



# Value Added Tax Act 1994

## 1994 CHAPTER 23

### PART II

#### RELIEFS, EXEMPTIONS AND REPAYMENTS

*Reliefs etc. generally available*

#### [<sup>F1</sup>29A Reduced rate

- (1) VAT charged on—
  - (a) any supply that is of a description for the time being specified in Schedule 7A, or
  - (b) any equivalent acquisition or importation,shall be charged at the rate of 5 per cent.
- (2) The reference in subsection (1) above to an equivalent acquisition or importation, in relation to any supply that is of a description for the time being specified in Schedule 7A, 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.
- (3) The Treasury may by order vary Schedule 7A by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it.
- (4) The power to vary Schedule 7A conferred by subsection (3) above may be exercised so as to describe a supply of goods or services by reference to matters unrelated to the characteristics of the goods or services themselves. In the case of a supply of goods, those matters include, in particular, the use that has been made of the goods.]

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Cross Heading: Reliefs etc. generally available. (See end of Document for details)*

### Textual Amendments

- F1** S. 29A inserted (11.5.2001 with effect as mentioned in s. 99(7)(c) of the amending Act) by 2001 c. 9, s. 99(4)

## 30 Zero-rating.

- (1) Where a taxable person supplies goods or services and the supply is zero-rated, then, whether or not VAT would be chargeable on the supply apart from this section—
  - (a) no VAT shall be charged on the supply; but
  - (b) it shall in all other respects be treated as a taxable supply;
 and accordingly the rate at which VAT is treated as charged on the supply shall be nil.
- (2) A supply of goods or services is zero-rated by virtue of this subsection if the goods or services are of a description for the time being specified in Schedule 8 or the supply is of a description for the time being so specified.
- [<sup>F2</sup>(2A) A supply by a person of services which consist of applying a treatment or process to another person's goods is zero-rated by virtue of this subsection if by doing so he produces goods, and either—
  - (a) those goods are of a description for the time being specified in Schedule 8; or
  - (b) a supply by him of those goods to the person to whom he supplies the services would be of a description so specified.]
  - (3) Where goods of a description for the time being specified in that Schedule, or of a description forming part of a description of supply for the time being so specified, are acquired in the United Kingdom from another member State or imported from a place outside the member States, no VAT shall be chargeable on their acquisition or importation, except as otherwise provided in that Schedule.
  - (4) The Treasury may by order vary Schedule 8 by adding to or deleting from it any description or by varying any description for the time being specified in it.
  - [<sup>F3</sup>(5) The export of any goods by a charity to a place outside the member States shall for the purposes of this Act be treated as a supply made by the charity—
    - (a) in the United Kingdom, and
    - (b) in the course or furtherance of a business carried on by the charity.]
    - (6) A supply of goods is zero-rated by virtue of this subsection if the Commissioners are satisfied that the person supplying the goods—
      - (a) has exported them to a place outside the member States; or
      - (b) has shipped them for use as stores on a voyage or flight to an eventual destination outside the United Kingdom, or as merchandise for sale by retail to persons carried on such a voyage or flight in a ship or aircraft,
 and in either case if such other conditions, if any, as may be specified in regulations or the Commissioners may impose are fulfilled.
    - (7) Subsection (6)(b) above shall not apply in the case of goods shipped for use as stores on a voyage or flight to be made by the person to whom the goods were supplied and to be made for a purpose which is private.

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- (8) Regulations may provide for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where—
- (a) the Commissioners are satisfied that the goods have been or are to be exported to a place outside the member States or that the supply in question involves both—
    - (i) the removal of the goods from the United Kingdom; and
    - (ii) their acquisition in another member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law of that member State corresponding, in relation to that member State, to the provisions of section 10; and
  - (b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.

- [<sup>F4</sup>(8A) Regulations may provide for the zero-rating of supplies of goods, or of such goods as may be specified in regulations, in cases where—
- (a) the Commissioners are satisfied that the supply in question involves both—
    - (i) the removal of the goods from a fiscal warehousing regime within the meaning of section 18F(2); and
    - (ii) their being placed in a warehousing regime in another member State, or in such member State or States as may be prescribed, where that regime is established by provisions of the law of that member State corresponding, in relation to that member State, to the provisions of sections 18A and 18B; and
  - (b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.]

