



# Value Added Tax Act 1994

## 1994 CHAPTER 23

### PART IV

#### ADMINISTRATION, COLLECTION AND ENFORCEMENT

##### *General administrative provisions*

#### **58 General provisions relating to the administration and collection of VAT.**

Schedule 11 shall have effect, subject to section [<sup>F1</sup>58ZA(5)(a)], with respect to the administration, collection and enforcement of VAT.

##### **Textual Amendments**

**F1** Word in s. 58 substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), Sch. 8 para. 56 (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### **[<sup>F2</sup>58ZA International VAT arrangements**

- (1) The Commissioners may make regulations imposing obligations on taxable persons for the purpose of giving effect to international VAT arrangements.
- (2) The regulations may require the submission to the Commissioners by taxable persons of statements containing such particulars of—
  - (a) relevant transactions in which the taxable persons are concerned, and
  - (b) the persons concerned in those transactions,as may be specified in the regulations.
- (3) The regulations may provide for statements about relevant transactions to be submitted at such times and intervals, in such cases and in such form and manner as may be specified—

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- (a) in the regulations, or
  - (b) by the Commissioners in accordance with the regulations.
- (4) A transaction is a “relevant transaction” for the purposes of this section if information about it could be relevant to any international VAT arrangements.
- (5) If any international VAT arrangements have effect—
- (a) any Schedule 11 information power is exercisable with respect to matters that are relevant to those arrangements as it is exercisable with respect to matters that are relevant for any of the purposes of this Act, and
  - (b) any power of an officer of Revenue and Customs to obtain information or documents under any enactment or subordinate legislation relating to VAT is exercisable in relation to matters which are relevant to those arrangements.
- (6) The Commissioners may disclose information which is obtained as a result of subsection (5) (and no obligation of secrecy, whether imposed by statute or otherwise, prevents such disclosure) if—
- (a) the disclosure is required in accordance with the international VAT arrangements, and
  - (b) the Commissioners are satisfied that the recipient is bound, or has undertaken, both to observe rules of confidentiality which are no less strict than those applying to the information in the United Kingdom and to use the information only for the purposes contemplated by the arrangements.
- (7) Powers are exercisable as a result of subsection (5) only if the Commissioners have given (and not withdrawn) a direction in writing authorising their use (either generally or in relation to specified cases).
- (8) The Commissioners may not make regulations under this section, or give a direction under subsection (7), unless they consider that making the regulations or giving the direction would facilitate the administration, collection or enforcement of VAT.
- (9) In this section—
- “international VAT arrangements” means arrangements which—
  - (a) have effect by virtue of an Order in Council under section 173 of the Finance Act 2006, and
  - (b) relate to VAT or any tax corresponding to VAT imposed under the law of the territory, or any of the territories, in relation to which the arrangements have been made, and
- “Schedule 11 information power” means any power of the Commissioners under Schedule 11 relating to—
- (a) the keeping of accounts,
  - (b) the making of returns and the submission of other documents to the Commissioners,
  - (c) the production, use and contents of invoices,
  - (d) the keeping and preservation of records, and
  - (e) the furnishing of information and the production of documents.]

#### **Textual Amendments**

**F2** S. 58ZA inserted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 57](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended

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by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### *[<sup>F3</sup>Disclosure of avoidance schemes*

#### **Textual Amendments**

- F3** S. 58A and cross-heading inserted (22.7.2004 for specified purposes, 1.8.2004 in so far as not already in force) by [Finance Act 2004 \(c. 12\)](#), s. 19(2), **Sch. 2 para. 1**; S.I. 2004/1934, art. 2

#### **58A Disclosure of avoidance schemes**

Schedule 11A (which imposes disclosure requirements relating to the use of schemes for avoiding VAT) shall have effect.]

#### **Modifications etc. (not altering text)**

- C1** S. 58A modified (16.11.2017 for specified purposes, 1.1.2018 in so far as not already in force) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 66(2)(4)

#### **[<sup>F4</sup>58B Payment by cheque**

Regulations under section 95(1) of the Finance Act 2007 (payment by cheque) may, in particular, provide for a payment which is made by cheque in contravention of regulations under section 25(1) above to be treated as made when the cheque clears, as defined in the regulations under section 95(1) of that Act.]

#### **Textual Amendments**

- F4** S. 58B inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. 95(8)

### *[<sup>F5</sup>Default surcharges and other] penalties and criminal offences*

#### **Textual Amendments**

- F5** Words in s. 59 [cross-heading](#) omitted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by virtue of [Finance Act 2021 \(c. 26\)](#), s. 118(2), **Sch. 27 para. 16**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2

#### **[<sup>F6</sup>59 The default surcharge.**

- (1) [<sup>F7</sup>Subject to subsection (1A) below] if, by the last day on which a taxable person is required in accordance with regulations under this Act to furnish a return for a prescribed accounting period—
- the Commissioners have not received that return, or
  - the Commissioners have received that return but have not received the amount of VAT shown on the return as payable by him in respect of that period,

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then that person shall be regarded for the purposes of this section as being in default in respect of that period.

[<sup>F8</sup>(1A) A person shall not be regarded for the purposes of this section as being in default in respect of any prescribed accounting period if that period is one in respect of which he is required by virtue of any order under section 28 to make any payment on account of VAT.]

- (2) Subject to subsections (9) and (10) below, subsection (4) below applies in any case where—
- (a) a taxable person is in default in respect of a prescribed accounting period; and
  - (b) the Commissioners serve notice on the taxable person (a “surcharge liability notice”) specifying as a surcharge period for the purposes of this section a period ending on the first anniversary of the last day of the period referred to in paragraph (a) above and beginning, subject to subsection (3) below, on the date of the notice.
- (3) If a surcharge liability notice is served by reason of a default in respect of a prescribed accounting period and that period ends at or before the expiry of an existing surcharge period already notified to the taxable person concerned, the surcharge period specified in that notice shall be expressed as a continuation of the existing surcharge period and, accordingly, for the purposes of this section, that existing period and its extension shall be regarded as a single surcharge period.
- (4) Subject to subsections (7) to (10) below, if a taxable person on whom a surcharge liability notice has been served—
- (a) is in default in respect of a prescribed accounting period ending within the surcharge period specified in (or extended by) that notice, and
  - (b) has outstanding VAT for that prescribed accounting period,
- he shall be liable to a surcharge equal to whichever is the greater of the following, namely, the specified percentage of his outstanding VAT for that prescribed accounting period and £30.
- (5) Subject to subsections (7) to (10) below, the specified percentage referred to in subsection (4) above shall be determined in relation to a prescribed accounting period by reference to the number of such periods in respect of which the taxable person is in default during the surcharge period and for which he has outstanding VAT, so that—
- (a) in relation to the first such prescribed accounting period, the specified percentage is 2 per cent;
  - (b) in relation to the second such period, the specified percentage is 5 per cent;
  - (c) in relation to the third such period, the specified percentage is 10 per cent; and
  - (d) in relation to each such period after the third, the specified percentage is 15 per cent.
- (6) For the purposes of subsections (4) and (5) above a person has outstanding VAT for a prescribed accounting period if some or all of the VAT for which he is liable in respect of that period has not been paid by the last day on which he is required (as mentioned in subsection (1) above) to make a return for that period; and the reference in subsection (4) above to a person’s outstanding VAT for a prescribed accounting period is to so much of the VAT for which he is so liable as has not been paid by that day.

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- (7) If a person who, apart from this subsection, would be liable to a surcharge under subsection (4) above satisfies the Commissioners or, on appeal, a tribunal that, in the case of a default which is material to the surcharge—
- (a) the return or, as the case may be, the VAT shown on the return was despatched at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners within the appropriate time limit, or
  - (b) there is a reasonable excuse for the return or VAT not having been so despatched,
- he shall not be liable to the surcharge and for the purposes of the preceding provisions of this section he shall be treated as not having been in default in respect of the prescribed accounting period in question (and, accordingly, any surcharge liability notice the service of which depended upon that default shall be deemed not to have been served).
- (8) For the purposes of subsection (7) above, a default is material to a surcharge if—
- (a) it is the default which, by virtue of subsection (4) above, gives rise to the surcharge; or
  - (b) it is a default which was taken into account in the service of the surcharge liability notice upon which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a prescribed accounting period ending within the surcharge period specified in or extended by that notice.
- (9) In any case where—
- (a) the conduct by virtue of which a person is in default in respect of a prescribed accounting period is also conduct falling within section 69(1), and
  - (b) by reason of that conduct, the person concerned is assessed to a penalty under that section,
- the default shall be left out of account for the purposes of subsections (2) to (5) above.
- (10) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a prescribed accounting period specified in the direction shall be left out of account for the purposes of subsections (2) to (5) above.
- [<sup>F9</sup>(11) For the purposes of this section references to a thing's being done by any day include references to its being done on that day.]]

#### Textual Amendments

- F6** Ss. 59-59B omitted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 17**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F7** Words in s. 59(1) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(3)
- F8** S. 59(1A) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(3)
- F9** S. 59(11) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(4)

#### Modifications etc. (not altering text)

- C2** S. 59 modified by S.I. 1995/2518, reg. 40(5) (as inserted (22.7.2004) by The Value Added Tax (Amendment) (No. 3) Regulations 2004 (S.I. 2004/1675), regs. 1(1), 5)

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**C3** S. 59 restricted (9.3.2021) by Finance Act 2021 (c. 26), s. 99(2), Sch. 19 para. 3

**[<sup>F10</sup>[<sup>F6</sup>59] Default surcharge: payments on account.**

- (1) For the purposes of this section a taxable person shall be regarded as in default in respect of any prescribed accounting period if the period is one in respect of which he is required, by virtue of an order under section 28, to make any payment on account of VAT and either—
- (a) a payment which he is so required to make in respect of that period has not been received in full by the Commissioners by the day on which it became due; or
  - (b) he would, but for section 59(1A), be in default in respect of that period for the purposes of section 59.
- (2) Subject to subsections (10) and (11) below, subsection (4) below applies in any case where—
- (a) a taxable person is in default in respect of a prescribed accounting period; and
  - (b) the Commissioners serve notice on the taxable person (a “surcharge liability notice”) specifying as a surcharge period for the purposes of this section a period which—
    - (i) begins, subject to subsection (3) below, on the date of the notice; and
    - (ii) ends on the first anniversary of the last day of the period referred to in paragraph (a) above.
- (3) If—
- (a) a surcharge liability notice is served by reason of a default in respect of a prescribed accounting period, and
  - (b) that period ends at or before the expiry of an existing surcharge period already notified to the taxable person concerned,
- the surcharge period specified in that notice shall be expressed as a continuation of the existing surcharge period; and, accordingly, the existing period and its extension shall be regarded as a single surcharge period.
- (4) Subject to subsections (7) to (11) below, if—
- (a) a taxable person on whom a surcharge liability notice has been served is in default in respect of a prescribed accounting period,
  - (b) that prescribed accounting period is one ending within the surcharge period specified in (or extended by) that notice, and
  - (c) the aggregate value of his defaults in respect of that prescribed accounting period is more than nil,
- that person shall be liable to a surcharge equal to whichever is the greater of £30 and the specified percentage of the aggregate value of his defaults in respect of that prescribed accounting period.
- (5) Subject to subsections (7) to (11) below, the specified percentage referred to in subsection (4) above shall be determined in relation to a prescribed accounting period by reference to the number of such periods during the surcharge period which are periods in respect of which the taxable person is in default and in respect of which the value of his defaults is more than nil, so that—
- (a) in relation to the first such prescribed accounting period, the specified percentage is 2 per cent.;

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- (b) in relation to the second such period, the specified percentage is 5 per cent.;
  - (c) in relation to the third such period, the specified percentage is 10 per cent.; and
  - (d) in relation to each such period after the third, the specified percentage is 15 per cent.
- (6) For the purposes of this section the aggregate value of a person's defaults in respect of a prescribed accounting period shall be calculated as follows—
- (a) where the whole or any part of a payment in respect of that period on account of VAT was not received by the Commissioners by the day on which it became due, an amount equal to that payment or, as the case may be, to that part of it shall be taken to be the value of the default relating to that payment;
  - (b) if there is more than one default with a value given by paragraph (a) above, those values shall be aggregated;
  - (c) the total given by paragraph (b) above, or (where there is only one default) the value of the default under paragraph (a) above, shall be taken to be the value for that period of that person's defaults on payments on account;
  - (d) the value of any default by that person which is a default falling within subsection (1)(b) above shall be taken to be equal to the amount of any outstanding VAT less the amount of unpaid payments on account; and
  - (e) the aggregate value of a person's defaults in respect of that period shall be taken to be the aggregate of—
    - (i) the value for that period of that person's defaults (if any) on payments on account; and
    - (ii) the value of any default of his in respect of that period that falls within subsection (1)(b) above.
- (7) In the application of subsection (6) above for the calculation of the aggregate value of a person's defaults in respect of a prescribed accounting period—
- (a) the amount of outstanding VAT referred to in paragraph (d) of that subsection is the amount (if any) which would be the amount of that person's outstanding VAT for that period for the purposes of section 59(4); and
  - (b) the amount of unpaid payments on account referred to in that paragraph is the amount (if any) equal to so much of any payments on account of VAT (being payments in respect of that period) as has not been received by the Commissioners by the last day on which that person is required (as mentioned in section 59(1)) to make a return for that period.
- (8) If a person who, apart from this subsection, would be liable to a surcharge under subsection (4) above satisfies the Commissioners or, on appeal, a tribunal—
- (a) in the case of a default that is material for the purposes of the surcharge and falls within subsection (1)(a) above—
    - (i) that the payment on account of VAT was despatched at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners by the day on which it became due, or
    - (ii) that there is a reasonable excuse for the payment not having been so despatched,
- or
- (b) in the case of a default that is material for the purposes of the surcharge and falls within subsection (1)(b) above, that the condition specified in section 59(7)(a) or (b) is satisfied as respects the default,

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he shall not be liable to the surcharge and for the purposes of the preceding provisions of this section he shall be treated as not having been in default in respect of the prescribed accounting period in question (and, accordingly, any surcharge liability notice the service of which depended upon that default shall be deemed not to have been served).

- (9) For the purposes of subsection (8) above, a default is material to a surcharge if—
- (a) it is the default which, by virtue of subsection (4) above, gives rise to the surcharge; or
  - (b) it is a default which was taken into account in the service of the surcharge liability notice upon which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a prescribed accounting period ending within the surcharge period specified in or extended by that notice.
- (10) In any case where—
- (a) the conduct by virtue of which a person is in default in respect of a prescribed accounting period is also conduct falling within section 69(1), and
  - (b) by reason of that conduct, the person concerned is assessed to a penalty under section 69,
- the default shall be left out of account for the purposes of subsections (2) to (5) above.
- (11) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a prescribed accounting period specified in the direction shall be left out of account for the purposes of subsections (2) to (5) above.
- (12) For the purposes of this section the Commissioners shall be taken not to receive a payment by the day on which it becomes due unless it is made in such a manner as secures (in a case where the payment is made otherwise than in cash) that, by the last day for the payment of that amount, all the transactions can be completed that need to be completed before the whole amount of the payment becomes available to the Commissioners.
- (13) In determining for the purposes of this section whether any person would, but for section 59(1A), be in default in respect of any period for the purposes of section 59, subsection (12) above shall be deemed to apply for the purposes of section 59 as it applies for the purposes of this section.
- (14) For the purposes of this section references to a thing's being done by any day include references to its being done on that day.]]

