

Status: Point in time view as at 22/07/2013.

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part 2. (See end of Document for details)

SCHEDULES

SCHEDULE 6 **U.K.**

VALUATION: SPECIAL CASES

[^{F1}PART 2 **U.K.**

OTHER PROVISIONS]

Textual Amendments

F1 Sch. 6 renumbered as Sch. 6 Pt. 2 (with effect in accordance with Sch. 38 para. 7(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 38 para. 2](#)

- 1 (1) Where—
- (a) the value of a supply made by a taxable person for a consideration in money is (apart from this paragraph) less than its open market value, and
 - (b) the person making the supply and the person to whom it is made are connected, and
 - (c) if the supply is a taxable supply, the person to whom the supply is made is not entitled under sections 25 and 26 to credit for all the VAT on the supply, the Commissioners may direct that the value of the supply shall be taken to be its open market value.
- (2) A direction under this paragraph shall be given by notice in writing to the person making the supply, but no direction may be given more than 3 years after the time of the supply.
- (3) A direction given to a person under this paragraph in respect of a supply made by him may include a direction that the value of any supply—
- (a) which is made by him after the giving of the notice, or after such later date as may be specified in the notice, and
 - (b) as to which the conditions in paragraphs (a) to (c) of sub-paragraph (1) above are satisfied,
- shall be taken to be its open market value.
- (4) For the purposes of this paragraph any question whether a person is connected with another shall be determined in accordance with [^{F2}section 1122 of the Corporation Tax Act 2010].
- (5) This paragraph does not apply to a supply to which paragraph [^{F3}8A or] 10 below applies.

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Textual Amendments

- F2** Words in Sch. 6 para. 1(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by *Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 285(b)* (with Sch. 2)
- F3** Words in Sch. 6 para. 1(5) inserted (with effect in accordance with s. 200(8) of the amending Act) by *Finance Act 2012 (c. 14), s. 200(6)*

[^{F4}1A (1) Where—

- (a) the value of a supply made by a taxable person for a consideration is (apart from this sub-paragraph) less than its open market value,
- (b) the taxable person is a motor manufacturer or motor dealer,
- (c) the person to whom the supply is made is—
 - (i) an employee of the taxable person,
 - (ii) a person who, under the terms of his employment, provides services to the taxable person, or
 - (iii) a relative of a person falling within sub-paragraph (i) or (ii) above,
- (d) the supply is a supply of services by virtue of sub-paragraph (4) of paragraph 5 of Schedule 4 (business goods put to private use etc),
- (e) the goods mentioned in that sub-paragraph consist of a motor car (whether or not any particular motor car) that forms part of the stock in trade of the taxable person, and
- (f) the supply is not one to which paragraph 1 above applies,

the Commissioners may direct that the value of the supply shall be taken to be its open market value.

- (2) A direction under this paragraph shall be given by notice in writing to the person making the supply, but no direction may be given more than 3 years after the time of the supply.
- (3) A direction given to a person under this paragraph in respect of a supply made by him may include a direction that the value of any supply—
 - (a) which is made by him after the giving of the notice, or after such later date as may be specified in the notice, and
 - (b) as to which the conditions in paragraphs (a) to (f) of sub-paragraph (1) above are satisfied,

shall be taken to be its open market value.

- (4) In this paragraph—

“motor car” means any motor vehicle of a kind normally used on public roads which has three or more wheels and either—

- (a) is constructed or adapted solely or mainly for the carriage of passengers, or
- (b) has to the rear of the driver’s seat roofed accommodation which is fitted with side windows or which is constructed or adapted for the fitting of side windows,

but does not include any vehicle excluded by sub-paragraph (5) below;

“motor dealer” means a person whose business consists in whole or in part of obtaining supplies of, or acquiring from another member State or importing, new or second-hand motor cars for resale with a view to making

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an overall profit on the sale of them (whether or not a profit is made on each sale);

“motor manufacturer” means a person whose business consists in whole or in part of producing motor cars including producing motor cars by conversion of a vehicle (whether a motor car or not);

“relative” means husband, wife, brother, sister, ancestor or lineal descendant;

“stock in trade” means new or second-hand motor cars (other than second-hand motor cars which are not qualifying motor cars within sub-paragraph (6) below) which are—

- (a) produced by a motor manufacturer or, as the case may require, supplied to or acquired from another member State or imported by a motor dealer, for the purpose of resale, and
- (b) intended to be sold—
 - (i) by a motor manufacturer within 12 months of their production, or
 - (ii) by a motor dealer within 12 months of their supply, acquisition from another member State or importation, as the case may require,

and such motor cars shall not cease to be stock in trade where they are temporarily put to a use in the motor manufacturer’s or, as the case may be, the motor dealer’s business which involves making them available for private use.

