



# Finance Act 1995

## 1995 CHAPTER 4

### PART II

#### VALUE ADDED TAX AND INSURANCE PREMIUM TAX

##### *Value added tax*

#### **27 Set-off of credits.**

(1) Section 81 of the <sup>M1</sup>Value Added Tax Act 1994 (which includes provision as to the setting off of credits) shall be amended as follows.

(2) For subsection (4) there shall be substituted the following subsections—

“(4A) Subsection (3) above shall not require any such amount as is mentioned in paragraph (a) of that subsection (“the credit”) to be set against any such sum as is mentioned in paragraph (b) of that subsection (“the debit”) in any case where—

- (a) an insolvency procedure has been applied to the person entitled to the credit;
- (b) the credit became due after that procedure was so applied; and
- (c) the liability to pay the debit either arose before that procedure was so applied or (having arisen afterwards) relates to, or to matters occurring in the course of, the carrying on of any business at times before the procedure was so applied.

(4B) Subject to subsection (4C) below, the following are the times when an insolvency procedure is to be taken, for the purposes of this section, to be applied to any person, that is to say—

- (a) when a bankruptcy order, winding-up order, administration order or award of sequestration is made in relation to that person;
- (b) when that person is put into administrative receivership;
- (c) when that person, being a corporation, passes a resolution for voluntary winding up;

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- (d) when any 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 <sup>M2</sup>Insolvency (Northern Ireland) Order 1989, comes into force in relation to that person;
  - (e) when a deed of arrangement registered in accordance with the <sup>M3</sup>Deeds of Arrangement Act 1914 or Chapter I of Part VIII of that Order of 1989 takes effect in relation to that person;
  - (f) when that person's estate becomes vested in any other person as that person's trustee under a trust deed.
- (4C) In this section references, in relation to any person, to the application of an insolvency procedure to that person shall not include—
- (a) the making of a bankruptcy order, winding-up order, administration order or award of sequestration at a time when any such arrangement or deed as is mentioned in subsection (4B)(d) to (f) above is in force in relation to that person;
  - (b) the making of a winding-up order at any of the following times, that is to say—
    - (i) immediately upon the discharge of an administration order made in relation to that person;
    - (ii) when that person is being wound up voluntarily;
    - (iii) when that person is in administrative receivership;
 or
  - (c) the making of an administration order in relation to that person at any time when that person is in administrative receivership.
- (4D) For the purposes of this section a person shall be regarded as being in administrative receivership throughout any continuous period for which (disregarding any temporary vacancy in the office of receiver) there is an administrative receiver of that person, and the reference in subsection (4B) above to a person being put into administrative receivership shall be construed accordingly.”
- (3) In subsection (5) (definitions), for “subsection (4) above” there shall be substituted “this section”.
- (4) This section shall have effect in relation to amounts becoming due from the Commissioners of Customs and Excise at times on or after the day on which this Act is passed.

**Marginal Citations**

**M1** 1994 c. 23.

**M2** 1986 c. 45.

**M3** 1914 c. 47.

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