#### Textual Amendments

- F6** Ss. 59-59B omitted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 17**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F10** S. 59A inserted (29.4.1996 with application as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(2)

#### [<sup>F11</sup>]**59B** Relationship between sections 59 and 59A.

- (1) This section applies in each of the following cases, namely—



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- (a) where a section 28 accounting period ends within a surcharge period begun or extended by the service on a taxable person (whether before or after the coming into force of section 59A) of a surcharge liability notice under section 59; and
  - (b) where a prescribed accounting period which is not a section 28 accounting period ends within a surcharge period begun or extended by the service on a taxable person of a surcharge liability notice under section 59A.
- (2) In a case falling within subsection (1)(a) above section 59A shall have effect as if—
- (a) subject to paragraph (b) below, the section 28 accounting period were deemed to be a period ending within a surcharge period begun or, as the case may be, extended by a notice served under section 59A; but
  - (b) any question—
    - (i) whether a surcharge period was begun or extended by the notice, or
    - (ii) whether the taxable person was in default in respect of any prescribed accounting period which was not a section 28 accounting period but ended within the surcharge period begun or extended by that notice, were to be determined as it would be determined for the purposes of section 59.
- (3) In a case falling within subsection (1)(b) above section 59 shall have effect as if—
- (a) subject to paragraph (b) below, the prescribed accounting period that is not a section 28 accounting period were deemed to be a period ending within a surcharge period begun or, as the case may be, extended by a notice served under section 59;
  - (b) any question—
    - (i) whether a surcharge period was begun or extended by the notice, or
    - (ii) whether the taxable person was in default in respect of any prescribed accounting period which was a section 28 accounting period but ended within the surcharge period begun or extended by that notice, were to be determined as it would be determined for the purposes of section 59A; and
  - (c) that person were to be treated as having had outstanding VAT for a section 28 accounting period in any case where the aggregate value of his defaults in respect of that period was, for the purposes of section 59A, more than nil.
- (4) In this section “ a section 28 accounting period ”, in relation to a taxable person, means any prescribed accounting period ending on or after the day on which the Finance Act 1996 was passed in respect of which that person is liable by virtue of an order under section 28 to make any payment on account of VAT.]]

#### Textual Amendments

- F6** Ss. 59-59B omitted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 17**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F11** S. 59B inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. 35(5)

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**F12 60 VAT evasion: conduct involving dishonesty.**

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**Textual Amendments**

**F12** S. 60 repealed (1.4.2008 for specified purposes, 1.7.2008 for specified purposes, 1.1.2009 for specified purposes, 1.4.2009 in so far as not already in force) by [Finance Act 2007 \(c. 11\), s. 97\(2\), Sch. 24 para. 29\(d\), Sch. 27 Pt. 5\(5\)](#) (with transitional provisions in [S.I. 2009/511](#), art. 4(a)(i) and [S.I. 2009/571](#), art. 7); [S.I. 2008/568](#), art. 2(a)(b)(c)(d)(e)(f) (with arts. 3, 4)

**F13 61 VAT evasion: liability of directors etc.**

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**Textual Amendments**

**F13** S. 61 repealed (1.4.2008 for specified purposes, 1.7.2008 for specified purposes, 1.1.2009 for specified purposes, 1.4.2009 in so far as not already in force) by [Finance Act 2007 \(c. 11\), s. 97\(2\), Sch. 24 para. 29\(d\), Sch. 27 Pt. 5\(5\)](#) (with transitional provisions in [S.I. 2009/511](#), art. 4(a)(i) and [S.I. 2009/571](#), art. 7); [S.I. 2008/568](#), art. 2(a)(b)(c)(d)(e)(f) (with arts. 3, 4)

**62 Incorrect certificates as to zero-rating etc.**

[<sup>F14</sup>(1) Subject to subsections (3) and (4) below, where—

- (a) a person to whom one or more supplies are, or are to be, made—
  - (i) gives to the supplier a certificate that the supply or supplies fall, or will fall, wholly or partly within [<sup>F15</sup>any of the Groups of Schedule 7A,] Group 5 or 6 of Schedule 8 or Group 1 of Schedule 9, or
  - (ii) gives to the supplier a certificate for the purposes of section 18B(2)(d) or 18C(1)(c),

and

- (b) the certificate is incorrect,
- the person giving the certificate shall be liable to a penalty.

<sup>F16</sup>(1A) .....

[ Where—

- <sup>F17</sup>(1B) (a) a person gives a certificate for the purposes of Note (5R) to Group 12 of Schedule 8 with respect to a supply of a motor vehicle, and
  - (b) the certificate is incorrect,
- the person giving the certificate is to be liable to a penalty.

(2) The amount of the penalty shall be equal to—

- (a) in a case where the penalty is imposed by virtue of subsection (1) above, the difference between—
  - (i) the amount of the VAT which would have been chargeable on the supply or supplies if the certificate had been correct; and
  - (ii) the amount of VAT actually chargeable;

<sup>F18</sup>(b) .....

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*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- [<sup>F19</sup>(c) in a case where it is imposed by virtue of subsection (1B), the difference between—
- (i) the amount of the VAT which would have been chargeable on the supply if the certificate had been correct, and
  - (ii) the amount of VAT actually chargeable.]]
- (3) The giving [<sup>F20</sup>or preparing] of a certificate shall not give rise to a penalty under this section if the person who gave [<sup>F21</sup>or prepared] it satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for his having given [<sup>F21</sup>or prepared] it.
- (4) Where by reason of giving [<sup>F20</sup>or preparing] a certificate a person is convicted of an offence (whether under this Act or otherwise), the giving of the certificate shall not also give rise to a penalty under this section.]

#### Textual Amendments

- F14** S. 62(1)(1A)(2) substituted (27.7.1999 with effect as mentioned in s. 17(2) of the amending Act) for s. 62(1)(2) by [1999 c. 16, s. 17\(1\)](#)
- F15** Words in s. 62(1)(a)(i) substituted (11.5.2001 with effect as mentioned in s. 99(9)(b) of the amending Act) by [2001 c. 9, s. 99, Sch. 31 para. 3](#)
- F16** S. 62(1A) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 58\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F17** S. 62(1B) inserted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 7 para. 3\(2\)](#)
- F18** S. 62(2)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 58\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F19** S. 62(2)(c) inserted (with effect in accordance with Sch. 7 para. 9 of the amending Act) by [Finance Act 2017 \(c. 10\), Sch. 7 para. 3\(3\)](#)
- F20** Words in s. 62(1)(3)(4) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by [1996 c. 8, ss. 25, 26, Sch. 3 para. 8\(3\)](#); [S.I. 1996/1249, art. 2](#)
- F21** Words in s. 62(3) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by [1996 c. 8, ss. 25, 26, Sch. 3 para. 8\(4\)](#); [S.I. 1996/1249, art. 2](#)

#### <sup>F22</sup>63 Penalty for misdeclaration or neglect resulting in VAT loss for one accounting period equalling or exceeding certain amounts.

#### Textual Amendments

- F22** S. 63 repealed (1.4.2008 for specified purposes, 1.7.2008 for specified purposes, 1.1.2009 for specified purposes, 1.4.2009 in so far as not already in force) by [Finance Act 2007 \(c. 11\), s. 97\(2\), Sch. 24 para. 29\(d\), Sch. 27 Pt. 5\(5\)](#) (with transitional provisions in [S.I. 2009/511, art. 4\(a\)\(i\)](#) and [S.I. 2009/571, art. 7](#)); [S.I. 2008/568, art. 2\(a\)\(b\)\(c\)\(d\)\(e\)\(f\)](#) (with [arts. 3, 4](#))

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## <sup>F23</sup>64 Repeated misdeclarations.

### Textual Amendments

**F23** S. 64 repealed (1.4.2008 for specified purposes, 1.7.2008 for specified purposes, 1.1.2009 for specified purposes, 1.4.2009 in so far as not already in force) by [Finance Act 2007 \(c. 11\)](#), s. 97(2), [Sch. 24 para. 29\(d\)](#), [Sch. 27 Pt. 5\(5\)](#) (with transitional provisions in [S.I. 2009/511](#), art. 4(a)(i) and [S.I. 2009/571](#), art. 7); [S.I. 2008/568](#), art. 2(a)(b)(c)(d)(e)(f) (with arts. 3, 4)

## 65 [<sup>F24</sup>Inaccuracies in section 55A statements]

(1) Where—

- (a) [<sup>F25</sup>a section 55A statement] containing a material inaccuracy has been submitted by any person to the Commissioners;
- (b) the Commissioners have, within 6 months of discovering the inaccuracy, issued that person with a written warning identifying that statement and stating that future inaccuracies might result in the service of a notice for the purposes of this section;
- (c) [<sup>F26</sup>another section 55A statement] containing a material inaccuracy (“the second inaccurate statement”) has been submitted by that person to the Commissioners;
- (d) the submission date for the second inaccurate statement fell within the period of 2 years beginning with the day after the warning was issued;
- (e) the Commissioners have, within 6 months of discovering the inaccuracy in the second inaccurate statement, served that person with a notice identifying that statement and stating that future inaccuracies will attract a penalty under this section;
- (f) yet [<sup>F27</sup>another section 55A statement] containing a material inaccuracy is submitted by that person to the Commissioners; and
- (g) the submission date for the statement falling within paragraph (f) above is not more than 2 years after the service of the notice or the date on which any previous statement attracting a penalty was submitted by that person to the Commissioners,

that person shall be liable to a penalty of £100 in respect of the statement so falling.

(2) Subject to subsections (3) and (4) below, [<sup>F28</sup>a section 55A statement] shall be regarded for the purposes of this section as containing a material inaccuracy if, having regard to the matters required to be included in the statement, the inclusion or omission of any information from the statement is misleading in any material respect.

(3) An inaccuracy contained in [<sup>F29</sup>a section 55A statement] shall not be regarded as material for the purposes of this section if—

- (a) the person who submitted the statement satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the inaccuracy; or
- (b) at a time when he had no reason to believe that enquiries were being made by the Commissioners into his affairs, that person furnished the Commissioners with full information with respect to the inaccuracy.

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*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- (4) Where, by reason of the submission of a statement containing a material inaccuracy by any person, that person is convicted of an offence (whether under this Act or otherwise), the inaccuracy to which the conviction relates shall be regarded for the purposes of this section as not being material.
- (5) Where the only statement identified in a warning or notice served for the purposes of subsection (1)(b) or (e) above is one which (whether by virtue of either or both of subsections (3) and (4) above or otherwise) is regarded as containing no material inaccuracies, that warning or notice shall be deemed not to have been issued or served for those purposes.

[<sup>F30</sup>(6) In this section—

“section 55A statement” means a statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3A) of Schedule 11; and

“submission date”, in relation to a section 55A statement, means whichever is the earlier of the last day for the submission of the statement to the Commissioners in accordance with those regulations and the day on which it was in fact submitted to them.]

<sup>F30</sup>(7) . . . . .

#### Textual Amendments

- F24** S. 65 heading substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(6\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F25** Words in s. 65(1)(a) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(2\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F26** Words in s. 65(1)(c) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(2\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F27** Words in s. 65(1)(f) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(2\)\(c\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F28** Words in s. 65(2) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F29** Words in s. 65(3) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(4\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F30** S. 65(6) substituted for s. 65(6)(7) (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 59\(5\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

**Modifications etc. (not altering text)**

C4 S. 65 modified (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), s. 80(11)

**66 [F31] Failure to submit section 55A statement**

- (1) If, by the last day on which a person is required in accordance with regulations under this Act to submit [F32] a section 55A statement] for any prescribed period to the Commissioners, the Commissioners have not received that statement, that person shall be regarded for the purposes of this section as being in default in relation to that statement until it is submitted.
- (2) Where any person is in default in respect of [F33] any section 55A statement] the Commissioners may serve notice on him stating—
  - (a) that he is in default in relation to the statement specified in the notice;
  - (b) that (subject to the liability mentioned in paragraph (d) below) no action will be taken if he remedies the default before the end of the period of 14 days beginning with the day after the service of the notice;
  - (c) that if the default is not so remedied, that person will become liable in respect of his default to penalties calculated on a daily basis from the end of that period in accordance with the following provisions of this section; and
  - (d) that that person will become liable, without any further notices being served under this section, to penalties under this section if he commits any more defaults before a period of 12 months has elapsed without his being in default.
- (3) Where a person has been served with a notice under subsection (2) above, he shall become liable under this section—
  - (a) if the statement to which the notice relates is not submitted before the end of the period of 14 days beginning with the day after the service of the notice, to a penalty in respect of that statement; and
  - (b) whether or not that statement is so submitted, to a penalty in respect of [F34] any section 55A statement] the last day for the submission of which is after the service and before the expiry of the notice and in relation to which he is in default.
- (4) For the purposes of this section a notice served on any person under subsection (2) above shall continue in force—
  - (a) except in a case falling within paragraph (b) below, until the end of the period of 12 months beginning with the day after the service of the notice; and
  - (b) where at any time in that period of 12 months that person is in default in relation to [F35] any section 55A statement] other than one in relation to which he was in default when the notice was served, until a period of 12 months has elapsed without that person becoming liable to a penalty under this section in respect of [F35] any section 55A statement] .
- (5) The amount of any penalty to which a person who has been served with a notice under subsection (2) above is liable under this section shall be whichever is the greater of £50 and—
  - (a) in the case of a liability in respect of the statement to which the notice relates, a penalty of £5 for every day for which the default continues after the end of the period of 14 days mentioned in subsection (3)(a) above, up to a maximum of 100 days; and

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*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- (b) in the case of a liability in respect of any other statement, a penalty of the relevant amount for every day for which the default continues, up to a maximum of 100 days.
- (6) In subsection (5)(b) above “the relevant amount”, in relation to a person served with a notice under subsection (2) above, means—
- (a) £5, where (that person not having been liable to a penalty under this section in respect of the statement to which the notice relates) the statement in question is the first statement in respect of which that person has become liable to a penalty while the notice has been in force;
  - (b) £10 where the statement in question is the second statement in respect of which he has become so liable while the notice has been in force (counting the statement to which the notice relates where he has become liable in respect of that statement); and
  - (c) £15 in any other case.
- (7) If a person who, apart from this subsection, would be liable to a penalty under this section satisfies the Commissioners or, on appeal a tribunal, that—
- (a) <sup>F36</sup> a section 55A statement] has been submitted at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners within the appropriate time limit; or
  - (b) there is a reasonable excuse for such a statement not having been dispatched, he shall be treated for the purposes of this section and sections 59 to 65 and 67 to 71, 73<sup>F37</sup> ... and 76 <sup>F38</sup> and Schedule 24 to the Finance Act 2007] as not having been in default in relation to that statement and, accordingly, he shall not be liable to any penalty under this section <sup>F39</sup> or that Schedule] in respect of that statement and any notice served under subsection (2) above exclusively in relation to the failure to submit that statement shall have no effect for the purposes of this section.
- (8) If it appears to the Treasury that there has been a change in the value of money since 1st January 1993 or, as the case may be, the last occasion when the sums specified in subsections (5) and (6) above were varied, they may by order substitute for the sums for the time being specified in those subsections such other sums as appear to them to be justified by the change; but an order under this section shall not apply to any default in relation to a statement the last day for the submission of which was before the order comes into force.
- <sup>F40</sup>(9) In this section, “section 55A statement” means a statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3A) of Schedule 11.]

