



# Value Added Tax Act 1994

## 1994 CHAPTER 23

### PART I

#### THE CHARGE TO TAX

##### *Imposition and rate of VAT*

#### **1 Value added tax.**

- (1) Value added tax shall be charged, in accordance with the provisions of this Act—
  - (a) on the supply of goods or services in the United Kingdom (including anything treated as such a supply),
  - (b) on the acquisition in the United Kingdom from other member States of any goods, and
  - [<sup>F1</sup>(c) on the importation of goods into the United Kingdom,]and references in this Act to VAT are references to value added tax.
- (2) VAT on any supply of goods or services is a liability of the person making the supply and (subject to provisions about accounting and payment) becomes due at the time of supply.
- (3) VAT on any acquisition of goods from another member State is a liability of the person who acquires the goods and (subject to provisions about accounting and payment) becomes due at the time of acquisition.
- (4) VAT on the importation of goods from places outside the member States shall be charged and payable as if it were a duty of customs.

#### **Textual Amendments**

- F1** S. 1(1)(c) substituted (28.1.2019 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), **ss. 41(2)(b), 57(3)** (with savings and transitional

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provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), **21**), S.I. 2020/1545, **Pt. 4** and 2020 c. 26, **Sch. 2 para. 7(7)-(9)**); S.I. 2019/104, **reg. 2**; S.I. 2020/1642, **reg. 4(b)** (with reg. 7)

## 2 Rate of VAT.

- (1) Subject to the following provisions [<sup>F2</sup>and to the provisions of section 29A] of this section <sup>F3</sup> . . . , VAT shall be charged at the rate of [<sup>F4</sup>20 per cent] and shall be charged—
- on the supply of goods or services, by reference to the value of the supply as determined under this Act; and
  - on the acquisition of goods from another member State, by reference to the value of the acquisition as determined under this Act; and
  - on the importation of goods from a place outside the member States, by reference to the value of the goods as determined under this Act.

<sup>F5</sup>(1A) . . . . .

<sup>F5</sup>(1B) . . . . .

<sup>F6</sup>(1C) . . . . .

- (2) The Treasury may by order increase or decrease the rate of VAT for the time being in force [<sup>F7</sup>under this section] by such percentage thereof not exceeding 25 per cent. as may be specified in the order, but any such order [<sup>F8</sup>that has not previously expired or been revoked] shall cease to be in force at the expiration of a period of one year from the date on which it takes effect, unless continued in force by a further order under this subsection.
- (3) In relation to an order made under subsection (2) above to continue, vary or replace a previous order, the reference in that subsection to the rate for the time being in force [<sup>F7</sup>under this section] is a reference to the rate which would be in force if no order under that subsection had been made.

### Textual Amendments

- F2** Words in s. 2(1) inserted (11.5.2001 with effect as mentioned in s. 99(7)(a) of the amending Act) by 2001 c. 9, s. 99(2)
- F3** Words in s. 2(1) omitted (1.5.1995 with application as mentioned in s. 21(6) of the amending Act) by virtue of 1995 c. 4, s. 21(2)
- F4** Words in s. 2(1) substituted (27.7.2010) by Finance (No. 2) Act 2010 (c. 31), s. 3(1)
- F5** S. 2(1A)(1B) repealed (11.5.2001 with effect as mentioned in s. 99(7) of the amending Act) by 2001 c. 9, ss. 99(3), 110, Sch. 33 Pt. 3(1) Note 2
- F6** S. 2(1C) repealed (1.11.2001) by 2001 c. 9, ss. 99(3), 110, Sch. 33 Pt. 3(1) Note 1
- F7** Words in s. 2(2)(3) inserted (11.5.2001 with effect as mentioned in s. 99(9)(a) of the amending Act) by 2001 c. 9, s. 99, Sch. 31 para. 2
- F8** Words in s. 2(2) inserted (with effect in accordance with Sch. 3 para. 11 of the amending Act) by Finance Act 2009 (c. 10), Sch. 3 para. 25(2)

### Modifications etc. (not altering text)

- C1** S. 2(1) modified (1.12.2008) by The Value Added Tax (Change of Rate) Order 2008 (S.I. 2008/3020), arts. 1, 3

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### 3 Taxable persons and registration.

- (1) A person is a taxable person for the purposes of this Act while he is, or is required to be, registered under this Act.
- (2) [<sup>F9</sup>Schedules 1 to 3A] shall have effect with respect to registration.
- (3) Persons registered under any of those Schedules shall be registered in a single register kept by the Commissioners for the purposes of this Act; and, accordingly, references in this Act to being registered under this Act are references to being registered under any of those Schedules.
- (4) The Commissioners may by regulations make provision as to the inclusion and correction of information in that register with respect to the Schedule under which any person is registered.

#### Textual Amendments

- F9** Words in s. 3(2) substituted (28.7.2000 with effect as mentioned in s. 136(10) of the amending Act) by 2000 c. 17, s. 136(1)

### [<sup>F10</sup>3A [<sup>F11</sup>Supplies of electronic, telecommunication and broadcasting services: special accounting schemes]

- (1) Schedule 3B (scheme enabling persons who supply electronically supplied services [<sup>F12</sup>, telecommunication services or broadcasting services] in any member State, but who are not established in a member State, to account for and pay VAT in the United Kingdom on those supplies) has effect.

[ Schedule 3BA—

- <sup>F13</sup>(1A) (a) establishes a special accounting scheme for use by persons established in the UK and supplying electronically supplied services, telecommunication services or broadcasting services in other member States, and
- (b) makes provision about corresponding schemes in other member States.]

- (2) The Treasury may by order amend Schedule 3B [<sup>F14</sup>or 3BA].

- (3) The power of the Treasury by order to amend [<sup>F15</sup>Schedules 3B and 3BA] includes power to make such incidental, supplemental, consequential and transitional provision in connection with any amendment of that Schedule as they think fit.]

#### Textual Amendments

- F10** S. 3A inserted (with effect in accordance with s. 23(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 2 para. 2](#)
- F11** S. 3A heading substituted (with effect in accordance with Sch. 22 para. 23 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 12\(4\)](#)
- F12** Words in s. 3A(1) inserted (with effect in accordance with Sch. 22 para. 23 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 12\(2\)](#)
- F13** S. 3A(1A) inserted (with effect in accordance with Sch. 22 para. 23 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 12\(3\)](#)
- F14** Words in s. 3A(2) inserted (with effect in accordance with Sch. 22 para. 23 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 2\(a\)](#)

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**F15** Words in s. 3A(3) substituted (with effect in accordance with Sch. 22 para. 23 of the amending Act) by Finance Act 2014 (c. 26), **Sch. 22 para. 2(b)**

*Supply of goods or services in the United Kingdom*

**4 Scope of VAT on taxable supplies.**

- (1) VAT shall be charged on any supply of goods or services made in the United Kingdom, where it is a taxable supply made by a taxable person in the course or furtherance of any business carried on by him.
- (2) A taxable supply is a supply of goods or services made in the United Kingdom other than an exempt supply.

**5 Meaning of supply: alteration by Treasury order.**

- (1) Schedule 4 shall apply for determining what is, or is to be treated as, a supply of goods or a supply of services.
- (2) Subject to any provision made by that Schedule and to Treasury orders under subsections (3) to (6) below—
  - (a) “supply” in this Act includes all forms of supply, but not anything done otherwise than for a consideration;
  - (b) anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of services.
- (3) The Treasury may by order provide with respect to any description of transaction—
  - (a) that it is to be treated as a supply of goods and not as a supply of services; or
  - (b) that it is to be treated as a supply of services and not as a supply of goods; or
  - (c) that it is to be treated as neither a supply of goods nor a supply of services;
 and without prejudice to the foregoing, such an order may provide that paragraph 5(4) of Schedule 4 is not to apply, in relation to goods of any prescribed description used or made available for use in prescribed circumstances, so as to make that a supply of services under that paragraph and may provide that paragraph 6 of that Schedule shall not apply, in such circumstances as may be described in the order, so as to make a removal of assets a supply of goods under that paragraph.
- (4) Without prejudice to subsection (3) above, the Treasury may by order make provision for securing, with respect to services of any description specified in the order, that where—
  - (a) a person carrying on a business does anything which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order; and
  - (b) such other conditions as may be specified in the order are satisfied,
 such services are treated for the purposes of this Act as being supplied by him in the course or furtherance of that business.
- (5) The Treasury may by order make provision for securing, subject to any exceptions provided for by or under the order, that where in such circumstances as may be specified in the order goods of a description so specified are taken possession of or

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- produced by a person in the course or furtherance of a business carried on by him and—
- (a) are neither supplied to another person nor incorporated in other goods produced in the course or furtherance of that business; but
  - (b) are used by him for the purpose of a business carried on by him,
- the goods are treated for the purposes of this Act as being both supplied to him for the purpose of that business and supplied by him in the course or furtherance of it.
- (6) The Treasury may by order make provision for securing, with respect to services of any description specified in the order, that where—
- (a) a person, in the course or furtherance of a business carried on by him, does anything for the purpose of that business which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order; and
  - (b) such other conditions as may be specified in the order are satisfied,
- such services are treated for the purposes of this Act as being both supplied to him for the purpose of that business and supplied by him in the course or furtherance of it.
- (7) For the purposes of this section, where goods are manufactured or produced from any other goods, those other goods shall be treated as incorporated in the first-mentioned goods.
- (8) An order under subsection (4) or (6) above may provide for the method by which the value of any supply of services which is treated as taking place by virtue of the order is to be calculated.

**Modifications etc. (not altering text)**

**C2** S. 5 applied (with modifications) (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 113(2), [Sch. 36 para. 34\(4\)](#) (with [Sch. 36 para. 38](#)); [S.I. 2009/404](#), art. 2

**6 Time of supply.**

- (1) The provisions of this section shall apply, subject to [<sup>F16</sup>sections 18, 18B and 18C] for determining the time when a supply of goods or services is to be treated as taking place for the purposes of the charge to VAT.
- (2) Subject to subsections (4) to (14) below, a supply of goods shall be treated as taking place—
- (a) if the goods are to be removed, at the time of the removal;
  - (b) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied;
  - (c) if the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, at the time when it becomes certain that the supply has taken place or, if sooner, 12 months after the removal.
- (3) Subject to subsections (4) to (14) below, a supply of services shall be treated as taking place at the time when the services are performed.
- (4) If, before the time applicable under subsection (2) or (3) above, the person making the supply issues a VAT invoice in respect of it or if, before the time applicable under

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subsection (2)(a) or (b) or (3) above, he receives a payment in respect of it, the supply shall, to the extent covered by the invoice or payment, be treated as taking place at the time the invoice is issued or the payment is received.

(5) If, within 14 days after the time applicable under subsection (2) or (3) above, the person making the supply issues a VAT invoice in respect of it, then, unless he has notified the Commissioners in writing that he elects not to avail himself of this subsection, the supply shall (to the extent that it is not treated as taking place at the time mentioned in subsection (4) above) be treated as taking place at the time the invoice is issued.

(6) The Commissioners may, at the request of a taxable person, direct that subsection (5) above shall apply in relation to supplies made by him (or such supplies made by him as may be specified in the direction) as if for the period of 14 days there were substituted such longer period as may be specified in the direction.

(7) Where any supply of goods involves both—

- (a) the removal of the goods from the United Kingdom; and
- (b) their acquisition in another member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law of that member State corresponding, in relation to that member State, to the provisions of section 10,

subsections (2), (4) to (6) and (10) to (12) of this section shall not apply and the supply shall be treated for the purposes of this Act as taking place on whichever is the earlier of the days specified in subsection (8) below.

(8) The days mentioned in subsection (7) above are—

- (a) the 15th day of the month following that in which the removal in question takes place; and
- (b) the day of the issue, in respect of the supply, of a VAT invoice or of an invoice of such other description as the Commissioners may by regulations prescribe.

<sup>F17</sup>(9) .....

(10) The Commissioners may, at the request of a taxable person, by direction alter the time at which supplies made by him (or such supplies made by him as may be specified in the direction) are to be treated as taking place, either—

- (a) by directing those supplies to be treated as taking place—
  - (i) at times or on dates determined by or by reference to the occurrence of some event described in the direction; or
  - (ii) at times or on dates determined by or by reference to the time when some event so described would in the ordinary course of events occur, the resulting times or dates being in every case earlier than would otherwise apply; or
- (b) by directing that, notwithstanding subsections (5) and (6) above, those supplies shall (to the extent that they are not treated as taking place at the time mentioned in subsection (4) above) be treated as taking place—
  - (i) at the beginning of the relevant working period (as defined in his case in and for the purposes of the direction); or
  - (ii) at the end of the relevant working period (as so defined).

(11) Where goods are treated as supplied by an order under section 5(5), the supply is treated as taking place when they are appropriated to the use mentioned in that section.

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- (12) Where there is a supply of goods by virtue only of paragraph 5(1) of Schedule 4, the supply is treated as taking place when the goods are transferred or disposed of as mentioned in that paragraph.
- (13) Where there is a supply of services by virtue only of paragraph 5(4) of Schedule 4, the supply is treated as taking place when the goods are appropriated to the use mentioned in that paragraph.
- (14) The Commissioners may by regulations make provision with respect to the time at which (notwithstanding subsections (2) to (8) and (11) to (13) above or section 55(4)) a supply is to be treated as taking place in cases where—
- (a) it is a supply of goods or services for a consideration the whole or part of which is determined or payable periodically, or from time to time, or at the end of any period, or
  - (b) it is a supply of goods for a consideration the whole or part of which is determined at the time when the goods are appropriated for any purpose, or
  - (c) there is a supply to which section 55 applies, or
  - (d) there is a supply of services by virtue of paragraph 5(4) of Schedule 4 or an order under section 5(4);

and for any such case as is mentioned in this subsection the regulations may provide for goods or services to be treated as separately and successively supplied at prescribed times or intervals.

