
STATUTORY INSTRUMENTS

1992 No. 645

VALUE ADDED TAX

The Value Added Tax (General) (Amendment) Regulations 1992

Made - - - - 10th March 1992

Laid before the House of

Commons - - - - 11th March 1992

Coming into force

*in accordance with
regulation 1 below*

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 14(9), 15(1), (3) and (4), 16(7) and 48(1) of the Value Added Tax Act 1983⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations:

1. These Regulations may be cited as the Value Added Tax (General) (Amendment) Regulations 1992 and shall come into force on 1 April 1992, save that where the next tax year of a taxable person commences on a day after 1 April 1992 regulations 3, 4 and 5 of these Regulations shall not have effect in relation to him until the first day of that tax year.

2. The Value Added Tax (General) Regulations 1985⁽²⁾ shall be amended as follows.

3. For Part V there shall be substituted the following—

“PART V

INPUT TAX AND PARTIAL EXEMPTION

Interpretation and longer periods

29.—(1) In this Part—

(a) “exempt input tax” means input tax, or a proportion of input tax, which is attributable to exempt supplies in accordance with the method used under

(1) 1983 c. 55. Section 15(1) and (3) were substituted by section 12(1) of the Finance Act 1987 (c. 16). Section 48(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise and “regulations” as meaning regulations made by the Commissioners.

(2) S.I. 1985/886; the relevant amending instruments are S.I. 1985/1650, 1987/150, 1987/510, 1989/1132, 1989/1302, 1989/2256, 1989/2355 and 1991/1332.

regulation 30 below or approved or directed to be used under regulation 31 below, as the case may be;

- (b) any reference to goods or services shall be construed as including a reference to anything which is supplied by way of a supply of goods or a supply of services respectively;
- (c) the “tax year” of a taxable person means—
 - (i) the first period of twelve calendar months commencing on the 1st day of April, May or June, according to the prescribed accounting periods allocated to him, next following his effective date of registration determined in accordance with Schedule 1 to the Act⁽³⁾; or
 - (ii) any subsequent period of twelve calendar months commencing on the day following the end of his first, or any subsequent, tax year;

save that the Commissioners may approve or direct that a tax year shall be a period of other than twelve calendar months or that it shall commence on a date other than that determined in accordance with paragraph (i) or (ii) above;

- (d) the “registration period” of a taxable person means the period commencing on his effective date of registration determined in accordance with Schedule 1 to the Act and ending on the day before the commencement of his first tax year.

(2) The provisions of paragraphs (3), (4), (5) and (6) below shall be used for determining the longer period applicable to taxable persons under this Part.

(3) A taxable person who incurs exempt input tax during any tax year shall have applied to him a longer period which shall correspond with that tax year unless he did not incur exempt input tax during his immediately preceding tax year or registration period, in which case his longer period shall—

- (a) begin on the first day of the first prescribed accounting period in which he incurs exempt input tax; and
- (b) end on the last day of that tax year,

except where he only incurs exempt input tax in the last prescribed accounting period of his tax year, in which case no longer period shall be applied to him in respect of that tax year.

(4) A taxable person who incurs exempt input tax during his registration period shall have applied to him a longer period which shall begin on the first day on which he incurs exempt input tax and end on the day before the commencement of his first tax year.

(5) In the case of a taxable person ceasing to be taxable during a longer period applicable to him, that longer period shall end on the day when he ceases to be taxable.

(6) The Commissioners may approve in the case of a taxable person who incurs exempt input tax, or a class of such persons, that a longer period shall apply which need not correspond with a tax year.

Attribution of input tax to taxable supplies

30.—(1) Subject to regulation 31 below, the amount of input tax which a taxable person shall be entitled to deduct provisionally shall be that amount which is attributable to taxable supplies in accordance with this regulation.

- (2) In respect of each prescribed accounting period:

(3) The relevant paragraphs of Schedule 1 were substituted by section 14 of the Finance Act 1988 (c. 39) and section 10(6) of the Finance Act 1990 (c. 29).