- (5) The vehicles excluded by this sub-paragraph are—
 - (a) vehicles capable of accommodating only one person;
 - (b) vehicles which meet the requirements of Schedule 6 to the Road Vehicles (Construction and Use) Regulations 1986 and are capable of carrying twelve or more seated persons;
 - (c) vehicles of not less than three tonnes unladen weight (as defined in the Table to regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986);
 - (d) vehicles constructed to carry a payload (the difference between—
 - (i) a vehicle’s kerb weight (as defined in the Table to regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986), and
 - (ii) its maximum gross weight (as defined in that Table)),of one tonne or more;
 - (e) caravans, ambulances and prison vans;
 - (f) vehicles constructed for a special purpose other than the carriage of persons and having no other accommodation for carrying persons than such as is incidental to that purpose.
- (6) For the purposes of this paragraph a motor car is a “qualifying motor car” if—
 - (a) it has never been supplied, acquired from another member State, or imported in circumstances in which the VAT on that supply, acquisition or importation was wholly excluded from credit as input tax by virtue of an order under section 25(7) (as at 17th March 2004 see article 7 of the Value Added Tax (Input Tax) Order 1992); or
 - (b) a taxable person has elected under such an order for it to be treated as such.

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(7) The Treasury may by order amend any of the definitions in this paragraph.]

Textual Amendments

F4 Sch. 6 para. 1A inserted (1.1.2005 with effect in accordance with s. 22(5) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [s. 22\(2\)](#); [S.I. 2004/3104, art. 2](#); [S.I. 2004/3104, art. 2](#)

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Where—

- (a) the whole or part of a business carried on by a taxable person consists in supplying to a number of persons goods to be sold, whether by them or others, by retail, and
- (b) those persons are not taxable persons,

the Commissioners may by notice in writing to the taxable person direct that the value of any such supply by him after the giving of the notice or after such later date as may be specified in the notice shall be taken to be its open market value on a sale by retail.

[^{F5}2A (1) This paragraph applies if—

- (a) a taxable person (“P”) makes a supply of road fuel for a consideration,
- (b) the recipient of the supply is—
 - (i) connected with P, or
 - (ii) an employee or partner of P or a person who is connected with such an employee or partner,
- (c) the value of the supply would (in the absence of this paragraph) be less than its open market value, and
- (d) the recipient of the supply is not entitled to credit for the whole of the input tax arising on the supply.

(2) The value of the supply is to be taken to be an amount equal to its open market value.

(3) For the purposes of this paragraph—

- (a) “road fuel” means hydrocarbon oil as defined by the Hydrocarbon Oil Duties Act 1979 (see section 1(2) of that Act) on which duty has been or is required to be paid in accordance with that Act, and
- (b) any question whether a person is connected with another is to be determined in accordance with section 1122 of the Corporation Tax Act 2010.

(4) The Treasury may, by order, amend the definition of “road fuel” in sub-paragraph (3) (a).]

Textual Amendments

F5 Sch. 6 para. 2A inserted (retrospective and with effect in accordance with Sch. 38 para. 8 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 38 paras. 6, 8](#)

3

(1) Where—

- (a) any goods whose supply involves their removal to the United Kingdom—
 - (i) are charged in connection with their removal to the United Kingdom with a duty of excise; or
 - (ii) on that removal are subject, in accordance with any provision for the time being having effect for transitional purposes in connection with

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- the accession of any State to the [^{F6}European Union] , to any [^{F7}EU] customs duty or agricultural levy of the [^{F6}European Union]; or
- (b) the time of supply of any dutiable goods, or of any goods which comprise a mixture of dutiable goods and other goods, is determined under section 18(4) to be the duty point,

then the value of the supply shall be taken for the purposes of this Act to be the sum of its value apart from this paragraph and the amount, so far as not already included in that value, of the duty or, as the case may be, agricultural levy which has been or is to be paid in respect of the goods.

- (2) In this paragraph “dutiable goods” and “duty point” have the same meanings as in section 18.

