



Value Added Tax Act 1994

1994 CHAPTER 23

PART V

[^{F1}REVIEWS AND APPEALS]

84 Further provisions relating to appeals.

(1) References in this section to an appeal are references to an appeal under section 83.

[^{F1}(2)]

[^{F2}(3) Subject to subsections (3B) and (3C), where the appeal is against a decision with respect to any of the matters mentioned in section 83(1)(b), (n), (p), (q), (ra) [^{F3}, (rb)] or (zb), it shall not be entertained unless the amount which HMRC have determined to be payable as VAT has been paid or deposited with them.]

[^{F4}(3A) Subject to subsections (3B) and (3C), where the appeal is against an assessment which is a recovery assessment for the purposes of this subsection, or against the amount of such an assessment, it shall not be entertained unless the amount notified by the assessment has been paid or deposited with HMRC.]

[^{F5}(3B) In a case where the amount determined to be payable as VAT or the amount notified by the recovery assessment has not been paid or deposited an appeal shall be entertained if—

- (a) HMRC are satisfied (on the application of the appellant), or
- (b) the tribunal decides (HMRC not being so satisfied and on the application of the appellant),
that the requirement to pay or deposit the amount determined would cause the appellant to suffer hardship.

(3C) Notwithstanding the provisions of sections 11 and 13 of the Tribunals, Courts and Enforcement Act 2007, the decision of the tribunal as to the issue of hardship is final.]

(4) Subject to subsection (11) below, where—

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- (a) there is an appeal against a decision of [F⁶HMRC] with respect to, or to so much of any assessment as concerns, the amount of input tax that may be credited to any person or the proportion of input tax allowable under section 26, and
- (b) that appeal relates, in whole or in part, to any determination by [F⁶HMRC]—
 - (i) as to the purposes for which any goods or services were or were to be used by any person, or
 - (ii) as to whether or to what extent the matters to which any input tax was attributable were or included matters other than the making of supplies within section 26(2), and
- (c) VAT for which, in pursuance of that determination, there is no entitlement to a credit is VAT on the supply ^{F7}... or importation of something in the nature of a luxury, amusement or entertainment,

the tribunal shall not allow the appeal or, as the case may be, so much of it as relates to that determination unless it considers that the determination is one which it was unreasonable to make or which it would have been unreasonable to make if information brought to the attention of the tribunal that could not have been brought to the attention of [F⁶HMRC] had been available to be taken into account when the determination was made.

[F⁸(4ZA) Where an appeal is brought—

- (a) against such a decision as is mentioned in section [F⁹83(1)](fza), or
- (b) to the extent that it is based on such a decision, against an assessment,

the tribunal shall not allow the appeal unless it considers that [F¹⁰HMRC] could not reasonably have been satisfied that there were grounds for the decision.]

[F¹¹(4A) Where an appeal is brought against the refusal of an application such as is mentioned in section 43B(1) or (2) on the grounds stated in section 43B(5)(c)—

- (a) the tribunal shall not allow the appeal unless it considers that [F¹²HMRC] could not reasonably have been satisfied that there were grounds for refusing the application,
- (b) the refusal shall have effect pending the determination of the appeal, and
- (c) if the appeal is allowed, the refusal shall be deemed not to have occurred.

(4B) Where an appeal is brought against the giving of a notice under section 43C(1) or (3)—

- (a) the notice shall have effect pending the determination of the appeal, and
- (b) if the appeal is allowed, the notice shall be deemed never to have had effect.

(4C) Where an appeal is brought against the giving of a notice under section 43C(1), the tribunal shall not allow the appeal unless it considers that [F¹³HMRC] could not reasonably have been satisfied that there were grounds for giving the notice.

(4D) Where—

- (a) an appeal is brought against the giving of a notice under section 43C(3), and
 - (b) the grounds of appeal relate wholly or partly to the date specified in the notice,
- the tribunal shall not allow the appeal in respect of the date unless it considers that [F¹⁴HMRC] could not reasonably have been satisfied that it was appropriate.]

