

SCHEDULES

SCHEDULE 8

DIGITAL SERVICES TAX: RETURNS, ENQUIRIES, ASSESSMENTS AND APPEALS

PART 7

RELIEF IN CASE OF OVERPAID TAX

Claim for relief for overpaid tax

- 24 (1) This paragraph applies where, in relation to a group, an amount has been paid by way of tax for an accounting period which was not tax due.
- (2) The responsible member may make a claim to the Commissioners for repayment of the amount.
- (3) The Commissioners must give effect to such a claim; but this is subject to—
- (a) paragraph 26 (cases where no liability to give effect to claim), and
 - (b) paragraph 27 (power to enquire into claims).
- (4) Except as provided for by or under this Part of this Act, the Commissioners are not liable to repay any amount paid by way of tax by reason of the fact it was not tax due.
- (5) This paragraph is to be read with paragraph 25.

Making a claim

- 25 (1) A claim under paragraph 24 may not be made—
- (a) if the amount paid is excessive by reason of a mistake in a DST return or returns, more than 4 years after the end of the accounting period to which the return (or, if more than one, the first return) relates, and
 - (b) otherwise, more than 4 years after the end of the accounting period in respect of which the amount was paid.
- (2) A claim must—
- (a) be in the specified form, and
 - (b) contain specified information.
- (3) A claim may not be made by being included in a DST return.
- (4) In this paragraph “specified” means specified in a notice published by HMRC.

Cases in which Commissioners not liable to give effect to claim

- 26 (1) If, or to the extent that, a claim under paragraph 24 falls within any of Cases A to D, the Commissioners are not liable to give effect to the claim.

Status: This is the original version (as it was originally enacted).

- (2) Case A is where, in relation to the group, there is unpaid DST liability for the accounting period.
- (3) Case B is where the responsible member is or will be able to seek relief by taking other steps under this Part of this Act.
- (4) Case C is where the responsible member—
 - (a) could have sought relief by taking such steps within a period that has now expired, and
 - (b) knew, or ought reasonably to have known, before the end of that period that such relief was available.
- (5) Case D is where—
 - (a) the amount paid is excessive by reason of a mistake in calculating the amount of tax payable by the group for the accounting period, and
 - (b) the amount was calculated in accordance with the practice generally prevailing at the time.
- (6) In this paragraph “DST liability” has the same meaning as in section 66.

Power to enquire into claims

- 27 (1) An officer of Revenue and Customs may enquire into a claim under paragraph 24 if the officer gives notice to the responsible member of the officer’s intention to do within the time allowed.
- (2) The time allowed is the period ending with the quarter day next following the first anniversary of the day on which the claim was made.
 The quarter days are 31 January, 30 April, 31 July and 31 October.
- (3) A claim enquired into under sub-paragraph (1) may not be the subject of a further notice under that sub-paragraph.

Completion of enquiry into claim etc

- 28 (1) An enquiry under paragraph 27 is completed when the officer by notice (a “closure notice”) informs the responsible member that the enquiry is complete and states the conclusions reached in the enquiry.
- (2) A closure notice must either—
 - (a) state that in the opinion of an officer of Revenue and Customs no amendment of the claim is required, or
 - (b) make the amendments of the claim required to give effect to the conclusions stated in the notice.
- (3) A closure notice takes effect when it is issued.
- (4) The officer must give effect to any amendments made by the closure notice by making such adjustments as may be necessary whether—
 - (a) by way of assessment, or
 - (b) by discharge or repayment of tax.

- (5) The adjustments must be made within 30 days of the date of issue of the closure notice.
- (6) Paragraph 15 (direction to complete enquiry) applies in relation to an enquiry under paragraph 27 as it applies in relation to an enquiry under paragraph 6.

Assessment for excessive repayment etc

- 29 (1) This paragraph applies where—
- (a) an amount has been paid by way of a repayment of tax, and
 - (b) the amount paid exceeded the amount which the Commissioners were liable at that time to repay.
- (2) The Commissioners may—
- (a) to the best of their judgment, assess the amount of the excess, and
 - (b) notify the amount to the responsible member.

Supplementary assessments

- 30 (1) This paragraph applies where—
- (a) an assessment has been notified under paragraph 29, and
 - (b) it appears to the Commissioners that the amount which ought to have been assessed as due exceeds the amount that has already been assessed.
- (2) The Commissioners may—
- (a) on or before the last day on which the assessment under paragraph 29 could have been made, make a supplementary assessment of the amount of tax due, and
 - (b) notify the amount to the responsible member.

Further provision about assessments under paragraphs 29 and 30

- 31 (1) An amount assessed and notified under paragraph 29 or 30 counts as a liability to digital services tax for the purposes of this Part of this Act.
- (2) But sub-paragraph (1) does not have effect if, or to the extent that, the assessment has been withdrawn or reduced.

Time limits for assessments

- 32 An assessment under paragraph 29 or 30 may not be made more than 4 years after the end of the accounting period in which evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.