

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 2017, Paragraph 6. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 17

#### DISCLOSURE OF TAX AVOIDANCE SCHEMES: VAT AND OTHER INDIRECT TAXES

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

- C1** Sch. 17 modified (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by 1994 c. 23, **Sch. 9ZA para. 80** (as inserted by Taxation (Post-transition Period) Act 2020 (c. 26), s. 11(1) (e), Sch. 2 para. 2 (with s. 3(4), **Sch. 2 para. 7(7)-(10)**); S.I. 2020/1642, **reg. 9**)

### PART 1

#### DUTIES TO DISCLOSE AVOIDANCE SCHEMES ETC

##### *“Tax advantage” in relation to VAT*

- 6 (1) A person (P) obtains a tax advantage in relation to VAT if—
- (a) in any prescribed accounting period, the amount by which the output tax accounted for by P exceeds the input tax deducted by P is less than it would otherwise be;
  - (b) P obtains a VAT credit when P would otherwise not do so, or obtains a larger credit or obtains a credit earlier than would otherwise be the case;
  - (c) in a case where P recovers input tax as a recipient of a supply before the supplier accounts for the output tax, the period between the time when the input tax is recovered and the time when the output tax is accounted for is greater than would otherwise be the case;
  - (d) in any prescribed accounting period, the amount of P's non-deductible tax is less than it otherwise would be;
  - (e) P avoids an obligation to account for tax.
- (2) In sub-paragraph (1)(d) “non-deductible tax”, in relation to a taxable person, means—
- (a) input tax for which the person is not entitled to credit under section 25 of VATA 1994,
  - (b) any VAT incurred by the person which is not input tax and in respect of which the person is not entitled to a refund from the Commissioners by virtue of any provision of VATA 1994.
- (3) For the purposes of sub-paragraph (2)(b), the VAT “incurred” by a taxable person is—
- (a) VAT on the supply to the person of any goods or services,
  - <sup>F1</sup>(b) .....
  - (c) VAT paid or payable by the person on the importation of any goods <sup>F2</sup>....

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- (4) A person who is not a taxable person obtains a tax advantage in relation to VAT if that person's non-refundable tax is less than it otherwise would be.
- (5) In sub-paragraph (4) “non-refundable tax” means—
- (a) VAT on the supply to the person of any goods or services,
  - <sup>F3</sup>(b) .....
  - (c) VAT paid or payable by the person on the importation of any goods <sup>F4</sup>..., but excluding (in each case) any VAT in respect of which the person is entitled to a refund from the Commissioners by virtue of any provision of VATA 1994.
- (6) Terms used in this paragraph which are defined in section 96 of VATA 1994 have the meanings given by that section.

#### Textual Amendments

- F1** Sch. 17 para. 6(3)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 131\(a\)\(i\)](#) (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)
- F2** Words in Sch. 17 para. 6(3)(c) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 131\(a\)\(ii\)](#) (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)
- F3** Sch. 17 para. 6(5)(b) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 131\(b\)\(i\)](#) (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)
- F4** Words in Sch. 17 para. 6(5)(c) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\)](#), s. 57(3), [Sch. 8 para. 131\(b\)\(ii\)](#) (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)

#### Commencement Information

- I1** [Sch. 17 para. 6](#) in force at Royal Assent for specified purposes and at 1.1.2018 otherwise, see s. 66(4)

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