

*Status: Point in time view as at 01/08/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, SCHEDULE 9ZA. (See end of Document for details)*

## SCHEDULES

### [F1]SCHEDULE 9ZA

Section 40A(1)

#### VAT ON ACQUISITIONS IN NORTHERN IRELAND FROM MEMBER STATES

##### Textual Amendments

- F1** Schs. 9ZA, 9ZB inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020 \(c. 26\)](#), s. 11(1)(e), [Sch. 2 para. 2](#) (with s. 3(4), [Sch. 2 para. 7\(7\)-\(10\)](#)) (with savings and transitional provisions in [S.I. 2020/1545, Pt. 4](#)); [S.I. 2020/1642, reg. 9](#)

#### PART 1

##### CHARGE TO VAT FOR ACQUISITIONS IN NORTHERN IRELAND FROM MEMBER STATES

###### *Charge to VAT*

- 1 (1) VAT is charged, in accordance with this Schedule, on the acquisition in Northern Ireland of goods from a member State—
- (a) by reference to the value of the acquisition as determined under Part 2 of this Schedule, and
  - (b) subject to paragraph 16, at the rate of VAT for the time being in force under section 2.
- (2) VAT charged on the acquisition of goods in Northern Ireland from a member State is a liability of the person who acquires the goods and (subject to provisions about accounting and payment) becomes due at the time of acquisition.
- (3) VAT charged on the acquisition of goods in Northern Ireland from a member State in accordance with this Schedule is referred to in this Schedule as “NI acquisition VAT”.
- (4) References to VAT (without more) in this Act include NI acquisition VAT.
- (5) The Commissioners may by regulations make provision about (including provision modifying) the application of provision that applies to value added tax made by or under any enactment (including provision made by or under this Act) to NI acquisition VAT or to goods acquired in Northern Ireland from a member State.

###### *Scope of NI acquisition VAT*

- 2 (1) NI acquisition VAT is charged on any acquisition from a member State of any goods where—
- (a) the acquisition is a taxable acquisition,
  - (b) it takes place in Northern Ireland,
  - (c) it is not in pursuance of a taxable supply (see section 4(2)), and

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- (d) the person who makes it is a taxable person or the goods acquired are subject to a duty of excise or consist in a new means of transport.
- (2) In this Act, a “taxable acquisition” means an acquisition of goods from a member State that—
- (a) is not an exempt acquisition (see paragraph 17(5)), and
  - (b) falls within sub-paragraph (3) or is an acquisition of goods consisting in a new means of transport.
- (3) An acquisition of goods from a member State falls within this sub-paragraph if—
- (a) the goods are acquired in the course or furtherance of—
    - (i) any business carried on by any person, or
    - (ii) any activities carried on otherwise than by way of business by any body corporate or by any club, association, organisation or other unincorporated body,
  - (b) it is the person who carries on that business or those activities who acquires the goods, and
  - (c) the supplier—
    - (i) is taxable in a member State at the time of the transaction in pursuance of which the goods are acquired, and
    - (ii) in participating in that transaction, acts in the course or furtherance of a business carried on by the supplier.

*Meaning of acquisition of goods from a member State*

- 3 (1) References in this Act to the acquisition of goods from a member State are to an acquisition of goods in pursuance of a transaction that—
- (a) is a supply of goods (including anything treated for the purposes of this Act as a supply of goods), and
  - (b) involves the removal of the goods from a member State (whether by or under the direction of the supplier, the person who acquires the goods or any other person),
- and references in this Act, in relation to such an acquisition, to the supplier are to be construed accordingly.
- (2) Where the person with the property in any goods does not change in consequence of anything which is treated for the purposes of this Act as a supply of goods, that supply is to be treated for the purposes of this Act as a transaction in pursuance of which there is an acquisition by the person making the supply.
- (3) The Treasury may by regulations make provision about the circumstances in which an acquisition of goods is not to be treated as an acquisition of goods from a member State.

*Time of acquisition*

- 4 (1) For the purposes of this Act, the normal rule for determining the time that goods were acquired from a member State is that they are treated as being acquired on the earlier of—
- (a) the 15th day of the month after the month in which the first removal of the goods occurs, and

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- (b) the day a relevant invoice is issued in respect of the transaction in pursuance of which the goods were acquired.
- (2) But—
  - (a) different rules apply to acquisitions to which Part 4 of Schedule 9ZB applies (warehouses), and
  - (b) the Commissioners may by regulations provide for different rules to apply in any case described in those regulations.
- (3) Regulations under sub-paragraph (2)(b) may include provision treating an acquisition as a series of acquisitions taking place at different times.
- (4) In sub-paragraph (1) “relevant invoice” means an invoice of a description prescribed by regulations made by the Commissioners.
- (5) For the purposes of this Act “first removal”, in relation to goods acquired, means the first removal of the goods in the course of the transaction in pursuance of which they are acquired.

#### *Place of acquisition*

- 5 (1) For the purposes of this Act, the normal rule for determining whether goods are acquired in Northern Ireland is that they are treated as being acquired in Northern Ireland if—
  - (a) they are acquired in pursuance of a transaction which involves their removal from a member State to Northern Ireland and which does not involve their removal from Northern Ireland, or
  - (b) they are acquired by a person who, for the purposes of their acquisition, makes use of a number assigned to the person for the purposes of VAT in the United Kingdom along with an NI VAT identifier (see paragraph 7).
- (2) But—
  - (a) goods are not treated as being acquired in Northern Ireland by virtue of sub-paragraph (1)(b) where it is established in accordance with regulations made by the Commissioners that VAT—
    - (i) has been paid in a member State on the acquisition of those goods, and
    - (ii) fell to be paid by virtue of provisions of the law of that member State corresponding, in relation to that member State, to the provision made by sub-paragraph (1)(a), and
  - (b) different rules apply to acquisitions to which paragraph 16 or 17 of Schedule 9ZB applies.
- (3) If an acquisition of goods is not treated, for the purposes of this Act, as taking place in Northern Ireland it is treated for those purposes as an acquisition taking place outside Northern Ireland.
- (4) The Commissioners may by regulations make provision—
  - (a) about the circumstances in which a person is to be treated as having made use of a number assigned to the person for the purposes of VAT in the United Kingdom along with an NI VAT identifier for the purposes of the acquisition of any goods, and

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- (b) for the refund, in prescribed circumstances, of NI acquisition VAT paid on acquisitions of goods in relation to which the conditions in sub-paragraph (2) (a)(i) and (ii) are met.

*Acquisitions from persons belonging in member States*

- 6 (1) Sub-paragraph (2) applies where—
- (a) a person (“the original supplier”) makes a supply of goods to a person who belongs in a member State (“the intermediate supplier”),
  - (b) that supply involves the removal of the goods from a member State and their removal to Northern Ireland but does not involve the removal of the goods from Northern Ireland,
  - (c) both that supply and the removal of the goods to Northern Ireland are for the purposes of the making of a supply by the intermediate supplier to another person (“the customer”) who is registered under this Act,
  - (d) neither of those supplies involves the removal of the goods from a member State in which the intermediate supplier is taxable at the time of the removal without also involving the previous removal of the goods to that member State, and
  - (e) there would be a taxable acquisition by the customer if the supply to the customer involved the removal of goods from a member State to Northern Ireland.
- (2) Where this sub-paragraph applies—
- (a) the supply by the original supplier to the intermediate supplier is ignored for the purposes of this Act, and
  - (b) the supply by the intermediate supplier to the customer is treated for the purposes of this Act, other than for the purposes of Part 8 of this Schedule, as if it did involve the removal of the goods from a member State to Northern Ireland.
- (3) For the purposes of this Act, other than for the purposes of Part 8 of this Schedule, a supply of goods is treated as involving their removal from a member State to Northern Ireland, and is treated as not being a taxable supply if—
- (a) the supply is made by a person belonging in a member State to a person who is registered under this Act,
  - (b) the supply involves the installation or assembly of the goods at a place in Northern Ireland to which they are removed, and
  - (c) were the supply to be treated as described in the words before paragraph (a), there would be a taxable acquisition by the registered person.
- (4) But neither sub-paragraph (2) nor sub-paragraph (3) applies in relation to a supply unless—
- (a) in the case of sub-paragraph (2), the intermediate supplier, or
  - (b) in the case of sub-paragraph (3), the person making the supply,
- complies with such requirements to provide information to the Commissioners or to the person supplied as may be specified in regulations made by the Commissioners.
- (5) The requirements to provide information that may be specified in regulations include—
- (a) requirements to provide documents (for example, invoices);

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- (b) requirements to provide information or documents before a supply is made (as well as after);
  - (c) requirements as to the content and form of information or documents to be provided;
  - (d) requirements as to the manner in which information or documents are to be provided.
- (6) Where a taxable acquisition is treated as having been made by virtue of this paragraph, that acquisition is treated as taking place at the time referred to in paragraph 4(1)(b) (day on which invoice issued).
- (7) For the purposes of this paragraph a person belongs in a member State if—
- (a) the person is taxable in a member State,
  - (b) the person does not have any business establishment or other fixed establishment in Northern Ireland,
  - (c) the person's usual place of residence is not in Northern Ireland,
  - (d) the person is not identified for the purposes of VAT in Northern Ireland and is not required, as a result of regulations under paragraph 7, to make a request to be so identified, and
  - (e) the person does not have a VAT representative who is identified for the purposes of VAT in Northern Ireland in connection with acting on the person's behalf, and is not for the time being required to appoint one who would be identified for those purposes.
- (8) In determining, for the purposes of sub-paragraph (7)(d), whether a person is required to be registered under this Act, ignore any supplies made by the person that would be ignored for the purposes of this Act if the person belonged in a member State and complied with the information requirements that would apply by virtue of sub-paragraph (4).
- (9) Where—
- (a) any goods are acquired from a member State in a case which corresponds, in relation to another member State, to the case described in sub-paragraph (1) in relation to Northern Ireland, and
  - (b) the person who acquires the goods is registered under this Act, is identified for the purposes of VAT in Northern Ireland and would be the intermediate supplier in relation to that corresponding case,
- the supply to that person of those goods and the supply by that person of those goods to the person who would be the customer in that corresponding case are to be ignored for the purposes of this Act.
- (10) References in this paragraph to a person being taxable in a member State do not include references to a person who is so taxable by virtue only of provisions of the law of that member State corresponding to the provisions of this Act by virtue of which a person who is not registered under this Act is a taxable person if the person is required to be so registered.

*Identification of persons for the purposes of VAT in Northern Ireland*

- 7 (1) The Commissioners may by regulations make provision for the identification of persons for the purposes of VAT in Northern Ireland.

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- (2) In this Act “identified for the purposes of VAT in Northern Ireland” means identified in accordance with regulations under this paragraph.
- (3) A person may only be identified for the purposes of VAT in Northern Ireland if—
- (a) the person is registered under this Act, or
  - (b) the person acts on behalf of a person in relation to VAT in Northern Ireland as a VAT representative.
- (4) Regulations may make provision—
- (a) about the circumstances in which a person may request to be identified for the purposes of VAT in Northern Ireland;
  - (b) for a person to be required to request to be identified for the purposes of Northern Ireland VAT;
  - (c) about the circumstances in which the Commissioners may determine that a person is identified for the purposes of VAT in Northern Ireland otherwise than at the person's request;
  - (d) requiring a person to notify the Commissioners of such matters as may be specified for the purpose of allowing the Commissioners to ascertain whether a person should be identified for the purposes VAT in Northern Ireland;
  - (e) about the circumstances in which a person is to be treated, for such purposes as may be specified, as if they were identified for the purposes of VAT in Northern Ireland (and which may include circumstances where the person is neither registered under this Act nor acting as a VAT representative);
  - (f) about the circumstances in which a person ceases to be identified for the purposes of VAT in Northern Ireland.
- (5) Regulations may also make provision—
- (a) about a specified means of communicating the fact of a person's identification for the purposes of VAT in Northern Ireland (and that means is referred to in this Act as an “NI VAT identifier”);
  - (b) about the circumstances in which a person may use, or is required to use, an NI VAT identifier (for example, in connection with the making of a transaction or return).
- (6) In this paragraph “specified” means specified in regulations.

