



# Finance Act 1993

## 1993 CHAPTER 34

### PART I

#### CUSTOMS AND EXCISE AND VALUE ADDED TAX

#### CHAPTER III

#### VALUE ADDED TAX

#### **42 Fuel and power for domestic or charity use**

- (1) The supplies of the descriptions specified in Group 7 of Schedule 5 to the Value Added Tax Act 1983 (supplies of fuel and power for domestic or charity use) shall cease to be zero-rated for the purposes of charging value added tax on any supply, acquisition or importation made or taking place on or after 1st April 1994.
- (2) Section 9 of the Value Added Tax Act 1983 (rate of tax) shall have effect—
  - (a) in relation to so much of any supply made on or after 1st April 1994 and before 1st April 1995 as (but for subsection (1) above) would be zero-rated by virtue of Group 7 of Schedule 5 to that Act; and
  - (b) in relation to any equivalent acquisition or importation taking place on or after 1st April 1994 and before 1st April 1995,as if a rate of 8 per cent. were substituted for the rate specified in subsection (1) of that section.
- (3) The reference in subsection (2) above to an equivalent acquisition or importation, in relation to any supply which would be zero-rated but for subsection (1) above, is a reference, as the case may be, to—
  - (a) any acquisition from another member State of goods the supply of which would be such a supply; or
  - (b) any importation from a place outside the member States of any such goods.
- (4) This section shall be construed as one with the Value Added Tax Act 1983.

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### **43 Vehicle fuel for private use**

- (1) Paragraph 3 of Schedule 6 to the Finance Act 1986 and the Table B set out after that paragraph (consideration for fuel for private use where business use not less than specified amount) shall not have effect in relation to any case where the prescribed accounting period begins after 5th April 1993.
- (2) Accordingly, that Schedule shall have effect in relation to any such case with the following amendments, namely—
  - (a) in paragraph 5(1)(a), for the words from “cubic capacity” to “in question” there shall be substituted “vehicle specified in Table A above, that Table”;
  - (b) in paragraph 5(1)(b), for “cubic capacity specified in those Tables” and “the Table in question” there shall be substituted, respectively, “vehicle specified in that Table” and “that Table”;
  - (c) in paragraph 6(1), for the words from “Tables” onwards there shall be substituted “Table A above is the capacity of its engine as calculated for the purposes of the Vehicles (Excise) Act 1971”; and
  - (d) in paragraph 6(2), for “Tables A and B” there shall be substituted “Table A”.
- (3) Paragraph 4 of that Schedule (power of Treasury to substitute Tables) shall have effect for the purposes of the making of any order after 5th April 1993 with the substitution of “the Table A for the time being” for “either of the Tables”.

### **44 Acquisitions from persons belonging in other member States**

- (1) After section 8C of the Value Added Tax Act 1983 there shall be inserted the following section—

#### **“8D Acquisitions from persons belonging in other member States**

- (1) Subject to subsection (3) below, where—
  - (a) a person (“the original supplier”) makes a supply of goods to a person who belongs in another member State (“the intermediate supplier”);
  - (b) that supply involves the removal of the goods from another member State and their removal to the United Kingdom but does not involve the removal of the goods from the United Kingdom;
  - (c) both that supply and the removal of the goods to the United Kingdom are for the purposes of the making of a supply by the intermediate supplier to another person (“the customer”) who is registered under this Act;
  - (d) neither of those supplies involves the removal of the goods from a member State in which the intermediate supplier is taxable at the time of the removal without also involving the previous removal of the goods to that member State; and
  - (e) there would be a taxable acquisition by the customer if the supply to him involved the removal of goods from another member State to the United Kingdom,

the supply by the original supplier to the intermediate supplier shall be disregarded for the purposes of this Act and the supply by the intermediate supplier to the customer shall be treated for the purposes of this Act, other than Schedule 1B, as if it did involve the removal of the goods from another member State to the United Kingdom.

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- (2) Subject to subsection (3) below, where—
- (a) a person belonging in another member State makes such a supply of goods to a person who is registered under this Act as involves their installation or assembly at a place in the United Kingdom to which they are removed; and
  - (b) there would be a taxable acquisition by the registered person if that supply were treated as not being a taxable supply but as involving the removal of the goods from another member State to the United Kingdom,
- that supply shall be so treated except for the purposes of Schedule 1B to this Act.
- (3) Neither subsection (1) nor subsection (2) above shall apply in relation to any supply unless the intermediate supplier or, as the case may be, the person making the supply complies with such requirements as to the furnishing (whether before or after the supply is made) of invoices and other documents, and of information, to—
- (a) the Commissioners, and
  - (b) the person supplied,
- as the Commissioners may by regulations prescribe; and regulations under this subsection may provide for the times at which, and the form and manner in which, any document or information is to be furnished and for the particulars which it is to contain.
- (4) Where this section has the effect of treating a taxable acquisition as having been made, section 8B(1) above shall apply in relation to that acquisition with the omission of the words from “whichever” to “acquisition; and” at the end of paragraph (a).
- (5) For the purposes of this section a person belongs in another member State 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 neither registered under this Act nor required to be so registered;
  - (c) he does not have a tax representative and is not for the time being required to appoint one; and
  - (d) he is taxable in another member State;
- but, in determining for the purposes of paragraph (b) above whether a person is required to be registered under this Act, there shall be disregarded any supplies which, if he did belong in another member State and complied with the requirements prescribed under subsection (3) above, would fall to be disregarded by virtue of this section.
- (6) Without prejudice to section 8C(4) above, where—
- (a) any goods are acquired from another member State in a case which corresponds, in relation to another member State, to the case specified in relation to the United Kingdom in subsection (1) above; and
  - (b) the person who acquires the goods is registered under this Act and would be the intermediate supplier in relation to that corresponding case,

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the supply to him of those goods and the supply by him of those goods to the person who would be the customer in that corresponding case shall both be disregarded for the purposes of this Act, other than the purposes of the information provisions referred to in section 46A(7) below.

