



# Finance (No. 2) Act 2015

## 2015 CHAPTER 33

### PART 6

#### ADMINISTRATION AND ENFORCEMENT

#### **52 Rate of interest applicable to judgment debts etc in taxation matters**

- (1) This section applies if a sum payable to or by the Commissioners under a judgment or order given or made in any court proceedings relating to a taxation matter (a “tax-related judgment debt”) carries interest as a result of a relevant enactment.
- (2) The “relevant enactments” are—
  - (a) section 17 of the Judgments Act 1838 (judgment debts to carry interest), and
  - (b) any order under section 74 of the County Courts Act 1984 (interest on judgment debts etc).
- (3) The relevant enactment is to have effect in relation to the tax-related judgment debt as if for the rate specified in section 17(1) of the Judgments Act 1838 and any other rate specified in an order under section 74 of the County Courts Act 1984 there were substituted—
  - (a) in the case of a sum payable to the Commissioners, the late payment interest rate provided for in regulations made by the Treasury under section 103(1) of FA 2009, and
  - (b) in the case of a sum payable by the Commissioners, the special repayment rate.
- (4) Subsection (3) does not affect any power of the court under the relevant enactment to prevent any sum from carrying interest or to provide for a rate of interest which is lower than (and incapable of exceeding) that for which the subsection provides.
- (5) If section 44A of the Administration of Justice Act 1970 (interest on judgment debts expressed otherwise than in sterling), or any corresponding provision made under section 74 of the County Courts Act 1984 in relation to the county court, applies to a tax-related judgment debt—
  - (a) subsection (3) does not apply, but

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*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2015, Section 52. (See end of Document for details)*

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- (b) the court may not specify in an order under section 44A of the Administration of Justice Act 1970, or under any provision corresponding to that section which has effect under section 74 of the County Courts Act 1984, an interest rate which exceeds (or is capable of exceeding)—
  - (i) in the case of a sum payable to the Commissioners, the rate mentioned in subsection (3)(a), or
  - (ii) in the case of a sum payable by the Commissioners, the special repayment rate.
- (6) The “special repayment rate” is the percentage per annum given by the formula—

$$BR + 2$$

where BR is the official Bank rate determined by the Bank of England Monetary Policy Committee at the operative meeting.

- (7) “The operative meeting”, in relation to the special repayment rate applicable in respect of any day, means the most recent meeting of the Bank of England Monetary Policy Committee apart from any meeting later than the 13th working day before that day.
- (8) The Treasury may by regulations made by statutory instrument—
  - (a) repeal subsections (6) and (7), and
  - (b) provide that the “special repayment rate” for the purposes of this section is the rate provided for in the regulations.
- (9) Regulations under subsection (8)—
  - (a) may make different provision for different purposes,
  - (b) may either themselves specify a rate of interest or make provision for such a rate to be determined (and to change from time to time) by reference to such rate, or the average of such rates, as may be referred to in the regulations,
  - (c) may provide for rates to be reduced below, or increased above, what they would otherwise be by specified amounts or by reference to specified formulae,
  - (d) may provide for rates arrived at by reference to averages to be rounded up or down,
  - (e) may provide for circumstances in which the alteration of a rate of interest is or is not to take place, and
  - (f) may provide that alterations of rates are to have effect for periods beginning on or after a day determined in accordance with the regulations (“the effective date”) regardless of—
    - (i) the date of the judgment or order in question, and
    - (ii) whether interest begins to run on or after the effective date, or began to run before that date.
- (10) A statutory instrument containing regulations under subsection (8) is subject to annulment in pursuance of a resolution of the House of Commons.
- (11) To the extent that a tax-related judgment debt consists of an award of costs to or against the Commissioners, the reference in section 24(2) of the Crown Proceedings Act 1947 (which relates to interest on costs awarded to or against the Crown) to the rate at which interest is payable upon judgment debts due from or to the Crown is to be read as a reference to the rate at which interest is payable upon tax-related judgment debts.

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- (12) This section has effect in relation to interest for periods beginning on or after 8 July 2015, regardless of—
- (a) the date of the judgment or order in question, and
  - (b) whether interest begins to run on or after 8 July 2015, or began to run before that date.
- (13) Subsection (14) applies where, at any time during the period beginning with 8 July 2015 and ending immediately before the day on which this Act is passed (“the relevant period”)—
- (a) a payment is made in satisfaction of a tax-related judgment debt, and
  - (b) the payment includes interest under a relevant enactment in respect of any part of the relevant period.
- (14) The court by which the judgment or order in question was given or made must, on an application made to it under this subsection by the person who made the payment, order the repayment of the amount by which the interest paid under the relevant enactment in respect of days falling within the relevant period exceeds the interest payable under the relevant enactment in respect of those days in accordance with the provisions of this section.
- (15) In this section—
- “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
  - “taxation matter” means anything<sup>F1</sup>... the collection and management of which is the responsibility of the Commissioners (or was the responsibility of the Commissioners of Inland Revenue or Commissioners of Customs and Excise);
  - “working day” means any day other than a non-business day as defined in section 92 of the Bills of Exchange Act 1882.
- (16) This section extends to England and Wales only.

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**Textual Amendments**

**F1** Words in s. 52(15) omitted (15.9.2016 with effect in accordance with s. 172(2) of the amending Act) by virtue of [Finance Act 2016 \(c. 24\)](#), [s. 172\(1\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Finance (No. 2) Act 2015, Section 52.