



Value Added Tax Act 1994

1994 CHAPTER 23

PART IV

ADMINISTRATION, COLLECTION AND ENFORCEMENT

Assessments of VAT and other payments due

76 Assessment of amounts due by way of [^{F1}penalty, interest or surcharge][^{F1}penalty ^{F2}...].

(1) Where any person is liable—

- [^{F3}(a) to a surcharge under section 59 [^{F4}or 59A] or]
- (b) to a penalty under any of sections 60 [^{F5}to 69C], or
- ^{F6}(c)

- [^{F7}(d) a penalty under regulations made under section 135 of the Finance Act 2002 (mandatory electronic filing of returns) in connection with VAT,]

the Commissioners may, subject to subsection (2) below, assess the amount due by way of [^{F8}penalty, interest or surcharge][^{F8}penalty ^{F9}...], as the case may be, and notify it to him accordingly; and the fact that any conduct giving rise to a penalty under any of sections 60 [^{F10}to [^{F11}69B]][^{F12}or the regulations] may have ceased before an assessment is made under this section shall not affect the power of the Commissioners to make such an assessment.

- (2) Where a person is liable to a penalty under section 69 for any failure to comply with such a requirement as is referred to in subsection (1)(c) to (f) of that section, no assessment shall be made under this section of the amount due from him by way of such penalty unless, within the period of 2 years preceding the assessment, the Commissioners have issued him with a written warning of the consequences of a continuing failure to comply with that requirement.

- (3) In the case of the [^{F13}penalties, interest and surcharge][^{F13}penalties ^{F14}...] referred to in the following paragraphs, the assessment under this section shall be of an amount

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due in respect of the prescribed accounting period which in the paragraph concerned is referred to as “the relevant period”—

- (a) [^{F15}in the case of a surcharge under section 59 [^{F16}or 59A], the relevant period is the prescribed accounting period in respect of which the taxable person is in default and in respect of which the surcharge arises;]
- (b) in the case of a penalty under section 60 relating to the evasion of VAT, the relevant period is the prescribed accounting period for which the VAT evaded was due;
- (c) in the case of a penalty under section 60 relating to the obtaining of the payment of a VAT credit, the relevant period is the prescribed accounting period in respect of which the payment was obtained;
- (d) in the case of a penalty under section 63, the relevant period is the prescribed accounting period for which liability to VAT was understated or, as the case may be, for which entitlement to a VAT credit was overstated; ^{F17}...
- ^{F18}(e)
- ^{F19}(f) in the case of a penalty under regulations made under section 135 of the Finance Act 2002, the relevant period is the prescribed accounting period in respect of which the contravention of, or failure to comply with, the regulations occurred].

^{F20}(3A)

- (4) In any case where the amount of any [^{F21}penalty, interest or surcharge][^{F21}penalty ^{F22}...] falls to be calculated by reference to VAT which was not paid at the time it should have been and that VAT (or the supply which gives rise to it) cannot be readily attributed to any one or more prescribed accounting periods, it shall be treated for the purposes of this Act as VAT due for such period or periods as the Commissioners may determine to the best of their judgment and notify to the person liable for the VAT and [^{F21}penalty, interest or surcharge][^{F21}penalty ^{F22}...].
- (5) Where a person is assessed under this section to an amount due by way of any [^{F23}penalty, interest or surcharge][^{F23}penalty ^{F24}...] falling within subsection (3) ^{F25}... above and is also assessed under section 73(1), (2) [^{F26}(7), (7A) or (7B)] for the prescribed accounting period which is the relevant period under subsection (3) ^{F25}... above, the assessments may be combined and notified to him as one assessment, but the amount of the [^{F23}penalty, interest or surcharge][^{F23}penalty ^{F24}...] shall be separately identified in the notice.

^{F27}(6)

- (7) In the case of an amount due by way of penalty under section 66 or 69 ^{F28}...—
 - (a) a notice of assessment under this section shall specify a date, being not later than the date of the notice, to which the aggregate amount of the penalty which is assessed ^{F29}... is calculated; and
 - (b) if the penalty ^{F30}... continues to accrue after that date, a further assessment or assessments may be made under this section in respect of amounts which so accrue.
- (8) If, within such period as may be notified by the Commissioners to the person liable to a penalty under section 66 or 69 ^{F31}...—
 - (a) a failure or default falling within section 66(1) or 69(1) is remedied, ^{F32}...
 - ^{F32}(b)

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it shall be treated for the purposes of section 66 or 69^{F33}... as paid or remedied on the date specified as mentioned in subsection (7)(a) above.

