



Finance (No.2) Act 1987

1987 CHAPTER 51

PART I

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER V

TAXES MANAGEMENT PROVISIONS

Interest etc.

85 Interest on overdue corporation tax etc.

With respect to accounting periods ending after the appointed day, after section 87 of the Management Act there shall be inserted the following section—

“87A Interest on overdue corporation tax etc.

- (1) Corporation tax shall carry interest at the prescribed rate from the date when the tax becomes due and payable (in accordance with section 243(4) of the principal Act) until payment.
- (2) Subsection (1) above applies even if the date when the tax becomes due and payable (as mentioned in that subsection) is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.
- (3) In relation to corporation tax assessed by virtue of section 266(2), section 267(3C), section 277(1) or section 278(5) of the Taxes Act or section 87(4) of the Capital Gains Tax Act 1979 (which enable unpaid corporation tax assessed on a company to be assessed on other persons in certain circumstances), the reference in subsection (1) above to the date when the tax becomes due and payable is a reference to the date when it became due and payable by the company.

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(4) In any case where—

- (a) there is in any accounting period of a company (in this subsection referred to as “the later period”) an amount of surplus advance corporation tax, as defined in subsection (3) of section 85 of the Finance Act 1972, and
- (b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is treated for the purposes of the said section 85 as discharging liability for an amount of corporation tax for an earlier accounting period (in this subsection referred to as “the earlier period”), and
- (c) disregarding the effect of the said subsection (3), an amount of corporation tax for the earlier period would carry interest in accordance with this section,

then, in determining the amount of interest payable under this section on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax which results from the said subsection (3) except so far as concerns interest for any time after the date on which any corporation tax for the later period became due and payable (as mentioned in subsection (1) above).

(5) A sum assessed on a company by such an assessment as is referred to in subsection (2) of section 102 of the Finance Act 1972 (recovery of payment of tax credit or interest on such a payment) shall carry interest at the prescribed rate from the date when the payment of tax credit or interest was made until the sum assessed is paid.”

86 Supplementary provisions as to interest on overdue tax.

- (1) At the end of section 69 of the Management Act (recovery of interest on tax) there shall be added the words “or, if it is interest on tax which is not in fact assessed, as if it were tax charged and due and payable under an assessment”.
- (2) In section 86 of the Management Act (interest on overdue tax), subsection (2)(d) and paragraph 5 of the Table (which relate to assessed corporation tax) shall be omitted.
- (3) References to section 86 of the Management Act in—
 - (a) sections 70(2) and 92 of that Act (evidence, and remission of interest in certain cases), and
 - (b) paragraph 4 of Schedule 15 to the Finance Act 1973 (territorial extension of tax),
 shall include a reference to section 87A of the Management Act.
- (4) In section 88 of the Management Act (interest on tax recovered to make good loss due to taxpayer’s fault)—
 - (a) in subsection (2) (exclusion of certain non-assessed tax) after the words “in relation to” there shall be inserted “corporation tax or”; and
 - (b) in subsection (5), paragraph (e) (which relates to corporation tax) shall be omitted.
- (5) In section 91 of the Management Act (effect on interest of reliefs) after subsection (1) there shall be inserted the following subsections—

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“(1A) Where interest is payable under section 87A of this Act in respect of an amount of corporation tax for an accounting period, and relief from tax is given by a discharge of any of that corporation tax—

(a) such adjustment shall be made of the amount of interest payable under that section in respect of corporation tax for that accounting period, and

(b) such repayment shall be made of any amounts of interest previously paid under that section in respect of that corporation tax,

as are necessary to secure that the total sum (if any) paid or payable under that section in respect of corporation tax for that accounting period is the same as it would have been if the tax discharged had never been charged.

(1B) Subsection (1A) above has effect subject to section 87A(4) of this Act.”

