
64 Promoters of tax avoidance schemes

- (1) Part 5 of FA 2014 (promoters of tax avoidance schemes) is amended as follows.
- (2) Section 237 (duty to give conduct notice) is amended in accordance with subsections (3) to (5).
- (3) In subsection (1)(a) for “threshold conditions” substitute “of the threshold conditions described in paragraphs 2 to 12 of Schedule 34”.
- (4) In subsection (1A)(a) for “threshold conditions” substitute “of the threshold conditions described in paragraphs 2 to 12 of Schedule 34”.
- (5) After subsection (1) insert –
 - “(1ZA) Subsections (5) to (9) also apply if an authorised officer becomes aware at any time that a person who is carrying on business as a promoter meets the threshold condition in sub-paragraph (1) of paragraph 12A of Schedule 34 (defeat of third set of arrangements) in relation to the period of 3 years ending with that time.
 - (1ZB) Subsections (5) to (9) also apply if an authorised officer becomes aware that a person to whom a defeated arrangements notice has been given under section 241A(1) meets the threshold condition in sub-paragraph (2) of paragraph 12A of Schedule 34 in relation to the 5 year look-forward period for that notice.”
- (6) After section 241 insert –

“Threshold condition relating to defeat of qualifying arrangements: provision supplementary to section 237(1ZA) and (1ZB)”

241A Defeated arrangements notice

- (1) An authorised officer, or an officer of Revenue and Customs with the approval of an authorised officer, may give a person (“P”) a notice (a “defeated arrangements notice”) if –
 - (a) P is carrying on business as a promoter, and
 - (b) Condition 1 or 2 is met.
- (2) Condition 1 is that the authorised officer has become aware of one (and only one) relevant defeat which –
 - (a) has occurred in the period of 3 years ending with the day on which the notice is given, and
 - (b) is a relevant defeat of arrangements which are qualifying arrangements in relation to P.
- (3) Condition 2 is that the authorised officer has become aware of two (but not more than two) relevant defeats each of which –
 - (a) is of different arrangements which are qualifying arrangements in relation to P, and
 - (b) has occurred in the period of 3 years ending with the day on which the notice is given.
- (4) A defeated arrangements notice must –
 - (a) set out the dates on which the 5 year look-forward period for the notice begins and ends,
 - (b) contain any other prescribed information, and

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- (c) explain the effect of section 237(1ZB).
- (5) In this Part “5 year look-forward period”, in relation to a defeated arrangements notice, means the period of 5 years beginning with the day after the day on which the notice is given.
- (6) For the purposes of this Part arrangements are “qualifying arrangements” in relation to a person if –
- (a) the arrangements are relevant arrangements or would be relevant arrangements under the condition stated in subsection (7), and
 - (b) the person is a promoter in relation to the arrangements or would be a promoter in relation to the arrangements under the condition stated in subsection (7).
- (7) That condition is that the definition of “tax” in section 283 includes, and has always included, value added tax.
- (8) If a defeated arrangements notice is withdrawn because of section 241D(2), nothing prevents relevant defeats (other than those affected by section 241D(2)) which have been taken into account for the purposes of the withdrawn notice from being taken into account for the purpose of giving a further notice.

241B “Different” arrangements

- (1) For the purposes of this Part, any question as to whether separate arrangements are “different” from one another is to be determined in accordance with subsections (2) to (6).
- (2) Separate arrangements are different from one another unless they are substantially the same.
- (3) For the purposes of this Part, subsections (4) to (6) set out particular cases in which separate arrangements are to be treated as “substantially the same” as one another; but those subsections do not limit the meaning of “substantially the same”, in relation to arrangements, for the purposes of this Part.
- (4) Arrangements which share –
- (a) the same reference number allocated under section 311 of FA 2004 (disclosure of tax avoidance schemes), or
 - (b) the same reference number allocated under paragraph 9 of Schedule 11A to VATA 1994 (disclosure of avoidance schemes),
- are treated as being “substantially the same”.
- (5) If any two or more sets of arrangements are the subject of follower notices which are given by reference to the same judicial ruling, those sets of arrangements are treated as being “substantially the same”.
- (6) Where a notice of binding has been given in relation to any arrangements (“the bound arrangements”) on the basis that they are, for the purposes of Schedule 43A to FA 2013, equivalent arrangements in relation to another set of arrangements (the “lead arrangements”) –
- (a) the bound arrangements and the lead arrangements are treated as being substantially the same, and
 - (b) the bound arrangements are treated as being substantially the same as any other arrangements which, as a result of this

