

Status: Point in time view as at 01/03/1995.

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994,
Cross Heading: Developers of certain non-residential buildings etc.. (See end of Document for details)

SCHEDULES

SCHEDULE 10

BUILDINGS AND LAND

Developers of certain non-residential buildings etc.

- 5 [F¹(1) Paragraph 6 below shall apply—
- (a) on the first occasion during the period beginning with the day when the construction of a building or work within sub-paragraph (2) below is first planned and ending 10 years after the completion of the building or work on which a person who is a developer in relation to the building or work—
 - (i) grants an interest in, right over or licence to occupy the building or work (or any part of it) which is an exempt supply; or
 - (ii) is in occupation of the building, or uses the work (or any part of it) when not a fully taxable person (or, if a person treated under section 43 as a member of a group when the representative member is not a fully taxable person); or
 - (b) if construction commenced before 1st March 1995 and the period referred to in paragraph (a) above has not then expired, on 1st March 1997;
- whichever is the earlier.]
- (2) Subject to sub-paragraph (3) [F²and (3A)] below, the buildings and works within this sub-paragraph are—
- (a) any building neither designed as a dwelling or number of dwellings nor intended for use solely for a relevant residential purpose or a relevant charitable purpose; and
 - (b) any civil engineering work, other than a work necessary for the development of a permanent park for residential caravans.
- (3) A building or work is not within sub-paragraph (2) above if—
- (a) construction of it was commenced before 1st August 1989 [F³or after 28th February 1995]; or
 - (b) a grant of the fee simple in it which falls within paragraph (a)(ii) or (iv) of item 1 of Group 1 of Schedule 9 has been made before the occasion concerned.
- [F⁴(3A) A building or work which would, apart from this sub-paragraph, fall within sub-paragraph (2) above is not within that sub-paragraph if—
- (a) construction of it was commenced before 1st March 1995 but had not been completed by that date; and
 - (b) the developer—
 - (i) makes no claim after that date to credit for input tax, entitlement to which is dependent upon his being treated in due course as having made a supply by virtue of paragraph 6 below; and

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- (ii) has made no such claim prior to that date; or
 (iii) accounts to the Commissioners for a sum equal to any such credit that has previously been claimed.]
- (4) For the purposes of this paragraph a taxable person is, in relation to any building or work, a fully taxable person throughout a prescribed accounting period if—
- (a) at the end of that period he is entitled to credit for input tax on all supplies to, and [^{F5}acquisitions and] importations by, him in the period (apart from any on which input tax is excluded from credit by virtue of section 25(7)); or
 - (b) the building or work is not used by him at any time during the period in, or in connection with, making any exempt supplies of goods or services.
- (5) Subject to sub-paragraph (6) below, in this paragraph and paragraph 6 below “developer”, in relation to a building or work, means any person who—
- (a) constructs it;
 - (b) order it to be constructed; or
 - (c) finances its construction,
- with a view to granting an interest in, right over or licence to occupy it (or any part of it) or to occupying or using it (or any part of it) for his own purposes.
- (6) Where—
- (a) a body corporate treated under section 43 as a member of a group is a developer in relation to a building or work; and
 - (b) it grants an interest in, right over or licence to occupy the building or work (or any part of it) to another body corporate which is treated under that section as a member of the group,
- then, for the purposes of this paragraph and paragraph 6 below, as from the time of the grant any body corporate such as is mentioned in sub-paragraph (7) below shall be treated as also being a developer in relation to the building or work.
- (7) The bodies corporate referred to in sub-paragraph (6) above are any which under section 43—
- (a) was treated as a member of the same group as the body corporate making the grant at the time of the grant; or
 - (b) has been so treated at any later time when the body corporate by which the grant was made had an interest in, right over or licence to occupy the building or work (or any part of it); or
 - (c) has been treated as a member of the same group as a body corporate within paragraph (a) or (b) above or this paragraph at a time when that body corporate had an interest in, right over or licence to occupy the building or work (or any part of it).
- (8) Subject to sub-paragraph (10) below, [^{F6}sub-paragraphs (1), (2) and (3A) to (7)]above shall apply in relation to any of the following reconstructions, enlargements or extensions—
- (a) a reconstruction, enlargement or extension of an existing building which is commenced on or after 1st January 1992 [^{F7}and before 1st March 1995] and—
 - (i) which is carried out wholly or partly on land (hereafter referred to as new building land) adjoining the curtilage of the existing building,
 - or