[<sup>F18</sup>(14A) <sup>F19</sup>... this section and any regulations under this section or section 8(4) shall have effect subject to section 97A.]

- (15) In this Act “VAT invoice” means such an invoice as is required under [<sup>F20</sup>paragraph 2A] of Schedule 11, or would be so required if the person to whom the supply is made were a person to whom such an invoice should be issued.

#### Textual Amendments

- F16** Words in s. 6(1) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 1**; S.I. 1996/1249, **art. 2**
- F17** S. 6(9) repealed (1.12.2003) by Finance Act 2002 (c. 23), s. 24(5), **Sch. 40 Pt. 2**; S.I. 2003/3043, **art. 2**
- F18** S. 6(14A) inserted (retrospective to 17.3.1998) by 1998 c. 36, **s. 22(2)(3)**
- F19** Words in s. 6(14A) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 36 para. 2** (with Sch. 36 para. 19)
- F20** Words in s. 6(15) substituted (1.12.2003) by Finance Act 2002 (c. 23), **s. 24(4)(a)(5)**; S.I. 2003/3043, **art. 2**

#### 7 Place of supply [<sup>F21</sup>of goods].

- (1) This section shall apply (subject to [<sup>F22</sup>sections 14, 18 and 18B]) for determining, for the purposes of this Act, whether goods <sup>F23</sup>... are supplied in the United Kingdom.
- (2) Subject to the following provisions of this section, if the supply of any goods does not involve their removal from or to the United Kingdom they shall be treated as supplied in the United Kingdom if they are in the United Kingdom and otherwise shall be treated as supplied outside the United Kingdom.

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- (3) Goods shall be treated—
- (a) as supplied in the United Kingdom where their supply involves their installation or assembly at a place in the United Kingdom to which they are removed; and
  - (b) as supplied outside the United Kingdom where their supply involves their installation or assembly at a place outside the United Kingdom to which they are removed.
- (4) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied in the United Kingdom where—
- (a) the supply involves the removal of the goods to the United Kingdom by or under the directions of the person who supplies them;
  - (b) the supply is a transaction in pursuance of which the goods are acquired in the United Kingdom from another member State by a person who is not a taxable person;
  - (c) the supplier—
    - (i) is liable to be registered under Schedule 2; or
    - (ii) would be so liable if he were not already registered under this Act or liable to be registered under Schedule 1 [F24 or 1A ]; and
  - (d) the supply is neither a supply of goods consisting in a new means of transport nor anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) or 6 of Schedule 4.
- (5) Goods whose place of supply is not determined under any of the preceding provisions of this section and which do not consist in a new means of transport shall be treated as supplied outside the United Kingdom where—
- (a) the supply involves the removal of the goods, by or under the directions of the person who supplies them, to another member State;
  - (b) the person who makes the supply is taxable in another member State; and
  - (c) provisions of the law of that member State corresponding, in relation to that member State, to the provisions made by subsection (4) above make that person liable to VAT on the supply;
- but this subsection shall not apply in relation to any supply in a case where the liability mentioned in paragraph (c) above depends on the exercise by any person of an option in the United Kingdom corresponding to such an option as is mentioned in paragraph 1(2) of Schedule 2 unless that person has given, and has not withdrawn, a notification to the Commissioners that he wishes his supplies to be treated as taking place outside the United Kingdom where they are supplies in relation to which the other requirements of this subsection are satisfied.
- (6) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied in the United Kingdom where—
- (a) their supply involves their being imported from a place outside the member States; and
  - (b) the person who supplies them is the person by whom, or under whose directions, they are so imported.
- (7) Goods whose place of supply is not determined under any of the preceding provisions of this section but whose supply involves their removal to or from the United Kingdom shall be treated—



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- (a) as supplied in the United Kingdom where their supply involves their removal from the United Kingdom without also involving their previous removal to the United Kingdom; and
  - (b) as supplied outside the United Kingdom in any other case.
- (8) For the purposes of the preceding provisions of this section, where goods, in the course of their removal from a place in the United Kingdom to another place in the United Kingdom, leave and re-enter the United Kingdom the removal shall not be treated as a removal from or to the United Kingdom.
- (9) The Commissioners may by regulations provide that a notification for the purposes of subsection (5) above is not to be given or withdrawn except in such circumstances, and in such form and manner, as may be prescribed.
- <sup>F25</sup>(10) .....
- (11) The Treasury may by order provide, in relation to goods <sup>F26</sup>... generally or to particular goods <sup>F26</sup>... specified in the order, for varying the rules for determining where a supply of goods <sup>F26</sup>... is made.

#### Textual Amendments

- F21** Words in s. 7 heading inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 3\(5\)](#) (with [Sch. 36 para. 19](#))
- F22** Words in s. 7(1) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by [1996 c. 8, ss. 25, 26](#), [Sch. 3 para. 2](#); [S.I. 1996/1249, art. 2](#)
- F23** Words in s. 7(1) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 3\(2\)](#) (with [Sch. 36 para. 19](#))
- F24** Words in s. 7(4)(c)(ii) inserted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 3](#)
- F25** S. 7(10) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 3\(3\)](#) (with [Sch. 36 para. 19](#))
- F26** Words in s. 7(11) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 3\(4\)](#) (with [Sch. 36 para. 19](#))

#### [<sup>F27</sup>7A] Place of supply of services

- (1) This section applies for determining, for the purposes of this Act, the country in which services are supplied.
- (2) A supply of services is to be treated as made—
  - (a) in a case in which the person to whom the services are supplied is a relevant business person, in the country in which the recipient belongs, and
  - (b) otherwise, in the country in which the supplier belongs.
- (3) The place of supply of a right to services is the same as that in which the supply of the services would be treated as made if made by the supplier of the right to the recipient of the right (whether or not the right is exercised); and for this purpose a right to services includes any right, option or priority with respect to the supply of services and an interest deriving from a right to services.

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- (4) For the purposes of this Act a person is a relevant business person in relation to a supply of services if the person—
- (a) is a taxable person within the meaning of Article 9 of Council Directive 2006/112/EC,
  - (b) is registered under this Act,
  - (c) is identified for the purposes of VAT in accordance with the law of a member State other than the United Kingdom, or
  - (d) is registered under an Act of Tynwald for the purposes of any tax imposed by or under an Act of Tynwald which corresponds to value added tax,
- and the services are received by the person otherwise than wholly for private purposes.
- (5) Subsection (2) has effect subject to Schedule 4A.
- (6) The Treasury may by order—
- (a) amend subsection (4),
  - (b) amend Schedule 4A, or
  - (c) otherwise make provision for exceptions from either or both of the paragraphs of subsection (2).
- (7) An order under subsection (6) may include incidental, supplemental, consequential and transitional provision.]

#### Textual Amendments

**F27** S. 7A inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 4](#) (with [Sch. 36 paras. 14\(1\), 19](#))

## 8 Reverse charge on supplies received from abroad.

- [<sup>F28</sup>(1) Where services are supplied by a person who belongs in a country other than the United Kingdom in circumstances in which this subsection applies, this Act has effect as if (instead of there being a supply of the services by that person)—
- (a) there were a supply of the services by the recipient in the United Kingdom in the course or furtherance of a business carried on by the recipient, and
  - (b) that supply were a taxable supply.]

[<sup>F28</sup>(2) Subsection (1) above applies if—

    - (a) the recipient is a relevant business person who belongs in the United Kingdom, and
    - (b) the place of supply of the services is inside the United Kingdom,

and, where the supply of the services is one to which any paragraph of Part 1 or 2 of Schedule 4A applies, the recipient is registered under this Act.]

(3) Supplies which are treated as made by the recipient under subsection (1) above are not to be taken into account as supplies made by him when determining any allowance of input tax in his case under section 26(1).

(4) In applying subsection (1) above, the supply of services treated as made by the recipient shall be assumed to have been made at a time to be determined in accordance with regulations prescribing rules for attributing a time of supply in cases within that subsection.

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[<sup>F29</sup>(4A) Subsection (1) does not apply to services of any of the descriptions specified in Schedule 9.]

(5) The Treasury may by order [<sup>F30</sup>amend subsection (4A) by altering the descriptions of services specified in that subsection].

<sup>F31</sup>(6) .....

[<sup>F32</sup>(7) The power of the Treasury by order to [<sup>F33</sup>amend subsection (4A)] shall include power to make such incidental, supplemental, consequential and transitional provision in connection with any [<sup>F34</sup>amendment of that subsection] as they think fit.

(8) Without prejudice to the generality of subsection (7) above, the provision that may be made under that subsection includes—

- (a) provision making such modifications of section 43(2A) to (2E) as the Treasury may think fit in connection with any [<sup>F35</sup>amendment of subsection (4A)]; and
- (b) provision modifying the effect of any regulations under subsection (4) above in relation to any services added to [<sup>F36</sup>that subsection].]

#### Textual Amendments

- F28** S. 8(1)(2) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(2\)](#) (with [Sch. 36 para. 19](#))
- F29** S. 8(4A) inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(3\)](#) (with [Sch. 36 para. 19](#))
- F30** Words in s. 8(5) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(4\)](#) (with [Sch. 36 para. 19](#))
- F31** S. 8(6) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(5\)](#) (with [Sch. 36 para. 19](#))
- F32** S. 8(7)(8) inserted (19.3.1997) by [1997 c. 16](#), [s. 42](#)
- F33** Words in s. 8(7) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(6\)\(a\)](#) (with [Sch. 36 para. 19](#))
- F34** Words in s. 8(7) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(6\)\(b\)](#) (with [Sch. 36 para. 19](#))
- F35** Words in s. 8(8) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(7\)\(a\)](#) (with [Sch. 36 para. 19](#))
- F36** Words in s. 8(8) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 5\(7\)\(b\)](#) (with [Sch. 36 para. 19](#))

#### [<sup>F37</sup> **Place where supplier or recipient of services belongs.**

(1) This section has effect for determining for the purposes of section 7A (or Schedule 4A) or section 8, in relation to any supply of services, whether a person who is the supplier or recipient belongs in one country or another.

(2) A person who is a relevant business person is to be treated as belonging in the relevant country.

(3) In subsection (2) “the relevant country” means—

- (a) if the person has a business establishment, or some other fixed establishment, in a country (and none in any other country), that country,

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- (b) if the person has a business establishment, or some other fixed establishment or establishments, in more than one country, the country in which the relevant establishment is, and
  - (c) otherwise, the country in which the person's usual place of residence [<sup>F38</sup>or permanent address] is.
- (4) In subsection (3)(b) “relevant establishment” means whichever of the person's business establishment, or other fixed establishments, is most directly concerned with the supply.
- (5) A person who is not a relevant business person is to be treated as [<sup>F39</sup>belonging—
- (a) in the country in which the person's usual place of residence or permanent address is (except in the case of a body corporate or other legal person);
  - (b) in the case of a body corporate or other legal person, in the country in which the place where it is established is.]
- [<sup>F40</sup>(6) The reference in subsection (5)(b) to the place where a body corporate or other legal person “is established” is to be read in accordance with Article 13a of Implementing Regulation (EU) No 282/2011 (which is inserted by Council Implementing Regulation (EU) No 1042/2013).]]

#### Textual Amendments

- F37** S. 9 substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 para. 6](#) (with [Sch. 36 para. 19](#))
- F38** Words in s. 9(3)(c) inserted (with effect in accordance with s. 104(5) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 104\(2\)](#)
- F39** Words in s. 9(5) substituted (with effect in accordance with s. 104(5) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 104\(3\)](#)
- F40** S. 9(6) substituted (with effect in accordance with s. 104(5) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [s. 104\(4\)](#)

#### [<sup>F41</sup>9A **Reverse charge on gas [<sup>F42</sup>, electricity, heat or cooling] supplied by persons outside the United Kingdom**

- (1) This section applies if relevant goods are supplied—
- (a) by a person who is outside the United Kingdom,
  - (b) to a person who is registered under this Act,
- for the purposes of any business carried on by the recipient.
- (2) The same consequences follow under this Act (and particularly so much as charges VAT on a supply and entitles a taxable person to credit for input tax) as if—
- (a) the recipient had himself supplied the relevant goods in the course or furtherance of his business, and
  - (b) that supply were a taxable supply.
- (3) But supplies which are treated as made by the recipient under subsection (2) are not to be taken into account as supplies made by him when determining any allowance of input tax in his case under section 26(1).
- (4) In applying subsection (2) the supply of relevant goods treated as made by the recipient shall be assumed to have been made at a time to be determined in accordance with

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regulations prescribing rules for attributing a time of supply in cases to which this section applies.

[<sup>F43</sup>(5) Relevant goods” means—

- (a) gas supplied through a natural gas system situated within the territory of a member State or any network connected to such a system,
- (b) electricity, and
- (c) heat or cooling supplied through a network.]

(6) Whether a person is outside the United Kingdom is to be determined in accordance with an order made by the Treasury.]

