



Value Added Tax Act 1983

1983 CHAPTER 55

Imposition and extent of tax

1 Value added tax

A tax, to be known as value added tax, shall be charged in accordance with the provisions of this Act on the supply of goods and services in the United Kingdom (including anything treated as such a supply) and on the importation of goods into the United Kingdom.

2 Scope of tax

- (1) Tax shall be charged on any supply of goods or services made in the United Kingdom, where it is a taxable supply made by a taxable person in the course or furtherance of any business carried on by him.
- (2) A person who makes or intends to make taxable supplies is a taxable person while he is or is required to be registered under this Act; and a taxable supply is a supply of goods or services made in the United Kingdom other than an exempt supply.
- (3) Tax on any supply of goods or services is a liability of the person making the supply and (subject to provisions about accounting and payment) becomes due at the time of supply.
- (4) Tax on the importation of goods shall be charged and payable as if it were a duty of customs.
- (5) Schedule 1 to this Act shall have effect with respect to registration.

Supply

3 Meaning of " supply ": alteration by Treasury order

- (1) Schedule 2 to this Act shall apply for determining what is, or is to be treated as, a supply of goods or a supply of services.

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- (2) Subject to any provision made by that Schedule and to Treasury orders under subsections (3) to (6) below—
- (a) " supply "in this Act includes all forms of supply, but not anything done otherwise than for a consideration;
 - (b) anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right) is a supply of services.
- (3) The Treasury may by order provide with respect to any description of transaction—
- (a) that it is to be treated as a supply of goods and not as a supply of services ; or
 - (b) that it is to be treated as a supply of services and not as a supply of goods; or
 - (c) that it is to be treated as neither a supply of goods nor a supply of services ;
- and without prejudice to the foregoing, such an order may provide that paragraph 5(3) of Schedule 2 to this Act is not to apply, in relation to goods of any prescribed description used or made available for use in prescribed circumstances, so as to make that a supply of services under that paragraph.
- (4) Without prejudice to subsection (3) above, the Treasury may by order make provision for securing, with respect to services of any description specified in the order, that where—
- (a) a person carrying on a business does anything which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order; and
 - (b) such other conditions as may be specified in the order are satisfied,
- such services are treated for the purposes of this Act as being supplied by him in the course or furtherance of that business.
- (5) The Treasury may by order make provision for securing, subject to any exceptions provided for by or under the order,
- that where in such circumstances as may be specified in the order goods of a description so specified are acquired or produced by a person in the course or furtherance of a business carried on by him and—
- (a) are neither supplied to another person nor incorporated in other goods produced in the course or furtherance of that business ; but
 - (b) are used by him for the purpose of a business carried on by him,
- the goods are treated for the purposes of this Act as being both supplied to him for the purpose of that business and supplied by him in the course or furtherance of it.
- (6) The Treasury may by order make provision for securing, with respect to services of any description specified in the order, that where—
- (a) a person, in the course or furtherance of a business carried on by him, does anything for the purpose of that business which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order; and
 - (b) such other conditions as may be specified in the order are satisfied,
- such services are treated for the purposes of this Act as being both supplied to him for the purpose of that business and supplied by him in the course or furtherance of it.
- (7) For the purposes of this section, where goods are manufactured or produced from any other goods those other goods shall be treated as incorporated in the first-mentioned goods.

- (8) An order under subsection (4) or (6) above may provide for the method by which the value of any supply of services which is treated as taking place by virtue of the order is to be calculated.

4 Time of supply

- (1) The provisions of this section and section 5 below shall apply for determining the time when a supply of goods or services is to be treated as taking place for the purposes of the charge to tax.
- (2) Subject to the provisions of section 5 below, a supply of goods shall be treated as taking place
- (a) if the goods are to be removed, at the time of the removal;
 - (b) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied;
 - (c) if the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, at the time when it becomes certain that the supply has taken place or, if sooner, 12 months after the removal.
- (3) Subject to the provisions of section 5 below, a supply of services shall be treated as taking place at the time when the services are performed.

5 Further provisions relating to time of supply

- (1) If, before the time applicable under subsection (2) or subsection (3) of section 4 above, the person making the supply issues a tax invoice in respect of it or if, before the time applicable under paragraph (a) or (b) of subsection (2) or subsection (3) of that section, he receives a payment in respect of it, the supply shall, to the extent covered by the invoice or payment, be treated, as taking place at the time the invoice is issued or the payment is received.
- (2) If, within 14 days after the time applicable under subsection (2) or subsection (3) of section 4 above, the person making the supply issues a tax invoice in respect of it, then, unless he has notified the Commissioners in writing that he elects not to avail himself of this subsection, the supply shall (to the extent that it is not treated as taking place at the time mentioned in subsection (1) above) be treated as taking place at the time the invoice is issued.
- (3) The Commissioners may, at the request of a taxable person, direct that subsection (2) above shall apply in relation to supplies made by him (or such supplies made by him as may be specified in the direction) as if for the period of 14 days there were substituted such longer period as may be specified in the direction.
- (4) Where a taxable person provides a document to himself which—
- (a) purports to be a tax invoice in respect of a supply of goods or services to him by another taxable person; and
 - (b) is in accordance with regulations under paragraph 2 of Schedule 7 to this Act treated as the tax invoice required by the regulations to be provided by the supplier,
- subsections (2) and (3) above shall have effect in relation to that supply as if—

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- (i) the provision of the document to himself by the first-mentioned taxable person were the issue by the supplier of a tax invoice in respect of the supply ; and
 - (ii) any notice of election given or request made by the first-mentioned taxable person for the purposes of those provisions had been given or made by the supplier.
- (5) The Commissioners may, at the request of a taxable person, by direction alter the time at which supplies made by him (or such supplies made by him as may be specified in the direction) are to be treated as taking place, either—
- (a) by directing those supplies to be treated as taking place—
 - (i) at times or on dates determined by or by reference to the occurrence of some event described in the direction; or
 - (ii) at times or on dates determined by or by reference to the time when some event so described would in the ordinary course of events occur, the resulting times or dates being in every case earlier than would otherwise apply ; or
 - (b) by directing that, notwithstanding subsections (2) and (3) above, those supplies shall (to the extent that they are not treated as taking place at the time mentioned in subsection (1) above) be treated as taking place—
 - (i) at the beginning of the relevant working period (as defined in his case in and for the purposes of the direction); or
 - (ii) at the end of the relevant working period (as so defined).
- (6) Where goods are treated as supplied by an order under section 3(5) above, the supply is treated as taking place when they are appropriated to the use mentioned in that section.
- (7) Where there is a supply of goods by virtue only of paragraph 5(1) of Schedule 2 to this Act, the supply is treated as taking place when the goods are transferred or disposed of as mentioned in that paragraph.
- (8) Where there is a supply of services by virtue only of paragraph 5(3) of Schedule 2 to this Act, the supply is treated as taking place when the goods are appropriated to the use mentioned in that paragraph.
- (9) The Commissioners may by regulations make provision with respect to the time at which (notwithstanding section 4 above and subsections (1) to (3) and (6) to (8) above) a supply is to be treated as taking place in cases where it is a supply
- (a) of goods or services for a consideration the whole or part of which is determined or payable periodically, or from time to time, or at the end of any period ; or
 - (b) of goods for a consideration the whole or part of which is determined at the time when the goods are appropriated for any purpose,
- or where there is a supply of services by virtue of paragraph 5(3) of Schedule 2 to this Act or an order under section 3(4) above ; and for any such case as is mentioned in this subsection the regulations may provide for goods or services to be treated as separately and successively supplied at prescribed times or intervals.
- (10) In this section " tax invoice " means such an invoice as is required under paragraph 2(1) of Schedule 7 to this Act or would be so required if the person to whom the supply is made were a taxable person.

6 Place of supply

- (1) This section shall apply for determining, for the purposes of the charge to tax, whether goods or services are supplied in the United Kingdom.
- (2) If the supply of any goods does not involve their removal from or to the United Kingdom they shall be treated as supplied in the United Kingdom if they are in the United Kingdom and otherwise shall be treated as supplied outside the United Kingdom.
- (3) If the supply of any goods involves their removal from the United Kingdom they shall be treated as supplied in the United Kingdom and if it involves their removal to the United Kingdom they shall be treated as supplied outside the United Kingdom.
- (4) For the purposes of subsections (2) and (3) above, where goods, in the course of their removal from a place in the United Kingdom to another place in the United Kingdom, leave and re-enter the United Kingdom the removal shall not be treated as a removal from or to the United Kingdom.
- (5) A supply of services shall be treated as made—
 - (a) in the United Kingdom if the supplier belongs in the United Kingdom; and
 - (b) in another country (and not in the United Kingdom), if the supplier belongs in that other country.
- (6) The Treasury may by order provide, in relation to services generally or to particular services specified in the order, for varying the rules for determining where a supply of services is made.