(9) If an amount is assessed and notified to any person under this section, then unless, or except to the extent that, the assessment is withdrawn or reduced, that amount shall be recoverable as if it were VAT due from him.

(10) For the purposes of this section, notification to a personal representative, trustee in bankruptcy, [^{F34}trustee in sequestration], receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who made the acquisition in question shall be treated as notification to the person in relation to whom he so acts.

Textual Amendments

- F1** Words in s. 76 heading substituted (1.1.2023 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(2)**; S.I. 2022/1278, reg. 2(3)(4)(a)
- F2** Words in s. 76 heading 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(3)(a)**
- F3** S. 76(1)(a) omitted (1.1.2023 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(3)(a)**; S.I. 2022/1278, reg. 2(3)(4)(a)
- F4** Words in s. 76(1)(a) substituted (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 67(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)
- F5** Words in s. 76(1)(b) substituted (16.11.2017) by Finance (No. 2) Act 2017 (c. 32), **s. 68(4)**
- F6** S. 76(1)(c) and word 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(3)(b)(i)**
- F7** S. 76(1)(d) and word inserted (19.7.2007) by Finance Act 2007 (c. 11), **s. 93(5)**
- F8** Words in s. 76(1) substituted (1.1.2023 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(3)(b)**; S.I. 2022/1278, reg. 2(3)(4)(a)
- F9** Words in s. 76(1) 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(3)(b)(ii)**
- F10** Words in s. 76(1) substituted (28.7.2000) by 2000 c. 17, **s. 137(4)**
- F11** Word in s. 76(1) substituted (19.7.2006) by Finance Act 2006 (c. 25), **s. 21(3)**
- F12** Words in s. 76(1) inserted (19.7.2007) by Finance Act 2007 (c. 11), **s. 93(6)**
- F13** Words in s. 76(3) substituted (1.1.2023 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(4)(a)**; S.I. 2022/1278, reg. 2(3)(4)(a)
- F14** Words in s. 76(3) 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(3)(c)(i)**
- F15** S. 76(3)(a) omitted (1.1.2023 for specified purposes) by virtue of Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(4)(b)**; S.I. 2022/1278, reg. 2(3)(4)(a)
- F16** Words in s. 76(3)(a) substituted (29.4.1996 with effect as mentioned in s. 35(8) of the amending Act) by 1996 c. 8, **s. 35(7)(8)**
- F17** Word in s. 76(3)(d) repealed (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 27 Pt. 5(4)**

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- F18** S. 76(3)(e) and word 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(3)(c)(ii)**
- F19** S. 76(3)(f) and word inserted (19.7.2007) by Finance Act 2007 (c. 11), s. **93(7)**
- F20** S. 76(3A) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 67(3)** (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)
- F21** Words in s. 76(4) substituted (1.1.2023 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(5)**; S.I. 2022/1278, reg. 2(3)(4)(a)
- F22** Words in s. 76(4) 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(3)(d)**
- F23** Words in s. 76(5) substituted (1.1.2023 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 20(6)**; S.I. 2022/1278, reg. 2(3)(4)(a)
- F24** Words in s. 76(5) 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(3)(e)**
- F25** Words in s. 76(5) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 67(4)** (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)
- F26** Words in s. 76(5) 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. 11**; S.I. 1996/1249, **art. 2**
- F27** S. 76(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 67(5)** (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)
- F28** Words in s. 76(7) 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(3)(f)(i)**
- F29** Words in s. 76(7)(a) 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(3)(f)(ii)**
- F30** Words in s. 76(7)(b) 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(3)(f)(iii)**
- F31** Words in s. 76(8) 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(3)(g)(i)**
- F32** S. 76(8)(b) and word 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(3)(g)(ii)**

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- F33** Words in s. 76(8) 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(3)(g)(iii)**
- F34** Words in s. 76(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(4)**

Modifications etc. (not altering text)

- C1** S. 76 modified (31.12.2020) by The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 (S.I. 2020/1546), regs. 1, **18** (with reg. 15); S.I. 2020/1641, reg. 2, Sch.
- C2** S. 76(1)-(8) excluded (1.4.2004) by The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674), reg. 1, **Sch. 2 para. 3(1)**
- C3** S. 76(9) applied (with modifications) (1.4.2004) by The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674), reg. 1, **Sch. 2 para. 3(2)**
- C4** S. 76(9) restricted (1.4.2004) by The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674), reg. 1, **Sch. 2 para. 3(1)**
- C5** S. 76(10) amended (retrospectively) by 1997 c. 16, s. **45(6)**
- C6** S. 76(10) excluded (1.4.2004) by The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674), reg. 1, **Sch. 2 para. 3(1)**

Changes to legislation:

There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 76.