- (7) References in this section to a person being taxable in another member State shall not include references to a person who is so taxable by virtue only of provisions of the law of another member State corresponding to the provisions of this Act by virtue of which a person who is not registered under this Act is a taxable person if he is required to be so registered.”
- (2) Section 32B of that Act (overseas suppliers accounting through their customers) shall cease to have effect.
- (3) As a consequence of the preceding provisions of this section—
- (a) in section 6(1) of that Act (place of supply), for “section 35” there shall be substituted “sections 8D and 35”; and
  - (b) in section 8C(1) of that Act (place of acquisition), for “sections 32B(5) and 35” there shall be substituted “section 35”.
- (4) This section shall have effect in relation to supplies of goods made on or after 1st August 1993 other than a supply of goods by an intermediate supplier to whom the goods were supplied before that date.

#### **45 Customers to account for tax on supplies of gold etc**

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

**“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,
- 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)

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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.”
- (2) In section 5(9) of that Act (power to modify time of supply)—
- (a) in the words before paragraph (a), after “4 above” there shall be inserted “or 37C(4) below”; and
  - (b) in the words after paragraph (b), before “a supply of services” there shall be inserted “a supply to which section 37C below applies or there is”.
- (3) Subsection (1) above, so far as it makes provision in relation to supplies of gold, shall have effect in relation to supplies made on or after 1st April 1993, but section 5 of that Act shall be disregarded in determining the time of any supply for the purposes of this subsection.

#### **46 Appeals in respect of input tax**

- (1) In section 40 of the Value Added Tax Act 1983 (appeals), after subsection (3) there shall be inserted the following subsection—
- “(3ZA) Where—
- (a) there is an appeal against a decision of the Commissioners with respect to, or to so much of any assessment as concerns, the amount of input tax that may be credited to any person or the proportion of input tax allowable under section 15 above,
  - (b) that appeal relates, in whole or in part, to any determination by the Commissioners—
    - (i) as to the purposes for which any goods or services were or were to be used by any person, or
    - (ii) as to whether or to what extent the matters to which any input tax was attributable were or included matters other than the making of supplies within section 15(2) above, and
  - (c) tax for which, in pursuance of that determination, there is no entitlement to a credit is tax on the supply, acquisition or importation of something in the nature of a luxury, amusement or entertainment,

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the tribunal shall not allow the appeal or, as the case may be, so much of it as relates to that determination unless it considers that the determination is one which it was unreasonable to make or which it would have been unreasonable to make if information brought to the attention of the tribunal that could not have been brought to the attention of the Commissioners had been available to be taken into account when the determination was made.”

- (2) This section shall apply in relation to any appeal relating to the input tax that may be credited to any person at the end of a prescribed accounting period beginning on or after the day on which this Act is passed.

#### **47 Deemed supplies**

- (1) Paragraph 5 of Schedule 2 to the Value Added Tax Act 1983 (matters to be treated as supplies) shall be amended as follows.

- (2) In sub-paragraph (2) (gifts which are not to be treated as supplies), for paragraph (b) there shall be substituted the following paragraph—

“(b) subject to sub-paragraph (2A) below, a gift to any person of a sample of any goods.”

- (3) After that sub-paragraph there shall be inserted the following sub-paragraph—

“(2A) Where—

- (a) a person is given a number of samples by the same person (whether all on one occasion or on different occasions), and  
 (b) those samples are identical or do not differ in any material respect from each other,

sub-paragraph (1) above shall apply to all except one of those samples or, as the case may be, to all except the first to be given.”

- (4) After sub-paragraph (3) there shall be inserted the following sub-paragraph—

“(3A) Neither sub-paragraph (1) nor sub-paragraph (3) above shall require anything which a person carrying on a business does otherwise than for a consideration in relation to any goods to be treated as a supply except in a case where that person is entitled under sections 14 and 15 of this Act to credit for the whole or any part of the tax on the supply, acquisition or importation of those goods or of anything comprised in them.”

#### **48 Bad debts**

- (1) In section 11 of the Finance Act 1990 (bad debts) in subsection (1)(c) (period of one year beginning with date of supply must elapse) for “one year” there shall be substituted “six months”.

- (2) This section shall be deemed to have come into force on 1st April 1993 and shall apply in relation to supplies made on or after 1st April 1992.

#### **49 Penalties etc**

Schedule 2 to this Act (which contains amendments of the provisions of Chapter II of Part I of the Finance Act 1985 relating to penalties etc.) shall have effect.

**50 Amendments in connection with abolition of car tax**

- (1) The Value Added Tax Act 1983 shall be amended as follows.
- (2) In Schedule 4 (valuation: special cases) in paragraph 3A(1)—
  - (a) the words “or with car tax”, and
  - (b) the word “tax” in the second place where it occurs,shall be omitted.
- (3) In Schedule 4A (valuation of acquisitions from other member states: special cases) in paragraph 2(1)—
  - (a) the words “or with car tax”, and
  - (b) the word “tax” in the second place where it occurs,shall be omitted.
- (4) In Schedule 7 (administration, collection and enforcement) in paragraph 2(3B)—
  - (a) the words “or of a chargeable vehicle within the meaning of the Car Tax Act 1983” shall be omitted,
  - (b) the words “or of such a vehicle” shall be omitted, and
  - (c) for the words from “any duty” to “may allow” there shall be substituted the words “any duty or agricultural levy in the value of the supply or acquisition determined, by reference to the duty point or by reference to such later time as the Commissioners may allow.”