- (a) goods imported by and goods or services supplied to the taxable person in the period shall be identified;
 - (b) there shall be attributed to taxable supplies the whole of the input tax on such of those goods or services as are used or to be used by him exclusively in making taxable supplies;
 - (c) no part of the input tax on such of those goods or services as are used or to be used by him exclusively in making exempt supplies, or in carrying on any activity other than the making of taxable supplies, shall be attributed to taxable supplies;
 - (d) there shall be attributed to taxable supplies such proportion of the input tax on such of those goods or services as are used or to be used by him in making both taxable and exempt supplies as bears the same ratio to the total of such input tax as the value of taxable supplies made by him bears to the value of all supplies made by him in the period.
- (3) In calculating the proportion under paragraph (2)(d) above, there shall be excluded:
- (a) any sum receivable by the taxable person in respect of any supply of capital goods used by him for the purposes of his business;
 - (b) any sum receivable by the taxable person in respect of any of the following descriptions of supplies made by him, where such supplies are incidental to one or more of his business activities—
 - (i) any supply which falls within item 1 of Group 8 or item 1 of Group 8A of Schedule 5 to the Act(4);
 - (ii) any supply of financial services which falls within item 5 or 6 of Group 9 of Schedule 5 to the Act;
 - (iii) any grant which falls within item 1 of Group 1 of Schedule 6 to the Act(5);
 - (iv) any grant which falls within paragraph (a) of item 1 of Group 1 of Schedule 6 to the Act(5);
 - (v) any grant which would fall within item 1 of Group 1 of Schedule 6 to the Act(5) but for an election having effect under paragraph 2 of Schedule 6A to the Act(6);
 - (vi) any supply which falls within Group 5 of Schedule 6 to the Act(7);
 - (c) that part of the value of any supply of goods on which output tax is not chargeable by virtue of any order made by the Treasury under section 14(10) of the Act unless the taxable person acquired or imported the goods for the purpose of selling them;
 - (d) the value of any supply which, under or by virtue of any provision of the Act, the taxable person makes to himself.
- (4) The ratio calculated for the purpose of paragraph (2)(d) above shall be expressed as a percentage and, if that percentage is not a whole number, it shall be rounded up to the next whole number.

(4) Groups 8 and 8A were amended by paragraphs 1 and 2 respectively of Schedule 3 to the Finance Act 1989 (c. 26).
(5) Group 1 of Schedule 6 was amended by paragraph 4 of Schedule 3 to the Finance Act 1989.
(5) Group 1 of Schedule 6 was amended by paragraph 4 of Schedule 3 to the Finance Act 1989.
(5) Group 1 of Schedule 6 was amended by paragraph 4 of Schedule 3 to the Finance Act 1989.
(6) Schedule 6A was inserted by paragraph 6(2) of Schedule 3 to the Finance Act 1989.
(7) Group 5 of Schedule 6 was amended by section 18 of the Finance Act 1987 (c. 16), and S.I. 1985/432, 1987/860 and 1989/2272.

Use of other methods

31.—(1) The Commissioners may approve or direct the use by a taxable person of a method other than that specified in regulation 30 above, save that where the use of a method was allowed prior to 1st August 1989 there shall not be included in the calculation (if the method in question would otherwise allow it)—

- (a) the value of any supply which, under or by virtue of any provision of the Act, the taxable person makes to himself; and
- (b) the input tax on such a supply.

(2) A taxable person using a method as approved or directed by the Commissioners under paragraph (1) above shall continue to use that method unless the Commissioners approve or direct the termination of its use.

(3) Any direction under paragraph (1) or (2) above shall take effect from the date upon which the Commissioners give such direction or from such later date as they may specify.

Attribution of input tax to foreign and warehouse supplies

32. Input tax incurred by a taxable person in any prescribed accounting period on importations by or supplies to him which are used or to be used by him in whole or in part in making—

- (a) supplies outside the United Kingdom which would be taxable supplies if made in the United Kingdom, or
- (b) supplies which section 35 of the Act⁽⁸⁾ provides are to be disregarded for the purposes of the Act and which would otherwise be taxable supplies,

may be attributed to taxable supplies to the extent that the importations or supplies are so used or to be used.

Attribution of input tax on self-supplies

32A. Where under or by virtue of any provision of the Act a person makes a supply to himself, the input tax on that supply shall not be allowable as attributable to that supply.

Treatment of input tax attributable to exempt supplies as being attributable to taxable supplies

33.—(1) Subject to paragraphs (2) and (4) below, there shall be treated as attributable to taxable supplies any exempt input tax attributable to supplies of the following descriptions—

- (a) any deposit of money;
- (b) the grant of any lease or tenancy of or any licence to occupy any land where in any longer period—
 - (i) the input tax attributable to all such supplies by the grantor is less than £1,000; and
 - (ii) no exempt input tax is incurred by the grantor in respect of any exempt supply other than a supply of a description specified in this regulation;
- (c) any services comprised in item 3 of Group 2 of Schedule 6 to the Act;
- (d) services of arranging—

⁽⁸⁾ Section 35 was amended by section 12(3) of the Finance Act 1987 (c. 16).

