

Status: Point in time view as at 17/07/2014.

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

[^{F2}ELECTRONIC, TELECOMMUNICATION AND BROADCASTING SERVICES: NON-UNION 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](#)
- F2** Sch. 3B title substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 5](#)

PART 1

[^{F3}NON-UNION SCHEME: REGISTRATION]

Textual Amendments

- F3** Sch. 3B Pt. 1 title substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 6\(8\)](#)

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.

Status: Point in time view as at 17/07/2014.

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)

- (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 [^{F4}Section 2 of Chapter 6 of Title XII of the VAT Directive].
- [^{F5}(7) In this Schedule “the VAT Directive” means Directive 2006/112/EC (Title XII of which is amended by Council Directive 2008/8/EC).]
- (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.

Textual Amendments

- F4** Words in Sch. 3B para. 2(6) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 6\(2\)\(a\)](#)
- F5** Sch. 3B para. 2(7) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 6\(2\)\(b\)](#)

Qualifying supplies

- [^{F6}(1) In this Schedule “qualifying supply” means a supply of electronically supplied services, telecommunication services or broadcasting services to a person who—
- (a) belongs in the United Kingdom or another member State, and
 - (b) is not a relevant business person.
- (2) In sub-paragraph (1)—
- “broadcasting services” means radio and television broadcasting services;
- “electronically supplied services” has the same meaning as in Schedule 4A (see paragraph 9(3) and (4) of that Schedule);
- “telecommunication services” has the same meaning as in Schedule 4A (see paragraph 8(2) of that Schedule).]

Textual Amendments

- F6** Sch. 3B para. 3 substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 4](#)

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.

Status: Point in time view as at 17/07/2014.

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)

- (2) Sub-paragraph (1) above is subject to [^{F7}Article 58b of Implementing Regulation (EU) No 282/2011].
- (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.
- [^{F8}(5) A registration request—
- (a) must contain any further information, and any declaration about its contents, that the Commissioners may by regulations require;
 - (b) must be made by such electronic means, and in such manner, as the Commissioners may direct or may by regulations require.]

Textual Amendments

- F7** Words in Sch. 3B para. 4(2) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 6\(3\)\(a\)](#)
- F8** Sch. 3B para. 4(5) substituted (with effect in accordance with Sch. 22 para. 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 6\(3\)\(b\)](#)

^{F9} ...

Textual Amendments

- F9** Sch. 3B para. 5 and cross-heading omitted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 6\(4\)](#)

^{F9}5

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.

Status: Point in time view as at 17/07/2014.

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)

Obligation to notify changes

- 7 ^{F10}(1)
- ^{F10}(2)
- (3) A notification under [^{F11} Article 57h of Implementing Regulation (EU) No 282/2011] must be given by such electronic means, and in such manner, as the Commissioners may direct or may by regulations prescribe.

Textual Amendments

- F10** Sch. 3B para. 7(1)(2) omitted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), **Sch. 22 para. 6(5)(a)**
- F11** Words in Sch. 3B para. 7(3) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 22 para. 6(5)(b)**

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 subparagraphs (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 [^{F12}or Implementing Regulation (EU) No 282/2011].

^{F13}(2)

^{F13}(3)

Textual Amendments

- F12** Words in Sch. 3B para. 8(1)(e) inserted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 22 para. 6(6)(a)**
- F13** Sch. 3B para. 8(2)(3) omitted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), **Sch. 22 para. 6(6)(b)**

F14 ...

Textual Amendments

- F14** Sch. 3B para. 9 and cross-heading omitted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 22 para. 6(7)**

^{F15}9

Status: Point in time view as at 17/07/2014.