<sup>F40</sup>(10) .....

**Textual Amendments**

- F31** S. 66 heading substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 60\(8\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F32** Words in s. 66(1) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 60\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- F33** Words in s. 66(2) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 60(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F34** Words in s. 66(3)(b) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 60(4)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F35** Words in s. 66(4)(b) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 60(5)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F36** Words in s. 66(7)(a) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 60(6)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F37** Word in s. 66(7) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 60(6)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F38** Words in s. 66(7) inserted (1.4.2009) by The Finance Act 2008, Schedule 40 (Appointed Day, Transitional Provisions and Consequential Amendments) Order 2009 (S.I. 2009/571), art. 1(1), **Sch. 1 para. 13(a)**
- F39** Words in s. 66(7) inserted (1.4.2009) by The Finance Act 2008, Schedule 40 (Appointed Day, Transitional Provisions and Consequential Amendments) Order 2009 (S.I. 2009/571), art. 1(1), **Sch. 1 para. 13(b)**
- F40** S. 66(9) substituted for s. 66(9)(10) (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 60(7)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

#### Modifications etc. (not altering text)

- C5** S. 66 modified (22.7.2020) by Finance Act 2020 (c. 14), **s. 80(11)**

#### <sup>F41</sup>67 Failure to notify and unauthorised issue of invoices.

.....

#### Textual Amendments

- F41** S. 67 omitted (with effect in accordance with art. 3 of the commencing S.I.) by virtue of Finance Act 2008 (c. 9), s. 123(2), **Sch. 41 para. 25(f)** (with transitional provisions in S.I. 2009/511, art. 4(a)(ii)); S.I. 2009/511, art. 2 (with art. 4)

#### <sup>F42</sup>67A Breach of controlled goods agreement

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#### Textual Amendments

**F42** S. 67A omitted (6.4.2014) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 129(4), [Sch. 43 para. 4](#); S.I. 2014/906, art. 2

### 68 Breaches of walking possession agreements.

- (1) This section applies where—
- in accordance with regulations under <sup>F43</sup>section 51 of the Finance Act 1997 (enforcement by distress)], a distress is authorised to be levied on the goods and chattels of a person (a “person in default”) who has refused or neglected to pay any VAT due or any amount recoverable as if it were VAT due, and
  - the person levying the distress and the person in default have entered into a walking possession agreement, as defined in subsection (2) below.
- (2) In this section a “walking possession agreement” means an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default—
- acknowledges that the property specified in the agreement is under distraint and held in walking possession; and
  - undertakes that, except with the consent of the Commissioners and subject to such conditions as they may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.
- (3) Subject to subsection (4) below, if the person in default is in breach of the undertaking contained in a walking possession agreement, he shall be liable to a penalty equal to half of the VAT or other amount referred to in subsection (1)(a) above.
- (4) The person in default shall not be liable to a penalty under subsection (3) above if he satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the breach in question.

<sup>F44</sup>(5) This section extends only to Northern Ireland.]

#### Textual Amendments

**F43** Words in s. 68(1)(a) substituted (1.7.1997) by [1997 c. 16, s. 53\(7\)\(9\)](#); S.I. 1997/1432, art. 2

**F44** S. 68(5) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 120](#) (with s. 89); S.I. 2014/768, art. 2(1)(b)

### 69 Breaches of regulatory provisions.

- (1) If any person fails to comply with a regulatory requirement, that is to say, a requirement imposed under—
- paragraph 11 or 12 of Schedule 1, <sup>F45</sup>[paragraph 7 of Schedule 1A]<sup>F46</sup> ... <sup>F47</sup>[<sup>F48</sup>paragraph 5 of Schedule 3A or paragraph 9(1) or (2)(a) of Schedule 4B]]<sup>F47</sup> or paragraph 5 of Schedule 3A ]; or
  - any regulations made under section 48 requiring a VAT representative, for the purposes of registration, to notify the Commissioners that his appointment has taken effect or has ceased to have effect; or
- <sup>F49</sup>(ba) paragraph 2(3B) of Schedule 11; or]

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- (c) paragraph 6(1) or 7 of Schedule 11; or
  - (d) any regulations or rules made under this Act, other than rules made under paragraph 9 of Schedule 12; or
  - (e) any order made by the Treasury under this Act; or
  - (f) any regulations made under the <sup>M1</sup>European Communities Act 1972 and relating to VAT, <sup>F50</sup>; or
  - (g) section 18A in the form of a condition imposed by the Commissioners under subsection (1) or (6) of that section, <sup>F51</sup>or—
  - (h) section 77E (display of VAT registration numbers on online marketplaces),] he shall be liable, subject to subsections (8) and (9) below and section 76(6), to a penalty equal to the prescribed rate multiplied by the number of days on which the failure continues (up to a maximum of 100) or, if it is greater, to a penalty of £50.
- (2) If any person fails to comply with a requirement to preserve records imposed under <sup>F52</sup>... paragraph 6(3) of Schedule 11, he shall be liable, subject to the following provisions of this section, to a penalty of £500.
- (3) Subject to subsection (4) below, in relation to a failure to comply with any regulatory requirement, the prescribed rate shall be determined by reference to the number of occasions in the period of 2 years preceding the beginning of the failure in question on which the person concerned has previously failed to comply with that requirement and, subject to the following provisions of this section, the prescribed rate shall be—
- (a) if there has been no such previous occasion in that period, £5;
  - (b) if there has been only one such occasion in that period, £10; and
  - (c) in any other case, £15.
- (4) For the purposes of subsection (3) above—
- (a) a failure to comply with any regulatory requirement shall be disregarded if, as a result of the failure, the person concerned became liable <sup>F53</sup>for a surcharge under section 59 <sup>F54</sup>or 59A <sup>F53</sup>to a penalty point or a penalty under Schedule 24 to the Finance Act 2021];
  - (b) a continuing failure to comply with any such requirement shall be regarded as one occasion of failure occurring on the date on which the failure began;
  - (c) if the same omission gives rise to a failure to comply with more than one such requirement, it shall nevertheless be regarded as the occasion of only one failure; and
  - (d) in relation to a failure to comply with a requirement imposed by regulations as to the furnishing of a return or as to the payment of VAT, a previous failure to comply with such a requirement as to either of those matters shall be regarded as a previous failure to comply with the requirement in question.
- (5) Where the failure referred to in subsection (1) above consists—
- (a) in not paying the VAT due in respect of any period within the time required by regulations under section 25(1), or
  - (b) in not furnishing a return in respect of any period within the time required by regulations under paragraph 2(1) of Schedule 11,
- the prescribed rate shall be whichever is the greater of that which is appropriate under subsection (3)(a) to (c) above and an amount equal to one-sixth, one-third or one-half of 1 per cent. of the VAT due in respect of that period, the appropriate fraction being determined according to whether subsection (3)(a), (b) or (c) above is applicable.

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- (6) For the purposes of subsection (5) above, the VAT due—
- (a) if the person concerned has furnished a return, shall be taken to be the VAT shown in the return as that for which he is accountable in respect of the period in question, and
  - (b) in any other case, shall be taken to be such VAT as has been assessed for that period and notified to him under section 73(1).
- (7) If it appears to the Treasury that there has been a change in the value of money since 25th July 1985 or, as the case may be, the last occasion when the power conferred by this subsection was exercised, they may by order substitute for the sums for the time being specified in subsections (2) and (3)(a) to (c) above such other sums as appear to them to be justified by the change; but an order under this subsection shall not apply to a failure which began before the date on which the order comes into force.
- (8) A failure by any person to comply with any regulatory requirement or the requirement referred to in subsection (2) above shall not give rise to liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a tribunal that there is a reasonable excuse for the failure; and a failure in respect of which the Commissioners or tribunal have been so satisfied shall be disregarded for the purposes of subsection (3) above.
- (9) Where, by reason of conduct falling within subsection (1) or (2) above—
- (a) a person is convicted of an offence (whether under this Act or otherwise), or
  - <sup>F55</sup>(b) a person is assessed to a surcharge under section 59 [<sup>F56</sup>or 59A], or]
  - (c) a person is assessed to a penalty under section 60 or 63 [<sup>F57</sup>or a penalty under Schedule 24 to the Finance Act 2007], [<sup>F58</sup>or
  - (d) a person is awarded a penalty point or assessed to a penalty under Schedule 24 to the Finance Act 2021,]
- that conduct shall not also give rise to liability to a penalty under this section.
- (10) This section applies in relation to failures occurring before as well as after the commencement of this Act, and for that purpose any reference to any provision of this Act includes a reference to the corresponding provision of the enactments repealed by this Act.

#### Textual Amendments

- F45** Words in s. 69(1)(a) inserted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 7](#)
- F46** Words in s. 69(1)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 61](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), 21), [S.I. 2020/1545](#), Pt. 4 and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 4(b) (with reg. 7)
- F47** Words in s. 69(1)(a) substituted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 2 para. 7\(2\)\(a\)](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 9
- F48** Words in s. 69(1)(a) substituted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [s. 80\(3\)\(a\)](#)
- F49** S. 69(1)(ba) inserted (1.6.2007) by [Finance Act 2006 \(c. 25\)](#), [s. 19\(5\)\(8\)](#); [S.I. 2007/1419](#), art. 2
- F50** S. 69(1)(g) and word preceding it inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by [1996 c. 8](#), ss. 25, 26, [Sch. 3 para. 9](#); [S.I. 1996/1249](#), art. 2
- F51** S. 69(1)(h) and word inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), [s. 38\(2\)](#)

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- F52** Words in s. 69(2) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1)(e), **Sch. 2 para. 7(2)(b)** (with Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 9
- F53** Words in s. 69(4)(a) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 18(2)**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F54** Words in s. 69(4)(a) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. **35(6)(8)**
- F55** S. 69(9)(b) omitted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 18(3)(a)**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F56** Words in s. 69(9)(b) inserted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. **35(6)(8)**
- F57** Words in s. 69(9)(c) inserted (1.4.2009) by The Finance Act 2008, Schedule 40 (Appointed Day, Transitional Provisions and Consequential Amendments) Order 2009 (S.I. 2009/571), art. 1(1), Sch. 1 para. 14
- F58** S. 69(9)(d) and word inserted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 18(3)(b)**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2

#### Modifications etc. (not altering text)

- C6** S. 69(1) modified (31.12.2020) by The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546), regs. 1, **18** (with reg. 15); S.I. 2020/1641, reg. 2, Sch.

#### Marginal Citations

- M1** 1972 c. 68.

### [<sup>F59</sup>69A Breach of record-keeping requirements etc. in relation to transactions in gold.

- (1) This section applies where a person fails to comply with a requirement of regulations under section 13(5)(a) or (b) of the <sup>M2</sup>Finance Act 1999 (gold: duties to keep records or provide information).

Where this section applies, the provisions of section 69 do not apply.

- (2) A person who fails to comply with any such requirement is liable to a penalty not exceeding 17.5% of the value of the transactions to which the failure relates.
- (3) For the purposes of assessing the amount of any such penalty, the value of the transactions to which the failure relates shall be determined by the Commissioners to the best of their judgement and notified by them to the person liable.
- (4) No assessment of a penalty under this section shall be made more than 2 years after evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to their knowledge.
- (5) The reference in subsection (4) above to facts sufficient to justify the making of the assessment is to facts sufficient—
- to indicate that there had been a failure to comply with any such requirement as is referred to in subsection (1) above, and
  - to determine the value of the transactions to which the failure relates.
- (6) A failure by any person to comply with any such requirement as is mentioned in subsection (1) above shall not give rise to a liability to a penalty under this section if

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

the person concerned satisfies the Commissioners or, on appeal, a tribunal, that there is a reasonable excuse for the failure.

- (7) Where by reason of conduct falling within subsection (1) above a person—
- (a) is assessed to a penalty under section 60 [<sup>F60</sup>or a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007], or
  - (b) is convicted of an offence (whether under this Act or otherwise),
- that conduct shall not also give rise to a penalty under this section.]

#### Textual Amendments

**F59** S. 69A inserted (28.7.2000) by 2000 c. 17, s. 137(2)

**F60** Words in s. 69A(7)(a) inserted (1.4.2009) by The Finance Act 2008, Schedule 40 (Appointed Day, Transitional Provisions and Consequential Amendments) Order 2009 (S.I. 2009/571), art. 1(1), **Sch. 1 para. 15**

#### Marginal Citations

**M2** 1999 c. 16.

### [<sup>F61</sup>69B Breach of record-keeping requirements imposed by directions

- (1) If any person fails to comply with a requirement imposed under paragraph 6A(1) of Schedule 11, the person is liable to a penalty.
- (2) The amount of the penalty is equal to £200 multiplied by the number of days on which the failure continues (up to a maximum of 30 days).
- (3) If any person fails to comply with a requirement to preserve records imposed under paragraph 6A(6) of Schedule 11, the person is liable to a penalty of £500.
- (4) If it appears to the Treasury that there has been a change in the value of money since—
- (a) the day on which the Finance Act 2006 is passed, or
  - (b) (if later) the last occasion when the power conferred by this subsection was exercised,
- they may by order substitute for the sums for the time being specified in subsections (2) and (3) such other sums as appear to them to be justified by the change.
- (5) But any such order does not apply to a failure which began before the date on which the order comes into force.
- (6) A failure by any person to comply with any requirement mentioned in subsection (1) or (3) does not give rise to a liability to a penalty under this section if the person concerned satisfies—
- (a) the Commissioners, or
  - (b) on appeal, a tribunal,
- that there is a reasonable excuse for the failure.
- (7) If by reason of conduct falling within subsection (1) or (3) a person—
- (a) is assessed to a penalty under section 60 [<sup>F62</sup>or a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007], or
  - (b) is convicted of an offence (whether under this Act or otherwise),
- that conduct does not also give rise to a penalty under this section.]