- (9) Regulations may provide for the zero-rating of a supply of services which is made where goods are let on hire and the Commissioners are satisfied that the goods have been or are to be removed from the United Kingdom during the period of the letting, and such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.

- (10) Where the supply of any goods has been zero-rated by virtue of subsection (6) above or in pursuance of regulations made under [<sup>F5</sup>subsection (8), (8A) or (9)] above and—
- (a) the goods are found in the United Kingdom after the date on which they were alleged to have been or were to be exported or shipped or otherwise removed from the United Kingdom; or
  - (b) any condition specified in the relevant regulations under [<sup>F5</sup>subsection (6), (8), (8A) or (9)] above or imposed by the Commissioners is not complied with,

and the presence of the goods in the United Kingdom after that date or the non-observance of the condition has not been authorised for the purposes of this subsection by the Commissioners, the goods shall be liable to forfeiture under the Management Act and the VAT that would have been chargeable on the supply but for the zero-rating shall become payable forthwith by the person to whom the goods were supplied or by any person in whose possession the goods are found in the United Kingdom; but the Commissioners may, if they think fit, waive payment of the whole or part of that VAT.

#### Textual Amendments

- F2** S. 30(2A) inserted (29.4.1996 with effect as mentioned in s. 29(5) of the amending Act) by 1996 c. 8, s. 29(2)(5)

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- F3** S. 30(5) substituted (1.5.1995 with effect as mentioned in s. 28(2) of the amending Act) by 1995 c. 4, s. 28(1)
- F4** S. 30(8A) inserted (29.4.1996 for specified purposes and otherwise 1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after 1.6.1996) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 7**; S.I. 1996/1249, **art. 2**
- F5** Words in s. 30(10) substituted (1.6.1996 with application to any acquisition of goods from another member State and any supply taking place on or after that day) by 1996 c. 8, ss. 25, 26, **Sch. 3 para. 7**; S.I. 1996/1249, **art. 2**

### 31 Exempt supplies and acquisitions.

- (1) A supply of goods or services is an exempt supply if it is of a description for the time being specified in Schedule 9 and an acquisition of goods from another member State is an exempt acquisition if the goods are acquired in pursuance of an exempt supply.
- (2) The Treasury may by order vary that Schedule by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it, and the Schedule may be varied so as to describe a supply of goods by reference to the use which has been made of them or to other matters unrelated to the characteristics of the goods themselves.
- [<sup>F6</sup>(3) The Treasury may by regulations make an exemption of a group 16 supply of a description specified in the regulations subject to conditions.
- (4) Regulations under subsection (3) may—
- make different provision for different cases, and
  - make consequential or transitional provision (including provision amending this Act).
- (5) In subsection (3) “group 16 supply” means a supply falling within Group 16 of Schedule 9.]

#### Textual Amendments

- F6** S. 31(3)-(5) inserted (17.7.2012) by Finance Act 2012 (c. 14), s. 197(3)

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

- C1** S. 31(2) extended (27.7.1999) by 1999 c. 16, s. 13(2)

<sup>F7</sup>32 .....

#### Textual Amendments

- F7** S. 32 repealed (1.6.1995) by 1995 c. 4, ss. 24(2), 162, **Sch. 29 Pt. VI(3)** Note; S.I. 1995/1374, **art. 2**

### 33 Refunds of VAT in certain cases.

- (1) Subject to the following provisions of this section, where—
- VAT is chargeable on the supply of goods or services to a body to which this section applies, on the acquisition of any goods by such a body from another

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member State or on the importation of any goods by such a body from a place outside the member States, and

- (b) the supply, acquisition or importation is not for the purpose of any business carried on by the body,

the Commissioners shall, on a claim made by the body at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the VAT so chargeable.

- (2) Where goods or services so supplied to or acquired or imported by the body cannot be conveniently distinguished from goods or services supplied to or acquired or imported by it for the purpose of a business carried on by it, the amount to be refunded under this section shall be such amount as remains after deducting from the whole of the chargeable on any supply to or acquisition or importation by the body such proportion thereof as appears to the Commissioners to be attributable to the carrying on of the business; but where—

- (a) the VAT so attributable is or includes VAT attributable, in accordance with regulations under section 26, to exempt supplies by the body, and
- (b) the VAT attributable to the exempt supplies is in the opinion of the Commissioners an insignificant proportion of the VAT so chargeable,

they may include it in the VAT refunded under this section.