## PART 2

### VALUATION OF ACQUISITIONS

#### *Valuation of acquisitions from member States*

- 8 (1) For the purposes of this Act the value of any acquisition of goods from a member State is taken to be the value of the transaction in pursuance of which they are acquired.
- (2) Where goods are acquired from a member State otherwise than in pursuance of a taxable supply, the value of the transaction in pursuance of which they are acquired is to be determined for the purposes of sub-paragraph (1) in accordance with this Part, and for those purposes—

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- (a) sub-paragraphs (3) to (5) have effect subject to paragraphs 9 to 13, and
  - (b) section 19 and Schedule 6 do not apply in relation to the transaction.
- (3) If the transaction is for a consideration in money, its value is taken to be such amount as is equal to the consideration.
- (4) If the transaction is for a consideration not consisting or not wholly consisting of money, its value is taken to be such amount in money as is equivalent to the consideration.
- (5) Where a transaction in pursuance of which goods are acquired from a member State is not the only matter to which a consideration in money relates, the transaction is deemed to be for such part of the consideration as is properly attributable to it.

*Transactions below market value*

- 9 (1) Where, in the case of the acquisition of any goods from a member State—
- (a) the relevant transaction (see paragraph 13) is for a consideration in money,
  - (b) the value of the relevant transaction is (apart from this paragraph) less than the transaction’s open market value,
  - (c) the supplier and the person who acquires the goods are connected, and
  - (d) that person is not entitled under sections 25 and 26 to credit for all the VAT on the acquisition,
- the Commissioners may direct that the value of the relevant transaction is taken to be its open market value.
- (2) A direction under this paragraph must be given—
- (a) by notice in writing to the person by whom the acquisition in question is made, and
  - (b) within the period of 3 years commencing with the relevant time (see paragraph 13).
- (3) A direction given to a person under this paragraph in respect of a transaction may include a direction that the value of any transaction—
- (a) in pursuance of which goods are acquired by the person from a member State 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 (d) of sub-paragraph (1) are satisfied,
- is to be taken to be its open market value.
- (4) For the purposes of this paragraph, the open market value of a transaction in pursuance of which goods are acquired from a member State is to be taken to be the amount which would fall to be taken as its value under paragraph 8(3) if it were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.
- (5) Section 1122 of the Corporation Tax Act 2010 (“connected” persons) applies for the purpose of determining whether a person is connected with another for the purposes of this paragraph.
- (6) A direction under this paragraph may be varied or withdrawn by the Commissioners by a further direction given by notice in writing.

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*Value where goods subject to excise duty etc*

- 10 (1) This paragraph applies, in such cases as the Commissioners may by regulations prescribe, to an acquisition—
- (a) of goods acquired in Northern Ireland from a member State,
  - (b) where those goods are charged with a relevant duty, and
  - (c) that is not an acquisition that is treated, by virtue of paragraph 16(7) of Schedule 9ZB, as taking place before the time which is the duty point (within the meaning given by paragraph 16(11) of that Schedule).
- (2) The value of the relevant transaction in relation to an acquisition to which this paragraph applies is the sum of the value of that transaction (apart from this paragraph) and the total amount of relevant duty charged that is not already reflected in the value of that transaction.
- (3) In this paragraph “relevant duty” in relation to an acquisition means—
- (a) a duty of excise charged in connection with the removal of goods to Northern Ireland;
  - (b) any EU customs duty or agricultural levy of the European Union charged on that removal in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Union.

*Transfer or disposal for no consideration*

- 11 (1) Where goods are acquired from a member State in pursuance of anything which is treated as a supply for the purposes of this Act as a result of paragraph 5(1) of Schedule 4 or paragraph 30 of Schedule 9ZB and there is no consideration, sub-paragraph (3) applies for determining the value of the relevant transaction.
- (2) Sub-paragraph (3) also applies for determining the value of the relevant transaction in the case of an acquisition by a supplier that is deemed to take place as a result of paragraph 60(2)(c) or 61(2)(c).
- (3) The value of the relevant transaction is taken to be—
- (a) such consideration in money as would be payable by the supplier if the supplier were, at the time of the acquisition, to purchase goods identical in every respect (including age and condition) to the goods concerned,
  - (b) where the value cannot be ascertained in accordance with paragraph (a), such consideration in money as would be payable by the supplier if the supplier were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned, or
  - (c) where the value cannot be ascertained in accordance with paragraph (a) or (b), the cost of producing the goods concerned if they were produced at that time.
- (4) For the purposes of sub-paragraph (3), the amount of consideration in money that would be payable by any person if the person were to purchase any goods is 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.

*Foreign currency transactions*

- 12 (1) Subject to the following provisions of this paragraph, where—



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- (a) goods are acquired from a member State, and
- (b) any sum relevant for determining the value of the relevant transaction is expressed in a currency other than sterling,

then, for the purpose of valuing the relevant transaction, 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 of that sum in the currency in question by the person making the acquisition.

- (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, applies (instead of the rate for which sub-paragraph (1) provides) in the case of any transaction in pursuance of which goods are acquired 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 transaction.
- (3) An option for the purposes of sub-paragraph (2) for the use of a particular rate or method of determining a rate—
  - (a) may not be exercised by any person except in relation to all such transactions in pursuance of which goods are acquired by the person from a member State as are of a particular description or after a particular date, and
  - (b) may 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) may allow a person to apply to the Commissioners for the use, for the purpose of valuing some or all of the transactions in pursuance of which goods are acquired by the person from a member State, 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), the Commissioners may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such transactions 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.
- (7) Where goods are acquired from a member State, the appropriate rate of exchange is to be determined for the purpose of valuing the relevant transaction by reference to the relevant time; and, accordingly, the day on which that time falls is the relevant day for the purposes of sub-paragraph (1).

*Meaning of “relevant transaction” and “relevant time”*

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In this Part of this Schedule—

“relevant transaction”, in relation to any acquisition of goods from a member State, means the transaction in pursuance of which the goods are acquired;

“the relevant time”, in relation to any such acquisition, means—

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- (a) if the person by whom the goods are acquired is not a taxable person and the time of acquisition does not fall to be determined in accordance with regulations made under paragraph 4(2)(b), the time of the first removal of the goods (see paragraph 4(5)), and
- (b) in any other case, the time of acquisition.

### PART 3

#### PAYMENT OF NI ACQUISITION VAT BY TAXABLE PERSONS

##### *Input tax and output tax*

- 14 (1) NI acquisition VAT is input tax in relation to the taxable person acquiring the goods in question if the goods are used or are to be used for the purpose of any business carried on or to be carried on by the person.
- (2) NI acquisition VAT is output tax in relation to the taxable person acquiring the goods in question (including VAT which is also to be counted as input tax by virtue of subparagraph (1)).
- (3) Subsections (5) to (6A) of section 24 (input tax and output tax) apply to NI acquisition VAT as they apply to VAT on the supply or importation of goods.

##### *Payment of NI acquisition VAT*

- 15 (1) A taxable person must account for and pay NI acquisition VAT by reference to prescribed accounting periods (see section 25(1)).
- (2) Subsections (2) to (6) of section 25 (payment by reference to accounting period and credit for input tax against output tax) contain provision relevant to the payment of NI acquisition VAT.
- (3) Subsection (7) of that section (power to make order excluding credit for VAT paid) applies to acquisitions in Northern Ireland from a member State as it applies to the supply of goods.
- (4) Section 26(1) has effect as if the reference to “input tax on supplies and importations” included input tax on acquisitions in Northern Ireland from a member State.
- (5) That section and sections 26A to 28 contain further provision relevant to the payment of NI acquisition VAT.

### PART 4

#### RELIEFS ETC

##### *Reduced rate*

- 16 (1) NI acquisition VAT is charged at the rate of 5% (instead of at the rate provided by section 2) if—

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- (a) the acquisition in question is of goods the supply of which would be a supply of a description for the time being specified in Schedule 7A (charge at reduced rate), or
  - (b) the acquisition in question is of a description for the time being specified in regulations made by the Treasury for the purposes of this paragraph.
- (2) Regulations under this paragraph may provide that sub-paragraph (1)(a) does not apply to a description of a supply specified in Schedule 7A that is specified in those regulations.
- (3) The power to specify a description of an acquisition conferred by sub-paragraph (1) (b) may be exercised so as to describe an acquisition of goods by reference to matters unrelated to the characteristics of the goods.

#### *Zero-rating and exempt acquisitions*

- 17 (1) Section 30(3) (zero-rating) applies to an acquisition of goods in Northern Ireland from a member State as it would apply to an importation of those goods.
- (2) The Treasury may by regulations provide—
- (a) that sub-paragraph (1) does not apply to an acquisition of goods specified or described in the regulations;
  - (b) that no NI acquisition VAT is chargeable on an acquisition of goods specified or described in the regulations.
- (3) The Commissioners may by regulations provide for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where—
- (a) the supply in question involves both the removal of the goods from Northern Ireland and their acquisition in a member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law of that member State corresponding, in relation to that member State, to the provisions of paragraph 2, and
  - (b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.
- (4) Section 30(10) applies to a supply of goods that has been zero-rated in pursuance of regulations made under sub-paragraph (3) as it applies to a supply of goods that has been zero-rated in pursuance of regulations made under section 30(8) or (9).
- (5) An acquisition of goods from a member State is an exempt acquisition if the goods are acquired in pursuance of an exempt supply (see section 31).

#### *Refunds and reliefs*

- 18 (1) Sections 33 to 33C, 33E and 34 apply to an acquisition of goods from a member State as they apply to a supply of those goods.
- (2) The Treasury may by order make provision for relieving from NI acquisition VAT if, or to the extent that, relief from VAT would be given by an order under section 37 (relief from VAT on importation) if the acquisition in question were an importation.
- (3) An order under sub-paragraph (2) may provide for relief to be subject to such conditions as appear to the Treasury to be necessary or expedient, which may include conditions—

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- (a) prohibiting or restricting the disposal of or dealing with the goods concerned;
  - (b) framed by reference to the conditions to which, by virtue of any order under section 37 in force at the time of the acquisition, relief under such an order would be subject in the case of an importation of the goods concerned.
- (4) Where relief from NI acquisition VAT given by an order under this paragraph was subject to a condition that has been breached or not complied with, the VAT becomes payable at the time of the breach or, as the case may be, at the latest time allowed for compliance.
- (5) Section 38 has effect as if after “by him” there were inserted “ or on the acquisition of goods by that person from member States ”.

*<sup>F2</sup>Refund of NI acquisition VAT to persons constructing certain buildings*

**Textual Amendments**

**F2** Sch. 9ZA para. 18A inserted (31.12.2020) by The Value Added Tax (Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation) (EU Exit) Regulations 2020 (S.I. 2020/1544), regs. 1, 3(2); S.I. 2020/1641, reg. 2, Sch.

