
STATUTORY INSTRUMENTS

1995 No. 2518

The Value Added Tax Regulations 1995

PART XV

ADJUSTMENTS TO THE DEDUCTION OF INPUT TAX ON CAPITAL ITEMS

Interpretation of Part XV

112. —

(1) Any expression used in this Part to which a meaning is given in Part XIV of these Regulations shall, unless the contrary intention appears, have the same meaning in this Part as it has in that Part.

(2) Any reference in this Part to a capital item shall be construed as a reference to a capital item to which this Part applies by virtue of regulation 113, being an item which a person (hereinafter referred to as “the owner”) uses in the course or furtherance of a business carried on by him, and for the purpose of that business, otherwise than solely for the purpose of selling the item.

Capital items to which this Part applies

113. The capital items to which this Part applies are items of any of the following descriptions—

- (a) a computer or an item of computer equipment of a value of not less than £50,000 supplied to, or imported or acquired by, the owner,
- (b) land or a building or part of a building where the value of the interest therein supplied to the owner, by way of a taxable supply which is not a zero-rated supply, is not less than £250,000 excluding so much of that value as may consist of rent,
- (c) a building or part of a building where—
 - (i) the owner’s interest in, right over, or licence to occupy, the building or part of the building is treated as supplied to him under paragraph 1(5) of Schedule 10 to the Act, and
 - (ii) the value of that supply, determined in accordance with paragraph 1(6)(b) of that Schedule, is not less than £250,000,
- (d) a building or part of a building where—
 - (i) the owner’s interest in, right over, or licence to occupy, the building or part of the building is treated as supplied to him under paragraph 6(1) of Schedule 10 to the Act, and
 - (ii) the value of that supply, determined in accordance with paragraph 6(2) of that Schedule, is not less than £250,000,
- (e) a building other than one falling or capable of falling within paragraphs (c) or (d) above constructed by the owner and first brought into use by him on or after 1st April 1990 where the aggregate of—
 - (i) the value of taxable grants relating to the land on which the building is constructed made to the owner on or after 1st April 1990, and

- (ii) the value of all the taxable supplies of goods and services, other than any that are zero-rated, made or to be made to him for or in connection with the construction of the building on or after 1st April 1990, is not less than £250,000, and
- (f) a building which the owner alters, or an extension or an annex which he constructs, where—
 - (i) additional floor area is created in the altered building, extension or annex, of not less than 10 per cent. of the floor area of the building before the alteration in question is carried out, or the extension or annex in question is constructed, and
 - (ii) the value of all the taxable supplies of goods and services, other than any that are zero-rated, made or to be made to the owner for or in connection with the alteration, extension or annex in question on or after 1st April 1990, is not less than £250,000.

Period of adjustment

114. —

(1) The proportion (if any) of the total input tax on a capital item which may be deducted under Part XIV shall be subject to adjustments in accordance with the provisions of this Part.

(2) Adjustments shall be made over a period determined in accordance with the following paragraphs of this regulation.

(3) The period of adjustment relating to a capital item of a description falling within—

- (a) regulation 113(a) shall consist of 5 successive intervals,
- (b) regulation 113(b), where the interest in the land, building or part of the building in question has less than 10 years to run at the time it is supplied to the owner, shall consist of 5 successive intervals, and
- (c) any other description shall consist of 10 successive intervals,

determined in accordance with paragraphs (4) to (7) below.

(4) Subject to paragraphs (6) and (7) below, the first interval applicable to a capital item shall be determined as follows—

- (a) where the owner is a registered person when he imports, acquires or is supplied with the item as a capital item, the first interval shall commence on the day of the importation, acquisition or supply and shall end on the day before the commencement of his tax year following that day;
- (b) where the owner is a registered person when he appropriates to use an item as a capital item, the first interval shall commence on the day he first so uses it and shall end on the day before the commencement of his tax year following that day;
- (c) where the capital item is of a description falling within regulation 113(c), the first interval shall commence on the day the owner's interest in, right over, or licence to occupy, the building or part of the building is treated as supplied to him under paragraph 1(5) of Schedule 10 to the Act and shall end on the day before the commencement of his tax year following that day;
- (d) where the capital item is of a description falling within regulation 113(d), the first interval shall commence on the later of the following days—
 - (i) 1st April 1990,
 - (ii) the day the owner first uses the building (or part of the building),

and shall end on the day before the commencement of his tax year following the day of commencement of the first interval;

