

*Changes to legislation:* There are currently no known outstanding effects for the Value Added Tax Act 1994, Cross Heading: Offences and Penalties. (See end of Document for details)

## SCHEDULES

### SCHEDULE 13

#### TRANSITIONAL PROVISIONS AND SAVINGS

##### Extent Information

- E1** Sch. 13 para. 23 extends to the Isle of Man.

#### GROUP 4A

##### FUEL AND POWER FOR DOMESTIC OR CHARITY USE

###### *Offences and Penalties*

- 11 Where an offence for the continuation of which a penalty was provided has been committed under an enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the same manner as if the offence had been committed under the corresponding provision of this Act.
- 12 Part IV of this Act, except section 72, shall not apply in relation to any act done or omitted to be done before 25th July 1985, and the following provision of this Schedule shall have effect accordingly.
- 13 (1) Section 72 shall have effect in relation to any offence committed or alleged to have been committed at any time (“the relevant time”) before the commencement of this Act subject to the following provisions of this paragraph.
- (2) Where the relevant time falls between 25th July 1983 and 26th July 1985 (the dates of passing of the 1983 and 1985 Finance Acts respectively), section 72 shall apply—
- (a) with the substitution in subsection (1)(b), (3)(ii) and (8)(b) of “2 years” for “7 years”;
  - (b) with the omission of subsections (2) and (4) to (7).
- 14 <sup>F1</sup>(1) The provisions of this paragraph have effect in relation to section 59.
- (2) Section 59 shall apply in any case where a person is in default in respect of a prescribed accounting period which has ended before the commencement of this Act, but shall have effect in any case where the last day referred to in subsection (1) of that section falls before 1st October 1993 subject to the following modifications—
- (a) for the words “a prescribed accounting period” in subsection (2)(a) there shall be substituted “any two prescribed accounting periods”;
  - (b) with the addition of the following paragraph in subsection (2)—

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- “(aa) the last day of the later one of those periods falls on or before the first anniversary of the last day of the earlier one; and”;
  - (c) for the words “period referred to in paragraph (a)” in subsection (2)(b) there shall be substituted “slater period referred to in paragraph (aa)”; and
  - (d) for the words “a default in respect of a prescribed accounting period and that period” in subsection (3) there shall be substituted “defaults in respect of two prescribed accounting periods and the second of those periods”.
- (3) Section 59 shall have effect, in any case where a person has been served with a surcharge liability notice and that person is in default in respect of a prescribed accounting period because of a failure of the Commissioners to receive a return or an amount of VAT on or before a day falling before 30th September 1993 with the omission of—
- (a) subsection (4)(b);
  - (b) the words in subsection (5) “and for which he has outstanding VAT”; and
  - (c) subsection (6).]

#### Textual Amendments

**F1** Sch. 13 para. 14 omitted (1.1.2023 for specified purposes, 6.4.2024 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), Sch. 27 para. 28; S.I. 2022/1278, reg. 2(3)(4)(a); S.I. 2024/440, reg. 2

- 15 (1) Section 63 does not apply in relation to returns and assessments made for prescribed accounting periods beginning before 1st April 1990 but subject to that shall have effect in relation to the cases referred to in the following sub-paragraphs subject to the modifications there specified.
- (2) Subsection (1) shall have effect in a case falling within paragraph (b) of that subsection where the assessment was made on or before 10th March 1992 with the substitution of “20 per cent.” for “15 per cent.”.
- (3) In relation to any prescribed accounting period beginning before 1st December 1993 section 63 shall have effect with the substitution—
- (a) for the words in subsection (2) following “exceeds” of “either 30 per cent. of the true amount of the VAT for that period or whichever is the greater of £10,000 and 5 per cent. of the true amount of VAT for that period.” and with the omission of subsections (4) to (6); and
  - (b) for the words in subsection (8) from “subsections” to “statements” of “subsection (7) that the statement by each of those returns is a correct statement”.
- (4) In relation to any prescribed accounting period beginning before 1st June 1994 section 63 shall have effect with the substitution for subsection (3) of the following subsection—
- “(3) Any reference in this section to the VAT for a prescribed accounting period which would have been lost if an inaccuracy had not been discovered is a reference to the aggregate of—
- (a) the amount (if any) by which credit for input tax for that period was overstated; and
  - (b) the amount (if any) by which output tax for that period was understated;

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but if for any period there is an understatement of credit for input tax or an overstatement of output tax, allowance shall be made for that error in determining the VAT for that period which would have been so lost.” and in subsection (8) for “this section” there shall be substituted “ subsections (5) and (7) above ”.

16 (1) In relation to any prescribed accounting period beginning before 1st December 1993 section 64 shall have effect subject to the following modifications—

- (a) in subsection (1)(b) for the words from “whichever” to “period” there shall be substituted “ whichever is the greater of £100 and 1 per cent. of the true amount of VAT for that period ”;
- (b) for subsections (2) and (3) there shall be substituted—

“(2) Subsection (3) below applies in any case where—

- (a) there is a material inaccuracy in respect of any two prescribed accounting periods, and
- (b) the last day of the later one of those periods falls on or before the second anniversary of the last day of the earlier one, and
- (c) after 29th July 1988 the Commissioners serve notice on the person concerned (“a penalty liability notice”) specifying as a penalty period for the purposes of this section a period beginning on the date of the notice and ending on the second anniversary of that date.

(3) If there is a material inaccuracy in respect of a prescribed accounting period ending within the penalty period specified in a penalty liability notice served on the person concerned that person shall be liable to a penalty equal to 15 per cent. of the VAT for that period which would have been lost if the inaccuracy had not been discovered.”;

- (c) in subsection (4) for “(5)” there shall be substituted “ (7) ”; and
- (d) in subsection (6) the words from “except” to the end shall be omitted.

(2) A penalty liability notice shall not be served under section 64 by reference to any material inaccuracy in respect of a prescribed accounting period beginning before 1st December 1993, and the penalty period specified in any penalty liability notice served before that day shall be deemed to end with the day before that day.

17 Section 70 shall not apply in relation to any penalty to which a person has been assessed before 27th July 1993 and in the case of any penalty in relation to which that section does not apply by virtue of this paragraph, section 60 shall have effect subject to the following modifications—

- (a) in subsection (1) for “subsection (6)” there shall be substituted “ subsections (3A) and (6) ”;
- (b) after subsection (3) there shall be inserted—

“(3A) If a person liable to a penalty under this section has co-operated with the Commissioners in the investigation of his true liability to tax or, as the case may be, of his true entitlement to any payment, refund or repayment, the Commissioners or, on appeal, a tribunal may reduce the penalty to an amount which is not less than half what it would have been apart from this subsection; and in determining the extent of any reduction under this subsection,

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the Commissioners or tribunal shall have regard to the extent of the co-operation which the person concerned has given to the Commissioners in their investigation.”;

- (c) in subsection (4)(b) for the words from “under” to “this section” there shall be substituted “ to reduce a penalty under this section, as provided in subsection (4) above, and, in determining the extent of such a reduction in the case of any person, the Commissioners or tribunal will have regard to the extent of the co-operation which he has given to the Commissioners in their investigation ”;

and in section 61(6) for “70” there shall be substituted “ 60(3A) ”.

- 18 Section 74 shall not apply in relation to prescribed accounting periods beginning before 1st April 1990 and subsection (3) of that section shall not apply in relation to interest on amounts assessed or, as the case may be, paid before 1st October 1993.

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