#### Textual Amendments

- F41** S. 9A inserted (22.7.2004 with effect in accordance with s. 21(2) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [s. 21\(1\)](#)
- F42** Words in s. 9A heading substituted (with effect in accordance with s. 20(3) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 20\(1\)\(b\)](#)
- F43** S. 9A(5) substituted (with effect in accordance with s. 20(3) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [s. 20\(1\)\(a\)](#)

### *Acquisition of goods from member States*

## 10 Scope of VAT on acquisitions from member States.

- (1) VAT shall be charged on any acquisition from another member State of any goods where—
  - (a) the acquisition is a taxable acquisition and takes place in the United Kingdom;
  - (b) the acquisition is otherwise than in pursuance of a taxable supply; and
  - (c) the person who makes the acquisition is a taxable person or the goods are subject to a duty of excise or consist in a new means of transport.
- (2) An acquisition of goods from another member State is a taxable acquisition if—
  - (a) it falls within subsection (3) below or the goods consist in a new means of transport; and
  - (b) it is not an exempt acquisition.
- (3) An acquisition of goods from another member State falls within this subsection if—
  - (a) the goods are acquired in the course or furtherance of—
    - (i) any business carried on by any person; or
    - (ii) any activities carried on otherwise than by way of business by any body corporate or by any club, association, organisation or other unincorporated body;
  - (b) it is the person who carries on that business or, as the case may be, those activities who acquires the goods; and
  - (c) the supplier—
    - (i) is taxable in another member State at the time of the transaction in pursuance of which the goods are acquired; and
    - (ii) in participating in that transaction, acts in the course or furtherance of a business carried on by him.

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## 11 Meaning of acquisition of goods from another member State.

- (1) Subject to the following provisions of this section, references in this Act to the acquisition of goods from another member State shall be construed as references to any acquisition of goods in pursuance of a transaction in relation to which the following conditions are satisfied, that is to say—
  - (a) the transaction is a supply of goods (including anything treated for the purposes of this Act as a supply of goods); and
  - (b) the transaction involves the removal of the goods from another member State; and references in this Act, in relation to such an acquisition, to the supplier shall be construed accordingly.
- (2) It shall be immaterial for the purposes of subsection (1) above whether the removal of the goods from the other member State is by or under the directions of the supplier or by or under the directions of the person who acquires them or any other person.
- (3) Where the person with the property in any goods does not change in consequence of anything which is treated for the purposes of this Act as a supply of goods, that supply shall be treated for the purposes of this Act as a transaction in pursuance of which there is an acquisition of goods by the person making it.
- (4) The Treasury may by order provide with respect to any description of transaction that the acquisition of goods in pursuance of a transaction of that description is not to be treated for the purposes of this Act as the acquisition of goods from another member State.

### Modifications etc. (not altering text)

- C3 S. 11 applied (with modifications) (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 113(2), [Sch. 36 para. 34\(4\)](#) (with [Sch. 36 para. 38](#)); [S.I. 2009/404](#), art. 2

## 12 Time of acquisition.

- (1) Subject to <sup>F44</sup>sections 18 and 18B] and any regulations under subsection (3) below, where goods are acquired from another member State, the acquisition shall be treated for the purposes of this Act as taking place on whichever is the earlier of—
  - (a) the 15th day of the month following that in which the event occurs which, in relation to that acquisition, is the first relevant event for the purposes of taxing the acquisition; and
  - (b) the day of the issue, in respect of the transaction in pursuance of which the goods are acquired, of an invoice of such a description as the Commissioners may by regulations prescribe.
- (2) For the purposes of this Act the event which, in relation to any acquisition of goods from another member State, is the first relevant event for the purposes of taxing the acquisition is the first removal of the goods which is involved in the transaction in pursuance of which they are acquired.
- (3) The Commissioners may by regulations make provision with respect to the time at which an acquisition is to be treated as taking place in prescribed cases where the whole or part of any consideration comprised in the transaction in pursuance of which the goods are acquired is determined or payable periodically, or from time to time, or at the end of a period; and any such regulations may provide, in relation to any case



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to which they apply, for goods to be treated as separately and successively acquired at prescribed times or intervals.

#### Textual Amendments

**F44** Words in s. 12(1) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 3**; S.I. 1996/1249, **art. 2**

### 13 Place of acquisition.

- (1) This section shall apply (subject to <sup>F45</sup>sections 18 and 18B) for determining for the purposes of this Act whether goods acquired from another member State are acquired in the United Kingdom.
- (2) The goods shall be treated as acquired in the United Kingdom if they are acquired in pursuance of a transaction which involves their removal to the United Kingdom and does not involve their removal from the United Kingdom, and (subject to the following provisions of this section) shall otherwise be treated as acquired outside the United Kingdom.
- (3) Subject to subsection (4) below, the goods shall be treated as acquired in the United Kingdom if they are acquired by a person who, for the purposes of their acquisition, makes use of a number assigned to him for the purposes of VAT in the United Kingdom.
- (4) Subsection (3) above shall not require any goods to be treated as acquired in the United Kingdom where it is established, in accordance with regulations made by the Commissioners for the purposes of this section that VAT—
  - (a) has been paid in another member State on the acquisition of those goods; and
  - (b) fell to be paid by virtue of provisions of the law of that member State corresponding, in relation to that member State, to the provision made by subsection (2) above.
- (5) The Commissioners may by regulations make provision for the purposes of this section—
  - (a) for the circumstances in which a person is to be treated as having been assigned a number for the purposes of VAT in the United Kingdom;
  - (b) for the circumstances in which a person is to be treated as having made use of such a number for the purposes of the acquisition of any goods; and
  - (c) for the refund, in prescribed circumstances, of VAT paid in the United Kingdom on acquisitions of goods in relation to which the conditions specified in subsection (4)(a) and (b) above are satisfied.

#### Textual Amendments

**F45** Words in s. 13(1) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 4**; S.I. 1996/1249, **art. 2**

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## **14 Acquisitions from persons belonging in other member States.**

(1) Subject to subsection (3) below, where—

- (a) a person (“the original supplier”) makes a supply of goods to a person who belongs in another member State (“the intermediate supplier”);
- (b) that supply involves the removal of the goods from another member State and their removal to the United Kingdom but does not involve the removal of the goods from the United Kingdom;
- (c) both that supply and the removal of the goods to the United Kingdom are for the purposes of the making of a supply by the intermediate supplier to another person (“the customer”) who is registered under this Act;
- (d) neither of those supplies involves the removal of the goods from a member State in which the intermediate supplier is taxable at the time of the removal without also involving the previous removal of the goods to that member State; and
- (e) there would be a taxable acquisition by the customer if the supply to him involved the removal of goods from another member State to the United Kingdom,

the supply by the original supplier to the intermediate supplier shall be disregarded for the purposes of this Act and the supply by the intermediate supplier to the customer shall be treated for the purposes of this Act, other than Schedule 3, as if it did involve the removal of the goods from another member State to the United Kingdom.

(2) Subject to subsection (3) below, where—

- (a) a person belonging in another member State makes such a supply of goods to a person who is registered under this Act as involves their installation or assembly at a place in the United Kingdom to which they are removed; and
- (b) there would be a taxable acquisition by the registered person if that supply were treated as not being a taxable supply but as involving the removal of the goods from another member State to the United Kingdom,

that supply shall be so treated except for the purposes of Schedule 3.

(3) Neither subsection (1) nor subsection (2) above shall apply in relation to any supply unless the intermediate supplier or, as the case may be, the person making the supply complies with such requirements as to the furnishing (whether before or after the supply is made) of invoices and other documents, and of information, to—

- (a) the Commissioners, and
- (b) the person supplied,

as the Commissioners may by regulations prescribe; and regulations under this subsection may provide for the times at which, and the form and manner in which, any document or information is to be furnished and for the particulars which it is to contain.

(4) Where this section has the effect of treating a taxable acquisition as having been made, section 12(1) shall apply in relation to that acquisition with the omission of the words from “whichever” to “acquisition; and” at the end of paragraph (a).

(5) For the purposes of this section a person belongs in another member State 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 neither registered under this Act nor required to be so registered;



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- (c) he does not have a VAT representative and is not for the time being required to appoint one; and
  - (d) he is taxable in another member State;
- but, in determining for the purposes of paragraph (b) above whether a person is required to be registered under this Act, there shall be disregarded any supplies which, if he did belong in another member State and complied with the requirements prescribed under subsection (3) above, would fall to be disregarded by virtue of this section.
- (6) Without prejudice to section 13(4), where—
    - (a) any goods are acquired from another member State in a case which corresponds, in relation to another member State, to the case specified in relation to the United Kingdom in subsection (1) above; and
    - (b) the person who acquires the goods is registered under this Act and would be the intermediate supplier in relation to that corresponding case,the supply to him of those goods and the supply by him of those goods to the person who would be the customer in that corresponding case shall both be disregarded for the purposes of this Act, other than the purposes of the information provisions referred to in section 92(7).
  - (7) References in this section to a person being taxable in another member State shall not include references to a person who is so taxable by virtue only of provisions of the law of another member State corresponding to the provisions of this Act by virtue of which a person who is not registered under this Act is a taxable person if he is required to be so registered.
  - (8) This section does not apply in relation to any supply of goods by an intermediate supplier to whom the goods were supplied before 1st August 1993.

#### *Importation of goods from outside the member States*

### **15 General provisions relating to imported goods.**

- (1) For the purposes of this Act goods are imported from a place outside the member States where—
  - (a) having been removed from a place outside the member States, they enter the territory of the [F46European Union] ;
  - (b) they enter that territory by being removed to the United Kingdom or are removed to the United Kingdom after entering that territory; and
  - (c) the circumstances are such that it is on their removal to the United Kingdom or subsequently while they are in the United Kingdom that any [F47EU] customs debt in respect of duty on their entry into the territory of the [F46European Union] would be incurred.
- (2) Accordingly—
  - (a) goods shall not be treated for the purposes of this Act as imported at any time before a [F47EU] customs debt in respect of duty on their entry into the territory of the [F46European Union] would be incurred, and
  - (b) the person who is to be treated for the purposes of this Act as importing any goods from a place outside the member States is the person who would be liable to discharge any such [F47EU] customs debt.

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- (3) Subsections (1) and (2) above shall not apply, except in so far as the context otherwise requires or provision to the contrary is contained in regulations under section 16(1), for construing any references to importation or to an importer in any enactment or subordinate legislation applied for the purposes of this Act by section 16(1).

#### Textual Amendments

- F46** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F47** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

#### Modifications etc. (not altering text)

- C4** S. 15 applied (with modifications) (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 113(2), **Sch. 36 para. 34(4)** (with [Sch. 36 para. 38](#)); [S.I. 2009/404](#), art. 2

## 16 Application of customs enactments.

- (1) Subject to such exceptions and adaptations as the Commissioners may by regulations prescribe and except where the contrary intention appears—
- the provision made by or under the Customs and Excise Acts 1979 and the other enactments and subordinate legislation for the time being having effect generally in relation to duties of customs and excise charged on the importation of goods into the United Kingdom; and
  - the <sup>F47</sup>EU] legislation for the time being having effect in relation to <sup>F47</sup>EU] customs duties charged on goods entering the territory of the <sup>F46</sup>European Union],
- shall apply (so far as relevant) in relation to any VAT chargeable on the importation of goods from places outside the member States as they apply in relation to any such duty of customs or excise or, as the case may be, <sup>F47</sup>EU] customs duties.
- (2) Regulations under <sup>F48</sup>section 105 of the Postal Services Act 2000] (which provides for the application of customs enactments to postal packets) may make special provision in relation to VAT.

#### Textual Amendments

- F46** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F47** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F48** Words in s. 16(2) substituted (26.3.2001) by [2000 c. 26](#), s. 127(4), **Sch. 8 para. 22(2)**; [S.I. 2000/2957](#), art. 2(3), **Sch. 3** (as amended by [S.I. 2001/1148](#), arts. 2, 43(1)(2), **Sch.** (with art. 34))

## <sup>F49</sup>16A Postal packets

- (1) The Commissioners may by regulations impose a liability to VAT on a person outside the United Kingdom in respect of the entry of goods into the United Kingdom if the person sent, or arranged for the sending of, the goods to their recipient in a postal packet (within the meaning of the Postal Services Act 2000).

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- (2) The regulations may—
  - (a) provide that a liability to VAT arises only in relation to goods of a value described in the regulations,
  - (b) provide that in cases specified in the regulations, other persons are jointly and severally liable for the VAT, and
  - (c) provide that the entry of the goods into the United Kingdom is not an importation for the purposes of this Act.
- (3) Among other provision that may be made by the regulations, the regulations may make provision—
  - (a) requiring persons to register under the regulations for the purpose of accounting for VAT imposed under the regulations,
  - (b) modifying the application of this Act in relation to cases dealt with by the regulations, and
  - (c) requiring persons to provide information to the Commissioners about the goods or the person who sent, or arranged for the sending of, the goods.
- (4) Regulations under this section may make different provision for different purposes.]

