Finance Act, 2008

Section 133 - Set-off etc where right to be paid a sum has been transferred

1) This section applies where there has been a transfer from one person ("the original creditor") to another person ("the current creditor") of a right to be paid a sum ("the transferred sum") by the Commissioners. (2) The Commissioners- (a) must set the transferred sum against a sum payable to them by the original creditor if they would have had an obligation to do so under or by virtue of an enactment had the original creditor retained the right, and (b) may do so if they would have had a power to do so under or by virtue of an enactment or under a rule of law had the original creditor retained the right. (3) Subsection (2) applies whether the sum payable by the original creditor to the Commissioners first became payable before or after the transfer (but not if it only became payable after the Commissioners discharged their obligation to pay the transferred sum to the current creditor). (4) The following are discharged to the extent of any set-off under this section- (a) the obligations of the Commissioners in relation to the current creditor, and (b) the obligations of the original creditor. (5) An obligation under or by virtue of an enactment (other than this section) to set the transferred sum against a sum payable to the Commissioners by a person other than the original creditor has effect subject to the obligation under subsection (2)(a) and to any exercise of the power under subsection (2)(b). (6) A power under or by virtue of an enactment (other than this section) or under a rule of law to set the transferred sum against a sum payable to the Commissioners by a person other than the original creditor has effect subject to the obligation under subsection (2)(a). (7) In determining the sum (if any) to be paid, the Commissioners may make any reduction that they could have made if the original creditor had retained the right to be paid the transferred sum (in addition to any other reduction that they are entitled to make), including a reduction arising from any defence to a claim for the sum. (8) In this section- (a) references to the transfer of a right are to its transfer by assignment, assignation or any other means, except that they do not include its transfer by means of a direction under section 429 of ITA 2007 (giving through self-assessment returns), (b) references to a sum that is payable by or to a person are to a sum that is to be paid, repaid or credited by or to that person and references to the payment of the sum (however expressed) are to be interpreted accordingly, and (c) where a right in relation to a sum has been transferred more than once, references to the original creditor are to the person from whom the right was first transferred (except in subsection (1)). (9) Where the right to be paid the transferred sum is dependent on the making of a claim- (a) subsection (2) does not apply unless a claim in respect of the transferred sum has been made, and (b) the references in subsections (2) and (7) to the obligations or powers that the Commissioners would have had if the original creditor had retained the right are references to those that they would have had if the original creditor had also made the claim in respect of the transferred sum. (10) This section has effect where the right to be paid the transferred sum was transferred from the original creditor on or after 25 June 2008.