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# Finance Act 1994

## 1994 CHAPTER 9

### PART III

#### INSURANCE PREMIUM TAX

##### *Review and appeal*

VALID FROM 01/10/1994

#### **59 Review of Commissioners' decisions.**

- (1) This section applies to any decision of the Commissioners with respect to any of the following matters—
- (a) the registration or cancellation of registration of any person under this Part;
  - (b) whether tax is chargeable in respect of a premium or how much tax is chargeable;
  - (c) whether a person is entitled to credit by virtue of regulations under section 55 above or how much credit a person is entitled to or the manner in which he is to benefit from credit;
  - (d) an assessment under section 56 above or the amount of such an assessment;
  - (e) any refusal of an application under section 63 below;
  - (f) whether a notice may be served on a person by virtue of regulations made under section 65 below;
  - (g) an assessment under regulations made under section 65 below or the amount of such an assessment;
  - (h) whether a scheme established by regulations under section 68 below applies to an insurer as regards an accounting period;
  - (i) the requirement of any security under paragraph 24 of Schedule 7 to this Act or its amount;
  - (j) any liability to a penalty under paragraphs 12 to 19 of Schedule 7 to this Act;

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- (k) the amount of any penalty or interest specified in an assessment under paragraph 25 of Schedule 7 to this Act;
  - (l) a claim for the repayment of an amount under paragraph 8 of Schedule 7 to this Act;
  - (m) any liability of the Commissioners to pay interest under paragraph 22 of Schedule 7 to this Act or the amount of the interest payable.
- (2) Any person who is or will be affected by any decision to which this section applies may by notice in writing to the Commissioners require them to review the decision.
- (3) The Commissioners shall not be required under this section to review any decision unless the notice requiring the review is given before the end of the period of 45 days beginning with the day on which written notification of the decision, or of the assessment containing the decision, was first given to the person requiring the review.
- (4) For the purposes of subsection (3) above it shall be the duty of the Commissioners to give written notification of any decision to which this section applies to any person who—
- (a) requests such a notification,
  - (b) has not previously been given written notification of that decision, and
  - (c) if given such a notification, will be entitled to require a review of the decision under this section.
- (5) A person shall be entitled to give a notice under this section requiring a decision to be reviewed for a second or subsequent time only if—
- (a) the grounds on which he requires the further review are that the Commissioners did not, on any previous review, have the opportunity to consider certain facts or other matters, and
  - (b) he does not, on the further review, require the Commissioners to consider any facts or matters which were considered on a previous review except in so far as they are relevant to any issue not previously considered.
- (6) Where the Commissioners are required in accordance with this section to review any decision, it shall be their duty to do so; and on the review they may withdraw, vary or confirm the decision.
- (7) In a case where—
- (a) it is the duty under this section of the Commissioners to review any decision, and
  - (b) they do not, within the period of 45 days beginning with the day on which the review was required, give notice to the person requiring it of their determination on the review,
- they shall be assumed for the purposes of this Part to have confirmed the decision.
- (8) The Commissioners shall not by virtue of any requirement under this section to review a decision have any power, apart from their power in pursuance of paragraph 13 of Schedule 7 to this Act, to mitigate the amount of any penalty imposed under this Part.

#### Commencement Information

**II** S. 59 wholly in force at 1.10.1994 by S.I. 1994/1773, art. 2

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VALID FROM 01/10/1994

## 60 Appeals.

- (1) Subject to the following provisions of this section, an appeal shall lie to an appeal tribunal with respect to any of the following decisions—
  - (a) any decision by the Commissioners on a review under section 59 above (including a deemed confirmation under subsection (7) of that section);
  - (b) any decision by the Commissioners on such review of a decision referred to in section 59(1) above as the Commissioners have agreed to undertake in consequence of a request made after the end of the period mentioned in section 59(3) above.
- (2) Without prejudice to paragraph 13 of Schedule 7 to this Act, nothing in subsection (1) above shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty or interest except in so far as it is necessary to reduce it to the amount which is appropriate under paragraphs 12 to 21 of that Schedule.
- (3) Where an appeal is made under this section by a person who is required to make returns by virtue of regulations under section 54 above, the appeal shall not be entertained unless the appellant—
  - (a) has made all the returns which he is required to make by virtue of those regulations, and
  - (b) has paid the amounts shown in those returns as payable by him;but the restriction in paragraph (b) above shall not apply in the case of an appeal against a decision with respect to the matter mentioned in section 59(1)(i) above.
- (4) Where the appeal is against a decision with respect to any of the matters mentioned in paragraphs (b) and (d) of section 59(1) above it shall not be entertained unless—
  - (a) the amount which the Commissioners have determined to be payable as tax has been paid or deposited with them, or
  - (b) on being satisfied that the appellant would otherwise suffer hardship the Commissioners agree or the tribunal decides that it should be entertained notwithstanding that that amount has not been so paid or deposited.
- (5) Where on an appeal against a decision with respect to any of the matters mentioned in section 59(1)(d) above—
  - (a) it is found that the amount specified in the assessment is less than it ought to have been, and
  - (b) the tribunal gives a direction specifying the correct amount,the assessment shall have effect as an assessment of the amount specified in the direction and that amount shall be deemed to have been notified to the appellant.
- (6) Where on an appeal under this section it is found that the whole or part of any amount paid or deposited in pursuance of subsection (4) above is not due, so much of that amount as is found not to be due shall be repaid with interest at such rate as the tribunal may determine.
- (7) Where on an appeal under this section it is found that the whole or part of any amount due to the appellant by virtue of regulations under section 55(3)(c) or (d) or (f) above has not been paid, so much of that amount as is found not to have been paid shall be paid with interest at such rate as the tribunal may determine.

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- (8) Where an appeal under this section has been entertained notwithstanding that an amount determined by the Commissioners to be payable as tax has not been paid or deposited and it is found on the appeal that that amount is due the tribunal may, if it thinks fit, direct that that amount shall be paid with interest at such rate as may be specified in the direction.
- (9) On an appeal against an assessment to a penalty under paragraph 12 of Schedule 7 to this Act, the burden of proof as to the matters specified in paragraphs (a) and (b) of sub-paragraph (1) of paragraph 12 shall lie upon the Commissioners.
- (10) Sections 25 and 29 of the <sup>M1</sup>Finance Act 1985 (settling of appeals by agreement and enforcement of certain decisions of tribunal) shall have effect as if—
- (a) the references to section 40 of the <sup>M2</sup>Value Added Tax Act 1983 included references to this section, and
  - (b) the references to value added tax included references to insurance premium tax.

**Modifications etc. (not altering text)**

**C1** S. 60 extended (19.3.1997) by 1997 c. 16, s. 50(1), **Sch. 5 para. 19(2)**

**Commencement Information**

**I2** S. 60 wholly in force at 1.10.1994 by **S.I. 1994/1773, art. 2**

**Marginal Citations**

**M1** 1985 c. 54.

**M2** 1983 c. 55.

**61 Review and appeal: commencement.**

Sections 59 and 60 above shall come into force on such day as may be appointed by order.

**Subordinate Legislation Made**

**P1** S. 61 power exercised: 1.10.1994 appointed by **S.I. 1994/1773, art. 2**

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