



Finance Act 2001

2001 CHAPTER 9

PART 2

AGGREGATES LEVY

Credits and repayments

30 Credit for aggregates levy

- (1) The Commissioners may, in accordance with the following provisions of this section, by regulations make provision in relation to cases where, after a charge to aggregates levy has arisen on any quantity of aggregate—
- (a) any of that aggregate is exported from the United Kingdom^[F1], from a place in England, Wales or Northern Ireland,] in the form of aggregate;
 - [F2(aa) any of that aggregate is moved to Scotland, or to the sea adjacent to Scotland, in the form of aggregate;]
 - (b) an exempt process is applied to any of that aggregate;
 - (c) any of that aggregate is used in a prescribed industrial or agricultural process;
 - (d) any of that aggregate is disposed of (by dumping or otherwise) in such manner not constituting its use for construction purposes as may be prescribed; or
 - (e) the whole or any part of a debt due to a person responsible for subjecting the aggregate to commercial exploitation is written off in his accounts as a bad debt.
- (2) The provision that may be made in relation to any such case as is mentioned in subsection (1) above is provision—
- (a) for such person as may be specified in the regulations to be entitled to a tax credit in respect of any aggregates levy charged on the aggregate in question;
 - (b) for a tax credit to which any person is entitled under the regulations to be brought into account when he is accounting for aggregates levy due from him for such accounting period or periods as may be determined in accordance with the regulations; and

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- (c) for a person entitled to a tax credit to be entitled, in any prescribed case where he cannot bring the tax credit into account so as to set it against a liability to aggregates levy, to a repayment of levy of an amount so determined.
- (3) Regulations under this section may contain any or all of the following provisions—
- (a) provision making any entitlement to a tax credit conditional on the making of a claim by such person, within such period and in such manner as may be prescribed;
 - (b) provision making entitlement to bring a tax credit into account, or to receive a repayment in respect of such a credit, conditional on compliance with such requirements as may be determined in accordance with the regulations;
 - (c) provision requiring a claim for a tax credit to be evidenced and quantified by reference to such records and other documents as may be so determined;
 - (d) provision requiring a person claiming any entitlement to a tax credit to keep, for such period and in such form and manner as may be so determined, those records and documents and a record of such information relating to the claim as may be so determined;
 - (e) provision for the withdrawal of a tax credit where any requirement of the regulations is not complied with;
 - (f) provision for interest at the rate applicable under section 197 of the Finance Act 1996 (c. 8) to be treated as added, for such period and for such purposes as may be prescribed, to the amount of any tax credit;
 - (g) provision for anything falling to be determined in accordance with the regulations to be determined by reference to a general or specific direction given in accordance with the regulations by the Commissioners.
- (4) Without prejudice to the generality of the preceding provisions of this section, regulations under this section may also contain—
- (a) provision for ascertaining whether, when and to what extent an amount is to be taken for the purposes of any regulations under this section to have been written off in any accounts as a bad debt;
 - (b) provision requiring a person who for the purposes of any such regulations is taken to have written off any amount as a bad debt to keep, for such period and in such form and manner as may be prescribed, information relating to anything subsequently paid in respect of the amount written off;
 - (c) provision for the withdrawal of the whole or an appropriate part of any tax credit relating to an amount taken to have been written off as a bad debt where the whole or any part (or further part) of the amount written off is subsequently paid;
 - (d) provision for ascertaining whether, and to what extent, anything received by any person is to be taken as a payment of, or of a part of, an amount taken, for the purposes of any regulations under this section, to have been written off;
 - (e) provision for determining the value for the purposes of provision made by virtue of paragraph (d) above of things received otherwise than in the form of money.
- (5) Regulations made under this section shall have effect subject to the provisions of section 32 below.
- [^{F3}(6) In subsection (1)(aa) the reference to the sea adjacent to Scotland is to so much of the territorial sea adjacent to the United Kingdom as is to be treated as adjacent to Scotland for the purposes of the Scotland Act 1998 (see section 126(2) of that Act).]

