



Value Added Tax Act 1994

1994 CHAPTER 23

PART II

RELIEFS, EXEMPTIONS AND REPAYMENTS

Reliefs etc. generally available

35 Refund of VAT to persons constructing certain buildings.

[^{F1}(1) Where—

- (a) a person carries out works to which this section applies,
- (b) his carrying out of the works is lawful and otherwise than in the course or furtherance of any business, and
- (c) VAT is chargeable on the supply, acquisition or importation of any goods used by him for the purposes of the works,

the Commissioners shall, on a claim made in that behalf, refund to that person the amount of VAT so chargeable.

(1A) The works to which this section applies are—

- (a) the construction of a building designed as a dwelling or number of dwellings;
- (b) the construction of a building for use solely for a relevant residential purpose or relevant charitable purpose; and
- (c) a residential conversion.

(1B) For the purposes of this section goods shall be treated as used for the purposes of works to which this section applies by the person carrying out the works in so far only as they are building materials which, in the course of the works, are incorporated in the building in question or its site.

(1C) Where—

- (a) a person (“the relevant person”) carries out a residential conversion by arranging for any of the work of the conversion to be done by another (“a contractor”),

Status: Point in time view as at 31/07/2009. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 35. (See end of Document for details)

- (b) the relevant person's carrying out of the conversion is lawful and otherwise than in the course or furtherance of any business,
 - (c) the contractor is not acting as an architect, surveyor or consultant or in a supervisory capacity, and
 - (d) VAT is chargeable on services consisting in the work done by the contractor, the Commissioners shall, on a claim made in that behalf, refund to the relevant person the amount of VAT so chargeable.
- (1D) For the purposes of this section works constitute a residential conversion to the extent that they consist in the conversion of a non-residential building, or a non-residential part of a building, into—
- (a) a building designed as a dwelling or a number of dwellings;
 - (b) a building intended for use solely for a relevant residential purpose; or
 - (c) anything which would fall within paragraph (a) or (b) above if different parts of a building were treated as separate buildings.]
- (2) The Commissioners shall not be required to entertain a claim for a refund of VAT under this section unless the claim—
- (a) is made within such time and in such form and manner, and
 - (b) contains such information, and
 - (c) is accompanied by such documents, whether by way of evidence or otherwise, as the Commissioners may by regulations prescribe [^{F2}or, in the case of documents, as the Commissioners may determine in accordance with the regulations].
- (3) This section shall have effect—
- (a) as if the reference in subsection (1) above to the VAT chargeable on the supply of any goods included a reference to VAT chargeable on the supply in accordance with the law of another member State; and
 - (b) in relation to VAT chargeable in accordance with the law of another member State, as if references to refunding VAT to any person were references to paying that person an amount equal to the VAT chargeable in accordance with the law of that member State;
- and the provisions of this Act and of any other enactment or subordinate legislation (whenever passed or made) so far as they relate to a refund under this section shall be construed accordingly.
- [^{F3}(4) The notes to Group 5 of Schedule 8 shall apply for construing this section as they apply for construing that Group.
- (5) The power of the Treasury by order under section 30 to vary Schedule 8 shall include—
- (a) power to apply any variation made by the order for the purposes of this section; and
 - (b) power to make such consequential modifications of this section as they may think fit [^{F4}but this is subject to subsection (4A) below.].]
- [^{F5}(4A) The meaning of “non-residential” given by Note (7A) of Group 5 of Schedule 8 (and not that given by Note (7) of that Group) applies for the purposes of this section but as if—
- (a) references in that Note to item 3 of that Group were references to this section, and
 - (b) paragraph (b)(iii) of that Note were omitted.]

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Textual Amendments

- F1** S. 35(1)(1A)-(1D) substituted (29.4.1996 with application as mentioned in s. 30(4) of the amending Act) for s. 35(1) by 1996 c. 8, s. 30(1)
- F2** Words in s. 35(2) inserted (29.4.1996 with application as mentioned in s. 30(4) of the amending Act) by 1996 c. 8, s. 30(2)
- F3** S. 35(4)(5) inserted (29.4.1996 with application as mentioned in s. 30(4) of the amending Act) by 1996 c. 8, s. 30(3)
- F4** Words in s. 35(4) inserted (1.8.2001) by S.I. 2001/2305, art. 4(a)
- F5** S. 35(4A) inserted (1.8.2001) by S.I. 2001/2305, art. 4(b)

Status:

Point in time view as at 31/07/2009. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 35.