7 Reverse charge on supplies received from abroad

- (1) Subject to subsection (3) below, where relevant services are—
 - (a) supplied by a person who belongs in a country other than the United Kingdom ; and
 - (b) received by a taxable person who belongs in the United Kingdom for the purposes of any business carried on by him,then all the same consequences shall follow under this Act (and particularly so much as charges tax on a supply and entitles a taxable person to credit for input tax) as if the taxable person had himself supplied the services in the United Kingdom in the course or furtherance of his business, and that supply were a taxable supply.
- (2) In this section " relevant services " means services of any of the descriptions specified in Schedule 3 to this Act, not being services within any of the descriptions specified in Schedule 6 to this Act.
- (3) Supplies which are treated as made by the taxable person under subsection (1) above are not to be taken into account as supplies made by him when determining the allowance of input tax in his case under section 15(1) below.
- (4) In applying subsection (1) above, the supply of services treated as made by the taxable person shall be assumed to have been made—
 - (a) for whatever consideration the services were in fact supplied to him; and
 - (b) at a time to be determined in accordance with regulations prescribing rules for attributing a time of supply in cases within that subsection.
- (5) The Treasury may by order add to, or vary, Schedule 3 to this Act.

8 Place where supplier or recipient of services belongs

- (1) Subsection (2) below shall apply for determining, in relation to any supply of services, whether the supplier belongs in one country or another and subsections (3) and (4) below shall apply for determining, in relation to any supply of services, whether the recipient belongs in one country or another.
- (2) The supplier of services shall be treated as belonging in a country if—
 - (a) he has there a business establishment or some other fixed establishment and no such establishment elsewhere ; or
 - (b) he has no such establishment (there or elsewhere) but his usual place of residence is there ; or
 - (c) he has such establishments both in that country and elsewhere and the establishment of his which is most directly concerned with the supply is there.
- (3) If the supply of services is made to an individual and received by him otherwise than for the purposes of any business carried on by him, he shall be treated as belonging in whatever country he has his usual place of residence.
- (4) Where subsection (3) above does not apply, the person to whom the supply is made shall be treated as belonging in a country if—
 - (a) either of the conditions mentioned in paragraphs (a) and (b) of subsection (2) above is satisfied ; or
 - (b) he has such establishments as are mentioned in subsection (2) above both in that country and elsewhere and the establishment of his at which, or for the purposes of which, the services are most directly used or to be used is in that country.
- (5) For the purposes of this section (but not for any other purposes)—
 - (a) a person carrying on a business through a branch or agency in any country shall be treated as having a business establishment there ; and
 - (b) " usual place of residence ", in relation to a body corporate, means the place where it is legally constituted.

*Rate of tax and determination of value***9 Rate of tax**

- (1) Subject to the following provisions of this section, tax shall be charged at the rate of 15 per cent, and shall be charged—
 - (a) on the supply of goods or services, by reference to the value of the supply as determined under this Act; and
 - (b) on the importation of goods, by reference to the value of the goods as determined under this Act.
- (2) The Treasury may by order increase or decrease the rate of tax for the time being in force by such percentage thereof not exceeding 25 per cent, as may be specified in the order, but any such order shall cease to be in force at the expiration of a period of one year from the date on which it takes effect, unless continued in force by a further order under this subsection.
- (3) In relation to an order made under subsection (2) above to continue, vary or replace a previous order, the reference in that subsection to the rate for the time being in force

is a reference to the rate which would be in force if no order under that subsection had been made.

10 Value of supply of goods or services

- (1) For the purposes of this Act the value of any supply of goods or services shall be determined as follows.
- (2) If the supply is for a consideration in money its value shall be taken to be such amount as, with the addition of the tax chargeable, is equal to the consideration.
- (3) If the supply is not for a consideration or is for a consideration not consisting or not wholly consisting of money, the value of the supply shall be taken to be its open, market value.
- (4) Where a supply of any goods or services is not the only matter to which a consideration in money relates the supply shall be deemed to be for such part of the consideration as is properly attributable to it.
- (5) For the purposes of this Act the open market value of a supply of goods or services shall be taken to be the amount that would fall to be taken as its value under subsection (2) above if the supply were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.
- (6) This section has effect subject to Schedule 4 to this Act.

11 Value of imported goods

- (1) For the purposes of this Act, the value of imported goods shall be determined as follows.
- (2) If the goods are imported at a price in money payable as on a transfer of the property, there being no other consideration, the value is an amount equal to the price, plus (so far as not already included)—
 - (a) all taxes, duties and other charges levied either outside or, by reason of importation, within the United Kingdom (except value added tax); and
 - (b) all costs by way of commission, packing, transport and insurance up to the port or place of importation.
- (3) Where subsection (2) above does not apply, the value of the goods is their open market value as determined in accordance with Community legislation relating to the valuation of goods for customs purposes, plus (so far as not already included in that value) all such taxes, duties, charges and costs as are specified in subsection (2) (a) and (b) above.
- (4) This section has effect subject to Schedule 4 to this Act.

12 Value of certain goods

- (1) Where a person makes a supply on which tax is chargeable by applying, or causing to be applied, any treatment or process to another person's goods, then if the goods—
 - (a) are not goods to which subsection (3) below applies, but

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- (b) become as a result of the treatment or process goods to which that subsection applies,
the amount of the tax chargeable shall, subject to the following provisions of this section, be determined as if the supply had been a sale for full consideration of the goods resulting from the treatment or process.
- (2) Subsection (1) above does not apply where the person to whom the supply is made—
- (a) is registered under this Act; and
 - (b) gives to the person making the supply a certificate, in such form and containing such particulars as the Commissioners may by regulations prescribe, that the supply is for the purpose of a business carried on or to be carried on by him.
- (3) This subsection applies to aircraft of a weight of 8,000 kilogrammes or more, and hovercraft, if (in each case) they have been adapted, but were not designed, for use for recreation or pleasure.
- (4) The Treasury may by order vary subsection (3) above by adding to or deleting from it any description of goods or by varying any description of goods for the time being specified in it.
- (5) The Treasury may by order make provision for securing a reduction of the tax chargeable on supplies to which subsection (1) above applies in cases where—
- (a) tax was previously chargeable on a supply or importation of the goods to which the treatment or process is applied; and
 - (b) such other conditions are satisfied as may be specified in the order or as may be imposed by the Commissioners in pursuance of the order.
- (6) A person who applies or causes to be applied a treatment or process to another person's goods shall, if the goods satisfy the conditions of paragraphs (a) and (b) of subsection (1) above, be treated for the purposes of paragraph 2 of Schedule 2 to this Act as producing the resulting goods by applying the treatment or process, whether or not he would otherwise fall to be so treated.

13 Gaming machines

- (1) Where a person plays a game of chance by means of a gaming machine, then for the purposes of the tax (but without prejudice to subsection (2) below) the amount paid by him to play shall be treated as the consideration for a supply of services to him.
- (2) The value to be taken as the value of supplies made in the circumstances mentioned in subsection (1) above in any period shall be determined as if the consideration for the supplies were reduced by an amount equal to the amount (if any) received in that period by persons (other than the person making the supply and persons acting on his behalf) playing successfully.
- (3) The insertion of a token into a machine shall be treated for the purposes of subsection (1) above as the payment of an amount equal to that for which the token can be obtained; and the receipt of a token by a person playing successfully shall be treated for the purposes of subsection (2) above—
- (a) if the token is of a kind used to play the machine, as the receipt of an amount equal to that for which such a token can be obtained ;
 - (b) if the token is not of such a kind but can be exchanged for money, as the receipt of an amount equal to that for which it can be exchanged.

(4) In this section—

" game of chance " has the same meaning as in the Gaming Act 1968; and
" gaming machine " means a machine in respect of which the following conditions are satisfied, namely—

- (a) it is constructed or adapted for playing a game of chance by means of it; and
- (b) a player pays to play the machine (except where he has an opportunity to play payment-free as the result of having previously played successfully), either by inserting a coin or token into the machine or in some other way ; and
- (c) the element of chance in the game is provided by means of the machine.