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, Cross Heading: Credits and repayments. (See end of Document for details)

Textual Amendments

- F1** Words in s. 30(1)(a) inserted (with effect in accordance with s. 18(4) of the amending Act) by [Scotland Act 2016 \(c. 11\), s. 72\(3\), Sch. 1 para. 7\(2\)\(a\)](#)
- F2** S. 30(1)(aa) inserted (with effect in accordance with s. 18(4) of the amending Act) by [Scotland Act 2016 \(c. 11\), s. 72\(3\), Sch. 1 para. 7\(2\)\(b\)](#)
- F3** S. 30(6) inserted (with effect in accordance with s. 18(4) of the amending Act) by [Scotland Act 2016 \(c. 11\), s. 72\(3\), Sch. 1 para. 7\(3\)](#)

[^{F4}30A Transitional tax credit in Northern Ireland

- (1) The Commissioners may by regulations make provision of the kind described in section 30(2) above (entitlement to tax credit) in relation to cases within subsection (2) below.

[^{F5}(2) The cases are those where a charge to aggregates levy has arisen on a quantity of aggregate which has been subjected to commercial exploitation during a prescribed period.]

^{F6}(3)

- (4) The amount of a tax credit to which a person is entitled under the regulations must not be more than 80% of any aggregates levy charged on the aggregate in question.

- (5) Regulations under this section may in particular make provision—

- [^{F7}(a) for a person to be entitled to a tax credit under the regulations in respect of aggregate originating from a site in respect of which any person holds an aggregates levy credit certificate which has not been withdrawn;]
- (b) for an aggregates levy credit certificate to be issued to a person in respect of a site only if an aggregates levy credit agreement is in force in respect of the site;
- (c) for the withdrawal of an aggregates levy credit certificate where the aggregates levy credit agreement in respect of which it was issued is no longer in force;
- (d) for the form and content of aggregates levy credit certificates and aggregates levy credit agreements.

- (6) Regulations under this section which make provision such as is mentioned in subsection (5)(d) above may be framed by reference to any provisions of a notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.

- (7) If regulations under this section make provision such as is mentioned in subsection (5) above, the Commissioners or the Northern Ireland Department may—

- (a) enter into aggregates levy credit agreements;
- (b) issue and withdraw aggregates levy credit certificates;
- (c) take such other steps as the Commissioners or the Northern Ireland Department consider appropriate in relation to aggregates levy credit agreements and aggregates levy credit certificates.

- (8) Regulations under this section which make provision such as is mentioned in subsection (5) above must include provision requiring the Northern Ireland Department to inform the Commissioners if the Northern Ireland Department issues or withdraws an aggregates levy credit certificate.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, Cross Heading: Credits and repayments. (See end of Document for details)

- (9) Subsections (3) to (5) of section 30 above apply to regulations under this section as they apply to regulations under that section.
- (10) The Treasury may by order made by statutory instrument amend subsection (4) above by substituting for the percentage for the time being specified in that subsection a percentage lower than 80%.
- (11) An order under subsection (10) above shall not be made unless a draft of the order has been laid before Parliament and approved by a resolution of the House of Commons.
- (12) Any expenses of the Northern Ireland Department under this section shall be charged on the Consolidated Fund of Northern Ireland.
- (13) In this section—
 - “aggregates levy credit agreement” means an agreement entered into in respect of a site by the person operating the site and the Commissioners or the Northern Ireland Department;
 - “aggregates levy credit certificate” means a certificate issued to the person operating a site by the Commissioners or the Northern Ireland Department as evidence of the fact that an aggregates levy credit agreement has been entered into in respect of the site;
 - “the Northern Ireland Department” means the Department of the Environment in Northern Ireland.]

Textual Amendments

- F4** S. 30A substituted (23.7.2004) by [Finance Act 2004 \(c. 12\)](#), s. **291(2)(4)(5)**; S.I. 2004/1942, art. 2
- F5** S. 30A(2) substituted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), s. **81(2)**
- F6** S. 30A(3) omitted (19.7.2011) by virtue of [Finance Act 2011 \(c. 11\)](#), s. **81(3)**
- F7** S. 30A(5)(a) substituted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), s. **81(4)**