- 18A (1) Where—
- (a) a person carries out works to which this paragraph applies, and
  - (b) the carrying out of the work by the person is lawful and otherwise than in the course or furtherance of any business, and
  - (c) NI acquisition VAT is chargeable on the acquisition from a member State of any goods used by the person for the purposes of the works,
- the Commissioners must, on a claim made in that behalf, refund to that person the amount of NI acquisition VAT so chargeable.
- (2) Where—
- (a) a person carries out works to which this paragraph applies,
  - (b) the carrying out of the work by the person is lawful and otherwise than in the course or furtherance of any business, and
  - (c) VAT is chargeable in accordance with the law of a member State (see paragraph 80) on the supply of any goods used by the person for the purposes of the works,
- the Commissioners must, on a claim made in that behalf, pay to that person an amount equal to that VAT so chargeable.
- (3) The works to which this paragraph applies are—
- (a) the construction of a building in Northern Ireland designed as a dwelling or a number of dwellings;
  - (b) the construction of a building in Northern Ireland for use solely for a relevant residential purpose or relevant charitable purpose;
  - (c) a residential conversion of a building, or a part of a building, in Northern Ireland.
- (4) Subsections (1B) and (1D) of section 35 (refund of VAT to persons constructing certain buildings) apply for the purposes of this paragraph as they apply for the purposes of that section.

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*Status: Point in time view as at 01/08/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, SCHEDULE 9ZA. (See end of Document for details)*

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- (5) Subsection (2) of that section applies to a refund under subparagraph (1) or (2) as it applies to a refund of VAT under that section.
- (6) Subsections (4) and (4A) of that section apply for the purpose of construing this paragraph.
- (7) Subsection (5) of that section has effect as if in paragraphs (a) and (b), after “this section” there were inserted “ or paragraph 18A of Schedule 9ZA ”.
- (8) The provisions made by or under this Act or any other enactment (whenever passed or made) that apply to a refund under section 35 apply to a refund under subparagraph (2) as if references in those provisions (however framed)—
  - (a) to VAT chargeable on the supply of goods were to VAT chargeable under the law of a member State;
  - (b) to refunding VAT to a person were to paying a person in accordance with that sub-paragraph.]

*Refunds in relation to new means of transport supplied to member States*

- 19
- (1) Where a person who is not a taxable person makes such a supply of goods consisting in a new means of transport that involves the removal of the goods to a member State from Northern Ireland, the Commissioners must, on a claim made in that behalf, refund to that person, as the case may be—
    - (a) the amount of any VAT on the supply of that means of transport to that person, or
    - (b) the amount of any VAT paid by that person on the acquisition of that means of transport from a member State or on its importation into the United Kingdom as a result of its entry into Northern Ireland.
  - (2) But the amount of VAT that is to be refunded under this paragraph is not to exceed the amount that would have been payable on the supply involving the removal if it had been a taxable supply by a taxable person and had not been zero-rated.
  - (3) A claim for refund of VAT under this paragraph must—
    - (a) be made within such time and in such form and manner as may be specified in regulations made by the Commissioners,
    - (b) contain such information as may be specified in those regulations, and
    - (c) be accompanied by such documents as may be specified in those regulations.

## PART 5

### APPLICATION OF ACT TO ACQUISITIONS IN PARTICULAR CASES

*Crown application*

- 20
- Subsections (3) and (4) of section 41 (application to the Crown) apply to NI acquisition VAT as they apply to VAT chargeable on the supply of goods.

*Status: Point in time view as at 01/08/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, SCHEDULE 9ZA. (See end of Document for details)*

### *Groups of companies*

- 21 (1) Section 43 (groups of companies) applies to an acquisition of goods from a member State as it would apply to an importation of those goods as if the reference in subsection (1)(c) to section 38 were omitted.
- (2) Subsections (2) and (9) of section 44 (supplies to groups) apply to input tax on acquisitions as they apply to input tax on supplies.

### *Partnerships*

- 22 (1) Subsection (1) of section 45 (partnerships) applies to persons carrying on in partnership activities, other than carrying on a business, in the course or furtherance of which they acquire goods from a member State as it applies to persons carrying on a business in partnership.
- (2) Subsections (2) and (5) of that section apply to a liability for NI acquisition VAT as they apply to VAT on the supply of goods or services.

### *Unincorporated bodies, personal representative etc*

- 23 (1) In section 46 (business carried on in divisions or by unincorporated bodies, personal representatives etc) any reference to “a business” includes any activity in the course or furtherance of which any body corporate or any club, association, organisation or other unincorporated body acquires goods from a member State.
- (2) Subsection (3) of that section (no account to be taken in change of members of a club, association or organisation) applies in relation to the determination of whether goods are acquired from a member State by a club, association or organization mentioned in that subsection as it applies in relation to the determination of whether goods or services are supplied by such a club, association or organisation.

### *Agents*

- 24 (1) Where goods are acquired from a member State by a person who is not a taxable person (“N”) and a taxable person (“T”) acts in relation to the acquisition and then supplies the goods in T's own name as agent of N, the goods are to be treated for the purposes of this Act as acquired and supplied by T as principal.
- (2) Section 47 (agents) has effect as if—
- (a) the reference in subsection (2) to “subsection (1) above” were to “subsection (1) and paragraph 24(1) of Schedule 9ZA”;
  - (b) the reference in subsection (2A) to “subsection (1) above” were to “subsection (1) or paragraph 24(1) of Schedule 9ZA”.

### *VAT representatives*

- 25 Subsection (1)(a) of section 48 (VAT representatives and security) applies to a person who, without being a taxable person, acquires goods in Northern Ireland from one or more member States as it applies to a person who, without being a taxable person, makes taxable supplies.

*Status: Point in time view as at 01/08/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, SCHEDULE 9ZA. (See end of Document for details)*

### *Margin schemes*

- 26 Section 50A(5) (margin schemes) has effect as if after “supply,” there were inserted “ acquisition ”.

## **PART 6**

### ADMINISTRATION, COLLECTION AND ENFORCEMENT

#### *Breaches of regulatory provisions*

- 27 (1) Section 69(1) (breaches of regulatory provisions) applies to a failure to comply with a requirement imposed under paragraph 42, 52 or 65(1) or (2)(a) of this Schedule as it applies to a requirement imposed under the provisions mentioned in subsection (1) (a) of that section.
- (2) Section 69(2) has effect as if after “imposed under” there were inserted “ paragraph 64 or 65(2)(b) of Schedule 9ZA or ”.

#### *Offences*

- 28 (1) Any reference in section 72(1) or (8) (offences)—
- (a) to the evasion of VAT includes a reference to the obtaining of a refund under regulations made under paragraph 5(4) or under paragraph [F3]18A or] 19, and
  - (b) to the amount of VAT, in relation to such a refund, is to be construed as a reference to the amount falsely claimed by way of refund.
- (2) Subsection (5) of section 72 applies to a claim for a refund under regulations made under paragraph 5(4) or under paragraph [F4]18A or] 19 as it applies to a claim for a refund under the provisions mentioned in paragraph (a) of that subsection.
- (3) Subsection (10) of that section applies where a person has reason to believe that NI acquisition VAT has been or will be evaded as it applies where a person has reason to believe that VAT on the supply of goods or services has been or will be evaded.

#### **Textual Amendments**

- F3** Words in Sch. 9ZA para. 28(1)(a) inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1544\)](#), regs. 1, **3(3)(a)**; S.I. 2020/1641, reg. 2, Sch.
- F4** Words in Sch. 9ZA para. 28(2) inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1544\)](#), regs. 1, **3(3)(b)**; S.I. 2020/1641, reg. 2, Sch.

#### *Failure to make returns*

- 29 (1) Subsection (3) of section 73 (failure to make returns etc) applies to an amount which by reason of the cancellation of a person's registration under paragraph 43(2), 43(5) or 53(5) ought not to have been paid as it applies to an amount which ought not to have been paid by reason of the cancellation of a person's registration under any of the provisions mentioned in that subsection.

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- (2) Subsection (7) of that section applies to the acquisition of goods from a member State by a taxable person as it applies to the supply of goods to a taxable person.

*Interest on VAT*

- 30 Paragraph (c) of Section 74(1) applies to a person who was, but should no longer have been, exempted from registration (under Part 8 of this Schedule) under paragraph 44 as it applies to a person who was, but should no longer have been, exempted from registration under any of the provisions mentioned in that paragraph.

*Assessment in cases of acquisitions of certain goods by non-taxable persons*

- 31 (1) Where a person who has, at a time when the person was not a taxable person, acquired in Northern Ireland from a member State any goods subject to a duty of excise or consisting in a new means of transport and—
- (a) notification of that acquisition has not been given to the Commissioners by the person who is required to give one by regulations under paragraph 73(4) (whether before or after this paragraph comes into force),
  - (b) the Commissioners are not satisfied that the particulars relating to the acquisition in any notification given to them are accurate and complete, or
  - (c) there has been a failure to supply the Commissioners with the information necessary to verify the particulars contained in any such notification,
- the Commissioners may assess the amount of VAT due on the acquisition to the best of their judgment and notify their assessment to that person.
- (2) An assessment under this paragraph must be made within the time limits provided for in section 77 and may not be made after the later of—
- (a) 2 years after the time when a notification of the acquisition of the goods in question is given to the Commissioners by the person who is required to give one by regulations under paragraph 73(4), and
  - (b) one year after evidence of the facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge,
- but (subject to section 77) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under this section, another assessment may be made under this paragraph, in addition to any earlier assessment.
- (3) Where an amount has been assessed and notified to any person under this paragraph, it is, subject to the provisions of this Act as to appeals, deemed to be an amount of VAT due from the person and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.
- (4) For the purposes of this paragraph, notification to a personal representative, trustee in bankruptcy, trustee in sequestration, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who made the acquisition in question is to be treated as notification to that person.

*Assessment of amounts due*

- 32 Section 77 (time limits and supplementary assessments) has effect as if—



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- (a) in subsection (1), in the words before paragraph (a), after “or 76” there were inserted “ or paragraph 31 of Schedule 9ZA ”;
- (b) in paragraph (a) of that subsection, after “importation” there were inserted “ or acquisition ”;
- (c) in subsection (4), after “importation” there were inserted “ , acquisition ”;
- (d) in subsection (4C) after paragraph (a) there were inserted—
  - “(aza) paragraph 40 or 44(2) of Schedule 9ZA,
  - (azb) paragraph 50 of that Schedule,
  - (azc) regulations under paragraph 73(4) of that Schedule.”;
- (e) in subsection (6), after “73(6)(b)” there were inserted “ or paragraph 31(2) (b) of Schedule 9ZA ”.

*Credit for, or repayment of, overstated or overpaid VAT*

- 33 In section 80 (credit for, or repayment of, overstated or overpaid VAT) has effect as if in subsection (3C) reference to VAT provisions included any provision of any EU instrument relating to VAT, or to any matter connected with VAT, that has effect in Northern Ireland as a result of section 7A of the European Union (Withdrawal) Act 2018 (general implementation of withdrawal agreement).

## PART 7

### APPEALS AND SUPPLEMENTARY PROVISION

#### *Appeals*

- 34 (1) The following matters are to be treated as if they were included in the list of matters in subsection (1) of section 83 (matters subject to appeal to the tribunal)—
- (a) the VAT chargeable on the acquisition of goods from a member State;
  - (b) any claim for a refund under any regulations made by virtue of paragraph 5(4) of this Schedule;
  - (c) any direction under paragraph 9 of this Schedule;
  - (d) the amount of any refunds under paragraph [F<sup>5</sup>18A or] 19 of this Schedule;
  - (e) an assessment under paragraph 31 of this Schedule, or the amount of such an assessment;
  - (f) a decision of the Commissioners under paragraph 17 of Schedule 9ZB—
    - (i) as to whether or not a person is to be approved as a Northern Ireland fiscal warehousekeeper or the conditions from time to time subject to which the person is so approved,
    - (ii) for the withdrawal of any such approval, or
    - (iii) for the withdrawal of Northern Ireland fiscal warehouse status from any premises.
- (2) Section 84 (further provisions relating to appeals) has effect as if in subsection (4) (c), after “supply” there were inserted “ , acquisition ”.