(6) At the beginning of subsection (2) of that section there shall be inserted the words “Subject to subsection (2A) below” and at the end of that subsection there shall be added the following subsection—

“(2A) In any case where—

(a) relief from corporation tax is given to any person by repayment, and

(b) that tax was paid for an accounting period ending after the day which is the appointed day for the purposes of section 90 of the Finance (No. 2) Act 1987,

that person shall be entitled to require that the amount repaid shall be treated for the purposes of this section, so far as it will go, as if it were a discharge of the corporation tax charged on him for that period.”

(7) This section has effect with respect to accounting periods ending after the appointed day.

87 Interest on tax overpaid.

(1) In any case where—

(a) a repayment falls to be made of corporation tax paid by a company for an accounting period which ends after the appointed day, or

(b) a repayment of income tax falls to be made in respect of a payment received by a company in such an accounting period, or

(c) a payment falls to be made to a company of the whole or part of the tax credit comprised in any franked investment income received by the company in such an accounting period,

then, from the material date until that repayment or payment is made, the repayment or payment shall carry interest at the rate which, under section 89 of the Management Act, is for the time being the prescribed rate for the purposes of this section.

(2) In relation to corporation tax paid by a company for an accounting period, the material date for the purposes of this section is the date on which the corporation tax was paid or, if it is later, the date on which corporation tax for that accounting period became (or, as the case may be, would have become) due and payable in accordance with section 243(4) of the Taxes Act.

(3) In relation to a repayment of income tax falling within subsection (1)(b) above or a payment of the whole or part of a tax credit falling within subsection (1)(c) above,

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the material date is the date on which corporation tax became (or, as the case may be, would have become) due and payable for the accounting period in which the payment referred to in subsection (1)(b) above or, as the case may be, the franked investment income referred to in subsection (1)(c) above was received by the company.

- (4) For the purposes of this section a repayment of tax made on a claim under subsection (5) of section 286 of the Taxes Act (loans to participators etc.) shall be treated as if it were a repayment of corporation tax for the accounting period in which the repayment of, or of the part in question of, the loan or advance mentioned in that subsection was made but, in relation to such a repayment of tax, the material date for the purposes of this section is—
- (a) the date on which the loan or advance (or part thereof) is repaid; or
 - (b) if it is later, the date on which the tax which is to be repaid was in fact paid.
- (5) Interest paid under this section shall be paid without any deduction of income tax and shall not be brought into account in computing any profits or income.
- (6) Where a repayment of corporation tax is a repayment of tax paid by a company on different dates, the repayment shall as far as possible be treated for the purposes of this section as a repayment of tax paid on a later rather than an earlier date among those dates.
- (7) In any case where—
- (a) there is in any accounting period of a company (in this subsection referred to as “the later period”) an amount of surplus advance corporation tax, as defined in subsection (3) of section 85 of the Finance Act 1972, and
 - (b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is treated for the purposes of the said section 85 as discharging liability for an amount of corporation tax for an earlier accounting period (in this subsection referred to as “the earlier period”), and
 - (c) a repayment falls to be made of corporation tax paid for the earlier period,
- then, in determining the amount of interest (if any) payable under this section on the repayment of corporation tax for the earlier period, no account shall be taken of any increase in the amount of the repayment resulting from the said subsection (3) except so far as concerns interest for any time after the date on which any corporation tax for the later period became due and payable (as mentioned in subsection (2) above).
- (8) In consequence of the preceding provisions of this section, no repayment supplement, within the meaning of section 48 of the Finance (No. 2) Act 1975, shall be paid in respect of any repayment of tax or payment of tax credit where the relevant accounting period, within the meaning of that section, ends after the appointed day.