#### **Textual Amendments**

**F49** S. 16A inserted (16.12.2018) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 14](#) (with [Sch. 8 para. 99](#)); [S.I. 2018/1362, reg. 2](#)

## **17 Free zone regulations.**

- (1) This section applies in relation to VAT chargeable on the importation of goods from places outside the member States; and in this section “free zone” has the meaning given by section 100A(2) of the Management Act.
- (2) Subject to any contrary provision made by any directly applicable [F47EU] provision, goods which are chargeable with VAT may be moved into a free zone and may remain as free zone goods without payment of VAT.
- (3) The Commissioners may by regulations (“free zone regulations”) make provision with respect to the movement of goods into, and the removal of goods from, any free zone and the keeping, securing and treatment of goods which are within a free zone, and subject to any provision of the regulations, “free zone goods” means goods which are within a free zone.
- (4) Without prejudice to the generality of subsection (3), free zone regulations may make provision—
  - (a) for enabling the Commissioners to allow goods to be removed from a free zone without payment of VAT in such circumstances and subject to such conditions as they may determine;
  - (b) for determining where any VAT becomes payable in respect of goods which cease to be free zone goods—
    - (i) the rates of any VAT applicable; and
    - (ii) the time at which those goods cease to be free zone goods;
  - (c) for determining for the purpose of enabling VAT to be charged in respect of free zone goods in a case where a person wishes to pay that VAT

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- notwithstanding that the goods will continue to be free zone goods, the rate of VAT to be applied; and
- (d) permitting free zone goods to be destroyed without payment of VAT in such circumstances and subject to such conditions as the Commissioners may determine.
- (5) The Commissioners, with respect to free zone goods or the movement of goods into any free zone, may by regulations make provision—
- (a) for relief from the whole or part of any VAT chargeable on the importation of goods into the United Kingdom in such circumstances as they may determine;
- (b) in place of, or in addition to, any provision made by section 6 or any other enactment, for determining the time when a supply of goods which are or have been free zone goods is to be treated as taking place for the purposes of the charge to VAT; and
- (c) as to the treatment, for the purposes of VAT, of goods which are manufactured or produced within a free zone from other goods or which have other goods incorporated in them while they are free zone goods.

#### Textual Amendments

**F47** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

#### *Goods subject to a warehousing regime*

### 18 Place and time of acquisition or supply.

- (1) Where—
- (a) any goods have been removed from a place outside the member States and have entered the territory of the [<sup>F46</sup>European Union];
- (b) the material time for any acquisition of those goods from another member State or for any supply of those goods is while they are subject to a warehousing regime and before the duty point; and
- (c) those goods are not mixed with any dutiable goods which were produced or manufactured in the United Kingdom or acquired from another member State,
- then the acquisition or supply mentioned in paragraph (b) above shall be treated for the purposes of this Act as taking place outside the United Kingdom.

[<sup>F50</sup>(1A) The Commissioners may by regulations prescribe circumstances in which subsection (1) above shall not apply.]

- (2) Subsection (3) below applies where—
- (a) any dutiable goods are acquired from another member State; or
- (b) any person makes a supply of—
- (i) any dutiable goods which were produced or manufactured in the United Kingdom or acquired from another member State; or
- (ii) any goods comprising a mixture of goods falling within subparagraph (i) above and other goods.
- (3) Where this subsection applies and the material time for the acquisition or supply mentioned in subsection (2) above is while the goods in question are subject to a

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warehousing regime and before the duty point, that acquisition or supply shall be treated for the purposes of this Act as taking place outside the United Kingdom if the material time for any subsequent supply of those goods is also while the goods are subject to the warehousing regime and before the duty point.

- (4) Where the material time for any acquisition or supply of any goods in relation to which subsection (3) above applies is while the goods are subject to a warehousing regime and before the duty point but the acquisition or supply nevertheless falls, for the purposes of this Act, to be treated as taking place in the United Kingdom—
- (a) that acquisition or supply shall be treated for the purposes of this Act as taking place at the earlier of the following times, that is to say, the time when the goods are removed from the warehousing regime and the duty point; and
  - (b) in the case of a supply, any VAT payable on the supply shall be paid (subject to any regulations under subsection (5) below)—
    - (i) at the time when the supply is treated as taking place under paragraph (a) above; and
    - (ii) by the person by whom the goods are so removed or, as the case may be, together with the duty or agricultural levy, by the person who is required to pay the duty or levy.

[<sup>F51</sup>(5) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT he is required to pay by virtue of paragraph (b) of subsection (4) above at a time later than that provided for by that paragraph.

- (5A) Regulations under subsection (5) above may in particular make provision for either or both of the following—
- (a) for the taxable person to pay the VAT together with the VAT chargeable on other supplies by him of goods and services;
  - (b) for the taxable person to pay the VAT together with any duty of excise deferment of which has been granted to him under section 127A of the <sup>M1</sup>Customs and Excise Management Act 1979;

and they may make different provision for different descriptions of taxable person and for different descriptions of goods.]

- (6) In this section—
- “dutiable goods” means any goods which are subject—
    - (a) to a duty of excise; or
    - (b) in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the [<sup>F46</sup>European Union], to any [<sup>F47</sup>EU] customs duty or agricultural levy of the [<sup>F46</sup>European Union];
  - “the duty point”, in relation to any goods, means—
    - (a) in the case of goods which are subject to a duty of excise, the time when the requirement to pay the duty on those goods takes effect; and
    - (b) in the case of goods which are not so subject, the time when any [<sup>F47</sup>EU] customs debt in respect of duty on the entry of the goods into the territory of the [<sup>F46</sup>European Union] would be incurred or, as the case may be, the corresponding time in relation to any such duty or levy as is mentioned in paragraph (b) of the definition of dutiable goods;
  - “material time”—
    - (a) in relation to any acquisition or supply the time of which is determined in accordance with regulations under section 6(14) or 12(3), means

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such time as may be prescribed for the purpose of this section by those regulations;

- (b) in relation to any other acquisition, means the time of the event which, in relation to the acquisition, is the first relevant event for the purposes of taxing it; and
- (c) in relation to any other supply, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 6 if paragraph (c) of that subsection were omitted;

“warehouse” means any warehouse where goods may be stored in any member State without payment of any one or more of the following, that is to say—

- (a) [<sup>F47</sup>EU] customs duty;
- (b) any agricultural levy of the [<sup>F46</sup>European Union];
- (c) VAT on the importation of the goods into any member State;
- (d) any duty of excise or any duty which is equivalent in another member State to a duty of excise.

- (7) References in this section to goods being subject to a warehousing regime is a reference to goods being kept in a warehouse or being transported between warehouses (whether in the same or different member States) without the payment in a member State of any duty, levy or VAT; and references to the removal of goods from a warehousing regime shall be construed accordingly.

#### Textual Amendments

- F46** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F47** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F50** S. 18(1A) inserted (20.7.2005) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), s. 1
- F51** S. 18(5)(5A) substituted (1.5.1995) for s. 18(5) by [1995 c. 4](#), s. 29

#### Marginal Citations

- M1** [1979 c. 2](#).

### [<sup>F52</sup>18A Fiscal warehousing.

- (1) The Commissioners may, if it appears to them proper, upon application approve any registered person as a fiscal warehousekeeper; and such approval shall be subject to such conditions as they shall impose.
- (2) Subject to those conditions and to regulations made under section 18F such a person shall be entitled to keep a fiscal warehouse.
- (3) “Fiscal warehouse” means such place in the United Kingdom in the occupation or under the control of the fiscal warehousekeeper, not being retail premises, as he shall notify to the Commissioners in writing; and such a place shall become a fiscal warehouse on receipt by the Commissioners of that notification or on the date stated in it as the date from which it is to have effect, whichever is the later, and, subject to subsection (6) below, shall remain a fiscal warehouse so long as it is in the occupation or under the control of the fiscal warehousekeeper or until he shall notify the Commissioners in writing that it is to cease to be a fiscal warehouse.

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- (4) The Commissioners may in considering an application by a person to be a fiscal warehousekeeper take into account any matter which they consider relevant, and may without prejudice to the generality of that provision take into account all or any one or more of the following—
- (a) his record of compliance and ability to comply with the requirements of this Act and regulations made hereunder;
  - (b) his record of compliance and ability to comply with the requirements of the customs and excise Acts (as defined in the Management Act) and regulations made thereunder;
  - (c) his record of compliance and ability to comply with [<sup>F47</sup>EU] customs provisions;
  - (d) his record of compliance and ability to comply with the requirements of other member States relating to VAT and duties equivalent to duties of excise;
  - (e) if the applicant is a company the records of compliance and ability to comply with the matters set out at (a) to (d) above of its directors, persons connected with its directors, its managing officers, any shadow directors or any of those persons, and, if it is a close company, the records of compliance and ability to comply with the matters set out at (a) to (d) above of the beneficial owners of the shares of the company or any of them; and
  - (f) if the applicant is an individual the records of compliance and ability to comply with the matters set out at (a) to (d) above of any company of which he is or has been a director, managing officer or shadow director or, in the case of a close company, a shareholder or the beneficial owner of shares,
- and for the purposes of paragraphs (e) and (f) “connected” shall have the meaning given by section 24(7), “managing officer” the meaning given by section 61(6), “shadow director” the meaning given by [<sup>F53</sup>section 251 of the Companies Act 2006] and “close company” the meaning given by the Taxes Act.
- (5) Subject to subsection (6) below, a person approved under subsection (1) shall remain a fiscal warehousekeeper until he ceases to be a registered person or until he shall notify the Commissioners in writing that he is to cease to be a fiscal warehousekeeper.
- (6) The Commissioners may if they consider it appropriate from time to time—
- (a) impose conditions on a fiscal warehousekeeper in addition to those conditions, if any, which they imposed under subsection (1), and vary or revoke any conditions previously imposed;
  - (b) withdraw approval of any person as a fiscal warehousekeeper, and
  - (c) withdraw fiscal warehouse status from any premises.
- (7) Any application by or on behalf of a person to be a fiscal warehousekeeper shall be in writing in such form as the Commissioners may direct and shall be accompanied by such information as they shall require.
- (8) Any approval by the Commissioners under subsection (1) above, and any withdrawal of approval or other act by them under subsection (6) above, shall be notified by them to the fiscal warehousekeeper in writing and shall take effect on such notification being made or on any later date specified for the purpose in the notification.
- (9) Without prejudice to the provisions of section 43 concerning liability for VAT, in subsections (1) and (2) above “registered person” includes any body corporate which under that section is for the time being treated as a member of a group.]

*Status: Point in time view as at 28/01/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part I. (See end of Document for details)*

### Textual Amendments

- F47** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F52** S. 18A inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, [Sch. 3 para. 5](#); S.I. 1996/1249, [art. 2](#)
- F53** Words in s. 18A(4) substituted (1.10.2007) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 1(3)(a), [Sch. 4 para. 85](#) (with art. 12)

### [<sup>F54</sup>18B Fiscally warehoused goods: relief.

- (1) Subsections (3) and (4) below apply where—
- (a) there is an acquisition of goods from another member State;
  - (b) those goods are eligible goods;
  - (c) either—
    - (i) the acquisition takes place while the goods are subject to a fiscal warehousing regime; or
    - (ii) after the acquisition but before the supply, if any, of those goods which next occurs, the acquirer causes the goods to be placed in a fiscal warehousing regime; and
  - (d) the acquirer, not later than the time of the acquisition, prepares and keeps a certificate that the goods are subject to a fiscal warehousing regime, or (as the case may be) that he will cause paragraph (c)(ii) above to be satisfied; and the certificate shall <sup>F55</sup>... be kept for such period as the Commissioners may by regulations specify.
- (2) Subsections (3) and (4) below also apply where—
- (a) there is a supply of goods;
  - (b) those goods are eligible goods;
  - (c) either—
    - (i) that supply takes place while the goods are subject to a fiscal warehousing regime; or
    - (ii) after that supply but before the supply, if any, of those goods which next occurs, the person to whom the former supply is made causes the goods to be placed in a fiscal warehousing regime;
  - (d) in a case falling within paragraph (c)(ii) above, the person to whom the supply is made gives the supplier, not later than the time of the supply, a certificate <sup>F56</sup>... that he will cause paragraph (c)(ii) to be satisfied; and
  - (e) the supply is not a retail transaction.

[ A certificate under subsection (1)(d) or (2)(d) must be in such form as may be specified <sup>F57</sup>(2A) by regulations or by the Commissioners in accordance with regulations.]

- (3) The acquisition or supply in question shall be treated for the purposes of this Act as taking place outside the United Kingdom if any subsequent supply of those goods is while they are subject to the fiscal warehousing regime.
- (4) Where subsection (3) does not apply and the acquisition or supply in question falls, for the purposes of this Act, to be treated as taking place in the United Kingdom, that



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acquisition or supply shall be treated for the purposes of this Act as taking place when the goods are removed from the fiscal warehousing regime.

(5) Where—

- (a) subsection (4) above applies to an acquisition or a supply,
- (b) the acquisition or supply is taxable and not zero-rated, and
- (c) the acquirer or supplier is not a taxable person but would be were it not for paragraph 1(9) of Schedule 1, paragraph 1(7) of Schedule 2 and paragraph 1(6) of Schedule 3, or any of those provisions,

VAT shall be chargeable on that acquisition or supply notwithstanding that the acquirer or the supplier is not a taxable person.

(6) In this section “eligible goods” means goods—

- (a) of a description falling within Schedule 5A;
- (b) upon which any import duties, as defined in article 4(10) of the Community Customs Code of 12th October 1992 (Council Regulation (EEC) No.2913/92), either have been paid or have been deferred under article 224 of that Code or regulations made under section 45 of the Management Act;
- (c) (in the case of goods imported from a place outside the member States) upon which any VAT chargeable under section 1(1)(c) has been either paid or deferred in accordance with [F47EU] customs provisions, and
- (d) (in the case of goods subject to a duty of excise) upon which that duty has been either paid or deferred under section 127A of the Management Act.

