



Value Added Tax Act 1983 (repealed 1.9.1994)

1983 CHAPTER 55

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.
- [^{F1}(2A) Where tax is chargeable on the supply of goods or services to, or on the importation of goods by, a Government department and the supply or importation is not for the purpose—
- (a) of any business carried on by the department, or
 - (b) of a supply by the department which, by virtue of a direction under subsection (2) above, is treated as a supply in the course of furtherance a business,
- then, if and to the extent that the Treasury so direct and subject to subsection (2B) below, the Commissioners shall, on a claim made by the department at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the tax so chargeable.
- (2B) The Commissioners may make the refunding of any amount due under subsection (2A) above conditional upon compliance by the claimant with requirements with respect to the keeping, preservation and production of records relating to the supply or importation in question.]

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- (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 [^{F2}, a Northern Ireland health and social services body], any body of persons exercising functions on behalf of a Minister of the Crown [^{F3}including a health service body, as defined in section 60(7) of the National Health Service and Community Care Act 1990], 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.
- [^{F4}(5) For the purposes of subsection (4) above a National Health Service trust established under Part I of the National Health Service and Community Care Act 1990 or the National Health Service (Scotland) Act 1978 shall be regarded as a body of persons exercising functions on behalf of a Minister of the Crown.]
- [^{F5}(6) In subsection (4) “Northern Ireland health and social services body” means—
- (a) a health and social services body as defined in Article 7(6) of the Health and Personal Social Services (Northern Ireland) Order 1991; and
 - (b) a Health and Social Services trust established under that Order.]

Textual Amendments

- F1** S. 27(2A)(2B) inserted by Finance Act 1984 (c. 43, SIF 40:2), s. 11
- F2** Words in s. 27(4) inserted by S.I. 1991/195, art. 5(a)
- F3** Words inserted (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 60(2), Sch. 8 para. 9
- F4** S. 27(5) added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 61(4)
- F5** S. 27(6) added by S.I. 1991/195, art. 5(b)

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 [^{F6}1(1)(a)]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.

Textual Amendments

- F6** Words substituted by Finance Act 1990 (c. 29, SIF 40:2), s. 10(8)(9)

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—

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- (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 [^{F7}acquisition of goods from another member State or on the importation of goods from a place outside the member States] shall be treated as paid or payable by the representative member and the goods shall be treated
 - [^{F8}(i) in the case of goods acquired from another member State, for the purposes of paragraph 4(6) of Schedule 7 to this Act; and
 - (ii) in the case of goods imported from a place outside the member States, for those purposes and the purposes of section 25 above, as acquired or, as the case may be, imported by 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 [^{F9}are eligible to be treated as members of a group if each of them falls within subsection (3A) below and]—
- (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.
- [^{F10}(3A) A body falls within this subsection if it is resident in the United Kingdom or it has an established place of business in the United Kingdom.]
- (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.
- (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.

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- (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 [^{F11}section 736 of]the [^{F12}Companies Act 1985]; 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.

Textual Amendments

- F7** Words in s. 29(1)(c) substituted (1.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. I para. 29(a)**; S.I. 1992/2979, art. 4, **Sch. Pt.II** (with art. 5).
- F8** s. 29(1)(c)(i)(ii) and words substituted (1.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. I para. 29(b)**; S.I. 1992/2979, art. 4, **Sch. Pt.II** (with art. 5).
- F9** Words in s. 29(3) substituted by Finance Act 1991 (c. 31, SIF 40:2), s. 16(2)
- F10** S. 29(3A) inserted by Finance Act 1991 (c. 31, SIF 40:2), s. 16(3)
- F11** Words inserted by Companies Act 1989 (c. 40, SIF 27), s. 144(4), **Sch. 18 para. 27**
- F12** Words substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**

Modifications etc. (not altering text)

- C1** S. 29 modified by Telecommunications Act 1984 (c.12, SIF 96), s. 72(5)
- C2** S. 29 amended by S.I. 1987/1806, art. 13

[^{F13}29A Supplies to groups.

