



Finance Act 1988

1988 CHAPTER 39

PART II

VALUE ADDED TAX

Miscellaneous

20 Repayment supplement.

For section 20 of the ^{M1}Finance Act 1985 there shall be substituted—

“20 Repayment supplement in respect of certain delayed payments or refunds.

(1) In any case where—

- (a) a person is entitled to a payment under section 14(5) of the principal Act, or
- (b) a body which is registered and to which section 20 of that Act applies is entitled to a refund under that section,

and the conditions mentioned in subsection (2) below are satisfied, the amount which, apart from this section, would be due by way of that payment or refund shall be increased by the addition of a supplement equal to 5 per cent. of that amount or £30, whichever is the greater.

(2) The said conditions are—

- (a) that the requisite return or claim is received by the Commissioners not later than one month after the last day on which it is required to be furnished or made, and
- (b) that a written instruction directing the making of the payment or refund is not issued by the Commissioners within the period of thirty days beginning on the date of the receipt by the Commissioners of that return or claim, and

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- (c) that the amount shown on that return or claim as due by way of payment or refund does not exceed the payment or refund which was in fact due by more than 5 per cent. of that payment or refund or £250, whichever is the greater.
- (3) Regulations may provide that, in computing the period of thirty days referred to in subsection (2)(b) above, there shall be left out of account periods determined in accordance with the regulations and referable to—
- (a) the raising and answering of any reasonable inquiry relating to the requisite return or claim,
 - (b) the correction by the Commissioners of any errors or omissions in that return or claim, and
 - (c) in the case of a payment, the following matters, namely—
 - (i) any such continuing failure to submit returns as is referred to in section 14(7) of the principal Act, and
 - (ii) compliance with any such condition as is referred to in paragraph 5(1) of Schedule 7 to that Act (production of documents or giving of security as a condition of payment).
- (4) Except for the purpose of determining the amount of the supplement—
- (a) a supplement paid to any person under subsection (1)(a) above shall be treated as an amount due to him by way of credit under section 14(5) of the principal Act, and
 - (b) a supplement paid to any body under subsection (1)(b) above shall be treated as an amount due to it by way of refund under section 20 of that Act.
- (5) In this section “requisite return or claim” means—
- (a) in relation to a payment, the return for the prescribed accounting period concerned which is required to be furnished in accordance with regulations under the principal Act, and
 - (b) in relation to a refund, the claim for that refund which is required to be made in accordance with the Commissioners’ determination under section 20 of that Act.
- (6) Subsection (1)(a) above shall have effect with respect to any prescribed accounting period ending, and subsection (1)(b) above shall have effect with respect to any claim made, on or after such day as the Treasury may by order made by statutory instrument appoint.
- (7) If the Treasury by order made by statutory instrument so direct, any period specified in the order shall be disregarded for the purpose of calculating the period of thirty days referred to in subsection (2)(b) above.”

Marginal Citations

M1 1985 c. 54.

21 Set-off of credits.

[^{F1}(1)] In any case where

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- (a) an amount is due from the Commissioners to any person under the ^{M2}Value Added Tax Act 1983 or Chapter II of Part I of the ^{M3}Finance Act 1985; and
- (b) that person is liable to pay a sum by way of tax, penalty, interest or surcharge, 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.

[^{F2}(2) Subsection (1) above shall not apply in the case of any such amount as is mentioned in paragraph (a) of that subsection where that amount became due to the person in question—

- (a) at a time when that person's estate was vested in any other person as that person's trustee in bankruptcy;
- (b) at a time when that person's estate was vested in any other person as that person's interim trustee or permanent trustee;
- (c) at a time, other than a time before the appointment of a liquidator, when that person was being wound up, either voluntarily or by the court;
- (d) at a time when an administration order was in force in relation to that person;
- (e) at a time when there was an administrative receiver of that person;
- (f) at a time when—
 - (i) a 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 Insolvency (Northern Ireland) Order 1989, or
 - (ii) a deed of arrangement registered in accordance with the Deeds of Arrangement Act 1914 or Chapter I of Part VIII of that Order of 1989, was in force in relation to that person; or
- (g) at a time when that person's estate was vested in any other person as that person's trustee under a trust deed.

(3) In subsection (2) above—

- (a) “administration order” means an administration order under Part II of the Insolvency Act 1986 or an administration order within the meaning of Article 5(1) of the Insolvency (Northern Ireland) Order 1989;
- (b) “administrative receiver” means an administrative receiver within the meaning of section 251 of that Act of 1986 or Article 5(1) of that Order of 1989; and
- (c) “interim trustee”, “permanent trustee” and “trust deed” have the same meanings as in the Bankruptcy (Scotland) Act 1985.]

Textual Amendments

- F1** S. 21 renumbered as s. 21(1) (3.5.1994 with effect on 10.5.1994 in relation to amounts mentioned in (1)(a) of this section) by 1994 c. 9, s. 47(1); S.I. 1994/1253, art. 2
- F2** S. 21(2)(3) inserted (3.5.1994 with effect on 10.5.1994 in relation to amounts mentioned in (1)(a) of this section) by 1994 c. 9, s. 47(1); S.I. 1994/1253, art. 2

Modifications etc. (not altering text)

- C1** S. 21 restricted (19.8.1992) by S.I. 1992/1844, reg. 7(4).

Marginal Citations

- M2** 1983 c. 55.

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M3 1985 c. 54.

22 Invoices provided by recipients of goods or services.

Where—

(a) a taxable person (in this section referred to as “the recipient”) provides a document to himself which purports to be an invoice in respect of a taxable supply of goods or services to him by another taxable person; and

(b) that document understates the tax chargeable on the supply,

the Commissioners may, by notice served on the recipient and on the supplier, elect that the amount of tax understated by the document shall be regarded for all purposes as tax due from the recipient and not from the supplier.

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