# 2004 No. 674

# TAXES
# RECOVERY OF TAXES
# CUSTOMS AND EXCISE
# VALUE ADDED TAX
# INSURANCE PREMIUM TAX

## The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004

| | |
|---|---|
| *Made - - - - - - -* | *9th March 2004* |
| *Laid before the House of Commons* | *10th March 2004* |
| *Coming into force - - - - -* | *1st April 2004* |

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The Treasury, in exercise of the powers conferred upon them by paragraph 3(1), (2), (3), of Schedule 39 to the Finance Act 2002(**a**) and the Commissioners of Customs and Excise and the Commissioners of Inland Revenue, in exercise of the powers conferred upon them by paragraphs 2(2)(**b**) and 3(4) of that Schedule, hereby make the following Regulations:

## PART 1

*General*

### Citation and commencement

**1.**— These Regulations may be cited as the Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 and shall come into force on 1st April 2004.

### Interpretation

**2.**— In these Regulations—

(a) "the Act" means the Finance Act 2002;

(b) "applicant authority" means an authority in a member State which makes a request for assistance under the Mutual Assistance Recovery Directive;

(c) "authorised official" means an official of an applicant authority authorised by that authority to make requests for assistance in accordance with the Mutual Assistance Recovery Directive;

(d) "the Board" means the Commissioners of Inland Revenue;

(e) "Commission" means the Commission of the European Communities;

(f) "Commissioners" means the Commissioners of Customs and Excise;

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(**a**) 2002 c. 23.

(**b**) Paragraph 2(2) specifies the body upon whom power to make the Regulations is conferred.

(g) "consolidated claim" means several foreign claims recoverable from the same person;

(h) "contested" means an action contesting a foreign claim or the instrument permitting enforcement brought by an interested party before the competent body of the member State in which the applicant authority is situated in accordance with the laws in force there;

(i) "a corresponding UK claim" means a claim in the United Kingdom corresponding to the foreign claim;

(j) "costs" includes fees, charges, disbursements, expenses and remuneration;

(k) "Council Directive 77/388/EEC"(**a**) means that directive as amended and as last amended by Council Directive 2002/93(**b**);

(l) "the Directive" means Commission Directive 2002/94/EC(**c**) laying down detailed rules for implementing certain provisions of the Mutual Assistance Recovery Directive;

(m) "electronic means" has the same meaning as in Article 2(1) of the Directive;

(n) "enforcement action" means action to enforce a foreign claim by way of legal proceedings, distress, diligence or otherwise as might be taken to enforce a corresponding UK claim;

(o) "export duties" has the same meaning as in Article 3 of the Mutual Assistance Recovery Directive;

(p) "instrument permitting enforcement" means—

(i) any instrument issued by an applicant authority in any member State in relation to a sum claimed by that authority within the jurisdiction of that State; or

(ii) a decision on that claim given in favour of that authority by a court or tribunal or other competent body in that State which permits recovery of that claim in that State or part thereof;

(q) "import duties" has the same meaning as in Article 3 of the Mutual Assistance Recovery Directive;

(r) "precautionary measures" means measures taken, or to be taken, in order to secure recovery of a foreign claim;

(s) "request for assistance" means a request for information, notification, recovery or precautionary measures within the meaning of the Mutual Assistance Recovery Directive.

## PART 2

*Corresponding UK Claims*

### Corresponding UK Claims—Duties and Taxes

**3.** For the purposes of Schedule 39 to the Act, column 2 of the table in Schedule 1 prescribes the corresponding UK claim in relation to each foreign claim described in column 1.

## PART 3

*Requests for Assistance*

### Requests for information

**4.**—(1) A request for information shall be made in writing in the form specified in Annex I to the Directive. If the request cannot be transmitted by electronic means it shall bear the official stamp of the applicant authority and be signed by an authorised official.

(2) A request for information shall relate to—

(a) a debtor;

(b) a person liable for settlement of the debt under the law in force in the member State in which the applicant authority is situated; or

(c) any third party holding assets belonging to one of the persons mentioned in sub-paragraph (a) or (b).

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(**a**) OJ L145, 13.6.77 p. 1.
(**b**) OJ L331, 7.12.2002 p. 27.
(**c**) OJ L337, 13.12.2002 p. 41.

(3) The relevant UK authority shall acknowledge receipt of a request for information in writing not later than seven days from the date of such receipt and as appropriate request the applicant authority to provide any additional information necessary to execute the request.

(4) The relevant UK authority shall, not later than six months from the date of acknowledgement of the request, report to the applicant authority the outcome of the investigations which it has conducted in order to obtain the information requested.

(5) The relevant UK authority shall, within a reasonable period following the date upon which that information was obtained, transmit to the applicant authority the information obtained in accordance with the request.