Credit for input tax against output tax

14 Credit for input tax against output tax

- (1) a taxable person shall, in respect of supplies made by him, account for and pay tax by reference to such periods (in this Act referred to as " prescribed accounting periods"), at such time and in such manner as may be determined by or under regulations.
- (2) Subject to the provisions of this section, he is entitled at the end of each such period to credit for so much of his input tax as is allowable under section 15 below, and then to deduct that amount from any output tax that is due from him.
- (3) Subject to subsection (4) below, "input tax ", in relation to a taxable person, means the following tax, that is to say
 - (a) tax on the supply to him of any goods or services ; and
 - (b) tax paid or payable by him on the importation of any goods, being (in either case) goods or services used or to be used for the purpose of any business carried on or to be carried on by him ; and " output tax " means tax on supplies which he makes.
- (4) Where goods or services supplied to a taxable person, or goods imported by him, are used or to be used partly for the purposes of a business carried on or to be carried on by him and partly for other purposes, tax on supplies and importations shall be apportioned so that only so much as is referable to his business purposes is counted as his input tax.
- (5) If either no output tax is due at the end of the period, or the amount of the credit exceeds that of the tax, then, subject to subsections (6) and (7) below, the amount of the credit or, as the case may be, the amount of the excess shall be paid to the taxable person by the Commissioners.
- (6) The whole or any part of the credit may, subject to and in accordance with regulations, be held over to be credited in and for a subsequent period; and the regulations may allow for it to be so held over either on the taxable person's own application or in accordance with general or special directions given by the Commissioners from time to time.
- (7) Where at the end of any period an amount is due under subsection (5) above to a taxable person who has failed to submit returns or to pay tax for any earlier period as

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required by this Act, the Commissioners may withhold payment of that amount until he has complied with that requirement.

- (8) No deduction shall be made under subsection (2) above nor shall any payment be made under subsection (5) above, except on a claim made in such manner and at such time as may be determined by or under regulations; and, in the case of a person who has made no taxable supplies in the period concerned or any previous period, payment under subsection (5) above shall be made subject to such conditions (if any) as the Commissioners think fit to impose, including conditions as to repayment in specified circumstances.
- (9) Regulations may provide—
- (a) for tax on the supply of goods or services to a taxable person, or paid or payable by him on the importation of goods, to be treated as his input tax only if and to the extent that the charge to tax is evidenced and quantified by reference to such documents as may be specified in the regulations or the Commissioners may direct either generally or in particular cases or classes of cases;
 - (b) for a taxable person to count as his input tax, in such circumstances, to such extent and subject to such conditions as may be prescribed, tax on the supply to him of goods or services or paid by him on the importation of goods notwithstanding that he was not a taxable person at the time of the supply or payment;
 - (c) for a taxable person that is a body corporate to count as its input tax, in such circumstances, to such extent and subject to such conditions as may be prescribed, tax on the supply or importation of goods acquired for it before its incorporation or on the supply of services before that time for its benefit or in connection with its incorporation;
 - (d) in the case of a person who has been, but is no longer, a taxable person, for him to be paid by the Commissioners the amount of any tax on a supply of services made to him for the purposes of the business carried on by him when he was a taxable person.
- (10) The Treasury may by order provide, in relation to such supplies and importations as the order may specify, that tax charged on them is to be excluded from any credit under this section; and—
- (a) any such provision may be framed by reference to the description of goods or services supplied or goods imported, the person by whom they are supplied or imported or to whom they are supplied, the purposes for which they are supplied or imported, or any circumstances whatsoever; and
 - (b) such an order may contain provision for consequential relief from output tax.

15 Input tax allowable under section 14

- (1) The amount of input tax for which a taxable person is entitled to credit at the end of any period shall be determined as follows—
- (a) if his business is such that all his supplies are taxable supplies, there is allowable the whole of the input tax for the period (that is input tax on supplies and importations in the period);
 - (b) if it is such that some but not all of his supplies are taxable supplies, there is allowable such proportion of the input tax for the period as, in accordance with regulations, is attributable to taxable supplies ; and

- (c) if he has made no taxable supplies in that or any previous period of the business, there is allowable such proportion of the input tax for the period as the Commissioners consider in all the circumstances to be fair and reasonable.
- (2) Regulations may provide for treating all supplies of goods or services by any person as taxable supplies—
 - (a) where the tax attributable to exempt supplies would be less than such amount, or less than such part of the whole of the input tax, as may be prescribed; or
 - (b) in other prescribed circumstances.
- (3) The Commissioners shall make regulations for securing a fair and reasonable attribution of input tax to taxable supplies, and any such regulations may provide for—
 - (a) determining a proportion of supplies in any prescribed accounting period which is to be taken as consisting of taxable supplies and provisionally attributing the input tax for that period in accordance with the proportion so determined;
 - (b) adjusting, in accordance with a proportion determined in like manner for any longer period comprising two or more prescribed accounting periods or parts thereof, the provisional attribution for any of those periods; and
 - (c) dispensing with an adjustment where the amounts allowable for any such longer period in accordance with provisional and adjusted attributions do not differ by more than—
 - (i) an amount equal to such percentage (not exceeding 10 per cent.) of the input tax for that period as may be specified in the regulations; or
 - (ii) such an amount (not exceeding £10) as may be so specified, whichever is the greater.
- (4) Regulations under subsection (3) above may make different provision for different circumstances and, in particular (but without prejudice to the generality of that subsection) for different descriptions of goods or services; and may contain such incidental and supplementary provisions as appear to the Commissioners necessary or expedient.

Reliefs

16 Zero-rating

- (1) Where a taxable person supplies goods or services and the supply is zero-rated, then, whether or not tax would be chargeable on the supply apart from this section,—
 - (a) no tax shall be charged on the supply; but
 - (b) it shall in all other respects be treated as a taxable supply;and accordingly the rate at which tax is treated as charged on the supply shall be nil.
- (2) A supply of goods or services is zero-rated by virtue of this subsection if the goods or services are of a description for the time being specified in Schedule 5 to this Act or the supply is of a description for the time being so specified.
- (3) Where goods of a description for the time being specified in Schedule 5 to this Act, or of a description forming part of a description of supply for the time being so specified, are imported into the United Kingdom, no tax shall be chargeable on their importation, except as otherwise provided in that Schedule.

- (4) The Treasury may by order vary Schedule 5 to this Act by adding to or deleting from it any description or by varying any description for the time being specified in it.
- (5) Where a description included in Schedule 5 to this Act (whether by virtue of an order under subsection (4) above or otherwise) is of a supply of goods or services outside the United Kingdom or of a transaction which would not otherwise be a supply of goods or services, the supply or transaction shall for the purposes of this Act be treated as a supply of goods or services in the United Kingdom.
- (6) A supply of goods is zero-rated by virtue of this subsection if the Commissioners are satisfied that the person supplying the goods—
- (a) has exported them ; or
 - (b) has shipped them for use as stores on a voyage or flight to an eventual destination outside the United Kingdom, or as merchandise for sale by retail to persons carried on such a voyage or flight in a ship or aircraft.
- (7) Regulations may provide for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where the Commissioners are satisfied that the goods have been or are to be exported and such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.
- (8) Regulations may provide for the zero-rating of a supply of services which is made where goods are let on hire and the Commissioners are satisfied that the goods have been or are to be exported during the period of the letting, and such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.
- (9) Where the supply of any goods has been zero-rated in pursuance of regulations made under subsection (7) or (8) above and—
- (a) the goods are found in the United Kingdom after the date on which they were alleged to have been or were to be exported ; or
 - (b) any condition specified in the regulations or imposed by the Commissioners is not complied with,
- and the presence of the goods in the United Kingdom after that date or the non-observance of the condition has not been authorised for the purposes of this subsection by the Commissioners, the goods shall be liable to forfeiture under the Customs and Excise Management Act 1979 and the tax that would have been chargeable on the supply but for the zero-rating shall become payable forthwith by the person to whom the goods were supplied or by any person in whose possession the goods are found in the United Kingdom; but the Commissioners may, if they think fit, waive payment of the whole or part of that tax.

17 Exemptions

- (1) A supply of goods or services is an exempt supply if it is of a description for the time being specified in Schedule 6 to this Act.
- (2) The Treasury may by order vary that Schedule by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it and the Schedule may be varied so as to describe a supply of goods by reference to the use which has been made of them or to other matters unrelated to the characteristics of the goods themselves.