*Status: Point in time view as at 01/08/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, SCHEDULE 9ZA. (See end of Document for details)*

### Textual Amendments

- F5** Words in Sch. 9ZA para. 34(1)(d) inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1544\)](#), regs. 1, **3(4)**; S.I. 2020/1641, reg. 2, Sch.

### *Supplies spanning change of rate etc*

- 35 (1) This paragraph applies where there is a change in the rate of VAT in force under section 2 or paragraph 16 of this Schedule or in the descriptions of exempt, zero-rated or reduced-rate acquisitions.
- (2) Where—
- (a) any acquisition of goods from a member State which is affected by the change would not have been affected (in whole or in part) if it had been treated as taking place at the time of the first removal of the goods (see paragraph 4(5)), or
  - (b) any acquisition of goods from a member State which is not so affected would have been affected (in whole or in part) if it had been treated as taking place at the time of that removal,
- the rate at which VAT is chargeable on the acquisition, or any question of whether it is an exempt, zero-rated or reduced-rate acquisition, is to be determined as at the time of the first removal of the goods, if the person making the acquisition so elects.
- (3) References in this paragraph to a zero-rated acquisition is to an acquisition on which no NI acquisition VAT is charged as a result of provision made by or under paragraph 17 (zero-rating).
- (4) Reference in this paragraph to a reduced rate acquisition is to an acquisition on which NI acquisition VAT is charged at the rate in force under paragraph 16(1).

### *Failure of resolution under Provisional Collection of Taxes Act 1968*

- 36 (1) Where—
- (a) by virtue of a resolution having effect under the Provisional Collection of Taxes Act 1968 NI acquisition VAT has been paid at a rate specified in the resolution by reference to a value determined under paragraph 8(3) of this Schedule, and
  - (b) by virtue of section 1(6) or (7) or 5(3) of that Act any of that VAT is repayable in consequence of the restoration of a lower rate,
- the amount repayable is to be the difference between the VAT paid by reference to that value at the rate specified in the resolution and the VAT that would have been payable by reference to that value at the lower rate.
- (2) Where—
- (a) by virtue of such a resolution NI acquisition VAT is chargeable at a rate specified in the resolution by reference to a value determined under paragraph 8(3) of this Schedule, but
  - (b) before the VAT is paid it ceases to be chargeable at that rate in consequence of the restoration of a lower rate,

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the VAT chargeable at the lower rate is to be charged by reference to the same value as that by reference to which NI acquisition VAT would have been chargeable at the rate specified in the resolution.

- (3) Section 90(3) (failure of resolution under Provisional Collection of Taxes Act 1968) has effect as if after “or 35” there were inserted “ or paragraph [<sup>F6</sup>18A or] 19 of Schedule 9ZA ”.

#### Textual Amendments

- F6** Words in Sch. 9ZA para. 36(3) inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1544\)](#), regs. 1, **3(5)**; S.I. 2020/1641, reg. 2, Sch.

#### *Refund of VAT to Government of Northern Ireland*

- 37 (1) Section 99 (refund of VAT to Government of Northern Ireland) applies to—
- (a) VAT charged on the acquisition of goods from a member State by the Government of Northern Ireland as it applies to VAT charged on the supply of goods or services to that Government, and
  - (b) any amount attributable to acquisitions of goods from a member State for the purpose of a business carried on by the Government of Northern Ireland as it applies to supplies for that purpose.

## PART 8

### REGISTRATION IN RESPECT OF ACQUISITIONS FROM MEMBER STATES

#### *Liability to be registered*

- 38 (1) A person who—
- (a) is not registered under this Act, and
  - (b) is not liable to be registered under Schedule 1 or 1A or Part 9 of this Schedule,
- becomes liable to be registered under this Part of this Schedule at the end of any month if, in the period beginning with 1 January of the year in which that month falls, that person had made relevant acquisitions whose value exceeds £85,000.
- (2) A person who is not registered or liable to be registered as mentioned in subparagraph (1)(a) and (b) becomes liable to be registered under this Part of this Schedule at any time if there are reasonable grounds for believing that the value of the person's relevant acquisitions in the following 30 days will exceed £85,000.
- (3) A person is treated as having become liable to be registered under this Part of this Schedule at any time when the person would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 43(2) or 53(5) of this Schedule, paragraph 13(3) of Schedule 1, paragraph 11 of Schedule 1A or paragraph 6(2) of Schedule 3A.
- (4) A person does not cease to be liable to be registered under this Part of this Schedule except in accordance with paragraph 39.

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- (5) In determining the value of any person's relevant acquisitions for the purposes of this paragraph, so much of the consideration for any acquisition as represents any liability of the supplier, under the law of a member State, for VAT on the transaction in pursuance of which the acquisition is made, is to be disregarded.
- (6) In determining the value of a person's acquisitions for the purposes of sub-paragraph (1) or (2), acquisitions to which paragraph 19(6) of Schedule 9ZB (last acquisition or supply of goods before removal from Northern Ireland fiscal warehousing) applies are to be disregarded.
- 39 (1) A person who has become liable to be registered under this Part of this Schedule ceases to be so liable if at any time—
- (a) the person's relevant acquisitions in the year ending with 31 December last before that time did not have a value exceeding £85,000, and
  - (b) the Commissioners are satisfied that the value of the person's relevant acquisitions in the year immediately following that year will not exceed £85,000.
- (2) But a person does not cease to be liable to be registered under this Part of this Schedule at any time if there are reasonable grounds for believing that the value of that person's relevant acquisitions in the following 30 days will exceed £85,000.

*Notification of liability and registration*

- 40 (1) A person who becomes liable to be registered under this Part of this Schedule must notify the Commissioners of the liability—
- (a) in the case of a liability under sub-paragraph (1) of paragraph 38, within 30 days of the end of the month when the person becomes so liable, and
  - (b) in the case of a liability under sub-paragraph (2) of that paragraph, before the end of the period by reference to which the liability arises.
- (2) The Commissioners must register any such person (whether or not the person notifies them) with effect from the relevant time or from such earlier time as may be agreed between the Commissioners and the person.
- (3) In this paragraph "the relevant time"—
- (a) in a case falling within sub-paragraph (1)(a), means the end of the month following the month at the end of which the liability arose, and
  - (b) in a case falling within sub-paragraph (1)(b), means the beginning of the period by reference to which the liability arose.

*Entitlement to be registered etc*

- 41 (1) Where a person who is not liable to be registered under this Act and is not already so registered satisfies the Commissioners that the person makes relevant acquisitions, the Commissioners must, if the person so requests, register the person with effect from the day on which the request is made or from such earlier date as may be agreed between the Commissioners and the person.
- (2) Where a person who is not liable to be registered under this Act and is not already so registered—
- (a) satisfies the Commissioners that the person intends to make relevant acquisitions from a specified date, and

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- (b) requests to be registered under this Part of this Schedule, the Commissioners may, subject to such conditions as they think fit to impose, register the person with effect from such date as may be agreed between the Commissioners and the person.
- (3) Conditions imposed under sub-paragraph (2) may—
  - (a) be so imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph, and
  - (b) be subsequently varied by the Commissioners (whenever the conditions were imposed).
- (4) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 1 requests registration under this paragraph, the person is to be registered under that Schedule, and not under this Part of this Schedule.

*Notification of matters affecting continuance of registration*

- 42
- (1) Any person registered under this Part of this Schedule who ceases to be registrable under this Act must notify the Commissioners of that fact within 30 days of the day on which the person ceases to be registrable.
  - (2) A person registered under paragraph 41(2) must notify the Commissioners, within 30 days of the first occasion after the person's registration when the person makes a relevant acquisition, that the person has made that acquisition.
  - (3) For the purposes of this paragraph a person ceases to be registrable under this Act where—
    - (a) the person ceases to be a person who would be liable or entitled to be registered under this Act if the person's registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded, or
    - (b) in the case of a person who (having been registered under paragraph 41(2)) has not been such a person during the period of the person's registration, the person ceases to have any intention of making relevant acquisitions.

*Cancellation of registration*

- 43
- (1) Where a person registered under this Part of this Schedule satisfies the Commissioners that the person is not liable to be so registered, the Commissioners must, if the person so requests, cancel that registration with effect from the day on which the request is made or from such later date as may be agreed between the Commissioners and the person.
  - (2) Where the Commissioners are satisfied that a person registered under this Part of this Schedule has ceased since the person's registration to be registrable under this Part of this Schedule, they may cancel that registration with effect from the day on which the person so ceased or from such later date as may be agreed between the Commissioners and the person.
  - (3) Where the Commissioners are satisfied that a person who has been registered under paragraph 41(2) and is not for the time being liable to be registered under this Part of this Schedule—
    - (a) has not begun, by the date specified in the person's request to be registered, to make relevant acquisitions, or

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- (b) has contravened any condition of the person's registration, the Commissioners may cancel the person's registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between the Commissioners and the person.
- (4) But the Commissioners may not, under sub-paragraph (1), (2) or (3), cancel a person's registration with effect from any time unless the Commissioners are satisfied that it is not a time when that person would be subject to a requirement, or in a case falling under sub-paragraph (2) or (3) a requirement or entitlement, to be registered under this Act.
- (5) Where the Commissioners are satisfied that, on the day on which a person was registered under this Part of this Schedule, the person—
- (a) was not registrable under this Part of this Schedule, and
  - (b) in the case of a person registered under paragraph 41(2), did not have the intention by reference to which the person was registered,
- the Commissioners may cancel that registration with effect from that day.
- (6) The registration of a person who—
- (a) is registered under paragraph 41, or
  - (b) would not, if the person were not registered, be liable or entitled to be registered under any provision of this Act except that paragraph,
- may not be cancelled with effect from any time before 1 January which is, or next follows, the second anniversary of the date on which the person's registration took effect.
- (7) But sub-paragraph (6) does not apply to cancellation under sub-paragraph (3) or (5).
- (8) In determining, for the purposes of sub-paragraphs (4) and (6), whether a person would be subject to a requirement, or would be entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when the person is already registered or when the person is so liable under any other provision is to be disregarded.
- (9) For the purposes of this paragraph, a person is registrable under this Part of this Schedule at any time when the person is liable to be registered under this Part of this Schedule or is a person who makes relevant acquisitions.

#### *Exemption from registration*

- 44 (1) Where a person who makes or intends to make relevant acquisitions satisfies the Commissioners that any such acquisition would be an acquisition in pursuance of a transaction which would be zero-rated if it were a taxable supply by a taxable person, the Commissioners may, if the person so requests and the Commissioners think fit, exempt the person from registration under this Part of this Schedule until it appears to the Commissioners that the request should no longer be acted upon or is withdrawn.
- (2) Where a person who is exempted under this paragraph from registration under this Part of this Schedule makes any relevant acquisition in pursuance of any transaction which would, if it were a taxable supply by a taxable person, be chargeable to VAT otherwise than as a zero-rated supply, the person must notify the Commissioners of the change within 30 days of the date the acquisition was made.

*Status: Point in time view as at 01/08/2021.*

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*Power to vary specified sums by regulations*

- 45 The Treasury may by regulations substitute for any of the sums for the time being specified in this Part of this Schedule such greater sums as the Treasury consider appropriate.

