

Status: Point in time view as at 17/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, SCHEDULE 38. (See end of Document for details)

SCHEDULES

SCHEDULE 38

Section 192

VALUATION OF CERTAIN SUPPLIES OF FUEL

Introductory

1 VATA 1994 is amended as follows.

Valuation of supplies for private use

2 In Schedule 6 (valuation: special cases), before paragraph 1 insert—

“PART 1

VALUATION OF SUPPLIES OF FUEL FOR PRIVATE USE

Option for valuation on flat-rate basis

- A1 (1) This paragraph applies if, in a prescribed accounting period, supplies of goods by a taxable person (“P”) arise by virtue of paragraph 5(1) of Schedule 4 (but otherwise than for a consideration) where road fuel which is or has previously been supplied to or imported or manufactured by P in the course of P's business is provided for, or appropriated to, private use.
- (2) For this purpose “road fuel is provided for, or appropriated to, private use” if—
- (a) it is provided or to be provided by P—
 - (i) to an individual for private use in the individual's own car or a car allocated to the individual, and
 - (ii) by reason of the individual's employment,
 - (b) where P is an individual, it is appropriated or to be appropriated by P for private use in P's own car, or
 - (c) where P is a partnership, it is provided or to be provided to any of the individual partners for private use in that partner's own car.
- (3) P may opt for all supplies of goods within sub-paragraph (1) made by P in the prescribed accounting period to be valued on the flat-rate basis.
- (4) On the flat-rate basis, the value of all supplies made to any one individual in respect of any one car is that determined in accordance with an order under paragraph B1.
- B1 (1) The Treasury must, by order, make provision about the valuation of supplies on the flat-rate basis.

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- (2) In particular, an order under this paragraph must—
- (a) set out a table (“the base valuation table”) by reference to which the value of supplies is to be determined until such time as the base valuation table is replaced under paragraph (b),
 - (b) provide that at regular intervals—
 - (i) the amounts specified in the base valuation table are to be revalorised by the Commissioners in accordance with the order, and
 - (ii) a table (an “updated valuation table”) containing the revalorised amounts is to take effect (and replace any existing table) in accordance with the order, and
 - (c) require the Commissioners to publish any updated valuation table before it takes effect, together with a statement specifying the date from which it has effect.
- (3) An order under this paragraph may provide for the base valuation table and any updated valuation table to be implemented or supplemented by either or both of the following—
- (a) rules set out in the order which explain how the value is to be determined by reference to any table;
 - (b) notes set out in the order with respect to the interpretation or application of any table or any rules or notes.
- (4) Rules or notes may make different provision for different circumstances or cases.

Interpretation

- C1 (1) For the purposes of this Part of this Schedule—
- (a) any reference to an individual's own car is to be construed as including any car of which for the time being the individual has the use, other than a car allocated to the individual,
 - (b) subject to sub-paragraph (2), a car is at any time to be taken to be allocated to an individual if at that time it is made available (without any transfer of the property in it) either to the individual or to any other person, and is so made available by reason of the individual's employment and for private use, and
 - (c) fuel provided by an employer to an employee and fuel provided to any person for private use in a car which, by virtue of paragraph (b), is for the time being taken to be allocated to the employee is to be taken to be provided to the employee by reason of the employee's employment.
- (2) For the purposes of this Part of this Schedule, in any prescribed accounting period a car is not regarded as allocated to an individual by reason of the individual's employment if—
- (a) in that period it was made available to, and actually used by, more than one of the employees of one or more employers and, in the case of each of them, it—
 - (i) was made available to that employee by reason of the employment, but

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- (ii) was not in that period ordinarily used by any one of them to the exclusion of the others,
 - (b) in the case of each of the employees, any private use of the car made by the employee in that period was merely incidental to the employee's other use of it in that period, and
 - (c) in that period it was not normally kept overnight on or in the vicinity of any residential premises where any of the employees was residing, except while being kept overnight on premises occupied by the person making the car available to them.
- (3) In this Part of this Schedule—
- “employment” includes any office, and related expressions are to be construed accordingly;
 - “car” means a motor car as defined by paragraph 1A(4) and (5);
 - “road fuel” means hydrocarbon oil as defined by the Hydrocarbon Oil Duties Act 1979 (see section 1(2) of that Act) on which duty has been or is required to be paid in accordance with that Act.
- (4) The Treasury may, by order, amend the definition of “road fuel” in sub-paragraph (3).

PART 2 Other provisions ”.

- 3 In paragraph 6 of that Schedule (valuation of supplies of goods by virtue of paragraph 5(1) of Schedule 4 etc), in sub-paragraph (1), after “except where” insert “the person making the supply opts under paragraph A1(3) above for valuation on the flat-rate basis or ”.
- 4 Omit sections 56 and 57 (fuel for private use).
- 5 In section 97(4) (orders subject to affirmative procedure), in paragraph (f)—
- (a) after “paragraph” insert “ B1, C1(4), ”, and
 - (b) after “1A(7)” insert “ , 2A(4) ”.

Supplies to employees etc at less than open market value

- 6 After paragraph 2 of Schedule 6 insert—
- “2A (1) This paragraph applies if—
- (a) a taxable person (“P”) makes a supply of road fuel for a consideration,
 - (b) the recipient of the supply is—
 - (i) connected with P, or
 - (ii) an employee or partner of P or a person who is connected with such an employee or partner,
 - (c) the value of the supply would (in the absence of this paragraph) be less than its open market value, and
 - (d) the recipient of the supply is not entitled to credit for the whole of the input tax arising on the supply.

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- (2) The value of the supply is to be taken to be an amount equal to its open market value.
- (3) For the purposes of this paragraph—
 - (a) “road fuel” means hydrocarbon oil as defined by the Hydrocarbon Oil Duties Act 1979 (see section 1(2) of that Act) on which duty has been or is required to be paid in accordance with that Act, and
 - (b) any question whether a person is connected with another is to be determined in accordance with section 1122 of the Corporation Tax Act 2010.
- (4) The Treasury may, by order, amend the definition of “road fuel” in subparagraph (3)(a).”

Commencement and transitional provision

- 7 (1) The amendments made by paragraphs 2 to 4 come into force in relation to prescribed accounting periods beginning on or after 1 February 2014.
- (2) Subject to that, section 56 of VATA 1994 has effect on and after 11 December 2012 as if in subsection (2) of that section for the words after “it is supplied” there were substituted “ for consideration. ”
- 8 (1) The amendment made by paragraph 6 is to be treated as coming into force on 11 December 2012 and has effect in relation to—
 - (a) supplies of goods on or after the commencement day, and
 - (b) supplies of goods in the period beginning with 11 December 2012 and ending immediately before the commencement day, if and to the extent that the goods are not made available before the end of that period to the person to whom they are supplied.
- (2) “The commencement day” means the day on which this Act is passed.

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