



Finance Act 1994

1994 CHAPTER 9

PART I

CUSTOMS AND EXCISE

CHAPTER II

APPEALS AND PENALTIES

Civil penalties

8 Penalty for evasion of excise duty.

- (1) Subject to the following provisions of this section, in any case where—
- any person engages in any conduct for the purpose of evading any duty of excise, and
 - his conduct involves dishonesty (whether or not such as to give rise to any criminal liability),

that person shall be liable to a penalty of an amount equal to the amount of duty evaded or, as the case may be, sought to be evaded.

- (2) References in this section to a person's evading a duty of excise shall include references to his obtaining or securing, without his being entitled to it—
- any repayment, rebate or drawback of duty;
 - any relief or exemption from or any allowance against duty; or
 - any deferral or other postponement of his liability to pay any duty or of the discharge by payment of any such liability,

and shall also include references to his evading the cancellation of any entitlement to, or the withdrawal of, any such repayment, rebate, drawback, relief, exemption or allowance.

Status: Point in time view as at 01/11/1994. This version of this provision has been superseded.

Changes to legislation: Finance Act 1994, Section 8 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In relation to any such evasion of duty as is mentioned in subsection (2) above, the reference in subsection (1) above to the amount of duty evaded or sought to be evaded shall be construed as a reference to the amount of the repayment, rebate, drawback, relief, exemption or allowance or, as the case may be, the amount of the payment which, or the liability to make which, is deferred or otherwise postponed.
- (4) Where a person is liable to a penalty under this section—
- (a) the Commissioners or, on appeal, an appeal tribunal may reduce the penalty to such amount (including nil) as they think proper; and
 - (b) an appeal tribunal, on an appeal relating to a penalty reduced by the Commissioners under this subsection, may cancel the whole or any part of the reduction made by the Commissioners.
- (5) Neither of the following matters shall be a matter which the Commissioners or any appeal tribunal shall be entitled to take into account in exercising their powers under subsection (4) above, that is to say—
- (a) the insufficiency of the funds available to any person for paying any duty of excise or for paying the amount of the penalty;
 - (b) the fact that there has, in the case in question or in that case taken with any other cases, been no or no significant loss of duty.
- (6) Statements made or documents produced by or on behalf of a person shall not be inadmissible in—
- (a) any criminal proceedings against that person in respect of any offence in connection with or in relation to any duty of excise, or
 - (b) any proceedings against that person for the recovery of any sum due from him in connection with or in relation to any duty of excise,
- by reason only that any of the matters specified in subsection (7) below has been drawn to his attention and that he was, or may have been, induced by that matter having been brought to his attention to make the statements or produce the documents.
- (7) The matters mentioned in subsection (6) above are—
- (a) that the Commissioners have power, in relation to any duty of excise, to assess an amount due by way of a civil penalty, instead of instituting criminal proceedings;
 - (b) that it is the Commissioners' practice, without being able to give an undertaking as to whether they will make such an assessment in any case, to be influenced in determining whether to make such an assessment by the fact (where it is the case) that a person has made a full confession of any dishonest conduct to which he has been a party and has given full facilities for an investigation;
 - (c) that the Commissioners or, on appeal, an appeal tribunal have power to reduce a penalty under this section, as provided in subsection (4) above; and
 - (d) that, in determining the extent of such a reduction in the case of any person, the Commissioners or tribunal will have regard to the extent of the co-operation which he has given to the Commissioners in their investigation.
- (8) Where, by reason of conduct falling within subsection (1) above, a person is convicted of an offence, that conduct shall not also give rise to liability to a penalty under this section.

Status: Point in time view as at 01/11/1994. This version of this provision has been superseded.

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Commencement Information

- II** S. 8 wholly in force at 1.1.1995; s. 8 not in force at Royal Assent see s. 19(1); s. 8 in force for certain purposes at 1.11.1994 by [S.I. 1994/2679, art. 2, Sch.](#); s. 8 in force at 1.1.1995 insofar as not already in force by [S.I. 1994/2679, art. 3](#)

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