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

### Textual Amendments

**F61** S. 69B inserted (19.7.2006) by [Finance Act 2006 \(c. 25\), s. 21\(2\)](#)

**F62** Words in s. 69B(7)(a) inserted (1.4.2009) by [The Finance Act 2008, Schedule 40 \(Appointed Day, Transitional Provisions and Consequential Amendments\) Order 2009 \(S.I. 2009/571\), art. 1\(1\), Sch. 1 para. 16](#)

### [<sup>F63</sup>69C Transactions connected with VAT fraud

- (1) A person (T) is liable to a penalty where—
  - (a) T has entered into a transaction involving the making of a supply by or to T (“the transaction”), and
  - (b) conditions A to C are satisfied.
- (2) Condition A is that the transaction was connected with the fraudulent evasion of VAT by another person (whether occurring before or after T entered into the transaction).
- (3) Condition B is that T knew or should have known that the transaction was connected with the fraudulent evasion of VAT by another person.
- (4) Condition C is that HMRC have issued a decision (“the denial decision”) in relation to the supply which—
  - (a) prevents T from exercising or relying on a VAT right in relation to the supply,
  - (b) is based on the facts which satisfy conditions A and B in relation to the transaction, and
  - (c) applies a relevant principle of EU case law (whether or not in circumstances that are the same as the circumstances in which any relevant case was decided by the European Court of Justice).
- (5) In this section “VAT right” includes the right to deduct input tax, the right to apply a zero rate to international supplies and any other right connected with VAT in relation to a supply.
- (6) The relevant principles of EU case law for the purposes of this section are the principles established by the European Court of Justice in the following cases—
  - (a) joined Cases C-439/04 and C-440/04 *Axel Kittel v. Belgian State; Belgium v. Recolta Recycling* (denial of right to deduct input tax), and
  - (b) Case C-273/11 (*b*) *Mecsek-Gabona Kft v Nemzeti Adó- és Vámhivatal Dél-dunántúli Regionális Adó Főigazgatósága* (denial of right to zero rate), as developed or extended by that Court [<sup>F64</sup>in any other cases] relating to the denial or refusal of a VAT right in order to prevent abuses of the VAT system [<sup>F65</sup>which were decided before the coming into force of section 42 of TCTA 2018].
- (7) The penalty payable under this section is 30% of the potential lost VAT.
- (8) The potential lost VAT is—
  - (a) the additional VAT which becomes payable by T as a result of the denial decision,
  - (b) the VAT which is not repaid to T as a result of that decision, or
  - (c) in a case where as a result of that decision VAT is not repaid to T and additional VAT becomes payable by T, the aggregate of the VAT that is not repaid and the additional VAT.

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- (9) Where T is liable to a penalty under this section the Commissioners may assess the amount of the penalty and notify it to T accordingly.
- (10) No assessment of a penalty under this section may be made more than two years after the denial decision is issued.
- (11) The assessment of a penalty under this section may be made immediately after the denial decision is made (and notice of the assessment may be given to T in the same document as the notice of the decision).
- (12) Where by reason of actions involved in making a claim to exercise or rely on a VAT right in relation to a supply T—
  - (a) is liable to a penalty for an inaccuracy under paragraph 1 of Schedule 24 to the Finance Act 2007 for which T has been assessed (and the assessment has not been successfully appealed against by T or withdrawn), or
  - (b) is convicted of an offence (whether under this Act or otherwise),those actions do not give rise to liability to a penalty under this section.

#### Textual Amendments

- F63** Ss. 69C-69E inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 68\(2\)](#) (with s. 68(7))
- F64** Words in s. 69C(6) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 62\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))
- F65** Words in s. 69C(6) inserted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 62\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))

#### 69D Penalties under section 69C: officers' liability

- (1) Where—
  - (a) a company is liable to a penalty under section 69C, and
  - (b) the actions of the company which give rise to that liability were attributable to an officer of the company (“the officer”),the officer is liable to pay such portion of the penalty (which may be equal to or less than 100%) as HMRC may specify in a notice given to the officer (a “decision notice”).
- (2) Before giving the officer a decision notice HMRC must—
  - (a) inform the officer that they are considering doing so, and
  - (b) afford the officer the opportunity to make representations about whether a decision notice should be given or the portion that should be specified.
- (3) A decision notice—
  - (a) may not be given before the amount of the penalty due from the company has been assessed (but it may be given immediately after that has happened), and
  - (b) may not be given more than two years after the denial decision relevant to that penalty was issued.

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- (4) Where the Commissioners have specified a portion of the penalty in a decision notice given to the officer—
- (a) section 70 applies to the specified portion as to a penalty under section 69C,
  - (b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given,
  - (c) section 76(9) applies as if the decision notice were an assessment notified under section 76, and
  - (d) a further decision notice may be given in respect of a portion of any additional amount assessed in an additional assessment.
- (5) HMRC may not recover more than 100% of the penalty through issuing decision notices in relation to two or more persons.
- (6) A person is not liable to pay an amount by virtue of this section if the actions of the company concerned are attributable to the person by reference to conduct for which the person has been convicted of an offence.
- In this subsection “conduct” includes omissions.
- (7) In this section “company” means a body corporate or unincorporated association but does not include a partnership, a local authority or a local authority association.
- (8) In its application to a body corporate other than a limited liability partnership “officer” means—
- (a) a director (including a shadow director within the meaning of section 251 of the Companies Act 2006),
  - (b) a manager, or
  - (c) a secretary.
- (9) In its application to a limited liability partnership “officer” means a member.
- (10) In its application in any other case, “officer” means—
- (a) a director,
  - (b) a manager,
  - (c) a secretary, or
  - (d) any other person managing or purporting to manage any of the company's affairs.

#### Textual Amendments

**F63** Ss. 69C-69E inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), s. 68(2) (with s. 68(7))

#### **69E Publication of details of persons liable to penalties under section 69C**

- (1) The Commissioners may publish information about a person if—
- (a) in consequence of an investigation the person has been found liable to one or more penalties under section 69C (the amount of which has been assessed), and
  - (b) the potential lost VAT in relation to the penalty (or the aggregate of the potential lost VAT in relation to each of the penalties) exceeds £50,000.
- (2) The information that may be published under subsection (1) is—



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*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

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- (a) the person's name (including any trading name, previous name or pseudonym),
  - (b) the person's address (or registered office),
  - (c) the nature of any business carried on by the person,
  - (d) the amount of the penalty or penalties in question,
  - (e) the periods or times to which the actions giving rise to the penalty or penalties relate,
  - (f) any other information that the Commissioners consider it appropriate to publish in order to make clear the person's identity.
- (3) In a case where—
- (a) the requirements in subsection (1)(a) and (b) are met in relation to a penalty or penalties for which a company is liable,
  - (b) information about the company is published by virtue of this section,
  - (c) a person (“the officer”) has been given a decision notice under section 69D specifying a portion of the penalty (or, if there is more than one penalty, of any of the penalties) payable by the company as a portion which the officer is liable to pay, and
  - (d) the amount (or, if the decision notice specifies portions of more than one penalty, the aggregate amount) which the officer is liable to pay under the decision notice exceeds £25, 000,
- the Commissioners may publish information about the officer.
- (4) The information that may be published under subsection (3) is—
- (a) the officer's name,
  - (b) the officer's address,
  - (c) the officer's position (or former position) in the company,
  - (d) the amount of any penalty imposed on the company of which a portion is payable by the officer under the decision notice and the portion so payable,
  - (e) the periods or times to which the actions giving rise to any such penalty relate,
  - (f) any other information that the Commissioners consider it appropriate to publish in order to make clear the officer's identity.
- (5) Information published under this section may be published in any manner that the Commissioners consider appropriate.
- (6) Before publishing any information under this section the Commissioners must—
- (a) inform the person or officer to which it relates that they are considering doing so (in the case of an officer, on the assumption that they publish information about the company), and
  - (b) afford the person or officer the opportunity to make representations about whether it should be published.
- (7) No information may be published under subsection (1) before the day on which the penalty becomes final or, where more than one penalty is involved, the latest day on which any of the penalties becomes final.
- (8) No information may be published under subsection (1) for the first time after the end of the period of one year beginning with that day.
- (9) No information may be published under subsection (3) before whichever is the later of—

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- (a) the day mentioned in subsection (7), and
  - (b) the day on which the decision notice given to the officer becomes final.
- (10) No information may be published under subsection (3) for the first time after the end of the period of one year beginning with the later of the two days mentioned in subsection (9).
- (11) No information may be published (or continue to be published) under subsection (1) or (3) after the end of the period of three years beginning with the day mentioned in subsection (7).
- (12) For the purposes of this section a penalty or a decision notice becomes final when the time for any appeal or further appeal relating to it expires or, if later, any appeal or final appeal relating to it is finally determined.
- (13) The Treasury may by regulations made by statutory instrument—
- (a) amend subsection (1) to vary the amount for the time being specified in paragraph (b), or
  - (b) amend subsection (3) to vary the amount for the time being specified in paragraph (d).
- (14) A statutory instrument containing regulations under subsection (13) is subject to annulment in pursuance of a resolution of the House of Commons.]

#### Textual Amendments

**F63** Ss. 69C-69E inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 68\(2\)](#) (with [s. 68\(7\)](#))

#### 70 Mitigation of penalties under sections 60, 63, 64 <sup>[F66]</sup>, 67, 69A and 69C].

- (1) Where a person is liable to a penalty under section 60, 63, 64 <sup>[F67]</sup>, 67 <sup>[F68]</sup>, 69A or 69C] <sup>[F69]</sup> or under paragraph 10 of Schedule 11A], the Commissioners or, on appeal, a tribunal may reduce the penalty to such amount (including nil) as they think proper.
- (2) In the case of a penalty reduced by the Commissioners under subsection (1) above, a tribunal, on an appeal relating to the penalty, may cancel the whole or any part of the reduction made by the Commissioners.
- (3) None of the matters specified in subsection (4) below shall be matters which the Commissioners or any tribunal shall be entitled to take into account in exercising their powers under this section.
- (4) Those matters are—
  - (a) the insufficiency of the funds available to any person for paying any VAT due or for paying the amount of the penalty;
  - (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of VAT;
  - (c) the fact that the person liable to the penalty or a person acting on his behalf has acted in good faith.
- <sup>[F70]</sup>(5) In the application of subsections (3) and (4) in relation to a penalty under section 69C, subsection (4) has effect with the omission of paragraphs (b) and (c).]

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

**Textual Amendments**

- F66** Words in s. 70 heading substituted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 68\(3\)\(a\)](#)
- F67** Words in s. 70(1) substituted (28.7.2000) by [2000 c. 17, s. 137\(3\)](#)
- F68** Words in s. 70(1) substituted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 68\(3\)\(b\)](#)
- F69** Words in s. 70(1) inserted (22.7.2004 for specified purposes, 1.8.2004 in so far as not already in force) by [Finance Act 2004 \(c. 12\), s. 19\(2\)](#), [Sch. 2 para. 3](#); S.I. 2004/1934, art. 2
- F70** S. 70(5) inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\), s. 68\(3\)\(c\)](#)

**71 Construction of sections <sup>[F71 59]</sup>~~[F71 60]~~ to 70.**

- (1) For the purpose of any provision of sections <sup>[F72 59]</sup>~~[F72 60]~~ to 70 which refers to a reasonable excuse for any conduct—
  - (a) an insufficiency of funds to pay any VAT due is not a reasonable excuse; and
  - (b) where reliance is placed on any other person to perform any task, neither the fact of that reliance nor any dilatoriness or inaccuracy on the part of the person relied upon is a reasonable excuse.
- (2) In relation to a prescribed accounting period, any reference in sections <sup>[F73 59]</sup>~~[F73 60]~~ to 69 to credit for input tax includes a reference to any sum which, in a return for that period, is claimed as a deduction from VAT due.

**Textual Amendments**

- F71** Word in s. 71 heading substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by [Finance Act 2021 \(c. 26\), s. 118\(2\)](#), [Sch. 27 para. 19](#); S.I. 2022/1278, [reg. 2\(3\)\(4\)\(a\)](#); S.I. 2024/440, [reg. 2](#)
- F72** Word in s. 71(1) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by [Finance Act 2021 \(c. 26\), s. 118\(2\)](#), [Sch. 27 para. 19](#); S.I. 2022/1278, [reg. 2\(3\)\(4\)\(a\)](#); S.I. 2024/440, [reg. 2](#)
- F73** Word in s. 71(2) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by [Finance Act 2021 \(c. 26\), s. 118\(2\)](#), [Sch. 27 para. 19](#); S.I. 2022/1278, [reg. 2\(3\)\(4\)\(a\)](#); S.I. 2024/440, [reg. 2](#)

**72 Offences.**

- (1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of VAT by him or any other person, he shall be liable—
  - (a) on summary conviction, to a penalty of <sup>[F74</sup>the statutory maximum]~~[F74 £20,000]~~ or of three times the amount of the VAT, whichever is the greater, or to imprisonment for a term not exceeding 6 months or to both; or
  - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding <sup>[F75 14]</sup> years or to both.
- (2) Any reference in subsection (1) above or subsection (8) below to the evasion of VAT includes a reference to the obtaining of—
  - (a) the payment of a VAT credit; or
  - (b) a refund under section <sup>[F76 35 or 36]</sup> of this Act or section 22 of the 1983 Act; or
  - <sup>F77</sup>(c) .....
  - (d) a repayment under section 39;

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects  
for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

and any reference in those subsections to the amount of the VAT shall be construed—

- (i) in relation to VAT itself or a VAT credit, as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated, and
- (ii) in relation to a refund or repayment falling within paragraph [<sup>F78</sup>(b) or (d)] above, as a reference to the amount falsely claimed by way of refund or repayment.

(3) If any person—

- (a) with intent to deceive produces, furnishes or sends for the purposes of this Act or otherwise makes use for those purposes of any document which is false in a material particular; or
- (b) in furnishing any information for the purposes of this Act makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,

he shall be liable—

- (i) on summary conviction, to a penalty of [<sup>F79</sup>the statutory maximum][<sup>F79</sup>£20,000] or, where subsection (4) or (5) below applies, to the alternative penalty specified in that subsection if it is greater, or to imprisonment for a term not exceeding 6 months or to both; or
- (ii) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding [<sup>F80</sup>14] years or to both.

(4) In any case where—

- (a) the document referred to in subsection (3)(a) above is a return required under this Act, or
- (b) the information referred to in subsection (3)(b) above is contained in or otherwise relevant to such a return,

the alternative penalty referred to in subsection (3)(i) above is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated.

(5) In any case where—

- (a) the document referred to in subsection (3)(a) above is a claim for a refund under section [<sup>F81</sup>35 or 36] of this Act or section 22 of the 1983 Act, <sup>F82</sup>... or for a repayment under section 39, or
- (b) the information referred to in subsection (3)(b) above is contained in or otherwise relevant to such a claim,

the alternative penalty referred to in subsection (3)(i) above is a penalty equal to 3 times the amount falsely claimed.

(6) The reference in subsection (3)(a) above to furnishing, sending or otherwise making use of a document which is false in a material particular, with intent to deceive, includes a reference to furnishing, sending or otherwise making use of such a document, with intent to secure that a machine will respond to the document as if it were a true document.

(7) Any reference in subsection (3)(a) or (6) above to producing, furnishing or sending a document includes a reference to causing a document to be produced, furnished or sent.

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

(8) Where a person's conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this section, then, whether or not the particulars of that offence or those offences are known, he shall, by virtue of this subsection, be guilty of an offence and liable—

(a) on summary conviction, to a penalty of [<sup>F83</sup>the statutory maximum][<sup>F83</sup>£20,000] or, if greater, 3 times the amount of any VAT that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding 6 months or to both, or

(b) on conviction on indictment to a penalty of any amount or to imprisonment for a term not exceeding [<sup>F84</sup>14] years or to both.

<sup>F85</sup>(9) .....

(10) If any person acquires possession of or deals with any goods, or accepts the supply of any services, having reason to believe that VAT on the supply of the goods or services<sup>F86</sup>... or on the importation of the goods<sup>F87</sup>... has been or will be evaded, he shall be liable on summary conviction to a penalty of [<sup>F88</sup>level 5 on the standard scale][<sup>F88</sup>£20,000] or three times the amount of the VAT, whichever is the greater.

