



Value Added Tax Act 1994

1994 CHAPTER 23

PART IV

ADMINISTRATION, COLLECTION AND ENFORCEMENT

[^{F1}Default surcharges and other] penalties and criminal offences

[^{F1}69D Penalties under section 69C: officers' liability

- (1) Where—
 - (a) a company is liable to a penalty under section 69C, and
 - (b) the actions of the company which give rise to that liability were attributable to an officer of the company (“the officer”),the officer is liable to pay such portion of the penalty (which may be equal to or less than 100%) as HMRC may specify in a notice given to the officer (a “decision notice”).
- (2) Before giving the officer a decision notice HMRC must—
 - (a) inform the officer that they are considering doing so, and
 - (b) afford the officer the opportunity to make representations about whether a decision notice should be given or the portion that should be specified.
- (3) A decision notice—
 - (a) may not be given before the amount of the penalty due from the company has been assessed (but it may be given immediately after that has happened), and
 - (b) may not be given more than two years after the denial decision relevant to that penalty was issued.
- (4) Where the Commissioners have specified a portion of the penalty in a decision notice given to the officer—
 - (a) section 70 applies to the specified portion as to a penalty under section 69C,
 - (b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given,

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 69D. (See end of Document for details)

- (c) section 76(9) applies as if the decision notice were an assessment notified under section 76, and
 - (d) a further decision notice may be given in respect of a portion of any additional amount assessed in an additional assessment.
- (5) HMRC may not recover more than 100% of the penalty through issuing decision notices in relation to two or more persons.
- (6) A person is not liable to pay an amount by virtue of this section if the actions of the company concerned are attributable to the person by reference to conduct for which the person has been convicted of an offence.
 In this subsection “conduct” includes omissions.
- (7) In this section “company” means a body corporate or unincorporated association but does not include a partnership, a local authority or a local authority association.
- (8) In its application to a body corporate other than a limited liability partnership “officer” means—
 - (a) a director (including a shadow director within the meaning of section 251 of the Companies Act 2006),
 - (b) a manager, or
 - (c) a secretary.
- (9) In its application to a limited liability partnership “officer” means a member.
- (10) In its application in any other case, “officer” means—
 - (a) a director,
 - (b) a manager,
 - (c) a secretary, or
 - (d) any other person managing or purporting to manage any of the company's affairs.]

Textual Amendments

F1 Ss. 69C-69E inserted (16.11.2017) by [Finance \(No. 2\) Act 2017 \(c. 32\)](#), **s. 68(2)** (with [s. 68\(7\)](#))

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