

Status: Point in time view as at 29/04/1996.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Part VI. (See end of Document for details)

SCHEDULES

SCHEDULE 5

LANDFILL TAX

Modifications etc. (not altering text)

C1 Sch. 5 extended (19.3.1997) by 1997 c. 16, s. 50(1), Sch. 5 Pt. I para. 4(3)

PART VI

INTEREST

Interest on under-declared tax

- 26 (1) Sub-paragraph (2) below applies where—
- (a) under section 50(1) of this Act the Commissioners assess an amount of tax due from a registrable person for an accounting period and notify it to him, and
 - (b) the assessment is made on the basis that the amount (the additional amount) is due from him in addition to any amount shown in a return made in relation to the accounting period.
- (2) The additional amount shall carry interest for the period which—
- (a) begins with the day after that on which the person is required by provision made under section 49 of this Act to pay tax due from him for the accounting period, and
 - (b) ends with the day before the relevant day.
- (3) For the purposes of sub-paragraph (2) above the relevant day is the earlier of—
- (a) the day on which the assessment is notified to the person;
 - (b) the day on which the additional amount is paid.
- (4) Sub-paragraph (5) below applies where under section 50(2) of this Act the Commissioners assess an amount as being tax due from a registrable person for an accounting period and notify it to him.
- (5) The amount shall carry interest for the period which—
- (a) begins with the day after that on which the person is required by provision made under section 49 of this Act to pay tax due from him for the accounting period, and
 - (b) ends with the day before the relevant day.
- (6) For the purposes of sub-paragraph (5) above the relevant day is the earlier of—
- (a) the day on which the assessment is notified to the person;

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- (b) the day on which the amount is paid.
- (7) Interest under this paragraph shall be payable at the rate applicable under section 197 of this Act.
- (8) Interest under this paragraph shall be paid without any deduction of income tax.
- (9) Sub-paragraph (10) below applies where—
 - (a) an amount carries interest under this paragraph (or would do so apart from that sub-paragraph), and
 - (b) all or part of the amount turns out not to be due.
- (10) In such a case—
 - (a) the amount or part (as the case may be) shall not carry interest under this paragraph and shall be treated as never having done so, and
 - (b) all such adjustments as are reasonable shall be made, including adjustments by way of repayment by the Commissioners where appropriate.

Interest on unpaid tax etc.

- 27 (1) Sub-paragraph (2) below applies where—
 - (a) a registrable person makes a return under provision made under section 49 of this Act (whether or not he makes it at the time required by such provision), and
 - (b) the return shows that an amount of tax is due from him for the accounting period in relation to which the return is made.
- (2) The amount shall carry interest for the period which—
 - (a) begins with the day after that on which the person is required by provision made under section 49 of this Act to pay tax due from him for the accounting period, and
 - (b) ends with the day before that on which the amount is paid.
- (3) Sub-paragraph (4) below applies where—
 - (a) under section 50(1) of this Act the Commissioners assess an amount of tax due from a registrable person for an accounting period and notify it to him, and
 - (b) the assessment is made on the basis that no return required by provision made under section 49 of this Act has been made by the person in relation to the accounting period.
- (4) The amount shall carry interest for the period which—
 - (a) begins with the day after that on which the person is required by provision made under section 49 of this Act to pay tax due from him for the accounting period, and
 - (b) ends with the day before that on which the amount is paid.
- (5) Sub-paragraph (6) below applies where—
 - (a) under section 50(1) of this Act the Commissioners assess an amount of tax due from a registrable person for an accounting period and notify it to him, and
 - (b) the assessment (the supplementary assessment) is made on the basis that the amount (the additional amount) is due from him in addition to any amount

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shown in a return, or in any previous assessment, made in relation to the accounting period.

- (6) The additional amount shall carry interest for the period which—
 - (a) begins with the day on which the supplementary assessment is notified to the person, and
 - (b) ends with the day before that on which the additional amount is paid.
- (7) Sub-paragraph (8) below applies where under section 50(2) of this Act the Commissioners assess an amount as being tax due from a registrable person for an accounting period and notify it to him.
- (8) The amount shall carry interest for the period which—
 - (a) begins with the day on which the assessment is notified to the person, and
 - (b) ends with the day before that on which the amount is paid.
- (9) Sub-paragraph (10) below applies where under paragraph 32 below the Commissioners—
 - (a) assess an amount due from a person by way of penalty under Part V of this Schedule and notify it to him, or
 - (b) assess an amount due from a person by way of interest under paragraph 26 above and notify it to him.
- (10) The amount shall carry interest for the period which—
 - (a) begins with the day on which the assessment is notified to the person, and
 - (b) ends with the day before that on which the amount is paid.
- (11) Interest under this paragraph shall be compound interest calculated—
 - (a) at the penalty rate, and
 - (b) with monthly rests;and the penalty rate is the rate found by taking the rate at which interest is payable under paragraph 26 above and adding 10 percentage points to that rate.
- (12) Interest under this paragraph shall be paid without any deduction of income tax.
- (13) Where—
 - (a) the Commissioners assess and notify an amount as mentioned in sub-paragraph (5)(a) or (7) or (9)(a) or (b) above,
 - (b) they also specify a date for the purposes of this sub-paragraph, and
 - (c) the amount concerned is paid on or before that date,the amount shall not carry interest by virtue of sub-paragraph (6) or (8) or (10) above (as the case may be).
- (14) Sub-paragraph (15) below applies where—
 - (a) an amount carries interest under this paragraph (or would do so apart from that sub-paragraph), and
 - (b) all or part of the amount turns out not to be due.
- (15) In such a case—
 - (a) the amount or part (as the case may be) shall not carry interest under this paragraph and shall be treated as never having done so, and
 - (b) all such adjustments as are reasonable shall be made, including adjustments by way of repayment by the Commissioners where appropriate.

