

2010 No. 794

RECOVERY OF TAXES

The Recovery of Foreign Taxes (Amendment) Regulations 2010

Made - - - - *15th March 2010*

Laid before the House of Commons *16th March 2010*

Coming into force - - *6th April 2010*

The Treasury make the following Regulations in exercise of the powers conferred by section 175(1), (3) and (4) of the Finance Act 2006(a).

Citation and commencement

1. These Regulations may be cited as the Recovery of Foreign Taxes (Amendment) Regulations 2010 and shall come into force on 6th April 2010.

Amendment of the Recovery of Foreign Taxes Regulations 2007 (S.I. 2007/3507)

2. The Recovery of Foreign Taxes Regulations 2007(b) are amended as follows.

Amendment of regulation 2

3.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In the definition of “applicant authority”, for “these Regulations” substitute “arrangements having effect by virtue of section 173 of the Finance Act 2006”.

(3) After the definition of “a final decision” insert—

““a foreign claim” means a debt relating to any relevant foreign tax;”.

(4) In the definition of “request for recovery” for “relevant foreign tax” substitute “foreign claim”.

Amendment of regulation 3

4.—(1) Regulation 3 (relevant foreign tax claim) is amended as follows.

(2) In paragraph (1) for “claim for a relevant foreign tax by an applicant authority” substitute “foreign claim”.

(3) In paragraph (2) after “enforcement action” insert “in relation to a foreign claim”.

Substitution of regulation 4

5. For regulation 4, substitute—

(a) 2006 c.25.
(b) S.I. 2007/3507.

“Requests for recovery

4.—(1) A request for recovery shall be in writing.

(2) A request for recovery shall give the sterling equivalent of the amount of the foreign claim, using the latest selling rate for sterling recorded on the most representative exchange market or markets of the territory in which the applicant authority is situated on the date when the request for recovery is made.”

Substitution of regulation 13

6. For regulation 13, substitute—

“Interest

13.—(1) A foreign claim carries interest in respect of the relevant foreign tax and any penalty claimed if arrangements having effect by virtue of section 173 of the Finance Act 2006 so provide.

(2) Where the arrangements provide that the rate of interest is that which applies under the law of the territory in which the applicant authority is situated, the claim carries interest at that rate for the period determined in accordance with those laws.

(3) Where paragraph (2) applies, the applicant authority must provide details to the Commissioners—

- (a) of the daily rate of interest to be applied, and
- (b) of the period for which interest runs.

(4) Where the arrangements provide that the rate of interest is that which applies in respect of any tax or duty imposed under the domestic law of the United Kingdom, the claim carries interest at the rate applicable to income tax under section 178 of the Finance Act 1989(a) from the date of recognition until payment.

(5) In paragraph (4), “the date of recognition” means the earlier of—

- (a) the day following the expiry of three months from the date of receipt by the Commissioners of the request for recovery of the foreign claim, and
- (b) the date the receipt of the request for recovery is acknowledged in writing by the Commissioners to the applicant authority.

(6) Paragraph (4) applies even if the date of recognition is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882(b).

(7) Interest is payable under this regulation without any deduction of income tax.

(8) For the purposes of this regulation, where—

- (a) any payment is made by cheque to Her Majesty’s Revenue and Customs, and
- (b) the cheque is paid on its first presentation to the banker on whom it is drawn;

the payment shall be treated as made on the day on which the cheque is received by the Commissioners.

(9) Interest charged under this regulation shall be recoverable as if it were interest charged under a provision of the Taxes Management Act 1970(c).”

Tony Cunningham

Dave Watts

15th March 2010

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 1989 c.26.
(b) 1882 c.61.
(c) 1970 c.9.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Recovery of Foreign Taxes Regulations 2007 (S.I. 2007/3507), principally in order to make clear that, if the relevant international arrangements so provide, interest shall be charged on the tax and penalty elements of a foreign claim in the same way as it is charged on a UK income tax debt (regulation 6 in conjunction with regulations 3(3), 3(4) and 4).

The Regulations also (regulation 6 in conjunction with regulation 3(2)) make clear that, where matters fall to be agreed between the Commissioners and the applicant authority, it is in accordance with international arrangements that have effect by virtue of section 173 of the Finance Act 2006.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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