HMRC - CFM98970 - Powers: General Information Powers And Interest Restriction Information Powers

TIOPA10/SCH7A/PARA66

TIOPA10/SCH7A/PARA66 brings into play various provisions of FA08/SCH36, in relation to notices under the interest restriction information power. These are outlined, in brief below.

Time limits, copies etc.

FA08/SCH36/PARA7 deals with time limits for producing information and documents and where this must be produced. Paragraph 8 allows copies of documents to be provided in the absence of a specific requirement for an original. PARA15 permits an officer of Revenue and Customs to make copies. PARA16 allows an officer to remove a document and retain it for a reasonable period of time and imposes certain obligations on the officer

FA08/SCH36/PART4 deals with restrictions on information powers. PARA18 provides for a fundamental protection in respect of information notices: a notice can only require a person to produce a document if it is in that person’s possession or power.

Restrictions on information powers

FA08/SCH36/PARA19 deals with types of documents that a notice cannot require to be produced, with exceptions. In particular, a person cannot be required to produce materials relating to the conduct of a pending appeal. Also personal records (as defined in the Police and Criminal Evidence Act 1984/S12), unless sufficiently redacted so as to no longer be a personal record.

FA08/SCH36/PARA 20 limits the right to documents originating more than 6 years before a notice.

FA08/SCH36/PARA 23 relates to privileged communications between professional legal advisers and clients; a notice cannot require the production of documents in relation to which privilege could be maintained in legal proceedings.

FA08/SCH36/PARA 24 protects information held in connection with an auditor’s duties. PARA25 relates to tax advisers’ documents, and protects relevant communications and documents relating giving tax advice, where these are the adviser’s property, and relate to communications with the taxpayer or another adviser. In neither case does this protection extend to advice or information held in connection with the provision of information or documents by the taxpayer to HMRC - PARA26. It is possible for a document to be protected by PARAS24 or 25 in part only - PARA27.

Penalties and offences

FA08/SCH36/PART7 contains detailed penalty provisions for the general information powers, see CFM99110. PT8 deals with offences; there are criminal sanctions for concealing documents following an informal notice or informal notification.

For further guidance on the general information powers in FA08/SCH36 see CH20100 et seq.

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