18 Relief on supply of certain second-hand goods

- (1) The Treasury may by order make provision for securing a reduction of the tax chargeable on the supply of goods of such descriptions as may be specified in the order in cases where no tax was chargeable on a previous supply of the goods and such other conditions are satisfied as may be specified in the order or as may be imposed by the Commissioners in pursuance of the order.
- (2) The amount of the reduction that may be secured by an order under this section shall not exceed the amount of tax that would have been chargeable on the previous supply had tax been chargeable on it at the same rate as that at which the tax to be reduced would be chargeable but for the reduction.
- (3) An order under this section making provision for reducing the tax chargeable on the supply of goods of any description may include provision—
 - (a) for giving relief from the tax chargeable on the importation of goods of that description ; and
 - (b) for securing the like reduction where no tax was chargeable on the importation of goods of that description as where no tax was chargeable on a previous supply of the goods.
- (4) An order under this section may extend to cases where the previous supply or the importation took place before tax was chargeable on any supply or importation.
- (5) The preceding provisions of this section shall, with the necessary modifications, apply in relation to cases where consequential relief from tax was given on a previous supply by an order under section 14(10) above but the relief did not extend to the whole amount of the tax.
- (6) An order under this section may make different provision for goods of different descriptions and for different circumstances.
- (7) In this section references to a supply on which no tax was chargeable include references to a transaction treated by virtue of an order under section 3(3) above as neither a supply of goods nor a supply of services.

19 Relief from tax on importation of goods

- (1) The Treasury may by order make provision for giving relief from the whole or part of the tax chargeable on the importation of goods, subject to such conditions (including conditions prohibiting or restricting the disposal of or dealing with the goods) as may be imposed by or under the order, if and so far as the relief appears to the Treasury to be necessary or expedient, having regard to any international agreement or arrangements.
- (2) The Commissioners may by regulations make provision for remitting or repaying, if they think fit, the whole or part of the tax chargeable on the importation of any goods which are shown to their satisfaction to have been previously exported from the United Kingdom.
- (3) The Commissioners may by regulations make provision for remitting or repaying the whole or part of the tax chargeable on the importation of any goods if they are satisfied that the goods have been or are to be re-exported and they think fit to do so in all the circumstances and having regard—
 - (a) to the tax chargeable on the supply of like goods in the United Kingdom;

- (b) to any value added tax which may have become chargeable in another member State in respect of the goods.

Refunds

20 Refund of tax in certain cases

- (1) Subject to the following provisions of this section, where tax is chargeable on the supply of goods or services to, or on the importation of goods by, a body to which this section applies and the supply or importation is not for the purpose of any business carried on by the body, the Commissioners shall, on a claim made by the body at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the tax so chargeable.
- (2) Where goods or services so supplied to or imported by the body cannot be conveniently distinguished from goods or services supplied to or imported by it for the purpose of a business carried on by it, the amount to be refunded under this section shall be such amount as remains after deducting from the whole of the tax chargeable on any supply to or importation by the body such proportion thereof as appears to the Commissioners to be attributable to the carrying on of the business ; but where the tax so attributable is or includes tax attributable, in accordance with regulations under section 15 above, to exempt supplies by the body and the tax attributable to the exempt supplies is in the opinion of the Commissioners an insignificant proportion of the tax so chargeable they may include it in the tax refunded under this section.
- (3) The bodies to which this section applies are—
- (a) a local authority;
 - (b) a water authority, a river purification board established under section 135 of the Local Government (Scotland) Act 1973, a statutory water undertaker within the meaning of the Water Act 1973 and a water development board within the meaning of section 109 of the Water (Scotland) Act 1980;
 - (c) an internal drainage board within the meaning of the Land Drainage Act 1976 ;
 - (d) the London Transport Executive and a passenger transport authority or executive established under Part II of the Transport Act 1968 ;
 - (e) a port health authority constituted under Part I of the Public Health Act 1936, and a port local authority and joint port local authority constituted under Part X of the Public Health (Scotland) Act 1897 ;
 - (f) a police authority and the Receiver for the Metropolitan Police District;
 - (g) a development corporation within the meaning of the New Towns Act 1981 or the New Towns (Scotland) Act 1968, a new town commission within the meaning of the New Towns Act (Northern Ireland) 1965 and the Commission for the New Towns ;
 - (h) a general lighthouse authority within the meaning of Part XI of the Merchant Shipping Act 1894
 - (i) the British Broadcasting Corporation ;
 - (j) Independent Television News Limited; and
 - (k) any body specified for the purposes of this section by an order made by the Treasury.
- (4) No tax shall be refunded under this section to a general lighthouse authority which in the opinion of the Commissioners is attributable to activities other than

those concerned with the provision, maintenance or management of lights or other navigational aids.

- (5) References in this section to tax chargeable do not include any tax which, by virtue of any order under section 14(10) above, is excluded from credit under that section.
- (6) In this section " local authority " means the council of a county, district, London borough, parish or group of parishes (or, in Wales, community or group of communities), the Greater London Council, the Common Council of the City of London, the Council of the Isles of Scilly, and any joint committee or joint board established by two or more of the foregoing and, in relation to Scotland, a regional, islands or district council within the meaning of the Local Government (Scotland) Act 1973, any combination and any joint committee or joint board established by two or more of the foregoing and any joint board to which section 226 of that Act applies.

21 Refund of tax to persons constructing new homes otherwise than in the course or furtherance of any business

- (1) Subject to the following provisions of this section, where tax becomes chargeable on the supply of goods to, or the importation of goods by, a person constructing a dwelling lawfully and otherwise than in the course or furtherance of any business carried on by him, and those goods—
 - (a) are incorporated in the dwelling or its site, and
 - (b) are of such a nature that if he were a taxable person constructing the dwelling for the purpose of granting a major interest in it he would be entitled to credit for that tax as input tax,the Commissioners shall, on a claim made by him in that behalf, refund to him the amount of the tax so chargeable.
- (2) The Commissioners shall not be required to entertain a claim for a refund of tax under this section unless the claim—
 - (a) is made within such time and in such form and manner, and
 - (b) contains such information, and
 - (c) is accompanied by such documents, whether by way of evidence or otherwise, as the Commissioners may by regulations prescribe.
- (3) In this section—
 - (a) references to a dwelling include references to a garage constructed at the same time as the dwelling and intended to be occupied together with it; and
 - (b) references to the construction of a dwelling do not include references to the conversion, reconstruction, alteration or enlargement of any existing building or buildings.

22 Refund of tax in cases of bad debts

- (1) Where—
 - (a) a person has supplied goods or services for a consideration in money and has accounted for and paid tax on that supply; and
 - (b) the person liable to pay any outstanding amount of the consideration has become insolvent,

then, subject to subsection (2) and to regulations under subsection (3) below, the first-mentioned person shall be entitled, on making a claim to the Commissioners, to a refund of the amount of tax chargeable by reference to the outstanding amount.

- (2) A person shall not be entitled to a refund under this section unless—
- (a) he has proved in the insolvency and the amount for which he has proved is the outstanding amount of the consideration less the amount of his claim ;
 - (b) the value of the supply does not exceed its open market value; and
 - (c) in the case of a supply of goods, the property in the goods has passed to the person to whom they were supplied.
- (3) Regulations under this section may—
- (a) require a claim to be made at such time and in such form and manner as may be specified by or under the regulations;
 - (b) require a claim to be evidenced and quantified by reference to such records and other documents preserved for such period, not exceeding three years from the making of the claim, as may be so specified ;
 - (c) make provision for determining what amount (if any) is the outstanding amount of the consideration in particular cases such as those involving part payment or mutual debts;
 - (d) require the repayment of a refund under this section where any requirement of the regulations is not complied with or where the claimant subsequently proves for an amount which, taken with the amount for which he has previously proved, exceeds the amount mentioned in subsection (2) (a) above; and
 - (e) make different provision for different circumstances.
- (4) For the purposes of this section—
- (a) an individual becomes insolvent if—
 - (i) in England, Wales, Northern Ireland or the Isle of Man, he is adjudged bankrupt or the court makes an order for the administration in bankruptcy of his estate; or
 - (ii) in Scotland, an award of sequestration of his estates is made or he signs a trust deed for behoof of his creditors or a judicial factor is appointed under section 163 of the Bankruptcy (Scotland) Act 1913 to divide his insolvent estate among his creditors ; and
 - (b) a company becomes insolvent if, in the United Kingdom or the Isle of Man, it is the subject of a creditors' voluntary winding up or the court makes an order for its winding up and the circumstances are such that it is unable to pay its debts ;

and as respects insolvencies in Scotland this section shall have effect as if for references to proving in the insolvency there were substituted references to taking such steps as may be specified by regulations made under this section.