(11) If any person supplies [<sup>F89</sup>or is supplied with] goods or services in contravention of paragraph 4(2) of Schedule 11, he shall be liable on summary conviction to a penalty of [<sup>F90</sup>level 5 on the standard scale][<sup>F90</sup>£20,000].

(12) Subject to subsection (13) below, sections 145 to 155 of the Management Act (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under this Act (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Act as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act; and accordingly in section 154(2) as it applies by virtue of this subsection the reference to duty shall be construed as a reference to VAT.

(13) In subsection (12) above the references to penalties do not include references to penalties under sections 60 to 70.

### Textual Amendments

- F74** Sum in s. 72(1)(a) substituted for words (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 2 para. 8\(2\)](#) (with reg. 5(1))
- F75** Words in s. 72(1)(b) substituted (22.2.2024) by [Finance Act 2024 \(c. 3\)](#), s. [32\(1\)](#) (with s. 32(6))
- F76** Words in s. 72(2)(b) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 63\(2\)\(a\)](#) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F77** S. 72(2)(c) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 63\(2\)\(b\)](#) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F78** Words in s. 72(2)(d)(ii) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 63\(2\)\(c\)](#) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- F79** Sum in s. 72(3)(i) substituted for words (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 2 para. 8(3)** (with reg. 5(1))
- F80** Words in s. 72(3)(b)(ii) substituted (22.2.2024) by Finance Act 2024 (c. 3), **s. 32(1)** (with s. 32(6))
- F81** Words in s. 72(5)(a) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 63(3)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F82** Words in s. 72(5)(a) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 63(3)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F83** Sum in s. 72(8)(a) substituted for words (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 2 para. 8(4)** (with reg. 5(1))
- F84** Words in s. 72(8)(b) substituted (22.2.2024) by Finance Act 2024 (c. 3), **s. 32(1)** (with s. 32(6))
- F85** S. 72(9) repealed (8.11.2007) by Finance Act 2007 (c. 11), s. 84(4)(5), Sch. 22 para. 8(a), **Sch. 27 Pt. 5(1)**; S.I. 2007/3166, art. 2(c)
- F86** Words in s. 72(10) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 63(4)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F87** Words in s. 72(10) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 63(4)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F88** Sum in s. 72(10) substituted for words (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 2 para. 8(5)** (with reg. 5(1))
- F89** Words in s. 72(11) inserted (retrospective to 10.4.2003) by Finance Act 2003 (c. 14), **s. 17(5)(8)**
- F90** Sum in s. 72(11) substituted for words (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 2 para. 8(6)** (with reg. 5(1))

**Modifications etc. (not altering text)**

- C7** S. 72 applied (with modifications) (1.5.2023) by The Value Added Tax (Margin Schemes and Removal or Export of Goods: VAT-related Payments) Order 2023 (S.I. 2023/68), arts. 1(1), **13** (with art. 1(2))

*Assessments of VAT and other payments due*

**73 Failure to make returns etc.**

- (1) Where a person has failed to make any returns required under this Act (or under any provision repealed by this Act) or to keep any documents and afford the facilities necessary to verify such returns or where it appears to the Commissioners that such returns are incomplete or incorrect, they may assess the amount of VAT due from him to the best of their judgment and notify it to him.
- (2) In any case where, for any prescribed accounting period, there has been paid or credited to any person—
  - (a) as being a repayment or refund of VAT, or
  - (b) as being due to him as a VAT credit,

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*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

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an amount which ought not to have been so paid or credited, or which would not have been so paid or credited had the facts been known or been as they later turn out to be, the Commissioners may assess that amount as being VAT due from him for that period and notify it to him accordingly.

- (3) An amount—
- (a) which has been paid to any person as being due to him as a VAT credit, and
  - (b) which, by reason of the cancellation of that person's registration under paragraph 13(2) to (6) of Schedule 1, [<sup>F91</sup>paragraph 9 or 11 of Schedule 1A]<sup>F92</sup>... [<sup>F93</sup>or paragraph 6(1) or (2) of Schedule 3A] ought not to have been so paid,
- may be assessed under subsection (2) above notwithstanding that cancellation.
- (4) Where a person is assessed under subsections (1) and (2) above in respect of the same prescribed accounting period the assessments may be combined and notified to him as one assessment.
- (5) Where the person failing to make a return, or making a return which appears to the Commissioners to be incomplete or incorrect, was required to make the return as a personal representative, trustee in bankruptcy, [<sup>F94</sup>trustee in sequestration], receiver, liquidator or person otherwise acting in a representative capacity in relation to another person, subsection (1) above shall apply as if the reference to VAT due from him included a reference to VAT due from that other person.
- (6) An assessment under subsection (1), (2) or (3) above of an amount of VAT due for any prescribed accounting period must be made within the time limits provided for in section 77 and shall not be made after the later of the following—
- (a) 2 years after the end of the prescribed accounting period; or
  - (b) one year after evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge,
- but (subject to that section) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under subsection (1), (2) or (3) above, another assessment may be made under that subsection, in addition to any earlier assessment.
- [<sup>F95</sup>(6A) In the case of an assessment under subsection (2), the prescribed accounting period referred to in subsection (6)(a) and in section 77(1)(a) is the prescribed accounting period in which the repayment or refund of VAT, or the VAT credit, was paid or credited.]
- (7) Where a taxable person—
- (a) has in the course or furtherance of a business carried on by him, been supplied with any goods<sup>F96</sup>... or otherwise obtained possession or control of any goods, or
  - (b) has, in the course or furtherance of such a business, imported any goods<sup>F97</sup>...,
- the Commissioners may require him from time to time to account for the goods; and if he fails to prove that the goods have been or are available to be supplied by him or have been exported or otherwise removed from the United Kingdom without being exported or so removed by way of supply or have been lost or destroyed, they may assess to the best of their judgment and notify to him the amount of VAT that would have been chargeable in respect of the supply of the goods if they had been supplied by him.

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- [<sup>F98</sup>(7A) Where a fiscal warehousekeeper has failed to pay VAT required by the Commissioners under section 18E(2), the Commissioners may assess to the best of their judgment the amount of that VAT due from him and notify it to him.
- (7B) Where it appears to the Commissioners that goods have been removed from a warehouse or fiscal warehouse without payment of the VAT payable under section 18(4) or section 18D on that removal, they may assess to the best of their judgment the amount of VAT due from the person removing the goods or other person liable and notify it to him.]
- (8) In any case where—
- (a) as a result of a person’s failure to make a return for a prescribed accounting period, the Commissioners have made an assessment under subsection (1) above for that period,
  - (b) the VAT assessed has been paid but no proper return has been made for the period to which the assessment related, and
  - (c) as a result of a failure to make a return for a later prescribed accounting period, being a failure by a person referred to in paragraph (a) above or a person acting in a representative capacity in relation to him, as mentioned in subsection (5) above, the Commissioners find it necessary to make another assessment under subsection (1) above,
- then, if the Commissioners think fit, having regard to the failure referred to in paragraph (a) above, they may specify in the assessment referred to in paragraph (c) above an amount of VAT greater than that which they would otherwise have considered to be appropriate.
- (9) Where an amount has been assessed and notified to any person under subsection (1), (2), (3) [<sup>F99</sup>, (7), (7A) or (7B)] above it shall, subject to the provisions of this Act as to appeals, be deemed to be an amount of VAT due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (10) For the purposes of this section notification to a personal representative, trustee in bankruptcy, [<sup>F100</sup> trustee in sequestration], receiver, liquidator or person otherwise acting as aforesaid shall be treated as notification to the person in relation to whom he so acts.

#### Textual Amendments

- F91** Words in s. 73(3)(b) inserted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 8](#)
- F92** Words in s. 73(3)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 64\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), 21), [S.I. 2020/1545](#), Pt. 4 and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 4(b) (with reg. 7)
- F93** Words in s. 73(3)(b) substituted (28.7.2000 with effect as mentioned in [s. 136\(10\)](#) of the amending Act) by [2000 c. 17](#), [s. 136\(4\)](#)
- F94** Words in s. 73(5) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 12\(2\)](#)
- F95** [S. 73\(6A\)](#) inserted (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\)](#), [s. 120\(1\)\(5\)](#)
- F96** Words in s. 73(7)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 64\(3\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I.](#)



*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F97** Words in s. 73(7)(b) omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 64(3)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F98** S. 73(7A)(7B) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 10**; S.I. 1996/1249, **art. 2**
- F99** Words in s. 73(9) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 11**; S.I. 1996/1249, **art. 2**
- F100** Words in s. 73(10) substituted (30.11.2016) by **The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016** (S.I. 2016/1034), art. 1, **Sch. 1 para. 12(2)**

**Modifications etc. (not altering text)**

- C8** S. 73 modified (20.10.1995) by S.I. 1995/2518, **regs. 181, 194**

**F10174 Interest on VAT recovered or recoverable by assessment.**

.....

**Textual Amendments**

- F101** S. 74 omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of **The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022** (S.I. 2022/1298), arts. 1(3)(a), **3(2)**

**F10275 Assessments in cases of acquisitions of certain goods by non-taxable persons.**

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**Textual Amendments**

- F102** S. 75 omitted (31.12.2020) by virtue of **Taxation (Cross-border Trade) Act 2018** (c. 22), s. 57(3), **Sch. 8 para. 66** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**76 Assessment of amounts due by way of [<sup>F103</sup>penalty, interest or surcharge][<sup>F103</sup>penalty <sup>F104</sup>...].**

- (1) Where any person is liable—
- <sup>F105</sup>(a) to a surcharge under section 59 [<sup>F106</sup>or 59A] or]
  - (b) to a penalty under any of sections 60 [<sup>F107</sup>to 69C], or
  - <sup>F108</sup>(c) .....
  - <sup>F109</sup>(d) a penalty under regulations made under section 135 of the Finance Act 2002 (mandatory electronic filing of returns) in connection with VAT,]

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

the Commissioners may, subject to subsection (2) below, assess the amount due by way of [<sup>F110</sup>penalty, interest or surcharge][<sup>F110</sup>penalty <sup>F111</sup>...], as the case may be, and notify it to him accordingly; and the fact that any conduct giving rise to a penalty under any of sections 60 [<sup>F112</sup>to [<sup>F113</sup>69B]] [<sup>F114</sup>or the regulations] may have ceased before an assessment is made under this section shall not affect the power of the Commissioners to make such an assessment.

- (2) Where a person is liable to a penalty under section 69 for any failure to comply with such a requirement as is referred to in subsection (1)(c) to (f) of that section, no assessment shall be made under this section of the amount due from him by way of such penalty unless, within the period of 2 years preceding the assessment, the Commissioners have issued him with a written warning of the consequences of a continuing failure to comply with that requirement.
- (3) <sup>F115</sup>In the case of the [<sup>F116</sup>penalties, interest and surcharge][<sup>F116</sup>penalties ...] referred to in the following paragraphs, the assessment under this section shall be of an amount due in respect of the prescribed accounting period which in the paragraph concerned is referred to as “the relevant period”—
- [<sup>F117</sup>(a) in the case of a surcharge under section 59 [<sup>F118</sup>or 59A], the relevant period is the prescribed accounting period in respect of which the taxable person is in default and in respect of which the surcharge arises;]
- (b) in the case of a penalty under section 60 relating to the evasion of VAT, the relevant period is the prescribed accounting period for which the VAT evaded was due;
- (c) in the case of a penalty under section 60 relating to the obtaining of the payment of a VAT credit, the relevant period is the prescribed accounting period in respect of which the payment was obtained;
- (d) in the case of a penalty under section 63, the relevant period is the prescribed accounting period for which liability to VAT was understated or, as the case may be, for which entitlement to a VAT credit was overstated; <sup>F119</sup>...
- <sup>F120</sup>(e) .....
- [<sup>F121</sup>(f) in the case of a penalty under regulations made under section 135 of the Finance Act 2002, the relevant period is the prescribed accounting period in respect of which the contravention of, or failure to comply with, the regulations occurred].
- <sup>F122</sup>(3A) .....
- (4) In any case where the amount of any [<sup>F123</sup>penalty, interest or surcharge][<sup>F123</sup>penalty <sup>F124</sup>...] falls to be calculated by reference to VAT which was not paid at the time it should have been and that VAT (or the supply which gives rise to it) cannot be readily attributed to any one or more prescribed accounting periods, it shall be treated for the purposes of this Act as VAT due for such period or periods as the Commissioners may determine to the best of their judgment and notify to the person liable for the VAT and [<sup>F123</sup>penalty, interest or surcharge][<sup>F123</sup>penalty <sup>F124</sup>...].
- (5) Where a person is assessed under this section to an amount due by way of any [<sup>F125</sup>penalty, interest or surcharge][<sup>F125</sup>penalty <sup>F126</sup>...] falling within subsection (3) <sup>F127</sup>... above and is also assessed under section 73(1), (2) [<sup>F128</sup>, (7), (7A) or (7B)] for the prescribed accounting period which is the relevant period under subsection (3) <sup>F127</sup>... above, the assessments may be combined and notified to him as one assessment, but the amount of the [<sup>F125</sup>penalty, interest or surcharge][<sup>F125</sup>penalty <sup>F126</sup>...] shall be separately identified in the notice.

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- <sup>F129</sup>(6) .....
- (7) In the case of an amount due by way of penalty under section 66 or 69 <sup>F130</sup>...—
- (a) a notice of assessment under this section shall specify a date, being not later than the date of the notice, to which the aggregate amount of the penalty which is assessed <sup>F131</sup>... is calculated; and
- (b) if the penalty <sup>F132</sup>... continues to accrue after that date, a further assessment or assessments may be made under this section in respect of amounts which so accrue.
- (8) If, within such period as may be notified by the Commissioners to the person liable to a penalty under section 66 or 69 <sup>F133</sup>...—
- (a) a failure or default falling within section 66(1) or 69(1) is remedied, <sup>F134</sup>...
- <sup>F134</sup>(b) .....
- it shall be treated for the purposes of section 66 or 69 <sup>F135</sup>... as paid or remedied on the date specified as mentioned in subsection (7)(a) above.
- (9) If an amount is assessed and notified to any person under this section, then unless, or except to the extent that, the assessment is withdrawn or reduced, that amount shall be recoverable as if it were VAT due from him.
- (10) For the purposes of this section, notification to a personal representative, trustee in bankruptcy, [<sup>F136</sup>trustee in sequestration], receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who made the acquisition in question shall be treated as notification to the person in relation to whom he so acts.

