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Cross Heading: Assessment of amounts payable to the Commissioners. (See end of Document for details)*

SCHEDULES

SCHEDULE 6

ASSESSMENTS FOR EXCISE DUTY PURPOSES

Assessment of amounts payable to the Commissioners

- 1 (1) After section 12 of the Finance Act 1994 there shall be inserted the following sections—

“12A Other assessments relating to excise duty matters.

- (1) This subsection applies where any relevant excise duty relief other than an excepted relief—
- (a) has been given but ought not to have been given, or
 - (b) would not have been given had the facts been known or been as they later turn out to be.
- (2) Where subsection (1) above applies, the Commissioners may assess the amount of the relief given as being excise duty due from the liable person and notify him or his representative accordingly.
- (3) Where an amount has been assessed as due from any person under—
- (a) subsection (2) above,
 - (b) section 94 or 96 of the Management Act, or
 - (c) section 10, 13, 14, 23 or 24 of the ^{M1}Hydrocarbon Oil Duties Act 1979,
- and notice has been given accordingly, that amount shall, subject to any appeal under section 16 below, be deemed to be an amount of excise duty due from that person and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (4) No assessment under any of the provisions referred to in subsection (3) above, or under section 61 or 167 of the Management Act, shall be made at any time after whichever is the earlier of the following times, that is to say—
- (a) subject to subsection (6) below, the end of the period of three years beginning with the relevant time; and
 - (b) the end of the period of one year beginning with the day on which evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge.
- (5) Subsection (4) above shall be without prejudice, where further evidence comes to the knowledge of the Commissioners at any time after the making the assessment concerned, to the making of a further assessment within the period applicable by virtue of that subsection in relation to that further assessment.

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- (6) Subsection (4) above shall have effect as if the reference in paragraph (a) to three years were a reference to twenty years in any case where the assessment has been postponed or otherwise affected by, or the power to make the assessment arises out of, conduct falling within subsection (5)(a) or (b) of section 12 above (construed in accordance with subsection (7) of that section).

12B Section 12A: supplementary provisions.

- (1) For the purposes of section 12A above and this section, relevant excise duty relief has been given if (and only if)—

- (a) an amount of excise duty which a person is liable to pay has been remitted or payment of an amount of excise duty which a person is liable to pay has been waived;
- (b) an amount of excise duty has been repaid to a person;
- (c) an amount by way of drawback of excise duty has been paid to a person;
- (d) an allowance of excise duty in any amount has been made to a person;
- (e) an amount by way of rebate has been allowed to a person;
- (f) the liability of a person to repay an amount paid by way of drawback of excise duty has been waived;
- (g) an amount has been paid to a person under section 20(3) of the Hydrocarbon Oil Duties Act 1979 (payments in respect of contaminated or accidentally mixed oil); or
- (h) an amount of relief has been allowed to a person by virtue of section 20AA of that Act (power to allow reliefs), or in accordance with paragraph 10 of Schedule 3 to that Act (power to make regulations for the purpose of relieving from excise duty oil intended for exportation or shipment as stores);

and the amount of the relief is the amount mentioned in relation to the relief in this subsection.

- (2) For the purposes of section 12A above the relevant time is—

- (a) in the case of an assessment under section 61 of the Management Act, the time when the ship or aircraft in question returned to a place within the United Kingdom;
- (b) in the case of an assessment under section 94 of that Act, the time at which the goods in question were warehoused;
- (c) in the case of an assessment under that section as it has effect by virtue of section 95 of that Act, the time when the goods in question were lawfully taken from the warehouse;
- (d) in the case of an assessment under section 96 of that Act, the time when the goods in question were moved by pipe-line or notified as goods to be moved by pipe-line;
- (e) in the case of an assessment under section 167 of that Act—
 - (i) if the assessment relates to unpaid duty, the time when the duty became payable or, if later, the time when the document in question was delivered or the statement in question was made; and

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- (ii) if the assessment relates to an overpayment, the time when the overpayment was made;
 - (f) in the case of an assessment under section 10, 13, 14 or 23 of the ^{M2}Hydrocarbon Oil Duties Act 1979, the time of the action which gave rise to the power to assess;
 - (g) in the case of an assessment under section 24(4A) or (4B) of that Act, the time when the rebate was allowed or the oil was delivered without payment of duty (as the case may be);
 - (h) in the case of an assessment under section 12A(2) above, the time when the relevant excise duty relief in question was given.
- (3) In section 12A above “the liable person” means—
- (a) in the case of excise duty which has been remitted or repaid under section 130 of the Management Act on the basis that goods were lost or destroyed while in a warehouse, the proprietor of the goods or the occupier of the warehouse;
 - (b) in the case of a rebate which has been allowed on any oil under section 11 of the Hydrocarbon Oil Duties Act 1979, the person to whom the rebate was allowed or the occupier of any warehouse from which the oil was delivered for home use;
 - (c) in the case of a rebate allowed on any petrol under section 13A of that Act, the person to whom the rebate was allowed or the occupier of any warehouse from which the petrol was delivered for home use;
 - (d) in any other case, the person mentioned in subsection (1) above to whom the relief in question was given.
- (4) In section 12A above—
- “excepted relief” means any relief which is given by the making of a repayment on a claim made under section 137A of the Management Act;
- “representative”, in relation to any person from whom the Commissioners assess an amount as being excise duty due, means his personal representative, trustee in bankruptcy or interim or permanent trustee, any receiver or liquidator appointed in relation to him or any of his property or any other person acting in a representative capacity in relation to him.”
- (2) After section 14(1)(b) of that Act there shall be inserted the following paragraph—
- “(ba) any decision by the Commissioners to assess any person to excise duty under section 12A(2) above, section 61, 94, 96 or 167 of the Management Act or section 10, 13, 14, 23 or 24 of the ^{M3}Hydrocarbon Oil Duties Act 1979, or as to the amount of duty to which a person is to be assessed under any of those provisions;”.
- (3) In sections 12(8) and 13(7) of that Act (definition of “representative” for the purposes of sections 12 and 13), for “or trustee in bankruptcy,” there shall be substituted “, trustee in bankruptcy or interim or permanent trustee, ”.

Marginal Citations

M1 1979 c. 5.

M2 1979 c. 5.

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