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STATUTORY INSTRUMENTS

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**2023 No. 412**

**The Value Added Tax (Margin Schemes and Removal or Export of Goods: VAT-related Payments) (Late Payment Interest and Repayment Interest) (Amendment) Order 2023**

**Amendments to the Value Added Tax (Margin Schemes and Removal or Export of Goods: VAT-related Payments) Order 2023**

2.—(1) The Value Added Tax (Margin Schemes and Removal or Export of Goods: VAT-related Payments) Order 2023(1) is amended as follows:

(2) After article 16 (set-off) insert—

**“Interest**

**16A.** For the purposes of section 102 of the Finance Act 2009(2), in the case of an amount which is payable by virtue of a claim under article 8, the repayment interest start date is the last day of a period of 4 months beginning on the day on which that claim is made.

**Certain amounts of repayment interest recoverable as late payment interest**

**16B.**—(1) In this article and article 16C “late payment interest” and “repayment interest” have the meanings given in section 104(1) of the Finance Act 2009.

(2) Where each of conditions A to C specified in paragraph (3) is met, an amount of repayment interest that—

- (a) has been paid to a person, but
- (b) ought not to have been paid (see condition C),

may be recovered from that person as if it were late payment interest.

- (a) (3) Condition A is that the repayment interest has been paid to the person in respect of a claim under article 8;
- (b) Condition B is that (whether or not a previous assessment has been made) an assessment or amendment of an assessment is made to recover an amount paid under article 3 by virtue of the claim;
- (c) Condition C is that, as a result of the assessment or amendment of the assessment, it appears to the Commissioners(3) that some or all of the repayment interest ought not to have been paid.

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(1) [S.I. 2023/68](#).

(2) Section 102 was amended by paragraph 3 of Schedule 9 to the Finance (No. 3) Act 2010 and paragraph 2 of Schedule 29 to the Finance Act 2021 (c. 26).

(3) Section 96(1) of the Value Added Tax Act 1994 defines “the Commissioners” as meaning the Commissioners of Customs and Excise. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for His Majesty’s Revenue and Customs by section 5(1)(b) of the Commissioners for Revenue and Customs Act 2005 (c. 11); section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for His Majesty’s Revenue and Customs.

### **Interest: common period rules for VAT-related payments**

- 16C.**—(1) This paragraph applies where there is a common period in relation to a person.
- (2) A common period in relation to a person is any period during which—
- (a) an amount which relates to a claim under article 8 and which carries late payment interest is due and payable by the person (“the overdue payment”); and
  - (b) an amount which relates to a claim under article 8 and which carries repayment interest is payable to the person (“the credit”).
- (3) During the common period—
- (a) the overdue payment is to be treated as carrying late payment interest only on the amount (if any) by which the overdue payment exceeds the credit; and
  - (b) the credit is to be treated as carrying repayment interest only on the amount (if any) by which the credit exceeds the overdue payment.

### **Recovery of Interest**

**16D.** Section 77ZA of VATA applies in relation to interest charged under section 101 of the Finance Act 2009 on an amount paid by virtue of a claim under article 8 as if references in that section to an amount of VAT included references to an amount of a VAT-related payment<sup>(4)</sup>.”

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(4) “VAT-related payment” is defined in section 50B(4) of the Value Added Tax Act 1994 (c. 23).