(7) For the purposes of this section, apart from subsection (4), an acquisition or supply shall be treated as taking place at the material time for the acquisition or supply.

(8) The Treasury may by order vary Schedule 5A by adding to or deleting from it any goods or varying any description of any goods.]

#### Textual Amendments

- F47** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F54** S. 18B inserted (29.4.1996 for certain purposes and 1.6.1996 otherwise with application to any acquisition of goods from another member State and any supply taking place on or after 1.6.1996) by 1996 c. 8, ss. 25, 26, [Sch. 3 para. 5](#); S.I. 1996/1249, [art. 2](#)
- F55** Words in s. 18B(1)(d) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 2\(2\)](#)
- F56** Words in s. 18B(2)(d) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 2\(3\)](#)
- F57** S. 18B(2A) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 2\(4\)](#)

#### [F58] 18C Warehouses and fiscal warehouses: services.

(1) Where—

- (a) a taxable person makes a supply of specified services;
- (b) those services are wholly performed on or in relation to goods while those goods are subject to a warehousing or fiscal warehousing regime;
- (c) (except where the services are the supply by an occupier of a warehouse or a fiscal warehousekeeper of warehousing or fiscally warehousing the goods) the person to whom the supply is made gives the supplier a certificate <sup>F59</sup>... that the services are so performed;

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- (d) the supply of services would (apart from this section) be taxable and not zero-rated; and
- (e) the supplier issues to the person to whom the supply is made an invoice of such a description as the Commissioners may by regulations prescribe, his supply shall be zero-rated.

[ A certificate under subsection (1)(c) must be in such form as may be specified by <sup>F60</sup>(1A) regulations or by the Commissioners in accordance with regulations.]

- (2) If a supply of services is zero-rated under subsection (1) above (“the zero-rated supply of services”) then, unless there is a supply of the goods in question the material time for which is—
  - (a) while the goods are subject to a warehousing or fiscal warehousing regime, and
  - (b) after the material time for the zero-rated supply of services, subsection (3) below shall apply.
- (3) Where this subsection applies—
  - (a) a supply of services identical to the zero-rated supply of services shall be treated for the purposes of this Act as being, at the time the goods are removed from the warehousing or fiscal warehousing regime or (if earlier) at the duty point, both made (for the purposes of his business) to the person to whom the zero-rated supply of services was actually made and made by him in the course or furtherance of his business,
  - (b) that supply shall have the same value as the zero-rated supply of services,
  - (c) that supply shall be a taxable (and not a zero-rated) supply, and
  - (d) VAT shall be charged on that supply even if the person treated as making it is not a taxable person.
- (4) In this section “specified services” means—
  - (a) services of an occupier of a warehouse or a fiscal warehousekeeper of keeping the goods in question in a warehousing or fiscal warehousing regime;
  - (b) in relation to goods subject to a warehousing regime, services of carrying out on the goods operations which are permitted to be carried out under [<sup>F47</sup>EU] customs provisions or warehousing regulations as the case may be; and
  - (c) in relation to goods subject to a fiscal warehousing regime, services of carrying out on the goods any physical operations (other than any prohibited by regulations made under section 18F), for example, and without prejudice to the generality of the foregoing words, preservation and repacking operations.]

#### Textual Amendments

**F47** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

**F58** S. 18C inserted (29.4.1996 for certain purposes and 1.6.1996 otherwise with application to any acquisition of goods from another member State and any supply taking place on or after that day) by [1996 c. 8](#), ss. 25, 26, Sch. 3 para. 5; [S.I. 1996/1249](#), art. 2

**F59** Words in s. 18C(1)(c) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 3\(2\)](#)

**F60** S. 18C(1A) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 3\(3\)](#)

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### [<sup>F61</sup>18D Removal from warehousing: accountability.

- (1) This section applies to any supply to which section 18B(4) or section 18C(3) applies (supply treated as taking place on removal or duty point) and any acquisition to which section 18B(5) applies (acquisition treated as taking place on removal where acquirer not a taxable person).
- (2) Any VAT payable on the supply or acquisition shall (subject to any regulations under subsection (3) below) be paid—
  - (a) at the time when the supply or acquisition is treated as taking place under the section in question; and
  - (b) by the person by whom the goods are removed or, as the case may be, together with the excise duty, by the person who is required to pay that duty.
- (3) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT he is required to pay by virtue of subsection (2) above at a time later than that provided by that subsection; and they may make different provisions for different descriptions of taxable persons and for different descriptions of goods and services.]

#### Textual Amendments

- F61** S. 18D inserted (29.4.1996 for specified purposes otherwise 1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after 1.6.1996) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 5**; S.I. 1996/1249, **art. 2**

### [<sup>F62</sup>18E Deficiency in fiscally warehoused goods.

- (1) This section applies where goods have been subject to a fiscal warehousing regime and, before being lawfully removed from the fiscal warehouse, they are found to be missing or deficient.
- (2) In any case where this section applies, unless it is shown to the satisfaction of the Commissioners that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Commissioners may require the fiscal warehousekeeper to pay immediately in respect of the missing goods or of the whole or any part of the deficiency, as they see fit, the VAT that would have been chargeable.
- (3) In subsection (2) “VAT that would have been chargeable” means VAT that would have been chargeable on a supply of the missing goods, or the amount of goods by which the goods are deficient, taking place at the time immediately before the absence arose or the deficiency occurred, if the value of that supply were the open market value; but where that time cannot be ascertained to the Commissioners’ satisfaction, that VAT shall be the greater of the amounts of VAT which would have been chargeable on a supply of those goods—
  - (a) if the value of that supply were the highest open market value during the period (the relevant period) commencing when the goods were placed in the fiscal warehousing regime and ending when the absence or deficiency came to the notice of the Commissioners, or
  - (b) if the rate of VAT chargeable on that supply were the highest rate chargeable on a supply of such goods during the relevant period and the value of that supply were the highest open market value while that rate prevailed.

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- (4) This section has effect without prejudice to any penalty incurred under any other provision of this Act or regulations made under it.]

#### Textual Amendments

**F62** S. 18E inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 5**; S.I. 1996/1249, **art. 2**

#### [<sup>F63</sup>18F Sections 18A to 18E: supplementary.

- (1) In sections 18A to 18E and this section—
- “duty point” has the meaning given by section 18(6);
  - “eligible goods” has the meaning given by section 18B(6);
  - “fiscal warehouse” means a place notified to the Commissioners under section 18A(3) and from which such status has not been withdrawn;
  - “fiscal warehousekeeper” means a person approved under section 18A(1);
  - “material time”—
    - (a) in relation to any acquisition or supply the time of which is determined in accordance with regulations under section 6(14) or 12(3), means such time as may be prescribed for the purpose of this section by those regulations;
    - (b) in relation to any other acquisition, means the time when the goods reach the destination to which they are despatched from the member State in question;
    - (c) in relation to any other supply of goods, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 6 if paragraph (c) of that subsection were omitted; and
    - (d) in relation to any other supply of services, means the time when the services are performed;
  - “warehouse”, except in the expression “fiscal warehouse”, has the meaning given by section 18(6);
  - “warehousing regulations” has the same meaning as in the Management Act.
- (2) Any reference in sections 18A to 18E or this section to goods being subject to a fiscal warehousing regime is, subject to any regulations made under subsection (8)(e) below, a reference to eligible goods being kept in a fiscal warehouse or being transferred between fiscal warehouses in accordance with such regulations; and any reference to the removal of goods from a fiscal warehousing regime shall be construed accordingly.
- (3) Subject to subsection (2) above, any reference in sections 18C and 18D to goods being subject to a warehousing regime or to the removal of goods from a warehousing regime shall have the same meaning as in section 18(7).
- (4) Where as a result of an operation on eligible goods subject to a fiscal warehousing regime they change their nature but the resulting goods are also eligible goods, the

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provisions of sections 18B to 18E and this section shall apply as if the resulting goods were the original goods.

- (5) Where as a result of an operation on eligible goods subject to a fiscal warehousing regime they cease to be eligible goods, on their ceasing to be so sections 18B to 18E shall apply as if they had at that time been removed from the fiscal warehousing regime; and for that purpose the proprietor of the goods shall be treated as if he were the person removing them.
- (6) Where—
- (a) any person ceases to be a fiscal warehousekeeper; or
  - (b) any premises cease to have fiscal warehouse status,
- sections 18B to 18E and this section shall apply as if the goods of which he is the fiscal warehousekeeper, or the goods in the fiscal warehouse, as the case may be, had at that time been removed from the fiscal warehousing regime; and for that purpose the proprietor of the goods shall be treated as if he were the person removing them.
- (7) The Commissioners may make regulations governing the deposit, keeping, securing and treatment of goods in a fiscal warehouse, and the removal of goods from a fiscal warehouse.
- (8) Regulations may, without prejudice to the generality of subsection (7) above, include provisions—
- (a) in relation to—
    - (i) goods which are, have been or are to be subject to a fiscal warehousing regime,
    - (ii) other goods which are, have been or are to be kept in fiscal warehouses,
    - (iii) fiscal warehouse premises, and
    - (iv) fiscal warehousekeepers and their businesses,as to the keeping, preservation and production of records and the furnishing of returns and information by fiscal warehousekeepers and any other persons;
  - (b) requiring goods deposited in a fiscal warehouse to be produced to or made available for inspection by an authorised person on request by him;
  - (c) prohibiting the carrying out on fiscally warehoused goods of such operations as they may prescribe;
  - (d) regulating the transfer of goods from one fiscal warehouse to another;
  - (e) concerning goods which, though kept in a fiscal warehouse, are not eligible goods or are not intended by a relevant person to be goods in respect of which reliefs are to be enjoyed under sections 18A to 18E and this section;
  - (f) prohibiting the fiscal warehousekeeper from allowing goods to be removed from the fiscal warehousing regime without payment of any VAT payable under section 18D on or by reference to that removal and, if in breach of that prohibition he allows goods to be so removed, making him liable for the VAT jointly and severally with the remover,
- and may contain such incidental or supplementary provisions as the Commissioners think necessary or expedient.
- (9) Regulations may make different provision for different cases, including different provision for different fiscal warehousekeepers or descriptions of fiscal warehousekeeper, for fiscal warehouses of different descriptions or for goods of

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different classes or descriptions or of the same class or description in different circumstances.]

#### Textual Amendments

- F63** S. 18F inserted (29.4.1996 for specified purposes otherwise 1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after 1.6.1996) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 5**; S.I. 1996/1249, **art. 2**

#### *Determination of value*

### 19 Value of supply of goods or services.

- (1) For the purposes of this Act the value of any supply of goods or services shall, except as otherwise provided by or under this Act, be determined in accordance with this section and Schedule 6, and for those purposes subsections (2) to (4) below have effect subject to that Schedule.
- (2) If the supply is for a consideration in money its value shall be taken to be such amount as, with the addition of the VAT chargeable, is equal to the consideration.
- (3) If the supply is for a consideration not consisting or not wholly consisting of money, its value shall be taken to be such amount in money as, with the addition of the VAT chargeable, is equivalent to the consideration.
- (4) Where a supply of any goods or services is not the only matter to which a consideration in money relates, the supply shall be deemed to be for such part of the consideration as is properly attributable to it.
- (5) For the purposes of this Act the open market value of a supply of goods or services shall be taken to be the amount that would fall to be taken as its value under subsection (2) above if the supply were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.

#### Modifications etc. (not altering text)

- C5** S. 19(5) modified (20.10.1995) by S.I. 1995/2518, **reg. 77**

### 20 Valuation of acquisitions from other member States.

- (1) [<sup>F64</sup>Subject to section 18C,]for the purposes of this Act the value of any acquisition of goods from another member State shall be taken to be the value of the transaction in pursuance of which they are acquired.
- (2) Where goods are acquired from another member State otherwise than in pursuance of a taxable supply, the value of the transaction in pursuance of which they are acquired shall be determined for the purposes of subsection (1) above in accordance with this section and Schedule 7, and for those purposes—
  - (a) subsections (3) to (5) below have effect subject to that Schedule; and
  - (b) section 19 and Schedule 6 shall not apply in relation to the transaction.

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- (3) If the transaction is for a consideration in money, its value shall be taken to be such amount as is equal to the consideration.
- (4) If the transaction is for a consideration not consisting or not wholly consisting of money, its value shall be taken to be such amount in money as is equivalent to the consideration.
- (5) Where a transaction in pursuance of which goods are acquired from another member State is not the only matter to which a consideration in money relates, the transaction shall be deemed to be for such part of the consideration as is properly attributable to it.