*Notifications*

- 46 Any notification required under this Part of this Schedule must be made in such form and manner and must contain such particulars as may be specified in regulations or by the Commissioners in accordance with regulations.

*Meaning of relevant [F7 acquisition]*

**Textual Amendments**

- F7** Word in Sch. 9ZA para. 47 cross-heading substituted (1.8.2021) by The Value Added Tax (Miscellaneous Amendments and Repeals) (EU Exit) Regulations 2021 (S.I. 2021/714), regs. 1, 7(2) (as amended by S.I. 2021/779, regs. 1, 2)

- 47 For the purposes of this Part of this Schedule “relevant acquisition” means an acquisition that—
- (a) is a taxable acquisition (see paragraph 2(2)) of goods other than goods which are subject to a duty of excise or consist in a new means of transport, and
  - (b) is otherwise than in pursuance of a taxable supply and is treated, for the purposes of this Act, as taking place in Northern Ireland.

**PART 9**

REGISTRATION IN RESPECT OF DISTANCE SALES FROM THE EU TO NORTHERN IRELAND

*Liability to be registered*

- 48 (1) A person who—
- (a) is not registered under this Act, and
  - (b) is not liable to be registered under Schedule 1 or 1A,
- becomes liable to be registered under this Part of this Schedule [F8—
- (i) in a case where sub-paragraph (1A) applies, on a day determined in accordance with sub-paragraph (1B), or
  - (ii) in a case where sub-paragraph (1A) does not apply, on any day when the person makes a relevant supply.]

[ This sub-paragraph applies where —

- <sup>F9</sup>(1A) (a) the person has a single place of establishment, or (where the person does not have a place of establishment) a single place where the person has a permanent address or where the person usually resides, and
- (b) that place is in a member State or Northern Ireland.

(1B) The person becomes liable to be registered on any day in a given year if—

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- (a) in the period beginning with 1 January of that year and ending with that day, the person makes a relevant supply, and
- (b) in that period, or in the period beginning with 1 January and ending with 31 December of the year before the year in which that day falls, the person makes European supplies whose value exceeds £8,818.]
- (2) A person who is not registered or liable to be registered as mentioned in subparagraph (1)(a) and (b) becomes liable to be registered under this Part of this Schedule where—
- (a) the person has exercised any option, in accordance with the law of any member State where the person is taxable, for treating relevant supplies made by that person as taking place outside that member State,
- (b) the supplies to which the option relates involve the removal of goods from that member State and, apart from the exercise of the option, would be treated, in accordance with the law of that member State, as taking place in that member State, and
- (c) the person makes a relevant supply at a time when the option is in force in relation to that person.
- (3) A person who is not registered or liable to be registered as mentioned in subparagraph (1)(a) and (b) above becomes liable to be registered under this Part of this Schedule if the person makes a supply that—
- (a) is a supply of goods subject to a duty of excise,
- (b) involves the removal of the goods to Northern Ireland by or under the directions of the person making the supply,
- (c) is a transaction in pursuance of which the goods are acquired in Northern Ireland from a member State by a person who is not a taxable person,
- (d) is made in the course or furtherance of a business carried on by the supplier, and
- (e) is not anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) of Schedule 4 or paragraph 30 of Schedule 9ZB.
- (4) A person is treated as having become liable to be registered under this Part of this Schedule at any time when the person would have become so liable under the preceding provisions of this paragraph but for any registration which is subsequently cancelled under paragraph 43(3) or 53(5) of this Schedule, paragraph 13(3) of Schedule 1, paragraph 11 of Schedule 1A, or paragraph 6(2) of Schedule 3A.
- (5) A person does not cease to be liable to be registered under this Part of this Schedule except in accordance with paragraph 49.
- <sup>F10</sup>(6) .....
- <sup>F11</sup>(7) .....
- [ For the purposes of this paragraph, a supply of goods or services is a “European <sup>F12</sup>(8) supply” if it is—
- (a) a supply of services listed in Article 58(1) of the VAT Directive to a person who is not a taxable person and who is established, or (where the person does not have a place of establishment) who has a permanent address or who usually resides, in a member State or Northern Ireland and that is not the



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- place mentioned in sub-paragraph (1A)(a) (that is, the place in which the person supplying the services is established etc), or
- (b) a supply of goods that would be an “intra-Community distance sale of goods” within the meaning given by Article 14(4) of the VAT Directive if references in that Article to a “Member State” were read as if they included a reference to Northern Ireland (and references to a “third country” and “third territory” were read accordingly as including Great Britain) involving the removal of goods to a member State or Northern Ireland and that is not the place mentioned in sub-paragraph (1A)(a) (that is, the place in which the person supplying the goods is established etc).
- (9) For the purposes of sub-paragraph (8)(a), a person is not a taxable person if they are not liable or entitled to register for VAT in accordance with the law of the place where the person to whom the services are supplied is established, has their permanent address or usually resides.
- (10) In sub-paragraph (8), “the VAT Directive” means Council Directive [2006/112/EC](#) of 28 November 2006 on the common system of value added tax.]

#### Textual Amendments

- F8** Words in [Sch. 9ZA para. 48\(1\)](#) substituted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by [Finance Act 2021 \(c. 26\), s. 95\(6\)\(a\), Sch. 18 para. 2\(2\)](#); S.I. 2021/770, [reg. 3](#)
- F9** [Sch. 9ZA para. 48\(1A\)\(1B\)](#) inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by [Finance Act 2021 \(c. 26\), s. 95\(6\)\(a\), Sch. 18 para. 2\(3\)](#); S.I. 2021/770, [reg. 3](#)
- F10** [Sch. 9ZA para. 48\(6\)](#) omitted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by virtue of [Finance Act 2021 \(c. 26\), s. 95\(6\)\(a\), Sch. 18 para. 2\(4\)](#); S.I. 2021/770, [reg. 3](#)
- F11** [Sch. 9ZA para. 48\(7\)](#) omitted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by virtue of [Finance Act 2021 \(c. 26\), s. 95\(6\)\(a\), Sch. 18 para. 2\(4\)](#); S.I. 2021/770, [reg. 3](#)
- F12** [Sch. 9ZA para. 48\(8\)-\(10\)](#) inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by [Finance Act 2021 \(c. 26\), s. 95\(6\)\(a\), Sch. 18 para. 2\(5\)](#); S.I. 2021/770, [reg. 3](#)

- 49 (1) A person who has become liable to be registered under this Part of this Schedule <sup>F13</sup>by virtue of paragraph 48(1)(i) ceases to be so liable if at any time—
- (a) <sup>F14</sup>European supplies] made by the person in the year ending with 31 December last before that time did not have a value exceeding <sup>F15</sup>£8,818] and did not include any supply in relation to which the conditions mentioned in paragraph 48(3) were satisfied, and
- (b) the Commissioners are satisfied that the value of the person's <sup>F16</sup>European supplies] in the year immediately following that year will not exceed <sup>F17</sup>£8,818] and that those supplies will not include a supply in relation to which those conditions are satisfied.
- [ A person who has become liable to be registered under this Part of this Schedule by <sup>F18</sup>(1A) virtue of paragraph 48(1)(ii) ceases to be so liable by virtue of that paragraph if at any time paragraph 48(1A) applies in relation to that person.
- (1B) A person who has become liable to be registered under this Part of this Schedule by virtue of paragraph 48(3) ceases to be so liable by virtue of that paragraph if at any time the Commissioners are satisfied that the person—
- (a) has ceased to make supplies as mentioned in that paragraph, and

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- (b) will not make such supplies within the period of one year beginning with the day on which the Commissioners are notified or otherwise become aware that the person has ceased to make them.]

(2) But <sup>F19</sup>—

- (a) the fact that a person ceases to be liable to be registered under this Part of this Schedule by virtue of one provision does not prevent the person being liable to be registered under this Part of this Schedule by virtue of another provision, and
- (b) a person does not cease to be liable to be registered under this Part of this Schedule at any time when such an option as is mentioned in paragraph 48(2) above is in force in relation to that person.

[ Sub-paragraphs (8) to (10) of paragraph 48 apply for the purposes of this paragraph <sup>F20</sup>(3) as they apply for the purposes of that paragraph.]

#### Textual Amendments

- F13** Words in *Sch. 9ZA para. 49(1)* inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(2)(a); S.I. 2021/770, reg. 3*
- F14** Words in *Sch. 9ZA para. 49(1)(a)* substituted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(2)(b); S.I. 2021/770, reg. 3*
- F15** Sum in *Sch. 9ZA para. 49(1)(a)* substituted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(2)(d); S.I. 2021/770, reg. 3*
- F16** Words in *Sch. 9ZA para. 49(1)(b)* substituted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(2)(c); S.I. 2021/770, reg. 3*
- F17** Sum in *Sch. 9ZA para. 49(1)(b)* substituted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(2)(d); S.I. 2021/770, reg. 3*
- F18** *Sch. 9ZA para. 49(1A)(1B)* inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(3); S.I. 2021/770, reg. 3*
- F19** Words in *Sch. 9ZA para. 49(2)* inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(4); S.I. 2021/770, reg. 3*
- F20** *Sch. 9ZA para. 49(3)* inserted (10.6.2021 for specified purposes, 1.7.2021 in so far as not already in force) by *Finance Act 2021 (c. 26), s. 95(6)(a), Sch. 18 para. 3(5); S.I. 2021/770, reg. 3*

#### *Notification of liability and registration*

- 50 (1) A person who becomes liable to be registered under this Part of this Schedule must notify the Commissioners of the liability within the period of 30 days after the day on which the liability arises.
- (2) The Commissioners must register any such person (whether or not the person has notified them) with effect from the day on which the liability arose or from such earlier time as may be agreed between the Commissioners and the person.

#### *Request to be registered*

- 51 (1) Where a person who is not liable to be registered under this Act and is not already so registered—
- (a) satisfies the Commissioners that the person intends—

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- (i) to exercise an option such as is mentioned in paragraph 48(2) and, from a specified date, to make relevant supplies to which that option will relate,
  - (ii) from a specified date to make relevant supplies to which any such option that the person has exercised will relate, or
  - (iii) from a specified date to make supplies in relation to which the conditions mentioned in paragraph 48(3) will be satisfied, and
- (b) requests to be registered under this Part of this Schedule, the Commissioners may, subject to such conditions as they think fit to impose, register the person with effect from such date as may be agreed between the Commissioners and the person.
- (2) Conditions imposed under sub-paragraph (1) may—
- (a) be imposed wholly or partly by reference to, or without reference to, any conditions prescribed for the purposes of this paragraph, and
  - (b) be subsequently varied by the Commissioners (whenever the conditions were imposed).
- (3) Where a person who is entitled to be registered under paragraph 9 or 10 of Schedule 1 requests registration under this paragraph, the person is to be registered under that Schedule, and not under this Part of this Schedule.

*Notification of matters affecting continuance of registration*

- 52
- (1) Any person registered under this Part of this Schedule who ceases to be registrable under this Act must notify the Commissioners of that fact within 30 days of the day on which the person ceases to be registrable.
  - (2) A person registered under paragraph 51 by reference to any intention to exercise any option or to make supplies of any description must notify the Commissioners within 30 days of exercising that option or, as the case may be, of the first occasion after registration when the person makes such a supply, that the person has exercised the option or made such a supply.
  - (3) A person who has exercised an option mentioned in paragraph 48(2) which, as a consequence of the option's revocation or otherwise, ceases to have effect in relation to any relevant supplies by the person must notify the Commissioners, within 30 days of the option's ceasing so to have effect, that it has done so.
  - (4) For the purposes of this paragraph, a person ceases to be registrable under this Act where—
    - (a) the person ceases to be a person who would be liable or entitled to be registered under this Act if the person's registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded, or
    - (b) in the case of a person who (having been registered under paragraph 51) has not been such a person during the period of the person's registration, the person ceases to have any such intention as is mentioned in sub-paragraph (1) (a) of that paragraph.

