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STATUTORY INSTRUMENTS

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**2002 No. 3027**

**VALUE ADDED TAX**

**The Value Added Tax (Amendment) (No. 4) Regulations 2002**

*Made* - - - - *6th December 2002*  
*Laid before the House of*  
*Commons* - - - - *9th December 2002*  
*Coming into force* - - *1st January 2003*

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 26A(3), (4) and (5), and 36(5), (6) and (7), of the Value Added Tax Act 1994<sup>(1)</sup>, and of all other powers enabling them in that behalf, hereby make the following regulations:

1. These Regulations may be cited as the Value Added Tax (Amendment)(No. 4) Regulations 2002 and come into force on 1st January 2003.
2. The Value Added Tax Regulations 1995<sup>(2)</sup> are amended as follows.
3. After “taxable person” in regulation 166A insert “, and the relevant supply was made before 1st January 2003,”.
4. At the beginning of regulation 170(1) omit “Where” and insert “Subject to regulation 170A below, where”.
5. After regulation 170 insert the following regulation—

**“Attribution of payments received under certain credit agreements**

**170A.—(1) Where—**

- (a) the claimant made a supply of goods and, in connection with that supply, a supply of credit;
- (b) those supplies were made under a hire purchase, conditional sale or credit sale agreement; and
- (c) a payment is received in relation to those supplies (other than a payment of an amount upon which interest is not charged),

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(1) 1994 c. 23; section 26A was inserted by section 22(1) of the Finance Act 2002 (c. 23); section 36(5) was amended by section 39(4) of the Finance Act 1997 (c. 16) and by section 22(2) of the Finance Act 2002; section 96(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise and “regulations” as meaning regulations made by the Commissioners under the Act.

(2) S.I. 1995/2518; relevant amending instruments are S.I. 1996/2960, 1997/1086 and 1999/3029.

the payment shall be attributed to each supply in accordance with the rules set out in paragraph (2) below.

(2) The payment shall be attributed—

(a) as to the amount obtained by multiplying it by the fraction

$$\frac{A}{B},$$

to the supply of credit; and

(b) as to the balance, to the supply of goods,

where—

*A* is the total of the interest on the credit provided under the agreement under which the supplies are made (determined as at the date of the making of the agreement); and

*B* is the total amount payable under the agreement, less any amount upon which interest is not charged.

(3) Where an agreement provides for variation of the rate of interest after the date of the making of the agreement then, for the purposes of the calculation in paragraph (2) above, it shall be assumed that the rate is not varied.”.

6. In regulation 171—

(a) in sub-paragraph (1)(b)(ii) for “regulation 170” substitute “regulations 170 or 170A”; and

(b) in sub-paragraph (3) for “or 170” substitute “, 170 or 170A”.

7. Immediately before regulation 172C insert the following—

**“Application**

**172ZC.** This Part applies where the relevant supply was made before 1st January 2003.”.

8. Immediately after Part XIXA insert the following—

## **“PART XIXB**

### **REPAYMENT OF INPUT TAX WHERE CONSIDERATION NOT PAID**

**Application**

**172F.** This Part applies where the supply in relation to which a person has claimed credit for input tax was made on or after 1st January 2003.

**Interpretation**

**172G.** In this Part—

“relevant period” means 6 months following—

(i) the date of the supply, or

(ii) if later, the date on which the consideration for the supply, or (as the case may be) the unpaid part of it, became payable.

**Repayment of input tax**

**172H.—**(1) Subject to paragraph (5) below, where a person—

- (a) has not paid the whole or any part of the consideration for a supply by the end of the relevant period; and
- (b) has claimed deduction of the whole or part of the VAT on the supply as input tax (“the deduction”),

he shall make an entry in his VAT account in accordance with paragraphs (2) and (3) below.

(2) The person shall make a negative entry in the VAT allowable portion of that part of his VAT account which relates to the prescribed accounting period of his in which the end of the relevant period falls.