- (i) any mortgage;
 - (ii) any hire purchase, credit sale or conditional sale transaction;
 - (e) the assignment of any debt due to the assignor in respect of a supply of goods or services made by him.
- (2) Paragraph (1) above shall not apply where the supply is made by the taxable person in the course of carrying on a business of, or a business similar to, any of the following:
- (a) a bank;
 - (b) an accepting house;
 - (c) an insurance company, agent or broker;
 - (d) an investment trust or unit trust;
 - (e) an investment company;
 - (f) a Stock Exchange broker/dealer or share dealing company;
 - (g) a trustee of a pension fund;
 - (h) a unit trust management company;
 - (i) a building society;
 - (j) a discount house;
 - (k) a finance house;
 - (l) a friendly society;
 - (m) a money lender;
 - (n) a money broker;
 - (o) a mortgage broker;
 - (p) a pawnbroker;
 - (q) a debt factor;
 - (r) a credit or charge card company.

(3) For the purpose of paragraph (2) above, a taxable person who carries on one or more of the businesses specified in that paragraph shall not be treated as having made the supply in the course of carrying on such a business if he made the supply exclusively in the course of carrying on a business which is not so specified.

(4) Paragraph (1) above shall not apply where the exempt input tax of the taxable person, excluding any exempt input tax attributable to supplies of the descriptions specified in that paragraph, cannot be treated as attributable to taxable supplies under regulation 33A below.

33A.—(1) Where in any prescribed accounting period or in any longer period the exempt input tax of a taxable person does not amount to more than £600 per month on average, all such input tax in that period shall be treated as attributable to taxable supplies.

- (2) In the application of paragraph (1) above to a longer period—
- (a) any treatment of exempt input tax as attributable to taxable supplies in any prescribed accounting period shall be disregarded; and
 - (b) no account shall be taken of any amount or amounts which may be deductible or payable under regulation 37D below.

Adjustment of attribution

34.—(1) Where a taxable person to whom a longer period is applicable has provisionally attributed an amount of input tax to taxable supplies in accordance with a method, and where all his exempt input tax in that longer period cannot be treated as attributable to taxable supplies under regulation 33 or 33A above, and save as the Commissioners may dispense with the following requirement to adjust, he shall:

- (a) determine for the longer period the amount of input tax which is attributable to taxable supplies according to the method used in the prescribed accounting periods; and
- (b) ascertain whether there has been, overall, an over-deduction or an under-deduction of input tax, having regard to the above-mentioned determination and to the sum of the amounts of input tax, if any, which were deducted in the returns for the prescribed accounting periods; and
- (c) include any such amount of over-deduction or under-deduction in a return for the first prescribed accounting period next following the longer period, except where the Commissioners allow another return to be used for this purpose.

(2) Where a taxable person to whom a longer period is applicable has provisionally attributed an amount of input tax to taxable supplies in accordance with a method, and where all his exempt input tax in that longer period can be treated as attributable to taxable supplies under regulation 33 or 33A above, he shall:

- (a) calculate the difference between the total amount of his input tax for that longer period and the sum of the amounts of input tax deducted in the returns for the prescribed accounting periods; and
- (b) include any such amount of under-deduction in a return for the first prescribed accounting period next following the longer period, except where the Commissioners allow another return to be used for this purpose.

35.—(1) This regulation applies where a taxable person has deducted an amount of input tax which has been attributed to taxable supplies because he intended to use the goods or services in making either:

- (a) taxable supplies; or
- (b) both taxable and exempt supplies;

and during a period of six years commencing on the first day of the prescribed accounting period in which the attribution was determined and before that intention is fulfilled he uses or forms an intention to use the goods or services concerned in making exempt supplies or, in the case of an attribution within sub-paragraph (a) above, in making both taxable and exempt supplies.

(2) Save as the Commissioners otherwise allow, where this regulation applies the taxable person shall on the return for the prescribed accounting period in which the use occurs or the intention is formed, as the case may be, account for an amount equal to the input tax which has ceased to be attributable to taxable supplies in accordance with the method which he was required to use when the input tax was first attributed and he shall repay the said amount to the Commissioners.

