Finance Act 2013

2013 CHAPTER 29

PART 6

OTHER PROVISIONS

Payment

231 Overpayment relief: generally prevailing practice exclusion and EU law

(1) In Schedule 1AB to TMA 1970 (recovery of overpaid tax etc), in paragraph 2 (cases in which Commissioners not liable to give effect to claim), after sub-paragraph (9) insert—

"(9A) Cases G and H do not apply where the amount paid, or liable to be paid, is tax which has been charged contrary to EU law.

(9B) For the purposes of sub-paragraph (9A), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—

(a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or

(b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a)."

(2) In Schedule 2 to OTA 1975 (management and collection of petroleum revenue tax), in paragraph 13B (claim for relief for overpaid tax etc: cases in which HMRC not liable to give effect to a claim), after sub-paragraph (8) insert—

"(9) Case G does not apply where the amount paid, or liable to be paid, is tax which has been charged contrary to EU law.

(10) For the purposes of sub-paragraph (9), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—

(a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or

(b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).”

(3) In Part 6 of Schedule 18 to FA 1998 (overpaid tax, excessive assessments or repayments etc), in paragraph 51A (cases in which Commissioners not liable to give effect to a claim), after sub-paragraph (8) insert—

“(9) Case G does not apply where the amount paid, or liable to be paid, is tax which has been charged contrary to EU law.

(10) For the purposes of sub-paragraph (9), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—

(a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or

(b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).”

(4) In Part 6 of Schedule 10 to FA 2003 (relief in case of overpaid tax or excessive assessment), in paragraph 34A (cases in which Commissioners not liable to give effect to a claim), after sub-paragraph (8) insert—

“(9) Case G does not apply where the amount paid, or liable to be paid, is tax which has been charged contrary to EU law.

(10) For the purposes of sub-paragraph (9), an amount of tax is charged contrary to EU law if, in the circumstances in question, the charge to tax is contrary to—

(a) the provisions relating to the free movement of goods, persons, services and capital in Titles II and IV of Part 3 of the Treaty on the Functioning of the European Union, or

(b) the provisions of any subsequent treaty replacing the provisions mentioned in paragraph (a).”

(5) The amendments made by this section have effect in relation to any claim (in respect of overpaid tax, excessive assessment etc) made after the end of the six month period beginning with the day on which this Act is passed.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 2013, Section 231.