(6) The relevant UK authority shall not be obliged to supply information where—

(a) the request was not made in accordance with this regulation;

(b) the relevant UK authority would not be able to obtain that information for the purpose of recovery of a corresponding UK claim;

(c) the supply of the requested information would disclose any commercial, industrial or professional secret; or

(d) disclosure of the information would prejudice the security of the United Kingdom or otherwise be contrary to the law or public policy of the United Kingdom.

(7) An applicant authority may in writing at any time withdraw a request made under this regulation.

**Requests for notification of instruments**

**5.**—(1) A request for notification of an instrument shall—

(a) be made in writing in duplicate in the form specified in Annex II to the Directive;

(b) bear the official stamp of the applicant authority;

(c) be signed by an authorised official of that authority;

(d) be accompanied by two copies of the instrument to be notified.

(2) A request for notification shall relate to a person specified in regulation 4(2).

(3) The relevant UK authority shall—

(a) acknowledge receipt of a request for notification in writing not later than seven days after the date of such receipt;

(b) take the necessary measures to effect notification immediately upon receipt of the request for notification in accordance with the law applicable to notification of similar instruments in that part of the UK in which notification is given;

(c) confirm to the applicant authority, as soon as reasonably practicable, the date the instrument was notified to the person concerned by returning a copy of the request form with the certificate on the reverse completed;

(d) not question the validity of the instrument.

(4) The relevant UK authority may request additional information from the applicant authority for the purposes of effecting notification.

(5) For the purposes of this regulation "instrument" means any document or decision including those of a judicial nature which emanate from the member State in which the applicant authority is situated and which relate to a foreign claim.

**Requests for recovery or precautionary measures**

**6.**—(1) A request for recovery or precautionary measures shall—

(a) be made in writing in the form specified in Annex III to the Directive including a declaration that the conditions of the Mutual Assistance Recovery Directive for initiating a request have been fulfilled;

(b) bear the official stamp of the applicant authority;

(c) be signed by an authorised official of that authority;

(d) relate to a person specified in regulation 4(2); and

(e) be accompanied by an instrument permitting enforcement.

(2) The amount of the foreign claim stated in the request shall be stated in UK sterling and the currency of the member State in which the applicant authority is situated using the exchange rate specified in regulation 15(2).

(3) The relevant UK authority shall—

(a) within seven days of receipt of a request for recovery or precautionary measures—

(i) acknowledge receipt of the request in writing to the applicant authority;

(ii) make a request in writing to the applicant authority to complete the request if it does not contain the full or complete information required by Article 7 of the Mutual Assistance Recovery Directive;

(b) where it does not take any enforcement action on a request within three months of receipt, not later than seven days from the end of that period inform the applicant authority in writing of the grounds for its failure to comply with the time limit;

(c) within a reasonable time having regard to the particular case, where all or part of the foreign claim cannot be recovered or precautionary measures cannot be taken, so inform the applicant authority, indicating the reasons therefor;

(d) no later than at the end of each six month period following the date of acknowledgement of receipt of the request, inform the applicant authority in writing of the status or outcome of any enforcement action;

(e) continue, save where prevented by paragraph 4 of Schedule 39 to the Act, any enforcement action or precautionary measures where a request to do so is made by the applicant authority not later than two months from the date of receipt of the notification of the outcome of that action and such request shall be subject to the provisions in these Regulations which applied to the initial request;

(f) inform the applicant authority immediately any enforcement action has been taken on a request.

(4) For the purpose of this regulation and regulations 8 to 17 and regulations 20 to 26 a single instrument permitting enforcement which covers more than one foreign claim against a person shall be deemed to constitute a single claim.

(5) A relevant UK authority shall consult the applicant authority where in recovering a foreign claim it intends to allow the debtor time to pay by arrangement or to make payment by instalments (whether or not interest is charged or to be charged on those arrangements).

(6) Except where an enactment or rule of law applicable to a corresponding UK claim requires otherwise, a relevant UK authority shall not be obliged to recover a foreign claim where to do so would, because of the situation of the debtor, create serious economic or social difficulties in the United Kingdom.

**Transfer of sums recovered**

**7.**—(1) Subject to paragraph (3) the relevant UK authority shall transfer in UK sterling to the applicant authority any sum recovered in respect of a foreign claim not later than one month from the date upon which recovery was effected.

(2) For the purposes of this regulation "sum" shall include any interest including interest charged in the UK.

(3) The relevant UK authority and the applicant authority may agree different arrangements for the transfer of an amount where that amount is less than 1500 Euro.

(4) For the purpose of satisfying a request for recovery any sum recovered shall be deemed to have been recovered in proportion to the foreign claim as expressed in UK sterling.

**Contested recovery**

**8.**—(1) Any enactment permitting proceedings for the recovery of or precautionary measures in relation to a corresponding UK claim shall apply to a foreign claim which is contested.