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- 28 (1) Where a person is liable to pay interest under paragraph 27 above the Commissioners or, on appeal, an appeal tribunal may reduce the amount payable to such amount (including nil) as they think proper.
- (2) Where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the conduct giving rise to the liability to pay interest, that is a factor which (among other things) may be taken into account under sub-paragraph (1) above.
- (3) In the case of interest reduced by the Commissioners under sub-paragraph (1) above an appeal tribunal, on an appeal relating to the interest, may cancel the whole or any part of the reduction made by the Commissioners.

Interest payable by Commissioners

- 29 (1) Where, due to an error on the part of the Commissioners, a person—
- (a) has paid to them by way of tax an amount which was not tax due and which they are in consequence liable to repay to him,
 - (b) has failed to claim payment of an amount to the payment of which he was entitled in pursuance of provision made under section 51(2)(c) or (d) or (f) of this Act, or
 - (c) has suffered delay in receiving payment of an amount due to him from them in connection with tax,
- then, if and to the extent that they would not be liable to do so apart from this paragraph, they shall (subject to the following provisions of this paragraph) pay interest to him on that amount for the applicable period.

[^{F1}(1A) In sub-paragraph (1) above—

- (a) the reference in paragraph (a) to an amount which the Commissioners are liable to repay in consequence of the making of a payment that was not due is a reference to only so much of that amount as is the subject of a claim that the Commissioners are required to satisfy or have satisfied; and
 - (b) the amounts referred to in paragraph (c) do not include any amount payable under this paragraph.]
- (2) The applicable period, in a case falling within sub-paragraph (1)(a) above, is the period—
- (a) beginning with the date on which the payment is received by the Commissioners, and
 - (b) ending with the date on which they authorise payment of the amount on which the interest is payable.
- (3) The applicable period, in a case falling within sub-paragraph (1)(b) or (c) above, is the period—
- (a) beginning with the date on which, apart from the error, the Commissioners might reasonably have been expected to authorise payment of the amount on which the interest is payable, and
 - (b) ending with the date on which they in fact authorise payment of that amount.
- (4) In determining the applicable period for the purposes of this paragraph, there shall be left out of account any period referable to the raising and answering of any

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reasonable enquiry relating to any matter giving rise to, or otherwise connected with, the person's entitlement to interest under this paragraph.

- (5) In determining for the purposes of sub-paragraph (4) above whether any period is referable to the raising and answering of such an enquiry as is there mentioned, there shall be taken to be so referable any period which begins with the date on which the Commissioners first consider it necessary to make such an enquiry and ends with the date on which the Commissioners—
- (a) satisfy themselves that they have received a complete answer to the enquiry, or
 - (b) determine not to make the enquiry or (if they have made it) not to pursue it further;
- but excluding so much of that period as may be prescribed by regulations.
- (6) For the purposes of sub-paragraph (5) above it is immaterial—
- (a) whether any enquiry is in fact made;
 - (b) whether any enquiry is or might have been made of the person referred to in sub-paragraph (1) above or of an authorised person or of some other person.
- (7) The commissioners shall only be liable to pay interest under under this paragraph on a claim made in writing for that purpose.
- [^{F2}(8) A claim under this paragraph shall not be made more than three years after the end of the applicable period to which it relates.]
- [^{F3}(9) References in this paragraph—
- (a) to receiving payment of any amount from the Commissioners, or
 - (b) to the authorisation by the Commissioners of the payment of any amount,
- include references to the discharge by way of set-off (whether in accordance with regulations under paragraph 42 or 43 below or otherwise) of the Commissioners' liability to pay that amount.]
- (10) Interest under this paragraph shall be payable at the rate applicable under section 197 of this Act.

Textual Amendments

- F1** Sch. 5 para. 29(1A) inserted (*retrospective* to 29.4.1996) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. III para. 11(2)**
- F2** Sch. 5 para. 29(8) substituted (*retrospective* to 29.4.1996) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. III para. 11(3)**
- F3** Sch. 5 para. 29(9) substituted (*retrospective* to 29.4.1996) by 1997 c. 16, s. 50(1), **Sch. 5 Pt. III para. 1(4)**

- 30 (1) Where—
- (a) any interest is payable by the Commissioners to a person on a sum due to him under this Part of this Act, and
 - (b) he is a person to whom regulations under section 51 of this Act apply,
- the interest shall be treated as an amount to which he is entitled by way of credit in pursuance of the regulations.
- (2) Sub-paragraph (1) above shall be disregarded for the purpose of determining a person's entitlement to interest or the amount of interest to which he is entitled.

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