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STATUTORY INSTRUMENTS

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**1995 No. 2518**

The Value Added Tax Regulations 1995

PART I  
PRELIMINARY

**Citation and commencement**

1. These Regulations may be cited as the Value Added Tax Regulations 1995 and shall come into force on 20th October 1995.

**Commencement Information**

**II** Reg. 1 in force at 20.10.1995, see [reg. 1](#)

**Interpretation—general**

2. —

(1) In these Regulations unless the context otherwise requires—

“the Act” means the Value Added Tax Act 1994 and any reference to a Schedule to the Act includes a reference to a Schedule as amended from time to time by Order of the Treasury;

“alphabetical code” means the alphabetical prefix as set out below which shall be used to identify the member State—

Austria—AT

Belgium—BE

Denmark—DK

Finland—FI

France—FR

Germany—DE

Greece—EL

Ireland—IE

Italy—IT

Luxembourg—LU

Netherlands—NL

Portugal—PT

Spain—ES

Sweden—SE

United Kingdom—GB;

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“Collector” includes Deputy Collector and Assistant Collector;

“the Community” means the European Community;

“continental shelf” means a designated area within the meaning of the Continental Shelf Act 1964(1);

“Controller” means the Controller, Customs and Excise Value Added Tax Central Unit;

“datapost packet” means a postal packet containing goods which is posted in the United Kingdom as a datapost packet for transmission to a place outside the United Kingdom in accordance with the terms of a contract entered into between the Post Office and the sender of the packet; or which is received at a post office in the United Kingdom from a place outside the United Kingdom for transmission and delivery in the United Kingdom as if it were a datapost packet;

[<sup>F1</sup>“fiscal or other warehousing regime” means “fiscal warehousing regime or warehousing regime”];

“prescribed accounting period”, subject to regulation 99(1), means a period such as is referred to in regulation 25;

“proper officer” means the person appointed or authorised by the Commissioners to act in respect of any matter in the course of his duties;

“registered person” means a person registered by the Commissioners under [<sup>F2</sup>Schedule 1, 2, 3 or 3A] to the Act;

“registration number” means the number allocated by the Commissioners to a taxable person in the certificate of registration issued to him;

“return” means a return which is required to be made in accordance with regulation 25;

“specified date” means the date specified in a person’s application for registration for the purpose of VAT as that on which he expects to make his first taxable supply.

(2) A reference in these Regulations to “this Part” is a reference to the Part of these Regulations in which that reference is made.

(3) In these Regulations any reference to a form prescribed in Schedule 1 to these Regulations shall include a reference to a form which the Commissioners are satisfied is a form to the like effect.

#### Textual Amendments

**F1** Words in [reg. 2\(1\)](#) inserted (28.4.1996) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), [regs. 1\(1\)\(2\)](#), [4](#)

**F2** Words in [reg. 2\(1\)](#) substituted (22.3.2000) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2000 \(S.I. 2000/794\)](#), [regs. 1](#), [3](#)

#### Commencement Information

**I2** Reg. 2 in force at 20.10.1995, see [reg. 1](#)

### Revocations and savings

3. —

(1) The Regulations described in Schedule 2 to these Regulations are hereby revoked.

(2) Anything begun under or for the purpose of any Regulations revoked by these Regulations shall be continued under or, as the case may be, for the purpose of the corresponding provision of these Regulations.

(3) Where any document used or required for the purpose of VAT refers to a provision of a regulation revoked by these Regulations, such reference shall, unless the context otherwise requires, be construed as a reference to the corresponding provision of these Regulations.

**Commencement Information**

**I3** Reg. 3 in force at 20.10.1995, see [reg. 1](#)

**Requirement, direction, demand or permission**

4. Any requirement, direction, demand or permission by the Commissioners, under or for the purposes of these Regulations, may be made or given by a notice in writing, or otherwise.

**Commencement Information**

**I4** Reg. 4 in force at 20.10.1995, see [reg. 1](#)

## PART II

### REGISTRATION AND PROVISIONS FOR SPECIAL CASES

**[<sup>F3</sup>Registration and notification**

5.—(1) Where any person is required under paragraph 5(1) or 6(1) of Schedule 1, paragraph 3(1) of Schedule 2, paragraph 3(1) of Schedule 3 or paragraph 3(1) or 4(1) of Schedule 3A to the Act to notify the Commissioners of his liability to be registered, the notification shall contain the particulars (including the declaration) set out in forms numbered 1, 6, 7 and 7A respectively in Schedule 1 to these Regulations and shall be made in those forms; provided that, where the notification is made by a partnership, the notification shall also contain the particulars set out in the form numbered 2 in that Schedule.

