SCHEDULES

SCHEDULE 5

INDIRECT TAXES: OVERPAYMENTS ETC

PART III

INTEREST

Interest on overpaid air passenger duty

7 (1) Paragraph 9 of Schedule 6 to the Finance Act 1994 (interest payable by the Commissioners in connection with air passenger duty) shall have effect, and be deemed always to have had effect, with the amendments for which this paragraph provides.

(2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—

"(1A) In sub-paragraph (1) above the reference to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference to only so much of that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied."

(3) For sub-paragraph (6) (claims for interest to be made within six years of discovery of error) there shall be substituted the following sub-paragraph—

"(6) A claim under this paragraph shall not be made more than three years after the end of the applicable period to which it relates."

(4) For sub-paragraph (7) there shall be substituted the following sub-paragraph—

"(7) Any reference in this paragraph to the authorisation by the Commissioners of the payment of any amount includes a reference to the discharge by way of set-off of the Commissioners' liability to pay that amount."

8 (1) In sub-paragraph (2) of that paragraph (applicable period), the words after paragraph (b) shall be omitted; and the following sub-paragraphs shall be substituted for sub-paragraphs (3) and (4)—

"(2A) In determining the applicable period for the purposes of this paragraph there shall be left out of account any period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims the interest.

(2B) The reference in sub-paragraph (2A) above to a period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to—

(a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the repayment of the amount on which interest is claimed;

(b) any failure by that person or a person acting on his behalf or under his influence to provide the Commissioners—

(i) at or before the time of the making of a claim, or

(ii) subsequently in response to a request for information by the Commissioners,

with all the information required by them to enable the existence and amount of the claimant's entitlement to a repayment, and to interest on the amount of that repayment, to be determined; and

(c) the making, as part of or in association with either—

(i) the claim for interest, or

(ii) any claim for the payment or repayment of the amount on which interest is claimed,

of a claim to anything to which the claimant was not entitled.

(3) In determining for the purposes of sub-paragraph (2B) above whether any period of delay is referable to a failure by any person to provide information in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be prescribed, any period which—

(a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and

(b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—

(i) that they have received a complete answer to their request for information;

(ii) that they have received all that they need in answer to that request; or

(iii) that it is unnecessary for them to be provided with any information in answer to that request."

(2) Sub-paragraph (1) above shall have effect for the purposes of determining whether any period beginning on or after the day on which this Act is passed is left out of account.

Interest on overpaid insurance premium tax

9 (1) Paragraph 22 of Schedule 7 to the [M1]Finance Act 1994 (interest payable by the Commissioners in connection with insurance premium tax) shall have effect, and be deemed always to have had effect, with the amendments for which this paragraph provides.

(2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—

"(1A) In sub-paragraph (1) above—

(a) the reference in paragraph (a) to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference to only so much of

that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied; and

(b) the amounts referred to in paragraph (c) do not include any amount payable under this paragraph."

(3) For sub-paragraph (9) of that paragraph (claims for interest to be made within six years of discovery of error) there shall be substituted the following sub-paragraph—

"(9) A claim under this paragraph shall not be made more than three years after the end of the applicable period to which it relates."

(4) For sub-paragraph (10) there shall be substituted the following sub-paragraph—

"(10) References in this paragraph to the authorisation by the Commissioners of the payment of any amount include references to the discharge by way of set-off of the Commissioners' liability to pay that amount."

Marginal Citations

M1 1994 c. 9.

10 (1) For sub-paragraphs (5) to (7) of that paragraph (periods left out of account in computing periods for which the Commissioners are liable to interest) there shall be substituted the following sub-paragraphs—

"(5) In determining the applicable period for the purposes of this paragraph there shall be left out of account any period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims the interest.