#### Textual Amendments

**F64** Words in s. 20(1) inserted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 6; S.I. 1996/1249, art. 2**

## 21 Value of imported goods.

- (1) For the purposes of this Act, the value of goods imported from a place outside the member States shall (subject to subsections (2) [<sup>F65</sup>to (4)] below) be determined according to the rules applicable in the case of [<sup>F47</sup>EU] customs duties, whether or not the goods in question are subject to any such duties.
- (2) For the purposes of this Act the value of any goods imported from a place outside the member States shall [<sup>F66</sup>(subject to subsection (2A) below)] be taken to include the following so far as they are not already included in that value in accordance with the rules mentioned in subsection (1) above, that is to say—
  - (a) all taxes, duties and other charges levied either outside or, by reason of importation, within the United Kingdom (except VAT); <sup>F67</sup> . . .
  - [<sup>F68</sup>(b) all incidental expenses, such as commission, packing, transport and insurance costs, up to the goods' first destination in the United Kingdom; and
  - (c) if at the time of the importation of the goods from a place outside the member States a further destination for the goods is known, and that destination is within the United Kingdom or another member State, all such incidental expenses in so far as they result from the transport of the goods to that other destination;

and in this subsection “the goods’ first destination” means the place mentioned on the consignment note or any other document by means of which the goods are imported into the United Kingdom, or in the absence of such documentation it means the place of the first transfer of cargo in the United Kingdom.]

[<sup>F69</sup>(2A) Where—

- (a) any goods falling within subsection (5) below are sold by auction at a time when they are subject to the procedure specified in subsection (2B) below, and
- (b) arrangements made by or on behalf of the purchaser of the goods following the sale by auction result in the importation of the goods from a place outside the member States,

the value of the goods shall not be taken for the purposes of this Act to include, in relation to that importation, any commission or premium payable to the auctioneer in connection with the sale of the goods.



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*Status: Point in time view as at 28/01/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part I. (See end of Document for details)*

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(2B) That procedure is the customs procedure for temporary importation with total relief from import duties provided for in Articles 137 to 141 of Council Regulation 2913/92/EEC establishing the Community Customs Code.]

(3) Subject to subsection (2) above, where—

- (a) goods are imported from a place outside the member States for a consideration which is or includes a price in money payable as on the transfer of property;
- (b) the terms on which those goods are so imported allow a discount for prompt payment of that price;
- (c) those terms do not include provision for payment of that price by instalments; and
- (d) payment of that price is made in accordance with those terms so that the discount falls to be allowed,

the value of the goods shall be taken for the purposes of this Act to be reduced by the amount of the discount.

[<sup>F70</sup>(4) [<sup>F71</sup>Subject to subsection (6D) below,] For the purposes of this Act, the value of any goods falling within subsection (5) below which are imported from a place outside the member States shall be taken to be an amount equal to [<sup>F72</sup>25 per cent] of the amount which, apart from this subsection, would be their value for those purposes.

<sup>F73</sup>[ The goods that fall within this subsection are—

- (5) (a) any work of art;
- (b) any antique, not falling within paragraph (a) above or (c) below, that is more than one hundred years old;
- (c) any collection or collector's piece that is of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic, numismatic or philatelic interest.

(6) In this section “work of art” means, subject to subsections (6A) and (6B) below—

- (a) any mounted or unmounted painting, drawing, collage, decorative plaque or similar picture that was executed by hand;
- (b) any original engraving, lithograph or other print which—
  - (i) was produced from one or more plates executed by hand by an individual who executed them without using any mechanical or photomechanical process; and
  - (ii) either is the only one produced from the plate or plates or is comprised in a limited edition;
- (c) any original sculpture or statuary, in any material;
- (d) any sculpture cast which—
  - (i) was produced by or under the supervision of the individual who made the mould or became entitled to it by succession on the death of that individual; and
  - (ii) either is the only cast produced from the mould or is comprised in a limited edition;
- (e) any tapestry or other hanging which—
  - (i) was made by hand from an original design; and
  - (ii) either is the only one made from the design or is comprised in a limited edition;
- (f) any ceramic executed by an individual and signed by him;



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- (g) any enamel on copper which—
    - (i) was executed by hand;
    - (ii) is signed either by the person who executed it or by someone on behalf of the studio where it was executed;
    - (iii) either is the only one made from the design in question or is comprised in a limited edition; and
    - (iv) is not comprised in an article of jewellery or an article of a kind produced by goldsmiths or silversmiths;
  - (h) any mounted or unmounted photograph which—
    - (i) was printed by or under the supervision of the photographer;
    - (ii) is signed by him; and
    - (iii) either is the only print made from the exposure in question or is comprised in a limited edition;
- (6A) The following do not fall within subsection (5) above by virtue of subsection (6)(a) above, that is to say—
- (a) any technical drawing, map or plan;
  - (b) any picture comprised in a manufactured article that has been hand-decorated; or
  - (c) anything in the nature of scenery, including a backcloth.
- (6B) An item comprised in a limited edition shall be taken to be so comprised for the purposes of subsection (6)(d) to (h) above only if—
- (a) in the case of sculpture casts—
    - (i) the edition is limited so that the number produced from the same mould does not exceed eight; or
    - (ii) the edition comprises a limited edition of nine or more casts made before 1st January 1989 which the Commissioners have directed should be treated, in the exceptional circumstances of the case, as a limited edition for the purposes of subsection (6)(d) above;
  - (b) in the case of tapestries and hangings, the edition is limited so that the number produced from the same design does not exceed eight;
  - (c) in the case of enamels on copper—
    - (i) the edition is limited so that the number produced from the same design does not exceed eight; and
    - (ii) each of the enamels in the edition is numbered and is signed as mentioned in subsection (6)(g)(ii) above;
  - (d) in the case of photographs—
    - (i) the edition is limited so that the number produced from the same exposure does not exceed thirty; and
    - (ii) each of the prints in the edition is numbered and is signed as mentioned in subsection (6)(h)(ii) above.
- (6C) For the purposes of this section a collector's piece is of philatelic interest if—
- (a) it is a postage or revenue stamp, a postmark, a first-day cover or an item of pre-stamped stationery; and
  - (b) it is franked or (if unfranked) it is not legal tender and is not intended for use as such.

*Status: Point in time view as at 28/01/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part I. (See end of Document for details)*

- (6D) Subsection (4) above does not apply in the case of any goods imported from outside the member States if—
  - (a) the whole of the VAT chargeable on their importation falls to be relieved by virtue of an order under section 37(1); or
  - (b) they were exported from the United Kingdom during the period of twelve months ending with the date of their importation [<sup>F74</sup>in circumstances where the exportation and subsequent importation were effected to obtain the benefit of that subsection].]
- (7) An order under section 2(2) may contain provision making such alteration of the percentage for the time being specified in subsection (4) above as the Treasury consider appropriate in consequence of any increase or decrease by that order of the rate of VAT.]

**Textual Amendments**

**F47** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

**F65** Words in s. 21(1) substituted (1.5.1995 with effect as mentioned in s. 22(2) of the amending Act) by [1995 c. 4, s. 22\(1\)](#)

**F66** Words in s. 21(2) inserted (1.9.2006) by [Finance Act 2006 \(c. 25\), s. 18\(2\)\(4\)](#); S.I. 2006/2149, art. 2

**F67** Word in s. 21(2)(a) repealed (29.4.1996 with effect in relation to goods imported on or after 1.1.1996) by [1996 c. 8, ss. 27\(2\)\(4\), 205, Sch. 41 Pt. IV\(3\)](#) Note

**F68** S. 21(2)(b)(c) substituted (29.4.1996 with effect in relation to goods imported on or after 1.1.1996) for s. 21(2)(b) by [1996 c. 8, s. 27\(3\)\(4\)](#)

**F69** S. 21(2A)(2B) inserted (1.9.2006) by [Finance Act 2006 \(c. 25\), s. 18\(3\)\(4\)](#); S.I. 2006/2149, art. 2

**F70** S. 21(4)-(7) inserted (1.5.1995 with effect as mentioned in s. 22(2) of the amending Act) by [1995 c. 4, s. 22\(1\)](#)

**F71** Words in s.21(4) inserted (27.7.1999 with effect as mentioned in s. 12(3) of the amending Act) by [1999 c. 16, s. 12\(1\)\(a\)](#)

**F72** Words in s. 21(4) substituted (27.7.2010) by [Finance \(No. 2\) Act 2010 \(c. 31\), s. 3\(2\)](#)

**F73** S. 21(5)-(6D) substituted (27.7.1999 with effect as mentioned in s. 12(3) of the amending Act) for s. 21(5)(6) by [1999 c. 16, s. 12\(2\)](#)

**F74** Words in s. 21(6D)(b) inserted (with effect in accordance with art. 17(2) of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2009 \(S.I. 2009/730\), arts. 1\(1\), 17\(1\)](#)

<sup>F75</sup>22 .....

**Textual Amendments**

**F75** S. 22 repealed (29.4.1996 with application in relation to supplies made on or after 1.1.1996) by [1996 c. 8, ss. 28, 205, Sch. 41 Pt. IV\(2\)](#)

<sup>F76</sup>23 **Value of supplies involving relevant machine games**

- (1) If a person plays a relevant machine game, then for the purposes of VAT the amount paid by the person is to be treated as consideration for a supply of services to that person.

*Status: Point in time view as at 28/01/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part I. (See end of Document for details)*

- (2) “Relevant machine game” is defined in section 23A.
- (3) The value to be taken as the value of supplies made by a person (“the supplier”) in the circumstances mentioned in subsection (1) in any period is to be determined as if the consideration for the supplies were reduced by an amount equal to X.
- (4) X is the amount (if any) paid out in that period by way of winnings in respect of relevant machine games made available by the supplier (whether the games were played in the same period or an earlier one).
- (5) X does not include any winnings paid out to the supplier or a person acting on the supplier's behalf.
- (6) Inserting a token into a machine on which a relevant machine game is played is to be treated for the purposes of subsection (1) as the payment of an amount equal to that for which the token can be obtained.
- (7) Providing a specified kind of token by way of winnings is to be treated for the purposes of subsection (4) as the payment out of an amount by way of winnings equal to the value of the token.
- (8) A specified kind of token is—
  - (a) a token that can be inserted into the same machine to enable games to be played on the machine, or
  - (b) a token that is not of such a kind but can be exchanged for money.
- (9) The value of a specified kind of token is—
  - (a) for a token within subsection (8)(a), an amount equal to that for which the token can be obtained, and
  - (b) for a token within subsection (8)(b), an amount equal to that for which the token can be exchanged.
- (10) If it is not reasonably practicable to attribute payments and winnings to relevant machine games or to apportion them between relevant machine games and other games or other activities, any attribution or apportionment is to be done on a just and reasonable basis.
- (11) For the purposes of this section, a person plays a game if the person participates in the game—
  - (a) whether or not there are other participants in the game, and
  - (b) whether or not a computer generates images or data taken to represent the actions of other participants in the game.

#### **Textual Amendments**

**F76** Ss. 23, 23A substituted for s. 23 (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 24 para. 63](#)

### **23A Meaning of “relevant machine game”**

- (1) A “relevant machine game” is a game (whether of skill or chance or both) that—
  - (a) is played on a machine for a prize, and
  - (b) is not excluded by subsection (2).

*Status: Point in time view as at 28/01/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part I. (See end of Document for details)*

- (2) A game is excluded by this subsection if—
- (a) takings and payouts in respect of it are taken into account in determining any charge to machine games duty,
  - (b) it involves betting on future real events,
  - (c) bingo duty is charged on the playing of it or would be so charged but for paragraphs 1 to 5 of Schedule 3 to the Betting and Gaming Duties Act 1981 (exemptions from bingo duty),
  - (d) lottery duty is charged on the taking of a ticket or chance in it or would be so charged but for an express exception,
  - (e) it is a real game of chance and playing it amounts to dutiable gaming for the purposes of section 10 of the Finance Act 1997 or would do so but for subsection (3), (3B) or (4) of that section, or
  - (f) playing it amounts to remote gaming within the meaning of [<sup>F77</sup>section 154(1) of the Finance Act 2014 (meaning of remote gaming)].
- (3) In this section—
- “game” does not include a sport;
- “machine” means any apparatus that uses or applies mechanical power, electrical power or both;
- “prize”, in relation to a game, does not include the opportunity to play the game again;
- “real game of chance” means a game of chance (within the meaning of [<sup>F78</sup>Part 3 of the Finance Act 2014 (see section 188(1)(b))]) that is non-virtual.
- (4) The Treasury may by order amend this section.]

#### Textual Amendments

- F76** Ss. 23, 23A substituted for s. 23 (with effect in accordance with Sch. 24 para. 66(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 24 para. 63](#)
- F77** Words in s. 23A(2)(f) substituted (1.12.2014) by [Finance Act 2014 \(c. 26\)](#), s. 198(2)(c), [Sch. 28 para. 19\(2\)](#) (with [Sch. 29](#))
- F78** Words in s. 23A(3) substituted (1.12.2014) by [Finance Act 2014 \(c. 26\)](#), s. 198(2)(c), [Sch. 28 para. 19\(3\)](#) (with [Sch. 29](#))

### *Payment of VAT by taxable persons*

## 24 Input tax and output tax.

- (1) Subject to the following provisions of this section, “input tax”, in relation to a taxable person, means the following tax, that is to say—
- (a) VAT on the supply to him of any goods or services;
  - (b) VAT on the acquisition by him from another member State of any goods; and
  - (c) VAT paid or payable by him on the importation of any goods from a place outside the member States,
- being (in each case) goods or services used or to be used for the purpose of any business carried on or to be carried on by him.

