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STATUTORY INSTRUMENTS

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**2005 No. 2009**

**VALUE ADDED TAX**

**The Value Added Tax (Disclosure of Avoidance Schemes)(Amendment) Regulations 2005**

<i>Made</i>	- - - -	<i>22nd July 2005</i>
<i>Laid before the House of Commons</i>	- - - -	<i>22nd July 2005</i>
<i>Coming into force</i>	- -	<i>1st August 2005</i>

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred on them by paragraphs 6(2), 6(3) and 13 of Schedule 11A to the Value Added Tax Act 1994(1) hereby make the following Regulations:

1. These Regulations may be cited as the Value Added Tax (Disclosure of Avoidance Schemes) (Amendment) Regulations 2005 and come into force on 1st August 2005.

2. Amend the Value Added Tax (Disclosure of Avoidance Schemes) Regulations 2004(2) as follows.

3. In regulation 2—

- (a) omit paragraphs (3) and (4);
- (b) after paragraph (2) insert—

“(3) Where paragraph 6(1)(c) of Schedule 11A(3) applies (non-deductible tax less than it would be but for a scheme), the time prescribed for the purposes of paragraph 6(2) and (3) of that Schedule is the 30th day from the end of the last day specified by or under regulation 25 of the Value Added Tax Regulations 1995(4) for making a return in respect of the relevant prescribed accounting period.

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(1) 1994 c. 23; section 96 of that Act defines “the Commissioners” as meaning the Commissioners of Customs and Excise, “prescribed” as meaning prescribed by regulations and “regulations” as meaning regulations made by the Commissioners under the Act. Schedule 11A was inserted by section 19 of, and Schedule 2 to, the Finance Act 2004 (c. 12). The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(2) S.I. 2004/1929.

(3) Paragraph 6(1)(c) was inserted by paragraph 5(2) of Schedule 1 to the Finance (No. 2) Act 2005 (c. 22).

(4) S.I. 1995/2518; relevant amending instruments are S.I. 2000/258, S.I. 2000/794 and S.I. 2004/1675.

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(4) For the purposes of paragraph (3) relevant prescribed accounting period means the period in which the taxable person's non-deductible tax is less than it would be but for any notifiable scheme to which he is party.

(5) Paragraph (1) shall not have effect in relation to any scheme listed in Column 1 of the Schedule where the beginning of the prescribed accounting period for which the VAT return is made is earlier than the date shown opposite that scheme in Column 2 of the Schedule.

(6) Paragraph (2) shall not have effect in relation to any scheme listed in Column 1 of the Schedule where the beginning of the prescribed accounting period in relation to which the claim is made is earlier than the date shown opposite that scheme in Column 2 of the Schedule.”.

4. In regulation 4—

- (a) in paragraph (2)(a) omit “or”;
- (b) at the end of paragraph (2)(b) insert—
  - “; or
  - (c) reducing the amount of his non-deductible tax.”.

5. Add the following Schedule—

“SCHEDULE

Regulations 2(5) and 2(6)

<i>Row</i>	<i>Column 1</i>	<i>Column 2</i>
	<i>Scheme</i>	<i>Date</i>
(a)	Any scheme allocated a reference number from 1 to 8 by the Value Added Tax (Disclosure of Avoidance Schemes)(Designations) Order 2004(5).	1st August 2004
(b)	Any scheme that includes, or is associated with, a provision of a description falling within paragraphs 1 to 7 of Schedule 2 to the Value Added Tax (Disclosure of Avoidance Schemes) (Designations) Order 2004.	1st August 2004
(c)	Any scheme allocated the reference number 9 or 10 by the Value Added Tax (Disclosure of Avoidance Schemes)(Designations) Order 2004 and which does not fall within row (b) above.	1st August 2005
(d)	Any scheme that includes, or is associated with, a provision	1st August 2005”

(5) S.I. 2004/1933, amended by S.I. 2005/1724.

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<i>Row</i>	<i>Column 1</i>	<i>Column 2</i>
	<i>Scheme</i>	<i>Date</i>
	of a description falling within paragraph 8 of Schedule 2 to the Value Added Tax (Disclosure of Avoidance Schemes)(Designations) Order 2004 and which does not fall within rows (a) or (b) above.	

22nd July 2005

*D A Hartnett*  
*Helen Ghosh*  
Two Commissioners for Her Majesty's Revenue  
and Customs

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## EXPLANATORY NOTE

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

These Regulations, which come into force on 1st August 2005, amend the Value Added Tax (Disclosure of Avoidance Schemes) Regulations 2004 (S.I.2004/1929) (“the principal Regulations”).

The principal Regulations prescribe the time within which information concerning VAT avoidance schemes which are notifiable under Schedule 11A to the Value Added Tax Act 1994 (c. 23) must be provided to the Commissioners for Her Majesty’s Revenue and Customs<sup>(6)</sup>. They make provision for the form and manner of notification and the information to be provided.

These Regulations amend the principal Regulations by prescribing the time in which such information must be provided where paragraph 6(1)(c) of Schedule 11A applies and make a consequential amendment to regulation 4 of the principal regulations.

These Regulations also amend the principal Regulations to provide that a taxable person is only required to notify the Commissioners of any designated scheme allocated the reference number 9 or 10 by the Value Added Tax (Disclosure of Avoidance Schemes)(Designations) Order 2004 (S.I. 2004/1933 as amended by S.I. 2005/1724), or any scheme that includes, or is associated with, a provision of a description falling within paragraph 8 of Schedule 2 to that Order, where the claimed tax advantage relates to a prescribed accounting period which begins on or after 1st August 2005, unless the taxable person is already under a duty to notify.

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(6) The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty’s Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty’s Revenue and Customs.