

2023 No. 412

VALUE ADDED TAX

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

<i>Made</i>	- - - -	<i>4th April 2023</i>
<i>Laid before the House of Commons</i>		<i>5th April 2023</i>
<i>Coming into force</i>	- -	<i>1st May 2023</i>

The Treasury, in exercise of the powers conferred by section 50B(1), (6)(i) and (7) of the Value Added Tax Act 1994(a), make the following Order.

Citation and commencement

1. This Order may be cited as the Value Added Tax (Margin Schemes and Removal or Export of Goods: VAT-related Payments) (Late Payment Interest and Repayment Interest) (Amendment) Order 2023 and comes into force on 1st May 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(b) is amended as follows:

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

“Interest

16A. For the purposes of section 102 of the Finance Act 2009(c), 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) 1994 c. 23; section 50B was inserted by section 70 of the Finance Act 2022 (c. 3).

(b) S.I. 2023/68.

(c) 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).

- (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.
- (3) (a) 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^(a) that some or all of the repayment interest ought not to have been paid.

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^(b).”.

*Andrew Stephenson
Steve Double*

4th April 2023

Two of the Lords Commissioners of His Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Value Added Tax (Margin Schemes and Removal or Export of Goods: VAT-related Payments) Order 2023 (S.I. 2023/68) (“the VAT-related Payments Order”) and comes into force on 1st May 2023.

The VAT-related Payments Order comes into force on 1st May 2023. It makes provision for a VAT-related payment to be made in respect of a relevant supply of goods of a description

(a) 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.

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

contained in that Order. The Order specifies a relevant supply of a motor vehicle subject to certain conditions.

Sections 101 to 104 of, and Schedules 53, 54 and 54A to, the Finance Act 2009 (“the interest provisions”) make provision for interest to be payable by and to His Majesty’s Revenue and Customs (“HMRC”). Interest is payable where amounts are owed by or to HMRC under or by virtue of any enactment. The interest provisions have been commenced at different times for different purposes. The Finance Act 2009 (VAT-related Payments) (Interest) (Appointed Day) Order 2023 (S.I. 2023/385 C. 20) provides for the interest provisions, in so far as they are not already commenced, to be commenced for the purposes of amounts due under or by virtue of the VAT-related Payments Order.

This Order amends the VAT-related Payments Order to provide for when interest accrues in certain circumstances and to ensure that the interest provisions apply to a claim made under article 8 of that Order (“ an article 8 claim”) in the same way as they apply to VAT and to claims made under article 7 of the Order (article 7 claims are administered as if they are VAT credit claims: interest provisions for VAT were commenced from 1st January 2023 by S.I. 2022/1277).

Article 2 inserts new articles 16A to 16D. Article 16A modifies the application of paragraph 5 of Schedule 54 to the Finance Act 2009 so that the date from which repayment interest (due on amounts owed by HMRC) begins to accrue is four months after the date on which an article 8 claim is made. Article 16B makes provision for late payment interest (due on amounts owed to any person) which is wrongly paid on an article 8 claim to be recovered as repayment interest. Article 16C provides for a set-off during any period when a person is owed late payment interest but also owes repayment interest in respect of amounts related to an article 8 claim. Article 16D provides that section 77ZA of the Value Added Tax Act 1994 applies to interest payable under section 101 of the Finance Act 2009 in respect of an article 8 claim so that it can be recovered as if it is VAT.

A Tax Information and Impact Note covering this policy was published on 3rd March 2021 alongside Budget 2021 and is available on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this policy, including these consequential changes.

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