- (1) Subject to subsections (2) [^{F14}to (3A)]below, subsection (4) below applies where—
- a business, or part of a business, carried on by a taxable person is transferred as a going concern to a body corporate treated as a member of a group under section 29 above;
 - on the transfer of the business or part, chargeable assets of the business are transferred to the body corporate; and
 - the transfer of the assets is treated by virtue of section 3(3)(c) above as neither a supply of goods nor a supply of services.
- (2) Subsection (4) below shall not apply if the representative member of the group is entitled to credit for the whole of the input tax on supplies to it and importations by it—
- during the prescribed accounting period in which the assets are transferred, and
 - during any longer period to which regulations under section 15(3)(b) above relate and in which the assets are transferred.
- (3) Subsection (4) below shall not apply if the Commissioners are satisfied that the assets were acquired by the taxable person transferring them more than three years before the day on which they are transferred.

[Subsection (4) below shall not apply to the extent that the chargeable assets consist of ^{F15}(3A) capital items in respect of which regulations made under section 15(3) and (4) above,

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and in force when the assets are transferred, provide for adjustment to the deduction of input tax.]

- (4) The chargeable assets shall be treated for the purposes of this Act as being, on the day on which they are transferred, both supplied to the representative member of the group for the purpose of its business and supplied by that member in the course or furtherance of its business.
- (5) A supply treated under subsection (4) above as made by a representative member shall not be taken into account as a supply made by him when determining the allowance of input tax in his case under section 15 above.
- (6) The value of a supply treated under subsection (4) above as made to or by a representative member shall be taken to be the open market value of the chargeable assets.
- (7) For the purposes of this section, the open market value of any chargeable assets shall be taken to be the price that would be paid on a sale (on which no tax is payable) between a buyer and a seller who are not in such a relationship as to affect the price.
- (8) The Commissioners may reduce the tax chargeable by virtue of subsection (4) above in a case where they are satisfied that the person by whom the chargeable assets are transferred has not received credit for the full amount of input tax arising on the acquisition by him of the chargeable assets.
- (9) For the purposes of this section, assets are chargeable assets if their supply in the United Kingdom by a taxable person in the course or furtherance of his business would be a taxable supply (and not a zero-rated supply).]

Textual Amendments

- F13** S. 29A inserted by [Finance Act 1987 \(c. 16, SIF 40:2\)](#), s. 15(1)(2)
F14 Words substituted by [Finance Act 1990 \(c. 29, SIF 40:2\)](#), s. 14(2)(4)
F15 Subsection (3A) inserted by [Finance Act 1990 \(c. 29, SIF 40:2\)](#), s. 14(3)(4)

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 ^{M1}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.

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- (4) Without prejudice to section 16 of the ^{M2}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 1890, 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.

Marginal Citations

- M1** 1890 c. 39.
M2 1890 c. 39.

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 [^{F16}or whether goods are acquired by such a club, association or organisation from another member State], 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.
- [^{F17}(5) In relation to a company which is a taxable person, the reference in subsection (4) above to the taxable person having become bankrupt or incapacitated shall be construed as a reference to its being in liquidation or receivership or to an admission order being in force in relation to it.]
- [^{F18}(6) References in this section to a business include references to any other activities in the course or furtherance of which any body corporate or any club, association, organisation or other unincorporated body acquires goods from another member State.]

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Textual Amendments

- F16** Words in s. 31(3) inserted (1.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt I para. 32(1)**; S.I. 1992/2979, art. 4, **Sch. Pt.II** (with art. 5).
- F17** S. 31(5) added by Finance Act 1985 (c. 54, SIF 40:2), **s. 31**
- F18** S. 31(6) inserted (1.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. I para. 32(2)**; S.I. 1992/2979, art. 4, **Sch. Pt.II** (with art. 5).

32 Agents, etc.

^{F19}(1)

- (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.

