



Finance (No. 2) Act 1992

1992 CHAPTER 48

PART I

CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

CHAPTER II

VALUE ADDED TAX

14 Abolition of fiscal frontiers etc

(1) Value added tax—

- (a) shall cease to be charged on importations of goods into the United Kingdom from member States; and
- (b) shall, instead, be charged, in accordance with the Value Added Tax Act 1983, on acquisitions in the United Kingdom from other member States of any goods.

(2) Schedule 3 to this Act shall have effect for the purposes—

- (a) of amending the Value Added Tax Act 1983, Chapter II of Part I of the Finance Act 1985 and certain other enactments in connection with the provision made by subsection (1) above; and
- (b) of giving effect, in relation to—
 - (i) value added tax charged on the supply of goods and services; and
 - (ii) value added tax charged on the importation of goods from places outside the member States,

to requirements of the directive of the Council of the European Communities dated 17th May 1977 No. [77/388/EEC](#) and the amendments of that directive by the directive of that Council dated 16th December 1991 No. [91/680/EEC](#) (amendments with a view to the abolition of fiscal frontiers).

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- (3) This section and Schedule 3 to this Act shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different provisions and for different purposes.
- (4) Subject to subsection (5) below, an order under subsection (3) above may include such transitional provision as the Commissioners think fit in connection with the bringing into force of any provision or with the arrangements made in any other member State for giving effect to the directives mentioned in subsection (2)(b) above.
- (5) Subsection (4) above shall not authorise the making of any provision so as to put a person into a position with respect to value added tax charged in the member States which is worse than that in which he would have been apart from the power conferred by that subsection.
- (6) Subsections (4) and (5) above are without prejudice to the Commissioners' powers under subsection (3) above to bring different provisions of this section and Schedule 3 to this Act into force on different days for different purposes.

15 Time for raising and answering inquiries

- (1) In section 20 of the Finance Act 1985 (repayment supplement in respect of certain delayed payments or refunds) after subsection (3) there shall be inserted—

“(3A) In determining for the purposes of regulations under subsection (3) above whether any period is referable to the raising and answering of such an inquiry as is mentioned in that subsection, there shall be taken to be so referable any period which—

- (a) begins with the date on which the Commissioners first consider it necessary to make such an inquiry, and
- (b) ends with the date on which the Commissioners—
 - (i) satisfy themselves that they have received a complete answer to the inquiry, or
 - (ii) determine not to make the inquiry or, if they have made it, not to pursue it further,

but excluding so much of that period as may be prescribed; and it is immaterial whether any inquiry is in fact made or whether it is or might have been made of the person or body making the requisite return or claim or of an authorised person or of some other person.”

- (2) In section 38A of the Value Added Tax Act 1983 (interest in certain cases of official error) after subsection (8) there shall be inserted—

“(8A) In determining for the purposes of subsection (8) above whether any period is referable to the raising and answering of such an inquiry as is there mentioned, there shall be taken to be so referable any period which—

- (a) begins with the date on which the Commissioners first consider it necessary to make such an inquiry, and
- (b) ends with the date on which the Commissioners—
 - (i) satisfy themselves that they have received a complete answer to the inquiry, or

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(ii) determine not to make the inquiry or, if they have made it, not to pursue it further,

but excluding so much of that period as may be prescribed; and it is immaterial whether any inquiry is in fact made or whether it is or might have been made of the person referred to in subsection (1) above or of an authorised person or of some other person.”

- (3) Subsection (1) above shall apply where the requisite return or claim is received after the day on which this Act is passed.
- (4) Subsection (2) above shall apply where the claim is received after the day on which this Act is passed.

16 Special treatment for persons involved in farming etc

- (1) After section 37A of the Value Added Tax Act 1983, there shall be inserted the following section—

“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.
- (2) Where a person is for the time being certified under this section, then (whether or not that person is a taxable person) so much of any supply by him of any goods or services as, in accordance with provision contained in regulations, is allocated to the relevant part of his business shall be disregarded for the purpose of determining whether he is, has become or has ceased to be liable or entitled to be registered under Schedule 1 to this Act.
- (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

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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;
- (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.”

(2) In section 40(1) of that Act (appeals) after paragraph (h) there shall be inserted the following paragraph—

“(hza) any refusal or cancellation of certification under section 37B above or any refusal to cancel such certification;”.

(3) In section 45(4) of that Act (orders subject to affirmative procedure), after paragraph (d) there shall be inserted the following paragraph—

“(e) an order under section 37B(4) or (8) above.”

- (4) In paragraph 7 of Schedule 2 to that Act (charge where person ceases to be taxable person), after sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(2A) This paragraph does not apply where a person ceases to be a taxable person in consequence of having been certified under section 37B of this Act.”

- (5) In section 15 of the Finance Act 1985 (penalties for failures to notify and unauthorised issue of invoices), before subsection (4) there shall be inserted the following subsection—

“(3D) This section shall have effect in relation to any invoice which—

- (a) for the purposes of any provision made under subsection (3) of section 37B of the principal Act shows an amount as included in the consideration for any supply; and

(b) either—

(i) fails to comply with the requirements of any regulations under that section; or

(ii) is issued by a person who is not for the time being authorised to do so for the purposes of that section,

as if the person issuing the invoice were an unauthorised person and that amount were shown on the invoice as an amount attributable to tax.”

- (6) This section shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different provisions and for different purposes.

17 Fuel and power

- (1) In Schedule 5 to the Value Added Tax Act 1983 (zero-rating) in Note (8) to Group 7 (fuel and power) the words from “upon which” to “be charged” shall be omitted.

- (2) This section shall apply in relation to matches upon which, by virtue of the repeal of the Matches and Mechanical Lighters Duties Act 1979 by section 6 above, no duty of excise has been or is to be charged.