Repayment

23 Repayment of tax to those in business overseas

- (1) The Commissioners may, by means of a scheme embodied in regulations, provide for the repayment, to persons to whom this section applies, of tax on supplies to them in

the United Kingdom which would be input tax of theirs if they were taxable persons in the United Kingdom.

- (2) This section—
- (a) applies to persons carrying on business in a member State other than the United Kingdom, and
 - (b) shall apply also to persons carrying on business in other countries, if, pursuant to any Community Directive, rules are adopted by the Council of the Communities about refunds of tax to persons established elsewhere than in the member States,
- but does not apply to persons carrying on business in the United Kingdom.
- (3) Repayment shall be made in such cases only, and subject to such conditions, as the scheme may prescribe (being conditions specified in the regulations or imposed by the Commissioners either generally or in particular cases); and the scheme may provide—
- (a) for claims and repayments to be made only through agents in the United Kingdom ;
 - (b) either generally or for specified purposes—
 - (i) for the agents to be treated under this Act as if they were taxable persons ; and
 - (ii) for treating claims as if they were returns under this Act and repayments as if they were repayments of input tax ; and
 - (c) for generally regulating the methods by which the amount of any repayment is to be determined and the repayment is to be made.

Further provisions as to importation of goods

24 Application of customs enactments

- (1) Subject to the provisions of this section, the Customs and Excise Acts 1979 and, except where the contrary intention appears, any other enactments (including provisions of regulations or other instruments having statutory effect) relating generally to customs or excise duties on imported goods, whenever passed or made, shall have effect, with such exceptions and adaptations as may be prescribed, as if all goods imported into the United Kingdom were liable to duties (whether of customs or excise) and as if those duties included value added tax chargeable on the importation of goods.
- (2) Section 125(3) of the Customs and Excise Management Act 1979 shall have effect in its application by virtue of subsection (1) above as if the reference to subsections (1) and (2) of that section included a reference to section 11 above.
- (3) The following enactments shall be excepted from those which are to have effect as mentioned in subsection (1) above, that is to say—
- (a) sections 43(5), 125(1) and (2), 126 and 127(1)(b) of the Customs and Excise Management Act 1979;
 - (b) the provisions of the Customs and Excise Duties (General Reliefs) Act 1979 other than sections 7, 8 and 9(b);
 - (c) section 6(4) of the Matches and Mechanical Lighters Duties Act 1979 ; and
 - (d) sections 8 and 9 of the Isle of Man Act 1979.

- (4) Regulations under section 16 of the Post Office Act 1953 (which provides for the application of customs enactments to postal packets) may make special provision in relation to value added tax.

25 Importation of goods by taxable persons

The Commissioners may by regulations make provision for enabling goods imported by a taxable person in the course or furtherance of any business carried on by him to be delivered or removed, subject to such conditions or restrictions as the Commissioners may impose for the protection of the revenue, without payment of the tax chargeable on the importation, and for that tax to be accounted for together with the tax chargeable on the supply of goods or services by him.

26 Goods imported for private purposes

- (1) Where goods are imported by a taxable person and—
- (a) at the time of importation they belong wholly or partly to another person ; and
 - (b) the purposes for which they are to be used include private purposes either of himself or of the other,
- tax paid or payable by the taxable person on the importation of the goods shall not be regarded as input tax to be deducted or credited under section 14 above; but he may make a separate claim to the Commissioners for it to be repaid.
- (2) The Commissioners shall allow the claim if they are satisfied that to disallow it would result, in effect, in a double charge to tax ; and where they allow it they shall do so only to the extent necessary to avoid the double charge.
- (3) In considering a claim under this section, the Commissioners shall have regard to the circumstances of the importation and, so far as appearing to them to be relevant, things done with, or occurring in relation to, the goods at any subsequent time.
- (4) Any amount allowed by the Commissioners on the claim shall be paid by them to the taxable person.
- (5) The reference above to a person's private purposes is to purposes which are not those of any business earned on by him.

Special cases

27 Application to Crown

- (1) This Act shall apply in relation to taxable supplies by the Crown as it applies in relation to taxable supplies by taxable persons.
- (2) Where the supply by a Government department of any goods or services does not amount to the carrying on of a business but it appears to the Treasury that similar goods or services are or might be supplied by taxable persons in the course or furtherance of any business, then, if and to the extent that the Treasury so direct, the supply of those goods or services by that department shall be treated for the purposes of this Act as a supply in the course or furtherance of any business carried on by it.
- (3) For the purposes of this section goods or services obtained by one Government department from another Government department shall be treated, if and to the extent

that the Treasury so direct, as supplied by that other department and similarly as regards goods or services obtained by or from the Crown Estate Commissioners.

- (4) In this section " Government department" includes a Northern Ireland department, any body of persons exercising functions on behalf of a Minister of the Crown, and any part of a Government department (as defined in the foregoing) designated for the purposes of this subsection by a direction of the Treasury.

28 Local authorities

- (1) A local authority which makes taxable supplies is liable to be registered under this Act, whatever the value of the supplies; and accordingly Schedule 1 to this Act shall apply, in a case where the value of the taxable supplies made by a local authority in any period of one year does not exceed the sum for the time being specified in paragraph 1(a)(ii) of that Schedule, as if that value exceeded that sum.
- (2) In this section " local authority " has the same meaning as in section 20 above.

29 Groups of companies

- (1) Where, under the following provisions of this section, any bodies corporate are treated as members of a group any business carried on by a member of the group shall be treated as carried on by the representative member, and—
- (a) any supply of goods or services by a member of the group to another member of the group shall be disregarded ; and
 - (b) any other supply of goods or services by or to a member of the group shall be treated as a supply by or to the representative member; and
 - (c) any tax paid or payable by a member of the group on the importation of any goods shall be treated as paid or payable by the representative member and the goods shall be treated for the purposes of section 25 above and paragraph 4(6) of Schedule 7 to this Act as imported by the representative member;
- and all members of the group shall be liable jointly and severally for any tax due from the representative member.
- (2) An order under section 3(5) or (6) above may make provision for securing that any goods or services which, if all the members of the group were one person, would fall to be treated under that section as supplied to and by that person, are treated as supplied to and by the representative member.
- (3) Two or more bodies corporate resident in the United Kingdom are eligible to be treated as members of a group if—
- (a) one of them controls each of the others ; or
 - (b) one person (whether a body corporate or an individual) controls all of them ; or
 - (c) two or more individuals carrying on a business in partnership control all of them.
- (4) Where an application to that effect is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then, from the beginning of a prescribed accounting period they shall be so treated, and one of them shall be the representative member, unless the Commissioners refuse the application; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue.

Status: This is the original version (as it was originally enacted).

- (5) Where any bodies corporate are treated as members of a group and an application to that effect is made to the Commissioners, then, from the beginning of a prescribed accounting period—
- (a) a further body eligible to be so treated shall be included among the bodies so treated ; or
 - (b) a body corporate shall be excluded from the bodies so treated; or
 - (c) another member of the group shall be substituted as the representative member ; or
 - (d) the bodies corporate shall no longer be treated as members of a group,
- unless the application is to the effect mentioned in paragraph (a) or paragraph (c) above and the Commissioners refuse the application ; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue.
- (6) Where a body corporate is treated as a member of a group as being controlled by any person and it appears to the Commissioners that it has ceased to be so controlled, they shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.
- (7) An application under this section with respect to any bodies corporate must be made by one of those bodies or by the person controlling them and must be made not less than 90 days before the date from which it is to take effect, or at such later time as the Commissioners may allow.
- (8) For the purposes of this section a body corporate shall be taken to control another body corporate if it is empowered by statute to control that body's activities or if it is that body's holding company within the meaning of the Companies Act 1948; and an individual or individuals shall be taken to control a body corporate if he or they, were he or they a company, would be that body's holding company within the meaning of that Act.

30 Partnerships

- (1) The registration under this Act of persons carrying on a business in partnership may be in the name of the firm; and no account shall be taken, in determining for any purpose of this Act whether goods or services are supplied to or by such persons, of any change in the partnership.
- (2) Without prejudice to section 36 of the Partnership Act 1890 (rights of persons dealing with firm against apparent members of firm), until the date on which a change in the partnership is notified to the Commissioners a person who has ceased to be a member of a partnership shall be regarded as continuing to be a partner for the purposes of this Act and, in particular, for the purpose of any liability for tax on the supply of goods or services by the partnership.
- (3) Where a person ceases to be a member of a partnership during a prescribed accounting period (or is treated as so doing by virtue of subsection (2) above) any notice, whether of assessment or otherwise, which is served on the partnership and relates to, or to any matter arising in, that period or any earlier period during the whole or part of which he was a member of the partnership shall be treated as served also on him.
- (4) Without prejudice to section 16 of the Partnership Act 1890 (notice to acting partner to be notice to the firm) any notice, whether of assessment or otherwise, which is addressed to a partnership by the name in which it is registered by virtue of

subsection (1) above and is served in accordance with this Act shall be treated for the purposes of this Act as served on the partnership and, accordingly, where subsection (3) above applies, as served also on the former partner.

