
STATUTORY INSTRUMENTS

1994 No. 2617

VALUE ADDED TAX

The Value Added Tax Tribunals (Amendment) Rules 1994

Made - - - - *5th October 1994*
Laid before Parliament *10th October 1994*
Coming into force - - *1st November 1994*

he Lord Chancellor, in exercise of the powers conferred on him by paragraph 9 of Schedule 12 to the Value Added Tax Act 1994(1), after consultation with the Lord Advocate and with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(2), hereby makes the following Rules—

1. These Rules may be cited as the Value Added Tax Tribunals (Amendment) Rules 1994 and shall come into force on 1st November 1994.

2.—(1) The Value Added Tax Tribunals Rules 1986(3)(“the 1986 Rules”) shall be amended in accordance with the following provisions of these Rules.

(2) In these Rules, a rule referred to by number alone means the rule so numbered in the 1986 Rules.

3. In the Arrangement of Rules there shall be inserted—

- (a) after rule 21—“21A. Affidavits and depositions made in other legal proceedings.”; and
- (b) after rule 30—“30A. Appeals from tribunal.”.

4. In rule 2—

- (a) for “value added tax tribunals” wherever it appears there shall be substituted “VAT and duties tribunals”;
- (b) in the definition of “the Act”, for “1983” there shall be substituted “1994”;
- (c) after the definition of the Act there shall be inserted—
““the 1985 Act” means the Finance Act 1985(4);”;

(1) 1994 c. 23; by virtue of paragraph 1(2) of schedule 12, references in paragraph 9 to VAT tribunals are replaced by a reference to VAT and duties tribunals.
(2) 1992 c. 53.
(3) S.I. 1986/590, amended by S.I. 1986/2290 and 1991/186.
(4) 1985 c. 54.

- (d) in the definition of the appellant, for “section 40 of the Act” there shall be substituted “section 83 of the Act or sections 16 or 60 of the Finance Act 1994(5)”;
 - (e) after the definition of disputed decision there shall be inserted—
 - ““evasion penalty appeal” means an appeal against an assessment to a penalty under section 60 or section 61 of the Act, or section 8 of or paragraph 12 of Schedule 7 to, the Finance Act 1994 which is not solely a mitigation appeal and any accompanying appeal by the appellant against an assessment for the amount of tax alleged to have been evaded by the same conduct as that in the appeal against the assessment to a penalty;”;
 - (f) in the definition of mitigation appeal, after “section 13(4) of the Finance Act 1985” there shall be inserted “(in respect of penalties imposed before 27th July 1993), section 70 of the Act, or section 8 of or paragraph 13 of Schedule 7 to the Finance Act 1994”;
 - (g) in the definition of the President, for “Value Added Tax Tribunals” there shall be substituted “the VAT and duties Tribunals”;
 - (h) for the definition of reasonable excuse appeal there shall be substituted—
 - ““reasonable excuse appeal” means an appeal which, according to the notice of appeal or other document received from the appellant at the appropriate tribunal centre, is against a decision of the Commissioners with respect to the liability to or the amount of a penalty or surcharge on grounds confined to those set out in sections 59(7), 62(3), 63(10), 64(5), 65, 66, 67(8), 68(4), or 69(8) of the Act or sections 9, 10 or 11 of or paragraphs 14 to 19 of Schedule 7 to, the Finance Act 1994;”;
 - (i) in the definition of the Registrar, for “Lord Chancellor or, in Scotland, the Secretary of State” there shall be substituted “President”;
 - (j) after the definition of the Registrar there shall be inserted—
 - ““tax” in relation to an appeal or application, means any tax, duty, levy or security to which that appeal or application relates;”;
 - (k) the definition of “section 13 penalty appeal” shall be omitted.
5. In rule 3(2)—
- (a) after sub-paragraph (a), there shall be inserted—
 - “(aa) state the date (if any) with effect from which the appellant was registered for tax and the nature of his business;”;
 - (b) the words “set out, or” in sub-paragraph (d) shall be deleted.
6. In rule 7—
- (a) for “a section 13 penalty appeal”, wherever it appears, there shall be substituted “an evasion penalty appeal”; and
 - (b) after paragraph 1(a) there shall be inserted—
 - “(aa) a statement of case served by the Commissioners in accordance with (a) above shall include full particulars of the alleged dishonesty and shall state the statutory provision under which the penalty or tax is assessed or the decision is made”.
7. In rule 8—
- (a) for “section 13 penalty appeals” there shall be substituted “evasion penalty appeals”; and
 - (b) at the end there shall be inserted “and the statutory provision under which the tax or penalty is assessed or the decision is made”.

8. In rule 12, for “Partners” at the beginning of the rule, there shall be substituted “One or more partners”.

9. For rule 13 there shall be substituted—

“13.—(1) This rule applies where, in the course of proceedings, the liability or interest of the applicant or appellant passes to another person (“the successor”) by reason of death insolvency or otherwise.

(2) The tribunal may direct, on the application of the Commissioners or the successor, and with the written consent of the successor, that the successor shall be substituted for the applicant or appellant in the proceedings.

(3) Where the tribunal is satisfied that there is no person interested in the application or appeal, or the successor fails to give written consent for his substitution in the proceedings within a period of two months after being requested to do so by the tribunal it may, of its own motion or on application by the Commissioners and after giving prior written notice to the successor, dismiss the application or appeal.”

