



# Value Added Tax Act 1994

## 1994 CHAPTER 23

### PART I

#### THE CHARGE TO TAX

##### *Payment of VAT by taxable persons*

#### **24 Input tax and output tax.**

- (1) Subject to the following provisions of this section, “input tax”, in relation to a taxable person, means the following tax, that is to say—
- (a) VAT on the supply to him of any goods or services;
  - (b) VAT on the acquisition by him from another member State of any goods; and
  - (c) VAT paid or payable by him on the importation of any goods from a place outside the member States,
- being (in each case) goods or services used or to be used for the purpose of any business carried on or to be carried on by him.
- (2) Subject to the following provisions of this section, “output tax”, in relation to a taxable person, means VAT on supplies which he makes or on the acquisition by him from another member State of goods (including VAT which is also to be counted as input tax by virtue of subsection (1)(b) above).
- (3) For the purposes of subsections (1) and (2) above, where goods or services are supplied to a company, goods are acquired by a company from another member State or goods are imported by a company from a place outside the member States and the goods or services which are so supplied, acquired or imported are used or to be used in connection with the provision of accommodation by the company, they shall not be treated as used or to be used for the purposes of any business carried on by the company to the extent that the accommodation is used or to be used for domestic purposes by—
- (a) a director of the company, or
  - (b) a person connected with a director of the company.

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*Status: Point in time view as at 01/05/2009.*

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- (4) The Treasury may by order provide with respect to any description of goods or services that, where goods or services of that description are supplied to a person who is not a taxable person, they shall, in such circumstances as may be specified in the order, be treated for the purposes of subsections (1) and (2) above as supplied to such other person as may be determined in accordance with the order.
- (5) Where goods or services supplied to a taxable person, goods acquired by a taxable person from another member State or goods imported by a taxable person from a place outside the member States 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, VAT on supplies, acquisitions and importations shall be apportioned so that only so much as is referable to his business purposes is counted as his input tax.
- (6) Regulations may provide—
- (a) for VAT on the supply of goods or services to a taxable person, VAT on the acquisition of goods by a taxable person from other member States and VAT paid or payable by a taxable person on the importation of goods from places outside the member States to be treated as his input tax only if and to the extent that the charge to VAT is evidenced and quantified by reference to such documents [<sup>F1</sup>or other information] 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, VAT on the supply to him of goods or services or on the acquisition of goods by him from another member State or paid by him on the importation of goods from places outside the member States notwithstanding that he was not a taxable person at the time of the supply, acquisition 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, VAT on the supply, acquisition or importation of goods before the company's incorporation for appropriation to the company or its business 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 VAT on a supply of services made to him for the purposes of the business carried on by him when he was a taxable person.
- (7) For the purposes of this section “director” means—
- (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body;
  - (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person;
  - (c) in relation to a company whose affairs are managed by the members themselves, a member of the company,
- and a person is connected with a director if that person is the director's wife or husband, or is a relative, or the wife or husband of a relative, of the director or of the director's wife or husband.

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### Textual Amendments

**F1** Words in s. 24(6)(a) inserted (retrospective to 10.4.2003) by [Finance Act 2003 \(c. 14\), s. 17\(2\)\(8\)](#)

## 25 Payment by reference to accounting periods and credit for input tax against output tax.

- (1) A taxable person shall—
  - (a) in respect of supplies made by him, and
  - (b) in respect of the acquisition by him from other member States of any goods, account for and pay VAT 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 and regulations may make different provision for different circumstances.
- (2) Subject to the provisions of this section, he is entitled at the end of each prescribed accounting period to credit for so much of his input tax as is allowable under section 26, and then to deduct that amount from any output tax that is due from him.
- (3) If either no output tax is due at the end of the period, or the amount of the credit exceeds that of the output tax then, subject to subsections (4) and (5) 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; and an amount which is due under this subsection is referred to in this Act as a “VAT credit”.
- (4) 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.
- (5) Where at the end of any period a VAT credit is due to a taxable person who has failed to submit returns for any earlier period as required by this Act, the Commissioners may withhold payment of the credit until he has complied with that requirement.
- (6) A deduction under subsection (2) above and payment of a VAT credit shall not be made or paid 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 of a VAT credit shall be made subject to such conditions (if any) as the Commissioners think fit to impose, including conditions as to repayment in specified circumstances.
- (7) The Treasury may by order provide, in relation to such supplies, acquisitions and importations as the order may specify, that VAT 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 acquired or imported, the person by whom they are supplied, acquired or imported or to whom they are supplied, the purposes for which they are supplied, acquired or imported, or any circumstances whatsoever; and
  - (b) such an order may contain provision for consequential relief from output tax.

