

2019 No. 1238 (C. 40)

INCOME TAX

CAPITAL GAINS TAX

INHERITANCE TAX

**The Finance Act 2009, Sections 101 and 102 (Penalties for
Offshore Evasion or Non-Compliance) (Appointed Day) Order
2019**

Made - - - - *5th September 2019*

The Treasury make this Order exercising the powers conferred by section 104(3) and (4) of the Finance Act 2009(a):

Citation

1. This Order may be cited as the Finance Act 2009, Sections 101 and 102 (Penalties for Offshore Evasion or Non-Compliance) (Appointed Day) Order 2019.

Appointed Days

2. 6th September 2019 is appointed as the day on which sections 101(b) and 102(c) of the Finance Act 2009 come into force for the purposes of penalties under—

- (a) Schedule 21 to the Finance Act 2015(d) (penalties in connection with offshore asset moves);
- (b) Part 1 of Schedule 20 to the Finance Act 2016(e) (penalties for enablers of offshore tax evasion or non-compliance);
- (c) Part 1 of Schedule 22(f) to the Finance Act 2016 (asset-based penalty for offshore inaccuracies and failures); and
- (d) Part 1 of Schedule 18 to the Finance (No. 2) Act 2017(g) (requirement to correct certain offshore tax non-compliance).

(a) 2009 c. 10.
(b) Section 101 has been amended by paragraph 20(2) of Schedule 22 to the Finance Act 2014 (c. 26) and, from days to be appointed, by paragraphs 2 and 14 of Schedule 9 to the Finance (No. 3) Act 2010 (c. 33) and paragraph 116 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c. 22).
(c) Section 102 has been amended from days to be appointed by paragraphs 3 and 15 of Schedule 9 to the Finance (No. 3) Act 2010.
(d) 2015 c. 11; Schedule 21 has been amended by paragraph 27 of Schedule 18 to the Finance (No 2) Act 2017 (c. 32).
(e) 2016 c. 24.
(f) Schedule 22 has been amended by paragraph 28 of Schedule 18 to the Finance (No. 2) Act 2017.
(g) 2017 c. 32

3. Article 2 only has effect in relation to a penalty in respect of which the late payment interest start date(a) or the repayment interest start date(b) falls on or after 6th September 2019.

*Michelle Donelan
Rebecca Harris*

5th September 2019

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order appoints 6th September 2019 as the day on which the provisions about late payment interest and repayment interest set out in sections 101 and 102 of, and Schedules 53 and 54 to, the Finance Act 2009 (c. 10) ('the 2009 Act') come into force in relation to certain specified penalties under

- Schedule 21 to the Finance Act 2015 (c. 11) in connection with offshore asset moves;
- Part 1 of Schedule 20 to the Finance Act 2016 (c. 24) in connection with the enabling of offshore tax evasion or non-compliance;
- Part 1 of Schedule 22 to the Finance Act 2016 (c. 24) in connection with offshore inaccuracies and failures;
- Part 1 of Schedule 18 to the Finance (No 2) Act 2017 (c. 32) in connection with the requirement to correct certain offshore tax non-compliance.

Article 3 of this Order provides that Article 2 only has effect in relation to a penalty in respect of which the late payment interest start date or the repayment interest start date falls on or after 6th September 2019.

Section 101 of the 2009 Act applies late payment interest to any sum due to HM Revenue and Customs ('HMRC') by virtue of an enactment but paid late. Schedule 53 to the 2009 Act makes special provision in relation to section 101 concerning the amount of, and the start date and end dates for charging, late payment interest as well as making further provision to clarify the effect of late payment interest on certain reliefs.

Section 102 of the 2009 Act applies repayment interest to any amount payable by HMRC to any person by virtue of an enactment. Schedule 54 to the 2009 Act makes special provision in relation to section 102 concerning the amount of repayment interest and the start date for the accrual of such interest.

The current applicable rates in respect of late payment interest and repayment interest are set out in the Taxes and Duties, etc (Interest Rate) Regulations 2011 (S.I. 2011/2446) which were made in exercise of the powers conferred by section 103 of the 2009 Act.

A Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy and is an appointed day order.

(a) Section 101(4) of the Finance Act 2009 (c. 10) provides that the late payment interest start date in respect of any amount is the date on which that amount becomes due and payable.

(b) Section 102(4) of the Finance Act 2009 provides that Parts 1 and 2 of Schedule 54 to that Act define the repayment interest start date.