

*Status: Point in time view as at 17/07/2013.*

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## SCHEDULES

### SCHEDULE 53

Section 101

#### LATE PAYMENT INTEREST

##### Commencement Information

- I1** Sch. 53 in force at 31.8.2010 for specified purposes by [S.I. 2010/1878](#), **art. 2** (with [art. 3](#))
- I2** Sch. 53 in force at 6.10.2011 for specified purposes by [S.I. 2011/2391](#), **art. 2(c)**
- I3** Sch. 53 in force at 31.10.2011 for specified purposes by [S.I. 2011/701](#), **art. 3(1)** (with [art. 4](#))
- I4** Sch. 53 in force at 1.2.2013 for specified purposes by [S.I. 2013/67](#), **art. 2**
- I5** Sch. 53 in force at 1.4.2013 for specified purposes by [S.I. 2013/280](#), **art. 2**

#### PART 1

##### SPECIAL PROVISION: AMOUNT CARRYING LATE PAYMENT INTEREST

###### *Payments on account and balancing payment*

- 1 (1) This paragraph applies where as regards a tax year—
- (a) payments on account are payable by a person (“P”),
  - (b) P makes a claim under section 59A(3) or (4) of TMA 1970 (reduction of payments on account) in respect of those amounts, and
  - (c) a balancing payment becomes payable by P.
- (2) Late payment interest is to be calculated as if each of the payments on account had been equal to the lesser of the following amounts—
- (a) the aggregate of that payment on account and 50% of the balancing payment, and
  - (b) the amount which would have been payable as a payment on account if the claim under section 59A(3) or (4) had not been made.
- (3) In determining for the purposes of this paragraph what amount (if any) is payable by P as a balancing payment—
- (a) it is to be assumed that both of the payments on account have been paid,
  - (b) no account is to be taken of any amount which has been paid on account otherwise than under section 59A(2) of TMA 1970, and
  - (c) no account is to be taken of any amount which is payable by way of capital gains tax.
- (4) In this paragraph—
- “balancing payment” means an amount payable—
- (a) in accordance with section 59B(3), (4) or (5) of TMA 1970, or

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- (b) in accordance with section 59B(6) of that Act in respect of income tax assessed under section 29 of that Act;  
“payment on account” means an amount payable in accordance with section 59A(2) of TMA 1970.

*Payments on account and overpayment*

- 2 (1) This paragraph applies where as regards any person (“P”) and a tax year—
- (a) payments on account become payable by P, and
  - (b) an overpayment becomes repayable to P.
- (2) Late payment interest is payable only on the amount by which each of the payments on account exceeds 50% of the overpayment.
- (3) In determining for the purposes of this paragraph what amount (if any) is repayable to P as an overpayment—
- (a) no account is to be taken of any amount which has been paid on account otherwise than under section 59A(2) of TMA 1970, and
  - (b) no account is to be taken of any amount which is payable by way of capital gains tax.
- (4) In this paragraph—  
“overpayment” means an amount repayable in accordance with section 59B(3), (4) or (5) of TMA 1970;  
“payment on account” means an amount payable in accordance with section 59A(2) of that Act.

**PART 2**

SPECIAL PROVISION: LATE PAYMENT INTEREST START DATE

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

C1 Sch. 53 Pt. 2 modified (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 1 para. 30\(2\)](#)

*Amendments and discovery assessments etc*

- 3 (1) This paragraph applies to any amount which is due and payable as a result of—
- (a) an amendment or correction to an assessment or self-assessment (“assessment A”),
  - (b) an assessment made by HMRC in place of or in addition to an assessment (“assessment A”) which was made by a taxpayer, or
  - (c) an assessment made by HMRC in place of an assessment (“assessment A”) which ought to have been made by a taxpayer.
- (2) The late payment interest start date in respect of that amount is the date which would have been the late payment interest start date if—
- (a) assessment A had been complete and accurate and had been made on the date (if any) by which it was required to be made, and

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(b) accordingly, the amount had been due and payable as a result of assessment A.

(3) In the case of a person (“P”) who failed to give notice [<sup>F1</sup>in accordance with a requirement] under section 7 of TMA 1970 (notice of liability to tax) [<sup>F2</sup>that arose by virtue of subsection (1A) of that section], the reference in sub-paragraph (1)(c) to an assessment which ought to have been made by P is a reference to the assessment which P would have been required to make if an officer of Revenue and Customs had given notice under section 8 of that Act.