88 Recovery of overpayment of tax etc.

- (1) In section 30 of the Management Act (recovery of overpayment of tax etc.) after subsection (2) there shall be inserted the following subsection—
- “(2A) In any case where—
- (a) interest has been paid under section 87 of the Finance (No. 2) Act 1987 on a repayment of tax, and
 - (b) the whole or any part of that repayment has been paid to any person but ought not to have been paid to him, and

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(c) interest ought not to have been paid on that repayment, either at all or to any extent,

then the amount of the repayment assessed under subsection (1) above may include an amount equal to the interest that ought not to have been paid.”

(2) After subsection (3) of that section there shall be inserted the following subsection—

“(3A) If, in a case not falling within subsection (2A) above,—

(a) interest has been paid under section 87 of the Finance (No. 2) Act 1987 on a repayment of tax, and

(b) that interest ought not to have been paid, either at all or to any extent, then an amount equal to the interest that ought not to have been paid may be assessed and recovered as if it were unpaid corporation tax.”

(3) At the end of subsection (4) of that section there shall be added the words “and an assessment to recover—

(a) an amount of corporation tax repaid to a company in respect of an accounting period, or

(b) an amount of income tax repaid to a company in respect of a payment received by the company in any accounting period, or

(c) interest on any such repayment of tax,

shall be treated as an assessment to corporation tax for the accounting period referred to in paragraph (a) or (b) above, as the case may be, and the sum assessed shall carry interest at the prescribed rate for the purposes of section 87A of this Act from the date when the payment being recovered was made until payment.”

(4) After subsection (4) of that section there shall be inserted the following subsection—

“(4A) Where an assessment is made under this section to recover—

(a) corporation tax repaid to a company in respect of an accounting period, or

(b) income tax repaid to a company in respect of payments received by the company in an accounting period,

and more than one repayment of that tax has been made in respect of that period, any sum recovered in respect of income tax or corporation tax repaid shall as far as possible be treated as relating to a repayment of that tax made later rather than to a repayment made earlier.”

(5) In section 102 of the Finance Act 1972 (rectification of excessive set-off etc. of advance corporation tax or tax credit) after subsection (1) there shall be inserted the following subsections—

“(1A) In any case where—

(a) interest has been paid under section 87 of the Finance (No. 2) Act 1987 on a payment of tax credit, and

(b) interest ought not to have been paid on that payment, either at all or to any extent,

an assessment under this section may be made for recovering any interest that ought not to have been paid.

(1B) Where—

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- (a) an assessment is made under this section to recover tax credit paid to a company in respect of franked investment income received by the company in an accounting period, and
 - (b) more than one payment of tax credit has been made in respect of that period,
- any sum recovered shall as far as possible be treated as relating to a payment of tax credit made later rather than to a payment made earlier.”
- (6) In subsection (2) of that section after the words “tax credit” there shall be inserted “or interest on such a payment”.
- (7) Subsections (1) to (4) above have effect with respect to the recovery of—
- (a) repayments of corporation tax paid for accounting periods ending after the appointed day,
 - (b) repayments of income tax on payments received by a company in any such accounting period, and
 - (c) interest on such repayments;
- and subsections (5) and (6) above have effect with respect to the recovery of interest on payments of tax credit (within the meaning of Part V of the Finance Act 1972) claimed in respect of accounting periods ending after the appointed day.

89 Prescribed rate of interest.

- (1) In section 89 of the Management Act (prescribed rate of interest) for subsection (1) there shall be substituted the following subsection—
- “(1) For the purposes of any provision of this Part of this Act and of section 87 of the Finance (No. 2) Act 1987 “the prescribed rate” means such rate as may for the time being be prescribed for the purposes of the provision in question by order made by the Treasury.”
- (2) In subsection (2) of that section—
- (a) for the words “The Treasury may, by order in a” there shall be substituted “The power to make an order under this section shall be exercisable by”; and
 - (b) for the words from “from time to time” to “either” there shall be substituted “and any such order may be framed either so as to prescribe a single rate”.
- (3) In subsection (3) of that section for the words from the beginning to “(2) above” there shall be substituted “Any rate of interest prescribed by order under this section”.