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**Modifications etc. (not altering text)**

C1 S. 25(6) modified (retrospective to 19.3.2008) by Finance Act 2008 (c. 9), s. 121(2)(4)

**26 Input tax allowable under section 25.**

- (1) The amount of input tax for which a taxable person is entitled to credit at the end of any period shall be so much of the input tax for the period (that is input tax on supplies, acquisitions and importations in the period) as is allowable by or under regulations as being attributable to supplies within subsection (2) below.
- (2) The supplies within this subsection are the following supplies made or to be made by the taxable person in the course or furtherance of his business—
  - (a) taxable supplies;
  - (b) supplies outside the United Kingdom which would be taxable supplies if made in the United Kingdom;
  - (c) such other supplies outside the United Kingdom and such exempt supplies as the Treasury may by order specify for the purposes of this subsection.
- (3) The Commissioners shall make regulations for securing a fair and reasonable attribution of input tax to supplies within subsection (2) above, and any such regulations may provide for—
  - (a) determining a proportion by reference to which input tax for any prescribed accounting period is to be provisionally attributed to those supplies;
  - (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;
  - (c) the making of payments in respect of input tax, by the Commissioners to a taxable person (or a person who has been a taxable person) or by a taxable person (or a person who has been a taxable person) to the Commissioners, in cases where events prove inaccurate an estimate on the basis of which an attribution was made; and
  - (d) preventing input tax on a supply which, under or by virtue of any provision of this Act, a person makes to himself from being allowable as attributable to that supply.
- (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.

**Modifications etc. (not altering text)**

C2 S. 26 excluded (27.7.1999) by 1999 c. 16, s. 13(1)

**[<sup>F2</sup>26A Disallowance of input tax where consideration not paid**

- (1) Where—
  - (a) a person has become entitled to credit for any input tax, and

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- (b) the consideration for the supply to which that input tax relates, or any part of it, is unpaid at the end of the period of 6 months following the relevant date, he shall be taken, as from the end of that period, not to have been entitled to credit for input tax in respect of the VAT that is referable to the unpaid consideration or part.
- (2) For the purposes of subsection (1) above “the relevant date”, in relation to any sum representing consideration for a supply, is—
  - (a) the date of the supply, or
  - (b) if later, the date on which the sum became payable.
- (3) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.
- (4) Regulations under this section may in particular—
  - (a) make provision for restoring the whole or any part of an entitlement to credit for input tax where there is a payment after the end of the period mentioned in subsection (1) above;
  - (b) make rules for ascertaining whether anything paid is to be taken as paid by way of consideration for a particular supply;
  - (c) make rules dealing with particular cases, such as those involving payment of part of the consideration or mutual debts.
- (5) Regulations under this section may make different provision for different circumstances.
- (6) Section 6 shall apply for determining the time when a supply is to be treated as taking place for the purposes of construing this section.]

#### **Textual Amendments**

- F2** S. 26A inserted (with effect as mentioned in s. 22(3) of the amending Act) by [Finance Act 2002 \(c. 23\)](#), [s. 22\(1\)](#); [S.I. 2002/3028](#), [art. 2](#)

#### **[<sup>F3</sup>26AB Adjustment of output tax in respect of supplies under section 55A**

- (1) This section applies if—
  - (a) a person is, as a result of section 26A, taken not to have been entitled to any credit for input tax in respect of any supply, and
  - (b) the supply is one in respect of which the person is required under section 55A(6) to account for and pay VAT.
- (2) The person is entitled to make an adjustment to the amount of VAT which he is so required to account for and pay.
- (3) The amount of the adjustment is to be equal to the amount of the credit for the input tax to which the person is taken not to be entitled.
- (4) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.
- (5) Regulations under this section may in particular—

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- (a) make provision for the manner in which, and the period for which, the adjustment is to be given effect,
  - (b) require the adjustment to be evidenced and quantified by reference to such records and other documents as may be specified by or under the regulations,
  - (c) require the person entitled to the adjustment to keep, for such period and in such form and manner as may be so specified, those records and documents,
  - (d) make provision for readjustments if any credit for input tax is restored under section 26A.
- (6) Regulations under this section may make different provision for different circumstances.]

#### Textual Amendments

**F3** S. 26AB inserted (1.6.2007) by [Finance Act 2006 \(c. 25\), s. 19\(2\)\(8\)](#); S.I. 2007/1419, art. 2

#### [<sup>F4</sup>26B Flat-rate scheme

- (1) The Commissioners may by regulations make provision under which, where a taxable person so elects, the amount of his liability to VAT in respect of his relevant supplies in any prescribed accounting period shall be the appropriate percentage of his relevant turnover for that period.

A person whose liability to VAT is to any extent determined as mentioned above is referred to in this section as participating in the flat-rate scheme.