[<sup>F3</sup>(3A) In the case of a person (“P”) who failed to give notice in accordance with a requirement under section 7 of TMA 1970 that arose by virtue of subsection (1B) of that section, the reference in sub-paragraph (1)(c) to an assessment which ought to have been made by P is a reference to the assessment which P would have been required to make if no notice relating to the year of assessment concerned had been withdrawn under section 8B of that Act.]

(4) In this paragraph “assessment” means any assessment or determination (however described) of any amount due and payable to HMRC.

#### Textual Amendments

- F1** Words in Sch. 53 para. 3(3) substituted (with effect in accordance with Sch. 51 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 51 para. 7\(2\)\(a\)](#)
- F2** Words in Sch. 53 para. 3(3) inserted (with effect in accordance with Sch. 51 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 51 para. 7\(2\)\(b\)](#)
- F3** Sch. 53 para. 3(3A) inserted (with effect in accordance with Sch. 51 para. 9 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 51 para. 7\(3\)](#)

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

- C2** Sch. 53 paras. 3, 4 applied (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\)](#), regs. 1, 14

#### *Amounts postponed pending appeal under TMA 1970*

- 4 (1) This paragraph applies to any amount if payment of the amount is postponed under section 55 of TMA 1970 pending the determination of an appeal against an assessment of income tax or capital gains tax.
- (2) The late payment interest start date in respect of that amount is the date which would have been the late payment interest start date if there had been no appeal.

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

- C2** Sch. 53 paras. 3, 4 applied (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\)](#), regs. 1, 14

#### *Overpayment of tax*

- 5 (1) This paragraph applies to any amount of income tax or capital gains tax which is assessed and recoverable by virtue of an assessment under section 30 of TMA 1970 (recovery of overpayment of tax etc).

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- (2) The late payment interest start date in respect of that amount is 31 January next following the tax year in respect of which the assessment under section 30 is made.

*Recovery of payment of tax credit or interest*

- 6 In respect of any amount charged by an assessment mentioned in section [F4section 1111(2) of CTA 2010] (recovery of payment of tax credit or interest on such a payment), the late payment interest start date is the date when the payment of tax credit or interest was made.

**Textual Amendments**

- F4** Words in Sch. 53 para. 6 substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 722** (with Sch. 2)

*Inheritance tax payable by instalments*

- 7 (1) The late payment interest start date for each instalment of an amount to which this paragraph applies is the date on which that instalment is to be paid.
- (2) This paragraph applies to any amount of inheritance tax which is payable by instalments under section 229 of IHTA 1984.
- (3) This paragraph also applies to any amount of inheritance tax which is payable by instalments under section 227 of IHTA 1984 if the value on which the amount is payable is attributable to—
- (a) the value of qualifying property within subsection (2)(b) or (c) of that section (shares or securities, or business or interest in a business), or
  - (b) value treated as reduced under Chapter 2 of Part 5 of that Act.
- (4) But this paragraph does not apply to an amount by virtue of sub-paragraph (3)(a) if the qualifying property is shares or securities of a company which—
- (a) falls within sub-paragraph (5), but
  - (b) does not fall within sub-paragraph (6) or (7).
- (5) A company falls within this sub-paragraph if its business consists wholly or mainly of one or more of the following—
- (a) dealing in securities, stocks or shares, land or buildings, or
  - (b) making or holding investments.
- (6) A company falls within this sub-paragraph if its business consists wholly or mainly in being a holding company (as defined in section 1159 of the Companies Act 2006) of one or more companies not falling within sub-paragraph (5).
- (7) A company falls within this sub-paragraph if its business is carried on in the United Kingdom and is—
- (a) wholly that of a market maker, or
  - (b) that of a discount house.
- (8) A company is a market maker if—

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- (a) it holds itself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities, stocks or shares at a price specified by it, and
- (b) it is recognised as doing so by the Council of The Stock Exchange.

*Certain other amounts of inheritance tax*

- 8 An amount of inheritance tax which is underpaid in consequence of any of the following provisions—
- (a) section 146(1) of IHTA 1984,
  - (b) section 19 of the Inheritance (Provision for Family and Dependants) Act 1975, or
  - (c) Article 21 of the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979,
- does not carry late payment interest before the order mentioned in that provision is made.
- 9 In the case of an amount which is payable under section 147(4) of IHTA 1984, the late payment interest start date is the day after the end of the period of 6 months beginning with the date of the testator's death.