(2) Every registered person except one to whom paragraph 11, 12, 13(1), (2) or (3) of Schedule 1, paragraph 5 of Schedule 2, paragraph 5 of Schedule 3 or paragraph 5 of Schedule 3A of the Act applies, shall, within 30 days of any changes being made in the name, constitution or ownership of his business, or of any other event occurring which may necessitate the variation of the register or cancellation of his registration, notify the Commissioners in writing of such change or event and furnish them with full particulars thereof.

(3) Every notification by a registered person under paragraph 11 or 12 of Schedule 1, paragraph 5 of Schedule 2, paragraph 5 of Schedule 3 or paragraph 5 of Schedule 3A to the Act shall be made in writing to the Commissioners and shall state—

- (a) the date on which he ceased to make, or have the intention of making, taxable supplies; or
- (b) where paragraph 12(a) of Schedule 1 to the Act applies, the date on which he ceased to make, or have the intention of making, supplies within paragraph 10(2) of that Schedule; or
- (c) where paragraph 12(b) of Schedule 1 to the Act applies, the date on which he made, or formed the intention of making, taxable supplies; or

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- (d) where paragraph 5(1) of Schedule 2 to the Act applies, the date on which he ceased to be registrable by virtue of paragraph 5(4) of that Schedule; or
- (e) where paragraph 5(1) of Schedule 3 to the Act applies, the date on which he ceased to be registrable by virtue of paragraph 5(3) of that Schedule; or
- (f) where paragraph 5(1) of Schedule 3A to the Act applies, the date on which he ceased to make, or have the intention of making, relevant supplies within the meaning of paragraph 9 of that Schedule.]

#### Textual Amendments

**F3** Reg. 5 substituted (22.3.2000) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2000 \(S.I. 2000/794\)](#), regs. 1, 4

#### Transfer of a going concern

6. —

(1) Where—

- (a) a business is transferred as a going concern,
- (b) the registration under Schedule 1 to the Act of the transferor has not already been cancelled,
- (c) on the transfer of the business the registration of the transferor under that Schedule is to be cancelled and either the transferee becomes liable to be registered under that Schedule or the Commissioners agree to register him under paragraph 9 of that Schedule, and
- (d) an application is made in the form numbered 3 in Schedule 1 to these Regulations by or on behalf of both the transferor and the transferee of that business,

the Commissioners may as from the date of the said transfer cancel the registration under Schedule 1 to the Act of the transferor and register the transferee under that Schedule with the registration number previously allocated to the transferor.

(2) An application under paragraph (1) above shall constitute notification for the purposes of paragraph 11 of Schedule 1 to the Act.

(3) Where the transferee of a business has under paragraph (1) above been registered under Schedule 1 to the Act in substitution for the transferor of that business, and with the transferor's registration number—

- (a) any liability of the transferor existing at the date of the transfer to make a return or to account for or pay VAT under regulation 25 or 41 shall become the liability of the transferee,
- (b) any right of the transferor, whether or not existing at the date of the transfer, to credit for, or to repayment of, input tax shall become the right of the transferee,<sup>F4</sup> ...
- (c) any right of either the transferor, whether or not existing at the date of the transfer, or the transferee to payment by the Commissioners under section 25(3) of the Act shall be satisfied by payment to either of them]<sup>F5</sup>,
- (d) any right of the transferor, whether or not existing at the date of the transfer, to claim a refund under section 36 of the Act shall become the right of the transferee, and
- (e) any liability of the transferor, whether or not existing at the date of the transfer, to account for an amount under Part XIXA of these Regulations, shall become that of the transferee]

(4) In addition to the provisions set out in paragraph (3) above, where the transferee of a business has been registered in substitution for, and with the registration number of, the transferor during a

prescribed accounting period subsequent to that in which the transfer of the business took place but with effect from the date of the transfer of the business, and any—

- (a) return has been made,
- (b) VAT has been accounted for and paid, or
- (c) right to credit for input tax has been claimed,

either by or in the name of the transferee or the transferor, it shall be treated as having been done by the transferee.