10. In rule 16—

(a) for “the Commissioners”, in paragraph (1), there shall be substituted “the other parties to the appeal”; and

(b) for “section 40(4)”, in paragraph (2), there shall be substituted “section 84(8)”.

11. In rule 19(3)—

(a) after “a tribunal may” there shall be inserted “of its own motion or”; and

(b) at the end there shall be inserted “including the joining of other persons as parties to the appeal”.

12. After rule 19(3) there shall be inserted—

“(3A) Where a notice is served under section 61 of the Act and appeals are brought by different persons which relate to, or to different portions of, the basic penalty referred to in the notice, the tribunal may, of its own motion or on the application of any party to any such appeal, give any direction it thinks fit as to the joinder of the appeals.”

13. After rule 20(1) there shall be inserted—

“(1A) The list of documents to be served by the Commissioners in accordance with paragraph (1) shall contain a reference to the documents relied upon in reaching a decision on a review under section 15 or 59 of the Finance Act 1994.”

14. In rule 20(2)(a), for “a section 13 penalty appeal” there shall be substituted “an evasion penalty appeal”.

15. In rule 21(6)(a), for “a section 13 penalty appeal” there shall be substituted “an evasion penalty appeal”.

16. In rule 22(4)(b), after “principal office” there shall be inserted “in the United Kingdom or the Isle of Man”.

17. In rule 26—

(a) the words from “, but any decision” in paragraph (2) to the end of that paragraph shall be omitted; and

(b) after paragraph (2) there shall be inserted—

“(3) Subject to paragraph (4) below, the tribunal may set aside any decision or direction given in the absence of a party on such terms as it thinks just, on the application of that

party or of any other person interested served at the appropriate tribunal centre within 14 days after the date when the decision or direction of the tribunal was released.

(4) Where a party makes an application under paragraph (3) above and does not attend the hearing of that application, he shall not be entitled to apply to have a decision or direction of the tribunal on the hearing of that application set aside.”.

18. In rule 27(1)—

- (a) for “a section 13 penalty appeal” in paragraph (1), there shall be substituted “an evasion penalty appeal”;
- (b) after “appeal” in sub-paragraph (c) there shall be inserted “or application”.

19. For rule 27(2) there shall be substituted—

“(2) At the hearing of an evasion penalty appeal, or an appeal against a penalty imposed under section 114(2) of the Customs and Excise Management Act 1979(6) or section 22 or section 23 of the Hydrocarbon Oil Duties Act 1979(7), the tribunal shall follow the same procedure as is set out in paragraph (1) of this rule for the hearing of an appeal or application, but as if there were substituted—

- (a) “the Commissioners” for “the appellant or applicant”;
- (b) “their” for “his” in sub-paragraphs (a), (c), (h) and (j);
- (c) “in opposition to” for “in support of” in sub-paragraphs (b), (c) and (d); and
- (d) “in support of” for “in opposition to” in sub-paragraphs (f), (g) and (h).”.

20. At the end of rule 27(4) there shall be added “and in particular may determine the order in which the matters mentioned in paragraphs (1) and (2) are to take place.”.

21. In rule 29(3), for “Rules 347 to 349 both inclusive of the Rules of Court enacted by the Act of Sederunt (Rules of Court) (Consolidation and Amendment) 1965(8)” there shall be substituted “Chapter 42 of the Act of Sederunt (Rules of the Court of Session 1994)(9)”.

22. In rule 29(4) for “provision” there shall be substituted “provisions”.

23. The following shall be substituted for rule 30(8)(10)—

“(8) If, at the conclusion of the hearing of a mitigation appeal or a reasonable excuse appeal the chairman gives or announces the decision of the tribunal, he may ask the parties present at the hearing whether they require the decision to be recorded in a written document in accordance with paragraph (1) of this rule, and if none of the parties present requires this the provisions of this rule shall apply as if the appeal had been an application.”.

24. In rule 30A(11), after “1986” there shall be inserted “or Article 2(b) of the Value Added Tax Tribunals Appeals (Northern Ireland) Order 1994(12), as appropriate,”.

(6) 1979 c. 2; section 114(2) was amended by the Criminal Justice Act 1982 (c. 48), sections 38 and 46 and by the Finance Act 1994 (c. 9), Schedule 4, paragraph 9.

(7) 1979 c. 5; sections 23 and 24 were amended by the Criminal Justice Act 1982 (c. 48), sections 38 and 46 and by the Finance Act 1994 (c. 9), Schedule 4, paragraphs 56 and 57.

(8) S.I. 1965/321.

(9) S.I. 1994/1443.

(10) Rule 30(8) was inserted by S.I. 1991/186.

(11) Rule 30A was inserted by S.I. 1986/2290.

(12) S.I. 1994/1978.

5th October 1994

Mackay of Clashfern, C.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Value Added Tax Tribunals Rules 1986 to provide for the new jurisdiction to be given to these tribunals, now to be known as the Value Added Tax and duties Tribunals, by the Finance Act 1994. The new jurisdiction covers appeals in relation to insurance premium tax, customs duties, agricultural levies and excise duties.

The Rules also make some minor amendments to the existing procedure and prescribe the period within which an application may be made to a tribunal for a certificate under Article 2(b) of the Value Added Tax Tribunals Appeals (Northern Ireland) Order 1994 ([S.I. 19941978](#)). That Order allows appeals from a VAT and duties tribunal in Northern Ireland to be made direct to the Court of Appeal instead of to the High Court in prescribed circumstances.