- (3) The bodies to which this section applies are—

- (a) a local authority;
- (b) a river purification board established under section 135 of the <sup>M1</sup>Local Government (Scotland) Act 1973, and a water development board within the meaning of section 109 of the <sup>M2</sup>Water (Scotland) Act 1980;
- (c) an internal drainage board;
- (d) [<sup>F8</sup>an Integrated Transport Authority, Passenger Transport Authority or Passenger Transport Executive for the purposes of Part 2 of the Transport Act 1968;]
- (e) a port health authority within the meaning of the <sup>M4</sup>Public Health (Control of Disease) Act 1984, <sup>F9</sup>...;
- (f) [<sup>F10</sup>a police and crime commissioner, the Mayor's Office for Policing and Crime and] a police authority and the Receiver for the Metropolitan Police District;
- (g) a development corporation within the meaning of the <sup>M5</sup>New Towns Act 1981 or the <sup>M6</sup>New Towns (Scotland) Act 1968, a new town commission within the meaning of the <sup>M7</sup>New Towns Act (Northern Ireland) 1965 and the Commission for the New Towns;
- (h) a general lighthouse authority within the meaning of [<sup>F11</sup>Part VIII of the <sup>M8</sup>Merchant Shipping Act 1995];
- (i) the British Broadcasting Corporation;
- [<sup>F12</sup>(j) the appointed news provider referred to in section 280 of the Communications Act 2003; and]
- (k) any body specified for the purposes of this section by an order made by the Treasury.

- (4) No VAT shall be refunded under this section to a general lighthouse authority which in the opinion of the Commissioners is attributable to activities other than those concerned with the provision, maintenance or management of lights or other navigational aids.

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- (5) No VAT shall be refunded under this section to [<sup>F13</sup>an appointed] news provider which in the opinion of the Commissioners is attributable to activities other than the provision of news programmes for broadcasting by holders of regional Channel 3 licences (within the meaning of Part I of the <sup>M9</sup>Broadcasting Act 1990).
- (6) References in this section to VAT chargeable do not include any VAT which, by virtue of any order under section 25(7), is excluded from credit under that section.

#### Textual Amendments

- F8** S. 33(3)(d) substituted (E.W.) (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 59(2)**; S.I. 2009/107, art. 2(1), Sch. 1 Pt. 1
- F9** Words in s. 33(3)(e) repealed (S) (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), s. 128(2), **sch. 3 pt. 1** (with s. 127); S.S.I. 2009/319, art. 2(a), sch. 1
- F10** Words in s. 33(3)(f) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 217**; S.I. 2011/3019, art. 3, Sch. 1
- F11** Words in s. 33(3)(h) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 95** (with s. 312(1))
- F12** S. 33(3)(j) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 129(2)(a)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)
- F13** Words in s. 33(5) substituted (29.12.2003) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 129(2)(b)** (with Sch. 18); S.I. 2003/3142, art. 3(1), Sch. 1 (with art. 11)

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

- C2** S. 33 applied (15.8.1995) (*temp.* until 1.4.1996) by S.I. 1995/1878, **art. 4**

#### Marginal Citations

- M1** 1973 c. 65.  
**M2** 1980 c. 45.  
**M3** 1968 c. 73.  
**M4** 1984 c. 22.  
**M5** 1981 c. 64.  
**M6** 1968 c. 16.  
**M7** 1965 c. 60.  
**M8** 1995 c. 21.  
**M9** 1990 c. 42.

### 33A <sup>F14</sup> Refunds of VAT to museums and galleries

- (1) Subsections (2) to (5) below apply where—
- (a) VAT is chargeable on—
- (i) the supply of goods or services to a body to which this section applies,
  - (ii) the acquisition of any goods by such a body from another member State, or
  - (iii) the importation of any goods by such a body from a place outside the member States,
- (b) the supply, acquisition or importation is attributable to the provision by the body of free rights of admission to a relevant museum or gallery, and
- (c) the supply is made, or the acquisition or importation takes place, on or after 1st April 2001.