- (e) where the capital item is of a description falling within regulation 113(e) or (f), the first interval shall commence on the day the owner first uses the building or the altered building or the extension or annex in question, and shall end on the day before the commencement of his tax year following that day;
- (f) where the owner is not a registered person when he first uses an item as a capital item, and subsequently—
 - (i) becomes a registered person, the first interval shall correspond with his registration period, or
 - (ii) is included among bodies treated as members of a group under section 43 of the Act, the first interval shall correspond with, or be that part still remaining of, the then current tax year of that group.

(5) Subject to paragraphs (6) and (7) below, each subsequent interval applicable to a capital item shall correspond with a longer period applicable to the owner, or if no longer period applies to him, a tax year of his.

(6) Where the owner of a capital item—

- (a) is a registered person and subsequently becomes a member of a group under section 43 of the Act during the period of adjustment applicable to the capital item, the interval then applying to it shall end on the day before the owner is first so included and each subsequent interval (if any) applicable to the capital item shall end on the last day of a longer period applicable to that group, or if no longer period applies, shall end on the last day of a tax year of that group;
- (b) ceases to be a member of such a group during the period of adjustment applicable to the capital item, the interval then applying to it shall end on the day that the owner so ceases and the next interval (if any) applicable to the capital item shall correspond with the registration period of the owner and each subsequent interval thereafter (if any) shall correspond with a longer period applying to the owner, or if no longer period applies, shall correspond with a tax year of the owner,

provided that if the owner of a capital item ceases to be a member of such a group (the first group) during the period of adjustment applicable to the capital item, and is immediately thereafter included in another such group (the second group), the interval applying to the capital item immediately before the owner ceases to be a member of the first group shall end on the day that the owner so ceases and each subsequent interval (if any) shall end on the last day of a longer period applicable to the second group, or if no longer period applies, shall end on the last day of a tax year of the second group.

(7) Where the owner of a capital item transfers it during the period of adjustment applicable to it, in the course of the transfer of his business or of part of his business as a going concern, the interval then applying to the capital item shall end on the day of the transfer, and each subsequent interval (if any) applicable to the capital item shall end on the last day of a longer period applying to the new owner or, if no longer period applies, shall end on the day before the commencement of a tax year of the new owner,

provided that where the new owner has, under regulation 6(1), been registered with the registration number of and in substitution for the transferor, the interval applying to the capital item at the time of the transfer shall not end on the day of the transfer (and shall accordingly end on the last day of the longer period applying to the new owner immediately after the transfer or, if no longer period then applies to him, shall end on the last day of his tax year following the day of the transfer).

Method of adjustment**115. —**

(1) Where in a subsequent interval applicable to a capital item, the extent to which it is used in making taxable supplies increases from the extent to which it was so used in the first interval applicable to it, the owner may deduct for that subsequent interval an amount calculated as follows—

- (a) where the capital item falls within regulation 114(3)(a) or (b)—

$$\frac{\textit{the total input tax on the capital item}}{5} \times \textit{the adjustment percentage};$$

- (b) where the capital item falls within regulation 114(3)(c)—

$$\frac{\textit{the total input tax on the capital item}}{10} \times \textit{the adjustment percentage}.$$

(2) Where in a subsequent interval applicable to a capital item, the extent to which it is used in making taxable supplies decreases from the extent to which it was so used in the first interval applicable to it, the owner shall pay to the Commissioners for that subsequent interval an amount calculated in the manner described in paragraph (1) above.

(3) Where the whole of the owner's interest in a capital item is supplied by him, or the owner is deemed or, but for the fact that the VAT on the deemed supply (whether by virtue of its value or because it is zero-rated or exempt) would have been not more than £250, would have been deemed to supply a capital item pursuant to paragraph 8(1) of Schedule 4 to the Act during an interval other than the last interval applicable to the capital item, then if the supply (or deemed supply) of the capital item is—

- (a) a taxable supply, the owner shall be treated as using the capital item for each of the remaining complete intervals applicable to it wholly in making taxable supplies, or
 (b) an exempt supply, the owner shall be treated as not using the capital item for any of the remaining complete intervals applicable to it in making any taxable supplies,

and the owner shall calculate for each of the remaining complete intervals applicable to it, in accordance with paragraph (1) or (2) above, as the case may require, such amount as he may deduct or such amount as he shall be liable to pay to the Commissioners,

provided that the aggregate of the amounts that he may deduct in relation to a capital item pursuant to this paragraph shall not exceed the output tax chargeable by him on the supply of that capital item.