- (2) For the purposes of this section—
- (a) a person’s “relevant supplies” are all supplies made by him except supplies made at such times or of such descriptions as may be specified in the regulations;
  - (b) the “appropriate percentage” is the percentage so specified for the category of business carried on by the person in question;
  - (c) a person’s “relevant turnover” is the total of—
    - (i) the value of those of his relevant supplies that are taxable supplies, together with the VAT chargeable on them, and
    - (ii) the value of those of his relevant supplies that are exempt supplies.
- (3) The regulations may designate certain categories of business as categories in relation to which the references in subsection (1) above to liability to VAT are to be read as references to entitlement to credit for VAT.
- (4) The regulations may provide for persons to be eligible to participate in the flat-rate scheme only in such cases and subject to such conditions and exceptions as may be specified in, or determined by or under, the regulations.
- (5) Subject to such exceptions as the regulations may provide for, a participant in the flat-rate scheme shall not be entitled to credit for input tax.

This is without prejudice to subsection (3) above.

- (6) The regulations may—

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- (a) provide for the appropriate percentage to be determined by reference to the category of business that a person is expected, on reasonable grounds, to carry on in a particular period;
  - (b) provide, in such circumstances as may be prescribed, for different percentages to apply in relation to different parts of the same prescribed accounting period;
  - (c) make provision for determining the category of business to be regarded as carried on by a person carrying on businesses in more than one category.
- (7) The regulations may provide for the following matters to be determined in accordance with notices published by the Commissioners—
- (a) when supplies are to be treated as taking place for the purposes of ascertaining a person's relevant turnover for a particular period;
  - (b) the method of calculating any adjustments that fall to be made in accordance with the regulations in a case where a person begins or ceases to participate in the flat-rate scheme.
- (8) The regulations may make provision enabling the Commissioners—
- (a) to authorise a person to participate in the flat-rate scheme with effect from—
    - (i) a day before the date of his election to participate, or
    - (ii) a day that is not earlier than that date but is before the date of the authorisation;
  - (b) to direct that a person shall cease to be a participant in the scheme with effect from a day before the date of the direction.
- The day mentioned in paragraph (a)(i) above may be a day before the date on which the regulations come into force.
- (9) Regulations under this section—
- (a) may make different provision for different circumstances;
  - (b) may make such incidental, supplemental, consequential or transitional provision as the Commissioners think fit, including provision disapplying or applying with modifications any provision contained in or made under this Act.]

#### **Textual Amendments**

**F4** S. 26B inserted (retropective to 24.4.2002) by [Finance Act 2002 \(c. 23\), s. 23\(1\)\(4\)](#)

## **27 Goods imported for private purposes.**

- (1) Where goods are imported by a taxable person from a place outside the member States 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,

VAT 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 25; but he may make a separate claim to the Commissioners for it to be repaid.

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- (2) The Commissioners shall allow the claim if they are satisfied that to disallow it would result, in effect, in a double charge to VAT; 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 carried on by him.

## 28 Payments on account of VAT.

- (1) The Treasury may make an order under this section if they consider it desirable to do so in the interests of the national economy.
- (2) An order under this section may provide that a taxable person of a description specified in the order shall be under a duty—
  - (a) to pay, on account of any VAT he may become liable to pay in respect of a prescribed accounting period, amounts determined in accordance with the order, and
  - (b) to do so at such times as are so determined.
- [<sup>F5</sup>(2AA) An order under this section may provide for the matters with respect to which an appeal under section 83 lies to a tribunal to include such decisions of the Commissioners under that or any other order under this section as may be specified in the order.]
- [<sup>F6</sup>(2A) The Commissioners may give directions, to persons who are or may become liable by virtue of any order under this section to make payments on account of VAT, about the manner in which they are to make such payments; and where such a direction has been given to any person and has not subsequently been withdrawn, any duty of that person by virtue of such an order to make such a payment shall have effect as if it included a requirement for the payment to be made in the manner directed.]
- (3) Where an order is made under this section, the Commissioners may make regulations containing such supplementary, incidental or consequential provisions as appear to the Commissioners to be necessary or expedient.
- (4) A provision of an order or regulations under this section may be made in such way as the Treasury or, as the case may be, the Commissioners think fit (whether by amending provisions of or made under the enactments relating to VAT or otherwise).
- (5) An order or regulations under this section may make different provision for different circumstances.

### Textual Amendments

**F5** S. 28(2AA) inserted (29.4.1996) by 1997 c. 16, s. 43

**F6** S. 28(2A) inserted (29.4.1996) by 1996 c. 8, s. 34



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## **29 Invoices provided by recipients of goods or services.**

Where—

- (a) a taxable person (“the recipient”) provides a document to himself which purports to be an invoice in respect of a taxable supply of goods or services to him by another taxable person; and
- (b) that document understates the VAT chargeable on the supply,

the Commissioners may, by notice served on the recipient and on the supplier, elect that the amount of VAT understated by the document shall be regarded for all purposes as VAT due from the recipient and not from the supplier.

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