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- (2) The Commissioners shall, on a claim made by the body in such form and manner as the Commissioners may determine, refund to the body the amount of VAT so chargeable.
- (3) The claim must be made before the end of the claim period.
- (4) Subject to subsection (5) below, “the claim period” is the period of [<sup>F15</sup>4 years] beginning with the day on which the supply is made or the acquisition or importation takes place.
- (5) If the Commissioners so determine, the claim period is such shorter period beginning with that day as the Commissioners may determine.
- (6) Subsection (7) below applies where goods or services supplied to, or acquired or imported by, a body to which this section applies that are attributable to free admissions cannot conveniently be distinguished from goods or services supplied to, or acquired or imported by, the body that are not attributable to free admissions.
- (7) The amount to be refunded on a claim by the body under this section shall be such amount as remains after deducting from the VAT related to the claim such proportion of that VAT as appears to the Commissioners to be attributable otherwise than to free admissions.
- (8) For the purposes of subsections (6) and (7) above—
  - (a) goods or services are, and VAT is, attributable to free admissions if they are, or it is, attributable to the provision by the body of free rights of admission to a relevant museum or gallery;
  - (b) the VAT related to a claim is the whole of the VAT chargeable on—
    - (i) the supplies to the body, and
    - (ii) the acquisitions and importations by the body, to which the claim relates.
- (9) The Treasury may by order—
  - (a) specify a body as being a body to which this section applies;
  - (b) when specifying a body under paragraph (a), specify any museum or gallery that, for the purposes of this section, is a “relevant” museum or gallery in relation to the body;
  - (c) specify an additional museum or gallery as being, for the purposes of this section, a “relevant” museum or gallery in relation to a body to which this section applies;
  - (d) when specifying a museum or gallery under paragraph (b) or (c), provide that this section shall have effect in the case of the museum or gallery as if in subsection (1)(c) there were substituted for 1st April 2001 a later date specified in the order.
- (10) References in this section to VAT do not include any VAT which, by virtue of any order under section 25(7), is excluded from credit under that section.

#### **Textual Amendments**

**F14** S. 33A inserted (11.5.2001 for specified purposes otherwise 1.9.2001) by 2001 c. 9, s. 98(2)(10)(11)

**F15** Words in s. 33A(4) substituted (1.4.2009) by Finance Act 2008 (c. 9), s. 118(2), Sch. 39 para. 33; S.I. 2009/403, art. 2(1) (with art. 3)

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

**C3** S. 33A applied (with modifications) (1.9.2001) by [S.I. 2001/2879](#), arts. 2-4, [Sch.](#)

**[<sup>F16</sup>33B Refunds of VAT to Academies**

- (1) This section applies where—
  - (a) VAT is chargeable on—
    - (i) the supply of goods or services to the proprietor of an Academy,
    - (ii) the acquisition of any goods from another member State by the proprietor of an Academy, or
    - (iii) the importation of any goods from a place outside the member States by the proprietor of an Academy, and
  - (b) the supply, acquisition or importation is not for the purposes of any business carried on by the proprietor of the Academy.
- (2) The Commissioners shall, on a claim made by the proprietor of the Academy at such time and in such form and manner as the Commissioners may determine, refund to that proprietor the amount of VAT so chargeable.
- (3) Subject to subsection (4), the claim must be made before the end of the period of 4 years beginning with the day on which the supply is made or the acquisition or importation takes place.
- (4) If the Commissioners so determine, the claim period is such shorter period beginning with that day as the Commissioners may determine.
- (5) Subsection (6) applies where goods or services supplied to, or acquired or imported by, the proprietor of the Academy cannot be conveniently distinguished from goods or services supplied to, or acquired or imported by, it for the purpose of a business carried on by that proprietor.
- (6) The amount to be refunded under this section is such amount as remains after deducting from the whole of the VAT chargeable on any supply to, or acquisition or importation by, the proprietor of the Academy such proportion of that VAT as appears to the Commissioners to be attributable to the carrying on of the business.
- (7) References in this section to VAT do not include any VAT which, by virtue of an order under section 25(7), is excluded from credit under section 25.
- (8) In this section—
  - (a) references to the proprietor of an Academy are to the proprietor of the Academy acting in that capacity, and
  - (b) “Academy” and “proprietor” have the same meaning as in the Education Act 1996 (see section 579 of that Act).]