#### Textual Amendments

- F4** Word in [reg. 6\(3\)\(b\)](#) omitted (1.5.1997) by virtue of [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **3(a)**
- F5** [Reg. 6\(3\)\(d\)\(e\)](#) added (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **3(b)**

#### Commencement Information

- I5** Reg. 6 in force at 20.10.1995, see [reg. 1](#)

### Notice by partnership

7. —

(1) Where any notice is required to be given for the purposes of the Act or these Regulations by a partnership, it shall be the joint and several liability of all the partners to give such notice, provided that a notice given by one partner shall be a sufficient compliance with any such requirement.

(2) Where, in Scotland, a body of persons carrying on a business which includes the making of taxable supplies is a partnership required to be registered, any notice shall be given and signed in the manner indicated in section 6 of the Partnership Act 1890(2).

#### Commencement Information

- I6** Reg. 7 in force at 20.10.1995, see [reg. 1](#)

### Representation of club, association or organisation

8. Anything required to be done by or under the Act, these Regulations or otherwise by or on behalf of a club, association or organisation, the affairs of which are managed by its members or a committee or committees of its members, shall be the joint and several responsibility of—

- (a) every member holding office as president, chairman, treasurer, secretary or any similar office; or in default of any thereof,
- (b) every member holding office as a member of a committee; or in default of any thereof,
- (c) every member,

provided that if it is done by any official, committee member or member referred to above, that shall be sufficient compliance with any such requirement.

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#### Commencement Information

**I7** Reg. 8 in force at 20.10.1995, see [reg. 1](#)

### Death, bankruptcy or incapacity of taxable person

#### 9. —

(1) If a taxable person dies or becomes bankrupt or incapacitated, the Commissioners may, from the date on which he died or became bankrupt or incapacitated treat as a taxable person any person carrying on that business until some other person is registered in respect of the taxable supplies made or intended to be made by that taxable person in the course or furtherance of his business or the incapacity ceases, as the case may be; and the provisions of the Act and of any Regulations made thereunder shall apply to any person so treated as though he were a registered person.

(2) Any person carrying on such business shall, within 21 days of commencing to do so, inform the Commissioners in writing of that fact and of the date of the death, [<sup>F6</sup>the date of the bankruptcy order,] or of the nature of the incapacity and the date on which it began.

(3) In relation to a company which is a taxable person, the references in paragraph (1) above to the taxable person becoming bankrupt or incapacitated shall be construed as references to the company going into liquidation or receivership or to an administration order being made in relation to it.

#### Textual Amendments

**F6** Words in [reg. 9\(2\)](#) inserted (28.4.1996) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), [regs. 1\(1\)\(2\)](#), [5](#)

#### Commencement Information

**I8** Reg. 9 in force at 20.10.1995, see [reg. 1](#)

### VAT representatives

#### 10. —

(1) Where any person is appointed by virtue of section 48 of the Act to be the VAT representative of another (in this regulation referred to as “his principal”), the VAT representative shall notify the Commissioners of his appointment on the form numbered 8 in Schedule 1 to these Regulations within 30 days of the date on which his appointment became effective and the notification shall contain the particulars (including the declaration) set out in that form.

(2) The notification referred to in this regulation shall be accompanied by evidence of the VAT representative’s appointment.

(3) Where a person is appointed by virtue of section 48 of the Act to be a VAT representative, the Commissioners shall register the name of that VAT representative against the name of his principal in the register kept for the purposes of the Act.

(4) Every VAT representative who is registered in accordance with this regulation shall, within 30 days of any changes being made in the name, constitution or ownership of his business or of his ceasing to be a person’s VAT representative, or of any other event occurring which may necessitate the variation of the register, notify the Commissioners in writing of such change, cessation or event and furnish them with full particulars thereof.

(5) For the purposes of this regulation the date upon which the appointment of a VAT representative (“the first VAT representative”) shall be regarded as having ceased shall be treated as being whichever is the earliest of the following times—

- (a) when the Commissioners receive any notification in accordance with regulation 5(2), or
- (b) when the Commissioners receive a notification of appointment in accordance with paragraph (1) above of a person other than the first VAT representative, or
- (c) when the Commissioners receive a notification of cessation in accordance with regulation 5(2), or
- (d) when the Commissioners receive a notification of cessation in accordance with paragraph (4) above, or
- (e) when a VAT representative dies, becomes insolvent or becomes incapacitated,

provided that if the Commissioners have not received a notification such as is mentioned in all or any of sub-paragraphs (a), (c) or (d) above and another person has been appointed as a VAT representative by virtue of section 48 of the Act, the Commissioners may treat the date of cessation as the date of appointment of that other person.