Textual Amendments

- F19** S. 32(1) repealed by Finance (No. 2) Act 1992 (c. 48), s. 82, **Sch. 18 Pt.V** (by the note at the end of Pt. V of Sch. 18 it is provided that the repeals in Pt. V come into force in accordance with s. 14(3) of that 1992 Act); S.I. 1992/1867, art. 3, **Sch. Pt.I**; S.I. 1992/2979, art. 4, **Sch. Pt.II** (with art. 5); S.I. 1992/3261, **art. 3**,Sch. (with art. 4)

[^{F20}**32A Tax representatives.**

- (1) Where any person—
 - (a) is a taxable person for the purposes of this Act or, without being a taxable person, is a person who makes taxable supplies or who acquires goods in the United Kingdom from one or more other member States;
 - (b) does not have any business establishment or other fixed establishment in the United Kingdom; and
 - (c) in the case of an individual, does not have his usual place of residence in the United Kingdom,the Commissioners may direct that person to appoint another person (in this Act referred to as a “tax representative”) to act on his behalf in relation to value added tax.
- (2) With the agreement of the Commissioners, any person who has not been required to appoint a tax representative under subsection (1) above may do so if he is a person in relation to whom the conditions specified in paragraphs (a) to (c) of that subsection are satisfied.

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- (3) Where any person is appointed by virtue of this section to be the tax representative of another (in this section referred to as his “principal”), then, subject to subsections (4) to (6) below, the tax representative—
- (a) shall be entitled to act on his principal’s behalf for any of the purposes of this Act, of any other enactment (whenever passed) relating to value added tax or of any subordinate legislation made under this Act or any such enactment;
 - (b) shall, subject to such provisions as may be made by the Commissioners by regulations, secure (where appropriate by acting on his principal’s behalf) his principal’s compliance with and discharge of the obligations and liabilities to which his principal is subject by virtue of this Act, any such other enactment or any such subordinate legislation; and
 - (c) shall be personally liable in respect of—
 - (i) any failure to secure his principal’s compliance with or discharge of any such obligation or liability; and
 - (ii) anything done for purposes connected with acting on his principal’s behalf,as if the obligations and liabilities imposed on his principal were imposed jointly and severally on the tax representative and his principal.
- (4) A tax representative shall not be liable by virtue of subsection (3) above himself to be registered under this Act, but regulations made by the Commissioners may—
- (a) require the registration of the names of tax representatives against the names of their principals in any register kept for the purposes of this Act; and
 - (b) make it the duty of a tax representative, for the purposes of registration, to notify the Commissioners, within such period as may be prescribed, that his appointment has taken effect or has ceased to have effect.
- (5) A tax representative shall not by virtue of subsection (3) above be guilty of any offence except in so far as—
- (a) the tax representative has consented to, or connived in, the commission of the offence by his principal;
 - (b) the commission of the offence by his principal is attributable to any neglect on the part of the tax representative; or
 - (c) the offence consists in a contravention by the tax representative of an obligation which, by virtue of that subsection, is imposed both on the tax representative and on his principal.
- (6) The Commissioners may by regulations make provision as to the manner and circumstances in which a person is to be appointed, or is to be treated as having ceased to be, another’s tax representative; and regulations under this subsection may include such provision as the Commissioners think fit for the purposes of subsection (4) above with respect to the making or deletion of entries in any register.
- (7) Where a person fails to appoint a tax representative in accordance with any direction under subsection (1) above, the Commissioners may require him to provide such security, or further security, as they may think appropriate for the payment of any tax which is or may become due from him.
- (8) For the purposes of this Act a person shall not be treated as having been directed to appoint a tax representative, or as having been required to provide security under subsection (7) above, unless the Commissioners have either—
- (a) served notice of the direction or requirement on him; or

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- (b) taken all such other steps as appear to them to be reasonable for bringing the direction or requirement to his attention.]

Textual Amendments

F20 Ss. 32A and 32B inserted (1.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), Sch. 3 Pt. I para.34; S.I. 1992/2979, art. 4, Sch. Pt.II (with art. 5).

^{F21}32B Overseas suppliers accounting through their customers.