Textual Amendments

- F6** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F7** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

- 4 (1) Where goods or services are supplied for a consideration in money and on terms allowing a discount for prompt payment, the consideration shall be taken for the purposes of section 19 as reduced by the discount, whether or not payment is made in accordance with those terms.
- (2) This paragraph does not apply where the terms include any provision for payment by instalments.

^{F85}

Textual Amendments

- F8** Sch. 6 para. 5 repealed (with application in accordance with Sch. 1 para. 4 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), Sch. 1 para. 3, **Sch. 43 Pt. 2**

- 6 (1) Where there is a supply of goods by virtue of—
- (a) a Treasury order under section 5(5); or
- (b) paragraph 5(1) or 6 of Schedule 4 but otherwise than for a consideration); or
- (c) paragraph 8 of that Schedule,

then, except where [^{F9}the person making the supply opts under paragraph A1(3) above for valuation on the flat-rate basis or] paragraph 10 below applies, the value of the supply shall be determined as follows.

- (2) The value of the supply shall be taken to be—
- (a) such consideration in money as would be payable by the person making the supply if he were, at the time of the supply, to purchase goods identical in every respect (including age and condition) to the goods concerned; or
- (b) where the value cannot be ascertained in accordance with paragraph (a) above, such consideration in money as would be payable by that person if he were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned; or

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- (c) where the value can be ascertained in accordance with neither paragraph (a) nor paragraph (b) above, the cost of producing the goods concerned if they were produced at that time.
- (3) For the purposes of sub-paragraph (2) above the amount of consideration in money that would be payable by any person if he were to purchase any goods shall be taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of VAT on the supply of the goods to that person.

Textual Amendments

F9 Words in Sch. 6 para. 6(1) inserted (with effect in accordance with Sch. 38 para. 7(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 38 para. 3](#)

- 7 ^[F10](1) Where there is a supply of services by virtue of—
- (a) a Treasury order under section 5(4); or
 - (b) ^[F11]paragraph 5(4) of Schedule 4 (but otherwise than for a consideration),
- the value of the supply shall be taken to be the full cost to the taxable person of providing the services except where paragraph 10 below applies.
- ^[F12](2) Regulations may, in relation to a supply of services by virtue of paragraph 5(4) of Schedule 4 (but otherwise than for a consideration), make provision for determining how the full cost to the taxable person of providing the services is to be calculated.
- (3) The regulations may, in particular, make provision for the calculation to be made by reference to any prescribed period.
- (4) The regulations may make—
- (a) different provision for different circumstances;
 - (b) such incidental, supplementary, consequential or transitional provision as the Commissioners think fit.]

Textual Amendments

F10 Sch. 6 para. 7 renumbered as Sch. 6 para. 7(1) (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [s. 99\(5\)](#)

F11 Words in Sch. 6 para. 7(b) substituted (retrospectively) by [1995 c. 4](#), [s. 33\(3\)\(b\)](#)

F12 Sch. 6 para. 7(2)-(4) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [s. 99\(5\)](#)

- 8 Where any supply of services is treated by virtue of section 8 ^[F13], or any supply of goods is treated by virtue of section 9A,] as made by the person by whom they are received, the value of the supply shall be taken—
- (a) in a case where the consideration for which the services ^[F14]or goods] were in fact supplied to him was a consideration in money, to be such amount as is equal to that consideration; and
 - (b) in a case where that consideration did not consist or not wholly consist of money, to be such amount in money as is equivalent to that consideration.

Textual Amendments

F13 Words in Sch. 6 para. 8 inserted (with effect in accordance with s. 5(2) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), [s. 5\(1\)\(a\)](#)

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F14 Words in Sch. 6 para. 8 inserted (with effect in accordance with s. 5(2) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 5\(1\)\(b\)](#)

Modifications etc. (not altering text)

C1 Sch. 6 para. 8 modified (30.6.1997) by [S.I. 1997/1523, arts. 7, 8](#)

[^{F15}8A (1) This paragraph applies where—

- (a) a supply (“the intra-group supply”) made by a member of a group (“the supplier”) to another member of the group is, by virtue of section 43(2A), excluded from the supplies disregarded under section 43(1)(a), and
- (b) the representative member of the group satisfies the Commissioners as to the value of each bought-in supply.

(2) “Bought-in supply”, in relation to the intra-group supply, means a supply of services to the supplier to which section 43(2A)(c) to (e) refers, so far as that supply is used by the supplier for making the intra-group supply.