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### *Cancellation of registration*

- 53 (1) Where a person registered under this Part of this Schedule satisfies the Commissioners that the person is not liable to be so registered, the Commissioners must, if the person so requests, cancel that registration with effect from the day on which the request is made or from such later date as may be agreed between the Commissioners and the person.
- (2) Where the Commissioners are satisfied that a person who has been registered under paragraph 51 and is not for the time being liable to be registered under this Part of this Schedule—
- (a) has not, by the date specified in the person's request to be registered, begun to make relevant supplies, exercised the option in question or, as the case may be, begun to make supplies in relation to which the conditions mentioned in paragraph 48(3) are satisfied, or
  - (b) has contravened any condition of the person's registration,
- the Commissioners may cancel the person's registration with effect from the date so specified or, as the case may be, the date of the contravention or from such later date as may be agreed between the Commissioners and the person.
- (3) But the Commissioners may not, under sub-paragraph (1) or (2), cancel a person's registration with effect from any time unless the Commissioners are satisfied that it is not a time when that person would be subject to a requirement, or in a case falling under sub-paragraph (2) a requirement or entitlement, to be registered under this Act.
- (4) In determining for the purposes of sub-paragraph (3) whether a person would be subject to a requirement, or would be entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when the person is already registered or when the person is so liable under any other provision is to be disregarded.
- (5) Where the Commissioners are satisfied that, on the day on which a person was registered under this Part of this Schedule, the person—
- (a) was not liable to be registered under this Part of this Schedule, and
  - (b) in the case of a person registered under paragraph 51, did not have the intention by reference to which the person was registered,
- the Commissioners may cancel that registration with effect from that day.
- (6) The registration of a person who has exercised an option mentioned in paragraph 48(2) may not be cancelled with effect from any time before the 1 January which is, or next follows, the second anniversary of the date on which the person's registration took effect.

### *Power to vary specified sums by regulations*

- 54 The Treasury may by regulations substitute for any of the sums for the time being specified in this Part of this Schedule such greater sums as the Treasury consider appropriate.

### *Notifications*

- 55 Any notification required under this Part of this Schedule must be made in such form and manner and must contain such particulars as may be specified in regulations or by the Commissioners in accordance with regulations.

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### *Meaning of relevant supply*

- 56 For the purposes of this Part of this Schedule “relevant supply” means a supply of goods that—
- (a) involves the removal of the goods to Northern Ireland from a place outside the United Kingdom by or under the directions of the person making the supply,
  - (b) does not involve the installation or assembly of the goods at a place in Northern Ireland,
  - (c) is a transaction in pursuance of which goods are acquired in Northern Ireland from a member State by a person who is not a taxable person,
  - (d) is made in the course or furtherance of a business carried on by the supplier, and
  - (e) is neither an exempt supply nor a supply of goods which are subject to a duty of excise or consist in a new means of transport and is not anything which is treated as a supply for the purposes of this Act by virtue only of paragraph 5(1) of Schedule 4 or paragraph 30 of Schedule 9ZB.

## **PART 10**

### **CALL-OFF STOCK ARRANGEMENTS**

#### *Where this Part of this Schedule applies*

- 57 (1) This Part of this Schedule applies where—
- (a) goods forming part of the assets of any business are removed —
    - (i) from Northern Ireland for the purpose of being taken to a place in a member State, or
    - (ii) from a member State for the purpose of being taken to a place in Northern Ireland,
  - (b) the goods are removed in the course or furtherance of that business by or under the directions of the person carrying on that business (“the supplier”),
  - (c) the goods are removed with a view to their being supplied in the destination territory, at a later stage and after their arrival there, to another person (“the customer”),
  - (d) at the time of the removal the customer is entitled to take ownership of the goods in accordance with an agreement existing between the customer and the supplier,
  - (e) at the time of the removal the supplier does not have a business establishment or other fixed establishment in the destination territory,
  - (f) at the time of the removal the customer is identified for the purposes of VAT in accordance with the law of the destination territory and both the identity of the customer and the number assigned to the customer for the purposes of VAT by the destination territory are known to the supplier,
  - (g) as soon as reasonably practicable after the removal the supplier records the removal in the register provided for in Article 243(3) of Council Directive [2006/112/EC](#) of 28 November 2006 on the common system of value added tax, and

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(h) the supplier includes the number mentioned in paragraph (f) in the recapitulative statement provided for in Article 262(2) of Council Directive [2006/112/EC](#).

(2) For the purposes of this Part of this Schedule, where the destination territory is Northern Ireland, a customer is identified for the purposes of VAT in accordance with the law of the destination territory if the customer is registered under this Act and is identified for the purposes of VAT in Northern Ireland.

(3) In this Part of this Schedule—

“the destination territory” means—

- (a) in a case within paragraph (i) of sub-paragraph (1)(a), the member State concerned, and
- (b) in a case within paragraph (ii) of sub-paragraph (1)(a), Northern Ireland, and

“the origin territory” means—

- (a) in a case within paragraph (i) of sub-paragraph (1)(a), Northern Ireland, and
- (b) in a case within paragraph (ii) of sub-paragraph (1)(a), the member State concerned.

*Removal of the goods not to be treated as a supply*

58 The removal of the goods from the origin territory is not to be treated by reason of paragraph 30 of Schedule 9ZB as a supply of goods by the supplier.

*Goods transferred to the customer within 12 months of arrival*

59 (1) The rules in sub-paragraph (2) apply if—

- (a) during the period of 12 months beginning with the day the goods arrive in the destination territory the supplier transfers the whole property in the goods to the customer, and
- (b) during the period beginning with the day the goods arrive in the destination territory and ending immediately before the time of that transfer no relevant event occurs.

(2) The rules are that—

- (a) a supply of the goods in the relevant territory is deemed to be made by the supplier,
- (b) the deemed supply is deemed to involve the removal of the goods from the origin territory at the time of the transfer mentioned in sub-paragraph (1),
- (c) the consideration given by the customer for the transfer mentioned in sub-paragraph (1) is deemed to have been given for the deemed supply, and
- (d) an acquisition of the goods by the customer in pursuance of the deemed supply is deemed to take place in the destination territory.

(3) In sub-paragraph (2) and in paragraphs 60(2) and 61(2) “the relevant territory” means—

- (a) where the origin territory is Northern Ireland, the United Kingdom, or
- (b) where the origin territory is a member State, that member State.

(4) For the meaning of a “relevant event”, see paragraph 63.

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*Relevant event occurs within 12 months of arrival*

- 60 (1) The rules in sub-paragraph (2) apply (subject to paragraph 62) if—
- (a) during the period of 12 months beginning with the day the goods arrive in the destination territory a relevant event occurs, and
  - (b) during the period beginning with the day the goods arrive in the destination territory and ending immediately before the time that relevant event occurs the supplier does not transfer the whole property in the goods to the customer.
- (2) The rules are that—
- (a) a supply of the goods in the relevant territory (see paragraph 59(3)) is deemed to be made by the supplier,
  - (b) the deemed supply is deemed to involve the removal of the goods from the origin territory at the time the relevant event occurs, and
  - (c) an acquisition of the goods by the supplier in pursuance of the deemed supply is deemed to take place in the destination territory.
- (3) For the meaning of a “relevant event”, see paragraph 63.

*Goods not transferred and no relevant event occurs within 12 months of arrival*

- 61 (1) The rules in sub-paragraph (2) apply (subject to paragraph 62) if during the period of 12 months beginning with the day the goods arrive in the destination territory the supplier does not transfer the whole property in the goods to the customer and no relevant event occurs.
- (2) The rules are that—
- (a) a supply of the goods in the relevant territory (see paragraph 59(3)) is deemed to be made by the supplier,
  - (b) the deemed supply is deemed to involve the removal of the goods from the origin territory at the beginning of the day following the expiry of the period of 12 months mentioned in sub-paragraph (1), and
  - (c) an acquisition of the goods by the supplier in pursuance of the deemed supply is deemed to take place in the destination territory.
- (3) For the meaning of a “relevant event”, see paragraph 63.

*Exception to paragraphs 60 and 61: goods returned to origin territory*

- 62 The rules in paragraphs 60(2) and 61(2) do not apply if during the period of 12 months beginning with the day the goods arrive in the destination territory—
- (a) the goods are returned to the origin territory by or under the direction of the supplier, and
  - (b) the supplier records the return of the goods in the register provided for in Article 243(3) of Council Directive [2006/112/EC](#).

*Meaning of “relevant event”*

- 63 (1) For the purposes of this Part of this Schedule each of the following events is a relevant event—
- (a) the supplier forms an intention not to supply the goods to the customer (but see sub-paragraph (2)),

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- (b) the supplier forms an intention to supply the goods to the customer otherwise than in the destination territory,
  - (c) the supplier establishes a business establishment or other fixed establishment in the destination territory,
  - (d) the customer ceases to be identified for the purposes of VAT in accordance with the law of the destination territory,
  - (e) the goods are removed from the destination territory by or under the directions of the supplier otherwise than for the purpose of being returned to the origin territory, or
  - (f) the goods are destroyed, lost or stolen.
- (2) But the event mentioned in paragraph (a) of sub-paragraph (1) is not a relevant event for the purposes of this Part of this Schedule if—
- (a) at the time that the event occurs the supplier forms an intention to supply the goods to another person (“the substitute customer”),
  - (b) at that time the substitute customer is identified for the purposes of VAT in accordance with the law of the destination territory,
  - (c) the supplier includes the number assigned to the substitute customer for the purposes of VAT by the destination territory in the recapitulative statement provided for in Article 262(2) of Council Directive [2006/112/EC](#), and
  - (d) as soon as reasonably practicable after forming the intention to supply the goods to the substitute customer the supplier records that intention in the register provided for in Article 243(3) of Council Directive [2006/112/EC](#).
- (3) Where the destination territory is Northern Ireland, the reference in sub-paragraph (2) (c) to the number assigned to the substitute customer for the purposes of VAT is to the number assigned to the substitute customer for the purposes of VAT in the United Kingdom along with an NI VAT identifier.
- (4) In a case where sub-paragraph (2) applies, references in this Part of this Schedule to the customer are to be then read as references to the substitute customer.
- (5) In a case where the goods are destroyed, lost or stolen but it is not possible to determine the date on which that occurred, the goods are to be treated for the purposes of this Part of this Schedule as having been destroyed, lost or stolen on the date on which they were found to be destroyed or missing.

*Record keeping by the supplier*

- 64 (1) In a case where the origin territory is Northern Ireland, any record made by the supplier in pursuance of paragraph 57(1)(g), 62(b) or 63(2)(d) must be preserved for such period not exceeding 6 years as the Commissioners may specify in writing.

*Record keeping by the customer*

- 65 (1) In a case where the destination territory is Northern Ireland, the customer must as soon as is reasonably practicable make a record of the information relating to the goods that is specified in Article 54A(2) of Council Implementing [Regulation \(EU\) No. 282/2011](#) of 15 March 2011 laying down implementing measures for Directive [2006/112/EC](#) on the common system of value added tax.
- (2) A record made under this paragraph must—



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- (a) be made in a register kept by the customer for the purposes of this paragraph, and
- (b) be preserved for such period not exceeding 6 years as the Commissioners may specify in writing.