- (4) If a capital item is—

- (a) irretrievably lost or stolen or is totally destroyed, or
 (b) is of a kind falling within regulation 114(3)(b) and the interest in question expires,

during the period of adjustment applicable to it, no further adjustment shall be made in respect of any remaining complete intervals applicable to it.

- (5) For the purposes of this regulation—

“the total input tax on the capital item” means, in relation to a capital item falling within—

- (a) regulation 113(a) or (b), the VAT charged on the supply to, or on the importation or acquisition by, the owner of the capital item, other than VAT charged on rent (if any),
 (b) regulation 113(c) or (d), the VAT charged on the supply which the owner is treated as making to himself under paragraph 1(5) or 6(1) of Schedule 10 to the Act, as the case may require,
 (c) regulation 113(e) or (f), the aggregate of the VAT charged on the supplies described in regulation 113(e) or (f), as the case may require, other than VAT charged on rent (if any),

and shall include, in relation to any capital item, any VAT treated as input tax under regulation 111 which relates to the capital item, other than such VAT charged on rent (if any); and for the purposes of this paragraph references to the owner shall be construed as references to the person who incurred the total input tax on the capital item;

“the adjustment percentage” means the difference (if any) between the extent, expressed as a percentage, to which the capital item is used (or is regarded as being used) in making taxable supplies in the first interval applicable to it, and the extent to which it is so used or is treated under paragraph (3) above as being so used in the subsequent interval in question.

(6) A taxable person claiming any amount pursuant to paragraph (1) above, or liable to pay any amount pursuant to paragraph (2) above, shall include such amount in a return for the second prescribed accounting period next following the interval to which that amount relates, except where the Commissioners allow another return to be used for this purpose,

provided that where an interval has come to an end under—

- (a) regulation 114(6)(b) because the owner of the capital item has ceased to be a member of a group under section 43 of the Act, any amount claimable from the Commissioners or payable to them (as the case may be) in respect of that interval shall be included in a return for that group for the second prescribed accounting period after the end of the tax year of the group in which the interval in question fell, or
- (b) regulation 114(7) because the owner has transferred part of his business as a going concern, and he remains a registered person after the transfer, any amount claimable from the Commissioners or payable to them (as the case may be) in respect of that interval shall be included in a return by him for the second prescribed accounting period after the end of his tax year in which the interval in question fell,

except where the Commissioners allow another return to be used for this purpose.

(7) A taxable person claiming any amount or amounts, or liable to pay any amount or amounts, pursuant to paragraph (3) above, shall include such amount or amounts in a return for the second prescribed accounting period next following the interval in which the supply (or deemed supply) in question takes place except where the Commissioners allow another return to be used for this purpose.

Ascertainment of taxable use of a capital item

116. —

(1) Subject to regulation 115(3) and paragraphs (2) and (3) below, for the purposes of this Part, an attribution of the total input tax on the capital item shall be determined for each subsequent interval applicable to it in accordance with the method used under Part XIV for that interval and the proportion of the input tax thereby determined to be attributable to taxable supplies shall be treated as being the extent to which the capital item is used in making taxable supplies in that subsequent interval.

(2) In any particular case the Commissioners may allow another method by which, or may direct the manner in which, the extent to which a capital item is used in making taxable supplies in any subsequent interval applicable to it is to be ascertained.

(3) Where the owner of a building which is a capital item of his grants or assigns a tenancy or lease in the whole or any part of that building and that grant or assignment is a zero-rated supply to the extent only as provided by—

- (a) note (8) to Group 5 of Schedule 8 to the Act, or
- (b) that note as applied to Group 6 of that Schedule by note (2) to Group 6, or
- (c) paragraph 8 of Schedule 13 to the Act,

any subsequent exempt supply of his arising directly from that grant or assignment shall be disregarded in determining the extent to which the capital item is used in making taxable supplies in any interval applicable to it.