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STATUTORY INSTRUMENTS

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**2022 No. 226**

**The Value Added Tax (Enforcement Related to Distance Selling and Miscellaneous Amendments) Regulations 2022**

**PART 1**

Amendments to VATA

**Amendments to Schedule 9ZD to VATA**

3. Schedule 9ZD to VATA<sup>(1)</sup> (distance selling of goods from Northern Ireland: special accounting scheme) is amended in accordance with regulations 4 to 15.
4. In Part 1 (introduction), in paragraph 1 (overview)—
  - (a) in paragraph (b), for “schemes in member States that correspond to the OSS scheme” substitute “a non-UK scheme”;
  - (b) in paragraph (c), for “non-UK VAT in relation to such corresponding schemes” substitute “UK VAT”.
5. In Part 3 (liability, returns, payment etc), after paragraph 15 insert—

**“Persons registered under the OSS scheme who are also registered under this Act**

**15A.**—(1) A person (“P”) who—

- (a) is registered under the OSS scheme, and
- (b) is also registered, or required to be registered, under this Act,

is not required to discharge any obligation placed on them as a taxable person, to the extent that the obligation relates to a scheme supply treated as made in the United Kingdom.

(2) The reference in sub-paragraph (1) to an obligation placed on P as a taxable person is to an obligation—

- (a) to which P is subject under or by virtue of this Act, and
- (b) to which P would not be subject if P was neither registered nor required to be registered under this Act.

(3) This paragraph does not prevent P claiming, in reliance on section 25(2) (deduction of input tax from output tax by a taxable person), a credit for input tax incurred on scheme supplies treated as made in the United Kingdom.”

6. Part 5 (collection of non-UK VAT) is amended in accordance with regulations 7 to 15.
7. In the heading omit “non-”.
8. In paragraph 22 (assessments: general modifications of section 73 of VATA), in sub-paragraph (1)—

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(1) Schedules 9ZD to 9ZF to VATA were inserted by Schedule 18 to the Finance Act 2021.

- (a) omit the “and” at the end of paragraph (a);
- (b) after paragraph (b) insert—
  - “, and
- (c) references in that section to a VAT credit included a repayment to persons who are not taxable persons of an amount of VAT paid under and in accordance with this Schedule.”.

**9.**—(1) Paragraph 25 (deemed amendments of relevant non-UK returns) is amended as follows.

- (2) In the heading omit “relevant non-UK”.
- (3) In sub-paragraph (1)—
  - (a) after “made” insert “an OSS scheme return or”;
  - (b) omit “relevant non-UK” in the second place it occurs.
- (4) In sub-paragraph (2)—
  - (a) after “made” insert “an OSS scheme return or”;
  - (b) for “paragraph 33(2)(b)” substitute “paragraph 33(2)”;
  - (c) omit “relevant non-UK” in the second place it occurs.
- (5) In sub-paragraph (3)—
  - (a) after “made” insert “an OSS scheme return or”;
  - (b) omit the second set of words in brackets;
  - (c) omit “relevant non-UK” in the final place it occurs.

**10.**—(1) Paragraph 26 (interest on VAT: “reckonable date”) is amended as follows.

- (2) In sub-paragraph (1), in paragraph (a), after “etc” insert “in relation to an OSS scheme return or”.
- (3) In sub-paragraph (3), after “(2)” insert “in relation to an OSS scheme return or”.
- (4) In sub-paragraph (4), after “which” insert “the OSS scheme return or”.

**11.**—(1) Paragraph 27 (default surcharge: notice of special surcharge period) is amended as follows.

- (2) In sub-paragraph (1), in the words before paragraph (a), after “make” insert “an OSS scheme return or”.
- (3) In sub-paragraph (2)—
  - (a) in paragraph (a)—
    - (i) after “is that” insert “the Commissioners or”;
    - (ii) after “member State” insert “(as the case may be)”;
  - (b) in paragraph (b)—
    - (i) after “is that” insert “the Commissioners or”;
    - (ii) after “authorities” insert “(as the case may be)”;
  - (c) in paragraph (c)—
    - (i) after “return,” insert “the Commissioners or”;
    - (ii) after “authorities” insert “(as the case may be)”;
  - (d) in paragraph (d)—

- (i) after “is that” insert “the Commissioners or”;
- (ii) after “authorities” insert “(as the case may be)”.