[^{F8}**30B Special tax credit in Northern Ireland**

- (1) The Commissioners may by regulations make provision of the kind described in section 30(2) (entitlement to tax credit) in relation to cases within subsection (3) below.
- (2) Tax credit to which a person is entitled under the regulations is referred to in this section as “special tax credit”.
- (3) The cases are where—
 - (a) a person has been charged with, and has fully accounted for, aggregates levy in respect of the commercial exploitation of a quantity of aggregate, and
 - (b) the exploitation was of imported aggregate and occurred in Northern Ireland in the period defined in subsection (5).
- (4) For this purpose aggregate is “imported” if it was won from a site in a member State other than the United Kingdom.
- (5) The period mentioned in subsection (3)(b)—
 - (a) begins with 1 April 2004, and
 - (b) ends with 30 November 2010.
- (6) Regulations may in particular—

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, Cross Heading: Credits and repayments. (See end of Document for details)

- (a) provide that a person is not entitled to special tax credit unless the Department of the Environment in Northern Ireland (“the Department”) has certified under section 30D(4) that it is satisfied that specified requirements were met in relation to the site from which the aggregate originates during a period which includes the time when the aggregate was won from the site (and the certification has not been revoked);
 - (b) specify further conditions for entitlement to special tax credit;
 - (c) make provision about the rate at which special tax credit is to be given (including provision restricting the amount of special tax credit in cases where entitlement to a tax credit has already arisen);
 - (d) provide for compound interest at the applicable rate (see section 30C) to be treated as added, for such period and for such purposes as may be prescribed, to the amount of any special tax credit;
 - (e) authorise the Commissioners to adjust a person's claim for special tax credit in specified circumstances.
- (7) Regulations under subsection (6)(a) may specify the requirements in question by reference to any provisions of a notice published by the Department in pursuance of the regulations and not withdrawn by a further notice.
- (8) Subsection (3) of section 30 (except paragraph (f) of that subsection) applies to regulations under this section as it applies to regulations under that section.
- (9) Section 32(1) (time limit for claims) does not apply to a claim for repayment of aggregates levy made under regulations under this section.

Textual Amendments

F8 Ss. 30B-30D inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), s. 61(2)

30C Special tax credit: applicable rate of interest

- (1) The reference in section 30B(6)(d) to the applicable rate is to a rate provided for in regulations made by the Treasury.
- (2) Regulations under this section may—
- (a) provide for the rate to be determined, and to change from time to time, by reference to a rate referred to in the regulations;
 - (b) include provision for different rates to apply at different times in a period for which interest is due to a person.
- (3) Regulations under this section are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

Textual Amendments

F8 Ss. 30B-30D inserted (26.3.2015) by [Finance Act 2015 \(c. 11\)](#), s. 61(2)

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, Cross Heading: Credits and repayments. (See end of Document for details)

30D Special tax credit: certification by Department

- (1) A person may, for the purpose of making a claim for special tax credit, apply to the Department for a certification under subsection (4)(a).
- (2) The application must specify—
 - (a) a site, and
 - (b) a time (“the relevant time”).
- (3) Where a certification relating to a site has been wholly or partly revoked by virtue of subsection (7)(b), an application specifying that site may not specify a time falling within the period with respect to which the revocation has effect.
- (4) Where an application is made and the Department has not previously made a certification under paragraph (a) relating to both the specified site and a period that includes the relevant time, the Department must either—
 - (a) certify that it is satisfied that any requirements specified by virtue of section 30B(6)(a) were met in relation to the site during a period (specified in the certification) that includes the relevant time, or
 - (b) refuse the application.
- (5) If the Department makes a certification under subsection (4)(a) (a “special tax credit certification”) it must give a written notice of the certification to—
 - (a) the applicant, and
 - (b) HMRC.
- (6) Where an application is made and the Department has previously made a special tax credit certification relating to both the specified site and a period that includes the relevant time, the Department must give the applicant a written notice of that certification.
- (7) The Commissioners may by regulations—
 - (a) make provision about the time within which an application under subsection (1) must be made and the form and content of such an application;
 - (b) authorise the Department to revoke a special tax credit certification with respect to the whole or part of the period to which the certification relates if the Department is satisfied that its decision as regards the meeting of the relevant requirements (or that decision, so far as relating to the relevant part of that period) was not correct;
 - (c) make any other provision that is necessary in connection with paragraph (b) and subsection (8);
 - (d) provide that a revocation by virtue of paragraph (b) may not be made after a specified date.
- (8) A special tax credit certification is to be treated as never having had effect in relation to any period with respect to which it is revoked by virtue of subsection (7)(b).
- (9) Regulations under this section which make provision such as is mentioned in subsection (7)(b) must require the Department to inform the Commissioners, and any other person to whom the Department has given a written notice of the certification, if the Department revokes a special tax credit certification.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, Cross Heading: Credits and repayments. (See end of Document for details)

