



# Finance Act 1999

## 1999 CHAPTER 16

### PART VII

#### OTHER TAXES

##### *Customs duties*

#### **126 Interest on unpaid customs debts**

- (1) This section applies for the determination and recovery of the amount of any interest charged in accordance with Article 232 of the Community Customs Code (interest on duty not paid within the prescribed period) on arrears of customs duty payable to the Commissioners.
- (2) Subject to subsection (3) below, the interest shall be charged on the amount in arrears at the rate applicable under section 197 of the Finance Act 1996 (power to fix rates of interest applicable in the case of indirect taxes) for the period which—
  - (a) begins with the latest time for payment of that amount; and
  - (b) ends with the day before that on which payment of that amount is actually made.
- (3) Regulations made for the purposes of this section under section 197 of the Finance Act 1996 may provide that, where the amount of interest computed in any case in accordance with subsection (2) above is less than such minimum amount as may be specified in or determined in accordance with the regulations, the amount of interest charged in that case is (instead of being the amount so computed) to be taken to be equal to that minimum amount.
- (4) Subsections (2) and (3) above have effect subject to Article 232(2) of the Community Customs Code (power to waive interest in certain cases).
- (5) Any interest the amount of which falls to be determined in accordance with this section shall be recoverable by the Commissioners as if it were customs duty; but nothing in this subsection shall be taken to impose any liability to interest on an amount so determined.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Interest on an amount of customs duty shall not be recoverable from any person at any time more than three years after the latest time for payment of that amount unless a written notice that arrears of customs duty attract interest was given to that person by the Commissioners at a time falling—
- (a) at or after the time when that amount first became payable; and
  - (b) before the end of that three years.
- (7) In this section—
- “the Commissioners” means the Commissioners of Customs and Excise;
  - “the Community Customs Code” means Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code;
  - “customs duty” includes any agricultural levy of the European Community; and
  - “the latest time for payment”, in relation to an amount of customs duty, means the end of the period prescribed by the Community Customs Code for the payment of that amount.
- (8) The preceding provisions of this section—
- (a) shall have effect for periods beginning on or after such day as the Treasury may by order made by statutory instrument appoint; and
  - (b) shall so have effect in relation to interest running from before that day, as well as in relation to interest running from, or from after, that day;
- and different days may be appointed under this subsection for different purposes.

## **127 Interest on repayments**

- (1) Subject to the following provisions of this section, where the Commissioners are liable to repay an amount to any person in consequence of—
- (a) the payment to them by way of customs duty of an amount that was not due from that person, or
  - (b) any requirement to repay an amount of customs duty in accordance with the Community Customs Code or Council Regulation (EEC) No. 2454/93,
- then, if and to the extent that they would not be liable to do so apart from this section, the Commissioners shall pay interest to him on that amount for the applicable period.
- (2) The amounts that carry interest under subsection (1) above—
- (a) include only so much of any amount mentioned in that subsection as is the subject of a claim that the Commissioners are required to satisfy or have satisfied; and
  - (b) do not include any amount of interest under this section.
- (3) Subject to section 128 below, in relation to any amount that carries interest under subsection (1) above, the applicable period for the purposes of this section is the period which—
- (a) begins with the sixty-first day after the making of the claim for repayment of that amount; and
  - (b) ends with the date on which the Commissioners issue the repayment of that amount.
- (4) The Commissioners shall not be liable to pay interest under this section except on the making of a claim for that purpose.

- (5) A claim under this section must be in writing and must be made not more than three years after the end of the applicable period to which it relates.
- (6) Any reference in this section to the issue by the Commissioners of any repayment of any amount includes a reference to the discharge by way of set-off of the Commissioners' liability to repay that amount.
- (7) Interest under this section shall be payable at the rate applicable under section 197 of the Finance Act 1996.
- (8) In this section and section 128 below—
  - “the Commissioners” means the Commissioners of Customs and Excise;
  - “the Community Customs Code” means Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code; and
  - “customs duty” includes any agricultural levy of the European Community.
- (9) The Commissioners may by order modify subsection (3) above so as to provide for interest under this section to begin to run from a time before the sixty-first day after the making of the claim for repayment.
- (10) The power of the Commissioners to make an order under subsection (9) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (11) This section has effect in relation only to a repayment the claim for which is made on or after such day as the Treasury may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different purposes.

