 alongside draft legislation amending Part 7 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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