
STATUTORY INSTRUMENTS

2022 No. 1298

The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022

PART 3

Consequential amendments

Value Added Tax Act 1994

- 3.**—(1) VATA 1994 is amended as follows.
- (2) Omit section 74 (interest on VAT recovered or recoverable by assessment).
- (3) In section 76 (assessment of amounts due by way of penalty or interest)⁽¹⁾—
- (a) in the heading, omit “or interest”;
 - (b) in subsection (1)—
 - (i) omit paragraph (c) and the “or” at the end of that paragraph;
 - (ii) in the words after paragraph (d), omit “or interest”;
 - (c) in subsection (3)—
 - (i) in the opening words, omit “and interest”;
 - (ii) omit paragraph (e) and the “and” at the end of that paragraph;
 - (d) in subsection (4), omit “or interest” in both places;
 - (e) in subsection (5), omit “or interest” in both places;
 - (f) in subsection (7)—
 - (i) in the words before paragraph (a), omit “or interest under section 74”;
 - (ii) in paragraph (a), omit “or, as the case may be, the amount of interest”;
 - (iii) in paragraph (b), omit “or interest”;
 - (g) in subsection (8)—
 - (i) in the words before paragraph (a), omit “or for interest under section 74”;
 - (ii) omit paragraph (b) and the “or” before that paragraph;
 - (iii) in the words after paragraph (b), omit “or, as the case may be, section 74”.

⁽¹⁾ Section 76 was relevantly amended by paragraph 11 of Schedule 3 to the Finance Act 1996, section 93(5) and (7) of the Finance Act 2007 (c. 11), paragraph 67(4) of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 and paragraph 20 of Schedule 27 to the Finance Act 2021 (coming into force on 1st January 2023. See [S.I. 2022/1278](#)).

(4) In section 77 (assessments: time limits and supplementary assessments)(2), in each of subsections (2), (3) and (5), omit “or interest”.

(5) After section 77 insert—

“77ZA Late payment interest on amounts of VAT due

Interest charged under section 101 of the Finance Act 2009 on an amount of VAT (or an amount enforceable as if it were VAT) may be enforced as if it were an amount of VAT due from the person liable for the amount on which the interest is charged.”.

(6) Omit section 77D (joint and several liability under section 77B or section 77BA: interest).

(7) Omit section 78 (interest in certain cases of official error).

(8) Omit section 78A (assessment for interest overpayments).

(9) Omit section 79 (repayment supplement in respect of certain delayed payments or refunds).

(10) In section 80 (credit for, or repayment of, overstated or overpaid VAT)(3), omit subsection (4C).

(11) In section 80B (assessments of amounts due under section 80A arrangements)—

(a) omit subsection (2);

(b) at the end insert—

“(3) An assessment made under subsection (1) above may not be made more than two years after the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners.”.

(12) After section 80B insert—

“80C Assessed amounts of overpayments etc deemed to be amounts of VAT

(1) Where an amount has been assessed and notified to a person under section 80(4A) or 80B(1), that amount is deemed (subject to the provisions of this Act as to appeals) to be an amount of VAT due from that person and may be recovered accordingly.

(2) Subsection (1) does not have effect if or to the extent that the assessment in question has been withdrawn or reduced.

(3) An assessment under section 80(4A) or 80B(1) is a recovery assessment for the purposes of section 84(3A)(4).

(4) Section 77(6) applies in relation to an assessment under section 80(4A) or 80B(1) as it applies in relation to an assessment under section 73(5) or 76.

(5) For the purposes of an assessment under section 80(4A) or 80B(1), notification to a person mentioned in subsection (6) (a “relevant person”) is treated as notification to the person in relation to whom the relevant person acts.

(6) The persons mentioned in this subsection are—

(a) a personal representative;

(b) a trustee in bankruptcy;

(2) Section 77 was relevantly amended by section 18(1) of the Finance Act 1999, paragraph 34(4) of Schedule 39 to the Finance Act 2008, paragraph 15 of Schedule 22 to the Finance Act 2014 (c. 26) and paragraph 69 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018.

