



Finance Act 1985

1985 CHAPTER 54

PART I

CUSTOMS AND EXCISE AND VALUE ADDED TAX

CHAPTER II

VALUE ADDED TAX

Assessments, records and information

21 Assessment of amounts due by way of penalty, interest or surcharge

(1) Where any person is liable—

- (a) to a penalty under any of sections 13 to 17 above, or
- (b) for interest under section 18 above, or
- (c) to a surcharge under section 19 above,

the Commissioners may assess the amount due by way of penalty, interest or surcharge, 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 13 to 17 above 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) In the case of the penalties, interest and surcharge 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",—

- (a) in the case of a penalty under section 13 above relating to the evasion of tax, the relevant period is the prescribed accounting period for which the tax evaded was due;

Status: This is the original version (as it was originally enacted).

- (b) in the case of a penalty under section 13 above relating to the obtaining of a payment under section 14(5) of the principal Act, the relevant period is the prescribed accounting period in respect of which the payment was obtained;
 - (c) in the case of a penalty under section 14 above, the relevant period is the prescribed accounting period for which liability to tax was understated or, as the case may be, for which entitlement to a payment under section 14(5) of the principal Act was overstated ;
 - (d) in the case of interest under section 18 above, the relevant period is the prescribed accounting period in respect of which the tax (or amount assessed as tax) was due; and
 - (e) in the case of a surcharge under section 19 above, 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.
- (3) In any case where the amount of any penalty, interest or surcharge falls to be calculated by reference to tax which was not paid at the time it should have been and that tax (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 the principal Act and this Part of this Act as tax 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 tax and penalty, interest or surcharge.
- (4) Where a person is assessed under this section to an amount due by way of any penalty, interest or surcharge falling within subsection (2) above and is also assessed under sub-paragraph (1), sub-paragraph (2) or sub-paragraph (6) of paragraph 4 of Schedule 7 to the principal Act for the prescribed accounting period which is the relevant period under subsection (2) above, the assessments may be combined and notified to him as one assessment, but the amount of the penalty, interest or surcharge shall be separately identified in the notice.
- (5) In the case of an amount due by way of penalty under section 17 or interest under section 18 above—
- (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 or, as the case may be, the amount of interest which is assessed is calculated; and
 - (b) if the penalty or interest continues to accrue after that date, a further assessment or assessments may be made under this section in respect of amounts which so accrue.
- (6) If, within such period as may be notified by the Commissioners to the person liable to a penalty under section 17 above or for interest under section 18 above,—
- (a) a failure falling within section 17(1) above is remedied, or
 - (b) the tax or other amount referred to in section 18(1) above is paid,
- it shall be treated for the purposes of section 17 or, as the case may be, section 18 above as remedied or paid on the date specified as mentioned in subsection (5)(a) above.
- (7) 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 tax due from him.
- (8) Sub-paragraph (10) of paragraph 4 of Schedule 7 to the principal Act (notification to personal representatives etc.) shall apply for the purposes of this section as it applies for the purposes of that paragraph.