

*Digital reporting and record keeping for income tax etc.***1 Persons on whom digital reporting requirements may be imposed**

- (1) Schedule A1 to TMA 1970 (as inserted by section 60 of F(No.2)A 2017) is amended as follows.
- (2) For the heading of Part 1 substitute “Introduction”.
- (3) For paragraphs 1 to 4 and the cross-heading before paragraph 1 substitute—
“*Overview*”

- A1 (1) This Schedule confers powers on the Commissioners to make regulations requiring or authorising certain persons and certain partnerships (“relevant persons” and “relevant partnerships”) to take certain steps relating to digital reporting and record-keeping.
- (2) This Part of this Schedule contains introductory provision, in particular explaining what is meant by a “relevant person” and a “relevant partnership”.
 - (3) Part 2 of this Schedule contains the powers to make regulations and sets out the penalties for non-compliance with certain obligations which may be imposed by the regulations.
 - (4) Part 3 of this Schedule contains provision about exempting relevant persons or relevant partnerships from requirements imposed by the regulations.
 - (5) Part 4 of this Schedule contains supplementary provision.

Interpretation: relevant persons

- 1 (1) For the purposes of this Schedule a person is a “relevant person” if the person is carrying on or has carried on a relevant activity.
- (2) A “relevant activity”, in relation to a person, means any activity which may give rise to profits or other income for which the person would be liable to income tax chargeable under Part 2 or Part 3 of ITTOIA 2005 if the person were UK resident.
- (3) But the following activities are not relevant activities—
 - (a) any activity carried on in partnership;
 - (b) any activity carried on by the trustees of a charitable trust or the trustees of an exempt unauthorised unit trust (within the meaning of the Unauthorised Unit Trusts (Tax) Regulations 2013 (S.I. 2013/2819));
 - (c) the underwriting business of a member of Lloyd's (within the meaning of section 184 of the Finance Act 1993);
 - (d) holding shares in respect of which a distribution may be made which is chargeable to income tax under Part 3 of ITTOIA 2005 by virtue of section 548(6) of CTA 2010 (distributions to shareholders in real estate investment trusts);

- (e) participating in an open-ended investment company which may make distributions chargeable to income tax under Part 3 of ITTOIA 2005 by virtue of regulation 69Z18 of the Authorised Investment Funds (Tax) Regulations 2006 (SI 2006/964) (property income distributions).

Interpretation: relevant partnerships

- 2 (1) For the purposes of this Schedule a partnership is a “relevant partnership” if one or more of the partners is an individual, unless all of the activities of the partnership which may give rise to profits or income are activities falling within sub-paragraph (2).
- (2) The following activities fall within this sub-paragraph—
 - (a) the underwriting business of a Lloyd's partnership (as defined in section 184(1) of the Finance Act 1993);
 - (b) holding shares in respect of which a distribution may be made which is chargeable to income tax under Part 3 of ITTOIA 2005 by virtue of section 548(6) of CTA 2010 (distributions to shareholders in real estate investment trusts);
 - (c) participating in an open-ended investment company which may make distributions chargeable to income tax under Part 3 of ITTOIA 2005 by virtue of regulation 69Z18 of the Authorised Investment Funds (Tax) Regulations 2006 (SI 2006/964) (property income distributions).”
- (4) For paragraph 6 (interpretation) substitute—

“6 In this Part of this Schedule “business” —

 - (a) in relation to a relevant person (see paragraph 1), means the relevant activity by virtue of which the person is a relevant person, and
 - (b) in relation to a relevant partnership (see paragraph 2), means any activity of the partnership.”
- (5) In paragraph 7 (periodic updates), in sub-paragraph (1), for “person or partnership to whom this Schedule applies” substitute “relevant person or relevant partnership”.
- (6) In paragraph 10 (partnership return), in sub-paragraph (1), for “partnership to which this Schedule applies” substitute “relevant partnership”.
- (7) In paragraph 11 (record-keeping), in sub-paragraph (1), for “person or partnership to whom this Schedule applies” substitute “relevant person or relevant partnership”.
- (8) In paragraph 18 (regulations), in sub-paragraph (3) for “person or partnership to whom this Schedule applies” substitute “relevant person or relevant partnership”.