(2) This regulation shall not apply to agricultural levies of the European Community.

**Notice of inability to take action or proceedings upon a request for recovery of a contested claim**

**9.**— Where, in accordance with paragraph 4 of Schedule 39 to the Act, the relevant UK authority is not permitted to take action for recovery or for a precautionary measure it shall, in writing, advise the competent authority of the reasons within one month of the receipt of the notification by the applicant authority that the foreign claim or instrument permitting enforcement is contested.

**Notice of action contesting recovery**

**10.**— The relevant UK authority shall notify the applicant authority in writing of any notice of commencement of action in the UK by a person specified in regulation 4(2) for reimbursement of sums recovered or for compensation in relation to recovery of a contested claim.

**Reimbursement of sums recovered and compensation**

**11.**— Where the result of contesting a foreign claim or instrument permitting enforcement is favourable to the debtor, the applicant authority shall be liable for the reimbursement of any sums recovered, together with any compensation due, in accordance with any law in force in the relevant part of the UK applicable to the corresponding UK claim.

**Reimbursement arrangements**

**12.**— Where recovery of a foreign claim poses a specific problem, entails a very large amount in costs or relates to the fight against organised crime the relevant UK authority and the applicant authority may agree reimbursement arrangements specific to the case in question.

**Notice of cancellation or payment of a claim**

**13.**— Where the relevant UK authority undertakes enforcement action or precautionary measures in relation to that foreign claim it shall, upon receipt of notice in writing from the applicant authority as to—

(a) payment in satisfaction of that claim; or

(b) cancellation or other reason for termination of that claim;

cease any enforcement action or precautionary measures in relation to that claim.

**Adjustment of a foreign claim**

**14.**—(1) This regulation applies where the amount of a foreign claim is amended for any reason.

(2) Where the amendment leads to a reduction in the amount of the foreign claim—

(a) the relevant UK authority shall continue the action which it has undertaken with a view to recovery or to the taking of precautionary measures, but that action shall be limited to the amount still outstanding;

(b) if at the time the relevant UK authority is informed of the reduction in the amount of the foreign claim, an amount exceeding the amount still outstanding has already been recovered by it but the transfer procedure referred to in regulation 7 has not yet been initiated, the relevant UK authority shall repay the amount overpaid to the person entitled thereto.

(3) Where the amendment leads to an increase in the amount of the foreign claim—

(a) the additional request shall as far as possible be dealt with by the relevant UK authority at the same time as the original request;

(b) where, in view of the state of progress of the existing recovery procedure, consolidation of the additional request with the original request is not possible, the relevant UK authority shall be required to comply with the additional request only if it concerns an amount not less than the threshold amount referred to in regulation 15(1).

**Minimum amount on requests for assistance**

**15.**—(1) A request for assistance shall not be entertained if the foreign claim (whether a single claim or a consolidated claim) is less than 1500 Euro or the sterling equivalent at the time of request.

(2) The rate of exchange to be used for the purposes of these regulations shall be the latest selling rate recorded on the most representative exchange market or markets of the member State in which the applicant authority is situated on the date when the request for assistance is signed.

**Limitation on requests for assistance**

**16.**—(1) The relevant UK authority shall not be obliged to entertain a request for assistance if the foreign claim is more than five years old.

(2) The point for commencement and calculation of a period of five years shall be—

(a) where a foreign claim is not contested, the date the instrument permitting enforcement was established by the applicant authority in accordance with the law in force in the member State in which that authority is situated; or

(b) where a foreign claim is contested, the date upon which the applicant authority establishes that the claim or instrument permitting recovery is no longer contested.

**Acceptance and transmission of communications**

**17.**—(1) The relevant UK authority shall, as far as possible, accept and transmit all information required to be communicated in writing for the purposes of the Mutual Assistance Recovery Directive by electronic means.

(2) Paragraph (1) does not apply to requests for assistance made in accordance with regulations 5 and 6 and the instrument accompanying those requests unless the relevant UK authority and the applicant authority agree to waive paper communication.

**Communication of documents and information**

**18.**— Documents and information sent to the relevant UK authority pursuant to the Mutual Assistance Recovery Directive may only be communicated by that authority to—

(a) the person mentioned in the request for assistance;

(b) those persons and authorities responsible for the recovery of the claims, and solely for that purpose; or

(c) the judicial authorities dealing with matters concerning the recovery of claims.

**Language requirements**

**19.**—(1) Save as otherwise agreed by the relevant UK authority, requests for assistance, the instrument permitting enforcement, and any other relevant document addressed to that authority shall be accompanied by a translation of that document in the English language.

(2) All information and particulars communicated to an applicant authority by the relevant UK authority in relation to a request for assistance shall be conveyed in the English language or such other language as is agreed by that authority with the applicant authority.

