



# Value Added Tax Act 1994

## 1994 CHAPTER 23

### PART III

#### APPLICATION OF ACT IN PARTICULAR CASES

#### 43 Groups of companies.

(1) Where under [<sup>F1</sup>sections 43A to 43D] any [<sup>F2</sup>persons] are treated as members of a group, any business carried on by a member of the group shall be treated as carried on by the representative member, and—

- (a) any supply of goods or services by a member of the group to another member of the group shall be disregarded; and
- (b) any [<sup>F3</sup>supply which is a supply to which paragraph (a) above does not apply and is a supply] of goods or services by or to a member of the group shall be treated as a supply by or to the representative member; and

[<sup>F4</sup>(c) any VAT paid or payable by a member of the group on the importation of goods shall be treated as paid or payable by the representative member and the goods shall be treated, for the purposes of sections 38 and 73(7), as imported by the representative member;]

and all members of the group shall be liable jointly and severally for any VAT due from the representative member.

[<sup>F5</sup>(1AA) Where—

- (a) it is material, for the purposes of any provision made by or under this Act (“the relevant provision”), whether the person by or to whom a supply is made, or the person by whom goods are <sup>F6</sup>... imported, is a person of a particular description,
- (b) paragraph (b) or (c) of subsection (1) above applies to any supply<sup>F7</sup>... or importation, and
- (c) there is a difference that would be material for the purposes of the relevant provision between—
  - (i) the description applicable to the representative member, and

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- (ii) the description applicable to the [<sup>F8</sup>person who] (apart from this section) would be regarded for the purposes of this Act as making the supply<sup>F9</sup>... or importation or, as the case may be, as being the person to whom the supply is made,
- the relevant provision shall have effect in relation to that supply<sup>F10</sup>... or importation as if the only description applicable to the representative member were the description in fact applicable to that [<sup>F11</sup>person].
- (1AB) Subsection (1AA) above does not apply to the extent that what is material for the purposes of the relevant provision is whether a person is a taxable person.]
- (1A) .....
- (2) An order under section 5(5) or (6) may make provision for securing that any goods or services which, if all the members of the group were one person, would fall to be treated under that section as supplied to and by that person, are treated as supplied to and by the representative member [<sup>F12</sup>and may provide for that purpose that the representative member is to be treated as a person of such description as may be determined under the order.].
- [<sup>F13</sup>(2A) A supply made by a member of a group (“ the supplier ”) to another member of the group (“ the UK member ”) shall not be disregarded under subsection (1)(a) above if—
- (a) it would (if there were no group) be a supply of services [<sup>F14</sup>to which section 7A(2)(a) applies made] to a person belonging in the United Kingdom;
  - (b) those services are not within any of the descriptions specified in Schedule 9;
  - (c) the supplier has been supplied (whether or not by a person belonging in the United Kingdom) with [<sup>F15</sup>any services <sup>F16</sup>... which do not fall within any of the descriptions specified in Schedule 9 [<sup>F17</sup>and section 7A(2)(a) applied to the supply];]
  - (d) the supplier belonged outside the United Kingdom when it was supplied with the services mentioned in paragraph (c) above; and
  - (e) the services so mentioned have been used by the supplier for making the supply to the UK member.
- (2B) Subject to subsection (2C) below, where a supply is excluded by virtue of subsection (2A) above from the supplies that are disregarded in pursuance of subsection (1)(a) above, all the same consequences shall follow under this Act as if that supply—
- (a) were a taxable supply in the United Kingdom by the representative member to itself, and
  - (b) without prejudice to that, were made by the representative member in the course or furtherance of its business.
- (2C) [<sup>F18</sup>Except in so far as the Commissioners may by regulations otherwise provide,] a supply which is deemed by virtue of subsection (2B) above to be a supply by the representative member to itself—
- (a) shall not be taken into account as a supply made by the representative member when determining any allowance of input tax under section 26(1) in the case of the representative member;
  - (b) shall be deemed for the purposes of paragraph 1 of Schedule 6 to be a supply in the case of which the person making the supply and the person supplied are connected within the meaning of [<sup>F19</sup>section 1122 of the Corporation Tax Act 2010] (connected persons); and

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- (c) subject to paragraph (b) above [<sup>F20</sup>and paragraph 8A of Schedule 6], shall be taken to be a supply the value and time of which are determined as if it were a supply of services which is treated by virtue of section 8 as made by the person by whom the services are received.

(2D) For the purposes of subsection (2A) above where—

- (a) there has been a supply of the assets of a business of a person (“ the transferor ”) to a person to whom the whole or any part of that business was transferred as a going concern (“ the transferee ”),
- (b) that supply is either—
  - (i) a supply falling to be treated, in accordance with an order under section 5(3), as being neither a supply of goods nor a supply of services, or
  - (ii) a supply that would have fallen to be so treated if it had taken place in the United Kingdom,

and

- (c) the transferor was supplied with services <sup>F21</sup>... at a time before the transfer when the transferor belonged outside the United Kingdom [<sup>F22</sup>and section 7A(2)(a) applied to the supply],

those services, so far as they are used by the transferee for making any supply [<sup>F23</sup>to which section 7A(2)(a) applies,] shall be deemed to have been supplied to the transferee at a time when the transferee belonged outside the United Kingdom.