(6) In relation to a company which is a VAT representative, the references in paragraph (5)(e) above to the VAT representative becoming insolvent or incapacitated shall be construed as references to its going into liquidation or receivership or to an administration order being made in relation to it.

**Commencement Information**

**19** Reg. 10 in force at 20.10.1995, see [reg. 1](#)

**Notification of intended section 14(1) supplies by intermediate suppliers**

**11. —**

(1) An intermediate supplier who has made or intends to make a supply to which he wishes section 14(1) of the Act to apply shall notify the Commissioners and the customer in writing of his intention to do so.

(2) A notification under this regulation shall contain the following particulars—

- (a) the name and address of the intermediate supplier,
- (b) the number including the alphabetical code, by which the intermediate supplier is identified for VAT purposes, which was used or is to be used for the purpose of the supply to him by the original supplier,
- (c) the date upon which the goods were first delivered or are intended to be first delivered, and
- (d) the name, address and registration number of the customer to whom the goods have been supplied or are to be supplied.

(3) A notification under this regulation shall be made no later than the provision, in accordance with regulation 18, of the first invoice in relation to the supply to which it relates, and sent to—

- (a) the office designated by the Commissioners for the receipt of such notifications, and
- (b) the customer.

(4) Notifications under this regulation shall be made separately in relation to each customer to whom it is intended to make supplies to which the intermediate supplier wishes section 14(1) of the Act to apply.

(5) Where an intermediate supplier has complied with the requirements of this regulation in relation to the first supply to a customer to which section 14(1) of the Act applies, those requirements

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shall be deemed to have been satisfied in relation to all subsequent supplies to that customer while the intermediate supplier continues to belong in another member State.

**Commencement Information**

**I10** Reg. 11 in force at 20.10.1995, see [reg. 1](#)

**Notification of intended section 14(2) supplies by persons belonging in other member States**

**12. —**

(1) A person belonging in another member State who has made or who intends to make a supply to which he wishes section 14(2) of the Act to apply shall notify the Commissioners and the registered person in writing of his intention to do so.

(2) A notification under this regulation shall contain the following particulars—

- (a) the name and address of the person belonging in another member State,
- (b) the number including the alphabetical code by which the person belonging in another member State is identified for VAT purposes in the member State in which he belongs,
- (c) the date upon which the installation or assembly of the goods was commenced or is intended to commence, and
- (d) the name, address and registration number of the registered person to whom the goods have been supplied or are to be supplied.

(3) A notification under this regulation shall be made no later than the provision, in accordance with regulation 19, of the first invoice in relation to the supply to which it relates, and sent to—

- (a) the office designated by the Commissioners for the receipt of such notifications, and
- (b) the registered person to whom the goods are to be supplied.

(4) Notifications under this regulation shall be made separately in relation to each registered person to whom it is intended to make supplies to which the person belonging in another member State wishes section 14(2) of the Act to apply.

(5) Where a person belonging in another member State has complied with the requirements of this regulation in relation to the first supply to a registered person to which section 14(2) of the Act applies, those requirements shall be deemed to have been satisfied in relation to all subsequent supplies to that registered person while the person making the supply continues to belong in another member State.

**Commencement Information**

**I11** Reg. 12 in force at 20.10.1995, see [reg. 1](#)

## PART III

### VAT INVOICES AND OTHER INVOICING REQUIREMENTS

**Obligation to provide a VAT invoice**

**13. —**

(1) Save as otherwise provided in these Regulations, where a registered person—



- (a) makes a taxable supply in the United Kingdom to a taxable person, or
- (b) makes a supply of goods or services other than an exempt supply to a person in another member State, or
- (c) receives a payment on account in respect of a supply he has made or intends to make from a person in another member State,

he shall provide such persons as are mentioned above with a VAT invoice [<sup>F7</sup>(unless, in the case of that supply, he is entitled to issue and issues a VAT invoice pursuant to section 18C(1)(e) of the Act and regulation 145D(1) below in relation to the supply by him of specified services performed on or in relation to goods while those goods are subject to a fiscal or other warehousing regime)].

