



Value Added Tax Act 1994

1994 CHAPTER 23

PART IV

ADMINISTRATION, COLLECTION AND ENFORCEMENT

Assessments of VAT and other payments due

73 Failure to make returns etc.

- (1) Where a person has failed to make any returns required under this Act (or under any provision repealed by this Act) or to keep any documents and afford the facilities necessary to verify such returns or where it appears to the Commissioners that such returns are incomplete or incorrect, they may assess the amount of VAT due from him to the best of their judgment and notify it to him.
- (2) In any case where, for any prescribed accounting period, there has been paid or credited to any person—
 - (a) as being a repayment or refund of VAT, or
 - (b) as being due to him as a VAT credit,an amount which ought not to have been so paid or credited, or which would not have been so paid or credited had the facts been known or been as they later turn out to be, the Commissioners may assess that amount as being VAT due from him for that period and notify it to him accordingly.
- (3) An amount—
 - (a) which has been paid to any person as being due to him as a VAT credit, and
 - (b) which, by reason of the cancellation of that person's registration under paragraph 13(2) to (6) of Schedule 1, [^{F1}paragraph 9 or 11 of Schedule 1A]^{F2}... [^{F3}or paragraph 6(1) or (2) of Schedule 3A] ought not to have been so paid,may be assessed under subsection (2) above notwithstanding that cancellation.

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 73. (See end of Document for details)

- (4) Where a person is assessed under subsections (1) and (2) above in respect of the same prescribed accounting period the assessments may be combined and notified to him as one assessment.
- (5) Where the person failing to make a return, or making a return which appears to the Commissioners to be incomplete or incorrect, was required to make the return as a personal representative, trustee in bankruptcy, [^{F4}trustee in sequestration], receiver, liquidator or person otherwise acting in a representative capacity in relation to another person, subsection (1) above shall apply as if the reference to VAT due from him included a reference to VAT due from that other person.
- (6) An assessment under subsection (1), (2) or (3) above of an amount of VAT due for any prescribed accounting period must be made within the time limits provided for in section 77 and shall not be made after the later of the following—
 - (a) 2 years after the end of the prescribed accounting period; or
 - (b) one year after evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge,
 but (subject to that section) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under subsection (1), (2) or (3) above, another assessment may be made under that subsection, in addition to any earlier assessment.
- [^{F5}(6A) In the case of an assessment under subsection (2), the prescribed accounting period referred to in subsection (6)(a) and in section 77(1)(a) is the prescribed accounting period in which the repayment or refund of VAT, or the VAT credit, was paid or credited.]
- (7) Where a taxable person—
 - (a) has in the course or furtherance of a business carried on by him, been supplied with any goods^{F6}... or otherwise obtained possession or control of any goods, or
 - (b) has, in the course or furtherance of such a business, imported any goods ^{F7}...,
 the Commissioners may require him from time to time to account for the goods; and if he fails to prove that the goods have been or are available to be supplied by him or have been exported or otherwise removed from the United Kingdom without being exported or so removed by way of supply or have been lost or destroyed, they may assess to the best of their judgment and notify to him the amount of VAT that would have been chargeable in respect of the supply of the goods if they had been supplied by him.
- [^{F8}(7A) Where a fiscal warehousekeeper has failed to pay VAT required by the Commissioners under section 18E(2), the Commissioners may assess to the best of their judgment the amount of that VAT due from him and notify it to him.
- (7B) Where it appears to the Commissioners that goods have been removed from a warehouse or fiscal warehouse without payment of the VAT payable under section 18(4) or section 18D on that removal, they may assess to the best of their judgment the amount of VAT due from the person removing the goods or other person liable and notify it to him.]
- (8) In any case where—

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 73. (See end of Document for details)

- (a) as a result of a person's failure to make a return for a prescribed accounting period, the Commissioners have made an assessment under subsection (1) above for that period,
- (b) the VAT assessed has been paid but no proper return has been made for the period to which the assessment related, and
- (c) as a result of a failure to make a return for a later prescribed accounting period, being a failure by a person referred to in paragraph (a) above or a person acting in a representative capacity in relation to him, as mentioned in subsection (5) above, the Commissioners find it necessary to make another assessment under subsection (1) above,

then, if the Commissioners think fit, having regard to the failure referred to in paragraph (a) above, they may specify in the assessment referred to in paragraph (c) above an amount of VAT greater than that which they would otherwise have considered to be appropriate.

- (9) Where an amount has been assessed and notified to any person under subsection (1), (2), (3) [^{F9}, (7), (7A) or (7B)] above it shall, subject to the provisions of this Act as to appeals, be deemed to be an amount of VAT due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (10) For the purposes of this section notification to a personal representative, trustee in bankruptcy, [^{F10} trustee in sequestration], receiver, liquidator or person otherwise acting as aforesaid shall be treated as notification to the person in relation to whom he so acts.

Textual Amendments

- F1** Words in s. 73(3)(b) inserted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 8](#)
- F2** Words in s. 73(3)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 64\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F3** Words in s. 73(3)(b) substituted (28.7.2000 with effect as mentioned in [s. 136\(10\)](#) of the amending Act) by [2000 c. 17](#), [s. 136\(4\)](#)
- F4** Words in s. 73(5) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 12\(2\)](#)
- F5** S. 73(6A) inserted (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\)](#), [s. 120\(1\)\(5\)](#)
- F6** Words in s. 73(7)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 64\(3\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F7** Words in s. 73(7)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 64\(3\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, [Sch. 2 para. 7\(7\)-\(9\)](#)); S.I. 2020/1642, [reg. 4\(b\)](#) (with [reg. 7](#))
- F8** S. 73(7A)(7B) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by [1996 c. 8](#), ss. 25, 26, [Sch. 3 para. 10](#); S.I. 1996/1249, [art. 2](#)
- F9** Words in s. 73(9) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by [1996 c. 8](#), ss. 25, 26, [Sch. 3 para. 11](#); S.I. 1996/1249, [art. 2](#)

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 73. (See end of Document for details)

F10 Words in s. 73(10) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 12(2)**

Modifications etc. (not altering text)

C1 S. 73 modified (20.10.1995) by [S.I. 1995/2518](#), **regs. 181**, 194

Changes to legislation:

There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 73.