(3) For the purposes of this regulation any question as to the nature of any supply shall be determined in accordance with the provisions of the Act and any regulations or orders made thereunder in force at the time when the input tax was first attributed.

36.—(1) This regulation applies where a taxable person has incurred an amount of input tax which has not been attributed to taxable supplies because he intended to use the goods or services in making either:

- (a) exempt supplies; or
- (b) both taxable and exempt supplies;

and during a period of six years commencing on the first day of the prescribed accounting period in which the attribution was determined and before that intention is fulfilled he uses or forms an intention to use the goods or services concerned in making taxable supplies or, in the case of an attribution within sub-paragraph (a) above, in making both taxable and exempt supplies.

(2) Where this regulation applies, the Commissioners shall on receipt of an application made by the taxable person in such form and manner and containing such particulars as they may direct pay to him an amount equal to the input tax which has become attributable to taxable supplies in accordance with the method he was required to use when the input tax was first attributed.

(3) For the purposes of this regulation any question as to the nature of any supply shall be determined in accordance with the provisions of the Act and any regulations or orders made thereunder in force at the time when the input tax was first attributed.

Exceptional claims for tax relief

37.—(1) Subject to paragraphs (2) and (4) below, on a claim made in accordance with paragraph (3) below, the Commissioners may authorise a taxable person to treat as if it were input tax—

- (a) tax on the supply of goods or services to the taxable person before the date with effect from which he was, or was required to be, registered, or paid by him on imported goods before that date, for the purpose of a business which either was carried on or was to be carried on by him at the time of such supply or payment; and
- (b) in the case of a body corporate, tax on the supply or importation of goods acquired for it before its incorporation, or on the supply of services before that time for its benefit or in connection with its incorporation, provided that the person to whom the supply was made or who paid tax on the importation—
 - (i) became a member, officer or employee of the body and was reimbursed, or has received an undertaking to be reimbursed, by the body for the whole amount of the price paid for the goods or services,
 - (ii) was not at the time of the supply or importation a taxable person, and
 - (iii) acquired the goods or services for the purpose of a business to be carried on by the body and has not used them for any purpose other than such business.

(2) No tax may be treated as input tax under paragraph (1) above—

- (a) in respect of goods or services which had been supplied, or, in respect of goods, save as the Commissioners otherwise allow, consumed—
 - (i) by the taxable person, or
 - (ii) in the case of paragraph (1)(b) above, by the person who acquired the goods or services,

before the date with effect from which the taxable person was, or was required to be, registered; or

- (b) in respect of services performed upon goods to which sub-paragraph (a) above applies; or
- (c) in respect of services which had been supplied—
 - (i) to the taxable person, or
 - (ii) in the case of paragraph (1)(b) above, to the person who acquired the services,
more than six months before the date of the taxable person's registration.

(3) A claim under paragraph (1) above shall, save as the Commissioners may otherwise allow, be made on the first return the taxable person makes and, as the Commissioners may require, be supported by invoices and other evidence.

(4) A taxable person making a claim under paragraph (1) above shall compile and preserve for such period as the Commissioners may require—

- (a) in respect of goods, a stock account showing separately quantities purchased, quantities used in the making of other goods, date of purchase and date and manner of subsequent disposals of both such quantities; and
- (b) in respect of services, a list showing their description, date of purchase and date of disposal, if any.

(5) If a person who has been, but is no longer, a taxable person makes a claim in such manner and supported by such evidence as the Commissioners may require, they may pay to him the amount of any tax on the supply of services to him after the date with effect from which he ceased to be, or to be required to be, registered and which was attributable to any taxable supply made by him in the course or furtherance of any business carried on by him when he was, or was required to be, registered.”.

4. In paragraph (1) of regulation 37A, the words “Save that in this Part of these Regulations “tax year” shall include a “first tax year”,” shall be deleted.

5. For paragraph (1) of regulation 37E there shall be substituted the following:

“(1) Subject to regulation 37D(3) and paragraphs (2) and (3) below, for the purposes of this Part, an attribution of the total input tax on the capital item shall be determined for each subsequent interval applicable to it in accordance with the method used under Part V for that interval and the proportion of the input tax thereby determined to be attributable to taxable supplies shall be treated as being the extent to which the capital item is used in making taxable supplies in that subsequent interval.”.

