HMRC - CFM98930 - Powers: Third Party Information Powers

TIOPA10/SCH7A/PARA63

Applying TIOPA10/SCH7A/PARA63, an officer of Revenue and Customs may serve a notice on a third party to provide information or a document reasonably required for checking an interest restriction return. In this context a third party is a person that is not a group member at any time in the period of account.

The giving of such a notice must be approved, either by a UK group company that is a member of the group at any time in the period of account (in practice this would most likely be the reporting company), or by a tribunal to whom the officer has applied.

The tribunal can only approve the notice if it is satisfied that the officer is justified in doing so. Further, unless the tribunal is satisfied that the requirements of PARA63(5) should be dispensed with, because of possible prejudice to the assessment or collection of tax, those requirements must be met.

The requirements of that subparagraph (which are similar to provisions in FA08/SCH36/PARA3) are:

The third party has been informed of the need for the information and documents

The third party has had reasonable time to make representations to HMRC

The tribunal has been given a summary of any representations made by the third party and

A company that was a UK group company in the period of account (in practice this would normally be the reporting company) has been given a summary of the reasons why the information and documents are required

This last requirement does not apply if an officer of Revenue and Customs has insufficient information to identify such a company.

HMRC is not required to give the third party notice of the application to the tribunal for approval, but the third party will clearly be aware of this, except in cases of possible prejudice to the assessment or collection of tax. The third party must be given details of the worldwide group, except where the tribunal is satisfied that this could prejudice the assessment or collection of tax. Similarly, in the absence of such possible prejudice, and where an officer of Revenue and Customs has sufficient information to identify such a company, he must provide a UK group company with a copy of the third party information notice.

A decision of the tribunal under TIOPA10/SCH7A/PARA57 is final, notwithstanding sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, as in the case of a third party notice under FA 2008 Sch. 36 (see paragraph 6(3) thereof).

For the right to appeal see CFM98960.

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