

Status: Point in time view as at 10/07/2003.

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, SCHEDULE 3B. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 3B

Section 3A

SUPPLY OF ELECTRONIC SERVICES IN MEMBER STATES: SPECIAL ACCOUNTING SCHEME

Textual Amendments

- F1** Sch. 3B inserted (with effect in accordance with s. 23(2) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 2 para. 4](#)

PART 1

REGISTRATION

The register

- 1 Persons registered under this Schedule are to be registered in a single register kept by the Commissioners for the purposes of this Schedule.

Persons who may be registered

- 2 (1) A person may be registered under this Schedule if he satisfies the following conditions.
- (2) Condition 1 is that the person makes or intends to make qualifying supplies in the course of a business carried on by him.
- (3) Condition 2 is that the person has neither his business establishment nor a fixed establishment in the United Kingdom or in another member State in relation to any supply of goods or services.
- (4) Condition 3 is that the person is not—
- (a) registered under this Act,
 - (b) identified for the purposes of VAT in accordance with the law of another member State, or
 - (c) registered under an Act of Tynwald for the purposes of any tax imposed by or under an Act of Tynwald which corresponds to VAT.
- (5) Condition 4 is that the person—
- (a) is not required to be registered or identified as mentioned in condition 3, or
 - (b) is required to be so registered or identified, but solely by virtue of the fact that he makes or intends to make qualifying supplies.
- (6) Condition 5 is that the person is not identified under any provision of the law of another member State which implements Article 26c.

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- (7) In this Schedule, “ Article 26c ” means Article 26c of the 1977 VAT Directive (which is inserted by Article 1(3) of the 2002 VAT Directive).
- (8) References in this Schedule to a person’s being registered under this Act do not include a reference to that person’s being registered under this Schedule.

Qualifying supplies

- 3 In this Schedule, “ qualifying supply ” means a supply of electronically supplied services (within the meaning of paragraph 7C of Schedule 5) to a person who—
- (a) belongs in the United Kingdom or another member State, and
 - (b) receives those services otherwise than for the purposes of a business carried on by him.

Registration request

- 4 (1) If a person—
- (a) satisfies the Commissioners that the conditions in paragraph 2 above are satisfied in his case, and
 - (b) makes a request in accordance with this paragraph (a “ registration request ”),
- the Commissioners must register him under this Schedule.
- (2) Sub-paragraph (1) above is subject to paragraph 9 below.
- (3) A registration request must contain the following particulars—
- (a) the name of the person making the request;
 - (b) his postal address;
 - (c) his electronic addresses (including any websites);
 - (d) where he has been allocated a number by the tax authorities in the country in which he belongs, that number;
 - (e) the date on which he began, or intends to begin, making qualifying supplies.
- (4) A registration request must include a statement that the person making the request is not—
- (a) registered under this Act,
 - (b) identified for the purposes of VAT in accordance with the law of another member State, or
 - (c) registered under an Act of Tynwald for the purposes of any tax imposed by or under an Act of Tynwald which corresponds to VAT.
- (5) A registration request must be made by such electronic means, and in such manner, as the Commissioners may direct or may by regulations prescribe.

Date on which registration takes effect

- 5 (1) Where a person is registered under this Schedule, his registration takes effect—
- (a) on the date on which his registration request is made, or
 - (b) on such earlier or later date as may be agreed between him and the Commissioners.
- (2) For the purposes of sub-paragraph (1) above—

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- (a) no registration is to take effect before 1st July 2003, and
- (b) registration requests made before that date are to be treated as if they were made on that date.

Registration number

- 6 On registering a person under this Schedule, the Commissioners must—
- (a) allocate a registration number to him, and
 - (b) notify him electronically of the number.

Obligation to notify changes

- 7 (1) A person who has made a registration request must notify the Commissioners if subsequently—
- (a) there is a change in any of the particulars contained in his request in accordance with paragraph 4(3) above,
 - (b) he ceases to make, or to have the intention of making, qualifying supplies, or
 - (c) he ceases to satisfy the conditions in any of sub-paragraphs (3) to (6) of paragraph 2 above.
- (2) A notification under this paragraph must be given within the period of 30 days beginning with the date of the change of particulars or of the cessation.
- (3) A notification under this paragraph must be given by such electronic means, and in such manner, as the Commissioners may direct or may by regulations prescribe.