- (5) Subsections (1) and (3) above shall not affect the extent to which, under section 9 of the Partnership Act 1980, a partner is liable for tax owed by the firm; but where a person is a partner in a firm during part only of a prescribed accounting period his liability for tax on the supply by the firm of goods or services during that accounting period shall be such proportion of the firm's liability as may be just.

31 Business carried on in divisions or by unincorporated bodies, personal representatives, etc.

- (1) The registration under this Act of a body corporate carrying on a business in several divisions may, if the body corporate so requests and the Commissioners see fit, be in the names of those divisions.
- (2) The Commissioners may by regulations make provision for determining by what persons anything required by or under this Act to be done by a person carrying on a business is to be done where a business is carried on in partnership or by a club, association or organisation the affairs of which are managed by its members or a committee or committees of its members.
- (3) The registration under this Act of any such club, association or organisation may be in the name of the club, association or organisation; and in determining whether goods or services are supplied to or by such a club, association or organisation, no account shall be taken of any change in its members.
- (4) The Commissioners may by regulations make provision for persons who carry on a business of a taxable person who has died or become bankrupt or incapacitated to be treated for a limited time as taxable persons, and for securing continuity in the application of this Act in cases where persons are so treated.

32 Agents, etc.

- (1) Where a person who is accountable for any tax, or on whom any duties are imposed by or under this Act, is not resident in the United Kingdom, the Commissioners may by notice in writing served on any agent, manager or factor who is resident in the United Kingdom and has acted on behalf of that person in matters by reference to which that person is accountable or the duties are imposed, direct that he shall be substituted for that person as the person accountable for the tax or that he shall be under an obligation to discharge those duties or any of them.
- (2) For the purposes of this Act goods imported by a taxable person and supplied by him as agent for a person who is not a taxable person may be treated as imported and supplied by the taxable person as principal.
- (3) For the purposes of subsection (2) above a person who is not resident in the United Kingdom and whose place or principal place of business is outside the United Kingdom may be treated as not being a taxable person if as a result he will not be required to be registered under this Act.
- (4) Where goods or services are supplied through an agent who acts in his own name the Commissioners may, if they think fit, treat the supply both as a supply to the agent and as a supply by the agent.

33 Transfers of going concerns

- (1) Where a business carried on by a taxable person is transferred to another person as a going concern, then—
 - (a) for the purpose of determining whether the transferee is liable to be registered under this Act he shall be treated as having carried on the business before as well as after the transfer and supplies by the transferor shall be treated accordingly; and
 - (b) any records relating to the business which, under paragraph 7 of Schedule 7 to this Act, are required to be preserved for any period after the transfer shall be preserved by the transferee instead of by the transferor, unless the Commissioners, at the request of the transferor, otherwise direct.
- (2) Without prejudice to subsection (1) above, the Commissioners may by regulations make provision for securing continuity in the application of this Act in cases where a business carried on by a taxable person is transferred to another person as a going concern and the transferee is registered under this Act in substitution for the transferor.
- (3) Regulations under subsection (2) above may, in particular, provide—
 - (a) for liabilities and duties under this Act of the transferor to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee; and
 - (b) for any right of either of them to repayment or credit in respect of tax to be satisfied by making a repayment or allowing a credit to the other;but no such provision as is mentioned in paragraph (a) or (b) of this subsection shall have effect in relation to any transferor and transferee unless an application in that behalf has been made by them under the regulations.

34 Terminal markets

- (1) The Treasury may by order make provision for modifying the provisions of this Act in their application to dealings on terminal markets and such persons ordinarily engaged in such dealings as may be specified in the order, subject to such conditions as may be so specified.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may include provision—
 - (a) for zero-rating the supply of any goods or services or for treating the supply of any goods or services as exempt;
 - (b) for the registration under this Act of any body of persons representing persons ordinarily engaged in dealing on a terminal market and for disregarding such dealings by persons so represented in determining liability to be registered under this Act, and for disregarding such dealings between persons so represented for all the purposes of this Act;
 - (c) for refunding, to such persons as may be specified by or under the order, input tax attributable to such dealings on a terminal market as may be so specified, and may contain such incidental and supplementary provisions as appear to the Treasury to be necessary or expedient.
- (3) An order under this section may make different provision with respect to different terminal markets and with respect to different commodities.

35 Supplies of dutiable goods in warehouse

- (1) Where imported goods subject to a duty of customs or excise or a duty of customs and a duty of excise are supplied while warehoused, the supply shall be disregarded for the purposes of this Act if the goods are supplied before payment of the duty to which they are subject or, where they are subject to a duty of customs and a duty of excise, of the duty of excise.
- (2) Where goods produced or manufactured in the United Kingdom subject to a duty of excise or such goods mixed with imported goods subject to a duty (whether of customs or excise) are supplied while warehoused and before payment of the duty, then—
 - (a) if there is more than one such supply, any but the last such supply shall be disregarded for the purposes of this Act; and
 - (b) the supply or, if more than one, the last such supply shall be treated for the purposes of this Act as taking place when the duty is paid and the value of the supply shall be treated as including the duty ; and
 - (c) the tax on the supply shall be payable, together with the duty, by the person by whom the duty is paid, except as otherwise provided by regulations under this section,except that, if the goods are permitted to be removed from warehouse without payment of the duty, the supply (or last supply) shall be treated as taking place when the goods are so removed, the value of the supply shall not be treated as including the duty and the tax on the supply shall be payable by the person by whom the goods are removed.
- (3) The Commissioners may by regulations make provision for enabling goods which are supplied as mentioned in subsection (2) above, and are so supplied to a taxable person for the purpose of a business carried on by him, to be removed from warehouse without payment of the tax on the supply and for that tax to be accounted for together with the tax chargeable on the supply of goods or services by him.
- (4) Subsection (1) above applies in relation to any amount payable under section 6(5) of the European Communities Act 1972 as it applies in relation to a duty of customs.
- (5) For the purposes of subsection (2)(b) above the amount of any duty shall be taken to be the amount with any addition or deduction falling to be made under section 1 of the Excise Duties (Surcharges or Rebates) Act 1979 (surcharges and rebates in respect of excise duties).

36 Capital goods

- (1) The Treasury may by order make provision for the giving of relief, in such cases, to such extent and subject to such exceptions as may be specified in the order, from tax paid on the supply or importation for the purpose of a business carried on by any person of machinery or plant or any specified description of machinery or plant in cases where that tax or part of that tax cannot be credited under section 14 above and such other conditions are satisfied as may be specified in the order.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may provide for relief to be given by deduction or refunding of tax and for aggregating or excluding the aggregation of value where goods of the same description are supplied or imported together.
- (3) An order under this section may substitute a period exceeding three years but not exceeding six years as the period for which records relating to goods in respect of

which relief is given under the order may be required to be preserved under paragraph 7(2) of Schedule 7 to this Act.

37 Trading stamp schemes

The Commissioners may by regulations make provision for modifying section 10 above and paragraph 6 of Schedule 4 to this Act in their application to the supply of goods under trading stamp schemes within the meaning of the Trading Stamps Act 1964 or the Trading Stamps Act (Northern Ireland) 1965.

General

38 Administration, collection and enforcement

Schedule 7 to this Act shall have effect with respect to the administration, collection and enforcement of the tax.

39 Offences and penalties

- (1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by him or any other person, he shall be liable—
 - (a) on summary conviction, to a penalty of the statutory maximum or of three times the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding 6 months or to both ; or
 - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 2 years or to both.
- (2) If any person—
 - (a) with intent to deceive produces, furnishes or sends for the purposes of this Act or otherwise makes use for those purposes of any document which is false in a material particular; or
 - (b) in furnishing any information for the purposes of this Act makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,he shall be liable—
 - (i) on summary conviction, to a penalty of the statutory maximum or to imprisonment for a term not exceeding 6 months or to both; or
 - (ii) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 2 years or to both.
- (3) Where a person's conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this section, then, whether or not the particulars of that offence or those offences are known, he shall, by virtue of this subsection, be guilty of an offence and liable—
 - (a) on summary conviction, to a penalty of the statutory maximum or, if greater, three times the amount of any tax that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding 6 months or to both ; or
 - (b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding 2 years or to both.