## **128 Periods to be disregarded in determining interest under s. 127**

- (1) In determining the applicable period for the purposes of section 127 above in the case of interest on the amount of any repayment there shall be left out of account any period by which the Commissioners' issue of the repayment is delayed as a result of circumstances beyond their control.
- (2) The reference in subsection (1) above to a period by which the Commissioners' issue of a repayment is delayed as a result of circumstances beyond their control includes, in particular, any period which is referable to any one or more of the matters mentioned in subsections (3) to (5) below.
- (3) The first of those matters is any unreasonable delay in the making of any claim for the repayment of the amount on which interest is claimed.
- (4) The second of those matters is any failure by any person to provide the Commissioners—
  - (a) at or before the time of the making of any such claim, or
  - (b) 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 to be determined.
- (5) The third of those matters is the making, as part of or in association with such a claim, of a claim to anything to which the person making the claim has no entitlement.

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- (6) In determining for the purposes of subsection (4) 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 any period which—
- (a) begins with the date on which the Commissioners request 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.

## **129 Repayment of overpaid interest etc**

- (1) Where—
- (a) the Commissioners have issued an amount to any person by way of—
    - (i) a payment of interest under section 127 above, or
    - (ii) a repayment of customs duty or of interest on arrears of customs duty,
  - (b) that person was not entitled to that amount, and
  - (c) the Commissioners are entitled to recover it,
- the amount shall be recoverable by the Commissioners as if it were customs duty.
- (2) An amount shall not be recoverable from any person in accordance with subsection (1) above at any time more than three years after the payment or repayment was issued unless a written notice that the amount is recoverable was given to that person by the Commissioners before the end of those three years.
- (3) Any reference in this section to the issue by the Commissioners of any payment or repayment of any amount includes a reference to the discharge by way of set-off of the Commissioners' liability to pay or, as the case may be, to repay that amount.
- (4) Nothing in this section shall be taken to impose any liability to interest on an amount to which subsection (1) above applies.
- (5) In this section—
- “the Commissioners” means the Commissioners of Customs and Excise;
  - and
  - “customs duty” includes any agricultural levy of the European Community.
- (6) This section shall have effect in relation to amounts issued on or after such day as the Treasury may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different purposes.

## **130 Consequential amendments relating to interest**

- (1) In section 14(1) of the Finance Act 1994 (reviewable and appealable decisions), for the “and” at the end of paragraph (c) there shall be substituted—
- “(ca) any decision as to whether or not—

- (i) an amount due in respect of customs duty or agricultural levy,  
or
  - (ii) any repayment by the Commissioners of an amount paid by  
way of customs duty or agricultural levy,is to carry interest, or as to the rate at which, or period for which, any  
such amount is to carry interest;”.
- (2) For sub-paragraph (k) of paragraph 1 of Schedule 5 to that Act (under which decisions  
as to interest under the Community Customs Code are reviewable and appealable)  
there shall be substituted the following sub-paragraph—
  - “(k) any decision as to whether or not collection of interest on arrears of  
customs duty or agricultural levy is to be waived;”.
- (3) In section 197(2) of the Finance Act 1996 (setting of rates of interest for indirect taxes),  
after paragraph (e) there shall be inserted the following paragraph—
  - “(f) sections 126 and 127 of the Finance Act 1999 (interest on overdue  
customs duty and on repayments of amounts paid by way of customs  
duty).”
- (4) Subsections (1) and (2) above have effect in relation to decisions made on or after the  
day on which this Act is passed.