subsection, are treated as substantially the same as the lead arrangements.

241C Defeat of qualifying arrangements: provisional defeats and provisional conduct notices

- (1) The relevant defeat of any qualifying arrangements is “provisional” if the relevant defeat has occurred only by virtue of Condition 3 in paragraph 12C.
- (2) Such a relevant defeat remains provisional until the time (if any) when there is a relevant defeat of the arrangements by virtue of Condition 1 Condition 2 or Condition 4 in paragraph 12C.
- (3) If a conduct notice given to a person under section 237 could not have been given if provisional defeats did not count as defeats for the purposes of paragraph 12A of Schedule 34, the conduct notice is provisional until the earlier of –
 - (a) the time when the conduct notice ceases to have effect by virtue of section 241(2) or (3), or
 - (b) the time (if any) when a conduct notice could be given to the person without counting any provisional defeats as relevant defeats for the purposes of paragraph 12A of Schedule 34.
- (4) A provisional conduct notice is to be disregarded for the purposes of section 242 (duty to apply for monitoring notice) as long as it remains provisional.
- (5) If a promoter fails to comply with conditions in a conduct notice at a time when the conduct notice is provisional, nothing in this paragraph prevents those failures from being taken into account under section 242(1) at any subsequent time when the conduct notice is not provisional.
- (6) If a provisional conduct notice is withdrawn because of section 241D(2), nothing prevents relevant defeats (other than those affected by section 241D(2)) which have been taken into account for the purposes of the withdrawn notice from being taken into account for the purpose of giving a further notice.
- (7) In this section “relevant defeat”, in relation to qualifying arrangements, is to be interpreted in accordance with paragraph 12B of Schedule 34.

241D Defeat of qualifying arrangements: judicial ruling upholding asserted tax advantage

- (1) Subsection (2) applies where –
 - (a) the relevant defeat of any qualifying arrangements has occurred only by virtue of Condition 3 in paragraph 12C of Schedule 34 (defeat of 75% of related arrangements), and
 - (b) a court or tribunal subsequently upholds a corresponding tax advantage which has been asserted in connection with any of the related arrangements.
- (2) This Part has effect as if the relevant defeat had never occurred.

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- (3) In subsection (1) “the related arrangements” means the related arrangements mentioned in sub-paragraph (4) of paragraph 12C of Schedule 34.
 - (4) For the purposes of this section a tax advantage has been “asserted” in connection with particular related arrangements if a person has made a return, claim or election on the basis that the tax advantage arises from those arrangements.
 - (5) In relation to the relevant defeat of any arrangements by virtue of Condition 3 in paragraph 12C of Schedule 34, “corresponding tax advantage” means a tax advantage corresponding to any tax advantage which HMRC, in applying the test under paragraph 12C(4) of Schedule 34, counted as having been counteracted.
 - (6) For the purposes of this section a court or tribunal “upholds” a tax advantage if—
 - (a) the court or tribunal makes a ruling to the effect that no part of the tax advantage is to be counteracted, and
 - (b) that determination is final.
 - (7) In this paragraph “counteraction” includes anything referred to as a counteraction in any of conditions A to F in Part 1A of Schedule 34.
 - (8) In this section “relevant defeat”, in relation to qualifying arrangements, is to be interpreted in accordance with paragraph 12B of Schedule 34.