- (1) Where—
- (a) a person who makes or intends to make taxable supplies of goods requests the Commissioners to allow his supplies to be taxed in accordance with this section; and
 - (b) the Commissioners are satisfied that that person is a person to whom this section applies,
- the Commissioners may, if they think fit, allow that person's taxable supplies to be so taxed until it appears to them that the person is no longer a person to whom this section applies or that the request is withdrawn or should, for any other reason, no longer be acted upon.
- (2) This section applies to a person if—
- (a) he does not have any business establishment or other fixed establishment in the United Kingdom and does not have his usual place of residence in the United Kingdom;
 - (b) he is for the time being neither registered under this Act nor required to be registered under Schedule 1A to this Act;
 - (c) he does not have a tax representative and is not for the time being required under section 32A above to appoint one; and
 - (d) he intends that his taxable supplies should be confined to supplies of goods made to taxable persons who are willing to account for and pay the tax chargeable thereon.
- (3) A person whose taxable supplies for the time being fall to be taxed in accordance with this section—
- (a) shall be a taxable person for the purposes of this Act; but
 - (b) shall not, by virtue of any provision of this Act, be registered, or be or become liable to be registered, under Schedule 1 to this Act.
- (4) Where—
- (a) any person's taxable supplies for the time being fall to be taxed in accordance with this section; and
 - (b) that person makes a taxable supply of goods to a taxable person who has given, and not withdrawn, an undertaking to account for and pay any tax chargeable on supplies of goods made to him by the supplier in question,
- it shall be for the person supplied, on the supplier's behalf, to account for and pay any tax on the supply of those goods, and not for the supplier.
- (5) Where any person's taxable supplies for the time being fall to be taxed in accordance with this section, any acquisition from another member State by that person of any goods the first supply of which after their acquisition is to a person who under this

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section is required to account for and pay the tax on that supply shall be treated for the purposes of this Act as taking place outside the United Kingdom.

- (6) The Commissioners may by regulations provide—
- (a) for the form and manner in which any request under subsection (1) above, or any undertaking such as is mentioned in subsection (4)(b) above, is to be made or withdrawn;
 - (b) for the manner in which the making or withdrawal of any such undertaking is to be notified to the Commissioners;
 - (c) for a person whose taxable supplies for the time being fall to be taxed in accordance with this section to be under an obligation to notify the Commissioners if he makes any taxable supply to which subsection (4) above does not apply and which is not zero-rated;
 - (d) for prescribed provisions of this Act and of any other enactment (whenever passed) relating to value added tax to have effect, where under this section a person supplied with any goods is required to account for and pay any tax on the supply, as if that tax were on supplies or acquisitions made by him.

Textual Amendments

F21 Ss. 32A and 32B inserted (1.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), Sch. 3 Pt. I para.34; S.I. 1992/2979, art. 4, Sch. Pt.II (with art. 5).

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.

[^{F22}(1A)]

- (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.

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Textual Amendments

F22 S. 33(1A) inserted by Finance Act 1987 (c. 16, SIF 40:2), s. 19(2), **Sch. 2 para. 3** and repealed by Finance Act 1990 (c. 29, SIF 40:2), ss. 10(7)(10), 132, **Sch. 19 Pt. III** Note 3

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.

[^{F23}35 Goods subject to a warehousing regime.

- (1) Where—
 - (a) any goods have been removed from a place outside the member States and have entered the territory of the Community;
 - (b) the material time for any acquisition of those goods from another member State or for any supply of those goods is while they are subject to a warehousing regime and before the duty point; and
 - (c) those goods are not mixed with any dutiable goods which were produced or manufactured in the United Kingdom or acquired from another member State,then the acquisition or supply mentioned in paragraph (b) above shall be treated for the purposes of this Act as taking place outside the United Kingdom.
- (2) Subsection (3) below applies where—
 - (a) any dutiable goods are acquired from another member State; or
 - (b) any person makes a supply of—
 - (i) any dutiable goods which were produced or manufactured in the United Kingdom or acquired from another member State; or
 - (ii) any goods comprising a mixture of goods falling within subparagraph (i) above and other goods.

