

2000 No. 631

CUSTOMS AND EXCISE

INSURANCE PREMIUM TAX

VALUE ADDED TAX

LANDFILL TAX

The Air Passenger Duty and Other Indirect Taxes (Interest Rate) (Amendment) Regulations 2000

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| <i>Made</i> | - - - | <i>7th March 2000</i> |
| <i>Laid before the House of Commons</i> | | <i>8th March 2000</i> |
| <i>Coming into force</i> | | <i>1st April 2000</i> |

The Treasury, in exercise of the powers conferred on them by section 197 of the Finance Act 1996^(a) and section 126(3) of the Finance Act 1999^(b) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Air Passenger Duty and Other Indirect Taxes (Interest Rate) (Amendment) Regulations 2000 and shall come into force on 1st April 2000.

Amendment

2. The Air Passenger Duty and Other Indirect Taxes (Interest Rate) Regulations 1998^(c) shall be amended in accordance with the following regulations.

3. Regulation 2 shall be amended as follows—

- (a) in paragraph (1), in sub-paragraph (a) of the definition of “established rate”, for “7 per cent.” there shall be substituted “6 per cent.”,
- (b) in paragraph (2)(d) for “Midland Bank p.l.c.” there shall be substituted “HSBC Bank p.l.c.”.

4. For regulation 4 there shall be substituted—

“Applicable rate of interest payable to the Commissioners of Customs and Excise in connection with excise duties, insurance premium tax, VAT, landfill tax, and customs duty

4.—(1) For the purposes of—

- (a) paragraph 7 of Schedule 6 to the Finance Act 1994^(d),
- (b) paragraph 21 of Schedule 7 to that Act,
- (c) section 74 of the Value Added Tax Act 1994^(e),
- (d) paragraph 26 of Schedule 5 to the Finance Act 1996,
- (e) paragraph 17 of Schedule 5 to the Finance Act 1997^(f), and
- (f) section 126 of the Finance Act 1999,

the rate applicable under section 197 shall, subject to paragraph (2) below, be 8·5 per cent. per annum.

(a) 1996 c. 8.
(b) 1999 c. 16.
(c) S.I. 1998/1461.
(d) 1994 c. 9.
(e) 1994 c. 23.
(f) 1997 c. 16.

(2) Where, on any reference day after the coming into force of these Regulations, the reference rate found on that day differs from the established rate, the rate applicable under section 197 of the Finance Act 1996 for the purposes of the enactments referred to in paragraph (1) above shall, from the next operative day, be the percentage per annum determined in accordance with the formula specified in paragraph (3) below.

(3) The formula specified in this paragraph is—

$$RR + 2.5,$$

where RR is the reference rate referred to in paragraph (2) above.”

5. For regulation 5 there shall be substituted—

“Applicable rate of interest payable by the Commissioners of Customs and Excise in connection with air passenger duty, insurance premium tax, VAT, landfill tax, and customs duty

5.—(1) For the purposes of—

- (a) paragraph 9 of Schedule 6 to the Finance Act 1994,
- (b) paragraph 22 of Schedule 7 to that Act,
- (c) section 78 of the Value Added Tax Act 1994,
- (d) paragraph 29 of Schedule 5 to the Finance Act 1996, and
- (e) section 127 of the Finance Act 1999,

the rate applicable under section 197 of the Finance Act 1996 shall be 5 per cent. per annum.

(2) Where, on a reference day after the coming into force of these Regulations, the reference rate found on that date differs from the established rate, the rate applicable under section 197 for the purposes of the enactments referred to in paragraph (1) above shall, from the next operative day, be the percentage per annum determined in accordance with the formula specified in paragraph (3) below.

(3) The formula specified in this paragraph is—

$$RR - 1,$$

where RR is the reference rate referred to in paragraph (2) above.”

6. In Table 7 of regulation 8, for “16th October 1992” there shall be substituted “16th October 1991”.

7. After regulation 8, there shall be inserted the following—

“Minimum amount of interest payable in connection with customs duty

9. Where interest charged on arrears of customs duty payable to the Commissioners of Customs and Excise is computed in accordance with section 126(2) of the Finance Act 1999 and, in any case, is less than £25 the amount of interest charged in that case is (instead of being the amount so computed) to be taken to be £25.”

7th March 2000

Clive Betts
David Jamieson
Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st April 2000, make a number of changes to the Air Passenger Duty and Other Indirect Taxes (Interest Rate) Regulations 1998 (S.I. 1998/1461) (“the principal Regulations”). The principal Regulations are amended so that they will specify the rate of interest applicable for the purposes of the additional enactments to which section 197 of the Finance Act 1996 applies following its amendment by paragraph 21 of Schedule 5 to the Finance Act 1997 and section 130 of the Finance Act 1999. These amendments extended section 197 to cover interest on amounts repayable in respect of overpayments by the Commissioners of Customs and Excise (“the Commissioners”) in connection with excise duties, insurance premium tax and landfill tax; and interest payable to and by the Commissioners in connection with customs duty.

The principal Regulations specify the interest rates applicable under section 197 of the Finance Act 1996 in connection with the payment to the Commissioners of air passenger duty, insurance premium tax, landfill tax and VAT recovered or recoverable by assessment (regulation 4); and payment by the Commissioners in connection with air passenger duty, insurance premium tax, landfill tax and in cases of official error in relation to VAT (regulation 5).

These Regulations extend the application of regulation 4 to paragraph 17 of Schedule 5 to the Finance Act 1997 and section 126 of the Finance Act 1999. Also, regulation 5 is extended so as to apply to section 127 of the Finance Act 1999. Paragraph 17 of Schedule 5 to the Finance Act 1997 provides for interest on amounts repayable to the Commissioners in respect of overpayments made by them in connection with excise duties, insurance premium tax and landfill tax. This amendment has the effect that the principal Regulations now also specify the applicable rate of interest payable to the Commissioners where they recover those overpayments by assessment. Section 126 of the Finance Act 1999 provides for the determination and recovery of interest on late payment of customs duty debts, which interest is charged in accordance with Article 232 of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code (OJ No. L302, 19.10.92, p.1); and section 127 provides for the payment by the Commissioners of interest on delayed repayments of customs duty or amounts paid by way of customs duty. These amendments to the principal Regulations have the effect that those Regulations now also specify the rates of interest payable to and by the Commissioners in connection with customs duty.

The principal Regulations specified in regulations 2, 4 and 5 the rates of interest, applicable under section 197, which were to apply from the date that the Regulations came into force. The Regulations also provide for those rates to be altered over time by reference to a rate arrived at by averaging the base lending rates of a number of banks and applying a formula. Section 197 provides that where changes of rate are arrived at by this method, the Commissioners are to make an order specifying the new rate and the date from which it applies. The Commissioners have made a number of orders specifying changes to the rates since the principal Regulations were made and the rates set out in regulations 2, 4(1) and 5(1) as amended (6%, 8.5% and 5% respectively) are the rates in force on 1st April 2000, in accordance with the most recent Commissioners’ order which is dated 20th January 2000.

Regulation 6 corrects an error in Table 7 of regulation 8 of the principal Regulations.

A new regulation 9 is inserted into the principal Regulations. This provides that a minimum amount of £25 is payable to the Commissioners in respect of interest on customs duty where the amount of interest computed in accordance with section 126(2) of the Finance Act 1999 would otherwise amount to less.

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