*VAT due from persons not registered as required*

- 10 (1) This paragraph applies where an amount of value added tax is due from a person (“P”) in respect of a period during which P was liable to be registered under VATA 1994 but was not registered.
- (2) The late payment interest start date in respect of the amount is the date which would have been the late payment interest date in respect of that amount if P had become registered when P had first become liable to be so.

*Unauthorised VAT invoices*

- 11 (1) This paragraph applies where an unauthorised person issues an invoice showing an amount as being value added tax or as including an amount attributable to value added tax.
- (2) The late payment interest start date in respect of the amount which is shown as being value added tax, or which is to be taken as representing value added tax, is the date of the invoice.
- (3) In this paragraph “unauthorised person” has the meaning given in paragraph 2 of Schedule 41 to FA 2008.

*Death of taxpayer*

- 12 (1) This paragraph applies if—
- (a) a person chargeable to an amount of revenue dies before the amount becomes due and payable, and
  - (b) the executor or administrator is unable to pay the amount before obtaining probate or letters of administration or (in Scotland) the executor is unable to pay the amount before obtaining confirmation.

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- (2) The late payment interest start date in respect of that amount is the later of the following—
- (a) the date which would be the late payment interest start date apart from this paragraph, and
  - (b) the day after the end of the period of 30 days beginning with the grant of probate or letters of administration or (in Scotland) the grant of confirmation.

### PART 3

#### SPECIAL PROVISION: DATE TO WHICH LATE PAYMENT INTEREST RUNS

##### *Deduction of income tax at source*

- 13 (1) This paragraph applies to any income tax which—
- (a) was payable under Chapter 15 of Part 15 of ITA 2007 (collection: deposit-takers, building societies and certain companies) in respect of payments within section 946 of that Act made in a return period,
  - (b) was not paid on the date when it was due under section 951 of that Act, and
  - (c) has subsequently been discharged or repaid under section 953 of that Act because the person who made the payments received payments on which it suffered income tax by deduction in a later return period.
- (2) The income tax carries late payment interest until the earliest of—
- (a) the date when the income tax was paid,
  - (b) the date when the person delivered a return for the later return period, and
  - (c) the end of the period of 14 days beginning with the end of the later return period,
- but section 101 does not otherwise apply to the income tax.
- (3) In this paragraph “return period” means a period for which a return is required to be made under Chapter 15 of Part 15 of ITA 2007.

##### *Property accepted in lieu of inheritance tax*

- 14 If, in the case of any amount of inheritance tax—
- (a) HMRC agree under section 230 of IHTA 1984 to accept property in satisfaction of the amount, and
  - (b) under terms of that acceptance the value to be attributed to the property for the purposes of the acceptance is determined as at a date earlier than that on which the property is actually accepted,
- the terms may provide that the amount of tax which is satisfied by the acceptance of the property does not carry late payment interest after that date.

### PART 4

#### EFFECT OF INTEREST ON RELIEFS

- 15 (1) Where conditions A and B are met—

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- (a) the appropriate adjustment is to be made of the amount of late payment interest payable, and
  - (b) accordingly, the appropriate repayment (if any) is to be made of any late payment interest previously paid.
- (2) Condition A is that any amount of late payment interest is payable on—
- (a) any amount on account of income tax which is due and payable in accordance with section 59A(2) of TMA 1970, or
  - (b) any amount of income tax or capital gains tax which becomes due and payable in accordance with section 55 or 59B of TMA 1970.
- (3) Condition B is that relief from the tax is given by a discharge of any of that amount of tax.

Paragraph 16 makes provision about the circumstances in which P is entitled to have a relief treated as being given by discharge.

- (4) In this paragraph—
- “the appropriate adjustment” is such adjustment as is necessary to secure that the total amount of late payment interest, if any, paid or payable on the amount of tax in question is the same as it would have been if the tax discharged had never been charged;
  - “the appropriate repayment” is such repayment as is necessary to give effect to the appropriate adjustment.

- 16 (1) Where—
- (a) income tax or capital gains tax has been paid for a chargeable period (“period A”), and
  - (b) relief from any amount of that tax is given to a person (“P”) by repayment, P is entitled to require that the amount repaid be treated for the purposes of paragraph 15(3), so far as it will go, as if it were a discharge of a qualifying charge to tax.
- (2) A qualifying charge to tax is any amount of tax charged on P (whether alone or together with other persons) by or by virtue of any assessment for or relating to period A.
- (3) But sub-paragraph (1) does not permit an amount to be applied—
- (a) to any assessment made after the relief was given, or
  - (b) to more than one assessment so as to reduce, without extinguishing, the amount of tax charged.

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