**Limitation**

**20.**—(1) The period of limitation or prescription in relation to any issue arising on the recovery of any foreign claim shall be that applicable under the laws in force in the member State in which the applicant authority is situated.

(2) For the purposes of paragraph (1) any step or act taken by the relevant UK authority in recovery of a foreign claim in pursuance of a request for assistance shall be deemed to have been taken in the member State in which the applicant authority is situated where that step or act would, if it had been taken by that applicant authority, have had the effect of suspending or interrupting the period of limitation or prescription in accordance with the laws in force in that member State.

**Notice of refusal of requests for assistance**

**21.**—(1) Where in accordance with the Mutual Assistance Recovery Directive and the Directive or these Regulations the relevant UK authority decides not to act upon a request for assistance it shall, as soon as practicable after making its decision to refuse a request and any event within three months of the date of acknowledgement of receipt of the request, notify the applicant authority in writing of the reasons for refusal.

(2) In the cases mentioned in regulations 6(6) and 16 a copy of the reasons for refusal shall also be communicated to the Commission within the period specified in paragraph (1).

## PART 4

*Interest*

**Adaptations**

**22.**— Schedule 2 to these Regulations shall have effect.

**Interest enforced by the Board**

**23.**—(1) A foreign claim corresponding to a UK claim for income tax, capital gains tax or corporation tax carries interest in respect of the principal and any penalty claimed at the rate applicable to the corresponding UK claim under section 178 of the Finance Act 1989(**a**) from the date of recognition until payment.

(2) In this regulation "the date of recognition" means the earlier of—

(a) the day following the expiry of three months from the date of receipt by the Board of the request for recovery of the foreign claim; and

(b) the date the instrument permitting enforcement of the foreign claim is recognised by the Board as an instrument authorising enforcement of the claim in the United Kingdom.

(3) Paragraph (1) above applies even if the date of recognition is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882(**b**).

(4) Interest is payable under this regulation without any deduction of income tax.

(5) For the purposes of this regulation, where—

(a) any payment is made by cheque to—

(i) an officer of the Board, or

(ii) the Board, or

(iii) the applicant authority, and

(b) the cheque is paid on its first presentation to the banker on whom it is drawn;

the payment shall be treated as made on the day on which the cheque was received by the officer or the Board or the applicant authority.

(6) Interest payable under this regulation shall be recoverable as if it were interest charged under a provision of the Taxes Management Act 1970(**c**).

**Interest enforced by the Commissioners**

**24.**—(1) A foreign claim corresponding to any UK claim—

(a) mentioned in column 2 of Part I of Schedule 1, or

(b) for insurance premium tax,

shall carry interest in respect of the principal and any penalty claimed at the rate applicable to the corresponding UK claim under section 197 of the Finance Act 1996(**d**) from the date of recognition until payment.

(2) In this regulation "the date of recognition" means the earlier of—

(a) the day following the expiry of three months from the date of receipt by the Commissioners of the request for recovery of the foreign claim; and

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(**a**) 1989 c. 26.
(**b**) 1882 c. 61 (45 & 46 Vict).
(**c**) 1970 c. 9.
(**d**) 1996 c. 8.

(b) the date the instrument permitting enforcement of the foreign claim is recognised by the Commissioners as an instrument authorising enforcement of the claim in the United Kingdom.

(3) Paragraph (1) above applies even if the date of recognition is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.

(4) Interest is payable under this regulation without any deduction of income tax.

(5) For the purposes of this regulation, where—

(a) any payment is made by cheque to—

(i) an officer of Customs and Excise, or

(ii) the Commissioners, or

(iii) the applicant authority, and

(b) the cheque is paid on its first presentation to the banker on whom it is drawn,

the payment shall be treated as made on the day on which the cheque was received by the officer or the Commissioners or the applicant authority.

(6) Interest payable under this regulation shall be notified in writing to the person subject to enforcement action in respect of the foreign claim and may be recovered from that person as a debt due to the Crown.

## PART 5

*Enforcement of Corresponding Claims*

### Evidence

**25.**—(1) An instrument permitting enforcement of a foreign claim recognised by the Board as an instrument authorising enforcement of the claim in the United Kingdom, together with a certificate of a collector that payment of the claim has not been made to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector, or to the applicant authority, is sufficient evidence that the sum mentioned in the instrument is unpaid and is due to that authority.

(2) A certificate of a collector that interest is payable under regulation 23(1) and that payment of the interest has not been made to him, or, to the best of his knowledge and belief, to any other collector, or to any person acting on his behalf or on behalf of another collector, or to the applicant authority, is sufficient evidence that the sum mentioned in the instrument is unpaid and is due to that authority.

(3) For the purposes of this regulation, any document purporting to be such a certificate as is mentioned in paragraph (1) and (2) is deemed to be such a certificate unless the contrary is proved.

