



Finance Act 1991

1991 CHAPTER 31

PART I

CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

CHAPTER II

VALUE ADDED TAX

13 Rate

- (1) In section 9(1) of the Value Added Tax Act 1983 (rate of tax) for “15 per cent.” there shall be substituted “17.50 per cent.”
- (2) This section shall be deemed to have come into force on 1st April 1991.

14 Person supplied for input tax purposes

In section 14 of the Value Added Tax Act 1983 (which allows as a credit against a taxable person’s output tax the tax on goods or services supplied to him) there shall be inserted after subsection (3A)—

“(3B) The Treasury may by order provide with respect to any description of goods or services that, where goods or services of that description are supplied to a person who is not a taxable person, they shall, in such circumstances as may be specified in the order, be treated for the purposes of subsection (3) above as supplied to such other person as may be determined in accordance with the order.”

15 **Bad debts**

- (1) In section 11 of the Finance Act 1990 (refund of tax where bad debt written off and period of two years from supply has elapsed) in subsection (1)(c) for “two years” there shall be substituted “one year”.
- (2) The amendment made by subsection (1) above shall be deemed always to have had effect.

16 **Groups of companies**

- (1) Section 29 of the Value Added Tax Act 1983 (groups of companies) shall be amended as follows.
- (2) In subsection (3) for the words from “resident” to “if” there shall be substituted the words “are eligible to be treated as members of a group if each of them falls within subsection (3A) below and”.
- (3) The following subsection shall be inserted after subsection (3)—

“(3A) A body falls within this subsection if it is resident in the United Kingdom or it has an established place of business in the United Kingdom.”

17 **Interest on overpayments etc**

- (1) In the Value Added Tax Act 1983, after section 38 (administration, collection and enforcement) there shall be inserted—

“38A Interest in certain cases of official error

- (1) Where, due to an error on the part of the Commissioners, a person—
 - (a) has accounted to them for an amount by way of output tax which was not output tax due from him and which they are in consequence liable to repay to him, or
 - (b) has failed to claim credit under section 14 above for an amount for which he was entitled so to claim credit and which they are in consequence liable to pay to him, or
 - (c) has (otherwise than in a case falling within paragraph (a) or (b) above) paid to them by way of value added tax an amount that was not tax due and which they are in consequence liable to repay to him, or
 - (d) has suffered delay in receiving payment of an amount due to him from them in connection with value added tax,

then, if and to the extent that they would not be liable to do so apart from this section, they shall pay interest to him on that amount for the applicable period, but subject to the following provisions of this section.
- (2) Nothing in subsection (1) above requires the Commissioners to pay interest—
 - (a) on any amount which falls to be increased by a supplement under section 20 of the Finance Act 1985 (repayment supplement on certain delayed payments or refunds); or
 - (b) where an amount is increased under that section, on so much of the increased amount as represents the supplement.

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

- (3) Interest under this section shall be payable at such rates as may from time to time be prescribed by order made by the Treasury; and any such order—
- (a) may prescribe different rates for different purposes; and
 - (b) shall apply to interest for periods beginning on or after the date on which the order is expressed to come into force, whether or not interest runs from before that date;
- and the first such order may prescribe, for cases where interest runs from before the date on which that order is expressed to come into force, rates for periods ending before that date.
- (4) The “applicable period” in a case falling within paragraph (a) or (b) of subsection (1) above is the period—
- (a) beginning with the appropriate commencement date, and
 - (b) ending with the date on which the Commissioners authorise payment of the amount on which the interest is payable.
- (5) In subsection (4) above, the “appropriate commencement date”—
- (a) in a case where an amount would have been due from the person by way of value added tax in connection with the relevant return, had his input tax and output tax been as stated in that return, means the date on which the Commissioners received payment of that amount; and
 - (b) in a case where no such payment would have been due from him in connection with that return, means the date on which the Commissioners would, apart from the error, have authorised payment of the amount on which the interest is payable;
- and in this subsection “the relevant return” means the return in which the person accounted for, or (as the case may be) ought to have claimed credit for, the amount on which the interest is payable.
- (6) The “applicable period” in a case falling within paragraph (c) of subsection (1) above is the period—
- (a) beginning with the date on which the payment is received by the Commissioners, and
 - (b) ending with the date on which they authorise payment of the amount on which the interest is payable.
- (7) The “applicable period” in a case falling within paragraph (d) of that subsection is the period—
- (a) beginning with the date on which, apart from the error, the Commissioners might reasonably have been expected to authorise payment of the amount on which the interest is payable, and
 - (b) ending with the date on which they in fact authorise payment of that amount.
- (8) In determining in accordance with subsection (4), (6) or (7) above the applicable period for the purposes of subsection (1) above, there shall be left out of account any period referable to the raising and answering of any reasonable inquiry relating to any matter giving rise to, or otherwise connected with, the person’s entitlement to interest under this section.
- (9) The Commissioners shall only be liable to pay interest under this section on a claim made in writing for that purpose.

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

- (10) No claim shall be made under this section after the expiry of six years from the date on which the claimant discovered the error or could with reasonable diligence have discovered it.
- (11) In this section—
- (a) any reference to receiving a payment from the Commissioners includes a reference to the discharge, by way of set-off, of their liability to make it; and
 - (b) any reference to a return is a reference to a return required to be made in accordance with paragraph 2 of Schedule 7 to this Act.
- (12) This section confers a right to interest in respect of periods before as well as after its coming into force.

38B Interest: general treatment

- (1) Any interest payable by the Commissioners (whether under an enactment or instrument or otherwise) to a person on a sum due to him under or by virtue of—
- (a) any provision of this Act,
 - (b) section 25 of the Finance Act 1985, or
 - (c) section 24 of the Finance Act 1989,
- shall be treated as an amount due to him by way of credit under section 14(5) above.
- (2) Subsection (1) above shall be disregarded for the purpose of determining a person's entitlement to interest or the amount of interest to which he is entitled.”
- (2) In section 40(1) of that Act (which specifies the matters in respect of which an appeal lies to a value added tax tribunal against a decision of the Commissioners) after paragraph (h) there shall be inserted—
- “(ha) any liability of the Commissioners to pay interest under section 38A above or the amount of interest so payable;”.

18 Reduction of penalty for serious misdeclaration etc

- (1) In section 14 of the Finance Act 1985 (serious misdeclaration or neglect resulting in understatements or overclaims) in subsection (1) (liability to penalty equal to a percentage of the tax which would have been lost) for “30 per cent.” there shall be substituted “20 per cent.”
- (2) Subject to subsection (3) below, this section shall apply where a penalty is assessed on or after 20th March 1991 in relation to a prescribed accounting period beginning on or after 1st April 1990.
- (3) This section shall not apply in the case of a supplementary assessment if the original assessment was made before 20th March 1991.