**Textual Amendments**

**F16** S. 33B inserted (with effect in accordance with s. 76(5) of the amending Act) by [Finance Act 2011](#) (c. 11), [s. 76\(1\)](#)



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### **[<sup>F17</sup>33C Refunds of VAT to charities within section 33D**

- (1) This section applies to a charity that falls within any of the descriptions in section 33D.

A charity to which this section applies is referred to in this section as a “qualifying charity”.

- (2) This section applies where—
- (a) VAT is chargeable on—
    - (i) the supply of goods or services to a qualifying charity,
    - (ii) the acquisition of any goods from another member State by a qualifying charity, or
    - (iii) the importation of any goods from a place outside the member States by a qualifying charity, and
  - (b) the supply, acquisition or importation is not for the purpose of any business carried on by the qualifying charity.
- (3) The Commissioners shall, on a claim made by the qualifying charity at such time and in such form and manner as the Commissioners may determine, refund to the qualifying charity the amount of the VAT so chargeable.
- (4) A claim under subsection (3) above in respect of a supply, acquisition or importation must be made before the end of the period of 4 years beginning with the day on which the supply is made or the acquisition or importation takes place.
- (5) Subsection (6) applies where goods or services supplied to, or acquired or imported by, a qualifying charity otherwise than for the purpose of any business carried on by the qualifying charity cannot be conveniently distinguished from goods or services supplied to, or acquired or imported by, the qualifying charity for the purpose of such a business.
- (6) The amount to be refunded under this section is such amount as remains after deducting from the whole of the VAT chargeable on any supply to, or acquisition or importation by, the qualifying charity such proportion of that VAT as appears to the Commissioners to be attributable to the carrying on of the business.
- (7) References in this section to VAT do not include any VAT which, by virtue of an order under section 25(7), is excluded from credit under section 25.

#### **Textual Amendments**

**F17** Ss. 33C, 33D inserted (with effect in accordance with s. 66(5) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [s. 66\(1\)](#) (with [s. 66\(6\)](#))

### **33D Charities to which section 33C applies**

#### *Palliative care charities*

- (1) “Palliative care charity” means a charity the main purpose of which is the provision of palliative care at the direction of, or under the supervision of, a medical professional to persons who are in need of such care as a result of having a terminal illness.
- (2) In subsection (1) “medical professional” means—
- (a) a registered medical practitioner, or

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- (b) a registered nurse.

*Air ambulance charities*

- (3) “Air ambulance charity” means a charity the main purpose of which is to provide an air ambulance service in pursuance of arrangements made by, or at the request of, a relevant NHS body.
- (4) In subsection (3) “relevant NHS body” means a body the main purpose of which is to provide ambulance services and which is—
- (a) an NHS foundation trust in England,
  - (b) an NHS trust in Wales,
  - (c) a Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978, or
  - (d) a Health and Social Care trust established under the Health and Personal Social Services (Northern Ireland) Order 1991.

*Search and rescue charities*

- (5) “Search and rescue charity” means a charity that meets condition A or B.
- (6) Condition A is that—
- (a) the main purpose of the charity is to carry out search and rescue activities in the United Kingdom or the UK marine area, and
  - (b) the search and rescue activities carried out by the charity are co-ordinated by a relevant authority.
- (7) Condition B is that the main purpose of the charity is to support, develop and promote the activities of a charity which meets condition A.
- (8) For the purposes of subsection (6)—
- “search and rescue activities” means searching for, and rescuing, persons who are, or may be, at risk of death or serious injury;
- “relevant authority” means—
- (a) the Secretary of State;
  - (b) a police force;
  - (c) the Scottish Fire and Rescue Service;
  - (d) any other person or body specified for the purposes of subsection (6) by an order made by the Treasury;
- “police force” means—
- (a) a police force within the meaning of the Police Act 1996;
  - (b) the Police Service of Scotland;
  - (c) the Police Service of Northern Ireland;
  - (d) the Police Service of Northern Ireland Reserve;
  - (e) the British Transport Police Force;
  - (f) the Civil Nuclear Constabulary;
  - (g) the Ministry of Defence Police;
- “UK marine area” has the meaning given by section 42(1) of the Marine and Coastal Access Act 2009.