241E Defeat of qualifying arrangements: bodies associated with a promoter

- (1) A relevant defeat of arrangements which are qualifying arrangements in relation to person (“Q”) is treated as also being a relevant defeat of qualifying arrangements in relation to another person (“P”) if any of Conditions 1 to 3 is met.
- (2) Subsection (1) has effect for the purposes of this Part (see particularly section 241A and paragraph 12A of Schedule 34).
- (3) Condition 1 is that—
 - (a) P is a relevant body, and
 - (b) the relevant defeat occurred at a time when P was controlled by Q.
- (4) Condition 2 is that—
 - (a) Q is a relevant body,
 - (b) the relevant defeat occurred at a time when Q was controlled by P, and
 - (c) P is not an individual.
- (5) Condition 3 is that—
 - (a) P and Q are relevant bodies, and
 - (b) a third person controlled P and Q at the time when the relevant defeat occurred.
- (6) In this section “relevant body” means—
 - (a) a body corporate, or
 - (b) a partnership.

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- (7) For the purposes of this section a person controls a body corporate if the person has power to secure that the affairs of the body corporate are conducted in accordance with the person's wishes –
- (a) by means of the holding of shares or the possession of voting power in relation to the body corporate or any other relevant body,
 - (b) as a result of any powers conferred by the articles of association or other document regulating the body corporate or any other relevant body, or
 - (c) by means of controlling a partnership.
- (8) For the purposes of this section a person controls a partnership if the person is a controlling member or the managing partner of the partnership.
- (9) In this section “controlling member” has the same meaning as in Schedule 36 (partnerships).
- (10) In this section “managing partner”, in relation to a partnership, means the member of the partnership who directs, or is on a day-to-day level in control of, the management of the business of the partnership.
- (11) For the rule about the time when a relevant defeat occurs see paragraph 12B(2) of Schedule 34.”
- (7) Schedule 34 (promoters of tax avoidance schemes: threshold conditions) is amended in accordance with subsections (8) to (11).
- (8) In paragraph 1 for “12” substitute “12A”.
- (9) After paragraph 12 insert –

“Defeat of a third set of promoted arrangements

- 12A (1) A person (“P”) meets the condition in this sub-paragraph in relation to the 3 year period mentioned in section 237(1ZA) if there have occurred in that period at least 3 relevant defeats (see paragraph 12B), of different arrangements (see section 241B) which are qualifying arrangements in relation to P.
- (2) A person who has been given a defeated arrangements notice meets the condition in this sub-paragraph in relation to the 5 year look-forward period for that notice if sub-paragraph (3) or (4) applies.
- (3) This sub-paragraph applies if –
- (a) the defeated arrangements notice was given by virtue of Condition 1 in section 241A,
 - (b) in the 5 year look-forward period for that notice there have occurred at least two relevant defeats of arrangements which are qualifying arrangements in relation to P, and
 - (c) the arrangements in question are different from one another (see section 241B) and from the qualifying arrangements in relation to which the relevant defeat mentioned in section 241A(2) occurred.
- (4) This sub-paragraph applies if –

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- (a) the defeated arrangements notice was given by virtue of Condition 2 in section 241A,
 - (b) in the 5 year look-forward period for that notice there has occurred at least one relevant defeat of arrangements which are qualifying arrangements in relation to P, and
 - (c) the arrangements in question are different from the qualifying arrangements in relation to which the relevant defeats mentioned in section 241A(3) occurred.”

(10) After Part 1 insert –

“PART 1A

DEFEAT OF THIRD SET OF PROMOTED ARRANGEMENTS: MEANING OF “RELEVANT DEFEAT”

Meaning of “relevant defeat”

- 12B (1) A “relevant defeat” of qualifying arrangements occurs if any of Conditions A to F is met in relation to a person (“T”) and the arrangements.
- (2) The relevant defeat occurs when the condition in question is first met.
 - (3) Paragraph 12C sets out special rules for defining “relevant defeat” in cases involving sibling arrangements.