### Textual Amendments

- F103** Words in s. 76 heading substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(2)**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F104** Words in s. 76 heading omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(a)**
- F105** S. 76(1)(a) omitted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(3)(a)**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F106** Words in s. 76(1)(a) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 67(2)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F107** Words in s. 76(1)(b) substituted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), s. **68(4)**
- F108** S. 76(1)(c) and word omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(b)(i)**
- F109** S. 76(1)(d) and word inserted (19.7.2007) by Finance Act 2007 (c. 11), s. **93(5)**
- F110** Words in s. 76(1) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(3)(b)**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2

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- F111** Words in s. 76(1) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(b)(ii)**
- F112** Words in s. 76(1) substituted (28.7.2000) by 2000 c. 17, s. **137(4)**
- F113** Word in s. 76(1) substituted (19.7.2006) by Finance Act 2006 (c. 25), s. **21(3)**
- F114** Words in s. 76(1) inserted (19.7.2007) by Finance Act 2007 (c. 11), s. **93(6)**
- F115** Words in s. 76(3) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(c)(i)**
- F116** Words in s. 76(3) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(4)(a)**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F117** S. 76(3)(a) omitted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(4)(b)**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F118** Words in s. 76(3)(a) substituted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, s. **35(7)(8)**
- F119** Word in s. 76(3)(d) repealed (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 27 Pt. 5(4)**
- F120** S. 76(3)(e) and word omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(c)(ii)**
- F121** S. 76(3)(f) and word inserted (19.7.2007) by Finance Act 2007 (c. 11), s. **93(7)**
- F122** S. 76(3A) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 67(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F123** Words in s. 76(4) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(5)**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F124** Words in s. 76(4) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(d)**
- F125** Words in s. 76(5) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(6)**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F126** Words in s. 76(5) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(e)**
- F127** Words in s. 76(5) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 67(4)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F128** Words in s. 76(5) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 11**; S.I. 1996/1249, **art. 2**
- F129** S. 76(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 67(5)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as

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amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

- F130** Words in s. 76(7) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(f)(i)**
- F131** Words in s. 76(7)(a) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(f)(ii)**
- F132** Words in s. 76(7)(b) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(f)(iii)**
- F133** Words in s. 76(8) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(g)(i)**
- F134** S. 76(8)(b) and word omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(g)(ii)**
- F135** Words in s. 76(8) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(3)(g)(iii)**
- F136** Words in s. 76(10) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 12(4)**

**Modifications etc. (not altering text)**

- C9** S. 76 modified (31.12.2020) by The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546), regs. 1, **18** (with reg. 15); S.I. 2020/1641, reg. 2, Sch.
- C10** S. 76(1)-(8) excluded (1.4.2004) by The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674), reg. 1, **Sch. 2 para. 3(1)**
- C11** S. 76(9) applied (with modifications) (1.4.2004) by The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674), reg. 1, **Sch. 2 para. 3(2)**
- C12** S. 76(9) restricted (1.4.2004) by The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674), reg. 1, **Sch. 2 para. 3(1)**
- C13** S. 76(10) amended (retrospectively) by 1997 c. 16, s. **45(6)**
- C14** S. 76(10) excluded (1.4.2004) by The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674), reg. 1, **Sch. 2 para. 3(1)**

**F137** **76A Section 76: cases involving special accounting schemes**

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### Textual Amendments

**F137** S. 76A omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 68](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495, regs. 1\(2\), 21](#)), [S.I. 2020/1545, Pt. 4](#) and [2020 c. 26, Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642, reg. 4\(b\)](#) (with [reg. 7](#))

## 77 Assessments: time limits and supplementary assessments.

- (1) Subject to the following provisions of this section, an assessment under section 73<sup>F138</sup> ... or 76, shall not be made—
- (a) more than <sup>F139</sup>4 years] after the end of the prescribed accounting period or importation <sup>F140</sup>... concerned, or
  - (b) in the case of an assessment under section 76 of an amount due by way of a penalty which is not among those referred to in subsection (3) of that section, <sup>F141</sup>4 years] after the event giving rise to the penalty.
- <sup>F142</sup>(2) Subject to subsection (5) below, an assessment under section 76 of an amount due by way of any <sup>F143</sup>penalty, interest or surcharge][<sup>F143</sup>penalty <sup>F144</sup>...] referred to in subsection (3) <sup>F145</sup>... of that section may be made at any time before the expiry of the period of 2 years beginning with the time when the amount of VAT due for the prescribed accounting period concerned has been finally determined.
- (2A) Subject to subsection (5) below, an assessment under section 76 of a penalty under section 65 or 66 may be made at any time before the expiry of the period of 2 years beginning with the time when facts sufficient in the opinion of the Commissioners to indicate, as the case may be—
- (a) that the statement in question contained a material inaccuracy, or
  - (b) that there had been a default within the meaning of section 66(1), came to the Commissioners' knowledge.]
- (3) In relation to an assessment under section 76, any reference in subsection (1) or (2) above to the prescribed accounting period concerned is a reference to that period which, in the case of the <sup>F146</sup>penalty, interest or surcharge][<sup>F146</sup>penalty <sup>F147</sup>...] concerned, is the relevant period referred to in subsection (3) <sup>F148</sup>... of that section.
- <sup>F149</sup>(4) In any case falling within subsection (4A), an assessment of a person ("P"), or of an amount payable by P, may be made at any time not more than 20 years after the end of the prescribed accounting period or the importation<sup>F150</sup> ... or event giving rise to the penalty, as appropriate (subject to subsection (5)).
- (4A) Those cases are—
- (a) a case involving a loss of VAT brought about deliberately by P (or by another person acting on P's behalf),
  - (b) a case in which P has participated in a transaction knowing that it was part of arrangements of any kind (whether or not legally enforceable) intended to bring about a loss of VAT,
  - (c) a case involving a loss of VAT attributable to a failure by P to comply with a notification obligation, and
  - (d) a case involving a loss of VAT attributable to a scheme in respect of which P has failed to comply with an obligation under paragraph 6 of Schedule 11A

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[<sup>F151</sup>or an obligation under paragraph 17(2) or 18(2) of Schedule 17 to FA 2017].

- (4B) In subsection (4A) the references to a loss of tax brought about deliberately by P or another person include a loss that arises as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by that person.
- (4C) In subsection (4A)(c) “notification obligation” means an obligation under—
- (a) paragraph 5, 6, 7 or 14(2) or (3) of Schedule 1,
  - [<sup>F152</sup>(aa) paragraph 5, 6 or 13(3) of Schedule 1A, [<sup>F153</sup>or]]
  - <sup>F154</sup>(b) .....
  - <sup>F155</sup>(c) .....
  - (d) paragraph 3, 4 or 7(2) or (3) of Schedule 3A, <sup>F156</sup> ...
  - <sup>F156</sup>(e) .....]
- (5) Where, after a person’s death, the Commissioners propose to assess a sum as due by reason of some conduct (howsoever described) of the deceased, including a sum due by way of [<sup>F157</sup>penalty, interest or surcharge][<sup>F157</sup>penalty <sup>F158</sup>...]—
- (a) the assessment shall not be made more than [<sup>F159</sup>4 years] after the death; <sup>F160</sup> ...
  - <sup>F160</sup>(b) .....
- (6) If, otherwise than in circumstances falling within section 73(6)(b) <sup>F161</sup>..., it appears to the Commissioners that the amount which ought to have been assessed in an assessment under that section or under section 76 exceeds the amount which was so assessed, then—
- (a) under the like provision as that assessment was made, and
  - (b) on or before the last day on which that assessment could have been made,
- the Commissioners may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

### Textual Amendments

- F138** Word in s. 77(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 69(2)(a)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F139** Words in s. 77(1)(a) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), **Sch. 39 para. 34(2)**; S.I. 2009/403, art. 2(1) (with arts. 4, 9)
- F140** Words in s. 77(1)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 69(2)(b)** (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F141** Words in s. 77(1)(b) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), **Sch. 39 para. 34(2)**; S.I. 2009/403, art. 2(1) (with arts. 4, 9)
- F142** S. 77(2)(2A) substituted (27.7.1999 with effect as mentioned in s. 18(2)) for s. 77(2) by 1999 c. 16, s. **18(1)(2)**
- F143** Words in s. 77(2) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by [Finance Act 2021 \(c. 26\)](#), s. 118(2), **Sch. 27 para. 21**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F144** Words in s. 77(2) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of [The Finance Act 2009, Sections 101 and 102 \(Value Added Tax\) \(Late Payment Interest and](#)

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- Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(4)**
- F145** Words in s. 77(2) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F146** Words in s. 77(3) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 21**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F147** Words in s. 77(3) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(4)**
- F148** Words in s. 77(3) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(4)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F149** S. 77(4)-(4C) substituted for s. 77(4) (1.4.2009) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 34(3)**; S.I. 2009/403, art. 2(1) (with arts. 4, 9)
- F150** Word in s. 77(4) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(5)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F151** Words in s. 77(4A)(d) inserted (16.11.2017 for specified purposes, 1.1. 2018 in so far as not already in force) by Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 51**
- F152** S. 77(4C)(aa) inserted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 28 para. 10**
- F153** Word in s. 77(4C)(aa) inserted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(6)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F154** S. 77(4C)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(6)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F155** S. 77(4C)(c) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(6)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F156** S. 77(4C)(e) and word omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(6)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F157** Words in s. 77(5) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 21**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F158** Words in s. 77(5) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(4)**
- F159** Words in s. 77(5)(a) substituted (1.4.2009) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 34(4)(a)**; S.I. 2009/403, art. 2(1) (with arts. 4, 9)



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**F160** S. 77(5)(b) and word omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 34(4)(b)**; S.I. 2009/403, art. 2(1) (with arts. 4, 9)

**F161** Words in s. 77(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(7)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**Modifications etc. (not altering text)**

**C15** S. 77(4)-(4B) applied (1.5.2023) by The Value Added Tax (Margin Schemes and Removal or Export of Goods: VAT-related Payments) Order 2023 (S.I. 2023/68), arts. 1(1), **15(4)** (with art. 1(2))

[<sup>F162</sup>**77ZA** **Late payment interest on amounts of VAT due**

Interest charged under section 101 of the Finance Act 2009 on an amount of VAT (or an amount enforceable as if it were VAT) may be enforced as if it were an amount of VAT due from the person liable for the amount on which the interest is charged.]

**Textual Amendments**

**F162** S. 77ZA inserted (1.1.2023) by The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(2), **3(5)**

**Modifications etc. (not altering text)**

**C16** S. 77ZA applied (with modifications) (1.5.2023) by S.I. 2023/68, **art. 16D** (as inserted by The Value Added Tax (Margin Schemes and Removal or Export of Goods: VAT-related Payments) (Late Payment Interest and Repayment Interest) (Amendment) Order 2023 (S.I. 2023/412), arts. 1, **2(2)**)

[<sup>F163</sup>*Liability for unpaid VAT of another*

**Textual Amendments**

**F163** S. 77A and cross-heading inserted (retrospective to 10.4.2003) by Finance Act 2003 (c. 14), s. **18(1)(4)**

**77A Joint and several liability of traders in supply chain where tax unpaid**

(1) This section applies to goods [<sup>F164</sup>which fall within any one or more] of the following descriptions—

- [<sup>F165</sup>(a) any equipment made or adapted for use as a telephone and any other equipment made or adapted for use in connection with telephones or telecommunication;
- (b) any equipment made or adapted for use as a computer and any other equipment made or adapted for use in connection with computers or computer systems (including, in particular, positional determination devices for use with satellite navigation systems);
- (c) any other electronic equipment made or adapted for use by individuals for the purposes of leisure, amusement or entertainment and any other equipment made or adapted for use in connection with any such electronic equipment;

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*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

and in this subsection “other equipment” includes parts, accessories and software.]

- (2) Where—
- (a) a taxable supply of goods to which this section applies has been made to a taxable person, and
  - (b) at the time of the supply the person knew or had reasonable grounds to suspect that some or all of the VAT payable in respect of that supply, or on any previous or subsequent supply of those goods, would go unpaid,
- the Commissioners may serve on him a notice specifying the amount of the VAT so payable that is unpaid, and stating the effect of the notice.
- (3) The effect of a notice under this section is that—
- (a) the person served with the notice, and
  - (b) the person liable, apart from this section, for the amount specified in the notice,
- are jointly and severally liable to the Commissioners for that amount.
- (4) For the purposes of subsection (2) above the amount of VAT that is payable in respect of a supply is the lesser of—
- (a) the amount chargeable on the supply, and
  - (b) the amount shown as due on the supplier’s return for the prescribed accounting period in question (if he has made one) together with any amount assessed as due from him for that period (subject to any appeal by him).
- (5) The reference in subsection (4)(b) above to assessing an amount as due from a person includes a reference to the case where, because it is impracticable to do so, the amount is not notified to him.
- (6) For the purposes of subsection (2) above, a person shall be presumed to have reasonable grounds for suspecting matters to be as mentioned in paragraph (b) of that subsection if the price payable by him for the goods in question—
- (a) was less than the lowest price that might reasonably be expected to be payable for them on the open market, or
  - (b) was less than the price payable on any previous supply of those goods.
- (7) The presumption provided for by subsection (6) above is rebuttable on proof that the low price payable for the goods was due to circumstances unconnected with failure to pay VAT.
- (8) Subsection (6) above is without prejudice to any other way of establishing reasonable grounds for suspicion.
- [<sup>F166</sup>(9) The Treasury may by order amend subsection (1) above.
- (9A) The Treasury may by order amend this section in order to extend or otherwise alter the circumstances in which a person shall be presumed to have reasonable grounds for suspecting matters to be as mentioned in subsection (2)(b) above.
- (9B) Any order under this section may make such incidental, supplemental, consequential or transitional provision as the Treasury think fit.]
- (10) For the purposes of this section—
- (a) “goods” includes services;

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*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- (b) an amount of VAT counts as unpaid only to the extent that it exceeds the amount of any refund due.]

#### Textual Amendments

- F164** Words in s. 77A(1) substituted (1.5.2007) by [The Value Added Tax \(Amendment of section 77A of the Value Added Tax Act 1994\) Order 2007 \(S.I. 2007/939\)](#), arts. 1, **2(a)**
- F165** S. 77A(1)(a)-(c) substituted for s. 77A(1)(a)(b) (1.5.2007) by [The Value Added Tax \(Amendment of section 77A of the Value Added Tax Act 1994\) Order 2007 \(S.I. 2007/939\)](#), arts. 1, **2(b)**
- F166** S. 77A(9)-(9B) substituted for s. 77A(9) (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. **98(1)**

*[<sup>F167</sup>Online marketplaces]*

#### Textual Amendments

- F167** S. 77B cross-heading inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), s. **38(3)**

#### <sup>F168</sup>77B Joint and several liability: [<sup>F169</sup>sellers identified as non-compliant by the Commissioners]

- (1) This section applies where a person (“P”)<sup>F170</sup> ...—
- makes taxable supplies of goods through an online marketplace, and
  - fails to comply with any requirement imposed on P by or under this Act (whether or not it relates to those supplies).
- (2) The Commissioners may give the person who is the operator of the online marketplace (“the operator”) a notice—
- stating that, unless the operator secures the result mentioned in subsection (3), subsection (5) will apply, and
  - explaining the effect of subsection (5).
- (3) The result referred to in subsection (2)(a) is that P does not offer goods for sale through the online marketplace at any time between—
- the end of such period as may be specified in the notice, and
  - the notice ceasing to have effect.
- (4) If the operator does not secure the result mentioned in subsection (3), subsection (5) applies.
- (5) The operator is jointly and severally liable to the Commissioners for the amount of VAT payable by P in respect of all taxable supplies of goods made by P through the online marketplace in the period for which the notice has effect.
- (6) A notice under subsection (2) (“the liability notice”) has effect for the period beginning with the day after the day on which it is given, and ending—
- with the day specified in a notice given by the Commissioners under subsection (7), or
  - in accordance with subsection (8).
- (7) The Commissioners may at any time give the operator a notice stating that the period for which the liability notice has effect ends with the day specified in the notice.