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)

Textual Amendments

- F15** Sch. 3B para. 9 omitted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 6\(7\)](#)

PART 2

[^{F16}NON-UNION SCHEME: LIABILITY, RETURNS, PAYMENT ETC]

Textual Amendments

- F16** Sch. 3B Pt. 2 title substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 7\(8\)](#)

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 [^{F17}(and the VAT is to be paid without any deduction of VAT pursuant to Article 168 of Directive [2006/112/EC](#))].
- (3) If the qualifying supply is treated as made in the United Kingdom, the amount is the amount of VAT^{F18} ... charged on the supply under this Act [^{F19}(see paragraph 17(2))] .
- (4) If the qualifying supply is treated as made in another member State, the amount is the amount of VAT^{F20} ... charged on the supply in accordance with the law of that member State^{F20}
- (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,^{F21} ...
 - ^{F21}(b)

Textual Amendments

- F17** Words in Sch. 3B para. 10(2) inserted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 7\(2\)\(a\)](#)
- F18** Words in Sch. 3B para. 10(3) omitted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 7\(2\)\(b\)](#)
- F19** Words in Sch. 3B para. 10(3) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 7\(2\)\(b\)](#)
- F20** Words in Sch. 3B para. 10(4) omitted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 7\(2\)\(c\)](#)

Status: Point in time view as at 17/07/2014.

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)

F21 Sch. 3B para. 10(5)(b) and word omitted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 7\(2\)\(d\)](#)

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 [^{F22}Commissioners] for each reporting period.

(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.

^{F23}(3)

^{F23}(4)

^{F23}(5)

^{F23}(6)

^{F23}(7)

Textual Amendments

F22 Word in Sch. 3B para. 11(1) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 7\(3\)\(a\)](#)

F23 Sch. 3B para. 11(3)-(7) omitted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 7\(3\)\(b\)](#)

Further obligations with respect to special accounting returns

12 (1) A special accounting return [^{F24}is to be made out in sterling].

(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 [^{F25}Commissioners] 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.

Textual Amendments

F24 Words in Sch. 3B para. 12(1) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 7\(4\)\(a\)](#)

F25 Word in Sch. 3B para. 12(3) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 7\(4\)\(b\)](#)

Status: Point in time view as at 17/07/2014.

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)

Payment of VAT

- 13 (1) A person who is required to submit a special accounting return must, [^{F26}by the deadline for submitting the return, pay to the Commissioners the amount of VAT that the person is liable, in accordance with paragraph 10, to pay on qualifying supplies treated as made by the person in] 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.

Textual Amendments

F26 Words in Sch. 3B para. 13(1) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 7\(5\)](#)

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—
- 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
 - 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—
- are treated as made in the United Kingdom, and
 - are made by the person while he is identified under any provision of the law of another member State which implements [^{F27}Section 2 of Chapter 6 of Title XII of the VAT Directive].

Textual Amendments

F27 Words in Sch. 3B para. 15(2)(b) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 7\(6\)](#)

Status: Point in time view as at 17/07/2014.

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)

[^{F28} 15A Section 44 of the Commissioners for Revenue and Customs Act 2005 (requirement to pay receipts into the Consolidated Fund) does not apply to any money received for or on account of VAT that is required to be paid to another member State under Article 46 of Council Regulation (EU) No 904/2010.]

Textual Amendments

F28 Sch. 3B para. 15A inserted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 22 para. 7(7)**

[^{F29} **PART 3**

SPECIAL SCHEMES: COLLECTION ETC OF UKVAT

Textual Amendments

F29 Sch. 3B Pt. 3 substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 22 para. 8**

Assessments: general modifications of section 73

- 16 (1) For the purposes of this Schedule, section 73 (assessments: incorrect returns etc) is to be read as if—
- (a) the reference in subsection (1) of that section to returns required under this Act included relevant special scheme returns, and
 - (b) references in that section to a prescribed accounting period included a tax period.
- (2) See also the modifications in paragraph 16A.
- (3) In this Schedule “relevant special scheme return” means a special scheme return that is required to be made (wholly or partly) in respect of supplies of scheme services that are treated as made in the United Kingdom.