*Status: Point in time view as at 28/01/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part I. (See end of Document for details)*

- (2) Subject to the following provisions of this section, “output tax”, in relation to a taxable person, means VAT on supplies which he makes or on the acquisition by him from another member State of goods (including VAT which is also to be counted as input tax by virtue of subsection (1)(b) above).
- <sup>F79</sup>(3) .....
- (4) The Treasury may by order provide with respect to any description of goods or services that, where goods or services of that description are supplied to a person who is not a taxable person, they shall, in such circumstances as may be specified in the order, be treated for the purposes of subsections (1) and (2) above as supplied to such other person as may be determined in accordance with the order.
- (5) Where goods or services supplied to a taxable person, goods acquired by a taxable person from another member State or goods imported by a taxable person from a place outside the member States are used or to be used partly for the purposes of a business carried on or to be carried on by him and partly for other purposes <sup>F80</sup>—
- (a) VAT on supplies, acquisitions and importations shall be apportioned so that so much as is referable to the taxable person's business purposes is counted as that person's input tax, and
  - (b) the remainder of that VAT (“the non-business VAT”) shall count as that person's input tax only to the extent (if any) provided for by regulations under subsection (6)(e).]
- <sup>F81</sup>(5A) For the purposes of subsections (1) and (5), a relevant asset held for the purposes of a business carried on or to be carried on by a taxable person is not, in any circumstances, to be regarded as used or to be used for the purposes of the business if, and to the extent that, it is used or to be used for that person's private use or the private use of that person's staff.
- (5B) In subsection (5A) “relevant asset” means—
- (a) any interest in land,
  - (b) any building or part of a building,
  - (c) any civil engineering work or part of such a work,
  - (d) any goods incorporated or to be incorporated in a building or civil engineering work (whether by being installed as fixtures or fittings or otherwise),
  - (e) any ship, boat or other vessel, or
  - (f) any aircraft.]
- (6) Regulations may provide—
- (a) for VAT on the supply of goods or services to a taxable person, VAT on the acquisition of goods by a taxable person from other member States and VAT paid or payable by a taxable person on the importation of goods from places outside the member States to be treated as his input tax only if and to the extent that the charge to VAT is evidenced and quantified by reference to such documents <sup>F82</sup>or other information] as may be specified in the regulations or the Commissioners may direct either generally or in particular cases or classes of cases;
  - (b) for a taxable person to count as his input tax, in such circumstances, to such extent and subject to such conditions as may be prescribed, VAT on the supply to him of goods or services or on the acquisition of goods by him from another member State or paid by him on the importation of goods from places outside

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the member States notwithstanding that he was not a taxable person at the time of the supply, acquisition or payment;

- (c) for a taxable person that is a body corporate to count as its input tax, in such circumstances, to such extent and subject to such conditions as may be prescribed, VAT on the supply, acquisition or importation of goods before the company's incorporation for appropriation to the company or its business or on the supply of services before that time for its benefit or in connection with its incorporation;
- (d) in the case of a person who has been, but is no longer, a taxable person, for him to be paid by the Commissioners the amount of any VAT on a supply of services made to him for the purposes of the business carried on by him when he was a taxable person.
- <sup>F83</sup>(e) in cases where an apportionment is made under subsection (5), for the non-business VAT to be counted as the taxable person's input tax for the purposes of any provision made by or under section 26 in such circumstances, to such extent and subject to such conditions as may be prescribed.]

<sup>F84</sup>(6A) Regulations under subsection (6) may contain such supplementary, incidental, consequential and transitional provisions as appear to the Commissioners to be necessary or expedient.]

<sup>F85</sup>(7) . . . . .

#### Textual Amendments

- F79** S. 24(3) omitted (with application in accordance with Sch. 8 para. 1(8)(9) of the amending Act) by virtue of [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 8 para. 1(2)(8)**
- F80** Words in s. 24(5) substituted (16.12.2010) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 8 para. 1(3)**
- F81** S. 24(5A)(5B) inserted (with application in accordance with Sch. 8 para. 1(8)(9) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 8 para. 1(4)(8)**
- F82** Words in s. 24(6)(a) inserted (retrospective to 10.4.2003) by [Finance Act 2003 \(c. 14\)](#), **s. 17(2)(8)**
- F83** S. 24(6)(e) inserted (16.12.2010) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 8 para. 1(5)**
- F84** S. 24(6A) inserted (16.12.2010) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 8 para. 1(6)**
- F85** S. 24(7) omitted (with application in accordance with Sch. 8 para. 1(8)(9) of the amending Act) by virtue of [Finance \(No. 3\) Act 2010 \(c. 33\)](#), **Sch. 8 para. 1(7)(8)**

## 25 Payment by reference to accounting periods and credit for input tax against output tax.

- (1) A taxable person shall—
  - (a) in respect of supplies made by him, and
  - (b) in respect of the acquisition by him from other member States of any goods, account for and pay VAT by reference to such periods (in this Act referred to as “prescribed accounting periods”) at such time and in such manner as may be determined by or under regulations and regulations may make different provision for different circumstances.
- (2) Subject to the provisions of this section, he is entitled at the end of each prescribed accounting period to credit for so much of his input tax as is allowable under section 26, and then to deduct that amount from any output tax that is due from him.

*Status: Point in time view as at 28/01/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part 1. (See end of Document for details)*

- (3) If either no output tax is due at the end of the period, or the amount of the credit exceeds that of the output tax then, subject to subsections (4) and (5) below, the amount of the credit or, as the case may be, the amount of the excess shall be paid to the taxable person by the Commissioners; and an amount which is due under this subsection is referred to in this Act as a “VAT credit”.
- (4) The whole or any part of the credit may, subject to and in accordance with regulations, be held over to be credited in and for a subsequent period; and the regulations may allow for it to be so held over either on the taxable person’s own application or in accordance with general or special directions given by the Commissioners from time to time.
- (5) Where at the end of any period a VAT credit is due to a taxable person who has failed to submit returns for any earlier period as required by this Act, the Commissioners may withhold payment of the credit until he has complied with that requirement.
- (6) A deduction under subsection (2) above and payment of a VAT credit shall not be made or paid except on a claim made in such manner and at such time as may be determined by or under regulations; and, in the case of a person who has made no taxable supplies in the period concerned or any previous period, payment of a VAT credit shall be made subject to such conditions (if any) as the Commissioners think fit to impose, including conditions as to repayment in specified circumstances.
- (7) The Treasury may by order provide, in relation to such supplies, acquisitions and importations as the order may specify, that VAT charged on them is to be excluded from any credit under this section; and—
  - (a) any such provision may be framed by reference to the description of goods or services supplied or goods acquired or imported, the person by whom they are supplied, acquired or imported or to whom they are supplied, the purposes for which they are supplied, acquired or imported, or any circumstances whatsoever; and
  - (b) such an order may contain provision for consequential relief from output tax.

**Modifications etc. (not altering text)**

C6 S. 25(6) modified (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\)](#), s. 121(2)(4)

## 26 Input tax allowable under section 25.

- (1) The amount of input tax for which a taxable person is entitled to credit at the end of any period shall be so much of the input tax for the period (that is input tax on supplies, acquisitions and importations in the period) as is allowable by or under regulations as being attributable to supplies within subsection (2) below.
- (2) The supplies within this subsection are the following supplies made or to be made by the taxable person in the course or furtherance of his business—
  - (a) taxable supplies;
  - (b) supplies outside the United Kingdom which would be taxable supplies if made in the United Kingdom;
  - (c) such other supplies outside the United Kingdom and such exempt supplies as the Treasury may by order specify for the purposes of this subsection.

*Status: Point in time view as at 28/01/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part I. (See end of Document for details)*

- (3) The Commissioners shall make regulations for securing a fair and reasonable attribution of input tax to supplies within subsection (2) above, and any such regulations may provide for—
- (a) determining a proportion by reference to which input tax for any prescribed accounting period is to be provisionally attributed to those supplies;
  - (b) adjusting, in accordance with a proportion determined in like manner for any longer period comprising two or more prescribed accounting periods or parts thereof, the provisional attribution for any of those periods;
  - (c) the making of payments in respect of input tax, by the Commissioners to a taxable person (or a person who has been a taxable person) or by a taxable person (or a person who has been a taxable person) to the Commissioners, in cases where events prove inaccurate an estimate on the basis of which an attribution was made; and
  - (d) preventing input tax on a supply which, under or by virtue of any provision of this Act, a person makes to himself from being allowable as attributable to that supply.
- (4) Regulations under subsection (3) above may make different provision for different circumstances and, in particular (but without prejudice to the generality of that subsection) for different descriptions of goods or services; and may contain such incidental<sup>F86</sup>, supplementary, consequential and transitional] provisions as appear to the Commissioners necessary or expedient.

#### Textual Amendments

**F86** Words in s. 26(4) substituted (16.12.2010) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 8 para. 2](#)

#### Modifications etc. (not altering text)

**C7** S. 26 excluded (27.7.1999) by [1999 c. 16, s. 13\(1\)](#)

### <sup>F87</sup> 26A Disallowance of input tax where consideration not paid

- (1) Where—
- (a) a person has become entitled to credit for any input tax, and
  - (b) the consideration for the supply to which that input tax relates, or any part of it, is unpaid at the end of the period of 6 months following the relevant date,
- he shall be taken, as from the end of that period, not to have been entitled to credit for input tax in respect of the VAT that is referable to the unpaid consideration or part.

[ Subsection (1) is subject to section 26AA (disapplication of disallowance under <sup>F88</sup>(1A) section 26A in insolvency).]

- (2) For the purposes of subsection (1) above “the relevant date”, in relation to any sum representing consideration for a supply, is—
- (a) the date of the supply, or
  - (b) if later, the date on which the sum became payable.
- (3) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.



*Status: Point in time view as at 28/01/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part I. (See end of Document for details)*

- (4) Regulations under this section may in particular—
- (a) make provision for restoring the whole or any part of an entitlement to credit for input tax where there is a payment after the end of the period mentioned in subsection (1) above;
  - (b) make rules for ascertaining whether anything paid is to be taken as paid by way of consideration for a particular supply;
  - (c) make rules dealing with particular cases, such as those involving payment of part of the consideration or mutual debts.
- (5) Regulations under this section may make different provision for different circumstances.
- (6) Section 6 shall apply for determining the time when a supply is to be treated as taking place for the purposes of construing this section.]

#### Textual Amendments

**F87** S. 26A inserted (with effect as mentioned in s. 22(3) of the amending Act) by [Finance Act 2002 \(c. 23\), s. 22\(1\)](#); [S.I. 2002/3028, art. 2](#)

**F88** S. 26A(1A) inserted (with effect in accordance with art. 9 of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2017 \(S.I. 2017/495\), arts. 1, 7\(2\)](#)

#### [<sup>F89</sup>26AADisapplication of disallowance under section 26A in insolvency

- (1) Section 26A(1) does not apply to a person in relation to credit for input tax which relates to a supply where—
- (a) at the time of the supply, no insolvency procedure had effect in relation to the person,
  - (b) at any time during the relevant period, an insolvency procedure had effect in relation to that person (“the insolvent person”), and
  - (c) the Commissioners have been notified in writing of the matter mentioned in paragraph (b) by or on behalf of a person authorised to deal with the insolvent person’s affairs.
- (2) But where the insolvency procedure mentioned in subsection (1)(b) is a bankruptcy order, award of sequestration, protected trust deed or voluntary arrangement and that bankruptcy order is annulled, that award of sequestration is recalled or that protected trust deed or voluntary arrangement has come to an end prematurely—
- (a) the disapplication of section 26A(1) by subsection (1) above ceases to have effect, and
  - (b) the person to which the bankruptcy order, award of sequestration, protected trust deed or voluntary arrangement relates is to be taken for the purposes of section 26A(1) as not being entitled to the credit for the input tax concerned as from whichever is the later of—
    - (i) the end of the relevant period, and
    - (ii) the date on which the bankruptcy order was annulled, the award of sequestration recalled or the protected trust deed or voluntary arrangement has come to an end prematurely.
- (3) Where the person mentioned in section 26A(1) is entitled as a member of a partnership to credit for input tax this section has effect as if—

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- (a) the references in subsections (1)(a) and (b) to “the person” and “that person” were references to the partnership,
  - (b) the reference in subsection (1)(c) to “the insolvent person’s affairs” were a reference to the insolvent partnership’s affairs, and
  - (c) the reference in subsection (2)(b) to “the person”, in connection with a bankruptcy order or a voluntary arrangement, were a reference to the person who is a member of the partnership to which the bankruptcy order or voluntary arrangement relates.
- (4) Subsection (1) does not apply where the insolvency procedure referred to in subsection (1)(b) has effect as part of, or as a consequence of, arrangements where the main purpose, or one of the main purposes, of those arrangements is to obtain a tax advantage by the operation of this section.
- (5) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.
- (6) For the purposes of this section “the relevant period”, in relation to a supply, is the period beginning immediately after the supply took place and ending six months after—
- (a) the date of that supply, or
  - (b) if later, the date on which the relevant part of the consideration for the supply is payable.
- (7) For the purposes of subsection (6) the relevant part of the consideration is the part of the consideration referable to the credit for input tax which would (ignoring the effect of this section) be disallowed under section 26A(1).
- (8) For the purposes of this section an insolvency procedure has effect in relation to a person at a time when any of the following apply—
- (a) a bankruptcy order has been made under Chapter 1 of Part 9 of the Insolvency Act 1986 in relation to that person and has not been annulled,
  - (b) a warrant has been granted for a petition for sequestration to be served on that person which has resulted in the sequestration of that person’s estate or an award of sequestration has been made on an application by that person, in both cases under section 22 of the Bankruptcy (Scotland) Act 2016, and in either case the award of sequestration has not been recalled,
  - (c) a bankruptcy order has been made under Chapter 1 of Part 9 of the Insolvency (Northern Ireland) Order 1989 in relation to that person and has not been annulled,
  - (d) where that person is a company registered under the Companies Act 2006 in England and Wales or Scotland or an unregistered company as defined in section 220 of the Insolvency Act 1986 which is deemed to be registered in England and Wales or Scotland under section 221 of that Act, a petition has been presented to the court which has resulted in a winding-up order being made under Chapter 6 of Part 4 or Part 5 of the Insolvency Act 1986 in relation to that person and that person has not been dissolved or that winding-up order has not been stayed or sisted,
  - (e) where that person is a company registered under the Companies Act 2006 in Northern Ireland, or an unregistered company as defined in article 184 of the Insolvency (Northern Ireland) Order 1989 which is deemed to be registered in Northern Ireland under article 185 of that Order, a petition has been presented