### Enforcement in Scotland

**26.**—(1) For the purposes of enforcement in Scotland, an original, official or certified copy of a decision on a foreign claim by a court, tribunal or other competent body in the member State in which the applicant authority is situated shall be of the same force and effect as an extract of a decree of the Court of Session for the payment of money bearing a warrant for execution.

(2) For the purposes of paragraph (1), a "decision on a foreign claim" means a decision on a foreign claim which permits recovery of that claim in the member State in which the applicant authority is situated or in part thereof.

*John Heppell*
*Derek Twigg*

9th March 2004 Two of the Lords Commissioners of Her Majesty's Treasury

*M J Hanson*
8th March 2004 Commissioner of Customs and Excise

*Nick Montagu*
*Helen Ghosh*
9th March 2004 Two of the Commissioners of Inland Revenue

# SCHEDULE 1

Regulation 3

## Corresponding Claims

## PART 1

| ***Column 1*** | ***Column 2*** |
|---|---|
| *1. Foreign Claim* | *2. Corresponding UK Claim* |
| Import duties and export duties charged, in any member State other than the United Kingdom | Import and export duties charged in the United Kingdom |
| Value added tax (howsoever described) charged in any member State other than the United Kingdom in accordance with the provisions of Council Directive 77/388/EEC(**a**) | Value added tax charged, in the United Kingdom in accordance with the Value Added Tax Act 1994(**b**) |
| Excise duties (howsoever described) charged in any member State other than the United Kingdom upon,<br>— manufactured tobacco,<br>— alcohol and alcoholic beverages,<br>— mineral oils | Excise duty charged, collected or enforced in the United Kingdom in accordance with the Tobacco Products Duty Act 1979(**c**), or the Alcoholic Liquor Duties Act 1979(**d**), or the Hydrocarbon Oil Duties Act 1979(**e**), upon the items described in column 1 |

## PART 2

| ***Column 1***<br>*1. Foreign Claim* | | | ***Column 2***<br>*2. Corresponding UK Claim* |
|---|---|---|---|
| **EU Country** | **Taxes listed in the Mutual Assistance Directive.77/799/EEC(f), as amended** | **English Translation** | |
| Austria | Einkommensteuer<br>Koerperschaftsteuer<br>Grundsteuer<br><br>Bodenwertabgabe<br>Abgabe von land- und forstwirtschaftlichen Betrieben<br><br>Versicherungssteuer<br><br>Feuerschutzsteuer | Income Tax<br>Corporation tax<br>Real Estate Tax<br><br>Land value levy<br>Levy on agricultural and forestry enterprises<br>Insurance Tax<br><br>Fire insurance tax | Income Tax<br>Corporation Tax<br>Capital Gains Tax<br>CGT<br>CGT<br><br><br>Insurance Premium Tax<br>Insurance Premium Tax |
| Belgium | Impôt des personnes physiques/Personenbelasting<br>Impôt des sociétés/Vennootschapsbelasting<br>Impôt des personnes morales/Rechtspersonenbelasting<br>Impôt des non-résidents/Belasting der niet-verblijfhouders<br>Taxe annuelle sur les contrats d'assurance/<br>Jaarlijkse tax op de verzekeringscontracten | Personal income tax<br><br>Corporation tax<br><br>Tax on legal persons<br><br>Tax on non-residents<br><br>Annual tax on insurance contracts | Income Tax<br><br>Corporation Tax<br><br>Income Tax<br><br>Income Tax<br><br>Insurance Premium Tax |

(**a**) OJ L145, 13.6.77 p. 1.
(**b**) 1994 c. 23 subsequent amendments are not relevant to this instrument.
(**c**) 1979 c. 7 subsequent amendments are not relevant to this instrument.
(**d**) 1979 c. 4 subsequent amendments are not relevant to this instrument.
(**e**) 1979 c. 5 subsequent amendments are not relevant to this instrument.
(**f**) OJ L336, 27.12.1997, p. 15.