Assessment in connection with increase in consideration

- 16A (1) Sub-paragraphs (2) to (4) make modifications of sections 73 and 76 which—
- (a) have effect for the purposes of this Schedule, and
 - (b) are in addition to any other modifications of those sections made by this Schedule.
- (2) Section 73 has effect as if the following were inserted after subsection (3) of that section—
- “(3A) Where a person has failed to make an amendment or notification that the person is required to make under paragraph 16K of Schedule 3B in respect of an increase in the consideration for a UK supply (as defined in paragraph 16K(7)), the Commissioners may assess the amount of VAT due from the person as a result of the increase to the best of their judgement and notify it to the person.

Status: Point in time view as at 17/07/2014.

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)

(3B) An assessment under subsection (3A)—

- (a) is of VAT due for the tax period mentioned in paragraph 16K(1)(a) of Schedule 3B;
- (b) must be made within the time limits provided for in section 77, and must not be made after the later of—
 - (i) 2 years after the end of the tax period referred to in paragraph 16K(1)(a);
 - (ii) one year after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.

(3C) Subject to section 77, where further evidence such as is mentioned in subsection (3B)(b)(ii) comes to the Commissioners' knowledge after they have made an assessment under subsection (3A), another assessment may be made under that subsection, in addition to any earlier assessment.”

- (3) The reference in section 73(9) to subsection (1) of that section is taken to include a reference to section 73(3A) (as inserted by sub-paragraph (2)).
- (4) Section 76 (assessment of amounts due by way of interest etc) is to be read as if the reference in subsection (5) of that section to section 73(1) included a reference to section 73(3A) (as inserted by sub-paragraph (2)).

Assessments: consequential modifications

- 16B References to prescribed accounting periods in the following provisions are to be read in accordance with the modifications made by paragraphs 16 and 16A—
- (a) section 74 (interest on VAT recovered or recoverable by assessment);
 - (b) section 76 (assessment of amounts due by way of penalty, interest or surcharge);
 - (c) section 77 (assessment: time limits).

Deemed amendments of relevant special scheme returns

- 16C (1) Where a person who has made a relevant special scheme return makes a claim under paragraph 16I(7)(b) (overpayments) in relation to an error in the return, the relevant special scheme return is taken for the purposes of this Act to have been amended by the information in the claim.
- (2) Where a person who has made a relevant special scheme return gives the Commissioners a notice relating to the return under paragraph 16K(2)(b) (increase or decrease in consideration), the relevant special scheme return is taken for the purposes of this Act to have been amended by that information.
- (3) Where (in a case not falling within sub-paragraph (1) or (2)) a person who has made a relevant special scheme return notifies the Commissioners (after the expiry of the period during which the non-UK return may be amended under Article 61 of the Implementing Regulation) of a change that needs to be made to the return to correct an error, or rectify an omission, in it, the relevant special scheme return is taken for the purposes of this Act to have been amended by that information.
- (4) The Commissioners may by regulations—

Status: Point in time view as at 17/07/2014.

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)

- (a) specify within what period and in what form and manner notice may be given under sub-paragraph (3);
- (b) require notices to be supported by documentary evidence described in the regulations.

Interest on VAT: “reckonable date”

- 16D (1) Sub-paragraph (2) states the “reckonable date” for the purposes of section 74(1) and (2) for any case where an amount carrying interest under that section—
- (a) is an amount assessed under section 73(2) (refunds etc) in reliance on paragraph 16, or that could have been so assessed, and
 - (b) was correctly paid or credited to the person, but would not have been paid or credited to the person had the facts been as they later turn out to be.
- (2) The “reckonable date” is the first day after the end of the tax period in which the events occurred as a result of which the Commissioners were authorised to make the assessment (that was or could have been made) under section 73(2).
- (3) Sub-paragraph (4) states the “reckonable date”, for any other case where an amount carrying interest under section 74 is assessed under section 74(1) or (2) in reliance on paragraph 16, or could have been so assessed.
- (4) The “reckonable date” is taken to be the latest date by which a non-UK return was required to be made for the tax period to which the amount assessed relates.
- (5) Where section 74(1) or (2) (interest on VAT recovered or recoverable by assessment) applies in relation to an amount assessed under section 73(3A) (as inserted by paragraph 16A(2)), the “reckonable date” for the purposes of section 74(1) or (2) is taken to be the day after the end of the tax period referred to in paragraph 16K(2).

