



Finance Act 1985

1985 CHAPTER 54

PART I

CUSTOMS AND EXCISE AND VALUE ADDED TAX

CHAPTER II

VALUE ADDED TAX

Interest, surcharges and supplements

18 Interest on tax etc. recovered or recoverable by assessment

- (1) Subject to section 21(6) below, where an assessment is made under any provision of paragraph 4 of Schedule 7 to the principal Act and, in the case of an assessment under subparagraph (1) of that paragraph, at least one of the following conditions is fulfilled, namely,—
- (a) the assessment relates to a prescribed accounting period in respect of which either—
 - (i) a return has previously been made, or
 - (ii) an earlier assessment has already been notified to the person concerned,
 - (b) the assessment relates to a prescribed accounting period which exceeds three months and begins on the date with effect from which the person concerned was, or was required to be, registered,
 - (c) the assessment relates to a prescribed accounting period at the beginning of which the person concerned was, but should no longer have been, exempted from registration under paragraph 11(1)(a) of Schedule 1 to the principal Act, the tax or other amount assessed shall carry interest, in accordance with subsection (4) or subsection (5) below, at the prescribed rate until payment.
- (2) In any case where—

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- (a) a person fails to comply with paragraph 3 or paragraph 4 of Schedule 1 to the principal Act (notification of liability to registration) or, being a person exempted from registration under sub-paragraph (1)(a) of paragraph 11 of that Schedule, fails to comply with sub-paragraph (2) of that paragraph (notice of circumstances affecting entitlement to exemption), and
 - (b) the Commissioners, rather than assessing the amount of tax due, require him to make a return for the period beginning on the date with effect from which he was required to be registered or, as the case may be, on which it appears to the Commissioners that he should no longer have been exempt from registration and ending on a date specified by the Commissioners, and
 - (c) that period exceeds three months, and
 - (d) the tax due for that period is paid without the need for an assessment. that tax shall carry interest, in accordance with subsection (4) or subsection (5) below, at the prescribed rate until payment.
- (3) If, in a case where subsection (2) above does not apply,—
- (a) the circumstances are such that an assessment falling within subsection (1) above could have been made, but
 - (b) before such an assessment was made the tax due or other amount concerned was paid (so that no such assessment was necessary),
- that tax or other amount shall carry interest, in accordance with subsection (4) or subsection (5) below, at the prescribed rate until the date on which it was paid.
- (4) Where the amount assessed or paid as mentioned in any of subsections (1) to (3) above relates to a particular prescribed accounting period which does not exceed three months, interest under this section shall run on the whole of that amount from the reckonable date.
- (5) Where subsection (4) above does not apply, the Commissioners shall, to the best of their judgment, attribute different parts of the amount assessed or paid to different parts of the period to which that amount relates; and interest under this section on the part of an amount which is attributed to a particular part of a period shall run from the date which, if that part were a prescribed accounting period, would be the reckonable date.
- (6) Where an unauthorised person, as defined in section 15(2) above, issues an invoice showing an amount as being tax or as including an amount attributable to tax, the amount which is shown as tax or, as the case may be, is to be taken as representing tax shall carry interest at the prescribed rate from the date of the invoice until payment.
- (7) The references in subsections (4) and (5) above to the reckonable date shall be construed as follows—
- (a) where the amount assessed or paid is such an amount as is referred to in sub-paragraph (2)(a) or sub-paragraph (2)(b) of paragraph 4 of Schedule 7 to the principal Act (incorrect repayment of tax or payment in respect of excess credit), the reckonable date is the seventh day after the day on which a written instruction was issued by the Commissioners directing the making of the payment of the amount which ought not to have been repaid or paid to the person concerned; and
 - (b) in all other cases the reckonable date is the latest date on which (in accordance with regulations under the principal Act) a return is required to be made for the prescribed accounting period to which the amount assessed or paid relates ; and

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- (c) in the case of an amount assessed under paragraph 4(6) of Schedule 7 to the principal Act (assessments in respect of goods which cannot be accounted for) the sum assessed shall be taken for the purposes of paragraph (b) above to relate to the period for which the assessment was made;
- and interest under this section shall run from the reckonable date even if that date is a non-business day, within the meaning of section 92 of the Bills of Exchange Act 1882.
- (8) In this section " the prescribed rate " means such rate as may be prescribed by order made by the Treasury; and such an order—
- (a) may prescribe different rates for different purposes;
 - (b) shall apply to interest for periods beginning on or after the date when the order is expressed to come into force, whether or not interest runs from before that date; and
 - (c) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (9) Interest under this section shall be paid without any deduction of income tax.
- (10) This section shall come into operation on such day as the Treasury may by order made by statutory instrument appoint and any reference in this section to a prescribed accounting period is a reference to a period which begins on or after the day so appointed.