Cancellation of registration

- 8 (1) The Commissioners must cancel a person's registration under this Schedule if—
- (a) he notifies them that he has ceased to make, or to have the intention of making, qualifying supplies,
 - (b) they otherwise determine that he has ceased to make, or to have the intention of making, qualifying supplies,
 - (c) he notifies them that he has ceased to satisfy the conditions in any of sub-paragraphs (3) to (6) of paragraph 2 above,
 - (d) they otherwise determine that he has ceased to satisfy any of those conditions, or
 - (e) they determine that he has persistently failed to comply with his obligations under this Schedule.
- (2) In a case falling within sub-paragraph (1)(a) or (c) above, cancellation of a person's registration under this paragraph takes effect—
- (a) on the date on which the notification is received, or
 - (b) on such earlier or later date as may be agreed between him and the Commissioners.
- (3) In a case falling within sub-paragraph (1)(b), (d) or (e) above, cancellation of a person's registration under this paragraph takes effect—
- (a) on the date on which the determination is made, or
 - (b) on such earlier or later date as the Commissioners may in his particular case direct.

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Registration after cancellation for persistent default

- 9 (1) The Commissioners—
- (a) are not required by paragraph 4(1) above to register a person under this Schedule if he is a persistent defaulter, but
 - (b) shall have the power to do so.
- (2) In this paragraph, “ persistent defaulter ” means a person—
- (a) whose previous registration under this Schedule has been cancelled under paragraph 8(1)(e) above (persistent failure to comply with obligations under this Schedule), or
 - (b) who has been excluded from the identification register under any provision of the law of another member State which implements Article 26c(B)(4)(d) of the 1977 VAT Directive (persistent failure to comply with rules concerning the special scheme).

PART 2

OBLIGATIONS FOLLOWING REGISTRATION, ETC

Liability for VAT

- 10 (1) A person is liable to pay VAT under and in accordance with this Schedule if—
- (a) he makes a qualifying supply, and
 - (b) he is registered under this Schedule when he makes the supply.
- (2) The amount of VAT which a person is liable to pay by virtue of this Schedule on any qualifying supply is to be determined in accordance with sub-paragraphs (3) and (4) below.
- (3) If the qualifying supply is treated as made in the United Kingdom, the amount is the amount of VAT that would have been charged on the supply under this Act if the person had been registered under this Act when he made the supply.
- (4) If the qualifying supply is treated as made in another member State, the amount is the amount of VAT that would have been charged on the supply in accordance with the law of that member State if the person had been identified for the purposes of VAT in that member State when he made the supply.
- (5) Where a person is liable to pay VAT by virtue of this Schedule—
- (a) any amount falling to be determined in accordance with sub-paragraph (3) above is to be regarded for the purposes of this Act as VAT charged in accordance with this Act, and
 - (b) any amount falling to be determined in accordance with sub-paragraph (4) above in relation to another member State is to be regarded for those purposes as VAT charged in accordance with the law of that member State.

Obligation to submit special accounting returns

- 11 (1) A person who is, or has been, registered under this Schedule must submit a return (a “ special accounting return ”) to the Controller for each reporting period.

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- (2) Each quarter for the whole or any part of which a person is registered under this Schedule is a “ reporting period ” in the case of that person.
- (3) The special accounting return must state the person’s registration number.
- (4) For each member State in which the person is treated as having made qualifying supplies for the reporting period, the special accounting return must specify—
 - (a) the total value of his qualifying supplies treated as made in that member State in that period, apart from the VAT which he is liable to pay by virtue of this Schedule in respect of those supplies,
 - (b) the rate of VAT applicable to those supplies by virtue of sub-paragraph (3) or (4) (as the case may be) of paragraph 10 above, and
 - (c) the total amount of VAT payable by him by virtue of this Schedule in respect of those supplies in that period.
- (5) The special accounting return must state the total amount of VAT which the person is liable to pay by virtue of this Schedule in respect of all qualifying supplies treated as made by him in all member States in the reporting period.
- (6) If a person is registered under this Schedule for part only of a reporting period, references in this paragraph to his qualifying supplies in that period are references to his qualifying supplies in that part of that period.
- (7) In this Schedule, “ the Controller ” means the Controller, Customs and Excise Value Added Tax Central Unit.

Further obligations with respect to special accounting returns

- 12 (1) A special accounting return must set out in sterling the amounts referred to in paragraph 11 above.
- (2) Any conversion from one currency into another for the purposes of sub-paragraph (1) above shall be made by using the exchange rates published by the European Central Bank—
 - (a) for the last day of the reporting period to which the special accounting return relates, or
 - (b) if no such rate is published for that day, for the next day for which such a rate is published.
- (3) A special accounting return must be submitted to the Controller within the period of 20 days after the last day of the reporting period to which it relates.
- (4) A special accounting return must be submitted by such electronic means, and in such manner, as the Commissioners may direct or may by regulations prescribe.