| ***Column 1***<br>*1. Foreign Claim* | | | ***Column 2***<br>*2. Corresponding UK Claim* |
|---|---|---|---|
| Denmark | Indkomstskat til staten<br>Selskabsskat<br>Den kommunale indkomstskat<br>Den amtskommunale indkomstskat<br>Folkepensionsbidragene<br>Soemandsskat<br>Den saerlige indkomstskat<br>Kirkeskat<br>Formueskat til staten<br><br>Bidrag til dagpengefonden<br><br><br>Afgit af lystfartojsforsikringer<br><br>Afgift af ansvarsforsikringer for motorkoretojer m.v.<br>Stempelafgift af forsikringspraemier | State income tax<br>Corporation tax<br>Municipal income tax<br>County income tax<br><br>Pensions contribution<br>Seamen's tax<br>Special income tax<br>Church tax<br>State wealth tax<br><br>Contributions to the sickness per diem fund<br><br>Pleasure craft insurance tax<br><br>Tax on motor vehicle compulsory insurance<br>Stamp duty on insurance premiums | Income Tax<br>Corporation Tax<br>Income Tax<br>Income Tax<br><br>Income Tax<br>Income Tax<br>Income Tax<br>Income Tax<br>Capital Gains Tax<br><br>Income Tax<br><br><br>Insurance Premium Tax<br><br>Insurance Premium Tax<br>Insurance Premium Tax |
| Finland | Valtion tuloverot/de statliga inkomstskatterna<br>Yhteisoejen tulovero/inkomstskatten foer samfund<br>Kunnallisvero/kommunalskatten<br><br>Kirkollisvero/kyrkoskatten<br>Kansanelaekevakuutusmaksu/fol kpensionsfoersaekringspremien<br>Sairausvakuutusmaksu/sjukfoers aekringspremien<br>Korkotulon laehdevero/kaellskatten paa raenteinkomst<br>Rajoitetusti verovelvollisen laehdevero/ kaellskatten foer begraensat skattskyldig<br>Valtion varallisuusvero/den statliga foermoengenhetsskatten<br>Kiinteistoevero/fastighetsskatten<br><br>Eraista vakuutsmaksuista suoritettava Vero/skat pa vissa forsakringspremier<br>Palosuojelumaksu/brandskyddav gift | State income taxes on earned income<br>Corporate income tax<br><br>Communal tax on earned income<br>Church tax<br>Pensions insurance premiums<br>Health insurance premium<br>Withholding tax at source on interest<br>Non-resident net wealth tax<br>Net wealth tax<br><br>Real property tax<br><br>Tax on certain insurance premiums<br>Fire insurance tax | Income Tax<br><br>Corporation Tax<br><br>Income Tax<br><br>Income Tax<br>Income Tax<br><br>Income Tax<br><br>Income Tax<br><br>Capital Gains Tax<br>Capital Gains Tax<br>Capital Gains Tax<br>Insurance Premium Tax<br>Insurance Premium Tax |
| France | Impôt sur le revenue<br>Impôt sur les sociétés<br>Taxe professionnelle<br>Taxe foncière sur les propriétés bâties<br><br>Taxe foncière sur les propriétés non bâties<br>Taxe sur les conventions d'assurances | Personal income tax<br>Corporation tax<br>Business tax<br>Property tax on land and buildings<br>Property tax on land without buildings<br>Tax on insurance agreements | Income Tax<br>Corporation Tax<br>Corporation Tax<br>Capital Gains Tax<br>Capital Gains Tax<br>Insurance Premium Tax |

| ***Column 1***<br>*1. Foreign Claim* | | | ***Column 2***<br>*2. Corresponding UK Claim* |
|---|---|---|---|
| Germany | Einkommensteuer<br>Koerperschaftsteuer<br>Vermoegensteuer<br><br>Gewerbesteuer<br><br>Grundsteuer<br><br>Versicherungssteuer<br><br>Feuerschutzsteuer | Income tax<br>Corporation tax<br>Wealth tax<br><br>Tax on industry and trade<br><br>Real estate tax<br><br>Insurance Tax<br><br>Fire insurance tax | Income Tax<br>Corporation Tax<br>Capital Gains Tax<br>Corporation Tax<br><br>Capital Gains Tax<br>Insurance Premium Tax<br>Insurance Premuium Tax |
| Greece | Φόρος εισοδήματος φνσικώυ προσώπου<br>Φόρος εισοδήματος υομικώυ προσώπου<br>Φόρος ακινήτου περιουσίας<br><br>Φόρος κύκλου εργασιώυ<br><br>(Φ.Κ.Ε)<br>Τέλη Χαρτοσήμου" | Personal income tax<br><br>Corporate income tax<br><br>Real estate tax<br><br>Tax on the business cycle<br><br>Stamp taxes | Income Tax<br><br>Corporation Tax<br><br>Capital Gains Tax<br>Insurance Premium Tax<br><br>Insurance Premium Tax |
| Ireland | Income tax<br>Corporation tax<br>Capital gains tax<br><br>Wealth tax<br><br>Levy on insurance premiums | | Income Tax<br>Corporation Tax<br>Capital Gains Tax<br>Capital Gains Tax<br>Insurance Premium Tax |
| Italy | Imposta sul reddito delle persone fisiche<br>Imposta sul reddito delle persone giuridiche<br>Imposta locale sui redditi<br>Imposte sulle assicurazioni private ed I contratti vitalazi di cui alla legge 29.10.67 no 1216 | Personal income tax<br>Tax on income of corporations<br>Local income tax<br>Tax on private insurance and life annuity contracts as covered by law No 1216 of 29.10.67 | Income Tax<br>Corporation Tax<br><br>Income Tax<br>Insurance Premium Tax |
| Luxembourg | Impôt sur le revenu des personnes physiques<br>Impôt sur le revenu des collectivités<br>Impôt commercial communal<br>Impôt sur la fortune<br><br>Impôt foncier<br><br>Impôt sur les assurances<br><br>Impôts dans l'interet du service d'incendie | Personal income tax<br><br>Corporation tax<br>Communal trade tax<br>Wealth tax<br><br>Tax on land and buildings<br>Insurance tax<br><br>Taxes levied in the interest of the fire service | Income Tax<br><br>Corporation Tax<br>Corporation Tax<br>Capital Gains Tax<br>Capital Gains Tax<br>Insurance Premium Tax<br>Insurance Premium Tax |
| Netherlands | Inkomstenbelasting<br>Vennootschapsbelasting<br>Vermogensbelasting<br><br>Assurantiebelasting | Personal income tax<br>Corporation tax<br>Wealth tax<br><br>Insurance tax | Income Tax<br>Corporation Tax<br>Capital Gains Tax<br>Insurance Premium Tax |