*Medical courier charities*

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- (9) “Medical courier charity” means a charity that meets condition A or B.
- (10) Condition A is that the main purpose of the charity is to provide services for the transportation of items intended for use for medical purposes, including in particular—
- (a) blood;
  - (b) medicines and other medical supplies;
  - (c) items relating to people who are undergoing medical treatment.
- (11) Condition B is that the main purpose of the charity is to support, develop and promote the activities of a charity which meets condition A.
- (12) In subsection (10) “item” includes any substance.]

#### Textual Amendments

**F17** Ss. 33C, 33D inserted (with effect in accordance with s. 66(5) of the amending Act) by [Finance Act 2015 \(c. 11\)](#), [s. 66\(1\)](#) (with [s. 66\(6\)](#))

### [<sup>F18</sup>33E Power to extend refunds of VAT to other persons

- (1) This section applies where—
- (a) VAT is chargeable on—
    - (i) the supply of goods or services to a specified person,
    - (ii) the acquisition of any goods from another member State by a specified person, or
    - (iii) the importation of any goods from a place outside the member States by a specified person, and
  - (b) the supply, acquisition or importation is not for the purpose of—
    - (i) any business carried on by the person, or
    - (ii) a supply by the person which, by virtue of section 41A, is treated as a supply in the course or furtherance of a business.
- (2) If and to the extent that the Treasury so direct, the Commissioners shall, on a claim made by the specified person at such time and in such form and manner as the Commissioners may determine, refund to the person the amount of the VAT so chargeable.

This is subject to subsection (3) below.

- (3) A specified person may not make a claim under subsection (2) above unless it has been agreed with the Treasury that, in the circumstances specified in the agreement, the amount of the person's funding is to be reduced by all or part of the amount of the VAT so chargeable.
- (4) A claim under subsection (2) above in respect of a supply, acquisition or importation must be made on or before the relevant day.
- (5) The “relevant day” is—
- (a) in the case of a person who is registered, the last day on which the person may make a return under this Act for the prescribed accounting period containing the last day of the financial year in which the supply is made or the acquisition or importation takes place;

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- (b) in the case of a person who is not registered, the last day of the period of 3 months beginning immediately after the end of the financial year in which the supply is made or the acquisition or importation takes place.
- (6) Subsection (7) applies where goods or services supplied to, or acquired or imported by, a specified person otherwise than for the purpose of—
- (a) any business carried on by the person, or
  - (b) a supply falling within subsection (1)(b)(ii) above,
- cannot be conveniently distinguished from goods or services supplied to, or acquired or imported by, the person for such a purpose.
- (7) The amount to be refunded under this section is such amount as remains after deducting from the whole of the VAT chargeable on any supply to, or acquisition or importation by, the specified person such proportion of that VAT as appears to the Commissioners to be attributable to the carrying on of the business or (as the case may be) the making of the supply.
- (8) In this section, “specified person” means a person specified in an order made by the Treasury.
- (9) An order under subsection (8) may make transitional provision or savings.
- (10) References in this section to VAT do not include any VAT which, by virtue of an order under section 25(7), is excluded from credit under section 25.]

#### Textual Amendments

**F18** S. 33E inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 122](#)

### 34 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 VAT paid on the supply, 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 VAT or part of that VAT cannot be credited under section 25 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 VAT and for aggregating or excluding the aggregation of value where goods of the same description are supplied, acquired or imported together.

### 35 Refund of VAT to persons constructing certain buildings.

[<sup>F19</sup>(1) Where—

- (a) a person carries out works to which this section applies,
- (b) his carrying out of the works is lawful and otherwise than in the course or furtherance of any business, and
- (c) VAT is chargeable on the supply, acquisition or importation of any goods used by him for the purposes of the works,

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the Commissioners shall, on a claim made in that behalf, refund to that person the amount of VAT so chargeable.

