

Status: Point in time view as at 14/08/2007. This version of this provision no longer has effect.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1992, Paragraph 34. (See end of Document for details)

SCHEDULES

SCHEDULE 3

VALUE ADDED TAX: ABOLITION OF FISCAL FRONTIERS ETC.

Commencement Information

- II** Sch. 3 wholly in force; Sch. 3 not in force at Royal Assent see s. 14(3); Sch. 3 partly in force at 1.8.1992 by S.I. 1992/1867, art. 3, Sch. Pt. I; Sch. 3 partly in force at 1.12.1992 S.I. 1992/2979, art. 4, Sch. Pt. II; Sch. 3 in force, insofar as not already in force, at 1.1.1993 by S.I. 1992/3261, art. 3, Sch. (with transitional provisions in arts. 4, 5, 6, and 7).

^{F1}PART I

Textual Amendments

- F1** Sch. 3 Pt. I repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), Sch. 15

Special cases

.....
34 After section 32 there shall be inserted the following sections—

“32A Tax representatives.

- (1) Where any person—
- (a) is a taxable person for the purposes of this Act or, without being a taxable person, is a person who makes taxable supplies or who acquires goods in the United Kingdom from one or more other member States;
 - (b) does not have any business establishment or other fixed establishment in the United Kingdom; and
 - (c) in the case of an individual, does not have his usual place of residence in the United Kingdom,
- the Commissioners may direct that person to appoint another person (in this Act referred to as a “tax representative”) to act on his behalf in relation to value added tax.
- (2) With the agreement of the Commissioners, any person who has not been required to appoint a tax representative under subsection (1) above may do so if he is a person in relation to whom the conditions specified in paragraphs (a) to (c) of that subsection are satisfied.

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- (3) Where any person is appointed by virtue of this section to be the tax representative of another (in this section referred to as his “principal”), then, subject to subsections (4) to (6) below, the tax representative—
- (a) shall be entitled to act on his principal’s behalf for any of the purposes of this Act, of any other enactment (whenever passed) relating to value added tax or of any subordinate legislation made under this Act or any such enactment;
 - (b) shall, subject to such provisions as may be made by the Commissioners by regulations, secure (where appropriate by acting on his principal’s behalf) his principal’s compliance with and discharge of the obligations and liabilities to which his principal is subject by virtue of this Act, any such other enactment or any such subordinate legislation; and
 - (c) shall be personally liable in respect of—
 - (i) any failure to secure his principal’s compliance with or discharge of any such obligation or liability; and
 - (ii) anything done for purposes connected with acting on his principal’s behalf,as if the obligations and liabilities imposed on his principal were imposed jointly and severally on the tax representative and his principal.
- (4) A tax representative shall not be liable by virtue of subsection (3) above himself to be registered under this Act, but regulations made by the Commissioners may—
- (a) require the registration of the names of tax representatives against the names of their principals in any register kept for the purposes of this Act; and
 - (b) make it the duty of a tax representative, for the purposes of registration, to notify the Commissioners, within such period as may be prescribed, that his appointment has taken effect or has ceased to have effect.
- (5) A tax representative shall not by virtue of subsection (3) above be guilty of any offence except in so far as—
- (a) the tax representative has consented to, or connived in, the commission of the offence by his principal;
 - (b) the commission of the offence by his principal is attributable to any neglect on the part of the tax representative; or
 - (c) the offence consists in a contravention by the tax representative of an obligation which, by virtue of that subsection, is imposed both on the tax representative and on his principal.
- (6) The Commissioners may by regulations make provision as to the manner and circumstances in which a person is to be appointed, or is to be treated as having ceased to be, another’s tax representative; and regulations under this subsection may include such provision as the Commissioners think fit for the purposes of subsection (4) above with respect to the making or deletion of entries in any register.
- (7) Where a person fails to appoint a tax representative in accordance with any direction under subsection (1) above, the Commissioners may require him

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to provide such security, or further security, as they may think appropriate for the payment of any tax which is or may become due from him.

- (8) For the purposes of this Act a person shall not be treated as having been directed to appoint a tax representative, or as having been required to provide security under subsection (7) above, unless the Commissioners have either—
- (a) served notice of the direction or requirement on him; or
 - (b) taken all such other steps as appear to them to be reasonable for bringing the direction or requirement to his attention.

32B Overseas suppliers accounting through their customers.

- (1) Where—
- (a) a person who makes or intends to make taxable supplies of goods requests the Commissioners to allow his supplies to be taxed in accordance with this section; and
 - (b) the Commissioners are satisfied that that person is a person to whom this section applies,

the Commissioners may, if they think fit, allow that person's taxable supplies to be so taxed until it appears to them that the person is no longer a person to whom this section applies or that the request is withdrawn or should, for any other reason, no longer be acted upon.

- (2) This section applies to a person if—
- (a) he does not have any business establishment or other fixed establishment in the United Kingdom and does not have his usual place of residence in the United Kingdom;
 - (b) he is for the time being neither registered under this Act nor required to be registered under Schedule 1A to this Act;
 - (c) he does not have a tax representative and is not for the time being required under section 32A above to appoint one; and
 - (d) he intends that his taxable supplies should be confined to supplies of goods made to taxable persons who are willing to account for and pay the tax chargeable thereon.

- (3) A person whose taxable supplies for the time being fall to be taxed in accordance with this section—
- (a) shall be a taxable person for the purposes of this Act; but
 - (b) shall not, by virtue of any provision of this Act, be registered, or be or become liable to be registered, under Schedule 1 to this Act.

- (4) Where—
- (a) any person's taxable supplies for the time being fall to be taxed in accordance with this section; and
 - (b) that person makes a taxable supply of goods to a taxable person who has given, and not withdrawn, an undertaking to account for and pay any tax chargeable on supplies of goods made to him by the supplier in question,

it shall be for the person supplied, on the supplier's behalf, to account for and pay any tax on the supply of those goods, and not for the supplier.

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- (5) Where any person's taxable supplies for the time being fall to be taxed in accordance with this section, any acquisition from another member State by that person of any goods the first supply of which after their acquisition is to a person who under this section is required to account for and pay the tax on that supply shall be treated for the purposes of this Act as taking place outside the United Kingdom.
- (6) The Commissioners may by regulations provide—
- (a) for the form and manner in which any request under subsection (1) above, or any undertaking such as is mentioned in subsection (4)(b) above, is to be made or withdrawn;
 - (b) for the manner in which the making or withdrawal of any such undertaking is to be notified to the Commissioners;
 - (c) for a person whose taxable supplies for the time being fall to be taxed in accordance with this section to be under an obligation to notify the Commissioners if he makes any taxable supply to which subsection (4) above does not apply and which is not zero-rated;
 - (d) for prescribed provisions of this Act and of any other enactment (whenever passed) relating to value added tax to have effect, where under this section a person supplied with any goods is required to account for and pay any tax on the supply, as if that tax were on supplies or acquisitions made by him.”

Textual Amendments

F1 Sch. 3 Pt. I repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), Sch. 15

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