“Relevant defeat” in a case involving sibling arrangements

- 12C (1) If a particular set of arrangements (“Set A”) which are qualifying arrangements in relation to a person (“P”) have sibling arrangements, a “relevant defeat” of Set A occurs only if and when any of Conditions 1 to 4 is met.
- (2) Condition 1 is that any of Conditions A to E is met in relation to a person (whether T or another person) and any of Set A’s sibling arrangements in a case where the decision to make the counteraction in question (as mentioned in whichever of paragraphs 12C to 12G is relevant) has been upheld by a judicial ruling which is final.
 - (3) Condition 2 is that Condition F (see paragraph 12I) is met in relation to Set A (or any of Set A’s sibling arrangements).
 - (4) Condition 3 is that (in a case not falling within Condition 4) HMRC is satisfied that at least 75% of all the related arrangements which have (so far) been relied on have been defeated (see sub-paragraph (8)).
See also sections 241C and 241D.
 - (5) Condition 4 is that HMRC is satisfied that 100% of all the related arrangements which have (so far) been relied on have been defeated.
 - (6) In this paragraph “the related arrangements” means –
 - (a) Set A, and
 - (b) Set A’s sibling arrangements.

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- (7) For the purposes of this paragraph qualifying arrangements are “relied on” when a person makes a return, claim or election, on the basis that a tax advantage results from the arrangements.
 - (8) For the purposes of this paragraph, particular arrangements are “defeated” if (and when) any of Conditions A to F is met in relation to those arrangements.
 - (9) In relation to Set A, “sibling arrangements” means any other set of arrangements which—
 - (a) are also qualifying arrangements in relation to P, and
 - (b) are substantially the same as Set A (see section 241B).

Conditions A to F

- 12D (1) Condition A is that—
- (a) T has made a return, claim or election on the basis that a tax advantage arises from the arrangements,
 - (b) a notice given to T under paragraph 12 of Schedule 43 to FA 2013 stated that the tax advantage was to be counteracted under the general anti-abuse rule,
 - (c) the tax advantage has been counteracted under the general anti-abuse rule, and
 - (d) the counteraction is final.
- (2) For the purposes of this paragraph the counteraction of a tax advantage is “final” when the adjustments made to effect the counteraction, and any amounts arising as a result of those adjustments, can no longer be varied, on appeal or otherwise.
- 12E (1) Condition B is that a follower notice has been given to T by reference to the arrangements (and not withdrawn) and—
- (a) T has complied with subsection (2) of section 208 of FA 2014 by taking the action specified in subsections (4) to (6) of that section in respect of the denied tax advantage, or
 - (b) the denied tax advantage has been counteracted otherwise than as mentioned in paragraph (a) and the counteraction of the denied tax advantage is final.
- (2) In this paragraph “the denied tax advantage” is to be interpreted in accordance with section 208(3) of FA 2014.
- (3) For the purposes of this paragraph the counteraction of a tax advantage is “final” when the adjustments made to effect the counteraction, and any amounts arising as a result of those adjustments, can no longer be varied, on appeal or otherwise.
- (4) In this Schedule “follower notice” means a follower notice under Chapter 2 of Part 4 of FA 2014.
- 12F (1) Condition C is that—
- (a) the arrangements are DOTAS arrangements,
 - (b) T has made a return, claim or election on the basis that a relevant tax advantage arises,
 - (c) the relevant tax advantage has been counteracted, and
 - (d) the counteraction is final.