**12.**—(1) Paragraph 28 (further default after service of notice) is amended as follows.

(2) For sub-paragraph (4) substitute—

“(4) “Special scheme VAT”, in relation to a person, means VAT that the person is liable to pay in respect of scheme supplies treated as made in the United Kingdom to—

- (a) the Commissioners under this Schedule, or
- (b) the tax authorities for the administering member State under a non-UK scheme.”.

(3) In sub-paragraph (5), after “submit” insert “an OSS scheme return or”.

**13.** In paragraph 29 (default surcharge: exceptions for reasonable excuse etc), in sub-paragraph (1), in paragraph (a)—

- (a) at the beginning insert “the OSS scheme return or”;
- (b) after “received by” insert “the Commissioners or”;
- (c) after “member State” insert “(as the case may be)”.

**14.**—(1) Paragraph 30 (interest in certain cases of official error) is amended as follows.

(2) In sub-paragraph (1)—

- (a) omit the “or” at the end of paragraph (a);
- (b) after paragraph (b) insert—
  - “, or
  - (c) a person has paid, in accordance with this Schedule, an amount by way of UK VAT that was not UK VAT due from the person and which the Commissioners are in consequence liable to repay to the person.”.

(3) For sub-paragraph (3) substitute—

“(3) In the application of section 78 as a result of this paragraph, section 78(12)(b) is to be read as providing that—

- (a) in a case within sub-paragraph (1)(a) or (b), any reference in that section to a return is to a return required to be made under a non-UK scheme;
- (b) in a case within sub-paragraph (1)(c), any reference in that section to a return is to a return required to be made under this Schedule.”.

**15.**—(1) Paragraph 33 (increase or decrease in consideration for a supply) is amended as follows.

(2) In the heading, at the end insert “: cases outside Article 61 of the Implementing Regulation(2)”.

(3) In sub-paragraph (1)—

- (a) in paragraph (a), after “makes” insert “an OSS scheme return or”;
- (b) in paragraph (b), for “return has been made” substitute “end of the period during which the person is entitled under Article 61 of the Implementing Regulation to amend their return”.

(4) For sub-paragraph (2) substitute—

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(2) The “Implementing Regulation” is defined in paragraph 38(1) of Schedule 9ZD as meaning Council Implementing Regulation (EU) No 282/2011 (OJ L 77, 23.3.2011, p. 1-22, as last amended by Commission Implementing Regulation (EU) 2020/1112 of 20 July 2020 (OJ L 244, 29.7.2020, p. 9-10)).

“(2) The person must, in the tax period in which the increase or decrease is accounted for in the person’s business accounts, notify the Commissioners of the adjustment needed to the figures in the OSS scheme return or non-UK return (as the case may be) because of the increase or decrease.”.

(5) In sub-paragraph (3), for the words before paragraph (a) substitute “Where the change to which a notice under sub-paragraph (2) relates is an increase in the consideration for a supply, the person must pay to the Commissioners the difference between—”.

(6) In sub-paragraph (4)—

- (a) for “UK supply” substitute “supply”;
- (b) before “VAT” in both places it occurs insert “UK”.

(7) In sub-paragraph (5)—

- (a) in paragraph (a), for “sub-paragraph (2)(b)” substitute “sub-paragraph (2)”;
- (b) in paragraph (b) omit “in a case within sub-paragraph (2)(b)”.

(8) Omit sub-paragraph (6).

#### **Amendments to Schedule 9ZE to VATA**

**16.** In Schedule 9ZE to VATA (distance selling of goods imported to Northern Ireland: special accounting scheme), Part 4 (collection etc of UK VAT) is amended in accordance with regulations 17 to 23.

