



# Finance Act 1997

## 1997 CHAPTER 16

### PART IV

#### PAYMENTS AND OVERPAYMENTS IN RESPECT OF INDIRECT TAXES

##### *Value added tax*

#### **45 Assessment for overpayments of interest.**

- (1) After section 78 of the Value Added Tax Act 1994 there shall be inserted the following section—

**“78A Assessment for interest overpayments.**

- (1) Where—
- (a) any amount has been paid to any person by way of interest under section 78, but
  - (b) that person was not entitled to that amount under that section,
- the Commissioners may, to the best of their judgement, assess the amount so paid to which that person was not entitled and notify it to him.
- (2) An assessment made under subsection (1) above shall not be made more than two years after the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners.
- (3) Where an amount has been assessed and notified to any person under subsection (1) above, that amount shall be deemed (subject to the provisions of this Act as to appeals) to be an amount of VAT due from him and may be recovered accordingly.
- (4) Subsection (3) above does not have effect if or to the extent that the assessment in question has been withdrawn or reduced.

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*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 1997, Section 45. (See end of Document for details)*

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- (5) An assessment under subsection (1) above shall be a recovery assessment for the purposes of section 84(3A).
- (6) Sections 74 and 77(6) apply in relation to assessments under subsection (1) above as they apply in relation to assessments under section 73 but as if the reference in subsection (1) of section 74 to the reckonable date were a reference to the date on which the assessment is notified.
- (7) Where by virtue of subsection (6) above any person is liable to interest under section 74—
- (a) section 76 shall have effect in relation to that liability with the omission of subsections (2) to (6); and
  - (b) section 77, except subsection (6), shall not apply to an assessment of the amount due by way of interest;
- and (without prejudice to the power to make assessments for interest for later periods) the interest to which any assessment made under section 76 by virtue of paragraph (a) above may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment to interest is made.
- (8) For the purposes of this section notification to a personal representative, trustee in bankruptcy, interim or permanent trustee, receiver, liquidator or person otherwise acting in a representative capacity in relation to another shall be treated as notification to the person in relation to whom he so acts.”
- (2) In section 83 of that Act (matters subject to appeal), after paragraph (s) there shall be inserted the following paragraph—
- “(sa) an assessment under section 78A(1) or the amount of such an assessment;”.
- (3) In section 84 of that Act (further provisions as to appeals), after subsection (3) there shall be inserted the following subsection—
- “(3A) An appeal against an assessment which is a recovery assessment for the purposes of this subsection, or against the amount of such an assessment, shall not be entertained unless—
- (a) the amount notified by the assessment has been paid or deposited with the Commissioners; or
  - (b) on being satisfied that the appellant would otherwise suffer hardship, the Commissioners agree, or the tribunal decides, that the appeal should be entertained notwithstanding that that amount has not been so paid or deposited.”
- (4) Subsection (1) above shall be deemed to have come into force on 4th December 1996 in relation to amounts paid by way of interest at any time on or after 18th July 1996.
- (5) Subsections (2) and (3) above shall be deemed to have come into force on 4th December 1996 in relation to assessments made on or after that date.
- (6) Section 76(10) of the <sup>MI</sup>Value Added Tax Act 1994 (notification to representative of person who made acquisition) shall have effect, and be deemed always to have had effect, as if for “the person who made the acquisition in question” there were substituted “another”.

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**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 1997, Section 45. (See end of Document for details)

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**Commencement Information**

**II** S. 45 wholly in force at 19.3.1997; s. 45(1)-(3) in force at 4.12.1996 see s. 45(4)(5); s. 45(4)-(6) in force at Royal Assent.

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**Marginal Citations**

**M1** 1994 c. 23.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 1997, Section 45.