Default surcharge: notice of special surcharge period

- 16E (1) A person who is required to make a relevant special scheme return for a tax period is regarded for the purposes of this paragraph and paragraph 16F as being in default in respect of that period if either—
- (a) conditions 1A and 2A are met, or
 - (b) conditions 1B and 2B are met;
- (but see also paragraph 16G).
- (2) For the purposes of sub-paragraph (1)(a)—
- (a) condition 1A is that the tax authorities for the administering member State have not received the return by the deadline for submitting it;
 - (b) condition 2A is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the obligation to submit the return.
- (3) For the purposes of sub-paragraph (1)(b)—
- (a) condition 1B is that, by the deadline for submitting the return, the tax authorities for the administering member State have received the return but have not received the amount of VAT shown on the return as payable by the person in respect of the tax period;
 - (b) condition 2B is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the VAT outstanding.

Status: Point in time view as at 17/07/2014.

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)

- (4) The Commissioners may serve on a person who is in default in respect of a tax period a notice (a “special surcharge liability notice”) specifying a period—
 - (a) ending on the first anniversary of the last day of that tax period, and
 - (b) beginning on the date of the notice.
- (5) A period specified under sub-paragraph (4) is a “special surcharge period”.
- (6) If a special surcharge liability notice is served in respect of a tax period which ends at or before the end of an existing special surcharge period, the special surcharge period specified in that notice must be expressed as a continuation of the existing special surcharge period (so that the existing period and its extension are regarded as a single special surcharge period).

Further default after service of notice

- 16F (1) If a person on whom a special surcharge liability notice has been served—
 - (a) is in default in respect of a tax period ending within the special surcharge period specified in (or extended by) that notice, and
 - (b) has outstanding special scheme VAT for that tax period,the person is to be liable to a surcharge of the amount given by sub-paragraph (2).
- (2) The surcharge is equal to whichever is the greater of—
 - (a) £30, and
 - (b) the specified percentage of the person's outstanding special scheme VAT for the tax period.
 - (3) The specified percentage depends on whether the tax period is the first, second or third etc in the default period in respect of which the person is in default and has outstanding special scheme VAT, and is—
 - (a) for the first such tax period, 2%;
 - (b) for the second such tax period, 5%;
 - (c) for the third such tax period, 10%;
 - (d) for each such tax period after the third, 15%.
 - (4) “Special scheme VAT”, in relation to a person, means VAT that the person is liable to pay to the tax authorities for the administering member State under a special scheme in respect of supplies of scheme services treated as made in the United Kingdom.
 - (5) A person has “outstanding special scheme VAT” for a tax period if some or all of the special scheme VAT for which the person is liable in respect of that period has not been paid by the deadline for the person to submit a special scheme return for that period (and the amount unpaid is referred to in sub-paragraph (2)(b) as “the person's outstanding special scheme VAT” for the tax period).

Default surcharge: exceptions for reasonable excuse etc

- 16G (1) A person who would otherwise have been liable to a surcharge under paragraph 16F(1) is not to be liable to the surcharge if the person satisfies the Commissioners or, on appeal, the tribunal that, in the case of a default which is material to the surcharge—
 - (a) the special scheme return or, as the case may be, the VAT shown on that return, was despatched at such a time and in such manner that it was

Status: Point in time view as at 17/07/2014.