- (1A) The works to which this section applies are—
- (a) the construction of a building designed as a dwelling or number of dwellings;
  - (b) the construction of a building for use solely for a relevant residential purpose or relevant charitable purpose; and
  - (c) a residential conversion.
- (1B) For the purposes of this section goods shall be treated as used for the purposes of works to which this section applies by the person carrying out the works in so far only as they are building materials which, in the course of the works, are incorporated in the building in question or its site.
- (1C) Where—
- (a) a person (“the relevant person”) carries out a residential conversion by arranging for any of the work of the conversion to be done by another (“a contractor”),
  - (b) the relevant person’s carrying out of the conversion is lawful and otherwise than in the course or furtherance of any business,
  - (c) the contractor is not acting as an architect, surveyor or consultant or in a supervisory capacity, and
  - (d) VAT is chargeable on services consisting in the work done by the contractor,
- the Commissioners shall, on a claim made in that behalf, refund to the relevant person the amount of VAT so chargeable.
- (1D) For the purposes of this section works constitute a residential conversion to the extent that they consist in the conversion of a non-residential building, or a non-residential part of a building, into—
- (a) a building designed as a dwelling or a number of dwellings;
  - (b) a building intended for use solely for a relevant residential purpose; or
  - (c) anything which would fall within paragraph (a) or (b) above if different parts of a building were treated as separate buildings.]
- (2) The Commissioners shall not be required to entertain a claim for a refund of VAT under this section unless the claim—
- (a) is made within such time and in such form and manner, and
  - (b) contains such information, and
  - (c) is accompanied by such documents, whether by way of evidence or otherwise, [F20 as may be specified by regulations or by the Commissioners in accordance with regulations.]
- (3) This section shall have effect—
- (a) as if the reference in subsection (1) above to the VAT chargeable on the supply of any goods included a reference to VAT chargeable on the supply in accordance with the law of another member State; and
  - (b) in relation to VAT chargeable in accordance with the law of another member State, as if references to refunding VAT to any person were references to paying that person an amount equal to the VAT chargeable in accordance with the law of that member State;

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and the provisions of this Act and of any other enactment or subordinate legislation (whenever passed or made) so far as they relate to a refund under this section shall be construed accordingly.

[<sup>F21</sup>(4) The notes to Group 5 of Schedule 8 shall apply for construing this section as they apply for construing that Group.

(5) The power of the Treasury by order under section 30 to vary Schedule 8 shall include—

- (a) power to apply any variation made by the order for the purposes of this section; and
- (b) power to make such consequential modifications of this section as they may think fit [<sup>F22</sup>but this is subject to subsection (4A) below.].]

[<sup>F23</sup>(4A) The meaning of “non-residential” given by Note (7A) of Group 5 of Schedule 8 (and not that given by Note (7) of that Group) applies for the purposes of this section but as if—

- (a) references in that Note to item 3 of that Group were references to this section, and
- (b) paragraph (b)(iii) of that Note were omitted.]

#### Textual Amendments

**F19** S. 35(1)(1A)-(1D) substituted (29.4.1996 with application as mentioned in s. 30(4) of the amending Act) for s. 35(1) by 1996 c. 8, s. 30(1)

**F20** Words in s. 35(2) substituted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 29 para. 4

**F21** S. 35(4)(5) inserted (29.4.1996 with application as mentioned in s. 30(4) of the amending Act) by 1996 c. 8, s. 30(3)

**F22** Words in s. 35(4) inserted (1.8.2001) by S.I. 2001/2305, art. 4(a)

**F23** S. 35(4A) inserted (1.8.2001) by S.I. 2001/2305, art. 4(b)

## 36 Bad debts.

(1) Subsection (2) below applies where—

- (a) a person has supplied goods or services <sup>F24</sup>. . . and has accounted for and paid VAT on the supply,
- (b) the whole or any part of the consideration for the supply has been written off in his accounts as a bad debt, and
- (c) a period of 6 months (beginning with the date of the supply) has elapsed.

(2) Subject to the following provisions of this section and to regulations under it the person shall be entitled, on making a claim to the Commissioners, to a refund of the amount of VAT chargeable by reference to the outstanding amount.

[<sup>F25</sup>(3) In subsection (2) above “the outstanding amount” means—

- (a) if at the time of the claim no part of the consideration written off in the claimant’s accounts as a bad debt has been received, an amount equal to the amount of the consideration so written off;
- (b) if at that time any part of the consideration so written off has been received, an amount by which that part is exceeded by the amount of the consideration written off;

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and in this subsection “received” means received either by the claimant or by a person to whom has been assigned a right to receive the whole or any part of the consideration written off.]