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- (2) For the purposes of sub-paragraph (1) “relevant tax advantage” means a tax advantage which the arrangements might be expected to enable T to obtain.
 - (3) For the purposes of this paragraph the relevant tax advantage is “counteracted” if adjustments, other than taxpayer emendations, are made in respect of T’s tax position on the basis that the whole or part of that tax advantage does not arise.
 - (4) For the purposes of this paragraph a counteraction is “final” when the adjustments in question, and any amounts arising from the adjustments, can no longer be varied, on appeal or otherwise.
 - (5) The following are “taxpayer emendations” for the purposes of sub-paragraph (3) –
 - (a) an adjustment made by T at a time when T had no reason to believe that HMRC had begun or were about to begin enquiries into T’s affairs relating to the tax in question;
 - (b) an adjustment (by way of an assessment or otherwise) made by HMRC with respect to T’s tax position as a result of a full disclosure made by T at a time when T had no reason to believe that HMRC were about to begin enquiries into T’s affairs relating to the tax in question.
 - (6) The reference in sub-paragraph (5)(b) to a “disclosure” is to a disclosure of an inaccuracy in a return or other document.
 - (7) For the purposes of this paragraph a contract settlement which HMRC enters into with T is treated as an assessment to tax; and in relation to contract settlements the reference in sub-paragraph (3) to the basis on which any adjustments are made is to be read with any necessary modifications.

12G (1) Condition D is that –

- (a) T is a taxable person;
 - (b) the arrangements are disclosable VAT arrangements to which T is a party,
 - (c) T has made a return or claim on the basis that a relevant tax advantage arises,
 - (d) the relevant tax advantage has been counteracted, and
 - (e) the counteraction is final.
- (2) For the purposes of sub-paragraph (1) “relevant tax advantage” means a tax advantage which the arrangements might be expected to enable T to obtain.
 - (3) For the purposes of this paragraph the relevant tax advantage is “counteracted” if adjustments, other than taxpayer emendations, are made in respect of T’s tax position on the basis that the whole or part of that tax advantage does not arise.
 - (4) For the purposes of this paragraph a counteraction is “final” when the adjustments in question, and any amounts arising from the adjustments, can no longer be varied, on appeal or otherwise.
 - (5) The following are “taxpayer emendations” for the purposes of sub-paragraph (3) –

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- (a) an adjustment made by T at a time when T had no reason to believe that HMRC had begun or were about to begin enquiries into T's affairs relating to VAT;
 - (b) an adjustment made by HMRC with respect to T's tax position (by way of an assessment or otherwise) as a result of a full disclosure made by T at a time when T had no reason to believe that HMRC were about to begin enquiries into T's affairs relating to VAT.
- (6) The reference in sub-paragraph (5)(b) to a "disclosure" is to a disclosure of an inaccuracy in a return or other document.
- 12H (1) Condition E is that the arrangements are disclosable VAT arrangements to which T is a party and—
- (a) the arrangements relate to the position with respect to VAT of a person other than T ("S") who has made supplies of goods or services to T,
 - (b) the arrangements might be expected to enable T to obtain a tax advantage in connection with those supplies of goods or services,
 - (c) the arrangements have been counteracted, and
 - (d) the counteraction is final.
- (2) For the purposes of this paragraph the arrangements are "counteracted" if—
- (a) HMRC assess S to tax or take any other action on basis which prevents T from obtaining (or obtaining the whole of) the tax advantage in question, or
 - (b) adjustments, other than taxpayer emendations, are made on a basis such as is mentioned in paragraph (a).
- (3) For the purposes of this paragraph a counteraction is "final" when the assessment or adjustments in question, and any amounts arising from the assessment or adjustments, can no longer be varied, on appeal or otherwise.
- (4) The following are "taxpayer emendations" for the purposes of sub-paragraph (2)—
- (a) an adjustment made by S at a time when neither T nor S had reason to believe that HMRC had begun or were about to begin enquiries into the affairs of S or T relating to VAT;
 - (b) an adjustment (by way of an assessment or otherwise) made by HMRC with respect to S's tax position as a result of a full disclosure made by S at a time when neither S nor T had reason to believe that HMRC were about to begin enquiries into the affairs of S or T relating to VAT.
- (5) The reference in sub-paragraph (4)(b) to a "disclosure" is to a disclosure of an inaccuracy in a return or other document.
- 12I (1) Condition F is that—
- (a) T has made a return, claim or election on the basis that a relevant tax advantage arises,
 - (b) the tax advantage, or part of the tax advantage would not arise if a particular avoidance-related rule (see paragraph 12J) applies in relation to the person's tax affairs, and