(3) The amount of the negative entry referred to in paragraph (2) above shall be such amount as is found by multiplying the amount of the deduction by a fraction of which the numerator is the amount of the consideration for the supply which has not been paid before the end of the relevant period and the denominator is the total consideration for the supply.

(4) None of the circumstances to which this regulation applies is to be regarded as giving rise to any application of regulations 34 and 35.

(5) This regulation does not apply where, for input tax, the operative date for VAT accounting purposes is the date mentioned in regulation 57(b) above.

#### **Restoration of an entitlement to credit for input tax**

**172I.**—(1) Where a person—

- (a) has made an entry in his VAT account in accordance with regulation 172H (“the input tax repayment”);
- (b) has made the return for the prescribed accounting period concerned, and has paid any VAT payable by him in respect of that period; and
- (c) after the end of the relevant period, has paid the whole or part of the consideration for the supply in relation to which the input tax repayment was made,

he shall make an entry in his VAT account in accordance with paragraphs (2) and (3) below in respect of each such payment made.

(2) The person shall make a positive entry in the VAT allowable portion of that part of his VAT account which relates to the prescribed accounting period of his in which payment of the whole or part of the consideration was made.

(3) The amount of the positive entry referred to in paragraph (2) above shall be such amount as is found by multiplying the amount of the input tax repayment by a fraction of which the numerator is the amount of the payment referred to in paragraph (1) (c) above and the denominator is the total consideration for the supply.

(4) None of the circumstances to which this regulation applies is to be regarded as giving rise to any application of regulations 34 and 35.

(5) In this regulation, “return” means the return which a person is required to make in accordance with regulation 25.

#### **Attribution of payments**

**172J.** The rules on the attribution of payments in regulation 170 and, as the case may be, 170A above shall apply for determining whether anything paid is to be taken as paid by way of consideration for a particular supply.”.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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New King's Beam House,  
22 Upper Ground,  
London SE1 9PJ  
6th December 2002

*M. J. Eland,*  
Commissioner of Customs and Excise

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1st January 2003, further amend the Value Added Tax Regulations 1995 (S.I.1995/2518) (“the principal Regulations”).

Regulation 3 amends regulation 166A of the principal Regulations so that the requirement for a person who has claimed bad debt relief to send a notice to his customer notifying him of the claim only applies where the supply upon which the claim is based was made before 1st January 2003.

Regulation 5 inserts a new regulation 170A into the principal Regulations. This applies where a person makes a supply of goods and an associated supply of credit under a hire purchase, conditional sale or credit sale agreement. It provides for a method of attributing to each supply any payments received in relation to those supplies. Regulations 4 and 6 make consequential amendments to regulations 170 and 171, respectively, of the principal Regulations.

Regulation 7 inserts a new regulation 172ZC into the principal Regulations. This provides that Part XIXA of the principal Regulations (Repayment of input tax where claim made under Part XIX) only applies where the supply upon which the claim was based was made before 1st January 2003.

Regulation 8 introduces new Part XIXB to the principal Regulations with additional regulations 172F to 172J.

The new regulation 172F provides that the new Part XIXB only applies where the supply in relation to which a person has claimed credit for input tax was made on or after 1st January 2003.

The new regulation 172G defines “relevant period” for the purposes of the new Part XIXB as 6 months following the date of the supply or, if later, the date on which the consideration for the supply (or the unpaid part of it) became payable.

The new regulation 172H provides for the repayment of input tax where a person has claimed VAT on a supply as input tax but has not paid the whole or any part of the consideration for the supply by the end of the relevant period.

The new regulation 172I provides for the restoration of an entitlement to credit for input tax where a person has repaid input tax in accordance with regulation 172H and, after the end of the relevant period, pays the whole or part of the consideration for the supply in relation to which the repayment was made.

The new regulation 172J applies the rules on the attribution of payments in regulation 170 of the principal Regulations or, as the case may be, 170A in order to determine whether anything paid is paid by way of consideration for a particular supply.