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Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1983 (repealed 1.9.1994), Cross Heading: Special cases. (See end of Document for details)

- (3) Where this subsection applies and the material time for the acquisition or supply mentioned in subsection (2) above is while the goods in question are subject to a warehousing regime and before the duty point, that acquisition or supply shall be treated for the purposes of this Act as taking place outside the United Kingdom if the material time for any subsequent supply of those goods is also while the goods are subject to the warehousing regime and before the duty point.
- (4) Where the material time for any acquisition or supply of any goods in relation to which subsection (3) above applies is while the goods are subject to a warehousing regime and before the duty point but the acquisition or supply nevertheless falls, for the purposes of this Act, to be treated as taking place in the United Kingdom—
- (a) that acquisition or supply shall be treated for the purposes of this Act as taking place at the earlier of the following times, that is to say, the time when the goods are removed from the warehousing regime and the duty point; and
 - (b) in the case of a supply, any tax payable on the supply shall be paid (subject to any regulations under subsection (5) below)—
 - (i) at the time when the supply is treated as taking place under paragraph (a) above; and
 - (ii) by the person by whom the goods are so removed or, as the case may be, together with the duty or agricultural levy, by the person who is required to pay the duty or levy.
- (5) The Commissioners may by regulations make provision—
- (a) for enabling goods to be removed from a warehousing regime by a taxable person without payment of tax chargeable in respect of those goods by virtue of subsection (4)(a) above; and
 - (b) for that tax to be accounted for together with the tax chargeable on supplies of goods and services by that person.
- (6) In this section—
- “dutiable goods” means any goods which are subject—
- (a) to a duty of excise; or
 - (b) in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Communities, to any Community customs duty or agricultural levy of the Economic Community;
- “the duty point”, in relation to any goods, means—
- (a) in the case of goods which are subject to a duty of excise, the time when the requirement to pay the duty on those goods takes effect; and
 - (b) in the case of goods which are not so subject, the time when any Community customs debt in respect of duty on the entry of the goods into the territory of the Community would be incurred or, as the case may be, the corresponding time in relation to any such duty or levy as is mentioned in paragraph (b) of the definition of dutiable goods;
- “material time”—
- (a) in relation to any acquisition or supply the time of which is determined in accordance with regulations under section 5(9) or 8B(3) above, means such time as may be prescribed for the purpose of this section by those regulations;

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(b) in relation to any other acquisition, means the time of the event which, in relation to the acquisition, is the first relevant event for the purposes of taxing it; and

(c) in relation to any other supply, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 4 above if paragraph (c) of that subsection were omitted;

“warehouse” means any warehouse where goods may be stored in any member State without payment of any one or more of the following, that is to say—

- (a) Community customs duty;
- (b) any agricultural levy of the Economic Community;
- (c) value added tax on the importation of the goods into any member State;
- (d) any duty of excise or any duty which is equivalent in another member State to a duty of excise.

(7) References in this section to goods being subject to a warehousing regime is a reference to goods being kept in a warehouse or being transported between warehouses (whether in the same or different member States) without the payment in a member State of any duty, levy or tax; and references to the removal of goods from a warehousing regime shall be construed accordingly.]

Textual Amendments

F23 S. 35 substituted (1.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), Sch. 3 Pt. I para.35; S.I. 1992/2979, art. 4, Sch. Pt.II (with art. 5).

[^{F24}35A Buildings and land.

- (1) Schedule 6A to this Act shall have effect with respect to buildings and land.
- (2) The Treasury may by order amend Schedule 6A to this Act.]

Textual Amendments

F24 S. 35A inserted by Finance Act 1989 (c. 26, SIF 40:2), s. 18, Sch. 3 para. 6(1)

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 [^{F25}acquisition] 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 [^{F26}acquired] or imported together.