2 Exemptions from digital reporting requirements

- (1) Part 3 of Schedule A1 to TMA 1970 (as inserted by section 60 of F(No.2)A 2017) is amended as follows.
- (2) In paragraph 14 (exemption for the digital excluded), after sub-paragraph (1) insert—
 - “(1A) The regulations may provide that where the Commissioners are satisfied that a person or partnership is digitally excluded, prior requirements imposed on the person or partnership are to be treated as never having been imposed.
 - (1B) In sub-paragraph (1A) “prior requirements” means requirements imposed by regulations under paragraphs 7, 9 and 11 which are required to be complied with before the date on which the Commissioners are satisfied that the person or partnership is digitally excluded.”
- (3) In paragraph 15 (further exemptions)—
 - (a) in sub-paragraph (1), at the end insert “, including exemptions the conditions of which are to be taken to be satisfied only where the Commissioners are satisfied as to specified matters”;
 - (b) after sub-paragraph (2) insert—
 - “(3) The regulations may provide that where the conditions of a further exemption are met by a person or partnership, prior requirements imposed on the person or partnership are to be treated as never having been imposed.
 - (4) In sub-paragraph (3) “prior requirements”, in relation to a further exemption, means requirements imposed by regulations under paragraphs 7, 9 and 11 which are required to be complied with before the date on which the conditions of the further exemption are met.
 - (5) The regulations may allow any exemption for which the regulations may provide to be given by means of a specific or general direction given by the Commissioners.”

3 Returns to be delivered by electronic communications etc.

- (1) Schedule A1 to TMA 1970 (digital reporting and record-keeping) (as inserted by section 60 of F(No.2)A 2017) is amended in accordance with subsection (2) to (5).
- (2) Omit paragraph 8.
- (3) For paragraph 9 and the cross-heading before it substitute—

“Personal or trustee return etc.

 - 9 The Commissioners may by regulations require or authorise the use of electronic communications for the delivery by a relevant person of —

- (a) a return required by section 8(1)(a) or 8A(1)(a) of this Act;
 - (b) any accounts, statements and documents required by section 8(1)(b) or 8A(1)(b) of this Act;
 - (c) a notice amending a return under section 9ZA of this Act.”
- (4) In paragraph 13 (electronic communications and records: supplementary powers) –
 - (a) in sub-paragraph (1), omit “, 8”;
 - (b) in sub-paragraph (2), before paragraph (a) insert –
 - “(za) as to the means of electronic communication to be used for providing information;”.
- (5) In paragraph 14 (exemptions for the digitally excluded), in sub-paragraph (1)(a), for “8” substitute “9”.
- (6) Schedule 14 of F(No.2)A 2017 is repealed.
- (7) In consequence of the repeal made by subsection (6), in section 61 of F(No.2)A 2017 –
 - (a) omit subsection (1);
 - (b) in subsection (2), omit “or Schedule 14”;
 - (c) in subsection (6) –
 - (i) for “(1)” substitute “(2)”;
 - (ii) omit “and Schedule 14”.

4 Penalties: amendments consequential on section 3

- (1) Schedule 24 to FA 2021 (penalties for failure to make returns etc) is amended in accordance with subsections (2) to (4).
- (2) In paragraph 2 (returns) –
 - (a) in the Table –
 - (i) in the entry in item 1, column B, omit paragraph (3);
 - (ii) in the entry in item 2, column B, omit paragraph (3);
 - (iii) for “section 8(1AB)(b)”, in each place it occurs, substitute “section 8(1)(b)”;
 - (iv) for “section 8A(1AB)(b)” in each place it occurs, substitute “section 8A(1)(b)”;
 - (b) omit sub-paragraphs (3) and (4).
- (3) In paragraph 6 (award of penalty points), in sub-paragraph (3)(b), omit “(3) or”.
- (4) In paragraph 17 (time limit for assessments), in sub-paragraph (1)(b), omit “(3) or”.
- (5) In Schedule 25 to FA 2021 (penalties for deliberately withholding information), in paragraph 1 –
 - (a) in the Table –
 - (i) for “section 8(1AB)(b)” substitute “section 8(1)(b)”

- (ii) for “section 8A(1AB)(b)” substitute “section 8A(1)(b)”;
- (b) omit sub-paragraphs (3) and (4).