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- (c) a judicial ruling states, or necessarily implies that the relevant avoidance-related rule applies in relation to the person's tax affairs, and
 - (d) the judicial ruling is final.
 - (2) For the purposes of sub-paragraph (1) "relevant tax advantage" means a tax advantage which the arrangements might be expected to enable T to obtain.
 - (3) In this paragraph "judicial ruling" means a ruling of a court or tribunal on one or more issues.
 - (4) For the purposes of this paragraph a judicial ruling is "final" if it is—
 - (a) a ruling of the Supreme Court, or
 - (b) a ruling of any other court or tribunal in circumstances where—
 - (i) no appeal may be made against the ruling,
 - (ii) if an appeal may be made against the ruling with permission, the time limit for applications has expired and either no application has been made or permission has been refused,
 - (iii) if such permission to appeal against the ruling has been granted or is not required, no appeal has been made within the time limit for appeals, or
 - (iv) if an appeal was made, it was abandoned or otherwise disposed of before it was determined by the court or tribunal to which it was addressed.
- 12J (1) In paragraph 12I "avoidance-related rule" means a rule in Category 1 or 2.
- (2) A rule is in Category 1 if—
 - (a) it refers to the "purpose" or "object" of a transaction, arrangements or any other action or matter, and
 - (b) the purpose is expressed (wholly or partly) by reference to the avoidance of tax or the obtaining of any advantage in relation to tax (however described, and including cases where the reference is to not avoiding tax or not obtaining an advantage, or a particular advantage, in relation to tax).
 - (3) Sub-paragraph (2)(a) has effect as if a reference to the "main purpose" or "main object", or to the "main purposes" or "main objects", of an action or matter were a reference to the "purpose" or "object" of the action or matter; and sub-paragraph (2)(b) is to be read accordingly.
 - (4) A rule falls within Category 2 if as a result of the rule the treatment of a person for tax purposes may differ depending on whether or not certain purposes referred to in the rule (for instance the purposes of an actual or contemplated action or enterprise) are (or are shown to be) commercial purposes.
 - (5) For the purposes of sub-paragraph (4) it does not matter whether the rule refers to "commercial purposes", "genuine commercial purposes" or "bona fide commercial purposes".

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- (6) For example, a rule in the following form would fall within Category 1 and within Category 2—

“Example rule

Section X does not apply to a company in respect of a transaction if the company shows that the transaction meets Condition A or B.

Condition A is that the transaction is effected—

- (a) for genuine commercial reasons, or
- (b) in the ordinary course of managing investments.

Condition B is that the avoidance of tax is not the main object or one of the main objects of the transaction.”

Meaning of “DOTAS arrangements” and “disclosable VAT arrangements”

- 12K (1) For the purposes of this Part of this Schedule arrangements are “DOTAS arrangements” at any time if at that time a person—
- (a) has provided, information in relation to the arrangements under section 308(3), 309 or 310 of FA 2004, or
 - (b) has failed to comply with any of those provisions in relation to the arrangements.
- (2) For the purposes of sub-paragraph (1) a person who would be required to provide information under subsection (3) of section 308 of FA 2004—
- (a) but for the fact that the arrangements implement a proposal in respect of which notice has been given under subsection (1) of that section, or
 - (b) but for subsection (4A), (4C) or (5) of that section,
- is treated as providing the information at the end of the period referred to in subsection (3) of that section.
- 12L For the purposes of paragraphs 12G and 12H arrangements are “disclosable VAT arrangements” at any time if at that time—
- (a) a person has complied with paragraph 6 of Schedule 11A to VATA 1994 in relation to the arrangements (duty to notify Commissioners),
 - (b) a person under a duty to comply with that paragraph in relation to the arrangements has failed to do so, or
 - (c) a reference number has been allocated to the scheme under paragraph 9 of that Schedule (voluntary notification of avoidance scheme which is not a designated scheme).
- 12M (1) A person “fails to comply” with any provision mentioned in paragraph 12K(1) or 12L(b) if and only if any of the conditions in sub-paragraphs (2) to (4) is met.
- (2) The condition in this sub-paragraph is that—
- (a) the tribunal has determined that the person has failed to comply with the provision concerned,
 - (b) the appeal period has ended, and
 - (c) the determination has not been overturned on appeal.