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- (ii) as a result of which the gross external floor area of the reconstructed, enlarged or extended building (excluding any floor area on new building land) exceeds the gross external floor area of the existing building by not less than 20 per cent. of the gross external floor area of the existing building;
- (b) a reconstruction of an existing building which is commenced on or after 1st January 1992 [^{F7}and before 1st March 1995] and in the course of which at least 80 per cent. of the area of the floor structures of the existing building are removed;
- (c) a reconstruction, enlargement or extension of a civil engineering work which is commenced on or after 1st January 1992 [^{F7}and before 1st March 1995]and which is carried out wholly or partly on land (hereafter referred to as new land) adjoining the land on or in which the existing work is situated,
- as if references to the building or work were references to the reconstructed, enlarged or extended building or work and as if references to construction were references to reconstruction, enlargement or extension.
- (9) For the purposes of sub-paragraph (8)(a) above, extensions to an existing building shall include the provision of any annex having internal access to the existing building.
- (10) Sub-paragraphs (1) and (2) and [^{F8}sub-paragraphs (3A) to (7)] above shall not apply to a reconstruction, enlargement or extension—
- (a) falling within sub-paragraph (8)(a)(i) or (ii) or (c) above where the developer has held an interest in at least 75 per cent. of all of the land on which the reconstructed, enlarged or extended building or work stands, or is constructed, throughout the period of 10 years ending with the last day of the prescribed accounting period during which the reconstructed, enlarged or extended building or work becomes substantially ready for occupation or use; or
- (b) to the extent that it falls within sub-paragraph (8)(a)(ii) above or falling within sub-paragraph (8)(b) above, where the interest in, right over or licence to occupy the building concerned (or any part of it) has already been treated as supplied to and by the developer under paragraph 6(1) below.

Textual Amendments

- F1** Sch. 10 para. 5(1) substituted (1.3.1995) by S.I. 1995/279, arts. 1, 6(a)
F2 Words in Sch. 10 para. 5(2) inserted (1.3.1995) by S.I. 1995/279, arts. 1, 6(b)
F3 Words in Sch. 10 para. 5(3)(a) inserted (1.3.1995) by S.I. 1995/279, arts. 1, 6(c)
F4 Sch. 10 para. 5(3A) inserted (1.3.1995) by S.I. 1995/279, arts. 1, 6(d)
F5 Sch. 10 para. 5(4)(a) inserted (1.3.1995) by S.I. 1995/279, arts. 1, 6(e)
F6 Words in Sch. 10 para. 5(8) substituted (1.3.1995) by S.I. 1995/279, arts. 1, 6(f)(i)
F7 Words in Sch. 10 para. 5(8) inserted (1.3.1995) by S.I. 1995/279, arts. 1, 6(f)(ii)
F8 Words in Sch. 10 para. 5(10) substituted (1.3.1995) by S.I. 1995/279, arts. 1, 6(g)

- 6 (1) Where this paragraph applies the interest in, right over or licence to occupy the buildings or work (or any part of it) held by the developer shall be treated for the purposes of this Act as supplied to the developer for the purpose of a business carried on by him and supplied by him in the course or furtherance of the business on the last day of the prescribed accounting period during which it applies, or, if later,

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of the prescribed accounting period during which the building or work becomes substantially ready for occupation or use.

- (2) The supply treated as made by sub-paragraph (1) above shall be taken to be a taxable supply and the value of the supply shall be the aggregate of—
- (a) the value of grants relating to the land on which the building or work is constructed made or to be made to the developer, but excluding, in a case where construction of the building or work in question commenced before 1st January 1992, the value of any grants to be made for consideration in the form of rent the amount of which cannot be ascertained by the developer when the supply is treated as made, and in any other case excluding the value of any—
 - (i) grants made before the relevant day to the extent that consideration for such grants was in the form of rent, and to the extent that such rent was properly attributable to a building which has been demolished,
 - (ii) grants made before the relevant day in respect of a building which has been reconstructed, enlarged or extended so that the reconstruction, enlargement or extension falls within paragraph 5(8)(a)(ii) above, and does not fall also within paragraph 5(8)(b) above, to the extent that consideration for such grants was in the form of rent, and to the extent that such rent was properly attributable to the building as it existed before the commencement of the reconstruction, enlargement or extension,
 - (iii) grants made before the relevant day in respect of a building which has been so reconstructed that the reconstruction falls within paragraph 5(8)(b) above, to the extent that consideration for such grants was in the form of rent, and to the extent that such rent was properly attributable to the building before the reconstruction commenced,
 - (iv) grants falling within paragraph (b) of item 1 of Group 1 of Schedule 9, and
 - (b) the value of all the taxable supplies of goods and services, other than any that are zero-rated, made or to be made for or in connection with the construction of the building or work.
- (3) Where the rate of VAT (the lower rate) chargeable on a supply (the construction supply) falling within sub-paragraph (2)(b) above, the value of which is included in the value of a supply (the self-supply) treated as made by sub-paragraph (1) above, is lower than the rate of VAT (the current rate) chargeable on that self-supply, then VAT on the self-supply shall be charged—
- (a) on so much of its value as is comprised of the relevant part of the value of the construction supply, at the lower rate; and
 - (b) on the remainder of its value at the current rate.
- (4) For the purposes of sub-paragraph (3)(a) above, the relevant part of the value of the construction supply means—
- (a) where the construction supply is a supply of goods, the value of such of those goods as have actually been delivered by the supplier;
 - (b) where the construction supply is a supply of services, the value of such of those services as have actually been performed by the supplier,
- on or before the last day upon which the lower rate is in force.

