Finance Act 1995

1995 CHAPTER 4

PART I

DUTIES OF EXCISE

Air passenger duty

15 Rates of duty

(1) Section 30 of the Finance Act 1994 (rate of air passenger duty) shall be deemed to have been enacted with the following modifications.

(2) The following subsection shall be substituted for subsection (2) (£5 if journey ends in member State or territory for whose external relations it is responsible)—

"(2) The rate is £5 if that place is in the area specified in subsection (3) below and in—

(a) the United Kingdom or another EEA State, or

(b) any territory for whose external relations the United Kingdom or another member State is responsible."

(3) The following subsection shall be inserted after subsection (8)—

"(9) In this section "EEA State" means a State which is a Contracting Party to the EEA Agreement but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein; and "EEA Agreement" here means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993."

16 Assessment of interest on duty

(1) In Schedule 6 to the Finance Act 1994 (air passenger duty: administration and enforcement) after paragraph 11 there shall be inserted—

"Assessment of interest

11A (1) Where by virtue of paragraph 7 above duty due from any person for an accounting period carries interest, the Commissioners may assess that person to an amount of interest in accordance with this paragraph.

(2) Notice of the assessment shall be given to the person liable for the interest or a representative of his.

(3) The amount of the interest shall be calculated by reference to a period ending on a date ("the due date") no later than the date of the notice.

(4) The notice shall specify—

(a) the amount of the duty which carries the interest assessed ("the specified duty");

(b) the amount of the interest assessed ("the specified interest");

(c) the due date; and

(d) a date by which that amount is required to be paid ("the payment date").

(5) Sub-paragraphs (6) and (7) below apply where the specified duty or any part of it is unpaid on the date of the notice.

(6) If the unpaid amount or any part of it is paid by the payment date, the payment shall be treated for the purposes of paragraph 7 above as made on the due date.

(7) To the extent that the unpaid amount is not paid by the payment date, an assessment may be made under this paragraph in respect of any interest on the unpaid amount which accrues after the due date.

(8) For the purposes of sub-paragraphs (6) and (7) above, a payment—

(a) which purports to be a payment of the unpaid amount or any part of it, but

(b) which is insufficient to discharge both the liability to pay the unpaid amount and the liability to pay the specified interest,

shall be treated as made in discharge (or partial discharge) of the liability to pay the specified interest before it is treated as discharging to any extent the liability to pay the unpaid amount.

(9) A notice of interest assessed under this paragraph may be combined in one document with notification of an assessment under section 12 of this Act which relates to the specified duty.

(10) A notice which is so combined must comply with the requirements of this paragraph which relate to a notice which is not so combined.

(11) The specified interest shall be recoverable as if it were duty due from the person assessed to that interest.

(12) For the purposes of this paragraph a person is a representative of another if—

(a) he is that other's personal representative;

(b) he is that other's trustee in bankruptcy or is a receiver or liquidator appointed in relation to that other or in relation to any of his property; or

(c) he is a person acting in some other representative capacity in relation to that other."

(2) In Schedule 5 to the 1994 Act (decisions subject to review and appeal) in paragraph 9 (decisions under Chapter IV of Part I of that Act) the word "and" immediately preceding sub-paragraph (d) shall be omitted and after that sub-paragraph there shall be inserted—

"(e) any decision with respect to the amount of any interest specified in an assessment under paragraph 11A of Schedule 6;".

(3) In section 16 of the 1994 Act (appeals to a tribunal) at the beginning of subsection (8) (meaning of "ancillary matter" for the purposes of that section) there shall be inserted "Subject to subsection (9) below" and after that subsection there shall be inserted—

"(9) References in this section to a decision as to an ancillary matter do not include a reference to a decision of a description specified in paragraph 9(e) of Schedule 5 to this Act.

(10) Nothing in this section shall be taken to confer on an appeal tribunal any power to vary an amount of interest specified in an assessment under paragraph 11A of Schedule 6 to this Act except in so far as it is necessary to reduce it to the amount which is appropriate under paragraph 7 of that Schedule."

(4) This section shall apply in relation to accounting periods ending on or after 1st January 1995.

17 Preferential debts

In section 386(1) of the Insolvency Act 1986 (categories of preferential debts) and in Article 346(1) of the Insolvency (Northern Ireland) Order 1989 (equivalent provision for Northern Ireland) after "lottery duty" there shall be inserted ", air passenger duty".