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*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- (8) If the person to whom the liability notice is given ceases to be the operator of the online marketplace, the liability notice ceases to have effect at the end of—
- (a) the day on which the person ceases to be the operator, or
  - (b) (if later) the day on which the person notifies the Commissioners that the person is no longer the operator.

<sup>F171</sup>(9) .....

<sup>F172</sup>(10) .....

- (11) The Treasury may by regulations provide that supplies made or goods offered for sale in circumstances specified in the regulations are, or are not, to be treated for the purposes of this section as having been made or offered through an online marketplace.

<sup>F173</sup>(12) .....

#### Textual Amendments

**F168** Ss. 77B-77D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), s. 124(2)

**F169** Words in s. 77B heading substituted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), s. 38(4)(a)

**F170** Words in s. 77B(1) omitted (15.3.2018) by virtue of [Finance Act 2018 \(c. 3\)](#), s. 38(4)(b)

**F171** S. 77B(9) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 3 para. 8](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9

**F172** S. 77B(10) omitted (15.3.2018) by virtue of [Finance Act 2018 \(c. 3\)](#), s. 38(4)(c)

**F173** S. 77B(12) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 3 para. 8](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9

#### <sup>F174</sup>**Joint and several liability: non-UK sellers in breach of Schedule 1A registration requirement**

- (1) This section applies where—
- (a) a person (“P”) who makes taxable supplies of goods through an online marketplace is in breach of a Schedule 1A registration requirement, and
  - (b) the operator of the online marketplace knows, or should know, that P is in breach of a Schedule 1A registration requirement.
- (2) If the operator of the online marketplace does not secure the result in subsection (3), subsection (4) applies.
- (3) The result referred to in subsection (2) is that P does not offer goods for sale through the online marketplace in any period between—
- (a) the end of the period of 60 days beginning with the day on which the operator first knew, or should have known, that P was in breach of a Schedule 1A registration requirement, and
  - (b) P ceasing to be in breach of a Schedule 1A registration requirement.
- (4) The operator is jointly and severally liable to the Commissioners for the amount of VAT payable by P in respect of all taxable supplies of goods made by P through the online marketplace in the relevant period.
- (5) The relevant period is the period—

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*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- (a) beginning with the day on which the operator first knew, or should have known, that P was in breach of a Schedule 1A registration requirement, and
  - (b) ending with P ceasing to be in breach of a Schedule 1A registration requirement.
- (6) But if the operator has been given a notice under section 77B in respect of P, the relevant period does not include—
- (a) any period for which the operator is jointly and severally liable for the amount mentioned in subsection (4) by virtue of section 77B, or
  - (b) if the operator secures the result mentioned in section 77B(3), the period beginning with the day on which the operator is given the notice and ending with the day on which the operator secures that result.
- (7) P is in breach of a Schedule 1A registration requirement if P is liable to be registered under Schedule 1A to this Act, but is not so registered.

<sup>F175</sup>(8)] .....

#### Textual Amendments

**F168** Ss. 77B-77D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), s. 124(2)

**F174** S. 77BA inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), s. 38(5)

**F175** S. 77BA(8) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 3 para. 9](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9

### 77C Joint and several liability under section 77B [<sup>F176</sup>or 77BA]: assessments

- (1) The Commissioners may assess the amount of VAT due from the operator of an online marketplace by virtue of section 77B [<sup>F177</sup>or 77BA] to the best of their judgment and notify it to the operator.
- (2) Subject to subsections (3) to (6), an assessment may be made for such period or periods as the Commissioners consider appropriate.
- (3) An assessment for any month may not be made after the end of—
  - (a) 2 years after the end of that month, or
  - (b) (if later) one year after evidence of facts, sufficient in the opinion of the Commissioners to justify the making of an assessment for that month, comes to their knowledge.
- (4) Subsection (5) applies if, after the Commissioners have made an assessment for a period, evidence of facts sufficient in the opinion of the Commissioners to justify the making of a further assessment for that period comes to their knowledge.
- (5) The Commissioners may, no later than one year after that evidence comes to their knowledge, make a further assessment for that period (subject to subsection (6)).
- (6) An assessment or further assessment for a month may not be made more than 4 years after the end of the month.
- (7) An amount which has been assessed and notified to a person under this section is deemed to be an amount of VAT due from the person and may be recovered

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

accordingly (unless, or except to the extent that, the assessment is subsequently withdrawn or reduced).

(8) Subsection (7) is subject to the provisions of this Act as to appeals.

<sup>F178</sup>(9)] .....

#### Textual Amendments

**F168** Ss. 77B-77D inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [s. 124\(2\)](#)

**F176** Words in s. 77C heading inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), [s. 38\(6\)\(a\)](#)

**F177** Words in s. 77C(1) inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), [s. 38\(6\)\(b\)](#)

**F178** S. 77C(9) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 3 para. 10](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9

<sup>F180</sup>77D **Joint and several liability under section 77B [<sup>F179</sup>or 77BA]: interest**

.....

#### Textual Amendments

**F179** Words in s. 77D heading inserted (15.3.2018) by [Finance Act 2018 \(c. 3\)](#), [s. 38\(7\)\(a\)](#)

**F180** S. 77D omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of [The Finance Act 2009, Sections 101 and 102 \(Value Added Tax\) \(Late Payment Interest and Repayment Interest\) \(Exceptions and Consequential Amendments\) Order 2022 \(S.I. 2022/1298\)](#), arts. 1(3)(a), [3\(6\)](#)

<sup>F181</sup>77E **Display of VAT registration numbers**

- (1) This section applies where a person (“P”) offers, or proposes to offer, goods for sale through an online marketplace.
- (2) The operator of the online marketplace must take reasonable steps to check that—
  - (a) any number provided to the operator (by P or another person) as P's VAT registration number is valid, and
  - (b) any number displayed on the online marketplace as P's VAT registration number (under subsection (3) or otherwise) is valid.
- (3) If a number is provided to the operator (by P or another person) as P's VAT registration number and the number is valid, the operator must secure that it is displayed on the online marketplace as P's VAT registration number no later than the time mentioned in subsection (4).
- (4) The time is—
  - (a) the end of the period of 10 days beginning with the day on which the operator is provided with the number, or
  - (b) if the number is provided before P offers goods for sale through the online marketplace, the later of—
    - (i) the end of the period in paragraph (a), and
    - (ii) the end of the day on which P first offers goods for sale through the online marketplace.

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*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- (5) If the operator becomes aware that a number displayed on the online marketplace as P's VAT registration number (under subsection (3) or otherwise) is not valid, the operator must secure that it is removed from the online marketplace before the end of the relevant period.
- (6) The relevant period is the period of 10 days beginning with the day on which the operator first became aware that the number was not valid.
- (7) A number is provided or displayed as P's VAT registration number only if it is provided or displayed in connection with P offering, or proposing to offer, goods for sale through the online marketplace.
- (8) A number provided or displayed as P's VAT registration number is valid only if—
  - (a) P is registered under this Act, and
  - (b) the number is P's VAT registration number.
- (9) In this section—

F182  
...

“VAT registration number” means the number allocated by the Commissioners to a person registered under this Act.]

#### Textual Amendments

**F181** S. 77E inserted (15.3.2018) by [Finance Act 2018 \(c. 3\), s. 38\(8\)](#)

**F182** Words in s. 77E(9) omitted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by virtue of [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 3 para. 12](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9

*[<sup>F183</sup>Liability of operators of online marketplaces for VAT in cases of deemed supply*

#### Textual Amendments

**F183** S. 77F and crossheading inserted (31.12.2020 in so far as not already in force, 17.12.2020 for specified purposes) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\), s. 11\(1\)\(e\), Sch. 3 para. 13](#) (with [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, reg. 9

### **77F Exception from liability under section 5A**

- (1) This section applies where an amount of VAT is due from the operator of an online marketplace by virtue of section 5A.
- (2) The operator is not liable for any amount of VAT in excess of the amount paid by R (as defined in section 5A) provided that the operator took—
  - (a) all reasonable steps to ascertain the matters set out in subsection (3), and
  - (b) all other reasonable steps to satisfy itself that the amount charged was correct.
- (3) The matters are—
  - (a) the place of establishment of the person making taxable supplies facilitated by the online marketplace;
  - (b) the location of the goods at the time of their supply.]

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

*Interest, repayment supplements etc. payable by Commissioners*

**<sup>F184</sup>78 Interest in certain cases of official error.**

.....

**Textual Amendments**

**F184** S. 78 omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of [The Finance Act 2009, Sections 101 and 102 \(Value Added Tax\) \(Late Payment Interest and Repayment Interest\) \(Exceptions and Consequential Amendments\) Order 2022 \(S.I. 2022/1298\)](#), arts. 1(3)(a), **3(7)**

**<sup>F185</sup>78A Assessment for interest overpayments.**

.....

**Textual Amendments**

**F185** S. 78A omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of [The Finance Act 2009, Sections 101 and 102 \(Value Added Tax\) \(Late Payment Interest and Repayment Interest\) \(Exceptions and Consequential Amendments\) Order 2022 \(S.I. 2022/1298\)](#), arts. 1(3)(a), **3(8)**

**<sup>F186</sup>79 Repayment supplement in respect of certain delayed payments or refunds.**

.....

**Textual Amendments**

**F186** S. 79 omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of [The Finance Act 2009, Sections 101 and 102 \(Value Added Tax\) \(Late Payment Interest and Repayment Interest\) \(Exceptions and Consequential Amendments\) Order 2022 \(S.I. 2022/1298\)](#), arts. 1(3)(a), **3(9)**

**80 [<sup>F187</sup>Credit for, or repayment of, overstated or overpaid VAT]**

<sup>F188</sup>(1) Where a person—

- (a) has accounted to the Commissioners for VAT for a prescribed accounting period (whenever ended), and
- (b) in doing so, has brought into account as output tax an amount that was not output tax due,

the Commissioners shall be liable to credit the person with that amount.

(1A) Where the Commissioners—

- (a) have assessed a person to VAT for a prescribed accounting period (whenever ended), and
- (b) in doing so, have brought into account as output tax an amount that was not output tax due,

they shall be liable to credit the person with that amount.



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*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

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(1B) Where a person has for a prescribed accounting period (whenever ended) paid to the Commissioners an amount by way of VAT that was not VAT due to them, otherwise than as a result of—

- (a) an amount that was not output tax due being brought into account as output tax, or
- (b) an amount of input tax allowable under section 26 not being brought into account,

the Commissioners shall be liable to repay to that person the amount so paid.]

(2) The Commissioners shall only be liable to [<sup>F189</sup>credit or] repay an amount under this section on a claim being made for the purpose.

[<sup>F190</sup>(2A) Where—

- (a) as a result of a claim under this section by virtue of subsection (1) or (1A) above an amount falls to be credited to a person, and
- (b) after setting any sums against it under or by virtue of this Act, some or all of that amount remains to his credit,

the Commissioners shall be liable to pay (or repay) to him so much of that amount as so remains.]

(3) It shall be a defence, in relation to a claim [<sup>F191</sup>under this section by virtue of subsection (1) or (1A) above, that the crediting] of an amount would unjustly enrich the claimant.

[<sup>F192</sup>(3A) Subsection (3B) below applies for the purposes of subsection (3) above where—

- (a) an amount would (apart from subsection (3) above) fall to be credited under subsection (1) or (1A) above to any person (“the taxpayer”), and
- (b) the whole or a part of the amount brought into account as mentioned in paragraph (b) of that subsection has, for practical purposes, been borne by a person other than the taxpayer.]

(3B) Where, in a case to which this subsection applies, loss or damage has been or may be incurred by the taxpayer as a result of mistaken assumptions made in his case about the operation of any VAT provisions, that loss or damage shall be disregarded, except to the extent of the quantified amount, in the making of any determination—

- (a) of whether or to what extent the [<sup>F193</sup>crediting] of an amount to the taxpayer would enrich him; or
- (b) of whether or to what extent any enrichment of the taxpayer would be unjust.

(3C) In subsection (3B) above—

“the quantified amount” means the amount (if any) which is shown by the taxpayer to constitute the amount that would appropriately compensate him for loss or damage shown by him to have resulted, for any business carried on by him, from the making of the mistaken assumptions; and

“VAT provisions” means the provisions of—

- (a) any enactment [<sup>F194</sup>or subordinate legislation] (whether or not still in force) which relates to VAT or to any matter connected with VAT; or
- (b) any notice published by the Commissioners under or for the purposes of any such enactment or subordinate legislation.

[<sup>F195</sup>(4) The Commissioners shall not be liable on a claim under this section—

- (a) to credit an amount to a person under subsection (1) or (1A) above, or

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*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

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(b) to repay an amount to a person under subsection (1B) above, if the claim is made more than [<sup>F196</sup>4 years] after the relevant date.

(4ZA) The relevant date is—

- (a) in the case of a claim by virtue of subsection (1) above, the end of the prescribed accounting period mentioned in that subsection, unless paragraph (b) below applies;
- (b) in the case of a claim by virtue of subsection (1) above in respect of an erroneous voluntary disclosure, the end of the prescribed accounting period in which the disclosure was made;
- (c) in the case of a claim by virtue of subsection (1A) above in respect of an assessment issued on the basis of an erroneous voluntary disclosure, the end of the prescribed accounting period in which the disclosure was made;
- (d) in the case of a claim by virtue of subsection (1A) above in any other case, the end of the prescribed accounting period in which the assessment was made;
- (e) in the case of a claim by virtue of subsection (1B) above, the date on which the payment was made.

In the case of a person who has ceased to be registered under this Act, any reference in paragraphs (b) to (d) above to a prescribed accounting period includes a reference to a period that would have been a prescribed accounting period had the person continued to be registered under this Act.

(4ZB) For the purposes of this section the cases where there is an erroneous voluntary disclosure are those cases where—

- (a) a person discloses to the Commissioners that he has not brought into account for a prescribed accounting period (whenever ended) an amount of output tax due for the period;
- (b) the disclosure is made in a later prescribed accounting period (whenever ended); and
- (c) some or all of the amount is not output tax due.]

[<sup>F197</sup>(4A) Where—

- (a) an amount has been credited under subsection (1) or (1A) above to any person at any time on or after 26th May 2005, and
- (b) the amount so credited exceeded the amount which the Commissioners were liable at that time to credit to that person,

the Commissioners may, to the best of their judgement, assess the excess credited to that person and notify it to him.]

[<sup>F198</sup>(4AA) An assessment under subsection (4A) shall not be made more than 2 years after the later of—

- (a) the end of the prescribed accounting period in which the amount was credited to the person, and
- (b) the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners.]

<sup>F199</sup>(4C) .....

(6) A claim under this section shall be made in such form and manner and shall be supported by such documentary evidence as the Commissioners prescribe by

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

regulations; and regulations under this subsection may make different provision for different cases.

[<sup>F200</sup>(7) Except as provided by this section <sup>F201</sup>..., the Commissioners shall not be liable to credit or repay any amount accounted for or paid to them by way of VAT that was not VAT due to them.]