(3) Section 80(4C) was inserted by section 47(6) of the Finance Act 1997 and amended by section 120(4) of the Finance Act 2008.

(4) Section 84(3A) was inserted by section 45(3) of the Finance Act 1997 and substituted by S.I. 2009/56.

(5) Section 73 was amended by paragraphs 10 and 11 of Schedule 3 to the Finance Act 1996, section 136(4) of the Finance Act 2000 (c. 17), section 120(1) of the Finance Act 2008, paragraph 8 of Schedule 28 to the Finance Act 2012, paragraph 64 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 and S.I. 2016/1034.

- (c) a trustee in sequestration;
 - (d) a receiver;
 - (e) a liquidator;
 - (f) a person otherwise acting in a representative capacity in relation to another.”.
- (13) In section 83 (appeals)(**6**), in subsection (1)—
- (a) in paragraph (q), omit “or interest”;
 - (b) omit paragraphs (s) and (sa).
- (14) In section 85A (payment of tax on determination of appeal)(**7**)—
- (a) in subsection (2), in the words after paragraph (b), omit the words from “with interest” to the end of that subsection;
 - (b) in subsection (3), in the words after paragraph (b), omit the words from “with interest” to the end of that subsection;
 - (c) omit subsections (4) and (5).
- (15) In section 97 (orders, rules and regulations), in subsection (5), omit paragraph (a) and the “or” at the end of that paragraph.
- (16) In Schedule 9ZA (VAT on acquisitions in Northern Ireland from member States), omit paragraph 30 (interest on VAT).
- (17) In Schedule 9A (anti-avoidance provisions: groups)(**8**), in paragraph 6 (assessment in consequence of a direction)—
- (a) for sub-paragraph (9) substitute—
“**(9)** Section 77(6) applies in relation to an assessment under this paragraph as it applies in relation to an assessment under section 73 or 76.”;
 - (b) omit sub-paragraph (10).

Commencement Information

- I1** Art. 3(1)-(4)(6)-(17) in force at 1.1.2023, see [art. 1\(3\)](#)
- I2** Art. 3(5) in force at 1.1.2023, see [art. 1\(2\)](#)

Income Tax (Trading and Other Income) Act 2005

- 4.—(1) The Income Tax (Trading and Other Income) Act 2005(**9**) is amended as follows.
- (2) In section 54 (penalties and interest)(**10**), in the table in subsection (2), in the entry for interest under section 74 or 85A of VATA 1994, for the first column substitute “Interest under section 101 of FA 2009 in respect of an amount of value added tax”.
- (3) Omit section 777 (VAT repayment supplements).

(6) Section 83(1)(q) was amended by paragraph 23(b) of Schedule 27 to the Finance Act 2021 (coming into force on 1st January 2023. See [S.I. 2022/1278](#)).

(7) Section 85A was inserted by [S.I. 2009/56](#).

(8) Schedule 9A was inserted by Schedule 4 to the Finance Act 1996.

(9) [2005 c. 5](#).

(10) Section 54 was relevantly amended by paragraph 31 of Schedule 27 to the Finance Act 2021 (coming into force on 1st January 2023. See [S.I. 2022/1278](#)) and [S.I. 2009/56](#).

Changes to legislation: There are currently no known outstanding effects for the The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022, PART 3. (See end of Document for details)

(4) In section 869 (penalties and interest: non-trades etc)(**11**), in the table in subsection (4), in the entry for interest under section 74 or 85A of VATA 1994, for the first column substitute “Interest under section 101 of FA 2009 in respect of an amount of value added tax”.

Commencement Information

I3 [Art. 4](#) in force at 1.1.2023, see [art. 1\(3\)](#)

Corporation Tax Act 2009

5.—(1) The Corporation Tax Act 2009(**12**) is amended as follows.

(2) Omit section 1286 (VAT repayment supplements).

(3) In section 1303 (penalties and interest)(**13**), in the table in subsection (2), in the entry for interest under section 74 of VATA 1994, for the first column substitute “Interest under section 101 of FA 2009 in respect of an amount of value added tax”.

