



Value Added Tax Act 1994

1994 CHAPTER 23

PART IV

ADMINISTRATION, COLLECTION AND ENFORCEMENT

Default surcharges and other penalties and criminal offences

60 VAT evasion: conduct involving dishonesty

- (1) In any case where—
- (a) for the purpose of evading VAT, a person does any act or omits to take any action, and
 - (b) his conduct involves dishonesty (whether or not it is such as to give rise to criminal liability),
- he shall be liable, subject to subsection (6) below, to a penalty equal to the amount of VAT evaded or, as the case may be, sought to be evaded, by his conduct.
- (2) The reference in subsection (1)(a) above to evading VAT includes a reference to obtaining any of the following sums—
- (a) a refund under any regulations made by virtue of section 13(5);
 - (b) a VAT credit;
 - (c) a refund under section 35, 36 or 40 of this Act or section 22 of the 1983 Act; and
 - (d) a repayment under section 39,
- in circumstances where the person concerned is not entitled to that sum.
- (3) The reference in subsection (1) above to the amount of the VAT evaded or sought to be evaded by a person's conduct shall be construed—
- (a) in relation to VAT itself or a VAT credit as a reference to the aggregate of the amount (if any) falsely claimed by way of credit for input tax and the amount (if any) by which output tax was falsely understated; and

Status: This is the original version (as it was originally enacted).

- (b) in relation to the sums referred to in subsection (2)(a), (c) and (e) above, as a reference to the amount falsely claimed by way of refund or repayment.
- (4) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (5) below by reason only that it has been drawn to his attention—
 - (a) that, in relation to VAT, the Commissioners may assess an amount due by way of a civil penalty instead of instituting criminal proceedings and, though no undertaking can be given as to whether the Commissioners will make such an assessment in the case of any person, it is their practice to be influenced by the fact that a person has made a full confession of any dishonest conduct to which he has been a party and has given full facilities for investigation, and
 - (b) that the Commissioners or, on appeal, a tribunal have power under section 70 to reduce a penalty under this section,and that he was or may have been induced thereby to make the statements or produce the documents.
- (5) The proceedings mentioned in subsection (4) above are—
 - (a) any criminal proceedings against the person concerned in respect of any offence in connection with or in relation to VAT, and
 - (b) any proceedings against him for the recovery of any sum due from him in connection with or in relation to VAT.
- (6) Where, by reason of conduct falling within subsection (1) above, a person is convicted of an offence (whether under this Act or otherwise), that conduct shall not also give rise to liability to a penalty under this section.
- (7) On an appeal against an assessment to a penalty under this section, the burden of proof as to the matters specified in subsection (1)(a) and (b) above shall lie upon the Commissioners.