#### Textual Amendments

- F187** S. 80 side-note substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(11\)](#)
- F188** S. 80(1)-(1B) substituted for s. 80(1) (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(2\)](#)
- F189** Words in s. 80(2) inserted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(3\)](#)
- F190** S. 80(2A) inserted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(4\)](#)
- F191** Words in s. 80(3) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(5\)](#)
- F192** S. 80(3A) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(6\)](#)
- F193** Word in s. 80(3B)(a) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(7\)](#)
- F194** Words in s. 80(3C) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 71\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), 21), [S.I. 2020/1545](#), Pt. 4 and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 4(b) (with reg. 7)
- F195** S. 80(4)(4ZA)(4ZB) substituted for s. 80(4) (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(8\)](#)
- F196** Words in s. 80(4) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\), s. 118\(2\), Sch. 39 para. 36](#); [S.I. 2009/403](#), art. 2(1) (with art. 6)
- F197** S. 80(4A) substituted for s. 80(4A)(4B) (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(9\)](#)
- F198** S. 80(4AA) inserted (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\), s. 120\(3\)\(5\)](#)
- F199** S. 80(4C) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of [The Finance Act 2009, Sections 101 and 102 \(Value Added Tax\) \(Late Payment Interest and Repayment Interest\) \(Exceptions and Consequential Amendments\) Order 2022 \(S.I. 2022/1298\)](#), arts. 1(3)(a), [3\(10\)](#)
- F200** S. 80(7) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(10\)](#)
- F201** Words in s. 80(7) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 71\(3\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in [S.I. 2019/105](#) (as amended by [S.I. 2020/1495](#), regs. 1(2), 21), [S.I. 2020/1545](#), Pt. 4 and [2020 c. 26](#), [Sch. 2 para. 7\(7\)-\(9\)](#)); [S.I. 2020/1642](#), reg. 4(b) (with reg. 7)

#### Modifications etc. (not altering text)

- C17** S. 80(4) modified (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\), s. 121\(1\)\(4\)](#)

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**[<sup>F202</sup>80A Arrangements for reimbursing customers.**

- (1) The Commissioners may by regulations make provision for reimbursement arrangements made by any person to be disregarded for the purposes of section 80(3) except where the arrangements—
  - (a) contain such provision as may be required by the regulations; and
  - (b) are supported by such undertakings to comply with the provisions of the arrangements as may be required by the regulations to be given to the Commissioners.
- (2) In this section “ reimbursement arrangements ” means any arrangements for the purposes of a claim under section 80 which—
  - (a) are made by any person for the purpose of securing that he is not unjustly enriched by the [<sup>F203</sup>crediting] of any amount in pursuance of the claim; and
  - (b) provide for the reimbursement of persons who have for practical purposes borne the whole or any part of [<sup>F204</sup>the amount brought into account as mentioned in paragraph (b) of subsection (1) or (1A) of that section] .
- (3) Without prejudice to the generality of subsection (1) above, the provision that may be required by regulations under this section to be contained in reimbursement arrangements includes—
  - (a) provision requiring a reimbursement for which the arrangements provide to be made within such period after the [<sup>F205</sup>crediting of the amount] to which it relates as may be specified in the regulations;
  - [<sup>F206</sup>(b) provision for cases where an amount is credited but an equal amount is not reimbursed in accordance with the arrangements;]
  - (c) provision requiring interest paid by the Commissioners on any amount [<sup>F207</sup>paid (or repaid)] by them to be treated in the same way as that amount for the purposes of any requirement under the arrangements to make reimbursement or to repay the Commissioners;
  - (d) provision requiring such records relating to the carrying out of the arrangements as may be described in the regulations to be kept and produced to the Commissioners, or to an officer of theirs.
- (4) Regulations under this section may impose obligations on such persons as may be specified in the regulations—
  - (a) [<sup>F208</sup>to make the repayments, or give the notifications, to the Commissioners that they are required to make or give] in pursuance of any provisions contained in any reimbursement arrangements by virtue of subsection (3)(b) or (c) above;
  - (b) to comply with any requirements contained in any such arrangements by virtue of subsection (3)(d) above.
- (5) Regulations under this section may make provision for the form and manner in which, and the times at which, undertakings are to be given to the Commissioners in accordance with the regulations; and any such provision may allow for those matters to be determined by the Commissioners in accordance with the regulations.
- (6) Regulations under this section may—
  - (a) contain any such incidental, supplementary, consequential or transitional provision as appears to the Commissioners to be necessary or expedient; and
  - (b) make different provision for different circumstances.

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

- (7) Regulations under this section may have effect (irrespective of when the claim for [<sup>F209</sup>credit] was made) for the purposes of [<sup>F210</sup>the crediting of any amount] by the Commissioners after the time when the regulations are made; and, accordingly, such regulations may apply to arrangements made before that time.]

#### Textual Amendments

- F202** Ss. 80A, 80B inserted (19.3.1997) by 1997 c. 16, s. 46(2)
- F203** Word in s. 80A(2)(a) substituted (with effect in accordance with s. 4(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 4(3)(a)
- F204** Words in s. 80A(2)(b) substituted (with effect in accordance with s. 4(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 4(3)(b)
- F205** Words in s. 80A(3)(a) substituted (with effect in accordance with s. 4(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 4(3)(c)
- F206** S. 80A(3)(b) substituted (with effect in accordance with s. 4(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 4(3)(d)
- F207** Words in s. 80A(3)(c) substituted (with effect in accordance with s. 4(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 4(3)(e)
- F208** Words in s. 80A(4)(a) substituted (with effect in accordance with s. 4(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 4(3)(f)
- F209** Word in s. 80A(7) substituted (with effect in accordance with s. 4(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 4(3)(g)(i)
- F210** Words in s. 80A(7) substituted (with effect in accordance with s. 4(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 4(3)(g)(ii)

#### [<sup>F211</sup>80B Assessments of amounts due under section 80A arrangements.

- (1) Where any person is liable to pay any amount to the Commissioners in pursuance of an obligation imposed by virtue of section 80A(4)(a), the Commissioners may, to the best of their judgement, assess the amount due from that person and notify it to him.

[ Where—

- <sup>F212</sup>(1A) (a) an amount (“the gross credit”) has been credited to any person under subsection (1) or (1A) of section 80,  
(b) any sums were set against that amount, in accordance with subsection (2A) of that section, and  
(c) the amount reimbursed in accordance with the reimbursement arrangements was less than the gross credit,  
subsection (1B) below applies.

(1B) In any such case—

- (a) the person shall cease to be entitled to so much of the gross credit as exceeds the amount so reimbursed, and  
(b) the Commissioners may, to the best of their judgement, assess the amount due from that person and notify it to him,

but an amount shall not be assessed under this subsection to the extent that the person is liable to pay it to the Commissioners as mentioned in subsection (1) above.

- (1C) In determining the amount that a person is liable to pay as mentioned in subsection (1) above, any amount reimbursed in accordance with the reimbursement arrangements

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*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

shall be regarded as first reducing so far as possible the amount that he would have been liable so to pay, but for the reimbursement of that amount.

(1D) For the purposes of this section, nil is an amount.

(1E) Any reference in any other provision of this Act to an assessment under subsection (1) above includes, if the context so admits, a reference to an assessment under subsection (1B) above.]

<sup>F213</sup>(2) .....

[ An assessment made under subsection (1) above may not be made more than two years <sup>F214</sup>(3) after the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners. ]

#### Textual Amendments

**F211** Ss. 80A, 80B inserted (19.3.1997) by 1997 c. 16, s. 46(2)

**F212** Ss. 80B(1A)-(1E) inserted (with effect in accordance with s. 4(6) of the amending Act) by Finance (No. 2) Act 2005 (c. 22), s. 4(4)

**F213** S. 80B(2) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), 3(11)(a)

**F214** S. 80B(3) inserted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), 3(11)(b)

#### [<sup>F215</sup>80C Assessed amounts of overpayments etc deemed to be amounts of VAT

- (1) Where an amount has been assessed and notified to a person under section 80(4A) or 80B(1), that amount is deemed (subject to the provisions of this Act as to appeals) to be an amount of VAT due from that person and may be recovered accordingly.
- (2) Subsection (1) does not have effect if or to the extent that the assessment in question has been withdrawn or reduced.
- (3) An assessment under section 80(4A) or 80B(1) is a recovery assessment for the purposes of section 84(3A).
- (4) Section 77(6) applies in relation to an assessment under section 80(4A) or 80B(1) as it applies in relation to an assessment under section 73 or 76.
- (5) For the purposes of an assessment under section 80(4A) or 80B(1), notification to a person mentioned in subsection (6) (a “relevant person”) is treated as notification to the person in relation to whom the relevant person acts.
- (6) The persons mentioned in this subsection are—
  - (a) a personal representative;
  - (b) a trustee in bankruptcy;
  - (c) a trustee in sequestration;
  - (d) a receiver;
  - (e) a liquidator;
  - (f) a person otherwise acting in a representative capacity in relation to another.]

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

### Textual Amendments

**F215** S. 80C inserted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by [The Finance Act 2009, Sections 101 and 102 \(Value Added Tax\) \(Late Payment Interest and Repayment Interest\) \(Exceptions and Consequential Amendments\) Order 2022 \(S.I. 2022/1298\)](#), arts. 1(3)(a), **3(12)**

## 81 Interest given by way of credit and set-off of credits.

- (1) Any interest payable by the Commissioners (whether under an enactment or instrument or otherwise) to a person on a sum due to him under or by virtue of any provision of this Act shall be treated as an amount due by way of credit under section 25(3).
- (2) Subsection (1) above shall be disregarded for the purpose of determining a person's entitlement to interest or the amount of interest to which he is entitled.
- (3) Subject to subsection (1) above, in any case where—
  - (a) an amount is due from the Commissioners to any person under any provision of this Act, and
  - (b) that person is liable to pay a sum by way of VAT, [<sup>F216</sup>penalty, interest or surcharge][<sup>F216</sup>penalty or interest],

the amount referred to in paragraph (a) above shall be set against the sum referred to in paragraph (b) above and, accordingly, to the extent of the set-off, the obligations of the Commissioners and the person concerned shall be discharged.

[<sup>F217</sup>(3A) Where—

- (a) the Commissioners are liable to pay or repay any amount to any person under this Act,
- (b) that amount falls to be paid or repaid in consequence of a mistake previously made about whether or to what extent amounts were payable under this Act to or by that person, and
- (c) by reason of that mistake a liability of that person to pay a sum by way of VAT, [<sup>F218</sup>penalty, interest or surcharge][<sup>F218</sup>penalty or interest] was not assessed, was not enforced or was not satisfied,

any limitation on the time within which the Commissioners are entitled to take steps for recovering that sum shall be disregarded in determining whether that sum is required by subsection (3) above to be set against the amount mentioned in paragraph (a) above.]

[<sup>F219</sup>(4A) Subsection (3) above shall not require any such amount as is mentioned in paragraph (a) of that subsection (“the credit”) to be set against any such sum as is mentioned in paragraph (b) of that subsection (“the debit”) in any case where—

- (a) an insolvency procedure has been applied to the person entitled to the credit;
- (b) the credit became due after that procedure was so applied; and
- (c) the liability to pay the debit either arose before that procedure was so applied or (having arisen afterwards) relates to, or to matters occurring in the course of, the carrying on of any business at times before the procedure was so applied.

*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

(4B) Subject to subsection (4C) below, the following are the times when an insolvency procedure is to be taken, for the purposes of this section, to be applied to any person, that is to say—

- [<sup>F220</sup>(a) when a bankruptcy order or winding-up order or award of sequestration is made or an administrator is appointed in relation to that person;]
- (b) when that person is put into administrative receivership;
- (c) when that person, being a corporation, passes a resolution for voluntary winding up;
- (d) when any voluntary arrangement approved in accordance with Part I or VIII of the Insolvency Act 1986, or Part II or Chapter II of Part VIII of the <sup>M3</sup> Insolvency (Northern Ireland) Order 1989, comes into force in relation to that person;
- (e) when a deed of arrangement registered in accordance with <sup>F221</sup>... Chapter I of Part VIII of that Order of 1989 takes effect in relation to that person;
- (f) when that person’s estate becomes vested in any other person as that person’s trustee under a trust deed.

[<sup>F222</sup>(4C) In this section, references to the application of an insolvency procedure to a person do not include—

- (a) the application of an insolvency procedure to a person at a time when another insolvency procedure applies to the person, or
- (b) the application of an insolvency procedure to a person immediately upon another insolvency procedure ceasing to have effect.]

(4D) For the purposes of this section a person shall be regarded as being in administrative receivership throughout any continuous period for which (disregarding any temporary vacancy in the office of receiver) there is an administrative receiver of that person, and the reference in subsection (4B) above to a person being put into administrative receivership shall be construed accordingly.]

(5) In [<sup>F223</sup>this section]—

- <sup>F224</sup>(a) .....
- (b) “administrative receiver” means an administrative receiver within the meaning of section 251 of [<sup>F225</sup>the Insolvency Act 1986] or Article 5(1) of [<sup>F226</sup>the Insolvency (Northern Ireland) Order 1989];
- [<sup>F227</sup>(ba) “administrator” means a person appointed to manage the affairs, business and property of another person under Schedule B1 to that Act or to that Order;] and
- (c) “trust deed” has the same meaning as in the <sup>M4</sup>Bankruptcy (Scotland) Act [<sup>F228</sup>2016].

#### Textual Amendments

**F216** Words in s. 81(3)(b) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 22**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2

**F217** S. 81(3A) inserted (retrospective to 18.7.1996 with effect as mentioned in s. 48(2) of the amending Act) by 1997 c. 16, s. 48(1)(2)

**F218** Words in s. 81(3A)(c) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 22**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2



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*Status: Point in time view as at 06/04/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV. (See end of Document for details)*

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- F219** S. 81(4A)-(4D) substituted for s. 81(4) (1.5.1995 with effect as mentioned in s. 27(4) of the amending Act) by 1995 c. 4, **s. 27(2)**
- F220** S. 81(4B)(a) substituted (15.9.2003) by Enterprise Act 2002 (Insolvency) Order 2003 (S.I. 2003/2096), art. 1(1), **Sch. para. 26(a)** (with art. 6)
- F221** Words in s. 81(4B)(e) omitted (1.10.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 6 para. 2(13)** (with Sch. 6 para. 3); S.I. 2015/1732, art. 2(e)(i)
- F222** S. 81(4C) substituted (21.7.2008) by Finance Act 2008 (c. 9), **s. 132(2)**
- F223** Words in s. 81(5) substituted (1.5.1995 with effect as mentioned in s. 27(4) of the amending Act) by 1995 c. 4, **s. 27(3)**
- F224** S. 81(5)(a) omitted (21.7.2008) by virtue of Finance Act 2008 (c. 9), **s. 132(3)(a)**
- F225** Words in s. 81(5)(b) substituted (21.7.2008) by Finance Act 2008 (c. 9), **s. 132(3)(b)(i)**
- F226** Words in s. 81(5)(b) substituted (21.7.2008) by Finance Act 2008 (c. 9), **s. 132(3)(b)(ii)**
- F227** S. 81(5)(ba) inserted (21.7.2008) by Finance Act 2008 (c. 9), **s. 132(3)(c)**
- F228** Word in s. 81(5)(c) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 12(6)**
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#### **Marginal Citations**

- M3** 1986 c. 45.  
**M4** 1985 c. 66.

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Point in time view as at 06/04/2024.

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There are currently no known outstanding effects for the Value Added Tax Act 1994, Part IV.