
STATUTORY INSTRUMENTS

1995 No. 2518

The Value Added Tax Regulations 1995

PART XIV

INPUT TAX AND PARTIAL EXEMPTION

Use of other methods

102. —

(1) Subject to [^{F1}paragraphs (2) and (9)] below and [^{F2}regulations 103, 103A [^{F3}, 103B, 105A and 106ZA]], the Commissioners may approve or direct the use by a taxable person of a method other than that specified in regulation 101^{F4}...

[^{F5}(1A) A method approved or directed under paragraph (1) above—

- (a) shall be in writing,
- (b) may attribute input tax which would otherwise fall to be attributed under regulation 103 provided that, where it attributes any such input tax, it shall attribute it all, ^{F6}...
- (c) shall identify the supplies in respect of which it attributes input tax by reference to the relevant paragraph or paragraphs of section 26(2) of the Act,]

[^{F7}(d) may be based on sectors provided that the method reflects the use made of the goods and services in the business and each sector reflects—

- (i) the use made of the goods and services in that sector,
- (ii) the structure of the business, and
- (iii) the type of activity undertaken by that sector, and
- (e) must exclude the value of supplies made from an establishment situated outside the United Kingdom where the method is not based on sectors.]

(2) Notwithstanding any provision of any method approved or directed to be used under this regulation which purports to have the contrary effect, in calculating the proportion of any input tax on goods or services used or to be used by the taxable person in making both taxable and exempt supplies which is to be treated as attributable to taxable supplies, the value of any supply [^{F8}of a description falling within regulation [^{F9}101(3)(a) to (d)][^{F10}and (g)] whether made within or outside the United Kingdom] shall be excluded.

[^{F11}(2A) Notwithstanding any provision of any method approved or directed to be used under this regulation which purports to have the contrary effect, where the method attributes input tax to exempt supplies specified by the Treasury in an order made under section 26(2)(c) of the Act—

- (a) no attribution is to be made in relation to any supplies that are made within the United Kingdom unless—
 - (i) the supply is directly linked to the export of goods and the recipient of the goods is located outside the United Kingdom, or

(ii) the supply is between a United Kingdom based intermediary and a United Kingdom based service provider and the recipient of any supply being arranged by the intermediary is located outside the United Kingdom, and

(b) attribution may be made in relation to any supplies that are made within the European Union.]

(3) A taxable person using a method as approved or directed to be used by the Commissioners under paragraph (1) above shall continue to use that method unless the Commissioners approve or direct the termination of its use.

(4) Any direction under paragraph (1) or (3) above shall take effect from the date upon which the Commissioners give such direction or from such later date as they may specify.

[^{F12}(5) Any approval given or direction made under this regulation shall only have effect if it is in writing in the form of a document which identifies itself as being such an approval or direction.

(6) Where a taxable person who is using a method which has been approved or directed under this regulation incurs input tax of the description in paragraph (7) below, that input tax shall be attributed to taxable supplies to the extent that the goods or services are used or to be used in making taxable supplies expressed as a proportion of the whole use or intended use.

(7) The input tax referred to in paragraph (6) above is input tax—

- (a) the attribution of which to taxable supplies is not prescribed in whole or in part by the method referred to in paragraph (6) above, and
- (b) which does not fall to be attributed to taxable or other supplies as specified under regulations 103, 103A or 103B.

(8) Where the input tax specified in paragraph (7)(a) above is input tax the attribution of which to taxable supplies is only in part not prescribed by the method, only that part the attribution of which is not so prescribed shall fall within that paragraph.]

[^{F13}(9) With effect from 1st April 2007 the Commissioners shall not approve the use of a method under this regulation unless the taxable person has made a declaration to the effect that to the best of his knowledge and belief the method fairly and reasonably represents the extent to which goods or services are used by or are to be used by him in making taxable supplies.

(10) The declaration referred to in paragraph (9) above shall—

- (a) be in writing,
- (b) be signed by the taxable person or by a person authorised to sign it on his behalf, and
- (c) include a statement that the person signing it has taken reasonable steps to ensure that he is in possession of all relevant information.