(2E) Where, in the case of a supply of assets falling within paragraphs (a) and (b) of subsection (2D) above—

- (a) the transferor himself acquired any of the assets in question by way of a previous supply of assets falling within those paragraphs, and
- (b) [<sup>F24</sup>there is a supply to which section 7A(2)(a) applies of services which, if used by the transferor for making such a supply,] would be deemed by virtue of that subsection to have been supplied to the transferor at a time when he belonged outside the United Kingdom,

that subsection shall have effect, notwithstanding that the services have not been so used by the transferor, as if the transferor were a person to whom those services were supplied and as if he were a person belonging outside the United Kingdom at the time of their deemed supply to him; and this subsection shall apply accordingly through any number of successive supplies of assets falling within paragraphs (a) and (b) of that subsection.]

<sup>F25</sup>(3) .....

(4) .....

(5) .....

<sup>F26</sup>(5A) .....

(6) .....

(7) .....

(8) .....

[<sup>F27</sup>(9) Schedule 9A (which makes provision for ensuring that this section is not used for tax avoidance) shall have effect.]

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### Textual Amendments

- F1** Words in s. 43(1) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 20\(3\)](#)
- F2** Word in s. 43(1) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 5\(2\)](#); S.I. 2019/1348, reg. 2
- F3** Words in s. 43(1)(b) substituted (1.5.1995 with effect as mentioned in s. 25(5) of the amending Act) by 1995 c. 4, s. 25(2)(5)
- F4** S. 43(1)(c) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 46\(2\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F5** S. 43(1AA)(1AB) inserted (with effect in relation to any supply made after 26.11.1996 and in relation to any acquisition or importation taking place after that date) by 1997 c. 16, s. 40(1)(3)
- F6** Words in s. 43(1AA)(a) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 46\(3\)\(a\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F7** Word in s. 43(1AA)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 46\(3\)\(b\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F8** Words in s. 43(1AA)(c)(ii) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 5\(3\)\(a\)](#); S.I. 2019/1348, reg. 2
- F9** Word in s. 43(1AA)(c)(ii) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 46\(3\)\(c\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F10** Word in s. 43(1AA) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 46\(3\)\(d\)](#) (with [Sch. 8 para. 99](#)) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F11** Word in s. 43(1AA) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 5\(3\)\(b\)](#); S.I. 2019/1348, reg. 2
- F12** Words in s. 43(2) inserted (19.3.1997) by 1997 c. 16, s. 40(2)
- F13** S. 43(2A)-(2E) inserted (with effect in relation to supplies made on or after 26.11.1996) by 1997 c. 16, s. 41(1)(2)
- F14** Words in s. 43(2A)(a) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 36 paras. 7\(2\)\(a\), 14\(2\)](#) (with Sch. 36 paras. 14(2), 19)
- F15** Words in s. 43(2A) substituted (19.3.1997) by 1997 c. 16, s. 41(3)(4)
- F16** Words in s. 43(2A)(c) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\), Sch. 36 paras. 7\(2\)\(b\)\(i\), 14\(2\)](#) (with Sch. 36 paras. 14(2), 19)
- F17** Words in s. 43(2A)(c) inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 36 paras. 7\(2\)\(b\)\(ii\), 14\(2\)](#) (with Sch. 36 paras. 14(2), 19)
- F18** Words in s. 43(2C) inserted (19.3.1997) by 1997 c. 16, s. 41(3)(5)
- F19** Words in s. 43(2C)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 285\(a\)](#) (with Sch. 2)
- F20** Words in s. 43(2C)(c) inserted (with effect in accordance with s. 200(8) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 200\(2\)](#)
- F21** Words in s. 43(2D)(c) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of [Finance Act 2009 \(c. 10\), Sch. 36 paras. 7\(3\)\(a\)\(i\), 14\(2\)](#) (with Sch. 36 paras. 14(2), 19)

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- F22** Words in s. 43(2D)(c) inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 paras. 7\(3\)\(a\)\(ii\)](#), 14(2) (with [Sch. 36 paras. 14\(2\)](#), 19)
- F23** Words in s. 43(2D) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 paras. 7\(3\)\(b\)](#), 14(2) (with [Sch. 36 paras. 14\(2\)](#), 19)
- F24** Words in s. 43(2E)(b) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 36 paras. 7\(4\)](#), 14(2) (with [Sch. 36 paras. 14\(2\)](#), 19)
- F25** S 43(3)-(8) repealed (27.7.1999 with effect as mentioned in [Sch. 2 para. 6](#) of the amending Act) by [1999 c. 16, ss. 16, 139](#), [Sch. 2 para. 1\(3\)](#), [Sch. 20 Pt. II\(1\)](#)
- F26** S. 43(5A) inserted (1.5.1995 with effect as mentioned in s. 25(5) of the amending Act) by [1995 c. 4, s. 25\(4\)\(5\)](#)
- F27** S. 43(9) inserted (29.4.1996) by [1996 c. 8, s. 31\(1\)](#)

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