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- (3) The condition in this sub-paragraph is that—
- (a) the tribunal has determined for the purposes of section 118(2) of TMA 1970 that the person is to be deemed not to have failed to comply with the provision concerned as the person had a reasonable excuse for not doing the thing required to be done,
 - (b) the appeal period has ended, and
 - (c) the determination has not been overturned on appeal.
- (4) The condition in this sub-paragraph is that the person admitted in writing to HMRC that the person has failed to comply with the provision concerned.
- (5) In this paragraph “the appeal period” means—
- (a) the period during which an appeal could be brought against the determination of the tribunal, or
 - (b) where an appeal mentioned in paragraph (a) has been brought, the period during which that appeal has not been finally determined, withdrawn or otherwise disposed of.
- (6) In this paragraph “the tribunal” means the First-tier tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

Inheritance tax

- 12N (1) In this Part of this Schedule, in relation to inheritance tax—
- (a) each of the following is treated as a return—
 - (i) an account delivered by a person under section 216 or 217 of IHTA 1984 (including an account delivered in accordance with regulations under section 256 of that Act);
 - (ii) a statement or declaration which amends or is otherwise connected with such an account produced by the person who delivered the account;
 - (iii) information or a document provided by a person in accordance with regulations under section 256 of that Act;and such a return is treated as made by the person in question;
 - (b) “assessment” includes a determination.

Meaning of “judicial ruling” etc

- 12O (1) In this Part of this Schedule “judicial ruling” means a ruling of a court or tribunal on one or more issues.
- (2) For the purposes of this Part of this Schedule a judicial ruling is “final” if it is—
- (a) a ruling of the Supreme Court, or
 - (b) a ruling of any other court or tribunal in circumstances where—
 - (i) no appeal may be made against the ruling,

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- (ii) if an appeal may be made against the ruling with permission, the time limit for applications has expired and either no application has been made or permission has been refused,
 - (iii) if such permission to appeal against the ruling has been granted or is not required, no appeal has been made within the time limit for appeals, or
 - (iv) if an appeal was made, it was abandoned or otherwise disposed of before it was determined by the court or tribunal to which it was addressed.

Other definitions

12P (1) In this Part of this Schedule –

“adjustments” means any adjustments, whether by way of an assessment, the modification of an assessment or return, amendment or disallowance of a claim, the entering into of a contract settlement or otherwise (and references to “making” adjustments accordingly include securing that adjustments are made by entering into a contract settlement);

“contract settlement” means an agreement in connection with a person’s liability to make a payment to the Commissioners under or by virtue of an enactment.

(2) In this Part of this Schedule an expression used in relation to VAT has the same meaning as in VATA 1994.”

(11) In paragraph 14(2) –

(a) in paragraph (a) for “12” substitute “12A”;

(b) after paragraph (b) insert –

“(ba) amend Part 1A, including by adding, varying or removing conditions or categories (or otherwise varying the meaning of “avoidance-related rule”);”.

(12) In section 283 (interpretation of Part 5) –

(a) in subsection (1) –

(i) before the entry relating to “arrangements” insert –

““5 year look-forward period, in relation to a defeated arrangements notice, has the meaning given by section 241A(5);”;

(ii) at the appropriate places insert –

““qualifying arrangements” is to be interpreted in accordance with section 241A(6);”

““defeated arrangements notice” has the meaning given by section 241A(1);”

““substantially the same”, in relation to sets of arrangements, is to be interpreted in accordance with section 241B;”.

(b) in subsection (3) for “12” substitute “12A”.