[<sup>F26</sup>(3A) For the purposes of this section, where the whole or any part of the consideration for the supply does not consist of money, the amount in money that shall be taken to represent any non-monetary part of the consideration shall be so much of the amount made up of—

- (a) the value of the supply, and
- (b) the VAT charged on the supply,

as is attributable to the non-monetary consideration in question.]

(4) A person shall not be entitled to a refund under subsection (2) above unless—

- (a) the value of the supply is equal to or less than its open market value, <sup>F27</sup> . . .
- <sup>F27</sup>(b) . . . . .

(4A) <sup>F28</sup> . . . . .

(5) Regulations under this section may—

- (a) require a claim to be made at such time and in such form and manner as may be specified by or under the regulations;
- (b) require a claim to be evidenced and quantified by reference to such records and other documents as may be so specified;
- (c) require the claimant to keep, for such period and in such form and manner as may be so specified, those records and documents and a record of such information relating to the claim and to [<sup>F29</sup>anything subsequently received] by way of consideration as may be so specified;
- (d) require the repayment of a refund allowed under this section where any requirement of the regulations is not complied with;
- (e) require the repayment of the whole or, as the case may be, an appropriate part of a refund allowed under this section [<sup>F30</sup>where any part (or further part) of the consideration written off in the claimant’s accounts as a bad debt is subsequently received either by the claimant or, except in such circumstances as may be prescribed, by a person to whom has been assigned a right to receive the whole or any part of that consideration;]
- (ea) <sup>F31</sup> . . . . .
- (f) include such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section;
- (g) make different provision for different circumstances.

(6) The provisions which may be included in regulations by virtue of subsection (5)(f) above may include rules for ascertaining—

- (a) whether, when and to what extent consideration is to be taken to have been written off in accounts as a bad debt;
- (b) whether [<sup>F32</sup>anything received] is to be taken as received by way of consideration for a particular supply;
- (c) whether, and to what extent, [<sup>F32</sup>anything received] is to be taken as received by way of consideration written off in accounts as a bad debt.

(7) The provisions which may be included in regulations by virtue of subsection (5)(f) above may include rules dealing with particular cases, such as those involving

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[<sup>F33</sup>receipt of part of the consideration] or mutual debts; and in particular such rules may vary the way in which the following amounts are to be calculated—

- (a) the outstanding amount mentioned in subsection (2) above, and
- (b) the amount of any repayment where a refund has been allowed under this section.

(8) 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

- F24** Words in s. 36(1)(a) repealed (31.7.1998 with effect as mentioned in s. 23(7) of the amending Act) by 1998 c. 36, ss. 23(1)(7), 165, **Sch. 27 Pt. II** Note
- F25** S. 36(3) substituted (27.7.1999 with effect as mentioned in s. 15(5) of the amending Act) by S.I. 1999 c. 16, **s. 15(1)**
- F26** S. 36(3A) inserted (31.7.1998 with effect as mentioned in s. 23(7) of the amending Act) by 1998 c. 36, **s. 23(3)(7)**
- F27** S. 36(4)(b) and word “and” immediately preceding it repealed (19.3.1997 with effect as mentioned in s. 39 of the amending Act) by 1997 c. 16, ss. 39, 113, **Sch. 18 Pt. IV(3)** Note
- F28** S. 36(4A) repealed (with effect as mentioned in s. 22(3) of the amending Act) by Finance Act 2002 (c. 23), s. 22(2), **Sch. 40 Pt. 2(1)**; S.I. 2002/3028, **art. 2**
- F29** Words in s. 36(5)(c) substituted (31.7.1998) by 1998 c. 36, **s. 23(4)(a)**
- F30** Words in s. 36(5)(e) substituted (27.7.1999 with effect as mentioned in s. 15(5) of the amending Act) by 1999 c. 16, **s. 15(2)**
- F31** S. 36(5)(ea) repealed (with effect as mentioned in s. 22(3) of the amending Act) by Finance Act 2002 (c. 23), s. 22(2), **Sch. 40 Pt. 2(1)**; S.I. 2002/3028, **art. 2**
- F32** Words in s. 36(6)(b)(c) substituted (31.7.1998) by 1998 c. 36, **s. 23(5)**
- F33** Words in s. 36(7) substituted (31.7.1998) by 1998 c. 36, **s. 23(6)**



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