- (4) If any person acquires possession of or deals with any goods, or accepts the supply of any services, having reason to believe that tax on the supply of the goods or services or on the importation of the goods has been or will be evaded, he shall be liable on summary conviction to a penalty of level 5 on the standard scale or three times the amount of the tax, whichever is the greater.
- (5) If any person—
- (a) fails to comply with the requirements of Schedule 1 to this Act; or
 - (b) supplies goods or services in contravention of paragraph 5(2) of Schedule 7 to this Act,
- he shall be liable on summary conviction to a penalty of level 5 on the standard scale or, if greater, three times the amount of the tax evaded by the failure or contravention.
- (6) If a person other than—
- (a) a person registered under this Act; or
 - (b) a body corporate treated for the purposes of section 29 above as a member of a group; or
 - (c) a person treated as a taxable person under regulations made under section 31(4) above ; or
 - (d) a person authorised to do so under regulations made under paragraph 2(6) of Schedule 7 to this Act; or
 - (e) a person acting on behalf of the Crown,
- issues an invoice showing an amount as being tax or as being attributable to tax, he shall be liable on summary conviction to a penalty of level 5 on the standard scale or three times the amount so shown, whichever is the greater.
- (7) If any person fails to comply with any requirement imposed under paragraph 7 or 8 of Schedule 7 to this Act or any regulations or rules made under this Act, he shall be liable on summary conviction to a penalty of level 3 on the standard scale, together with a penalty of £10 for each day on which the failure continues.
- (8) Where the failure referred to in subsection (7) above consists—
- (a) in not paying the tax due in respect of any period within the time required by regulations under section 14(1) above; or
 - (b) in not furnishing a return in respect of any period within the time required by regulations under paragraph 2(1) of Schedule 7 to this Act,
- that subsection shall have effect as if for the reference to £10 there were substituted (if it is greater) an amount equal to 1/2 per cent, of the tax due in respect of that period, for each day on which the failure continues ; and for that purpose the tax due shall, if the person concerned has furnished a return, be taken to be the tax shown in the return as that for which he is accountable for that period and, in any other case, be taken to be such tax as has been assessed and notified to him under paragraph 4(1) of Schedule 7 to this Act.
- (9) Sections 145 to 155 of the Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under this Act (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Act as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act; and accordingly in section 154(2) as it applies by virtue of this subsection the reference to duty shall be construed as a reference to the tax.

40 Appeals

- (1) An appeal shall lie to a value added tax tribunal constituted in accordance with Schedule 8 to this Act against the decision of the Commissioners with respect to any of the following matters—
- (a) the registration or cancellation of registration of any person under this Act;
 - (b) the tax chargeable on the supply of any goods or services or, subject to subsection (5) below, on the importation of any goods;
 - (c) the amount of any input tax which may be credited to a person;
 - (d) the proportion of any supplies that is to be taken as consisting of taxable supplies ;
 - (e) the amount of any refunds under section 21 above ; (f) a claim for a refund under section 22 above ;
 - (g) a claim by a taxable person under section 26 above ;
 - (h) any refusal of an application under section 29 above;
 - (i) any refusal to act or to continue to act on a request under paragraph 11(1)(b) of Schedule 1 to this Act;
 - (j) any direction under paragraph 1, 2 or 3 of Schedule 4 to this Act;
 - (k) any refusal to permit the value of supplies to be determined by a method described in a notice published under paragraph 2(3) of Schedule 7 to this Act;
 - (l) any requirements imposed by the Commissioners in a particular case under paragraph 3(2)(b) of Schedule 7 to this Act;
 - (m) an assessment—
 - (i) under sub-paragraph (1) or (2) of paragraph 4 of Schedule 7 to this Act in respect of a period for which the appellant has made a return under this Act; or
 - (ii) under sub-paragraph (6) of that paragraph, or the amount of such an assessment;
 - (n) the requirement of any security under paragraph 5(2) of Schedule 7 to this Act.
- (2) An appeal under this section shall not be entertained unless the appellant has made all the returns which he was required to make under paragraph 2(1) of Schedule 7 to this Act and has paid the amounts shown in those returns as payable by him.
- (3) Where the appeal is against a decision with respect to any of the matters mentioned in paragraph (b) or (m) of subsection (1) above it shall not be entertained unless—
- (a) the amount which the Commissioners have determined to be payable as tax has been paid or deposited with them; or
 - (b) on being satisfied that the appellant would otherwise suffer hardship the Commissioners agree or the value added tax tribunal decides that it should be entertained notwithstanding that that amount has not been so paid or deposited.
- (4) Where on an appeal under this section it is found—
- (a) that the whole or part of any amount paid or deposited in pursuance of subsection (3) above is not due; or
 - (b) that the whole or part of any amount due to the appellant under section 14(5) above has not been paid,

so much of that amount as is found not to be due or not to have been paid shall be repaid (or, as the case may be, paid) with interest at such rate as the value added tax tribunal may determine; and where the appeal has been entertained notwithstanding

that an amount determined by the Commissioners to be payable as tax has not been paid or deposited and it is found on the appeal that that amount is due the tribunal may, if it thinks fit, direct that that amount shall be paid with interest at such rate as may be specified in the direction.

- (5) No appeal shall lie under this section with respect to any matter that has been or could have been referred to arbitration under section 127 of the Customs and Excise Management Act 1979 as applied by section 24 above.
- (6) Where an appeal under this section is against a decision of the Commissioners which depended upon a prior decision taken by them in relation to the appellant, the fact that the prior decision is not within subsection (1) above shall not prevent the tribunal from allowing the appeal on the ground that it would have allowed an appeal against the prior decision.

41 Supplies spanning change of rate, etc.

- (1) This section applies where there is a change in the rate of tax in force under section 9 above or in the descriptions of exempt or zero-rated supplies.
- (2) Where—
 - (a) a supply affected by the change would, apart from section 5(1), (2), (3) or (5) above, be treated under section 4(2) or (3) above as made wholly or partly at a time when it would not have been affected by the change; or
 - (b) a supply not so affected would apart from section 5(1), (2), (3) or (5) above be treated under section 4(2) or (3) above as made wholly or partly at a time when it would have been so affected,the rate at which tax is chargeable on the supply, or any question whether it is zero-rated or exempt, shall if the person making it so elects be determined without regard to section 5(1), (2), (3) or (5) above.
- (3) Any power to make regulations under this Act with respect to the time when a supply is to be treated as taking place shall include power to provide for this section to apply as if the references in subsection (2) above to section 5(1), (2), (3) and (5) included references to specified provisions of the regulations.
- (4) Regulations under paragraph 2 of Schedule 7 to this Act may make provision for the replacement or correction of any tax invoice which—
 - (a) relates to a supply in respect of which an election is made under this section, but
 - (b) was issued before the election was made.
- (5) No election may be made under this section in respect of a supply to which section 5(4) above or paragraph 6 of Schedule 2 to this Act applies.

42 Adjustment of contracts on changes in tax

- (1) Where, after the making of a contract for the supply of goods or services and before the goods or services are supplied, there is a change in the tax charged on the supply, then, unless the contract otherwise provided, there shall be added to or deducted from the consideration for the supply an amount equal to the change.
- (2) References in this section to a change in the tax charged on a supply include references to a change to or from no tax being charged on the supply.

43 Failure of resolution under Provisional Collection of Taxes Act 1968

(1) Where—

- (a) by virtue of a resolution having effect under the Provisional Collection of Taxes Act 1968 value added tax has been paid at a rate specified in the resolution on the supply of any goods or services by reference to a value determined under section 10(2) above, and
- (b) by virtue of section 1(6) or (7) or 5(3) of the said Act of 1968 any of that tax is repayable in consequence of the restoration in relation to that supply of a lower rate,

the amount repayable shall be the difference between the tax paid by reference to that value at the rate specified in the resolution and the tax that would have been payable by reference to that value at the lower rate.

(2) Where—

- (a) by virtue of such a resolution value added tax is chargeable at a rate specified in the resolution on the supply of any goods or services by reference to a value determined under the said section 10(2), but.
- (b) before the tax is paid it ceases to be chargeable at that rate in consequence of the restoration in relation to that supply of a lower rate,

the tax chargeable at the lower rate shall be charged by reference to the same value as that by reference to which tax would have been chargeable at the rate specified in the resolution.

