

Explanatory Note

Clause 65: Publication of tax strategies of qualifying groups etc

Summary

1. This clause introduces a legislative requirement for all qualifying groups, companies, and partnerships to publish a tax strategy, in relation to UK taxation, on the internet. Non-publication or incomplete content may lead to an appealable penalty.

Details of the clause

Clause 65: Publication of tax strategies of qualifying companies, groups, and sub-groups

2. This clause introduces the Schedule and provides for its commencement.

Schedule 1: Part 1: Interpretation

3. Paragraphs 1-19 provide definitions for the terms used in this Schedule, including Company, Partnership, Relevant Body, Financial Year, representative partner, Group, MNE Group, qualifying MNE Group, OECD, UK Group, head, UK sub-group, turnover, balance sheet total, Qualifying group, group turnover, group balance sheet total, Qualifying company, Qualifying partnership, Tax strategy and UK taxation.

Schedule 1: Part 2: Publication of group tax strategy by qualifying UK group

4. Paragraph 20(1) sets out that this Part applies to a UK group which is a qualifying group in any financial year.
5. Paragraph 20(2) provides a definition of "financial year" for this Part.
6. Paragraph 21(1) sets out that the head of a qualifying group is responsible for the publication of the group's tax strategy.
7. Paragraph 21(2) sets out that any company within the group may publish the group tax strategy.
8. Paragraphs 22-23 set out when and where the group tax strategy must be published.
9. Paragraph 24(1), 24(3) and 24(4) provide an outline of the required content of a group tax strategy. Paragraph 24(2) provides areas a group tax strategy may cover.

10. Paragraph 25 provides an outline of the circumstances in which a penalty for non-compliance with this Part may be levied. Paragraph 25(1) sets out the circumstances in which the head of a group is liable to a penalty.
11. Paragraph 25(3) and 25(4) provides for a further penalty if it fails to publish the group tax strategy within six months of the delay for publication and thereafter for further penalties for each month of further delay.

Part 3: Publication of Sub-Group Tax Strategy by UK sub-group of a qualifying group

12. Paragraph 26(1) sets out that this Part applies to a UK sub-group of a qualifying group in any financial year.
13. Paragraphs 26(2) and 26(3) sets out the criteria for a group falling within this Part including MNE groups with one or more UK sub-group.
14. Paragraph 26(4) sets out the definition of "financial year" for this Part.
15. Paragraph 27(1) sets out that the head of a UK sub-group is responsible for the publication of the sub-group's tax strategy.
16. Paragraph 27(2) sets out that any company within the group of which the UK group is part may publish the sub-group tax strategy.
17. Paragraph 27(3) sets out how a UK sub-group is to be treated if it becomes a sub-group of another group during the current financial year.
18. Paragraphs 28-29 set out when and where the sub-group tax strategy must be published.
19. Paragraph 30 outlines the required content of a UK sub-group tax strategy with reference to Paragraph 24.
20. Paragraph 31 provides an outline of the circumstances in which a penalty for non-compliance with this Part may be levied. Paragraph 31(1) sets out the circumstances in which the head of the UK sub-group is liable to a penalty.
21. Paragraph 31(3) and 31(4) sets out that a company may be liable to further penalties if it fails to publish the sub-group tax strategy within six months of the deadline for publication and thereafter for further penalties for each month of further delay.

Part 4: Publication of company tax strategy by qualifying company

22. Paragraph 32 sets out that this Part applies to a company which is a qualifying company or a member of a qualifying MNE group, but not a member of a UK sub-group of that MNE Group, in any financial year.
23. Paragraph 33 sets out the duty falling on qualifying companies within this Part.
24. Paragraphs 34-35 set out when and where the company tax strategy must be published.
25. Paragraph 36(1), 36(3) and 36(4) provide an outline of the required content of a company tax strategy. Paragraph 36(2) provides areas a company tax strategy may cover.

26. Paragraph 37 provides an outline of the circumstances in which a penalty for non-compliance with this Part may be levied. Paragraph 37(1) sets out the circumstances in which the company is liable to a penalty.
27. Paragraph 37(3) and 37(4) sets out that a company may be liable to further penalties if it fails to publish the sub-group tax strategy within six months of the deadline for publication and thereafter for further penalties for each month of further delay.

Part 5: Publication of partnership tax strategy by qualifying partnership

28. Paragraph 38(1) sets out that this Part applies to a partnership which is a qualifying partnership in any financial year. Paragraph 38(2) sets out the duty falling on qualifying partnerships within this Part.
29. Paragraph 39 sets out when a partnership tax strategy must be published.
30. Paragraph 40 sets out where a partnership's tax strategy must be published, what it must and may contain, and what penalties for non-compliance a partnership may be liable to with reference to Paragraphs 35, 36 and 37.

Part 6: Penalties: General

31. Paragraph 41 sets out to whom this Part applies and provides some definitions.
32. Paragraph 42 sets out that failure to comply with Parts 2-5 does not give rise to liability to a penalty if it is done within a time limit set by an officer of HMRC.
33. Paragraph 43(1) sets out that a person will not be liable to a penalty if that person satisfies HMRC or the tribunal that there was a reasonable excuse for the failure. Paragraph 43(2) sets out excuses which will not be considered as reasonable.
34. Paragraph 44 deals with the assessment of penalties and in what circumstances they may not be made.
35. Paragraph 45 sets out that a person may appeal a decision made by HMRC that a penalty is payable by that person. It also sets out how an appeal must be given and what it must contain.
36. Paragraph 46 sets out when a penalty must be paid, and that it may be enforced as if it were corporation tax that was due and payable.
37. Paragraph 47 provides for the Treasury to change the amount of penalties if it appears that the value of money has changed.
38. Paragraph 48 sets out the sections of the Taxes Management Act 1970 that apply to this Part.

Part 7: Supplementary Provisions

39. Paragraph 49 sets out that the power to make regulations under Section 122(6)(c) of FA 2015 includes the power to amend Paragraph 7.
40. Paragraph 50 sets out that Regulations under this Schedule will be made by statutory instrument and are subject to annulment following a resolution of the House of Commons.

Background note

41. HM Revenue and Customs (HMRC) is committed to dealing with all customers fairly and efficiently while making sure that the correct tax is paid to the Exchequer. HMRC's Large Business Directorate manages the largest 2,000 or so businesses using a risk based approach. This is due to their size and complexity, the tax at stake, and the consequent risk they present to the Exchequer.
42. This measure seeks to encourage tax transparency and compliance across all large businesses. To achieve this, we are introducing the requirement for qualifying large businesses to publish their tax strategy in relation to UK taxation.
43. This legislation will includes details of the tax strategies required to be published by such large business together with details of where and when publication is required and details of penalties for non-compliance.
44. If you have any questions about this change, or comments on the legislation, please contact Heather Wall on 03000 567215 or at largebusinessconsultation.mailbox@hmrc.gsi.gov.uk.