## PART 11

### MODIFICATION OF OTHER SCHEDULES

#### *Registration in respect of taxable supplies: UK establishment (Schedule 1)*

- 66 (1) Paragraph 1 of Schedule 1 (registration in respect of taxable supplies: UK establishment) has effect as if—
- (a) the provisions mentioned in sub-paragraphs (4)(a) and (5) included paragraphs 43(5) and 53(5) of this Schedule (cancellation of registration);
  - (b) in sub-paragraph (7), after “are supplied” there were inserted “ and any taxable supplies which would not be taxable supplies apart from paragraph 29(1) of Schedule 9ZB ”;
  - (c) in sub-paragraph (9)—
    - (i) after “section 18B(4)” there were inserted “ or paragraph 19(5) of Schedule 9ZB ”;
    - (ii) after “supply” there were inserted “ or acquisition ”.
- (2) Paragraph 2 of that Schedule has effect as if in sub-paragraph (7), after paragraph (b) there were inserted—
- “(c) any acquisition of goods from a member State by one of the constituent members in the course of the activities of the taxable person is to be treated as an acquisition by that person;”.
- (3) Paragraph 4(3) of that Schedule has effect as if after “are supplied” there were inserted “ and any taxable supplies which would not be taxable supplies apart from paragraph 29(1) of Schedule 9ZB ”.

#### *Registration in respect of taxable supplies: non-UK establishment (Schedule 1A)*

- 67 Paragraph 3 of Schedule 1A (registration in respect of taxable supplies: non-UK establishment) has effect as if the provisions mentioned in paragraphs (a) to (e) of that paragraph included paragraphs 43(5) and 53(5) of this Schedule.

#### *Registration: disposals of assets where repayment is claimed (Schedule 3A)*

- 68 Paragraph 1 of Schedule 3A (registration in respect of disposals of assets for which a VAT repayment is claimed) has effect as if—
- (a) in sub-paragraph (1), after “or 1A” there were inserted “ or Part 8 or 9 of Schedule 9ZA ”, and
  - (b) the provisions mentioned in sub-paragraph (2) included paragraphs 43(5) and 53(5) of this Schedule.

#### *Valuation of supplies: special cases (Schedule 6)*

- 69 (1) Paragraph 1A of Schedule 6 (valuation: special cases) has effect as if—

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- (a) in sub-paragraph (4), in the definition of “motor dealer”, after “supplies of” there were inserted “, or acquiring in Northern Ireland from a member State”;
  - (b) in that sub-paragraph, in the definition of “stock in trade”—
    - (i) in paragraph (a) of that definition, after “supplied to” there were inserted “ or acquired in Northern Ireland from a member State <sup>F21</sup>...”;
    - (ii) in paragraph (b) of that definition, after “supply” there were inserted “, acquisition”;
  - (c) in sub-paragraph (6)(a)—
    - (i) after “supplied” there were inserted “, acquired in Northern Ireland from a member State”;
    - (ii) after “supply” there were inserted “, acquisition”.
- (2) [<sup>F22</sup>Paragraph 6(1) of that Schedule has effect as if—
- (a) in paragraph (b), after “Schedule 4” there were inserted “ or paragraph 30 of Schedule 9ZB”;
  - (b) in paragraph (c), for “that Schedule;” there were substituted “ Schedule 4; or”;
  - (c) after that paragraph there were inserted—
    - “(d) paragraph 60(2)(a) or 61(2)(a) of Schedule 9ZA,”.

#### Textual Amendments

**F21** Word in Sch. 9ZA para. 69(1)(b)(i) omitted (1.8.2021) by virtue of [The Value Added Tax \(Miscellaneous Amendments and Repeals\) \(EU Exit\) Regulations 2021 \(S.I. 2021/714\)](#), regs. 1, **7(3)(a)** (as amended by S.I. 2021/779, regs. 1, 2)

**F22** Words in Sch. 9ZA para. 69(2) substituted (1.8.2021) by [The Value Added Tax \(Miscellaneous Amendments and Repeals\) \(EU Exit\) Regulations 2021 \(S.I. 2021/714\)](#), regs. 1, **7(3)(b)** (as amended by S.I. 2021/779, regs. 1, 2)

#### *Zero-rating (Schedule 8)*

- 70 Group 12 in Part 2 of Schedule 8 (zero-rating: drugs etc) has effect as if—
- (a) in Note (1), after “goods are” there were inserted “ acquired from a [<sup>F23</sup>member State or]”;
  - (b) in Note (5N), in paragraph (b), after “made a” there were inserted “ reckonable zero-rated acquisition, or”;
  - (c) in Note (5O), in paragraph (b), after “zero-rated” there were inserted “ acquisition or”;
  - (d) in Note (5T), after the definition of “in the required form” there were inserted—
    - ““reckonable zero-rated acquisition”, in relation to a motor vehicle, means an acquisition of the vehicle from a member State in a case where NI acquisition VAT is not chargeable as a result of item 2(f) or 2A.”

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*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, SCHEDULE 9ZA. (See end of Document for details)*

### Textual Amendments

**F23** Words in Sch. 9ZA para. 70(a) substituted (1.8.2021) by [The Value Added Tax \(Miscellaneous Amendments and Repeals\) \(EU Exit\) Regulations 2021 \(S.I. 2021/714\)](#), regs. 1, 7(4) (as amended by S.I. 2021/779, regs. 1, 2)

### *Exempt supplies (Schedule 9)*

- 71 Group 14 in Part 2 of Schedule 9 (exemptions: supplies of goods where input tax cannot be recovered) has effect as if—
- (a) in paragraph (a) of item 1, after “ [F24]supply to,] ” there were inserted “ or acquisition ”;
  - (b) in Note (7)(a), after “ [F24]supply to,] ” there were inserted “ or acquisition ”;
  - (c) in Note (9)—
    - (i) in the words before paragraph (a), after “ [F24]supply to,] ” there were inserted “ or acquisition ”;
    - (ii) in paragraph (b), after “ [F24]supply to,] ” there were inserted “ or acquisition ”;
  - (d) in Note (10)—
    - (i) after “on a supply” there were inserted “ , acquisition ”;
    - (ii) after “that supply”, there were inserted “ , acquisition ”;
  - (e) in Note (15)—
    - (i) after “anything the supply” there were inserted “ , acquisition ”;
    - (ii) after “be a supply” there were inserted “ , acquisition ”.

### Textual Amendments

**F24** Words in Sch. 9ZA para. 71 substituted (1.8.2021) by [The Value Added Tax \(Miscellaneous Amendments and Repeals\) \(EU Exit\) Regulations 2021 \(S.I. 2021/714\)](#), regs. 1, 7(5) (as amended by S.I. 2021/779, regs. 1, 2)

### *Avoidance (Schedules 9A and 11A)*

- 72 (1) Paragraph 1(5) of Schedule 9A (anti-avoidance provisions: groups) has effect as if, in paragraph (a), after “importation” there were inserted “ or acquisition ”.
- (2) Schedule 11A (disclosure of avoidance schemes) has effect as if the reference to VAT “incurred” by a taxable person in paragraph 2A(1)(b) included VAT on the acquisition by the person of any goods from a member State.

### *Accounting for VAT and payment of VAT (Schedule 11)*

- 73 (1) Regulations under this paragraph may require the submission to the Commissioners by taxable persons, at such times and intervals, in such cases and in such form and manner as may be—
- (a) specified in the regulations, or
  - (b) specified by the Commissioners in accordance with the regulations,

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of statements containing such particulars of transactions in which the taxable persons are concerned and to which this sub-paragraph applies, and of the persons concerned in those transactions, as may be so specified.

- (2) Sub-paragraph (1) applies to transactions involving the movement of goods between a member State and Northern Ireland, or between member States.
- (3) Sections 65 and 66 (inaccuracies in, or and failure to submit, section 55A statements) apply to any statement which is required to be submitted to the Commissioners in accordance with regulations under sub-paragraph (1) as they apply to a section 55A statement.
- (4) Regulations under this paragraph may make provision in relation to cases where—
  - (a) any goods which are subject to a duty of excise or consist in a new means of transport are acquired in Northern Ireland from a member State by any person,
  - (b) the acquisition of the goods is a taxable acquisition and is not in pursuance of a taxable supply, and
  - (c) that person is not a taxable person at the time of the acquisition,
 for requiring the person who acquires the goods to give to the Commissioners such notification of the acquisition, and for requiring any VAT on the acquisition to be paid, at such time and in such form or manner as may be specified in the regulations or (in the case of the notification requirement) by the Commissioners in accordance with the regulations.
- (5) Regulations under this paragraph may provide for a notification required by virtue of sub-paragraph (4)—
  - (a) to contain such particulars relating to the notified acquisition and any VAT chargeable in relation to it as may be specified in the regulations or by the Commissioners in accordance with the regulations, and
  - (b) to be given, in prescribed cases, by the personal representative, trustee in bankruptcy, trustee in sequestration, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who makes that acquisition.
- (6) Regulations under this paragraph may provide for—
  - (a) the time when any invoice described in regulations under paragraph 4(1)(b) of this Schedule or paragraph 28(2)(b) of Schedule 9ZB is to be treated as having been issued;
  - (b) VAT accounted for and paid by reference to the date of issue of such an invoice to be confined to VAT on so much of the value of the supply or acquisition as is shown on the invoice.
- (7) Sub-paragraphs (1) to (4), (5) and (6) are to be treated, for the purposes of this Act, as if they were contained in paragraph 2 of Schedule 11.

*Administration, collection and enforcement (Schedule 11)*

- 74 (1) Paragraph 2 of Schedule 11 has effect as if—
- (a) in sub-paragraph (5A)(b), after “transport” there were inserted “acquired from a member State, or”;
  - (b) in sub-paragraph (5B)(a), after “chargeable on its” there were inserted “acquisition or”;

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- (c) in sub-paragraph (5D) in the definition of “relevant person”—
  - (i) before paragraph (b) there were inserted—
    - “(a) where the means of transport has been acquired in Northern Ireland from a member State, the person who so acquires it,”;
  - (ii) after paragraph (b) there were inserted—
    - “(c) in any other case—
      - (i) the owner of the means of transport at the time of its arrival in the United Kingdom, or
      - (ii) where it is subject to a lease or hire agreement, the lessee or hirer of the means of transport at that time.”
- (2) Paragraph 2(8) of Schedule 11 applies to NI acquisition VAT in respect of an acquisition by any person from a member State of dutiable goods as it applies to VAT in respect of any supply by a taxable person of dutiable goods.
- (3) Invoices described in regulations under paragraph 4(2)(b) of this Schedule or paragraph 28(2)(b) of Schedule 9ZB are items to which paragraph 3 of Schedule 11 applies (in addition to the items described in paragraph 3(2)(a) and (b) of that Schedule).
- (4) Paragraph 6 of Schedule 11 has effect as if—
  - (a) after sub-paragraph (1) there were inserted—
    - “(1A) Every person who, at a time when the person is not a taxable person, acquires in Northern Ireland from a member State any goods which are subject to a duty of excise or consist in a new means of transport must keep such records with respect to the acquisition (if it is a taxable acquisition and is not in pursuance of a taxable supply) as the Commissioners may by regulations require.”;
  - (a) in sub-paragraph (2), after “sub-paragraph (1)” there were inserted “ or (1A) ”.
- (5) Paragraph 8(1) of Schedule 11 applies—
  - (a) to goods in the possession of a person who acquires goods in Northern Ireland from a member State as it applies to goods in the possession of a person who supplies goods, and
  - (b) to goods in the possession of a Northern Ireland fiscal warehousekeeper as it applies to goods in the possession of a fiscal warehousekeeper.
- (6) Paragraph 14(1) has effect as if in paragraph (c), after “paragraph 5A” there were inserted “ or paragraph 73(1) or (4) of Schedule 9ZA ”.

