



# Value Added Tax Act 1994

## 1994 CHAPTER 23

### PART IV

#### ADMINISTRATION, COLLECTION AND ENFORCEMENT

##### *Assessments of VAT and other payments due*

#### **77 Assessments: time limits and supplementary assessments.**

- (1) Subject to the following provisions of this section, an assessment under section 73<sup>F1</sup> ... or 76, shall not be made—
- more than [<sup>F2</sup>4 years] after the end of the prescribed accounting period or importation<sup>F3</sup> ... concerned, or
  - in the case of an assessment under section 76 of an amount due by way of a penalty which is not among those referred to in subsection (3) of that section, [<sup>F4</sup>4 years] after the event giving rise to the penalty.
- [<sup>F5</sup>(2) Subject to subsection (5) below, an assessment under section 76 of an amount due by way of any [<sup>F6</sup>penalty, interest or surcharge][<sup>F6</sup>penalty<sup>F7</sup> ...] referred to in subsection (3)<sup>F8</sup> ... of that section may be made at any time before the expiry of the period of 2 years beginning with the time when the amount of VAT due for the prescribed accounting period concerned has been finally determined.
- (2A) Subject to subsection (5) below, an assessment under section 76 of a penalty under section 65 or 66 may be made at any time before the expiry of the period of 2 years beginning with the time when facts sufficient in the opinion of the Commissioners to indicate, as the case may be—
- that the statement in question contained a material inaccuracy, or
  - that there had been a default within the meaning of section 66(1), came to the Commissioners' knowledge.]
- (3) In relation to an assessment under section 76, any reference in subsection (1) or (2) above to the prescribed accounting period concerned is a reference to that period

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which, in the case of the [<sup>F9</sup>penalty, interest or surcharge][<sup>F9</sup>penalty <sup>F10</sup>...] concerned, is the relevant period referred to in subsection (3) <sup>F11</sup>... of that section.

<sup>F12</sup>(4) In any case falling within subsection (4A), an assessment of a person (“P”), or of an amount payable by P, may be made at any time not more than 20 years after the end of the prescribed accounting period or the importation<sup>F13</sup>... or event giving rise to the penalty, as appropriate (subject to subsection (5)).

(4A) Those cases are—

- (a) a case involving a loss of VAT brought about deliberately by P (or by another person acting on P's behalf),
- (b) a case in which P has participated in a transaction knowing that it was part of arrangements of any kind (whether or not legally enforceable) intended to bring about a loss of VAT,
- (c) a case involving a loss of VAT attributable to a failure by P to comply with a notification obligation, and
- (d) a case involving a loss of VAT attributable to a scheme in respect of which P has failed to comply with an obligation under paragraph 6 of Schedule 11A [<sup>F14</sup>or an obligation under paragraph 17(2) or 18(2) of Schedule 17 to FA 2017].

(4B) In subsection (4A) the references to a loss of tax brought about deliberately by P or another person include a loss that arises as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by that person.

(4C) In subsection (4A)(c) “notification obligation” means an obligation under—

- (a) paragraph 5, 6, 7 or 14(2) or (3) of Schedule 1,
- <sup>F15</sup>(aa) paragraph 5, 6 or 13(3) of Schedule 1A, [<sup>F16</sup>or]
- <sup>F17</sup>(b) .....
- <sup>F18</sup>(c) .....
- (d) paragraph 3, 4 or 7(2) or (3) of Schedule 3A, <sup>F19</sup>...
- <sup>F19</sup>(e) .....]

(5) Where, after a person's death, the Commissioners propose to assess a sum as due by reason of some conduct (howsoever described) of the deceased, including a sum due by way of [<sup>F20</sup>penalty, interest or surcharge][<sup>F20</sup>penalty <sup>F21</sup>...]—

- (a) the assessment shall not be made more than [<sup>F22</sup>4 years] after the death; <sup>F23</sup>...
- <sup>F23</sup>(b) .....

(6) If, otherwise than in circumstances falling within section 73(6)(b) <sup>F24</sup>..., it appears to the Commissioners that the amount which ought to have been assessed in an assessment under that section or under section 76 exceeds the amount which was so assessed, then—

- (a) under the like provision as that assessment was made, and
  - (b) on or before the last day on which that assessment could have been made,
- the Commissioners may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

#### Textual Amendments

- F1** Word in s. 77(1) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 69\(2\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I.

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- 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F2** Words in s. 77(1)(a) substituted (1.4.2009) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 34(2)**; S.I. 2009/403, art. 2(1) (with arts. 4, 9)
- F3** Words in s. 77(1)(a) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(2)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F4** Words in s. 77(1)(b) substituted (1.4.2009) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 34(2)**; S.I. 2009/403, art. 2(1) (with arts. 4, 9)
- F5** S. 77(2)(2A) substituted (27.7.1999 with effect as mentioned in s. 18(2)) for s. 77(2) by 1999 c. 16, s. **18(1)(2)**
- F6** Words in s. 77(2) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 21**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F7** Words in s. 77(2) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(4)**
- F8** Words in s. 77(2) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(3)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F9** Words in s. 77(3) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 21**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F10** Words in s. 77(3) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(4)**
- F11** Words in s. 77(3) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(4)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F12** S. 77(4)-(4C) substituted for s. 77(4) (1.4.2009) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 34(3)**; S.I. 2009/403, art. 2(1) (with arts. 4, 9)
- F13** Word in s. 77(4) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(5)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F14** Words in s. 77(4A)(d) inserted (16.11.2017 for specified purposes, 1.1. 2018 in so far as not already in force) by Finance (No. 2) Act 2017 (c. 32), s. 66(4), **Sch. 17 para. 51**
- F15** S. 77(4C)(aa) inserted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), **Sch. 28 para. 10**
- F16** Word in s. 77(4C)(aa) inserted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(6)(a)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F17** S. 77(4C)(b) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(6)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

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- F18** S. 77(4C)(c) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(6)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F19** S. 77(4C)(e) and word omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(6)(b)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F20** Words in s. 77(5) substituted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 21**; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2
- F21** Words in s. 77(5) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022 (S.I. 2022/1298), arts. 1(3)(a), **3(4)**
- F22** Words in s. 77(5)(a) substituted (1.4.2009) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 34(4)(a)**; S.I. 2009/403, art. 2(1) (with arts. 4, 9)
- F23** S. 77(5)(b) and word omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 34(4)(b)**; S.I. 2009/403, art. 2(1) (with arts. 4, 9)
- F24** Words in s. 77(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 69(7)** (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**Modifications etc. (not altering text)**

- C1** S. 77(4)-(4B) applied (1.5.2023) by The Value Added Tax (Margin Schemes and Removal or Export of Goods: VAT-related Payments) Order 2023 (S.I. 2023/68), arts. 1(1), **15(4)** (with art. 1(2))

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