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)

- reasonable to expect that it would be received by the tax authorities for the administering member State within the appropriate time limit, or
- (b) there is a reasonable excuse for the return or the VAT not having been so despatched.
- (2) Where sub-paragraph (1) applies to a person—
- (a) the person is treated as not having been in default in respect of the tax period in question, and
- (b) accordingly, any special surcharge liability notice the service of which depended on that default is regarded as not having been served.
- (3) A default is “material” to a surcharge if—
- (a) it is the default which gives rise to the surcharge, under paragraph 16F(1), or
- (b) it is a default which was taken into account in the service of the special surcharge liability notice on which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a tax period ending within the special surcharge period specified in or extended by that notice.
- (4) A default is left out of account for the purposes of paragraphs 16E(4) and 16F(1) if—
- (a) the conduct by virtue of which the person is in default is also conduct falling within section 69(1) (breaches of regulatory provisions), and
- (b) by reason of that conduct the person concerned is assessed to a penalty under that section.
- (5) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a tax period specified in the direction is to be left out of account for the purposes of paragraphs 16E(4) and 16F(1).
- (6) Section 71(1) (meaning of “reasonable excuse”) applies for the purposes of this paragraph as it applies for the purposes of sections 59 to 70.

Interest in certain cases of official error

- 16H (1) Section 78 (interest in certain cases of official error) applies as follows in relation to a case where, due to an error on the part of the Commissioners—
- (a) a person has accounted, under a special scheme, for an amount by way of UKVAT that was not UKVAT due from the person, and as a result the Commissioners are liable under paragraph 16I to pay (or repay) an amount to the person, or
- (b) (in a case not falling within paragraph (a)), a person has paid, in accordance with an obligation under a special scheme, an amount by way of UKVAT that was not UKVAT due from the person and which the Commissioners are in consequence liable to repay to the person.
- (2) Section 78 has effect as if the condition in section 78(1)(a) were met in relation to that person.
- (3) In the application of section 78 as a result of this paragraph, section 78(12)(b) is read as providing that any reference in that section to a return is to a return required to be made under a special scheme.

Status: Point in time view as at 17/07/2014.

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)

- (4) In section 78 in its application as a result of this section, “output tax” has the meaning that that expression would have if the reference in section 24(2) to a “taxable person” were to a “person”.

Overpayments

- 16I (1) A person may make a claim if the person—
- (a) has made a special scheme return for a tax period relating wholly or partly to supplies of scheme services treated as made in the United Kingdom,
 - (b) has accounted to the tax authorities for the administering member State (whether that is the United Kingdom or another member State) for VAT in respect of those supplies, and
 - (c) in doing so has brought into account as UKVAT due to those authorities an amount (“the overpaid amount”) that was not UKVAT due to them.
- (2) A person may make a claim if the person has, as a participant in a special scheme, paid (to the tax authorities for the administering member State or to the Commissioners) an amount by way of UKVAT that was not UKVAT due (“the overpaid amount”), otherwise than in the circumstances mentioned in sub-paragraph (1)(c).
- (3) A person who is or has been a participant in a special scheme may make a claim if the Commissioners—
- (a) have assessed the person to VAT for a tax period, and
 - (b) in doing so, have brought into account as VAT an amount (“the amount not due”) that was not VAT due.
- (4) Where a person makes a claim under sub-paragraph (1) or (2), the Commissioners must repay the overpaid amount to the person.
- (5) Where a person makes a claim under sub-paragraph (3), the Commissioners must credit the person with the amount not due.
- (6) Where—
- (a) as a result of a claim under sub-paragraph (3) an amount is to be credited to a person, and
 - (b) after setting any sums against that amount under or by virtue of this Act, some or all of the amount remains to the person's credit,
- the Commissioners must pay (or repay) to the person so much of the amount as remains to the person's credit.
- (7) The reference in sub-paragraph (1) to a claim is to a claim made—
- (a) by correcting, in accordance with Article 61 of the Implementing Regulation, the error in the non-UK return mentioned in sub-paragraph (1)(a), or
 - (b) (after the expiry of the period during which the non-UK return may be amended under Article 61) to the Commissioners.
- (8) Sub-paragraphs (1) and (2) do not require any amount to be repaid except so far as that is required by Article 63 of the Implementing Regulation.

Overpayments: supplementary

- 16J (1) In section 80—
- (a) subsections (3) to (3C) (unjust enrichment), and

Status: Point in time view as at 17/07/2014.

