
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st January 1993, amend the Value Added Tax (General) Regulations 1985. The amendments implement or reflect the provisions of the directive of the Council of the European Communities dated 17th May 1977 No. [77/388/EEC](#) (OJ No. L145, 13.6.77, p.1) (the Sixth VAT Directive) as amended by the directive of that Council dated 16th December 1991 No. [91/680/EEC](#) (OJ No. L376, 31.12.91, p.1) (the Amending Directive). The Amending Directive amends the Sixth VAT Directive with a view to the abolition of fiscal frontiers. From 1st January 1993, goods coming into the United Kingdom from another member State of the European Communities (“member State”) will not be chargeable to tax on importation but instead may be chargeable to tax on their acquisition in the United Kingdom. Goods imported into the United Kingdom from a place outside the member States will continue to be chargeable to tax on their importation. References below to an Article are references to an Article in the Sixth VAT Directive and references to a section or Schedule are references to a section of, or Schedule to, the Value Added Tax Act 1983.

Regulation 3 amends regulation 2(1) to take account of, first, the alternative definition of “prescribed accounting period” introduced by regulation 19 of these Regulations and, secondly, the introduction of Schedules 1A and 1B.

Regulation 4 (which implements Article 22.1) amends regulation 4 to embrace the requirements relating to registration for VAT under the new Schedules 1A (distance selling) and 1B (acquisitions).

Regulation 5 (which implements new Article 28.b.B.3) introduces regulation 9A which sets out the notification requirements placed upon persons who exercise the place of supply option in relation to distance sales.

Regulation 6 (which implements Article 2.1) introduces regulation 10A which sets out the notification requirements in respect of the appointment of a tax representative under the new section 32A. Regulation 6 also introduces regulation 10B which sets out the notification requirements where the tax on an overseas supplier’s supplies is accounted for and paid by his United Kingdom customers. Regulation 10B also provides that the value added tax legislation in respect of the administration, collection and enforcement of the tax shall have effect in respect of a customer whilst an undertaking is in force as if that tax were on supplies or acquisitions made by the customer.

Regulation 7 (which implements Article 22.1.d.) introduces regulation 11A which defines “alphabetical code”.

Regulation 8 (which implements Article 22.3.a.) substitutes a new regulation 12. That regulation, which refers to the obligation to provide a tax invoice, is amended to embrace certain transactions with persons in other member States.

Regulation 9 (which implements Article 22.3.a.b.) substitutes a new regulation 13. That regulation is amended to require the inclusion of certain specified details on a tax invoice issued to a person in another member State. The main additions are country code prefix and customer’s VAT registration number.

Regulation 10 (which implements Article 22.3.a.) amends regulation 15(1) to require the issue of a full tax invoice in respect of a supply of any value, by a retailer, to a person in another member State.

Regulation 11 (which implements Article 22.3.a.) substitutes a new regulation 16. That regulation is amended so as not to nullify the effect of new regulation 9A.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 12 introduces regulations 18A and 18B. Regulation 18A prescribes the description of invoice whose issue may be material for determining the time of the acquisition of goods from another member State. Regulation 18B provides special rules for determining the time of supply for land compulsorily purchased, and other transactions involving land, where the full amount of the consideration is not known at the time the land is sold.

Regulation 13 amends regulation 20 so as to provide for the time that supplies of water, gas or any form of power, heat, refrigeration or ventilation to another member State are to be treated as made.

Regulation 14 introduces regulation 20A, providing the time of acquisition of water, gas or any form of power, heat, refrigeration or ventilation from another member State, where the consideration for the acquisition is payable periodically.

Regulation 15 amends regulation 21 to exclude from the scope of regulation 21 supplier's goods in the possession of the buyer where the goods are supplied to somebody liable to account for acquisition tax on the supply in another member State.

Regulation 16 amends regulation 22 to exclude from the scope of regulation 22 contracts providing for retention payments on a supply of goods to somebody liable to account for acquisition tax on the supply in another member State.

Regulation 17 amends regulation 27 to make it clearer that any supply treated as made under Part IV of the Value Added Tax (General) Regulations when a payment is received, or an invoice is issued, is to be so treated only to the extent of the payment or invoice.

Regulation 18 amends regulation 28 by extending the regulations which are to be included as being referred to in section 41 (supplies spanning change of rate, etc).