6. In sub-paragraph (b)(i) of regulation 53 for “£66” there shall be substituted “£105”.

7. In sub-paragraph (b)(i) of regulation 55(1) for “£66” there shall be substituted “£105”.

New King's Beam House 22 Upper Ground
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10th March 1992

D. F. O. Battle
Commissioner of Customs and Excise

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations substitute a new Part V and amend Parts VA and VI of the Value Added Tax (General) Regulations 1985 (“the principal Regulations”).

In respect of Parts V and VA, these provisions reflect the requirements of Title XI of Council Directive [77/388/EEC](#) (OJNo. L145, 13.6.77, p.1).

In respect of Part VI, regulations 53 and 55 of the principal Regulations, as amended by these Regulations, implement the requirements of Articles 6, 7 and 7b of Council Directive [69/169/EEC](#) (OJ No. L133, 4.6.69, p.6 (OJ/SE 1969(I) p.232)) as amended by Council Directives [72/230/EEC](#) (OJ No. L139, 17.6.72, p.28 (OJ/SE 1972(II) p.565)), [78/1032/EEC](#) (OJ No. L366, 28.12.78, p.28), [85/348/EEC](#) (OJ No. L183, 16.7.85, p.24), [88/664/EEC](#) (OJ No. L382, 31.12.88, p.41), [89/194/EEC](#) (OJ No. L73, 17.3.89, p.47), [91/191/EEC](#) (OJ No. L94, 16.4.91, p.24) and [91/673/EEC](#) (OJ No. L373, 31.12.91, p.33).

Under regulation 1, regulations 6 and 7 (which amend Part VI) come into force on 1 April 1992 and regulations 3, 4 and 5 (which amend Parts V and VA) become effective on the first day of tax years beginning on or after 1 April 1992.

Regulation 3 substitutes a new Part V of the principal Regulations. This Part deals with the allowance of input tax, and the rules governing partial exemption. The main amendments are:

the new regulation 29 redefines the terms “exempt input tax” and “tax year”. The Commissioners are also empowered to approve or direct that a tax year shall be a period other than twelve months, or commence on a date other than that provided in the new regulation 29(1) (c);

the new regulation 30 prescribes a new method of attributing input tax to taxable supplies. This is the only method which may be used by taxable persons without the prior approval of the Commissioners;

the new regulation 31 authorises the Commissioners to approve or direct the use by taxable persons of methods other than that prescribed in new regulation 30. It also empowers the Commissioners to direct the termination of use of such methods;

new regulation 33(1) is qualified by new regulations 33(2), 33(3) and 33(4). It enables input tax attributable to certain exempt supplies to be treated as attributable to taxable supplies;

new regulation 33(2) disapplies new regulation 33(1) where the supply is made in the course of carrying on one of the businesses stipulated, or a business similar to such businesses;

new regulation 33(3) applies to taxable persons who carry on one or more of the businesses stipulated in new regulation 33(2), and who also carry on one or more businesses not so stipulated. New regulation 33(1) can apply to them if the supply is made exclusively in the course of carrying on a business not stipulated in new regulation 33(2);

new regulation 33(4) disapplies new regulation 33(1) where the exempt input tax of the taxable person, excluding any attributable to the supplies listed in new regulation 33(1), exceeds the *de minimis* limit in new regulation 33A;

new regulation 33A introduces a new single *de minimis* limit;

new regulation 35 provides for adjustments where input tax has been deducted because the taxable person intended to use the goods or services in making taxable supplies, or both taxable

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

and exempt supplies, and in the event uses, or forms an intention to use, them in making exempt supplies, or (where only taxable supplies were originally intended) both taxable and exempt supplies;

new regulation 36 deals with the converse of the situation covered by new regulation 35, and provides for payments to be made to taxable persons;

new regulation 37 no longer contains regulation 37(2)(d).

Regulations 4 and 5 of these Regulations amend Part VA of the principal Regulations. This is the Part which deals with adjustments of input tax deducted in respect of capital goods. The changes are:

regulation 37A(1) has been amended as a consequence of the redefinition of “tax year” in the new regulation 29 in Part V;

regulation 37E(1) has been substituted by a deeming provision for the calculation of the extent to which capital goods are used in making taxable supplies in subsequent intervals.

Regulations 6 and 7 of these Regulations amend regulation 53 and 55 of the principal Regulations to provide revised minimum values of goods that can be purchased under the retail export schemes by travellers to the Republic of Ireland.