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- to the court which has resulted in a winding-up order being made under Part 5 or Part 6 of the Insolvency (Northern Ireland) Order 1989 and that person has not been dissolved or that winding-up order has not been stayed,
- (f) that person is in administration for the purposes of Schedule B1 to the Insolvency Act 1986 or Schedule B1 to the Insolvency (Northern Ireland) Order 1989,
  - (g) an appointment of an administrative receiver is in force in relation to that person disregarding any temporary vacancy in the office of receiver,
  - (h) an appointment of a liquidator is in force as a consequence of a creditors' voluntary winding up under Chapter 4 of Part 4 of the Insolvency Act 1986 or Chapter 4 of Part 5 of the Insolvency (Northern Ireland) Order 1989 in relation to that person disregarding any temporary vacancy in the office of liquidator,
  - (i) a voluntary arrangement has been approved in accordance with Part 1 or Part 8 of the Insolvency Act 1986 or Part 2 or Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989 in relation to that person and that voluntary arrangement has not come to an end prematurely,
  - (j) a county court administration order has been made under Part 6 of the County Courts Act 1984 or Part 6 of the Judgments Enforcement (Northern Ireland) Order 1981 in relation to that person and has not ceased to take effect,
  - (k) a compromise or arrangement sanctioned by the court and delivered to the registrar in accordance with section 899 of the Companies Act 2006 is in place in relation to that person,
  - (l) that person's estate is vested in any other person as that person's trustee under a trust deed and that trust deed has become a protected trust deed,
  - (m) that person has died and an insolvency administration order has been made which has not been discharged in respect of that person's estate in accordance with an order under section 421 of the Insolvency Act 1986 or article 365 of the Insolvency (Northern Ireland) Order 1989 or that person's estate has been sequestrated under section 22 of the Bankruptcy (Scotland) Act 2016 and the award of sequestration has not been recalled,
  - (n) a voluntary arrangement has been approved in accordance with Part 1 of the Insolvency Act 1986 as applied by Part 2 of the Insolvent Partnerships Order 1994 or Part 2 of the Insolvency (Northern Ireland) Order 1989 as applied by Part 2 of the Insolvent Partnerships Order (Northern Ireland) 1995 in relation to that person and that voluntary arrangement has not come to an end prematurely,
  - (o) an appointment of a liquidator is in force as a consequence of a creditors' voluntary winding up under Chapter 4 of Part 4 of the Insolvency Act 1986 as applied by Parts 4 and 5 of the Insolvent Partnerships Order 1994, or Chapter 4 of Part 5 of the Insolvency (Northern Ireland) Order 1989 as applied by Part 4 of the Insolvent Partnerships Order (Northern Ireland) 1995 in relation to that person disregarding any temporary vacancy in the office of liquidator,
  - (p) that person is in administration for the purposes of Schedule B1 to the Insolvency Act 1986 as applied by Part 3 of the Insolvent Partnerships Order 1994 or Schedule B1 to the Insolvency (Northern Ireland) Order 1989 as applied by Part 3 of the Insolvent Partnerships Order (Northern Ireland) 1995,
  - (q) a voluntary arrangement has been approved in accordance with Part 1 of the Insolvency Act 1986 as applied by Part 4 of the Limited Liability Partnerships Regulations 2001 or Part 2 of the Insolvency (Northern Ireland) Order 1989 as applied by Part 4 of the Limited Liability Partnerships Regulations (Northern

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- Ireland) 2004 in relation to that person and that voluntary arrangement has not come to an end prematurely,
- (r) an appointment of a liquidator is in force as a consequence of a creditors' voluntary winding up under Chapter 4 of Part 4 of the Insolvency Act 1986 as applied by Part 4 of the Limited Liability Partnerships Regulations 2001 or Chapter 4 of Part 5 of the Insolvency (Northern Ireland) Order 1989 as applied by Part 4 of the Limited Liability Partnerships Regulations (Northern Ireland) 2004 in relation to that person disregarding any temporary vacancy in the office of liquidator,
- (s) that person is in administration for the purposes of Schedule B1 to the Insolvency Act 1986 as applied by Part 4 of the Limited Liability Partnerships Regulations 2001 or Schedule B1 to the Insolvency (Northern Ireland) Order 1989 as applied by Part 4 of the Limited Liability Partnerships Regulations (Northern Ireland) 2004.
- (9) In this section—
- “administrative receiver” means an administrative receiver within the meaning of section 251 of the Insolvency Act 1986 or article 5(1) of the Insolvency (Northern Ireland) Order 1989;
- “protected trust deed” has the same meaning as in the Bankruptcy (Scotland) Act 2016;
- “tax advantage” has the same meaning as in Schedule 11A; and
- “trust deed” has the same meaning as in the Bankruptcy (Scotland) Act 2016.
- (10) In this section a voluntary arrangement comes to an end prematurely if it would be regarded as having come to an end prematurely under—
- (a) section 7B or section 262C of the Insolvency Act 1986; or
- (b) article 20B or article 236C of the Insolvency (Northern Ireland) Order 1989.
- (11) Section 6 applies for determining the time when a supply is to be treated as taking place for the purposes of construing this section.]

#### Textual Amendments

**F89** S. 26AA inserted (with effect in accordance with art. 9 of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2017 \(S.I. 2017/495\)](#), arts. 1, 7(3)

#### [<sup>F90</sup>26A] Adjustment of output tax in respect of supplies under section 55A

- (1) This section applies if—
- (a) a person is, as a result of section 26A, taken not to have been entitled to any credit for input tax in respect of any supply, and
- (b) the supply is one in respect of which the person is required under section 55A(6) to account for and pay VAT.
- (2) The person is entitled to make an adjustment to the amount of VAT which he is so required to account for and pay.
- (3) The amount of the adjustment is to be equal to the amount of the credit for the input tax to which the person is taken not to be entitled.

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- (4) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.
- (5) Regulations under this section may in particular—
  - (a) make provision for the manner in which, and the period for which, the adjustment is to be given effect,
  - (b) require the adjustment to be evidenced and quantified by reference to such records and other documents as may be specified by or under the regulations,
  - (c) require the person entitled to the adjustment to keep, for such period and in such form and manner as may be so specified, those records and documents,
  - (d) make provision for readjustments if any credit for input tax is restored under section 26A.
- (6) Regulations under this section may make different provision for different circumstances.]

#### **Textual Amendments**

**F90** S. 26AB inserted (1.6.2007) by [Finance Act 2006 \(c. 25\), s. 19\(2\)\(8\)](#); [S.I. 2007/1419, art. 2](#)

#### **[<sup>F91</sup>26B Flat-rate scheme**

- (1) The Commissioners may by regulations make provision under which, where a taxable person so elects, the amount of his liability to VAT in respect of his relevant supplies in any prescribed accounting period shall be the appropriate percentage of his relevant turnover for that period.

A person whose liability to VAT is to any extent determined as mentioned above is referred to in this section as participating in the flat-rate scheme.
- (2) For the purposes of this section—
  - (a) a person’s “relevant supplies” are all supplies made by him except supplies made at such times or of such descriptions as may be specified in the regulations;
  - (b) the “appropriate percentage” is the percentage so specified for the category of business carried on by the person in question;
  - (c) a person’s “relevant turnover” is the total of—
    - (i) the value of those of his relevant supplies that are taxable supplies, together with the VAT chargeable on them, and
    - (ii) the value of those of his relevant supplies that are exempt supplies.
- (3) The regulations may designate certain categories of business as categories in relation to which the references in subsection (1) above to liability to VAT are to be read as references to entitlement to credit for VAT.
- (4) The regulations may provide for persons to be eligible to participate in the flat-rate scheme only in such cases and subject to such conditions and exceptions as may be specified in, or determined by or under, the regulations.
- (5) Subject to such exceptions as the regulations may provide for, a participant in the flat-rate scheme shall not be entitled to credit for input tax.

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This is without prejudice to subsection (3) above.

- (6) The regulations may—
- (a) provide for the appropriate percentage to be determined by reference to the category of business that a person is expected, on reasonable grounds, to carry on in a particular period;
  - (b) provide, in such circumstances as may be prescribed, for different percentages to apply in relation to different parts of the same prescribed accounting period;
  - (c) make provision for determining the category of business to be regarded as carried on by a person carrying on businesses in more than one category.
- (7) The regulations may provide for the following matters to be determined in accordance with notices published by the Commissioners—
- (a) when supplies are to be treated as taking place for the purposes of ascertaining a person's relevant turnover for a particular period;
  - (b) the method of calculating any adjustments that fall to be made in accordance with the regulations in a case where a person begins or ceases to participate in the flat-rate scheme.
- (8) The regulations may make provision enabling the Commissioners—
- (a) to authorise a person to participate in the flat-rate scheme with effect from—
    - (i) a day before the date of his election to participate, or
    - (ii) a day that is not earlier than that date but is before the date of the authorisation;
  - (b) to direct that a person shall cease to be a participant in the scheme with effect from a day before the date of the direction.
- The day mentioned in paragraph (a)(i) above may be a day before the date on which the regulations come into force.
- (9) Regulations under this section—
- (a) may make different provision for different circumstances;
  - (b) may make such incidental, supplemental, consequential or transitional provision as the Commissioners think fit, including provision disapplying or applying with modifications any provision contained in or made under this Act.]

#### Textual Amendments

**F91** S. 26B inserted (retropective to 24.4.2002) by [Finance Act 2002 \(c. 23\)](#), s. 23(1)(4)

## 27 Goods imported for private purposes.

- (1) Where goods are imported by a taxable person from a place outside the member States and—
- (a) at the time of importation they belong wholly or partly to another person; and
  - (b) the purposes for which they are to be used include private purposes either of himself or of the other,

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VAT paid or payable by the taxable person on the importation of the goods shall not be regarded as input tax to be deducted or credited under section 25; but he may make a separate claim to the Commissioners for it to be repaid.

- (2) The Commissioners shall allow the claim if they are satisfied that to disallow it would result, in effect, in a double charge to VAT; and where they allow it they shall do so only to the extent necessary to avoid the double charge.
- (3) In considering a claim under this section, the Commissioners shall have regard to the circumstances of the importation and, so far as appearing to them to be relevant, things done with, or occurring in relation to, the goods at any subsequent time.
- (4) Any amount allowed by the Commissioners on the claim shall be paid by them to the taxable person.
- (5) The reference above to a person's private purposes is to purposes which are not those of any business carried on by him.

## **28 Payments on account of VAT.**

- (1) The Treasury may make an order under this section if they consider it desirable to do so in the interests of the national economy.
- (2) An order under this section may provide that a taxable person of a description specified in the order shall be under a duty—
  - (a) to pay, on account of any VAT he may become liable to pay in respect of a prescribed accounting period, amounts determined in accordance with the order, and
  - (b) to do so at such times as are so determined.

[<sup>F92</sup>(2AA) An order under this section may provide for the matters with respect to which an appeal under section 83 lies to a tribunal to include such decisions of the Commissioners under that or any other order under this section as may be specified in the order.]

[<sup>F93</sup>(2A) The Commissioners may give directions, to persons who are or may become liable by virtue of any order under this section to make payments on account of VAT, about the manner in which they are to make such payments; and where such a direction has been given to any person and has not subsequently been withdrawn, any duty of that person by virtue of such an order to make such a payment shall have effect as if it included a requirement for the payment to be made in the manner directed.]

- (3) Where an order is made under this section, the Commissioners may make regulations containing such supplementary, incidental or consequential provisions as appear to the Commissioners to be necessary or expedient.
- (4) A provision of an order or regulations under this section may be made in such way as the Treasury or, as the case may be, the Commissioners think fit (whether by amending provisions of or made under the enactments relating to VAT or otherwise).
- (5) An order or regulations under this section may make different provision for different circumstances.

### **Textual Amendments**

**F92** S. 28(2AA) inserted (29.4.1996) by 1997 c. 16, s. 43



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*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part I. (See end of Document for details)*

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**F93** S. 28(2A) inserted (29.4.1996) by [1996 c. 8, s. 34](#)

## **29 Invoices provided by recipients of goods or services.**

Where—

(a) a taxable person (“the recipient”) provides a document to himself which purports to be an invoice in respect of a taxable supply of goods or services to him by another taxable person; and

(b) that document understates the VAT chargeable on the supply,

the Commissioners may, by notice served on the recipient and on the supplier, elect that the amount of VAT understated by the document shall be regarded for all purposes as VAT due from the recipient and not from the supplier.

**Status:**

Point in time view as at 28/01/2019.

**Changes to legislation:**

There are currently no known outstanding effects for the Value Added Tax Act 1994, Part I.