

Direction to treat persons as a single taxable person

23. (1) Without prejudice to section 20, where the Director General is satisfied that any separation of business activities is artificial resulting in an avoidance of tax, he may make a direction directing that the persons named in the direction be treated as a single taxable person carrying on the activities of the business described in that direction and that single taxable person shall be liable to be registered with effect from the date specified in the direction.

(2) For the purposes of subsection (1), in determining whether any separation of business activities is artificial, regard shall be had to the extent to which the different persons carrying on those business activities are closely bound to one another by financial, economic and organizational links.

(3) The Director General may make a direction naming any person if the Director General is satisfied—

- (a) that the person is making or has made taxable supplies;
- (b) that the activities in the course of which the person makes or has made those taxable supplies form only part of certain activities in the business and that the other activities in that business whether or not they are similar to the activities carried on by that person are being carried on concurrently or previously, or both, by one or more other persons; and
- (c) that if all the taxable supplies made in that business were taken into account, the person carrying on that business would, at the time of the direction, be required to be registered by virtue of section 20.

(4) Any direction made shall be served on each of the persons named in it.

(5) Where, after a direction had been given under this section by specifying a description of the business, it appears to the Director General that any person who has not been named in that direction is making taxable supplies in the course of activities which should be regarded as part of the business activities, the Director General may make and serve on that person a supplementary direction referring to the earlier direction and the description of business specified in it, and adding that person's name to those of the persons named in the earlier direction with effect from—

- (a) the date on which that person began to make the taxable supplies; or
- (b) the date specified in the earlier direction in which the single taxable person referred to is registered under subsection (1),

whichever is the later.

(6) Where, immediately before any direction, including a supplementary direction, is made, any person named in the direction is registered in respect of taxable supplies made by him as specified in subsection (3) or (5), his registration shall be revoked by the

Director General with effect from the date the single taxable person is registered under subsection (1) and upon the revocation of his registration, he together with all the persons named in the direction shall be treated as a single taxable person under this section.

(7) in relation to a business specified in a direction, the persons named in the direction together with the person named in the supplementary direction relating to that business being the persons who together are to be treated as a single taxable person are referred to as “the constituent members” in subsections (8) and (9).

(8) Where any direction is made under this section—

(a) the single taxable person carrying on the business specified in the direction shall be registered in the name to be jointly nominated by the persons named in the direction by notice in writing given to the Director General not later than fourteen days after the date of the direction or, in default of the nomination, in the name as may be specified in the direction;

(b) any taxable supply made by one of the constituent members in the course of the activities of the single taxable person shall be treated as being a taxable supply made by the single taxable person;

(c) each of the constituent members shall be jointly and severally liable for any tax due and payable by the single taxable person;

(d) without prejudice to paragraph (c), any failure by the single taxable person to comply with any requirement imposed by or under this Act shall be treated as a failure by each of the constituent members severally; and

(e) subject to paragraphs (a) to (d), the constituent members shall be treated as a partnership carrying on the business of the single taxable person and any question as to the scope of the activities of that business at any time shall be determined accordingly.

(9) Where it appears to the Director General that any person who is one of the constituent members should no longer be regarded as such for the purposes of paragraphs (8)(c) and (d) and the Director General gives notice in writing to that effect, that person shall not have any liability by virtue of those paragraphs for anything done after the date specified in that notice and accordingly on that date he shall be treated as having ceased to be a member of the partnership referred to in paragraph (8)(e).