**17.** In paragraph 16 (assessments: general modifications of section 73), in sub-paragraph (1)—

- (a) omit the “and” at the end of paragraph (a);
- (b) after paragraph (b) insert—
  - “, and
  - (c) references in that section to a VAT credit included a repayment to persons who are not taxable persons of an amount of VAT paid under and in accordance with this Schedule.”.

**18.** In paragraph 19 (deemed amendments of relevant non-UK returns), in the heading, for “non-UK returns” substitute “special scheme returns”.

**19.** In paragraph 20 (interest on VAT: “reckonable date”), in sub-paragraph (4), for “non-UK return” substitute “relevant special scheme return”.

**20.** In paragraph 21 (default surcharge: notice of special surcharge period), in sub-paragraph (2)

- (a) in paragraph (a)—
  - (i) after “is that” insert “the Commissioners or”;
  - (ii) after “State” insert “(as the case may be)”;
- (b) in paragraph (b)—
  - (i) after “is that” insert “the Commissioners or”;
  - (ii) after “authorities” insert “(as the case may be)”;
- (c) in paragraph (c)—
  - (i) after “return,” insert “the Commissioners or”;
  - (ii) after “authorities” insert “(as the case may be)”;
- (d) in paragraph (d)—

- (i) after “is that” insert “the Commissioners or”;
- (ii) after “authorities” insert “(as the case may be)”.

**21.** In paragraph 22 (further default after service of notice), in sub-paragraph (4)—

- (a) after “pay to” insert “the Commissioners or”;
- (b) after “State” insert “(as the case may be)”.

**22.** In paragraph 23 (default surcharge: exceptions for reasonable excuse etc), in sub-paragraph (1), in paragraph (a)—

- (a) after “received by” insert “the Commissioners or”;
- (b) after “State” insert “(as the case may be)”.

**23.** In paragraph 24 (interest in certain cases of official error), in sub-paragraph (3) omit “non-UK”.

### **Amendments to Schedule 9ZF to VATA**

**24.** Schedule 9ZF to VATA (modifications etc in connection with Schedules 9ZD and 9ZE) is amended in accordance with regulations 25 to 26.

**25.—**(1) Part 1 (modifications of VATA) is amended as follows.

(2) For paragraph 5 (modifications of section 80) substitute—

“**5.—**(1) Section 80 (credit for, or repayment of, overstated or overpaid VAT) has effect subject to the following modifications.

(2) Subsection (7) has effect as if after “this section” there were inserted “(and paragraph 31 of Schedule 9ZD and paragraph 25 of Schedule 9ZE)”.

(3) That section has effect as if after subsection (7) there were inserted—

“(8) References in this section to output tax include references to UK VAT paid under and in accordance with Schedule 9ZD or 9ZE by a person who is registered under the OSS scheme or IOSS scheme (as the case may be) but who is not a taxable person.

(9) In subsection (8), “UK VAT”, the “OSS scheme” and the “IOSS scheme” have the same meanings as in Schedules 9ZD and 9ZE.

(10) References in this section to a prescribed accounting period include a tax period (within the meanings of Schedules 9ZD and 9ZE).”

(3) After paragraph 8 insert—

“**8A.** Schedule 11 (administration, collection and enforcement) has effect as if in paragraph 4 (power to require security and production of evidence), after sub-paragraph (1A) there were inserted—

“(1B) For the purposes of sub-paragraph (1A) “VAT credit” includes a repayment of an amount of VAT paid under and in accordance with Schedule 9ZD or 9ZE (the OSS and IOSS schemes).”

**26.** In Part 2 (modifications etc of other Acts), in paragraph 9 (modifications of Schedule 24 to the Finance Act 2007)—

- (a) in the words before paragraph (a), for “Part” substitute “paragraph”;
- (b) in the modification made by paragraph (b), after inserted sub-paragraph (4A) insert—

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“(4B) In a case where a return under a special accounting scheme is required to be submitted to an authority other than HMRC, for the purposes of sub-paragraph (1) the return is regarded as given to HMRC when it is submitted to that authority.”.