(11) Where it appears to the Commissioners that a declaration made under this regulation is incorrect in that—

- (a) the method does not fairly and reasonably represent the extent to which goods or services are used by or are to be used by the taxable person in making taxable supplies, and
- (b) the person who signed the declaration knew or ought reasonably to have known this at the time when the declaration was made by the taxable person,

they may subject to paragraph (12) below serve on the taxable person a notice to that effect setting out their reasons in support of that notification and stating the effect of the notice.

(12) The Commissioners shall not serve a notice under this regulation unless they are satisfied that the overall result of the application of the method is an over-deduction of input tax by the taxable person.

(13) Subject to paragraph (14) below, the effect of a notice served under this regulation is that regulation 102B(1) shall apply to the person served with the notice in relation to—

- (a) prescribed accounting periods commencing on or after the effective date of the method, and
- (b) longer periods to the extent of that part of the longer period falling on or after the effective date of the method, save that no adjustment shall be required in relation to any part of any prescribed accounting period,

unless or until the method is terminated under regulation 102(3).

(14) In relation to any past prescribed accounting periods, the Commissioners may assess the amount of VAT due to the best of their judgement and notify it to the taxable person unless they allow him to account for the difference in such manner and within such time as they may require.

(15) The service of a notice on a taxable person under this regulation shall be without prejudice to the Commissioners' powers to serve a notice on him under regulation 102A and any notice served under regulation 102A shall take priority in relation to the periods which it covers.

(16) In this regulation "the effective date of the method" is the date when the method to which the declaration relates first takes effect and may predate the date when the declaration was made.

(17) In this regulation and in regulations 102A, 102B, 102C and 107, where paragraph (1A)(b) above applies, "taxable supplies" includes supplies of a description falling within regulation 103.]

Textual Amendments

- F1** Words in reg. 102(1) substituted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), regs. 1, **8(a)**
- F2** Words in reg. 102(1) substituted (3.12.2004) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), regs. 2(3), **11**
- F3** Words in reg. 102(1) substituted (1.4.2010) by [The Value Added Tax \(Amendment\) Regulations 2010 \(S.I. 2010/559\)](#), regs. 1, **5**
- F4** Words in reg. 102(1) omitted (1.4.2007) by virtue of [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), regs. 1, **8(b)**
- F5** Reg. 102(1A) inserted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), regs. 1, **8(c)**
- F6** Word in reg. 102(1A) omitted (with effect in accordance with reg. 2(1)(b) of the amending S.I.) by virtue of [The Value Added Tax \(Amendment\) Regulations 2015 \(S.I. 2015/1978\)](#), regs. 1, **5(a)**
- F7** Reg. 102(1A)(d)(e) inserted (with effect in accordance with reg. 2(1)(b) of the amending S.I.) by [The Value Added Tax \(Amendment\) Regulations 2015 \(S.I. 2015/1978\)](#), regs. 1, **5(b)**
- F8** Words in reg. 102(2) substituted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), regs. 1, **8(d)**
- F9** Words in reg. 102(2) substituted (1.4.2009 in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2009 \(S.I. 2009/820\)](#), regs. 1(1), **5** (with reg. 1(2))
- F10** Words in reg. 102(2) inserted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments, Northern Ireland Protocol and Savings and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1545\)](#), regs. 1, **57(a)** (with regs. 109-131); S.I. 2020/1641, reg. 2, Sch.
- F11** Reg. 102(2A) substituted (31.12.2020) by [The Value Added Tax \(Miscellaneous Amendments, Northern Ireland Protocol and Savings and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1545\)](#), regs. 1, **57(b)** (with regs. 109-131); S.I. 2020/1641, reg. 2, Sch.
- F12** Reg. 102(5)-(8) added (1.4.2005) by [The Value Added Tax \(Amendment\) Regulations 2005 \(S.I. 2005/762\)](#), regs. 1(1), **4**
- F13** Reg. 102(9)-(17) inserted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), regs. 1, **8(e)**

Changes to legislation: *There are currently no known outstanding effects for the The Value Added Tax Regulations 1995, Section 102. (See end of Document for details)*

Commencement Information

II Reg. 102 in force at 20.10.1995, see [reg. 1](#)

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There are currently no known outstanding effects for the The Value Added Tax Regulations 1995, Section 102.