(3) The value of the intra-group supply shall be taken to be the total of the relevant amounts in relation to the bought-in supplies.

(4) The relevant amount in relation to a bought-in supply is the value of the bought-in supply, unless a direction is made under sub-paragraph (5).

(5) If the value of a bought-in supply is less than its open market value, the Commissioners may direct that the relevant amount in relation to that supply is its open market value.

(6) A direction under this paragraph must be given by notice in writing to the representative member, but no direction may be given more than 3 years after the time of the intra-group supply.

(7) The Treasury may by order vary the provision made by this Schedule about the value of supplies of the kind mentioned in sub-paragraph (1)(a).

(8) An order under sub-paragraph (7) may include incidental, supplemental, consequential or transitional provision (including provision amending section 43 or 83).]

Textual Amendments

F15 Sch. 6 para. 8A inserted (with effect in accordance with s. 200(8) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 200\(7\)](#)

9 (1) This paragraph applies where a supply of services consists in the provision of accommodation falling within paragraph (d) of Item 1 of Group 1 in Schedule 9 and—

- (a) that provision is made to an individual for a period exceeding 4 weeks; and
- (b) throughout that period the accommodation is provided for the use of the individual either alone or together with one or more other persons who occupy the accommodation with him otherwise than at their own expense (whether incurred directly or indirectly).

(2) Where this paragraph applies—

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- (a) the value of so much of the supply as is in excess of 4 weeks shall be taken to be reduced to such part thereof as is attributable to facilities other than the right to occupy the accommodation; and
- (b) that part shall be taken to be not less than 20 per cent.
- 10 (1) This paragraph applies to a supply of goods or services, whether or not for a consideration, which is made by an employer and consists of—
- (a) the provision in the course of catering of food or beverages to his employees, or
- (b) the provision of accommodation for his employees in a hotel, inn, boarding house or similar establishment.
- (2) The value of a supply to which this paragraph applies shall be taken to be nil unless the supply is for a consideration consisting wholly or partly of money, and in that case its value shall be determined without regard to any consideration other than money.
- 11 (1) Subject to the following provisions of this paragraph, where—
- (a) there is a supply of goods or services; and
- (b) any sum relevant for determining the value of the supply is expressed in a currency other than sterling,
- then, for the purpose of valuing the supply, that sum is to be converted into sterling at the market rate which, on the relevant day, would apply in the United Kingdom to a purchase with sterling by the person to whom they are supplied of that sum in the currency in question.
- (2) Where the Commissioners have published a notice which, for the purposes of this paragraph, specifies—
- (a) rates of exchange; or
- (b) methods of determining rates of exchange,
- a rate specified in or determined in accordance with the notice, as for the time being in force, shall apply (instead of the rate for which sub-paragraph (1) above provides) in the case of any supply by a person who opts, in such manner as may be allowed by the Commissioners, for the use of that rate in relation to that supply.
- (3) An option for the purposes of sub-paragraph (2) above for the use of a particular rate or method of determining a rate—
- (a) shall not be exercised by any person except in relation to all such supplies by him as are of a particular description or after a particular date; and
- (b) shall not be withdrawn or varied except with the consent of the Commissioners and in such manner as they may require.
- (4) In specifying a method of determining a rate of exchange a notice published by the Commissioners under sub-paragraph (2) above may allow a person to apply to the Commissioners for the use, for the purpose of valuing some or all of his supplies, of a rate of exchange which is different from any which would otherwise apply.
- (5) On an application made in accordance with provision contained in a notice under sub-paragraph (4) above, the Commissioners may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such supplies and subject to such conditions as they think fit.
- (6) A notice published by the Commissioners for the purposes of this paragraph may be withdrawn or varied by a subsequent notice published by the Commissioners.

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- (7) The time by reference to which the appropriate rate of exchange is to be determined for the purpose of valuing any supply is the time when the supply takes place; and, accordingly, the day on which it takes place is the relevant day for the purposes of sub-paragraph (1) above.
- 12 Regulations may require that in prescribed circumstances there is to be taken into account, as constituting part of the consideration for the purposes of section 19(2) (where it would not otherwise be so taken into account), money paid in respect of the supply by persons other than those to whom the supply is made.
- 13 A direction under paragraph 1 or 2 above may be varied or withdrawn by the Commissioners by a further direction given by notice in writing.

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