



Finance Act 1997

1997 CHAPTER 16

PART IV

PAYMENTS AND OVERPAYMENTS IN RESPECT OF INDIRECT TAXES

Value added tax

47 Repayments and assessments: time limits

- (1) For subsections (4) and (5) of section 80 of the Value Added Tax Act 1994 (time limit for making claim for a repayment of an overpayment) there shall be substituted the following subsection—
 - “(4) The Commissioners shall not be liable, on a claim made under this section, to repay any amount paid to them more than three years before the making of the claim.”
- (2) Subject to subsections (3) and (4) below, subsection (1) above shall be deemed to have come into force on 18th July 1996 as a provision applying, for the purposes of the making of any repayment on or after that date, to all claims under section 80 of the Value Added Tax Act 1994, including claims made before that date and claims relating to payments made before that date.
- (3) Subsection (4) below applies as respects the making of any repayment on or after 18th July 1996 on a claim under section 80 of the Value Added Tax Act 1994 if—
 - (a) legal proceedings for questioning any decision (“the disputed decision”) of the Commissioners, or of an officer of the Commissioners, were brought by any person at any time before that date,
 - (b) a determination has been or is made in those proceedings that the disputed decision was wrong or should be set aside,
 - (c) the claim is one made by that person at a time after the proceedings were brought (whether before or after the making of the determination), and
 - (d) the claim relates to—

Status: This is the original version (as it was originally enacted).

- (i) an amount paid by that person to the Commissioners on the basis of the disputed decision, or
 - (ii) an amount paid by that person to the Commissioners before the relevant date (including an amount paid before the making of the disputed decision) on grounds which, in all material respects, correspond to those on which that decision was made.
- (4) Where this subsection applies in the case of any claim—
- (a) subsection (4) of section 80 of the Value Added Tax Act 1994 (as inserted by this section) shall not apply, and shall be taken never to have applied, in relation to so much of that claim as relates to an amount falling within subsection (3)(d)(i) or (ii) above, but
 - (b) the Commissioners shall not be liable on that claim, and shall be taken never to have been liable on that claim, to repay any amount so falling which was paid to them more than three years before the proceedings mentioned in subsection (3)(a) above were brought.
- (5) In subsection (3)(d) above—
- (a) the reference to the relevant date is a reference to whichever is the earlier of 18th July 1996 and the date of the making of the determination in question; and
 - (b) the reference to an amount paid on the basis of a decision, or on any grounds, includes an amount so paid on terms (however expressed) which questioned the correctness of the decision or, as the case may be, of those grounds.
- (6) After the subsection (4) inserted in section 80 of the Value Added Tax Act 1994 by this section there shall be inserted the following subsections—
- “(4A) Where—
- (a) any amount has been paid, at any time on or after 18th July 1996, to any person by way of a repayment under this section, and
 - (b) the amount paid exceeded the Commissioners' repayment liability to that person at that time,
- the Commissioners may, to the best of their judgement, assess the excess paid to that person and notify it to him.
- (4B) For the purposes of subsection (4A) above the Commissioners' repayment liability to a person at any time is—
- (a) in a case where any provision affecting the amount which they were liable to repay to that person at that time is subsequently deemed to have been in force at that time, the amount which the Commissioners are to be treated, in accordance with that provision, as having been liable at that time to repay to that person; and
 - (b) in any other case, the amount which they were liable at that time to repay to that person.
- (4C) Subsections (2) to (8) of section 78A apply in the case of an assessment under subsection (4A) above as they apply in the case of an assessment under section 78A(1).”
- (7) In section 83 of that Act (matters subject to appeal), in paragraph (t), after “80” there shall be inserted “, an assessment under subsection (4A) of that section or the amount of such an assessment”.

- (8) Nothing contained in—
- (a) any regulations under section 25(1) of, or paragraph 2 of Schedule 11 to, that Act relating to the correction of errors or the making of adjustments, or
 - (b) any requirement imposed under any such regulations,
- shall be taken, in relation to any time on or after 18th July 1996, to have conferred an entitlement on any person to receive, by way of repayment, any amount to which he would not have had any entitlement on a claim under section 80 of that Act.
- (9) Subsections (6) to (8) above shall be deemed to have come into force on 4th December 1996.
- (10) Section 77 of the Value Added Tax Act 1994 (time limits etc. for assessments) shall have effect, and be deemed in relation to any assessment made on or after 18th July 1996 to have had effect, with the substitution in subsections (1) and (4), for the words “6 years”, wherever they occur, of the words “3 years”.
- (11) In this section—
- “the Commissioners” means the Commissioners of Customs and Excise;
 - and
 - “legal proceedings” means any proceedings before a court or tribunal.
- (12) Without prejudice to the generality of paragraph 1(2) of Schedule 13 to the Value Added Tax Act 1994 (transitional provisions), the references in this section, and in subsection (4) of section 80 of that Act (as inserted by this section), to a claim under that section include references to a claim first made under section 24 of the Finance Act 1989 (which was re-enacted in section 80).