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## PART 12

### MODIFICATION OF OTHER ACTS

#### *Diplomatic privileges etc*

- 75 (1) The following provisions apply to NI acquisition VAT as they apply to value added tax charged in accordance with section 1(1)(c) of this Act—
- (a) section 2(5A) of the Diplomatic Privileges Act 1964 (application of Vienna Convention);
  - (b) paragraph 10(1A) of the Schedule to the Commonwealth Secretariat Act 1966 (immunities and privileges);
  - (c) section 1(8A) of the Consular Relations Act 1968 (application of Vienna Convention);
  - (d) paragraph 19(c) of Schedule 1 to the International Organisations Act 1968 (privileges and immunities);
  - (e) section 1(5) of the Diplomatic and other Privileges Act 1971 (refund of customs duties on hydrocarbon oil used for diplomatic or Commonwealth Secretariat purposes).
- (2) Section 8 of the Consular Relations Act 1968 applies to VAT charged on the acquisition of oil in Northern Ireland from a member State as it applies to VAT charged on the importation of oil.

#### *Customs and Excise Duties (General Reliefs) Act 1979*

- 76 Section 13 of the Customs and Excise Duties (General Reliefs) Act 1979 (power to provide reliefs for VAT etc) has effect as if, in subsection (4), in the definition of “value added tax” after “goods” there were inserted “ or on the acquisition of goods from a member State ”.

#### *Vehicle Excise and Registration Act 1994*

- 77 Section 8 of the Vehicle Excise and Registration Act 1994 (vehicles removed into UK) has effect as if, in subsection (2)—
- (a) in paragraph (a), after “United Kingdom” there were inserted “ , or on the acquisition of the vehicle from a member State, ”;
  - (b) in paragraph (c), after “charged on the” there were inserted “ acquisition or ”.

#### *Finance Act 2008*

- 78 (1) Paragraph 11 of Schedule 36 to the Finance Act 2008 (information and inspection powers) has effect as if—
- (a) in sub-paragraph (1), after paragraph (a) there were inserted—
    - “(b) premises are used in connection with the acquisition of goods from member States under taxable acquisitions and goods to be so acquired or documents relating to such goods are on those premises,”;

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- (b) in sub-paragraph (2), in paragraph (c), after “taxable supplies” there were inserted “ , the acquisition of goods from member States under taxable acquisitions ”.
- (2) Paragraph 34 of that Schedule has effect as if—
  - (a) in sub-paragraph (1), after paragraph (a) there were inserted—

“(b) the acquisition of goods from a member State,”;
  - (b) in sub-paragraph (4), after “Schedule 4” there were inserted “ and paragraph 3 of Schedule 9ZA ”.
- (3) Paragraph 1 of Schedule 41 to that Act has effect as if in the table there were inserted the following entries—

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“Value added tax	Obligations under paragraphs 40 and 44(2) of Schedule 9ZA to VATA 1994 (obligations to notify liability to register and notify acquisition affecting exemption from registration).
Value added tax	Obligation under paragraph 50 of Schedule 9ZA to VATA 1994 (obligation to notify liability to register).
Value added tax	Obligation under regulations under paragraph 73(4) of Schedule 9ZA to VATA 1994 (obligation to give notification of acquisition of goods from a member State).”

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- (4) For the purposes of paragraph 7 of that Schedule—
  - (a) in a case of a failure to comply with an obligation under regulations under paragraph 73(4) of this Schedule, the “potential lost revenue” is the value added tax on the acquisition to which the failure relates (instead of as provided for by paragraph 7(6) of that Schedule), and
  - (b) the “relevant period” in relation to a failure to comply with paragraph 44(2) of this Schedule is the period beginning on the date of the change or alteration concerned and ending on the date on which HMRC received notification of, or otherwise became fully aware of, that change or alteration.
- (5) In a case to which sub-paragraph (6) of paragraph 7 of that Schedule applies (whether as a result of sub-paragraph (3) of this paragraph or otherwise), the amount of the “potential lost revenue” as determined in accordance with that sub-paragraph is—
  - (a) if the amount of the tax mentioned in that sub-paragraph includes tax on an acquisition of goods from a member State, to be reduced by the amount of any VAT which HMRC are satisfied has been paid on the supply in pursuance of which the goods were acquired under the law of that member State, and
  - (b) if the amount of that tax includes tax chargeable as a result of paragraph 29 of Schedule 9ZB on a supply, to be reduced by the amount of any VAT which HMRC are satisfied has been paid on that supply under the law of a member State.

*Finance Act 2016*

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- (a) in paragraph 5(4), after paragraph (a) there were inserted—
  - “(b) VAT on the acquisition by the person of any goods from a member State,”;
- (b) the references to VAT “incurred” by a taxable person in paragraphs 6(1)(b) and 36(7)(b) included VAT on the acquisition by the person of any goods from a member State.

*Finance (No. 2) Act 2017*

80 Schedule 17 to the Finance (No. 2) Act 2017 (disclosure of tax avoidance schemes: VAT and other indirect taxes) has effect as if—

- (a) the reference in paragraph 6(2)(b) to VAT “incurred” by a taxable person included VAT on the acquisition by the person of any goods from a member State;
- (b) in paragraph 6(5), after paragraph (a) there were inserted—
  - “(b) VAT on the acquisition by the person of any goods from a member State,”.

## PART 13

### INTERPRETIVE PROVISIONS

*Taxation under the laws of member States etc*

- 81 (1) References in this Act, in relation to a member State, to the law of that member State are to be construed as confined to so much of the law of that member State as for the time being has effect for the purposes of any EU instrument relating to VAT.
- (2) References in this Act to a person being taxable in a member State are references to that person being taxable under so much of the law of that member State as makes provision for purposes corresponding, in relation to that member State, to the purposes of so much of this Act as makes provision as to whether a person is a taxable person.
- (3) The Commissioners may by regulations make provision for the manner in which any of the following are to be or may be proved for any of the purposes of this Act—
- (a) the effect of any provisions of the law of any member State;
  - (b) that provisions of any such law correspond, in relation to any member State, to any provision of this Act;
  - (c) that provisions of any such law have a purpose corresponding, in relation to any member State, to the purpose of any provision of this Act.
- (4) The Commissioners may by regulations provide—
- (a) for a person to be treated for prescribed purposes of this Act as taxable in a member State only where the person has given such notification, and furnished such other information, to the Commissioners as may be prescribed;
  - (b) for the form and manner in which any notification or information is to be given or furnished under the regulations and what the notification or information must contain;



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- (c) for the proportion of any consideration for any transaction which is to be taken for the purposes of this Act as representing a liability, under the law of a member State, for VAT to be conclusively determined by reference to such invoices or in such other manner as may be prescribed.
- (5) In any proceedings (whether civil or criminal), a certificate of the Commissioners—
- (a) that a person was or was not, at any date, taxable in a member State, or
  - (b) that any VAT payable under the law of a member State has or has not been paid,
- is sufficient evidence of that fact until the contrary is proved, and any document purporting to be a certificate under this subsection is deemed to be such a certificate until the contrary is proved.
- [<sup>F25</sup>(6) Without prejudice to the generality of any of the powers of the Commissioners under the relevant information provisions, those powers are, for the purpose of facilitating compliance with any obligation of the United Kingdom under the EU withdrawal agreement, exercisable with respect to matters that are relevant to a charge to VAT under the law of a member State, as they are exercisable with respect to matters that are relevant for any of the purposes of this Act.
- (7) The reference in [<sup>F26</sup>sub-paragraph] (6) to the relevant information provisions is a reference to the provisions of section 73(7) and Schedule 11 (see also paragraph 73 which contains provision treated as if contained within that Schedule) relating to—
- (a) the keeping of accounts;
  - (b) the making of returns and the submission of other documents to the Commissioners;
  - (c) the production, use and contents of invoices;
  - (d) the keeping and preservation of records;
  - (e) the furnishing of information and the production of documents.]

#### Textual Amendments

- F25** Sch. 9ZA para. 81(6)(7) inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments to the Value Added Tax Act 1994 and Revocation\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1544\)](#), regs. 1, 4; S.I. 2020/1641, reg. 2, Sch.
- F26** Word in Sch. 9ZA para. 81(7) substituted (1.8.2021) by [The Value Added Tax \(Miscellaneous Amendments and Repeals\) \(EU Exit\) Regulations 2021 \(S.I. 2021/714\)](#), regs. 1, 7(6) (as amended by S.I. 2021/779, regs. 1, 2)

#### *Territories included in references to member States etc*

- 82 (1) The Commissioners may by regulations provide for the territory of the European Union, or for the member States, to be treated for any of the purposes of this Act as including or excluding such territories as may be prescribed.
- (2) Without prejudice to the generality of the powers conferred by sub-paragraph (1) and section 16, the Commissioners may, for any of the purposes of this Act, by regulations provide for prescribed provisions of any customs and excise legislation to apply in relation to cases where any territory is treated under sub-paragraph (1) as excluded from the territory of the European Union, with such exceptions and adaptations as may be prescribed.

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- (3) In sub-paragraph (2) the reference to customs and excise legislation is a reference to any provision (whenever passed, made or adopted) which has effect in relation to, or to any assigned matter connected with, the importation or exportation of goods or movements of goods between Northern Ireland and Great Britain.
- (4) In sub-paragraph (3) “assigned matter” has the same meaning as in the Management Act.

*Meaning of “new means of transport”*

- 83 (1) In this Act “means of transport” in the expression “new means of transport” means any of the following if they are intended for the transport of persons or goods—
- (a) any ship exceeding 7.5 metres in length;
  - (b) any aircraft the take-off weight of which exceeds 1550 kilograms;
  - (c) any motorized land vehicle which—
    - (i) has an engine with a displacement or cylinder capacity exceeding 48 cubic centimetres, or
    - (ii) is constructed or adapted to be electrically propelled using more than 7.2 kilowatts.
- (2) For the purposes of this Schedule a means of transport is to be treated as new, in relation to any supply or any acquisition from a member State, at any time unless at that time—
- (a) the period that has elapsed since its first entry into service is—
    - (i) in the case of a ship or aircraft, a period of more than 3 months, and
    - (ii) in the case of a land vehicle, a period of more than 6 months. and
  - (b) it has, since its first entry into service, travelled under its own power—
    - (i) in the case of a ship, for more than 100 hours,
    - (ii) in the case of an aircraft, for more than 40 hours, and
    - (iii) in the case of a land vehicle, for more than 6000 kilometres.
- (3) The Treasury may by order vary this paragraph—
- (a) by adding or deleting any ship, aircraft or vehicle of a description specified in the order to or from those which are for the time being specified in sub-paragraph (1);
  - (b) by altering, omitting or adding to the provisions of sub-paragraph (2) for determining whether a means of transport is new.
- (4) The Commissioners may by regulations make provision specifying the circumstances in which a means of transport is to be treated for the purposes of this paragraph as having first entered into service.

*VAT charged in a member State*

- 84 Where the context requires it, references in this Schedule to VAT means value added tax charged in accordance with the law of a member State (instead of in accordance with this Act).]

**Status:**

Point in time view as at 01/08/2021.

**Changes to legislation:**

There are currently no known outstanding effects for the Value Added Tax Act 1994, SCHEDULE 9ZA.