Payment of VAT

- 13 (1) A person who is required to submit a special accounting return must, at the same time as he submits the return, pay to the Controller in sterling the amount referred to in paragraph 11(5) above in respect of the reporting period to which the return relates.
- (2) A payment under this paragraph must be made in such manner as the Commissioners may direct or may by regulations prescribe.

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Obligations to keep and produce records

- 14 (1) A person must keep records of the transactions which he enters into for the purposes of, or in connection with, qualifying supplies made by him at any time when he is registered under this Schedule.
- (2) The records to be kept must be such as will enable the tax authorities for the member State in which a qualifying supply is treated as made to determine whether any special accounting return which is submitted in respect of that supply is correct.
- (3) Any records required to be kept must be made available—
- (a) to the tax authorities for the member State in which the qualifying supply to which the records relate was treated as made, if they so request, or
 - (b) to the Commissioners, if they so request.
- (4) Records must be made available electronically under sub-paragraph (3) above.
- (5) The records relating to a transaction must be maintained for a period of ten years beginning with the 1st January following the date on which the transaction was entered into.

Commissioners' power to request production of records

- 15 (1) The Commissioners may request a person to make available to them electronically records of the transactions entered into by him for the purposes of, or in connection with, qualifying supplies to which this paragraph applies.
- (2) This paragraph applies to qualifying supplies which—
- (a) are treated as made in the United Kingdom, and
 - (b) are made by the person while he is identified under any provision of the law of another member State which implements Article 26c.

PART 3

UNDERSTATEMENTS AND OVERSTATEMENTS OF UKVAT

Understatement or overstatement of UKVAT in special scheme return

- 16 (1) If the Commissioners consider that a person who is or has been a participant in the special scheme has submitted a special scheme return which understates his liability to UKVAT, they may give him a notice—
- (a) identifying the return in which they consider that the understatement was made,
 - (b) specifying the amount by which they consider that the person's liability to UKVAT has been understated, and
 - (c) requesting him to pay that amount to the Controller within the period of 30 days beginning with the date on which the notice is given.
- (2) If the Commissioners consider that a person who is or has been a participant in the special scheme has submitted a special scheme return which overstates his liability to UKVAT, they may give him a notice—
- (a) identifying the return in which they consider that the overstatement was made, and

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- (b) specifying the amount by which they consider that the person's liability to UKVAT has been overstated.
- (3) Where the Commissioners give a person a notice under sub-paragraph (2) above, they are liable to pay him the amount specified in the notice.
- (4) No notice under this paragraph may be given more than 3 years after the end of the period for which the special scheme return in question was made.
- (5) In this Schedule, “ participant in the special scheme ” means a person who—
 - (a) is registered under this Schedule, or
 - (b) is identified under any provision of the law of another member State which implements Article 26c.
- (6) In this paragraph—
 - “ special scheme return ” means—
 - (a) a special accounting return; or
 - (b) a value added tax return submitted to the tax authorities of another member State;
 - “ UKVAT ” means VAT which a person is liable to pay (whether in the United Kingdom or another member State) in respect of qualifying supplies treated as made in the United Kingdom at a time when he is or was a participant in the special scheme;
 - “ value added tax return ”, in relation to another member State, means any value added tax return required to be submitted under any provision of the law of that member State which implements Article 26c(B)(5) of the 1977 VAT Directive.

PART 4

APPLICATION OF PROVISIONS RELATING TO VAT

Registration under this Act

- 17 Notwithstanding any provision in this Act to the contrary, a participant in the special scheme is not required to be registered under this Act by virtue of making qualifying supplies.

De-registration

- 18 Where a person who is registered under Schedule 1 satisfies the Commissioners that he intends to apply for—
 - (a) registration under this Schedule, or
 - (b) identification under any provision of the law of another member State which implements Article 26c,they may, if he so requests, cancel his registration under Schedule 1 with effect from the day on which the request is made or from such later date as may be agreed between him and the Commissioners.

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VAT representatives

- 19 Section 48(1) (VAT representatives) does not permit the Commissioners to direct a participant in the special scheme to appoint a VAT representative.

Appeals

- 20 (1) An appeal shall lie to a tribunal with respect to any of the following—
- (a) the registration or cancellation of the registration of any person under this Schedule;
 - (b) a decision of the Commissioners to give a notice under sub-paragraph (1) of paragraph 16 above;
 - (c) the amount specified in any such notice or in a notice under sub-paragraph (2) of that paragraph.
- (2) Part 5 (appeals), and any orders or regulations under that Part, have effect in relation to an appeal under this paragraph as if it were an appeal under section 83 (but not under any particular paragraph of that section).

