

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Paragraph 6. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 9A

ANTI-AVOIDANCE PROVISIONS: GROUPS

Textual Amendments

F1 Sch. 9A inserted (29.4.1996) by 1996 c. 8, s. 31, **Sch. 4**

Assessment in consequence of a direction

- 6 (1) Subject to sub-paragraph (3) below, where—
- (a) a direction is given under this Schedule, and
 - (b) there is an amount of VAT (“the unpaid tax”) for which a relevant person would have been liable before the giving of the direction if the facts had accorded with the assumptions specified in the direction,
- the Commissioners may, to the best of their judgement, assess the amount of unpaid tax as tax due from the person to whom the direction was given or another relevant person and notify their assessment to that person.
- (2) In sub-paragraph (1) above the reference to an amount of VAT for which a person would, on particular assumptions, have been liable before the giving of a direction under this Schedule is a reference to the aggregate of the following—
- (a) any amount of output tax which, on those assumptions but not otherwise, would have been due from a relevant person at the end of a prescribed accounting period ending before the giving of the direction;
 - (b) the amount of any credit for input tax to which a relevant person is treated as having been entitled at the end of such an accounting period but to which he would not have been entitled on those assumptions; and
 - (c) the amount of any repayment of tax made to a relevant person in accordance with regulations under section 39 but to which he would not have been entitled on those assumptions.
- (3) Where any assessment falls to be made under this paragraph in a case in which the Commissioners are satisfied that the actual revenue loss is less than the unpaid tax, the total amount to be assessed under this paragraph shall not exceed what appears to them, to the best of their judgement, to be the amount of that loss.
- (4) For the purposes of the making of an assessment under this paragraph in relation to any direction, the actual revenue loss shall be taken to be equal to the amount of the unpaid tax less the amount given by aggregating the amounts of every entitlement—
- (a) to credit for input tax, or
 - (b) to a repayment in accordance with regulations under section 39,

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which (whether as an entitlement of the person in relation to whom the assessment is made or as an entitlement of any other person) would have arisen on the assumptions contained in the direction, but not otherwise.

- (5) An assessment under this paragraph relating to a direction may be notified to the person to whom that direction is given by being incorporated in the same notice as that direction.
- (6) An assessment under this paragraph shall not be made—
 - (a) more than one year after the day on which the direction to which it relates was given, or
 - (b) in the case of any direction that has been withdrawn.
- (7) Where an amount has been assessed on any person under this paragraph and notified to him—
 - (a) that amount shall be deemed (subject to the provisions of this Act as to appeals) to be an amount of VAT due from him;
 - (b) that amount may be recovered accordingly, either from that person or, in the case of a [^{F2}person who] is for the time being treated as a member of a group, from the representative member of that group; and
 - (c) to the extent that more than one person is liable by virtue of any assessment under this paragraph in respect of the same amount of unpaid tax, those persons shall be treated as jointly and severally liable for that amount.
- (8) Sub-paragraph (7) above does not have effect if or to the extent that the assessment in question has been withdrawn or reduced.
- [^{F3}(9) Section 77(6) applies in relation to an assessment under this paragraph as it applies in relation to an assessment under section 73 or 76.]
- ^{F4}(10)
- (11) In this paragraph “ a relevant person ”, in relation to a direction, means—
 - (a) the person to whom the direction is given;
 - (b) the [^{F5}person who] was the representative member of any group of which [^{F6}the person mentioned in paragraph (a)] was treated as being, or in pursuance of the direction is to be treated as having been, a member at a time to which the assumption specified in the direction relates; or
 - (c) any [^{F7}person who], in pursuance of the direction, is to be treated as having been the representative member of such a group.]

Textual Amendments

- F2** Words in Sch. 9A para. 6(7)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 14\(6\)\(a\)](#); S.I. 2019/1348, reg. 2
- F3** [Sch. 9A para. 6\(9\)](#) substituted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by [The Finance Act 2009, Sections 101 and 102 \(Value Added Tax\) \(Late Payment Interest and Repayment Interest\) \(Exceptions and Consequential Amendments\) Order 2022 \(S.I. 2022/1298\), arts. 1\(3\)\(a\), 3\(17\)\(a\)](#)
- F4** [Sch. 9A para. 6\(10\)](#) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of [The Finance Act 2009, Sections 101 and 102 \(Value Added Tax\) \(Late Payment Interest and Repayment Interest\) \(Exceptions and Consequential Amendments\) Order 2022 \(S.I. 2022/1298\), arts. 1\(3\)\(a\), 3\(17\)\(b\)](#)

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| F5 | Words in Sch. 9A para. 6(11)(b) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), Sch. 18 para. 14(6)(b)(i) ; S.I. 2019/1348, reg. 2 |
| F6 | Words in Sch. 9A para. 6(11)(b) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), Sch. 18 para. 14(6)(b)(ii) ; S.I. 2019/1348, reg. 2 |
| F7 | Words in Sch. 9A para. 6(11)(c) substituted (1.11.2019) by Finance Act 2019 (c. 1), s. 53(2), Sch. 18 para. 14(6)(c) ; S.I. 2019/1348, reg. 2 |

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