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)

- (b) subsections (4A), (4C) and (6) (recovery by assessment of amounts wrongly credited),
- have effect as if a claim under paragraph 16I(1) were a claim under section 80(1), a claim under paragraph 16I(2) were a claim under section 80(1B) and a claim under paragraph 16I(3) were a claim under section 80(1A).
- (2) In section 80(3) to (3C), (4A), (4C) and (6), as applied by sub-paragraph (1)—
- (a) references to the crediting of amounts are to be read as including the payment of amounts;
- (b) references to a prescribed accounting period include a tax period.
- (3) The Commissioners are not liable to repay the overpaid amount on a claim made—
- (a) under paragraph 16I(2), or
- (b) as mentioned in paragraph 16I(7)(b),
- if the claim is made more than 4 years after the relevant date.
- (4) On a claim made under paragraph 16I(3), the Commissioners are not liable to credit the amount not due if the claim is made more than 4 years after the relevant date.
- (5) The “relevant date” is—
- (a) in the case of a claim under paragraph 16I(1), the end of the tax period mentioned in paragraph 16I(1)(a), except in the case of a claim resulting from an incorrect disclosure;
- (b) in the case of a claim under paragraph 16I(1) resulting from an incorrect disclosure, the end of the tax period in which the disclosure was made;
- (c) in the case of a claim under paragraph 16I(2), the date on which the payment was made;
- (d) in the case of a claim under paragraph 16I(3), the end of the quarter in which the assessment was made.
- (6) A person makes an “incorrect disclosure” where—
- (a) the person discloses to the tax authorities in question (whether the Commissioners or the tax authorities for the administering member State) that the person has not brought into account for a tax period an amount of UKVAT due for the period (“the disclosed amount”),
- (b) the disclosure is made in a later tax period, and
- (c) some or all of the disclosed amount is not in fact VAT due.

Increase or decrease in consideration for a supply

- 16K (1) This paragraph applies where—
- (a) a person makes a special scheme return for a tax period (“the affected tax period”) relating (wholly or partly) to a UK supply, and
- (b) after the return has been made the amount of the consideration for the UK supply increases or decreases.
- (2) The person must, in the tax period in which the increase or decrease is accounted for in the person's business accounts—
- (a) amend the special scheme return to take account of the increase or decrease, or
- (b) (if the period during which the person is entitled under Article 61 of the Implementing Regulation to amend the special scheme return has expired)

Status: Point in time view as at 17/07/2014.

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)

notify the Commissioners of the adjustment needed to the figures in the special scheme return because of the increase or decrease.

- (3) Where the change to which an amendment or notice under sub-paragraph (2) relates is an increase in the consideration for a UK supply, the person must pay to the tax authorities for the administering member State (in accordance with Article 62 of the Implementing Regulation) or, in a case falling within sub-paragraph (2)(b), the Commissioners, the difference between—
 - (a) the amount of VAT that was chargeable on the supply before the increase in consideration, and
 - (b) the amount of VAT that is chargeable in respect of the whole of the increased consideration for the supply.
- (4) Where the change to which an amendment or notice under sub-paragraph (2) relates is a decrease in the consideration for a UK supply, the amendment or notice has effect as a claim; and where a claim is made the Commissioners must repay any VAT paid by the person that would not have been VAT due from the person had the consideration for the supply always been the decreased amount.
- (5) The Commissioners may by regulations specify—
 - (a) the latest time by which, and the form and manner in which, a claim or other notice under sub-paragraph (2)(b) must be given;
 - (b) the latest time by which, and the form in which, a payment under sub-paragraph (3) must be made in a case within sub-paragraph (2)(b).
- (6) A payment made under sub-paragraph (3) in a case within sub-paragraph (2)(a) must be made before the end of the tax period referred to in sub-paragraph (2).
- (7) In this paragraph “UK supply” means a supply of scheme services that is treated as made in the United Kingdom.

