

*Status: Point in time view as at 17/07/2013.*

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## SCHEDULES

### SCHEDULE 5

#### LANDFILL TAX

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

**C1** Sch. 5 extended (19.3.1997) by 1997 c. 16, s. 50(1), Sch. 5 Pt. I para. 4(3)

#### PART VI

##### INTEREST

###### *Interest on under-declared tax*

- 26 (1) Sub-paragraph (2) below applies where—
- (a) under section 50(1) of this Act the Commissioners assess an amount of tax due from a registrable person for an accounting period and notify it to him, and
  - (b) the assessment is made on the basis that the amount (the additional amount) is due from him in addition to any amount shown in a return made in relation to the accounting period.
- (2) The additional amount shall carry interest for the period which—
- (a) begins with the day after that on which the person is required by provision made under section 49 of this Act to pay tax due from him for the accounting period, and
  - (b) ends with the day before the relevant day.
- (3) For the purposes of sub-paragraph (2) above the relevant day is the earlier of—
- (a) the day on which the assessment is notified to the person;
  - (b) the day on which the additional amount is paid.
- (4) Sub-paragraph (5) below applies where under section 50(2) of this Act the Commissioners assess an amount as being tax due from a registrable person for an accounting period and notify it to him.
- (5) The amount shall carry interest for the period which—
- (a) begins with the day after that on which the person is required by provision made under section 49 of this Act to pay tax due from him for the accounting period, and
  - (b) ends with the day before the relevant day.
- (6) For the purposes of sub-paragraph (5) above the relevant day is the earlier of—
- (a) the day on which the assessment is notified to the person;

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- (b) the day on which the amount is paid.
- (7) Interest under this paragraph shall be payable at the rate applicable under section 197 of this Act.
- (8) Interest under this paragraph shall be paid without any deduction of income tax.
- (9) Sub-paragraph (10) below applies where—
  - (a) an amount carries interest under this paragraph (or would do so apart from that sub-paragraph), and
  - (b) all or part of the amount turns out not to be due.
- (10) In such a case—
  - (a) the amount or part (as the case may be) shall not carry interest under this paragraph and shall be treated as never having done so, and
  - (b) all such adjustments as are reasonable shall be made, including adjustments by way of repayment by the Commissioners where appropriate.

*Interest on unpaid tax etc.*

- 27 (1) Sub-paragraph (2) below applies where—
  - (a) a registrable person makes a return under provision made under section 49 of this Act (whether or not he makes it at the time required by such provision), and
  - (b) the return shows that an amount of tax is due from him for the accounting period in relation to which the return is made.
- (2) The amount shall carry interest for the period which—
  - (a) begins with the day after that on which the person is required by provision made under section 49 of this Act to pay tax due from him for the accounting period, and
  - (b) ends with the day before that on which the amount is paid.
- (3) Sub-paragraph (4) below applies where—
  - (a) under section 50(1) of this Act the Commissioners assess an amount of tax due from a registrable person for an accounting period and notify it to him, and
  - (b) the assessment is made on the basis that no return required by provision made under section 49 of this Act has been made by the person in relation to the accounting period.
- (4) The amount shall carry interest for the period which—
  - (a) begins with the day after that on which the person is required by provision made under section 49 of this Act to pay tax due from him for the accounting period, and
  - (b) ends with the day before that on which the amount is paid.
- (5) Sub-paragraph (6) below applies where—
  - (a) under section 50(1) of this Act the Commissioners assess an amount of tax due from a registrable person for an accounting period and notify it to him, and
  - (b) the assessment (the supplementary assessment) is made on the basis that the amount (the additional amount) is due from him in addition to any amount

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shown in a return, or in any previous assessment, made in relation to the accounting period.

- (6) The additional amount shall carry interest for the period which—
- (a) begins with the day on which the supplementary assessment is notified to the person, and
  - (b) ends with the day before that on which the additional amount is paid.
- (7) Sub-paragraph (8) below applies where under section 50(2) of this Act the Commissioners assess an amount as being tax due from a registrable person for an accounting period and notify it to him.
- (8) The amount shall carry interest for the period which—
- (a) begins with the day on which the assessment is notified to the person, and
  - (b) ends with the day before that on which the amount is paid.
- (9) Sub-paragraph (10) below applies where under paragraph 32 below the Commissioners—
- (a) assess an amount due from a person by way of penalty under Part V of this Schedule [<sup>F1</sup>or under Schedule 41 to the Finance Act 2008] and notify it to him, or
  - (b) assess an amount due from a person by way of interest under paragraph 26 above and notify it to him.
- (10) The amount shall carry interest for the period which—
- (a) begins with the day on which the assessment is notified to the person, and
  - (b) ends with the day before that on which the amount is paid.
- (11) Interest under this paragraph shall be compound interest calculated—
- (a) at the penalty rate, and
  - (b) with monthly rests;
- and the penalty rate is the rate found by taking the rate at which interest is payable under paragraph 26 above and adding 10 percentage points to that rate.
- (12) Interest under this paragraph shall be paid without any deduction of income tax.
- (13) Where—
- (a) the Commissioners assess and notify an amount as mentioned in sub-paragraph (5)(a) or (7) or (9)(a) or (b) above,
  - (b) they also specify a date for the purposes of this sub-paragraph, and
  - (c) the amount concerned is paid on or before that date,
- the amount shall not carry interest by virtue of sub-paragraph (6) or (8) or (10) above (as the case may be).
- (14) Sub-paragraph (15) below applies where—
- (a) an amount carries interest under this paragraph (or would do so apart from that sub-paragraph), and
  - (b) all or part of the amount turns out not to be due.
- (15) In such a case—
- (a) the amount or part (as the case may be) shall not carry interest under this paragraph and shall be treated as never having done so, and

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- (b) all such adjustments as are reasonable shall be made, including adjustments by way of repayment by the Commissioners where appropriate.

