



# Finance (No. 2) Act 1992

## 1992 CHAPTER 48

### PART I

#### CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

### CHAPTER II

#### VALUE ADDED TAX

#### 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.

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*Status: This is the original version (as it was originally enacted).*

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- (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;
  - (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.

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*Status: This is the original version (as it was originally enacted).*

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- (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.