HMRC - CFM98870 - Procedure: Determinations Following An Enquiry And Resulting Revisions

TIOPA10/SCH7A/PARAS58, 59

Where a reporting company does not appeal a closure notice, the normal procedure would be for it complete a two-step process by filing one or more revised or new returns that comply with the requirements of the notice -TIOPA10/SCH7A/PARA50, CFM98800. In such a revised return, it has the opportunity to make discretionary allocations of disallowances to consenting companies - see CFM98580. The two-step process should allow an efficient means of settling the enquiry, allowing the reporting company to make discretionary allocations, and avoiding the need for HMRC to compute and notify pro-rata amounts.

If the reporting company fails to submit a return within the 3 months allowed by PARA50(2), an officer may make a determination under paragraph 58. A determination is made on each UK group company subject to interest restrictions. The officer is required to determine, to the best of his information and belief, pro-rata amounts of the total disallowed amount to allocate to companies and their accounting periods. Where a company is apportioned an amount (other than nil), it must leave that amount of its deduction for tax-interest out of account. For the calculation of pro-rata amounts by company and accounting period, see CFM98590 and CFM98600.

A determination may also be made under PARA58 where a return is submitted within the three month period specified in PARA 50(2), but the officer considers that the return does not comply with the requirements of the closure notice.

The officer must send notice of the determination to both the company and the group’s reporting company, and must make any determination within 3 months of the end of the “return period”, which is the 3 months after the issue of the closure notice allowed by PARA50(2).

Where a group has not submitted an interest restriction return an officer may make a determination under PARA56 with the intention of prompting the group to make a return, see CFM98560. In that case a return made within 12 months has effect (PARA57). But, where an officer makes a determination under PARA58, this is intended to achieve finality, where a group has neither appealed a closure notice nor taken the steps required by the closure notice - PARA49(2)(b). Accordingly there is no further opportunity to submit returns.

PARA59 permits an appeal to be made against a PARA 58 determination within 30 days, but the scope of such an appeal is restricted to the question of whether the determination complies with the closure notice.

Where a notice of determination is given under PARA58 a company is treated as having amended its return in accordance with the determination - PARA 70(2).

It is possible that a determination might be made under PARA56 following the closure of an enquiry, but this would be the case only where a reporting company is appointed under PARA 51 or 53. This reporting company will then have 3 months to submit a return PARA7(5)(b) (or exceptionally until 12 months after the period of account were this later). The determination would then be part of the process applicable in the absence of a return, or one that meets the requirements of PARA20, see CFM98430.

Previous page

Next page