[F¹⁵(4E) Where an appeal is brought against a requirement imposed under paragraph 4(2)(b) of Schedule 11 that a person give security, the tribunal shall allow the appeal unless [F¹⁶HMRC satisfies] the tribunal that—

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- (a) there has been an evasion of, or an attempt to evade, VAT in relation to goods or services supplied to or by that person, or
 - (b) it is likely, or without the requirement for security it is likely, that VAT in relation to such goods or services will be evaded.
- (4F) A reference in subsection (4E) above to evading VAT includes a reference to obtaining a VAT credit that is not due or a VAT credit in excess of what is due.]
- (5) Where, on an appeal against a decision with respect to any of the matters mentioned in section [F1783(1)](p) [F18or (rb)] —
 - (a) it is found that the amount specified in the assessment is less than it ought to have been, and
 - (b) the tribunal gives a direction specifying the correct amount,the assessment shall have effect as an assessment of the amount specified in the direction, and that amount shall be deemed to have been notified to the appellant.
- (6) Without prejudice to section 70, F19 ... nothing in section [F2083(1)](q) shall be taken to confer on a tribunal any power to vary an amount assessed by way of [F21penalty or interest] except in so far as it is necessary to reduce it to the amount which is appropriate under sections [F2260] to 70; and in this subsection “penalty” includes an amount assessed by virtue of section 61(3) or (4)(a).
- [F23(6A) Without prejudice to section 70, nothing in section [F2483(1)](zb) shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty except in so far as it is necessary to reduce it to the amount which is appropriate under paragraph 11 of Schedule 11A.]
- [F25(6B) Nothing in section [F2683(1)](zc) shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty except in so far as it is necessary to reduce it to the amount which is appropriate under regulations made under section 135 of the Finance Act 2002.]
- (7) Where there is an appeal against a decision to make such a direction as is mentioned in section [F2783(1)](u), the tribunal shall not allow the appeal unless it considers that [F28HMRC] could not reasonably have been satisfied as to the matters in subparagraph (2)(a) to (d) of paragraph 2 of Schedule 1 or, as the case may be, [F29that there were grounds for making the direction.]
- [F30(7A) Where there is an appeal against a decision to make such a direction as is mentioned in section [F3183(1)](wa), the cases in which the tribunal shall allow the appeal shall include (in addition to the case where the conditions for the making of the direction were not fulfilled) the case where the tribunal are satisfied, in relation to the relevant event by reference to which the direction was given, that—
 - (a) the change in the treatment of the body corporate, or
 - (b) the transaction in question,had as its main purpose or, as the case may be, as each of its main purposes a genuine commercial purpose unconnected with the fulfilment of the condition specified in paragraph 1(3) of Schedule 9A.]
- [F32(7ZA) Where there is an appeal against such a refusal as is mentioned in section [F3383(1)](wb)—
 - (a) the tribunal shall not allow the appeal unless it considers that [F34HMRC] could not reasonably have been satisfied that there were grounds for the refusal, and
 - (b) the refusal shall have effect pending the determination of the appeal.]

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- [^{F35}(7B) Where there is an appeal against a decision to make such a direction as is mentioned in section [^{F36}83(1)](zza)—
- (a) the tribunal shall not allow the appeal unless it considers that [^{F37}HMRC] could not reasonably have been satisfied that there were grounds for making the direction;
 - (b) the direction shall have effect pending the determination of the appeal.]
- ^{F38}(8)
- (9) No appeal shall lie under this section with respect to the subject-matter of any decision which by virtue of section 16 is a decision to which section 14 [^{F39}or 15A] of the ^{M1}Finance Act 1994 (decisions subject to review) applies unless the decision—
- (a) relates exclusively to one or both of the following matters, namely whether or not section 30(3) applies in relation to the importation of the goods in question and (if it does not) the rate of tax charged on those goods; and
 - (b) is not one in respect of which notice has been given to [^{F40}HMRC] under section 14 of that Act requiring them to review it [^{F41}and]
- [^{F42}(c) a review is not being undertaken following a request under section 14A of that Act; and
- (d) a review is not being undertaken under section 15 of that Act as a consequence of section 15B(3), 15C(3) or 15E(3) of that Act].
- (10) Where an appeal is against [^{F43}an HMRC decision] which depended upon a prior decision taken ^{F44}... in relation to the appellant, the fact that the prior decision is not within section 83 shall not prevent the tribunal from allowing the appeal on the ground that it would have allowed an appeal against the prior decision.
- (11) Subsection (4) above shall not apply in relation to any appeal relating to the input tax that may be credited to any person at the end of a prescribed accounting period beginning before 27th July 1993.