| ***Column 1***<br>*1. Foreign Claim* | | | ***Column 2***<br>*2. Corresponding UK Claim* |
|---|---|---|---|
| Portugal | Contribuição predial<br>Imposto sobre a indústria agrícola<br>Contribuição industrial<br>Imposto de capitais<br>Imposto profissional<br>Imposto complementar<br>Imposto de mais-valias<br>Imposto sobre o rendimento do petróleo<br>Os adicionais devidos sobre os impostos precedentes<br>Imposto sobre o rendimento das pessoas singulars<br>Imposto de selo sobre os premios de seguros | Real estate tax<br>Agricultural tax<br>Industrial tax<br>Withholding tax<br>Income tax<br>Complementary tax<br>Capital gains tax<br>Petroleum revenue tax<br>Surcharges on the above taxes<br>Personal income tax<br>Stamp duty on insurance premiums | Income Tax<br>Income Tax<br>Income Tax<br>Income Tax<br>Income Tax<br>Income Tax<br>Income Tax<br>Income Tax<br>Income Tax<br>Income Tax<br>Insurance premium Tax |
| Spain | Impuesto sobre la Renta de las Personas Físicas<br>Impuesto sobre Sociedades<br>Impuesto Extraordinario sobre el Patrimonio de las Personas Físicas<br>Impuesto sobre la prima de seguros | Personal income tax<br>Corporation tax<br>Wealth tax<br>Insurance premium tax | Income Tax<br>Corporation Tax<br>Capital Gains Tax<br>Insurance Premium Tax |
| Sweden | Den statliga inkomstskatten<br>Sjoemansskatten<br>Kupongskatten<br>Den saerskilda inkomstskatten foer utomlands bosatta<br>Den saerskilda inkomstskatten foer utomlands bosatta artister m.fl.<br>Den statliga fastighetsskatten<br>Den kommunala inkomstskatten<br>Foermoegenhetsskatten | National income tax<br>Seamen's tax<br>Coupon (dividend) tax<br>Income tax on non-residents<br>Income tax on non-resident artistes and others<br>National real property tax<br>Communal income tax<br>Wealth tax | Income Tax<br>Income Tax<br>Income Tax<br>Income Tax<br>Income Tax<br>Capital Gains Tax<br>Income Tax<br>Capital Gains Tax |

## PART 3

| ***Column 1*** | ***Column 2*** |
|---|---|
| *1. Foreign Claims* | *2. Corresponding UK Claim* |
| Refunds, interventions and other measures forming part of the system of total or partial financing of the European Agricultural Guidance and Guarantee Fund (EAGGF), including sums to be collected in connection with these actions charged, levied, collected or paid in any member State other than the United Kingdom. | Those items described in Column 1 charged, levied, collected or paid in the United Kingdom. |
| Levies and other duties provided for under the common organisation of the market for the sugar sector charged in any member State other than the United Kingdom. | Those items described in Column 1 charged in the United Kingdom |
| Interest, administrative penalties or fines incurred in any member State other than the United Kingdom relating to a foreign claim described in Column 1 of Parts 1 to 3 of this Schedule. | Such interest, administrative penalties or fines as is chargeable in the United Kingdom relating to a corresponding UK claim described in Column 2 of Parts 1 to 3 of this Schedule. |

# SCHEDULE 2

Regulation 22

## ADAPTATIONS

**Interpretation**

**1.** In this Schedule—

"duties interest" means a foreign claim corresponding to a UK claim for interest on import or export duties other than agricultural levies of the European Community;

"IPT interest" means a foreign claim corresponding to a UK claim for interest on insurance premium tax;

"request" means a request for recovery made to the relevant UK authority in accordance with regulation 6 of these Regulations;

"VAT interest" means a foreign claim corresponding to a UK claim for interest on value added tax.