Penalty reform

5 Power to cancel penalty points and late submission penalties etc.

- (1) Schedule 24 to FA 2021 (penalties for failure to make returns etc) is amended in accordance with subsections (2) to (5).

- (2) After paragraph 6 insert—

“Cancellation of individual penalty points

6A (1) HMRC may cancel a penalty point awarded under paragraph 6.

- (2) Where HMRC cancel a penalty point after a notice under paragraph 6(2) in respect of the penalty point is given, they must notify the person and state in the notice—

- (a) the failure (or failures) in respect of which the penalty point was awarded, and
- (b) the group of returns for which the penalty point was awarded.

- (3) Where HMRC cancel a penalty point before a notice under paragraph 6(2) in respect of the penalty point is given, HMRC is not required to give the notice under paragraph 6(2).

- (4) Where HMRC cancel a penalty point, any assessment of a penalty under this Schedule for which the person is liable by virtue of the penalty point ceases to have effect (and is to be taken as never having had any effect).

- (5) The cancellation of a penalty point does not prevent HMRC from subsequently awarding a penalty point for the failure (or failures) in respect of which the cancelled penalty point was awarded.

- (6) Sub-paragraph (7) applies if—

- (a) HMRC cancel a penalty point,
- (b) after that penalty point was given by HMRC and before it was cancelled, the person failed to make a return on or before the due date, and
- (c) at the time the failure occurred, the person already had the maximum number of penalty points for the group of returns to which that return belongs (see paragraph 5(8)).

- (7) HMRC may award a penalty point in respect of the failure before the end of the period of 12 months beginning with the day after HMRC cancel the penalty point (and paragraph 6(3) does not apply).”

- (3) In paragraph 8 (expiry of all penalty points for a group of returns)—

- (a) in sub-paragraph (1)—

- (i) the words from “at the beginning” to the end become paragraph (a);
 - (ii) after that paragraph insert “, or
 - (b) if HMRC notify the person before that time that HMRC have decided the points should expire, at the beginning of the day specified in the notice (which may be before the day on which the notice is given).”, and
 - (b) in sub-paragraph (6) for “this paragraph” substitute “paragraph (1)(a)”.
- (4) After paragraph 16 insert –
- “Withdrawal of assessments*
- 16A(1) This paragraph applies where HMRC have assessed a penalty for which a person is liable under this Schedule in respect of a failure (or failures) to make a return.
- (2) HMRC may withdraw the assessment by notice to the person.
 - (3) The withdrawn assessment ceases to have effect (and is to be taken as never having had any effect).
 - (4) But the withdrawal of the assessment does not prevent HMRC from subsequently assessing a penalty for the failure (or failures) mentioned in sub-paragraph (1).”
- (5) In paragraph 24, in sub-paragraph (4) –
- (a) in paragraph (a)(ii), omit “, for a group of returns.”;
 - (b) in paragraph (b), omit “in the same group”;
 - (c) in paragraph (c), for “that group of returns” substitute “the group of returns to which that return belongs”.
- (6) In Schedule 26 to FA 2021 (penalties for failure to pay tax), after paragraph 17 insert –
- “17A (1) This paragraph applies where HMRC has assessed a penalty for which a person is liable under this Schedule in respect of a failure to pay the tax due.
- (2) HMRC may withdraw the assessment by notice to the person.
 - (3) The withdrawn assessment ceases to have effect (and is to be taken as never having had any effect).
 - (4) But the withdrawal of the assessment does not prevent HMRC from subsequently assessing a penalty for the failure mentioned in sub-paragraph (1).”
- (7) The amendments made by this section come into force on 1 April 2026.
- (8) The amendments made by subsections (2) and (5) have effect in relation to penalty points awarded on or after 1 April 2026.
- (9) The amendments made by subsections (4) and (6) have effect in relation to penalties assessed on or after 1 April 2026.

- (10) The amendments made by subsection (3) have effect in relation to penalty points whenever awarded.