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## SCHEDULES

### SCHEDULE 3

#### EXCISE DUTY: PAYMENTS BY COMMISSIONERS IN CASE OF ERROR OR DELAY

##### PART 2

##### INTEREST

###### *Commissioners' delay*

- 4 (1) This paragraph applies if—
- (a) a person is entitled to obtain an amount by way of repayment or drawback in respect of excise duty paid to the Commissioners,
  - (b) on or after the commencement day he makes a claim for the repayment or drawback, and
  - (c) the Commissioners fail to authorise it within the allowable period.
- (2) The Commissioners must pay interest to the person on the amount for the applicable period.
- (3) The allowable period is the period of 30 days starting with the day on which the Commissioners receive the claim.
- (4) The applicable period is the period which—
- (a) starts with the day after the allowable period ends, and
  - (b) ends with the day when the Commissioners authorise the repayment or drawback.
- (5) Sub-paragraph (4) is subject to paragraph 6.
- 5 (1) This paragraph applies if—
- (a) a person is entitled to obtain an amount by way of repayment or drawback in respect of excise duty paid to the Commissioners,
  - (b) on or after the commencement day he makes a claim for the repayment or drawback,
  - (c) the Commissioners set off the amount against an assessment,
  - (d) the assessment is withdrawn, and
  - (e) the Commissioners authorise the repayment or drawback.
- (2) The Commissioners must pay interest to the person on the amount for the applicable period.
- (3) The applicable period is the period which—
- (a) starts with the earlier of the days referred to in sub-paragraph (4), and

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- (b) ends with the day when the Commissioners authorise the repayment or drawback.
- (4) The days are—
- (a) the day the amount is set off;
  - (b) the day after the end of the period of 30 days starting with the day on which the Commissioners receive the claim.
- (5) Sub-paragraphs (3) and (4) are subject to paragraph 6.
- 6 (1) In deciding the applicable period for the purposes of paragraphs 4 and 5 any period by which the Commissioners' authorisation of the repayment or drawback is delayed by circumstances beyond their control must be ignored.
- (2) In applying sub-paragraph (1) account must be taken in particular of any period referable to—
- (a) any failure by any person to provide the Commissioners with information requested by them to enable the existence and amount of the claimant's entitlement to a repayment or drawback to be determined;
  - (b) the making (in connection with the claim for repayment or drawback) of a claim to anything to which the claimant is not entitled.
- (3) In deciding for the purposes of sub-paragraph (2)(a) whether a period of delay is referable to a failure by a person to provide information requested, the period mentioned in sub-paragraph (4) must be taken to be so referable (except so far as may be prescribed by the Commissioners by regulations).
- (4) The period is that which—
- (a) starts with the day when the Commissioners request the person to provide information they reasonably consider relevant to the matter to be determined, and
  - (b) ends with the earliest day when it would be reasonable for them to conclude that they have received a complete answer to their request or all they need to answer it, or to conclude that it is unnecessary for them to be provided with information in answer to their request.

*Commissioners' error*

- 7 (1) This paragraph applies if—
- (a) due to an error on the part of the Commissioners a person pays to them an amount by way of excise duty,
  - (b) the person is entitled to obtain repayment of the amount,
  - (c) he makes a claim (at any time) for the repayment and the Commissioners authorise it on or after the commencement day, and
  - (d) he makes a claim for interest under this paragraph before the end of the period of [<sup>F14</sup> years] starting with the day when the Commissioners authorise the repayment.
- (2) The Commissioners must pay interest to the person on the amount concerned for the applicable period.
- (3) The applicable period is the period which—
- (a) starts with the day when the payment is received by the Commissioners, and

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(b) ends with the day when they authorise repayment.

(4) Sub-paragraph (3) is subject to paragraph 11.

#### Textual Amendments

**F1** Words in Sch. 3 para. 7(1)(d) substituted (1.4.2011) by Finance (No. 3) Act 2010 (c. 33), s. 29(2), Sch. 13 para. 8(a); S.I. 2011/777, art. 2 (with art. 8)

- 8 (1) This paragraph applies if—
- (a) a person pays to the Commissioners an amount by way of excise duty,
  - (b) he is entitled to obtain an amount by way of repayment, remission, rebate or drawback in respect of the duty,
  - (c) due to an error on the part of the Commissioners he fails to claim the amount when he would (apart from the error) have done so,
  - (d) the person makes a claim (at any time) for the repayment, remission, rebate or drawback and the Commissioners authorise it on or after the commencement day, and
  - (e) he makes a claim for interest under this paragraph before the end of the period of [<sup>F2</sup>4 years] starting with the day when the Commissioners authorise the repayment, remission, rebate or drawback.
- (2) The Commissioners must pay interest to the person on the amount concerned for the applicable period.
- (3) The applicable period is the period which—
- (a) starts with the day when (apart from the error) the Commissioners might reasonably have been expected to authorise repayment, remission, rebate or drawback, and
  - (b) ends with the day when they authorise it.
- (4) Sub-paragraph (3) is subject to paragraph 11.