Commencement Information

I4 [Art. 5](#) in force at 1.1.2023, see [art. 1\(3\)](#)

Value Added Tax Regulations 1995

6.—(1) The VAT Regulations are amended as follows.

(2) In regulation 184A (application of Part 20A)(**14**), for “184K” substitute “184KB”.

(3) After regulation 184K (modification of regulation 173O)(**15**), insert—

“**184KA.** In regulation 173W(3)(**16**), for “section 78 of the Act” read “section 102(3) of the Finance Act 2009”.

184KB. For regulation 173X(**17**) read—

“**173X.**—(1) Where—

(a) any amount has been paid to any person by way of interest under regulation 173W, but

(b) that person was not entitled to that amount under that regulation,

the amount to which the person was not entitled shall be treated as if it were an amount of repayment interest recoverable as late payment interest under paragraph

(11) Section 869 was relevantly amended by paragraph 35 of Schedule 27 to the Finance Act 2021 (coming into force on 1st January 2023. See [S.I. 2022/1278](#)) and [S.I. 2009/56](#).

(12) [2009 c. 4](#).

(13) The heading to section 1303 was amended by paragraph 36(a) of Schedule 27 to the Finance Act 2021 (coming into force on 1st January 2023. See [S.I. 2022/1278](#)).

(14) Regulation 184A was inserted by [S.I. 2020/1545](#).

(15) Regulation 184K was inserted by [S.I. 2020/1545](#).

(16) Regulation 173W was inserted by [S.I. 2009/3241](#) and was revoked by [S.I. 2019/59](#) subject to saving and transitional provision specified in [S.I. 2020/1495](#).

(17) Regulation 173X was inserted by [S.I. 2009/3241](#) and was revoked by [S.I. 2019/59](#) subject to saving and transitional provision specified in [S.I. 2020/1495](#).

6 of Schedule 54A to the Finance Act 2009 (certain amounts of repayment interest recoverable as late payment interest)(**18**).

(2) For the purpose of this regulation the requirement to meet Conditions A to C in paragraph 7 of Schedule 54A is to be treated as met.””

(4) Omit regulations 198 (computation of period) and 199 (duration of period).

Commencement Information

I5 Art. 6(1)-(3) in force at 1.1.2023, see [art. 1\(2\)](#)

I6 [Art. 6\(4\)](#) in force at 1.1.2023, see [art. 1\(3\)](#)

The Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019

7.—(1) The Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019(**19**) are amended as follows.

(2) Omit regulation 8 (interest in cases of official error).

(3) In regulation 10(1) (appeals), omit sub-paragraph (a).

Commencement Information

I7 [Art. 7](#) in force at 1.1.2023, see [art. 1\(3\)](#)

The Value Added Tax (Miscellaneous and Transitional Provisions, Amendment and Revocation) (EU Exit) Regulations 2020

8.—(1) The Value Added Tax (Miscellaneous and Transitional Provisions, Amendment and Revocation) (EU Exit) Regulations 2020(**20**) is amended as follows.

(2) In regulation 8 (application with modifications of the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019)—

(a) omit sub-paragraph (a);

(b) in sub-paragraph (b), for “regulation 10(1)(a) and (2)” substitute “regulation 10(2)”.

Commencement Information

I8 [Art. 8](#) in force at 1.1.2023, see [art. 1\(3\)](#)

(**18**) Schedule 54A was inserted by paragraph 12 of Schedule 9 to the Finance (No. 3) Act 2010 (c. 33) (coming into force for the purposes of value added tax on 1st January 2023. See [S.I. 2022/1277](#)) and was amended by paragraph 4 of Schedule 29 to the Finance Act 2021 (coming into force on 1st January 2023. See [S.I. 2022/1277](#)).

(**19**) [S.I. 2019/60](#).

(**20**) [S.I. 2020/1495](#).

Changes to legislation:

There are currently no known outstanding effects for the The Finance Act 2009, Sections 101 and 102 (Value Added Tax) (Late Payment Interest and Repayment Interest) (Exceptions and Consequential Amendments) Order 2022, PART 3.