Regulation 19 amends regulation 29(1) to introduce an alternative definition of "prescribed accounting period" (regulation 29(1)(b)), and a definition of "special accounting period" (regulation 29(1)(c)). These apply where a taxable person is belatedly registered for the purposes of the tax, and is given a first prescribed accounting period of six months or more. In conjunction with new regulations 29(1)(d) and 29(1)(e) and regulations 29(3) and 29(4) they determine the longer period or periods to be applied to the taxable person in such circumstances. Previous regulation 29(1)(b) becomes regulation 29(1A).

Regulation 20 amends regulation 30 to take account of acquisitions of goods from other member States. It also deletes paragraph (3)(b)(ii) of regulation 30 to reflect the deletion of items 5 and 6 of Group 9 of Schedule 5 and replaces it with a new paragraph which excludes the value of surrenders of interests in, rights over or licences to occupy land from apportionment calculations within the standard partial exemption method where such surrenders are incidental to the business of the taxable person making the surrender.

Regulation 21 amends regulation 32 to take account of acquisitions of goods from other member States, and to provide a right to deduct input tax in respect of supplies specified in the Value Added Tax (Input Tax) (Specified Supplies) Order 1992. This last amendment is a partial implementation of Article 17(3).

Regulations 22-24 amend regulations 37, 37B(a) and 37C(a) respectively to take account of acquisitions of goods from other member States.

Regulation 25 amends regulation 38 which interprets terms used in part VI (regulations concerning imports, exports and warehoused goods).

Regulation 26 amends regulation 39 which prescribes those customs and excise duties enactments to be excepted from application to VAT by virtue of section 24(1). The amended regulation incorporates the enactments currently excepted from application to VAT specified in section 24(3), which is amended with effect from 1st January 1993.

Regulation 27 introduces regulation 39A which carries forward the current provision in section 24(2), which is amended with effect from 1st January 1993, applying section 125(3) of the Customs and Excise Management Act 1979 to VAT by virtue of section 24(1).

Regulation 28 substitutes a new regulation 40 which specifies those directly applicable EC customs duty regulations to be excepted from application to VAT by virtue of section 24(1). Such regulations become generally applicable to VAT by virtue of section 24(1) for the first time on 1st January 1993.

Regulation 29 amends regulation 41 (postponed accounting for postal imports) to limit its application to consignments imported from outside the member States. The value limit for consignments is increased from £1,300 to £2,000 in line with current administrative practice.

Regulation 30 (which implements new Article 28.c.D.) substitutes a new regulation 42. The regulation provides a relief from VAT for taxable persons who import goods in the course of an onward zero-rated supply of those goods by the importer to a taxable person in another member State.

Regulation 31 omits regulation 44. With effect from 1st January 1993 goods placed under inward processing relief suspension arrangements will not be treated as imports for VAT purposes until the goods leave those arrangements and enter home use. Regulation 44 therefore becomes redundant.

Regulation 32 amends regulation 45 (re-importation of certain goods by non-taxable persons) to restrict its application to goods imported from outside the member States. The regulation is also amended to allow for the previous exportation to have been made from the United Kingdom or another member State.

Regulation 33 amends regulation 46 (re-importation of certain goods by taxable persons) to restrict its application to goods imported from outside the member States. The regulation is also amended to allow for the previous exportation to have been made from the United Kingdom or another member State.

Regulation 34 amends regulation 47 (re-importation of motor cars and works of art) to restrict its application to goods imported from outside the member States.

Regulation 35 amends regulation 48 (re-importation of goods exported for repair or process) to restrict its application to goods imported from outside the member States. The regulation is also amended to allow for the previous exportation to have been made from the United Kingdom or another member State.

Regulation 36 amends regulation 49 (zero-rating of supplies to export houses) to restrict its application to exports outside the member States.

Regulation 37 amends regulation 50 (zero-rating of supplies of containers) to restrict its application to exports outside the member States.

Regulation 38 amends regulation 51 (zero-rating of supplies to overseas persons) to restrict its application to exports outside the member States.

Regulations 39-42 amend the Retail Export Scheme, under which goods can be purchased for export free of VAT, to restrict its application to visitors who are not EC residents (including crew of any ship or aircraft) and who are returning to a country outside the member States and to EC residents who are emigrating to a country outside the member States. With effect from 1 January 1993 purchases of goods by EC residents will be taxed in the member State where the goods were supplied instead of upon their importation into another member State. Accordingly, regulations 53, 55 and 55A become redundant and are omitted. Regulations 52 and 54 are amended to restrict the relief from tax to the categories of person described above and to exports from the member States.

Regulation 43 amends regulations 56 and 57 (zero-rating of supplies of new vehicles to persons leaving the UK) to restrict its application to persons leaving the member States.

