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HMRC internal manual

Complaints and Remedy Guidance

From: **HM Revenue & Customs**
(/government/organisations/hm-revenue-customs)

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CRG3225 - Mistakes: VAT Act 1994 s78: official error

S78 of the VAT Act 1994 provides for payment of interest in certain cases of “official error”. Use of the term “official error” is for the purposes of that section of the VAT Act only, and in no way imposes any obligation in respect of our ex gratia complaints scheme. In particular, simply because we paid interest under s78 does not mean that we automatically accept that we made a mistake as defined under our complaints policy. Just as, in the statutory world, a tribunal may consider HMRC’s failing (which had been rectified without interest) to be worthy of payment of interest under s78 but not so serious as to ground liability in damages, so too under our discretionary complaints policy we are at

liberty to define what we mean by the word “mistake” and under what circumstances we will pay financial redress for that mistake.

Our policy provides that we will not pay costs by means of financial redress in matters of interpretation of the law unless our view of that particular piece of the law was manifestly flawed. This is not to suggest that, in every particular case where the tribunal has found HMRC’s breach to be so serious that it grounds liability in damages, we should automatically concede mistake under our complaints redress policy. But such a situation should at least lead us to consider why, in light of the tribunal’s findings, we nevertheless maintain that our original view of the law was not manifestly flawed. Each case must be considered on its specific merits, and you should consult CCAST for advice should you be unsure how to proceed.

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