(5A) The reference in sub-paragraph (5) above to a period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to—

(a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the payment or repayment of the amount on which interest is claimed;

(b) any failure by that person or a person acting on his behalf or under his influence to provide the Commissioners—

(i) at or before the time of the making of a claim, or

(ii) subsequently in response to a request for information by the Commissioners,

with all the information required by them to enable the existence and amount of the claimant's entitlement to a payment or repayment, and to interest on that payment or repayment, to be determined; and

(c) the making, as part of or in association with either—

(i) the claim for interest, or

(ii) any claim for the payment or repayment of the amount on which interest is claimed,

of a claim to anything to which the claimant was not entitled.

(6) In determining for the purposes of sub-paragraph (5A) above whether any period of delay is referable to a failure by any person to provide information

Changes to legislation: *There are currently no known outstanding effects for the Finance Act 1997, Part III. (See end of Document for details)*

in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be provided for by regulations, any period which—

(a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and

(b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—

(i) that they have received a complete answer to their request for information;

(ii) that they have received all that they need in answer to that request; or

(iii) that it is unnecessary for them to be provided with any information in answer to that request."

(2) Sub-paragraph (1) above shall have effect for the purposes of determining whether any period beginning on or after the day on which this Act is passed is left out of account.

Interest on overpaid landfill tax

11 (1) Paragraph 29 of Schedule 5 to the [M2]Finance Act 1996 (interest payable by the Commissioners in connection with landfill tax) shall have effect, and be deemed always to have had effect, with the amendments for which this paragraph provides.

(2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—

"(1A) In sub-paragraph (1) above—

(a) the reference in paragraph (a) to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference to only so much of that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied; and

(b) the amounts referred to in paragraph (c) do not include any amount payable under this paragraph."

(3) For sub-paragraph (8) (claims for interest to be made within six years of discovery of error) there shall be substituted the following sub-paragraph—

"(8) A claim under this paragraph shall not be made more than three years after the end of the applicable period to which it relates."

(4) For sub-paragraph (9) there shall be substituted the following sub-paragraph—

"(9) References in this paragraph—

(a) to receiving payment of any amount from the Commissioners, or

(b) to the authorisation by the Commissioners of the payment of any amount,

include references to the discharge by way of set-off (whether in accordance with regulations under paragraph 42 or 43 below or otherwise) of the Commissioners' liability to pay that amount."

Marginal Citations

M2 1996 c. 8.

12 (1) For sub-paragraphs (4) to (6) of that paragraph (periods left out of account in computing periods for which the Commissioners are liable to interest) there shall be substituted the following sub-paragraphs—

"(4) In determining the applicable period for the purposes of this paragraph there shall be left out of account any period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims the interest.

(4A) The reference in sub-paragraph (4) above to a period by which the Commissioners' authorisation of the payment of interest is delayed by the conduct of the person who claims it includes, in particular, any period which is referable to—

(a) any unreasonable delay in the making of the claim for interest or in the making of any claim for the payment or repayment of the amount on which interest is claimed;

(b) any failure by that person or a person acting on his behalf or under his influence to provide the Commissioners—

(i) at or before the time of the making of a claim, or

(ii) subsequently in response to a request for information by the Commissioners,

with all the information required by them to enable the existence and amount of the claimant's entitlement to a payment or repayment, and to interest on that payment or repayment, to be determined; and

(c) the making, as part of or in association with either—

(i) the claim for interest, or

(ii) any claim for the payment or repayment of the amount on which interest is claimed,

of a claim to anything to which the claimant was not entitled.

(5) In determining for the purposes of sub-paragraph (4A) above whether any period of delay is referable to a failure by any person to provide information in response to a request by the Commissioners, there shall be taken to be so referable, except so far as may be provided for by regulations, any period which—

(a) begins with the date on which the Commissioners require that person to provide information which they reasonably consider relevant to the matter to be determined; and

(b) ends with the earliest date on which it would be reasonable for the Commissioners to conclude—

(i) that they have received a complete answer to their request for information;

(ii) that they have received all that they need in answer to that request; or

(iii) that it is unnecessary for them to be provided with any information in answer to that request."

(2) Sub-paragraph (1) above shall have effect for the purposes of determining whether any period beginning on or after the day on which this Act is passed is left out of account.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 1997, Part III.