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- (5) Where the value of a supply which, apart from this sub-paragraph, would be treated as made by sub-paragraph (1) above would be less than £100,000, no supply shall be treated as made by that sub-paragraph.
- (6) For the purposes of sub-paragraph (2)(a)(i) above, the relevant day is the day on which the demolition of the building in question commenced and, for the purposes of sub-paragraph (2)(a)(ii) and (iii) above, the relevant day is the day on which the reconstruction, enlargement or extension in question commenced.
- (7) In the application of sub-paragraphs (1) to (6) above to a reconstruction, enlargement or extension to which sub-paragraphs (1) and (2) and [^{F9}sub-paragraphs (3A) to (7)] of paragraph 5 above apply by virtue of paragraph 5(8) above—
- (a) references to the building or work shall be construed as references to the reconstructed enlarged or extended building or work, and references to construction shall be construed as references to reconstruction, enlargement or extension;
 - (b) the reference in paragraph (a) of sub-paragraph (2) to the value of grants relating to the land on which the building or work is constructed shall be construed as a reference—
 - (i) in relation to a reconstruction, enlargement or extension of an existing building to the extent that it falls within paragraph 5(8)(a) (i) above and does not fall also within paragraph 5(8)(b) above, to the value of grants relating to the new building land;
 - (ii) in relation to a reconstruction, enlargement or extension of an existing building, to the extent that it falls within paragraph 5(8)(a) (ii) above and does not fall also within paragraph 5(8)(b) above, to the value of grants relating to the land on which the existing building stands multiplied by the appropriate fraction;
 - (iii) in relation to a reconstruction, enlargement or extension to a work falling within paragraph 5(8)(c) above, to the value of grants relating to the new land.
- (8) For the purposes of sub-paragraph (7)(b)(ii) above the appropriate fraction shall be calculated by dividing the additional gross external floor area resulting from the reconstruction, enlargement or extension (excluding any floor area on new building land) by the gross external floor area of the reconstructed, enlarged or extended building (excluding any floor area on new building land).
- [^{F10}(9) Where this paragraph applies by virtue of paragraph 5(1)(b) above it shall have effect as if—
- (a) in sub-paragraph (1)—
 - (i) the words “(or any part of it)” were omitted; and
 - (ii) for the words “the last day” to “ready for occupation or use” there were substituted “ 1st March 1997 ”]

Textual Amendments

F9 Words in Sch. 10 para. 6(7) substituted (1.3.1995) by S.I. 1995/279, arts. 1, 7(a)

F10 Sch. 10 para. 6(9) added (1.3.1995) by S.I. 1995/279, arts. 1, 7(b)

- 7 (1) Where a developer is a tenant, lessee or licensee and becomes liable to a charge to VAT under paragraph 6(1) above [^{F11}(except where that paragraph applies by virtue of

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paragraph 5(1)(b))] in respect of his tenancy, lease or licence he shall notify forthwith in writing his landlord, lessor or licensor (as the case may be)—

- (a) of the date from which the tenancy, lease or licence becomes a developmental tenancy, developmental lease or developmental licence for the purposes of paragraph (b) of item 1 of Group 1 of Schedule 9;
 - (b) in a case falling within paragraph 5(8)(a)(ii) above, of the appropriate fraction determined in accordance with paragraph 6(8) above.
- (2) Where the appropriate fraction has been notified in accordance with subparagraph (1)(b) above, any supply made pursuant to the tenancy, lease or licence in question shall be treated as made pursuant to a developmental tenancy, developmental lease or developmental licence (a developmental supply) as if, and only to the extent that, the consideration for the developmental supply is for an amount equal to the whole of the consideration for the supply made pursuant to the tenancy, lease or licence, multiplied by the appropriate fraction.

Textual Amendments

F11 Words in [Sch. 10 para. 7](#) inserted (1.3.1995) by [S.I. 1995/279](#), [arts. 1, 8](#)

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