Bad debts

- 16L Where a participant in a special scheme—
- (a) has submitted a special scheme return to the tax authorities for the administering member State, and
 - (b) amends the return to take account of the writing-off as a bad debt of the whole or part of the consideration for a supply of scheme services that is treated as made in the United Kingdom,
- the amending of the return may be treated as the making of a claim to the Commissioners for the purposes of section 36(2) (bad debts: claim for refund of VAT).

Penalties for errors: disclosure

- 16M Where a person corrects a special scheme return in a way that constitutes telling the tax authorities for the administering member State about—
- (a) an inaccuracy in the return,
 - (b) a supply of false information, or
 - (c) a withholding of information,
- the person is regarded as telling HMRC about that for the purposes of paragraph 9 of Schedule 24 to the Finance Act 2007.

Status: Point in time view as at 17/07/2014.

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)

Set-offs

- 16N Where a participant in a special scheme is liable to pay UKVAT to the tax authorities for the administering member State in accordance with the scheme, the UKVAT is regarded for the purposes of section 130(6) of the Finance Act 2008 (set-off: England, Wales and Northern Ireland) as payable to the Commissioners.]

PART 4

[^{F30}OTHER PROVISIONS ABOUT SPECIAL SCHEMES]

Textual Amendments

- F30** Sch. 3B Pt. 4 title substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 9\(8\)](#)

Registration under this Act

- 17 [Notwithstanding any provision in this Act to the contrary, a participant in the special ^{F31}(1)] scheme is not required to be registered under this Act by virtue of making qualifying supplies.

[Where a participant in the special scheme (“the scheme participant”) makes relevant ^{F32}(2) supplies, it is to be assumed for all purposes of this Act relating to the determination of—

- (a) whether or not VAT is chargeable under this Act on those supplies,
- (b) how much VAT is chargeable under this Act on those supplies,
- (c) the time at which those supplies are treated as taking place, and
- (d) any other matter that the Commissioners may specify by regulations,

that the scheme participant is registered under this Act.

- (3) Supplies of scheme services made by the scheme participant are “relevant supplies” if—

- (a) the value of the supplies must be accounted for in a special scheme return, and
- (b) the supplies are treated as made in the United Kingdom.]

Textual Amendments

- F31** Sch. 3B para. 17 renumbered as Sch. 3B para. 17(1) (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 9\(2\)](#)
- F32** Sch. 3B para. 17(2)(3) inserted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 9\(3\)](#)

De-registration

- 18 Where a person who is registered under Schedule 1 [^{F33}or 1A] satisfies the Commissioners that he intends to apply for—
- (a) registration under this Schedule, or

Status: Point in time view as at 17/07/2014.

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)

- (b) identification under any provision of the law of another member State which implements [^{F34}Section 2 of Chapter 6 of Title XII of the VAT Directive,]

they may, if he so requests, cancel his registration under Schedule 1 [^{F35}or, as the case may be, 1A] 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.

Textual Amendments

- F33** Words in Sch. 3B para. 18 inserted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), Sch. 28 para. 17(a)
- F34** Words in Sch. 3B para. 18(b) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by Finance Act 2014 (c. 26), Sch. 22 para. 9(4)
- F35** Words in Sch. 3B para. 18 inserted (with effect in accordance with Sch. 28 para. 19 of the amending Act) by Finance Act 2012 (c. 14), Sch. 28 para. 17(b)

[^{F36}Value of supplies to connected persons

Textual Amendments

- F36** Sch. 3B para. 18A and cross-heading inserted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by Finance Act 2014 (c. 26), Sch. 22 para. 9(5)

- 18A In paragraph 1 of Schedule 6 (valuation: supply to connected person at less than market value) the reference to a supply made by a taxable person is to be read as including a supply of scheme services that is made by a participant in the special scheme (and is treated as made in the United Kingdom).]

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;
 - [^{F37}(b) a refusal to make a repayment under paragraph 16I (overpayments), or a decision by the Commissioners as to the amount of the repayment due under that provision;
 - (c) a refusal to make a repayment under paragraph 16K(4) (decrease in consideration);
 - (d) any liability to a surcharge under paragraph 16F (default surcharge).]
- [^{F38}(2) Part 5 (appeals), and any order or regulations under that Part, have effect as if an appeal under this paragraph were an appeal which lies to the tribunal under section 83(1) (but not under any particular paragraph of that subsection).]

