



# Taxation (Cross-border Trade) Act 2018

## 2018 CHAPTER 22

### PART 3

#### VALUE ADDED TAX

#### **41 Abolition of acquisition VAT and extension of import VAT**

- (1) The Value Added Tax Act 1994 is amended as follows.
- (2) In section 1 (imposition of charge to value added tax), in subsection (1)—
  - (a) omit paragraph (b) (which charges VAT on the acquisition in the United Kingdom of goods from other member States), and
  - (b) for paragraph (c) substitute—
    - “(c) on the importation of goods into the United Kingdom,”.
- (3) For section 15 substitute—

#### **“15 Meaning of “importation of goods” into the United Kingdom**

- (1) This section determines for the purposes of this Act when, and by whom, goods are imported into the United Kingdom.
- (2) Goods are imported when they are declared for a Customs procedure under Part 1 of TCTA 2018.
- (3) But—
  - (a) in the case of goods declared under TCTA 2018 for a storage procedure, a transit procedure or an inward processing procedure, the goods are imported when a liability to import duty is, or on the relevant assumptions would be, incurred in respect of them under section 4 of that Act, and
  - (b) in the case of goods which are liable to forfeiture as a result of section 5(1) of, or paragraph 1(5) or 3(4) of Schedule 1 to, that Act (goods not presented to Customs or Customs declaration not made),

the goods are imported when they become liable to forfeiture as a result of those provisions.

- (4) Each person who is, or on the relevant assumptions would be, liable to import duty in respect of goods imported into the United Kingdom is a person who has imported the goods.
- (5) For the purposes of this section “the relevant assumptions” are—
  - (a) an assumption that a liability to import duty at a nil rate is replaced by a liability to import duty at a higher rate, and
  - (b) an assumption that no relief from import duty is available.
- (6) If two or more persons are regarded as importing goods, those persons are jointly and severally liable to any VAT that is payable on the importation.
- (7) The preceding provisions of this section are to be ignored in reading any reference to importation or to an importer in anything applied for the purposes of this Act by section 16(1) or (2).
- (8) But subsection (7) does not apply so far as the context otherwise requires or provision to the contrary is contained in regulations under section 16(3).”

#### **42 EU law relating to VAT**

- (1) Any EU regulation so far as applying in relation to value added tax, and any direct EU legislation so far as relevant to any such regulation, that form part of the law of the United Kingdom as a result of section 3 of the European Union (Withdrawal) Act 2018 cease to have effect (but, in the case of the implementing VAT regulation, see also subsection (5)).
- (2) In the application of section 4(1) of that Act (saving for EU rights, powers, liabilities, obligations, restrictions, remedies and procedures) in relation to value added tax, the rights, powers, liabilities, obligations, restrictions, remedies and procedures mentioned there are subject to any exclusions or other modifications made by regulations made by the Treasury by statutory instrument.
- (3) Further provision relevant to the law relating to value added tax is made by the European Union (Withdrawal) Act 2018: see, for example, section 6 of that Act (interpretation of retained EU law).
- (4) One of the consequences of the provision made by that Act is that the principle of EU law preventing the abuse of the VAT system (see, for example, the cases of *Halifax* and *Kittel*) continues to be relevant, in accordance with that Act, for the purposes of the law relating to value added tax.
- (5) Where the principal VAT directive remains relevant for determining the meaning and effect of the law relating to value added tax, that directive is to be read for that purpose in the light of the provision made by the implementing VAT regulation but ignoring such of its provisions as are excluded by regulations made by the Treasury by statutory instrument.
- (6) No regulations may be made under this section on or after 1 April 2023.
- (7) A statutory instrument containing regulations under this section must be laid before the House of Commons, and, unless approved by that House before the end of the

period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period.

- (8) The fact that a statutory instrument ceases to have effect as mentioned in subsection (7) does not affect—
- (a) anything previously done under the instrument, or
  - (b) the making of a new statutory instrument.
- (9) In calculating the period for the purposes of subsection (7), no account is to be taken of any time—
- (a) during which Parliament is dissolved or prorogued, or
  - (b) during which the House of Commons is adjourned for more than 4 days.
- (10) Regulations under this section—
- (a) may make different provision for different purposes or areas,
  - (b) may contain supplementary, incidental and consequential provision, and
  - (c) may contain transitional or transitory provision and savings.
- (11) In this section—
- “the implementing VAT regulation” means Council Implementing Regulation (EU) No 282/2011, and
  - “the principal VAT directive” means Council Directive 2006/112/EC on the common system of value added tax.

#### **43 Other VAT amendments connected with withdrawal from EU**

Schedule 8 makes amendments of the Value Added Tax Act 1994, and other enactments relating to VAT, in consequence of the provision made by this Part or otherwise in connection with the withdrawal of the United Kingdom from the EU.