^{F27}(3)

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Textual Amendments

- F25** Word in s. 36(1) inserted (1.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. I para. 36(1)**; S.I. 1992/2979, art. 4, **Sch. Pt.II** (with art. 5).
- F26** Word in s. 36(2) inserted (1.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. I para. 36(2)**; S.I. 1992/2979, art. 4, **Sch. Pt.II** (with art. 5).
- F27** S. 36(3) repealed by Finance (No. 2) Act 1992 (c. 48), s. 82, **Sch. 18 Pt. V** (by the note at the end of Pt. V of Sch. 18 it is provided that the repeals in Pt. V come into force in accordance with s. 14(3) of that 1992 Act); S.I. 1992/1867, art. 3, **Sch. Pt. I**; S.I. 1992/2979, art. 4, **Sch. Pt. II** (with art. 5); S.I. 1992/3261, art. 3, **Sch.**

[^{F28}37 Trading stamp schemes.

The Commissioners may by regulations modify sections 10 and 10A of this Act and Schedules 4 and 4A to this Act for the purpose of providing (in place of the provision for the time being contained in those sections and Schedules) for the manner of determining for the purposes of this Act the value of—

- (a) a supply of goods, or
- (b) a transaction in pursuance of which goods are acquired from another member State,

in a case where the goods are supplied or acquired under a trading stamp scheme (within the meaning of the Trading Stamps Act 1964 or the Trading Stamps Act (Northern Ireland) 1965) or under any scheme of an equivalent description which is in operation in another member State.]

Textual Amendments

- F28** S. 37 substituted (1.12.1992) by Finance (No. 2) Act 1992 (c. 48), s. 14(2), **Sch. 3 Pt. I para.37**; S.I. 1992/2979, art. 4, **Sch. Pt.II** (with art. 5).

[^{F29}37A Tour operators.

- (1) The Treasury may by order modify the application of this Act in relation to supplies of goods or services by tour operators or in relation to such of those supplies as may be determined by or under the order.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may make provision—
 - (a) for two or more supplies of goods or services by a tour operator to be treated as a single supply of services;
 - (b) for the value of that supply to be ascertained, in such manner as may be determined by or under the order, by reference to the difference between sums paid or payable to and sums paid or payable by the tour operator;
 - (c) for account to be taken, in determining the tax chargeable on that supply, of the different rates of tax that would have been applicable apart from this section;
 - (d) excluding any body corporate from the application of section 29 above;
 - (e) as to the time when a supply is to be treated as taking place.

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- (3) In this section “tour operator” includes a travel agent acting as principal and any other person providing for the benefit of travellers services of any kind commonly provided by tour operators or travel agents.
- (4) Section 45(3) below shall not apply to an order under this section, notwithstanding that it makes provision for excluding any tax from credit under section 14 above.]

Textual Amendments

F29 S. 37A added by Finance Act 1987 (c. 16, SIF 40:2), s. 16(1)

[^{F30}37B Special treatment for persons involved in farming etc.

- (1) The Commissioners may, in accordance with such provision as may be contained in regulations made by them, certify for the purposes of this section any person who satisfies them—
 - (a) that he is carrying on a business involving one or more designated activities;
 - (b) that he is of such a description and has complied with such requirements as may be prescribed; and
 - (c) where an earlier certification of that person has been cancelled, that more than the prescribed period has elapsed since the cancellation or that such other conditions as may be prescribed are satisfied.
- (3) The Commissioners may by regulations provide for an amount included in the consideration for any taxable supply which is made—
 - (a) in the course or furtherance of the relevant part of his business by a person who is for the time being certified under this section;
 - (b) at a time when that person is not a taxable person; and
 - (c) to a taxable person,to be treated, for the purpose of determining the entitlement of the person supplied to credit under sections 14 and 15 above, as tax on a supply to that person.
- (4) The amount which, for the purposes of any provision made under subsection (3) above, may be included in the consideration for any supply shall be an amount equal to such percentage as the Treasury may by order specify of the sum which, with the addition of that amount, is equal to the consideration for the supply.
- (5) The Commissioners’ power by regulations under section 23 above to provide for the repayment to persons to whom that section applies of tax which would be input tax of theirs if they were taxable persons in the United Kingdom includes power to provide for the payment to persons to whom that section applies of sums equal to the amounts which, if they were taxable persons in the United Kingdom, would be input tax of theirs by virtue of regulations under this section; and references in that section, or in any other enactment, to a repayment of tax shall be construed accordingly.
- (6) Regulations under this section may provide—
 - (a) for the form and manner in which an application for certification under this section, or for the cancellation of any such certification, is to be made; and
 - (b) for the cases and manner in which the Commissioners may cancel a person’s certification;