(2) The particulars of the VAT chargeable on a supply of goods described in paragraph 7 of Schedule 4 to the Act shall be provided, on a sale by auction, by the auctioneer, and, where the sale is otherwise than by auction, by the person selling the goods, on a document containing the particulars prescribed in regulation 14(1); and such a document issued to the buyer shall be treated for the purposes of paragraph (1)(a) above as a VAT invoice provided by the person by whom the goods are deemed to be supplied in accordance with the said paragraph 7.

(3) Where a registered person provides a document to himself which purports to be a VAT invoice in respect of a supply of goods or services to him by another taxable person registered in the United Kingdom, that document may, with the approval of the Commissioners, be treated as the VAT invoice required to be provided by the supplier under paragraph (1)(a) above.

(4) Where the person who makes a supply to which regulation 93 relates gives an authenticated receipt containing the particulars required under regulation 14(1) to be specified in a VAT invoice in respect of that supply, that document shall be treated as the VAT invoice required to be provided under paragraph (1)(a) above on condition that no VAT invoice or similar document which was intended to be or could be construed as being a VAT invoice for the supply to which the receipt relates is issued.

(5) The documents specified in paragraphs (1), (2), (3) and (4) above shall be provided within 30 days of the time when the supply is treated as taking place under section 6 of the Act, or within such longer period as the Commissioners may allow in general or special directions.

#### Textual Amendments

**F7** Words in [reg. 13\(1\)](#) inserted (28.4.1996) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), regs. 1(1)(2), [6](#)

#### Commencement Information

**I12** Reg. 13 in force at 20.10.1995, see [reg. 1](#)

### Contents of VAT invoice

#### 14. —

(1) Subject to paragraph (2) below and regulation 16<sup>F8</sup>... [<sup>F9</sup>and save as the Commissioners may otherwise allow,] a registered person providing a VAT invoice in accordance with regulation 13 shall state thereon the following particulars—

- (a) an identifying number,
- (b) the time of the supply,
- (c) the date of the issue of the document,
- (d) the name, address and registration number of the supplier,
- (e) the name and address of the person to whom the goods or services are supplied,

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- (f) the type of supply by reference to the following categories—
- (i) a supply by sale,
  - (ii) a supply on hire purchase or any similar transaction,
  - (iii) a supply by loan,
  - (iv) a supply by way of exchange,
  - (v) a supply on hire, lease or rental,
  - (vi) a supply of goods made from the customer's materials,
  - (vii) a supply by sale on commission,
  - (viii) a supply on sale or return or similar terms, or
  - (ix) any other type of supply which the Commissioners may at any time by notice specify,
- (g) a description sufficient to identify the goods or services supplied,
- (h) for each description, the quantity of the goods or the extent of the services, and the rate of VAT and the amount payable, excluding VAT, expressed in sterling,
- (i) the gross total amount payable, excluding VAT, expressed in sterling,
- (j) the rate of any cash discount offered,
- (k) each rate of VAT chargeable and the amount of VAT chargeable, expressed in sterling, at each such rate, and
- (l) the total amount of VAT chargeable, expressed in sterling.
- (2) Where a registered person provides to a person in another member State a VAT invoice<sup>F10</sup> ... he shall state thereon the following particulars<sup>F11</sup>, save as the Commissioners may otherwise allow] —
- (a) the information specified in sub-paragraphs (a) to (g) and (j) of paragraph (1) above,
  - (b) the letters “GB” as a prefix to his registration number,
  - (c) the registration number, if any, of the recipient of the supply of goods or services and which registration number, if any, shall contain the alphabetical code of the member State in which that recipient is registered,
  - (d) the gross amount payable, excluding VAT,
  - (e) where the supply is of a new means of transport (as defined in section 95 of the Act) a description sufficient to identify it as such,
  - (f) for each description, the quantity of the goods or the extent of the services, and where a positive rate of VAT is chargeable, the rate of VAT and the amount payable, excluding VAT, expressed in sterling, and
  - (g) where the supply of goods is a taxable supply, the information as specified in sub-paragraphs (k) and (l) of paragraph (1) above.
- (3) Where a taxable supply takes place as described in section 6(2)(c) or section 6(5) of the Act, any consignment or delivery note or similar document or any copy thereof issued by the supplier before the time of supply shall not, notwithstanding that it may contain all the particulars set out in paragraph (1) above, be treated as a VAT invoice provided it is endorsed “This is not a VAT invoice”.
- (4) Where a registered person provides an invoice containing the particulars specified in paragraphs (1) and (3) above, and specifies thereon any goods or services which are the subject of an exempt or zero-rated supply, he shall distinguish on the invoice between the goods or services which are the subject of an exempt, zero-rated or other supply and state separately the gross total amount payable in respect of each supply and rate.
- (5) Where a registered person provides a VAT invoice relating in whole or in part to a supply the VAT upon which is required to be accounted for and paid by the person supplied, on the supplier's