- (10) Any expenses of the Department under or by virtue of this section or section 30B are to be appropriated from the Consolidated Fund of Northern Ireland by Act of the Northern Ireland Assembly.
- (11) In this section “the Department” and “special tax credit” have the same meaning as in section 30B.]

Textual Amendments

F8 Ss. 30B-30D inserted (26.3.2015) by Finance Act 2015 (c. 11), s. 61(2)

31 Repayments of overpaid levy

- (1) Where a person has paid an amount to the Commissioners by way of aggregates levy which was not levy due to them, they shall be liable to repay the amount to him.
- (2) The Commissioners shall not be liable to repay an amount under this section except on the making of a claim for that purpose.
- (3) A claim under this section must be made in such form and manner, and must be supported by such documentary evidence, as may be required by regulations made by the Commissioners.
- (4) The preceding provisions of this section are subject to the provisions of section 32 below.
- (5) Except as provided by this section, the Commissioners shall not, by virtue of the fact that it was not levy due to them, be liable to repay any amount paid to them by way of aggregates levy.

32 Supplemental provisions about repayments etc

- (1) The Commissioners shall not be liable, on any claim for a repayment of aggregates levy, to repay any amount paid to them more than [^{F9}4 years] before the making of the claim.
- (2) In the case of any claim for a repayment of an amount of aggregates levy other than a claim to a repayment to which a person is entitled by virtue of tax credit regulations, it shall be a defence to that claim that the repayment of that amount would unjustly enrich the claimant.
- (3) Subsection (4) below applies for the purposes of subsection (2) above where—
- (a) there is an amount paid by way of aggregates levy which (apart from subsection (2) above) would fall to be the subject of a repayment of aggregates levy to any person (“the taxpayer”); and
 - (b) the whole or a part of the cost of the payment of that amount to the Commissioners has, for practical purposes, been borne by a person other than the taxpayer.
- (4) Where, in a case to which this subsection applies, loss or damage has been or may be incurred by the taxpayer as a result of mistaken assumptions made in his case about the operation of any provisions relating to aggregates levy, that loss or damage shall

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2001, Cross Heading: Credits and repayments. (See end of Document for details)

be disregarded, except to the extent of the quantified amount, in the making of any determination as to—

- (a) whether or to what extent the repayment of an amount to the taxpayer would enrich him; or
 - (b) whether or to what extent any enrichment of the taxpayer would be unjust.
- (5) In subsection (4) above “the quantified amount” means the amount (if any) which is shown by the taxpayer to constitute the amount that would appropriately compensate him for loss or damage shown by him to have resulted, for any business carried on by him, from the making of the mistaken assumptions.
- (6) The reference in subsection (4) above to provisions relating to aggregates levy is a reference to any provisions of—
- (a) any enactment or subordinate legislation (whether or not still in force) which relates to that levy or to any matter connected with it; or
 - (b) any notice published by the Commissioners under or for the purposes of any enactment or subordinate legislation relating to aggregates levy.
- (7) Schedule 8 to this Act (which contains further provision about payments and repayments by the Commissioners and about the setting off of amounts due to or from the Commissioners under this Part and the setting of other amounts against such amounts) shall have effect.

Textual Amendments

- F9** Words in s. 32(1) substituted (1.4.2010) by [Finance Act 2009 \(c. 10\)](#), s. 99(2), [Sch. 51 para. 28](#); [S.I. 2010/867](#), art. 2(1) (with art. 8)
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Modifications etc. (not altering text)

- C1** S. 32 extended (1.4.2002) by [S.I. 2002/761](#), [reg. 15\(5\)](#)
- C2** S. 32(2) modified (1.4.2002) by [S.I. 2002/761](#), [reg. 21](#)

Changes to legislation:

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