Textual Amendments

- F1** S. 84(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(2)**
- F2** S. 84(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(3)**
- F3** Word in s. 84(3) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), **s. 124(4)(a)**
- F4** S. 84(3A) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(4)**
- F5** S. 84(3B)(3C) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(5)**
- F6** Word in s. 84(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(6)**
- F7** Word in s. 84(4)(c) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), **Sch. 8 para. 73(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)
- F8** S. 84(4ZA) inserted (retrospective to 24.4.2002) by [Finance Act 2002 \(c. 23\)](#), **s. 23(3)(4)**
- F9** Word in s. 84(4ZA)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(8)**

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- F10** Word in s. 84(4ZA) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F11** S. 84(4A)-(4D) inserted (27.7.1999) by 1999 c. 16, s. 16, **Sch. 2 para. 4**
- F12** Word in s. 84(4A)(a) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F13** Word in s. 84(4C) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F14** Word in s. 84(4D) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F15** S. 84(4E)(4F) inserted (retrospective to 10.4.2003) by Finance Act 2003 (c. 14), **s. 17(7)(8)**
- F16** Words in s. 84(4E) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(9)**
- F17** Word in s. 84(5) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F18** Words in s. 84(5) inserted (15.9.2016) by Finance Act 2016 (c. 24), **s. 124(4)(b)**
- F19** Words in s. 84(6) omitted (31.12.2020) by virtue of Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 73(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)
- F20** Word in s. 84(6) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F21** Words in s. 84(6) substituted (1.1.2023 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 27(a)**; S.I. 2022/1278, reg. 2(3)(4)(a)
- F22** Word in s. 84(6) substituted (1.1.2023 for specified purposes) by Finance Act 2021 (c. 26), s. 118(2), **Sch. 27 para. 27(b)**; S.I. 2022/1278, reg. 2(3)(4)(a)
- F23** S. 84(6A) inserted (22.7.2004 for specified purposes, 1.8.2004 in so far as not already in force) by Finance Act 2004 (c. 12), s. 19(2), **Sch. 2 para. 5(3)**; S.I. 2004/1934, art. 2
- F24** Word in s. 84(6A) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F25** S. 84(6B) inserted (19.7.2007) by Finance Act 2007 (c. 11), **s. 93(9)**
- F26** Word in s. 84(6B) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F27** Word in s. 84(7) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F28** Word in s. 84(7) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F29** Words in s. 84(7) substituted (19.3.1997 with effect as mentioned in s. 31(4) of the amending Act) by 1997 c. 16, **s. 31(3)(4)**
- F30** S. 84(7A) inserted (29.4.1996) by 1996 c. 8, **s. 31(4)**
- F31** Word in s. 84(7A) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F32** S. 84(7ZA) inserted (with effect in accordance with art. 1(2) of the amending S.I.) by The Value Added Tax (Buildings and Land) Order 2008 (S.I. 2008/1146), arts. 1(1), **3(3)** (with Sch. 2)
- F33** Word in s. 84(7ZA) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F34** Word in s. 84(7ZA) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**
- F35** S. 84(7B) inserted (19.7.2006) by Finance Act 2006 (c. 25), **s. 21(5)**
- F36** Word in s. 84(7B) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(8)**
- F37** Word in s. 84(7B) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 221(7)**

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- F38** S. 84(8) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(10)** (with Sch. 3 para. 9(2)(a))
- F39** Words in s. 84(9) added (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(11)(a)**
- F40** Word in s. 84(9)(b) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(11)(b)**
- F41** Word in s. 84(9)(b) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(11)(c)**
- F42** S. 84(9)(c)(d) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(11)(d)**
- F43** Words in s. 84(10) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(12)(a)**
- F44** Words in s. 84(10) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 221(12)(b)**

Modifications etc. (not altering text)

- C1** Pt. V applied (with modifications) by S.I. 2007/2157, reg. 43(3) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 172(4)**)
- C2** Pt. V modified by S.I. 2007/2157, Sch. 5 para. 1 (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 175**)
- C3** Pt. V modified by S.I. 2007/3298, Sch. 2 para. 2 (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 181**)
- C4** Pt. V applied (with modifications) by S.I. 2007/3298, reg. 12(2) (as substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 2 para. 178(4)**)
- C5** Pt. 5 applied (with modifications) (31.12.2020) by [The Value Added Tax \(Accounting Procedures for Import VAT for VAT Registered Persons and Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/60\)](#), regs. 1, **10(2)** (with reg. 3(1)(2)); S.I. 2020/1641, reg. 2, **Sch.**

Marginal Citations

- M1** 1994 c. 9.

Changes to legislation:

There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 84.