#### Textual Amendments

**F2** Words in Sch. 3 para. 8(1)(e) substituted (1.4.2011) by Finance (No. 3) Act 2010 (c. 33), s. 29(2), Sch. 13 para. 8(b); S.I. 2011/777, art. 2 (with art. 8)

- 9 (1) This paragraph applies if—
- (a) a person pays to the Commissioners an amount by way of excise duty,
  - (b) he is entitled to obtain an amount by way of repayment, remission, rebate or drawback in respect of the duty,
  - (c) he makes a claim (at any time) for the repayment, remission, rebate or drawback and the Commissioners authorise it,
  - (d) due to an error on the part of the Commissioners their authorisation is delayed,
  - (e) the Commissioners authorise the repayment, remission, rebate or drawback on or after the commencement day,
  - (f) neither paragraph 4 nor paragraph 5 applies in relation to the person, and

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- (g) the person makes a claim for interest under this paragraph before the end of the period of [<sup>F3</sup>4 years] starting with the day when the Commissioners authorise the repayment, remission, rebate or drawback.
- (2) The Commissioners must pay interest to the person on the amount concerned for the applicable period.
- (3) The applicable period is the period which—
  - (a) starts with the day when (apart from the error) the Commissioners might reasonably have been expected to authorise repayment, remission, rebate or drawback, and
  - (b) ends with the day when they authorise it.
- (4) Sub-paragraph (3) is subject to paragraph 11.

#### Textual Amendments

**F3** Words in Sch. 3 para. 9(1)(g) substituted (1.4.2011) by Finance (No. 3) Act 2010 (c. 33), s. 29(2), Sch. 13 para. 8(c); S.I. 2011/777, art. 2 (with art. 8)

- 10 (1) This paragraph applies if—
- (a) a person makes a claim for a payment under paragraph 1 or 2 of this Schedule and the Commissioners authorise it, and
  - (b) he makes a claim for interest under this paragraph before the end of the period of [<sup>F4</sup>4 years] starting with the day when the Commissioners authorise the payment.
- (2) The Commissioners must pay interest to the person on the amount concerned for the applicable period.
- (3) The applicable period is the period which—
- (a) starts with the day when the second or third condition in paragraph 1 or the second condition in paragraph 2 (as the case may be) is satisfied in relation to that person, and
  - (b) ends with the day when the Commissioners authorise the payment under that paragraph.
- (4) Sub-paragraph (3) is subject to paragraph 11.

#### Textual Amendments

**F4** Words in Sch. 3 para. 10(1)(b) substituted (1.4.2011) by Finance (No. 3) Act 2010 (c. 33), s. 29(2), Sch. 13 para. 8(d); S.I. 2011/777, art. 2 (with art. 8)

- 11 (1) In deciding the applicable period for the purposes of paragraphs 7 to 10 any period by which the Commissioners' authorisation of the repayment, remission, rebate, drawback or payment is delayed by circumstances beyond their control must be ignored.
- (2) In applying sub-paragraph (1) account must be taken in particular of any period referable to—
- (a) any unreasonable delay in claiming repayment, remission, rebate, drawback or payment;

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- (b) any failure by any person to provide the Commissioners with information requested by them to enable the existence and amount of a claimant's entitlement to repayment, remission, rebate, drawback, payment or interest to be determined;
  - (c) the making (in connection with the claim for repayment, remission, rebate, drawback or payment) of a claim to anything to which the claimant is not entitled.
- (3) In deciding for the purposes of sub-paragraph (2)(b) whether a period of delay is referable to a failure by a person to provide information requested, the period mentioned in sub-paragraph (4) must be taken to be so referable (except so far as may be prescribed by the Commissioners by regulations).
- (4) The period is that which—
- (a) starts with the day when the Commissioners request the person to provide information they reasonably consider relevant to the matter to be determined, and
  - (b) ends with the earliest day when it would be reasonable for them to conclude that they have received a complete answer to their request or all they need to answer it, or to conclude that it is unnecessary for them to be provided with information in answer to their request.

#### *Claims*

- 12 (1) A claim for interest under a relevant paragraph must be made in such form and manner, and contain such matters, as the Commissioners may prescribe by regulations.
- (2) If a person makes a claim under a relevant paragraph for interest on an amount, he may not make a claim under another relevant paragraph for interest on that amount.
- (3) The relevant paragraphs are paragraphs 7 to 10.

#### *Rate of interest*

- 13 In the case of interest under this Part of this Schedule, the rate is that applicable under section 197 of the Finance Act 1996 (c. 8) (rates of interest).

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