Regulation 44 introduces regulations 57A to 57L—

- (a) regulation 57A implements new Article 28c.A.a. The regulation provides for the zero-rating of supplies of goods which involve their removal to a customer in another member

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

State who is a taxable person. The regulation provides for the supply to be zero-rated subject to any conditions the Commissioners may impose.

- (b) regulation 57B implements new Article 28c.A.c. The regulation provides for the zero-rating of supplies of goods subject to excise duty which involve the removal of those goods to another member State in circumstances where the purchaser is not registered for VAT in the member States and he complies with the requirements of excise duty legislation relating to the intra-EC movement of excise goods. The regulation applies to persons or bodies purchasing such goods for business purposes or for the purposes of the activities carried on by the body and specifies that the supply will be zero-rated subject to any conditions the Commissioners may impose.
- (c) regulation 57C implements new Article 28c.A.b. The regulation provides for the Commissioners to permit the purchase of a new means of transport in the UK without payment of tax, where the purchaser is a non-taxable person who intends to remove it from the UK to another member State. The regulation provides for the supply to be zero-rated subject to any conditions the Commissioners may impose and prescribes the time limit for the removal of the new means of transport from the UK.
- (d) regulation 57D prescribes those “third territories” which, because they are part of the customs territory of the Community but outside the EC VAT system, are to be treated, for VAT purposes, as if they were third countries. Goods received from and sent to these territories will, for VAT purposes, be treated as imports and exports.
- (e) regulation 57E specifies those territories that are to be treated as part of the EC for VAT purposes.
- (f) regulation 57F implements new Article 33.a. and specifies that the EC Council Regulation and national legislation governing the formalities required when goods enter or leave the customs territory of the Community are to apply to imports from and exports to third territories.
- (g) regulation 57G also implements new Article 33.a. and specifies the circumstances in which the internal Community transit procedure is to apply to imports from third territories.
- (h) regulation 57H applies, for VAT purposes, customs and excise duty legislation to goods imported from third territories, save those import provisions excepted from application to VAT specified in regulations 39, 39B and 40.
- (i) regulation 57I specifies that Customs enforcement powers relating to imports from outside the member States shall apply to imports from the third territories specified in regulation 57D(2) which are part of the territory of a member State.
- (j) regulation 57J specifies that the EC Regulations governing the export of goods to a place outside the customs territory of the Community are to apply, for VAT purposes, to goods exported to third territories.
- (k) regulation 57K applies, for VAT purposes, national customs and excise legislation relating to the export of goods to places outside the member States to goods exported to third territories.
- (l) regulation 57L specifies that Customs enforcement powers relating to exports of goods outside the member States shall apply to the export of goods to the third territories specified in regulation 57D(2) which are part of the territory of a member State.

Regulation 45 introduces regulation 58A. The new regulation provides for tax on an acquisition being accounted and paid for by reference to the value shown on an invoice issued in accordance with regulation 18A.

Regulation 46 (which implements new Article 28.e.) introduces regulation 60A which provides for accounting for and payment of tax in certain cases by reference to the duty point and for any question

as to the inclusion of duty in the value of a supply or acquisition to be determined by reference to the duty point.

Regulation 47 (which implements Article 18) amends regulation 62(1A) to allow tax invoices issued under the law of another member State to be acceptable for deduction of input tax within the acquisition accounting arrangements.

Regulation 48 introduces regulations 64A to 64C—

- (a) regulation 64A implements Article 22. The regulation makes provision for the notification of, and payment of tax on, the acquisition of a new means of transport by non-taxable persons. It specifies the time by which both notification and payment must be made, the information to be provided, and requires that the notifications be sent to any office designated by the Commissioners for the purposes of receiving them.
- (b) regulation 64B implements new Article 28.a. The regulation defines the time of first entry into service of a means of transport for the purpose of determining whether or not the means of transport is new at the time of any intra-Community supply.
- (c) regulation 64C implements Article 22. The regulation makes provision for the notification of, and payment of tax on, the acquisition of goods subject to excise duty by persons or bodies who are not registered for VAT. It specifies the time by which both notification and payment must be made and the information to be provided.

Regulation 49 (which implements Article 21.1 and 22.1) substitutes revised forms 1 (application for registration), 4 (value added tax return) and 5 (final value added tax return) in the Schedule to the Value Added Tax (General) Regulations and introduces forms 6 (application for registration: distance selling), 7 (application for registration: acquisitions) and 8 (appointment of tax representative).