

Interim refunds of appropriate tax. FA87 s19 527.—(1) A specified person may make a claim for an interim refund of the whole or part of the appropriate tax referable to an accounting period or to a basis period for a year of assessment, as the case may be (in this section referred to as “the first-mentioned period”), and the inspector shall, if he or she is satisfied that the specified person making the claim has complied with the requirements of subsection (2), make such refund as is specified in subsection (3) and, subject to those requirements as modified by subsection (4)(a), make such refund as is specified in that subsection.

(2) The requirements of this subsection are—

(a) that the profits or gains for the accounting period or for the basis period for the year of assessment, as the case may be, immediately preceding the first-mentioned period have been finally determined for tax purposes,

(b) that the amount of tax which was payable for that accounting period or year of assessment corresponding to that basis period has been paid (whether by credit for appropriate tax or otherwise), and

(c) that the specified person shall, in respect of each relevant payment included in the claim, furnish to the inspector the form given to the specified person by an accountable person in accordance with section 524 (2).

(3) The amount of the tax to be refunded shall be the excess of the total of the appropriate tax included in the forms furnished in accordance with subsection (2)(c) (and not already repaid under the provisions of this section) over the amount of tax referred to in subsection (2)(b) less the amount which the specified person is liable to pay or remit—

(a) under the Value-Added Tax Act, 1972 , and the regulations made under that Act,

(b) under Chapter 4 of Part 42 and the regulations made under that Chapter, and

(c) in respect of employment contributions under the Social Welfare (Consolidation) Act, 1993 , and the regulations made under that Act.

(4) (a) Where the first-mentioned period is the period in which the trade or profession of the specified person has been set up and commenced, paragraphs (a) and (b) of subsection (2) shall not apply and the inspector shall, in accordance with this subsection, make an interim refund to the specified person in respect of appropriate tax deducted from relevant payments taken, or to be taken, into account in computing the profits or gains of the trade or profession.

(b) For the purposes of determining the amount of the interim refund, the inspector shall determine—

(i) an amount equal to the amount of tax at the standard rate on an amount determined by the formula—

$$E \times A _ B \times C _ P$$

where—

A is the estimated total amount of the relevant payments to be taken into account as income in computing for tax purposes the profits or gains of the first-mentioned period,

B is the estimated total sum of all amounts to be so taken into account as income in computing those profits or gains,

C is the estimated number of months or fractions of months comprised in the period in respect of which the claim to the refund is made,

E is the estimated amount to be laid out or expended wholly and exclusively by the specified person in the first-mentioned period for the purposes of the trade or profession, and

P is the estimated number of months or fractions of months comprised in the first-mentioned period,

and the inspector shall make the estimates referred to in this formula to the best of his or her knowledge and belief and in accordance with the information available to him or her, and

(ii) the amount of appropriate tax deducted from the relevant payments in respect of which forms have been furnished in accordance with subsection (2)(c) after deducting from that amount any amount of such tax already refunded for the period in respect of which the claim to a refund is made.

(c) The inspector shall refund an amount of appropriate tax equal to the lesser of the amounts determined at subparagraphs (i) and (ii) of paragraph (b).

(5) Where the specified person claims and proves the presence of particular hardship, the Revenue Commissioners may waive (in whole or in part) one or more of the conditions for the making of a refund specified in this section and, where they so waive such a condition or conditions, they shall determine, having regard to all the circumstances and taking into account the objects and intentions of subsections (1) to (4), an amount of a refund or a further refund which they consider to be just and reasonable and they shall authorise the inspector to make such refund or such further refund, as the case may be, accordingly.

(6) For the purposes of this section, the income of a specified person for an accounting period or a basis period for a year of assessment shall be the total of all amounts received or receivable by the specified person which are taken into account in computing the profits or gains of the specified person's trade or profession for that period.