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- (c) for entitlement to a credit such as is mentioned in subsection (3) above to depend on the issue of an invoice containing such particulars as may be prescribed, or as may be notified by the Commissioners in accordance with provision contained in regulations; and
- (d) for the imposition on certified persons of obligations with respect to the keeping, preservation and production of such records as may be prescribed and of obligations to comply with such requirements with respect to any of those matters as may be so notified;

and regulations made by virtue of paragraph (b) above may confer on the Commissioners power, if they think fit, to refuse to cancel a person's certification, and to refuse to give effect to any entitlement of that person to be registered, until the end of such period after the grant of certification as may be prescribed.

- (7) In this section references, in relation to any person, to the relevant part of his business are references—
 - (a) where the whole of his business relates to the carrying on of one or more designated activities, to that business; and
 - (b) in any other case, to so much of his business as does so relate.
- (8) In this section “designated activities” means such activities, being activities carried on by a person who, by virtue of carrying them on, falls to be treated as a farmer for the purposes of Article 25 of the directive of the Council of the European Communities dated 17th May 1977 No. [77/388/EEC](#) (common flat-rate scheme for farmers), as the Treasury may by order designate.]

Textual Amendments

F30 S. 37B(1)(3)-(8) inserted (1.8.1992) by Finance (No. 2) Act 1992 (c. 48), s. 16(1); S.I. 1992/1867, art. 3, Sch. Pt.I.

VALID FROM 27/07/1993

[^{F31}37C Customers to account for tax on supplies of gold etc.

- (1) Where any person makes a supply of gold to another person and that supply is a taxable supply but not a zero-rated supply, the supply shall be treated for the purposes of Schedule 1 to this Act—
 - (a) as a taxable supply of that other person (as well as a taxable supply of the person who makes it); and
 - (b) in so far as that other person is supplied in connection with the carrying on by him of any business, as a supply made by him in the course or furtherance of that business;

but nothing in paragraph (b) above shall require any supply to be disregarded for the purposes of that Schedule on the grounds that it is a supply of capital assets of that other person's business.
- (2) Where a taxable person makes a supply of gold to a person who—
 - (a) is himself a taxable person at the time when the supply is made; and
 - (b) is supplied in connection with the carrying on by him of any business,

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it shall be for the person supplied, on the supplier's behalf, to account for and pay tax on the supply, and not for the supplier.

- (3) So much of this Act and of any other enactment or any subordinate legislation as has effect for the purposes of, or in connection with, the enforcement of any obligation to account for and pay value added tax shall apply for the purposes of this section in relation to any person who is required under subsection (2) above to account for and pay any tax as if that tax were tax on a supply made by him.
- (4) Section 5(1) to (5) above shall not apply for determining when any supply of gold is to be treated as taking place.
- (5) References in this section to a supply of gold are references to—
 - (a) any supply of goods consisting in gold, including gold coins, or
 - (b) any supply of goods containing gold where the consideration for the supply (apart from any tax) is, or is equivalent to, an amount which does not exceed, or exceeds by no more than a negligible amount, the open market value of the gold contained in the goods.
- (6) The Treasury may by order provide for this section to apply, as it applies to the supplies specified in subsection (5) above, to such other supplies of—
 - (a) goods consisting in or containing any precious or semi-precious metal or stones; or
 - (b) services relating to, or to anything containing, any precious or semi-precious metal or stones,as may be specified or described in the order.]

Textual Amendments

- F31** S. 37C inserted (27.7.1993 with effect as mentioned in s. 45(3) of the inserting Act) by 1993 c. 34, s. 45(1)(3)

Status:

Point in time view as at 01/12/1992. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation:

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