



Finance Act 1997

1997 CHAPTER 16

PART IV

PAYMENTS AND OVERPAYMENTS IN RESPECT OF INDIRECT TAXES

Value added tax

44 Liability of Commissioners to interest.

- (1) Section 78 of the ^{M1}Value Added Tax Act 1994 (interest) shall have effect, and be deemed always to have had effect, with the insertion of the following subsection after subsection (1)—

“(1A) In subsection (1) above—

- (a) references to an amount which the Commissioners are liable in consequence of any matter to pay or repay to any person are references, where a claim for the payment or repayment has to be made, 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 (d) do not include any amount payable under this section.”

- (2) That section shall have effect in relation to any claim made on or after 18th July 1996, and shall be deemed always to have had effect in relation to such a claim, with the substitution of the following subsection for subsection (11)—

“(11) A claim under this section shall not be made more than three years after the end of the applicable period to which it relates.”

- (3) That section shall have effect, and be deemed always to have had effect, with the substitution of the following paragraph for paragraph (a) of subsection (12)—

“(a) references to the authorisation by the Commissioners of the payment of any amount include references to the discharge by way of set-off

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(whether under section 81(3) or otherwise) of the Commissioners' liability to pay that amount; and".

(4) For subsections (8) and (9) of that section (periods in respect of which the Commissioners are not liable to interest) there shall be substituted the following subsections—

“(8) In determining in accordance with subsection (4), (6) or (7) above the applicable period for the purposes of subsection (1) above, 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.

(8A) The reference in subsection (8) 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.

(9) In determining for the purposes of subsection (8A) 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 prescribed, 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.”

(5) Subsection (4) above shall have effect for the purposes of determining whether any period beginning on or after the day on which this Act is passed is left out of account.

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- (6) Amendments corresponding to those made by subsections (1) and (3) above shall be deemed to have had effect, for the purposes of the cases to which the enactments applied, in relation to the enactments directly or indirectly re-enacted in section 78 of the ^{M2}Value Added Tax Act 1994.

Marginal Citations

M1 1994 c. 23.

M2 1994 c. 23.

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