Payments on account of non-UK VAT to other member States

- 21 (1) Neither—
- (a) paragraph 1(2) of Schedule 11, nor
 - (b) section 10 of the Exchequer and Audit Departments Act 1866,
- applies to money or securities for money collected or received for or on account of VAT if required to be paid to another member State by virtue of the VAT Co-operation Regulation.
- (2) In sub-paragraph (1) above, “ the VAT Co-operation Regulation ” means the Council Regulation of 27 January 1992 on administrative co-operation in the field of indirect taxation (VAT) (218/92/ EEC), as amended by the Council Regulation of 7 May 2002 (792/2002/ EC) (which temporarily amends the VAT Co-operation Regulation as regards additional measures regarding electronic commerce).

Refund of UKVAT

- 22 (1) The provisions which give effect to the 1986 VAT Refund Directive in the United Kingdom have effect in relation to a participant in the special scheme, but with the following modifications.
- (2) The provision which gives effect to Article 2(1) of the 1986 VAT Refund Directive (as at 9th April 2003, see regulation 186 of the Value Added Tax Regulations 1995) shall apply in relation to a participant in the special scheme, but only so as to entitle him to a refund of VAT charged on—
- (a) goods imported by him into the United Kingdom, and
 - (b) supplies made to him in the United Kingdom,
- in connection with the making by him of qualifying supplies while he is a participant in the special scheme.
- (3) The following provisions shall be omitted.
- (4) The first provision is that which gives effect to Article 1(1) of the 1986 VAT Refund Directive, so far as it requires a member State to prevent a person who is deemed

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to have supplied services in that member State during a period from being granted a refund of VAT for that period (as at 9th April 2003, see regulation 188(2)(b) of the Value Added Tax Regulations 1995).

- (5) The second provision is that which gives effect to Article 2(2) of the 1986 VAT Refund Directive (which permits member States to make refunds conditional upon the granting by third States of comparable advantages regarding turnover taxes: as at 9th April 2003, see regulation 188(1) of the Value Added Tax Regulations 1995).
- (6) The third provision is that which gives effect to Article 2(3) of the 1986 VAT Refund Directive (which permits member States to require the appointment of a tax representative: as at 9th April 2003, see regulation 187 of the Value Added Tax Regulations 1995).
- (7) The fourth provision is that which gives effect to Article 4(2) of the 1986 VAT Refund Directive (which permits member States to provide for the exclusion of certain expenditure and to make refunds subject to additional conditions).
- (8) In this paragraph “ the 1986 VAT Refund Directive ” means the Thirteenth Council Directive of 17th November 1986 on the harmonisation of the laws of the member States relating to turnover taxes – arrangements for the refund of value added tax to taxable persons not established in Community territory ([86/560/ EEC](#)).

PART 5

SUPPLEMENTARY

Interpretation

23 (1) In this Schedule—

“ the 1977 VAT Directive ” means the Sixth Council Directive of 17 May 1977 on the harmonisation of the laws of the member States relating to turnover taxes – common system of value added tax: uniform basis of assessment ([77/388/ EEC](#));

“ the 2002 VAT Directive ” means the Council Directive of 7 May 2002 amending and amending temporarily the 1977 VAT Directive as regards the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services ([2002/38/ EC](#));

“ Article 26c ” has the meaning given by paragraph 2(7) above;

“ the Controller ” has the meaning given by paragraph 11(7) above;

“ participant in the special scheme ” has the meaning given by paragraph 16(5) above;

“ qualifying supply ” has the meaning given by paragraph 3 above;

“ registration number ” means the number allocated to a person on his registration under this Schedule in accordance with paragraph 6(a) above;

“ registration request ” is to be construed in accordance with paragraph 4(1)(b) above;

“ reporting period ” is to be construed in accordance with paragraph 11(2) above;

“ special accounting return ” is to be construed in accordance with paragraph 11(1) above.

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- (2) References in this Schedule to a qualifying supply being “ treated as made ” in a member State are references to its being treated as made—
- (a) in the United Kingdom, by virtue of any provision which gives effect in the United Kingdom to Article 9(2)(f) of the 1977 VAT Directive (which is inserted by Article 1(1)(b) of the 2002 VAT Directive), or
 - (b) in another member State, by virtue of any provision of the law of that member State which gives effect to that Article.
- (3) The provision which, as at 9th April 2003, is to give effect in the United Kingdom to Article 9(2)(f) of the 1977 VAT Directive (as mentioned in sub-paragraph (2)(a) above) is article 16A of the Value Added Tax (Place of Supply of Services) Order 1992 (which is prospectively inserted by article 3 of the Value Added Tax (Place of Supply of Services) (Amendment) Order 2003).]

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