(3) The tax that may be credited as input tax under section 14 above or refunded under section 20 or 21 above does not include tax that has been repaid by virtue of any of the provisions mentioned in subsection (1)(b) above or that would be repayable by virtue of any of those provisions if it had been paid.

44 Disclosure of information for statistical purposes

(1) For the purpose of the compilation or maintenance by the Business Statistics Office of the Departments of Trade and Industry of a central register of businesses, or for the purpose of any statistical survey conducted or to be conducted by that Office, the Commissioners or an authorised officer of the Commissioners may disclose to an authorised officer of that Office particulars of the following descriptions obtained or recorded by them in pursuance of this Act—

- (a) numbers allocated by the Commissioners on the registration of persons under this Act and reference numbers for members of a group;
- (b) names, trading styles and addresses of persons so registered or of members of groups and status and trade classifications of businesses ; and
- (c) actual or estimated value of supplies.

(2) Subject to subsection (3) below, no information obtained by virtue of this section by an officer of the Business Statistics Office may be disclosed except to an officer of a Government department (including a Northern Ireland department) for the purpose for which the information was obtained, or for a like purpose.

(3) Subsection (2) above does not prevent the disclosure—

- (a) of any information in the form of a summary so framed as not to enable particulars to be identified as particulars relating to a particular person or to the business carried on by a particular person ; or

- (b) with the consent of any person, of any information enabling particulars to be identified as particulars relating only to him or to a business carried on by him.
- (4) If any person who has obtained any information by virtue of this section discloses it in contravention of this section he shall be liable—
 - (a) on summary conviction to a fine not exceeding the statutory maximum; and
 - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine of any amount or to both.
- (5) In this section references to the Business Statistics Office of the Departments of Trade and Industry include references to any Northern Ireland department carrying out similar functions.

Supplemental

45 Orders, rules and regulations

- (1) Any order made by the Treasury under this Act and any regulations or rules under this Act shall be made by statutory instrument.
- (2) Subject to subsection (3) below, any statutory instrument made under this Act shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (3) An order to which this subsection applies shall be laid before the Commons House of Parliament; and unless it is approved by that House before the expiration of a period of twenty-eight days beginning with the date on which it was made, it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done thereunder or to the making of a new order.

In reckoning any such period no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the Commons House of Parliament is adjourned for more than four days.

- (4) Subsection (3) above applies to—
 - (a) an order under section 3(4) above ;
 - (b) an order as a result of which goods of any description become goods to which section 12(3) above applies;
 - (c) an order under this Act making provision—
 - (i) for increasing the rate of tax in force at the time of the making of the order;
 - (ii) for excluding any tax from credit under section 14 above;
 - (iii) for varying Schedule 5 or Schedule 6 to this Act so as to abolish the zero-rating of a supply or to abolish the exemption of a supply without zero-rating it.

46 Service of notices

Any notice, notification, requirement or demand to be served on, given to or made of any person for the purposes of this Act may be served, given or made by sending it by post in a letter addressed to that person at his last or usual residence or place of business.

47 Meaning of " business ", etc.

- (1) In this Act " business " includes any trade, profession or vocation.
- (2) Without prejudice to the generality of anything else in this Act, the following are deemed to be the carrying on of a business—
 - (a) the provision by a club, association or organisation (for a subscription or other consideration) of the facilities or advantages available to its members; and
 - (b) the admission, for a consideration, of persons to any premises.
- (3) Where a body has objects which are in the public domain and are of a political, religious, philanthropic, philosophical or patriotic nature, it is not to be treated as carrying on a business only because its members subscribe to it, if a subscription obtains no facility or advantage for the subscriber other than the right to participate in its management or receive reports on its activities.
- (4) Where a person, in the course or furtherance of a trade, profession or vocation, accepts any office, services supplied by him as the holder of that office are treated as supplied in the course or furtherance of the trade, profession or vocation.
- (5) Anything done in connection with the termination or intended termination of a business is treated as being done in the course or furtherance of that business.
- (6) The disposition of a business as a going concern, or of its assets or liabilities (whether or not in connection with its reorganisation or winding up), is a supply made in the course or furtherance of the business.

48 Interpretation

- (1) In this Act—
 - " assignment", in relation to Scotland, means assignation;
 - " authorised person " means any person acting under the authority of the Commissioners ;
 - " the Commissioners" means the Commissioners of Customs and Excise;
 - " invoice " includes any document similar to an invoice;
 - " input tax " has the meaning assigned to it by section 14 above;
 - " major interest", in relation to land, means the fee simple or a tenancy for a term certain exceeding 21 years, and in relation to Scotland means—
 - (a) the estate or interest of the proprietor of the dominium utile, or
 - (b) in the case of land not held on feudal tenure, the estate or interest of the owner, or the lessee's interest under a lease for a period exceeding 21 years;
 - " money " includes currencies other than sterling ;
 - " prescribed " means prescribed by regulations;
 - " prescribed accounting period " has the meaning assigned to it by section 14(1) above;
 - " quarter " means a period of three months ending at the end of March, June, September or December;
 - " regulations " means regulations made by the Commissioners under this Act;
 - " ship " includes hovercraft;
 - " tax " means value added tax;

taxable person " has the meaning assigned to it by section 2(2) above;
" taxable supply " has the meaning assigned to it by section 2(2) above.

- (2) In this Act "statutory maximum" has the meaning assigned to it by section 74 of the Criminal Justice Act 1982 and for the purposes of this Act—
- (a) section 32 of the Magistrates' Courts Act 1980; and
 - (b) an order under section 143 of the said Act of 1980 which alters the sum specified in the definition of " the prescribed sum " in subsection (9) of the said section 32,
- shall extend to Northern Ireland and subsection (1) of the said section 74 shall have effect as if after the words " England and Wales " there were inserted the words " or Northern Ireland " .
- (3) In this Act "the standard scale" has the meaning assigned to it by section 75 of the Criminal Justice Act 1982 and for the purposes of this Act—
- (a) section 37 of that Act; and
 - (b) an order under section 143 of the Magistrates' Courts Act 1980 which alters the sums specified in subsection (2) of the said section 37,
- shall extend to Northern Ireland and the said section 75 shall have effect as if after the words " England and Wales " there were inserted the words "or Northern Ireland " .
- (4) Subject to paragraph 3(2) of Schedule 7 to this Act, in any provision contained in or having effect under this Act " document ", " copy " and " computer " shall have the same meanings—
- (a) in relation to England and Wales, as by virtue of section 10 of the Civil Evidence Act 1968 they have in Part I of that Act;
 - (b) in relation to Scotland, as by virtue of section 17 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 they have in Part III of that Act; and
 - (c) in relation to Northern Ireland, as by virtue of section 6 of the Civil Evidence Act (Northern Ireland) 1971 they have in Part I of that Act.
- (5) The question whether, in relation to any supply of services, the supplier or the recipient of the supply belongs in one country or another shall be determined in accordance with section 8 above.
- (6) Schedules 5 and 6 to this Act shall be interpreted in accordance with the notes contained in those Schedules; and accordingly the powers conferred by this Act to vary those Schedules include a power to add to, delete or vary those notes.
- (7) The descriptions of Groups in those Schedules are for ease of reference only and shall not affect the interpretation of the descriptions of items in those Groups.
- (8) References in this Act to the United Kingdom include the territorial sea of the United Kingdom.

49 Refund of tax to Government of Northern Ireland

The Commissioners shall refund to the Government of Northern Ireland the amount of the tax charged on the supply of goods or services to, or on the importation of goods by, that Government, after deducting therefrom so much of that amount as may be agreed between them and the Department of Finance and Personnel for Northern Ireland as

Status: This is the original version (as it was originally enacted).

attributable to supplies and importations for the purpose of a business carried on by the Government of Northern Ireland.

50 Consequential, transitional and saving provisions and repeals

- (1) Schedule 9 (consequential amendments) and Schedule 10 (savings and transitional provisions) to this Act shall have effect but without prejudice to the operation of sections 15 to 17 of the Interpretation Act 1978 (which relate to the effect of repeals).
- (2) The enactments specified in Schedule 11 to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

51 Short title, commencement and extent

- (1) This Act may be cited as the Value Added Tax Act 1983.
- (2) This Act shall come into force at the expiry of the period of three months beginning with the day on which it is passed.
- (3) This Act shall extend to Northern Ireland.
- (4) Paragraph 3 of Schedule 9 and paragraph 18 of Schedule 10 to this Act shall extend to the Isle of Man but no other provision of this Act shall extend there.