Status: Point in time view as at 17/07/2014.

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)

[Where the Commissioners have made an assessment under section 73 in reliance on ^{F39}(3) paragraph 16 or 16A—

- (a) section 83(1)(p)(i): (appeals against assessments under section 73(1) etc) applies as if the relevant special scheme return were a return under this Act, and
- (b) the references in section 84(3) and (5) to the matters mentioned in section 83(1)(p) are to be read accordingly.]

Textual Amendments

- F37** Sch. 3B para. 20(1)(b)-(d) substituted for Sch. 3B para. 20(1)(b)(c) (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 9\(6\)\(a\)](#)
- F38** Sch. 3B para. 20(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 227](#)
- F39** Sch. 3B para. 20(3) inserted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 9\(6\)\(b\)](#)

^{F40} ...

Textual Amendments

- F40** Sch. 3B para. 21 and cross-heading omitted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 9\(7\)](#)

^{F40}21

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 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

Status: Point in time view as at 17/07/2014.

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)

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](#));

[^{F41}“administering member State”, in relation to a special scheme, means the member State under whose law the scheme is established (whether that is the United Kingdom or another member State);]

[^{F41}“the Implementing Regulation” means Implementing Regulation (EU) No 282/2011;]

[^{F42}“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 Section 2 of Chapter 6 of Title XII of the VAT Directive;]

“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;

[^{F43}“relevant special scheme return” has the meaning given by paragraph 16(3);]

Status: Point in time view as at 17/07/2014.

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)

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

[^{F44}“scheme services” means electronically supplied services, broadcasting services or telecommunication services (and in this definition “electronically supplied services”, “broadcasting services” and “telecommunication services” have the meaning given by paragraph 3(2));]

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

[^{F45}“special scheme” means—

- ((a) the accounting scheme under this Schedule, or
- ((b) any other scheme, under the law of another member State, implementing Section 2 of Title XII of Directive 2006/112/EC;

“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;

“tax period” means—

- ((a) a reporting period (under the accounting scheme under this Schedule), or
- ((b) any other period for which a person is required to make a return under a special scheme;

“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 the person 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 364 of the VAT Directive (as substituted by Article 5(11) of Council Directive 2008/8/EC);

“the VAT Directive” has the meaning given by paragraph 2(7);]

(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 [^{F46}paragraph 15 of Schedule 4A (place of supply of electronic, telecommunication and broadcasting services),] or
- (b) in another member State, by virtue of any provision of the law of that member State which gives effect to that Article.

^{F47}(3)]

Textual Amendments

- F41** Words in Sch. 3B para. 23(1) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 10\(2\)\(a\)](#)
- F42** Words in Sch. 3B para. 23(1) substituted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 10\(2\)\(b\)](#)
- F43** Words in Sch. 3B para. 23(1) inserted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 10\(2\)\(c\)](#)
- F44** Words in Sch. 3B para. 23(1) inserted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 22 para. 10\(2\)\(d\)](#)

Status: Point in time view as at 17/07/2014.

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)

- F45** Words in Sch. 3B para. 23(1) inserted (with effect in accordance with Sch. 22 paras. 23, 25 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 22 para. 10(2)(e)**
- F46** Words in Sch. 3B para. 23(2)(a) substituted (with effect in accordance with Sch. 22 para. 23 of the amending Act) by [Finance Act 2014 \(c. 26\)](#), **Sch. 22 para. 10(3)**
- F47** Sch. 3B para. 23(3) omitted (with effect in accordance with Sch. 22 para. 23 of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), **Sch. 22 para. 10(4)**

Status:

Point in time view as at 17/07/2014.

Changes to legislation:

There are currently no known outstanding effects for the Value Added Tax Act 1994, SCHEDULE 3B.