#### Textual Amendments

**F1** Words in [Sch. 5 para. 27\(9\)\(a\)](#) inserted (1.4.2010) by [The Finance Act 2008 \(Penalties for Errors and Failure to Notify etc\) \(Consequential Amendments\) Order 2010 \(S.I. 2010/530\)](#), art. 1, [Sch. para. 6\(a\)](#)

- 28 (1) Where a person is liable to pay interest under paragraph 27 above the Commissioners or, on appeal, an appeal tribunal may reduce the amount payable to such amount (including nil) as they think proper.
- (2) Where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the conduct giving rise to the liability to pay interest, that is a factor which (among other things) may be taken into account under sub-paragraph (1) above.
- (3) In the case of interest reduced by the Commissioners under sub-paragraph (1) above an appeal tribunal, on an appeal relating to the interest, may cancel the whole or any part of the reduction made by the Commissioners.

#### *Interest payable by Commissioners*

- 29 (1) Where, due to an error on the part of the Commissioners, a person—
- (a) has paid to them by way of tax an amount which was not tax due and which they are in consequence liable to repay to him,
  - (b) has failed to claim payment of an amount to the payment of which he was entitled in pursuance of provision made under section 51(2)(c) or (d) or (f) of this Act, or
  - (c) has suffered delay in receiving payment of an amount due to him from them in connection with tax,

then, if and to the extent that they would not be liable to do so apart from this paragraph, they shall (subject to the following provisions of this paragraph) pay interest to him on that amount for the applicable period.

[<sup>F2</sup>(1A) In sub-paragraph (1) above—

- (a) the reference in paragraph (a) to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference to only so much of that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied; and
- (b) the amounts referred to in paragraph (c) do not include any amount payable under this paragraph.]

- (2) The applicable period, in a case falling within sub-paragraph (1)(a) 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.
- (3) The applicable period, in a case falling within sub-paragraph (1)(b) or (c) above, is the period—

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- (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.
- <sup>F3</sup>(4) In determining the applicable period for the purposes of this paragraph there shall be left out of account any period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims the interest.
- <sup>F3</sup>(4A) The reference in sub-paragraph (4) above to a period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to—
- (a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the payment or repayment of the amount on which interest is claimed;
  - (b) any failure by that person or a person acting on his behalf or under his influence to provide the Commissioners—
    - (i) at or before the time of the making of a claim, or
    - (ii) subsequently in response to a request for information by the Commissioners,with all the information required by them to enable the existence and amount of the claimant's entitlement to a payment or repayment, and to interest on that payment or repayment, to be determined; and
  - (c) the making, as part of or in association with either—
    - (i) the claim for interest, or
    - (ii) any claim for the payment or repayment of the amount on which interest is claimed,of a claim to anything to which the claimant was not entitled.
- <sup>F3</sup>(5) In determining for the purposes of sub-paragraph (4A) above whether any period of delay is referable to a failure by any person to provide information in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be provided for by regulations, any period which—
- (a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and
  - (b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—
    - (i) that they have received a complete answer to their request for information;
    - (ii) that they have received all that they need in answer to that request; or
    - (iii) that it is unnecessary for them to be provided with any information in answer to that request.]
- (7) The commissioners shall only be liable to pay interest under under this paragraph on a claim made in writing for that purpose.
- <sup>F4</sup>(8) A claim under this paragraph shall not be made more than [<sup>F5</sup>4 years] after the end of the applicable period to which it relates.]
- <sup>F6</sup>(9) References in this paragraph—
- (a) to receiving payment of any amount from the Commissioners, or

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(b) to the authorisation by the Commissioners of the payment of any amount, include references to the discharge by way of set-off (whether in accordance with regulations under paragraph 42 or 43 below or otherwise) of the Commissioners' liability to pay that amount.]

(10) Interest under this paragraph shall be payable at the rate applicable under section 197 of this Act.

#### Textual Amendments

- F2** Sch. 5 para. 29(1A) inserted (*retrospective* to 29.4.1996) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. III para. 11(2)**
- F3** Sch. 5 para. 29(4)(4A)(5) substituted (19.3.1997 with effect as mentioned in **Sch. 5 Pt. III para. 12(2)** of the amending Act) for para. 29(4)-(6) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. III para. 12(1)**
- F4** Sch. 5 para. 29(8) substituted (*retrospective* to 29.4.1996) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. III para. 11(3)**
- F5** Words in **Sch. 5 para. 29(8)** substituted (1.4.2010) by Finance Act 2009 (c. 10), s. 99(2), **Sch. 51 para. 39**; S.I. 2010/867, art. 2(1) (with art. 25)
- F6** Sch. 5 para. 29(9) substituted (*retrospective* to 29.4.1996) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. III para. 1(4)**

- 30 (1) Where—
- (a) any interest is payable by the Commissioners to a person on a sum due to him under this Part of this Act, and
- (b) he is a person to whom regulations under section 51 of this Act apply, the interest shall be treated as an amount to which he is entitled by way of credit in pursuance of the regulations.
- (2) Sub-paragraph (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.

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