



Finance Act 2008

2008 CHAPTER 9

PART 7

ADMINISTRATION

CHAPTER 2

TIME LIMITS FOR CLAIMS AND ASSESSMENTS ETC

General

118 Time limits for assessments, claims etc

- (1) Schedule 39 contains provision about time limits for assessments, claims etc.
- (2) The amendments and saving made by that Schedule come into force on such day as the Treasury may by order made by statutory instrument appoint.
- (3) An order under subsection (2)—
 - (a) may make different provision for different purposes, and
 - (b) may include transitional provision and further savings.

Income tax and corporation tax

119 Correction and amendment of tax returns

- (1) In section 9ZB(1) of TMA 1970 (correction of personal or trustee return by HMRC)—
 - (a) after “correct” insert “—
 - (a) ”, and
 - (b) insert at the end “, and

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- (b) anything else in the return that the officer has reason to believe is incorrect in the light of information available to the officer.”
- (2) In section 12ABB(1) of that Act (correction of partnership return by HMRC)—
- (a) after “correct” insert “—
- (a) ”, and
- (b) insert at the end “, and
- (b) anything else in the return that the officer has reason to believe is incorrect in the light of information available to the officer.”
- (3) Schedule 18 to FA 1998 (company tax returns) is amended as follows.
- (4) In paragraph 16(1) (correction of company tax return by HMRC)—
- (a) after “correct” insert “—
- (a) ”, and
- (b) insert at the end “, and
- (b) anything else in the return that the officer has reason to believe is incorrect in the light of information available to the officer.”
- (5) In paragraph 31 (amendment of return by company during enquiry), in sub-paragraph (4), for paragraph (b) substitute—
- “(b) in any other case, the amendment takes effect as part of the amendments made by the closure notice.”
- (6) In paragraph 34 (amendment of company tax return after enquiry), for sub-paragraphs (1) and (2) substitute—
- “(1) This paragraph applies where a closure notice is given to a company by an officer.
- (2) The closure notice must—
- (a) state that, in the officer's opinion, no amendment is required of the return that was the subject of the enquiry, or
- (b) make the amendments of that return that are required—
- (i) to give effect to the conclusions stated in the notice, and
- (ii) in the case of a return for the wrong period, to make it a return appropriate to the designated period.
- (2A) The officer may by further notice to the company make any amendments of other company tax returns delivered by the company that are required to give effect to the conclusions stated in the closure notice.”
- (7) In sub-paragraph (3) of that paragraph, for “any such amendment of a company's return” substitute “an amendment of a company's return under sub-paragraph (2) or (2A)”.
- (8) In sub-paragraph (4)(c) of that paragraph, for “notice of amendment” substitute “closure notice”.
- (9) In paragraph 61(1)(a) and (3)(a) (consequential claims etc), for “34(2)(b)” substitute “34(2A)”.

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- (10) In paragraph 88 (conclusiveness of amounts stated in return)—
- (a) in sub-paragraph (3)(b), omit the words from “and” to the end,
 - (b) in sub-paragraph (3)(c), for “34(2)” substitute “ 34 ”,
 - (c) in sub-paragraph (4)(b), for “the end of the period specified in paragraph 34(1)” substitute “ the completion of the enquiry ”, and
 - (d) in sub-paragraph (4)(c), for “34(2)” substitute “ 34 ”.
- (11) In paragraph 93(1)(b) (general jurisdiction of Special or General Commissioners), for “34(2)” substitute “ 34 ”.
- (12) In the following provisions, for “34(2)” substitute “ 34 ”
- (a) in TMA 1970—
 - ^{F1}(i)
 - ^{F1}(ii)
 - (iii) section 46D(2)(aa) (questions to be determined by Land Tribunal), and
 - (iv) section 55(1)(a)(ii) (recovery of tax not postponed), and
 - (b) in ICTA, section 754(2E) (assessment, recovery and postponement of tax).
- (13) The amendments made by this section come into force on such day as the Treasury may by order appoint.

Textual Amendments

- F1** S. 119(12)(a)(i)(ii) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 469](#)

Commencement Information

- I1** S. 119 in force at 1.4.2010 for the purposes of the amendments made by that section by [S.I. 2009/405](#), [art. 2](#)

VAT

120 VAT: time limits for assessments of excess credits etc

- (1) In section 73 of VATA 1994 (assessment of overpaid VAT credits etc), after subsection (6) insert—
- “(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.”
- (2) Section 80 of that Act (credit for, or repayment of, overstated or overpaid VAT) is amended as follows.
- (3) After subsection (4A) insert—
- “(4AA) An assessment under subsection (4A) shall not be made more than 2 years after the later of—

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- (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.”
- (4) In subsection (4C), for “(2)” substitute “ (3) ”.
- (5) The amendments made by this section are treated as having come into force on 19 March 2008.

121 Old VAT claims: extended time limits

- (1) The requirement in section 80(4) of VATA 1994 that a claim under that section be made within 3 years of the relevant date does not apply to a claim in respect of an amount brought into account, or paid, for a prescribed accounting period ending before 4 December 1996 if the claim is made before 1 April 2009.
- (2) The requirement in section 25(6) of VATA 1994 that a claim for deduction of input tax be made at such time as may be determined by or under regulations does not apply to a claim for deduction of input tax that became chargeable, and in respect of which the claimant held the required evidence, in a prescribed accounting period ending before 1 May 1997 if the claim is made before 1 April 2009.
- (3) In this section—
 - “input tax” and “prescribed accounting period” have the same meaning as in VATA 1994 (see section 96 of that Act), and
 - “the required evidence” means the evidence of the charge to value added tax specified in or under regulation 29(2) of the Value Added Tax Regulations 1995 (S.I. 1995/2518).
- (4) This section is treated as having come into force on 19 March 2008.

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