**Recovery of import duties interest**

**2.**—(1) Subsections (2) to (4) and (6) to (8) of section 126 of the Finance Act 1999(**a**) shall not apply to duties interest.

(2) In its application to duties interest subsection (1) of section 126 shall apply as if the reference to determination and recovery of the amount of any interest charged in accordance with Article 232 of the Community Customs Code on arrears of customs duty payable to the Commissioners were a reference to the recovery by the Commissioners of an amount of duties interest for which a request has been made.

(3) For the purposes of its application to duties interest subsection (5) of section 126 shall apply as if;

(a) the reference to interest the amount of which falls to be determined in accordance with this section were a reference to duties interest to be recovered; and

(b) the reference to interest on an amount so determined were a reference to duties interest to be recovered.

**Recovery of VAT interest**

**3.**—(1) Subsections (1) to (8) and (10) and the expression "unless, or except to the extent that, the assessment is withdrawn or reduced" in subsection (9) of section 76 of the Value Added Tax Act 1994(**b**) shall not apply to VAT interest.

(2) In its application to VAT interest subsection (9) of section 76 shall apply as if the reference to an amount being assessed and notified to a persons under this section were a reference to an amount of VAT interest specified in a request concerning a person specified in regulation 4(2) of these Regulations in relation to whom a request is made.

**Recovery of IPT interest**

**4.**—(1) Sub-paragraphs (1) to (7) and (9) and the expression "unless or except to the extent that, the assessment is withdrawn or reduced" in sub-paragraph (8) of paragraph 25 of Schedule 7 to the Finance Act 1994(**c**) shall not apply to IPT interest.

(2) In its application to IPT interest sub-paragraph (8) of paragraph 25 shall apply as if the reference to an amount being assessed and notified to any person under this paragraph were a reference to an amount of IPT interest specified in a request concerning a person specified in regulation 4(2) of these Regulations in relation to whom a request is made.

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(**a**) 1999 c. 16.
(**b**) 1994 c. 23.
(**c**) 1994 c. 9.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations in conjunction with section 134 and Schedule 39 to the Finance Act 2002 make provision which implements Council Directive 76/308/EEC (the Mutual Assistance Recovery Directive as amended by Council Directive 79/1071/EEC and Council Directive 2001/44/EC and as implemented by Commission Directive 2002/94/EC) and the Community system for mutual assistance and recovery as between member States in relation to duties and taxes.

**Part 1**

**Regulation 1** (Citation and commencement), **Regulation 2** (Interpretation).

**Part 2**

**Regulation 3 and Schedule 1** specify what is a UK corresponding claim in relation to duties and taxes of other member States.

Where there is no direct UK equivalent to a foreign claim the closest UK equivalent in the Mutual Assistance Directive is specified.

**Part 3**

**Regulation 4** lays down detailed rules on how a request for information should be made by the other member State.

**Regulation 5** lays down detailed rules on how a request for notification of an instrument from another member State should be made.

**Regulation 6** lays down detailed rules on how requests for recovery or precautionary measures to safeguard the claim should be made.

**Regulation 7** lays down detailed rules on how monies recovered should be transferred to the other member State.

**Regulations 8 to 10** lay down detailed rules on the procedures to be adopted when a claim is contested in the other member State and when action cannot be taken.

**Regulations 11 and 12** lay down detailed rules relating to reimbursement of

- Sums recovered;
- Claims for compensation; and
- How the UK seeks reimbursement from other member States.

**Regulation 13** lays down detailed rules relating to cancelled claims and payment of claims.

**Regulation 14** lays down detailed rules for procedures to follow when claims are adjusted.

**Regulations 15 and 16** lay down detailed rules on the restrictions and limitations placed on requests for assistance.

**Regulations 17, 18 and 19** make provision for how communications should take place and in what language they should be made.

**Regulation 20** lays down rules relating to the period of limitation applicable to the recovery of foreign claims.

**Regulation 21** makes provision for the period in which notice of refusal of request should be made.

**Part 4**

**Regulation 22 and Schedule 2 and Regulations 23 and 24** make provision relating to the charging of interest on foreign claims.

**Part 5**

**Regulation 25** lays down rules relating to the evidence required for the enforcement of corresponding claims.

**Regulation 26** makes provision relating to enforcement in Scotland.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

STATUTORY INSTRUMENTS

# 2004 No. 674

# TAXES
# RECOVERY OF TAXES
# CUSTOMS AND EXCISE
# VALUE ADDED TAX
# INSURANCE PREMIUM TAX

## The Recovery of Duties and Taxes Etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004

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