behalf, the supplier shall state that fact, and the amount of VAT so to be accounted for and paid, on the VAT invoice.

[<sup>F12</sup>(6) Where a registered person provides a VAT invoice relating in whole or in part to a supply of the letting on hire of a motor car other than for self-drive hire, he shall state on the invoice whether that motor car is a qualifying vehicle under article 7(2A) of the Value Added Tax (Input Tax) Order 1992.]

#### Textual Amendments

- F8** Comma in reg. 14(1) omitted (28.4.1996) by virtue of [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), regs. 1(1)(2), **7(1)**
- F9** Words in reg. 14(1) inserted (28.4.1996) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), regs. 1(1)(2), **7(1)**
- F10** Comma in reg. 14(2) omitted (28.4.1996) by virtue of [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), regs. 1(1)(2), **7(2)**
- F11** Words in reg. 14(2) inserted (28.4.1996) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), regs. 1(1)(2), **7(2)**
- F12** [Reg. 14\(6\)](#) inserted (1.1.1996) by [The Value Added Tax \(Amendment\) Regulations 1995 \(S.I. 1995/3147\)](#), regs. 1, **3**

#### Commencement Information

- I13** Reg. 14 in force at 20.10.1995, see [reg. 1](#)

#### Change of rate, credit notes

**15.** Where there is a change in the rate of VAT in force under section 2 of the Act or in the descriptions of exempt or zero-rated supplies, and a VAT invoice which relates to a supply in respect of which an election is made under section 88 of the Act was issued before the election was made, the person making the supply shall, within 14 days after any such change, provide the person to whom the supply was made with a credit note headed “Credit note-change of VAT rate” and containing the following particulars—

- (a) the identifying number and date of issue of the credit note,
- (b) the name, address and registration number of the supplier,
- (c) the name and address of the person to whom the supply is made,
- (d) the identifying number and date of issue of the VAT invoice,
- (e) a description sufficient to identify the goods or services supplied, and
- (f) the amount being credited in respect of VAT.

#### Commencement Information

- I14** Reg. 15 in force at 20.10.1995, see [reg. 1](#)

#### Retailers' invoices

**16.** —

(1) Subject to paragraph (2) below, a registered person who is a retailer shall not be required to provide a VAT invoice, except that he shall provide such an invoice at the request of a customer who is a taxable person in respect of any supply to him; but, in that event, if, but only if, the consideration

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for the supply does not exceed £100 and the supply is other than to a person in another member State, the VAT invoice need contain only the following particulars—

- (a) the name, address and registration number of the retailer,
- (b) the time of the supply,
- (c) a description sufficient to identify the goods or services supplied,
- (d) the total amount payable including VAT, and
- (e) for each rate of VAT chargeable, the gross amount payable including VAT, and the VAT rate applicable.

(2) Where a registered person provides an invoice in accordance with this regulation, the invoice shall not contain any reference to any exempt supply.

**Commencement Information**

**I15** Reg. 16 in force at 20.10.1995, see [reg. 1](#)

**Section 14(6) supplies to persons belonging in other member States**

**17.** —

(1) Where a registered person makes a supply such as is mentioned in section 14(6) of the Act he shall provide the person supplied with an invoice in respect of that supply.

(2) An invoice provided under this regulation shall—

- (a) comply with the requirements of regulations 13 and 14, and
- (b) bear the legend “VAT: EC ARTICLE 28 SIMPLIFICATION INVOICE”.

**Commencement Information**

**I16** Reg. 17 in force at 20.10.1995, see [reg. 1](#)

**Section 14(1) supplies by intermediate suppliers**

**18.** —

(1) On each occasion that an intermediate supplier makes or intends to make a supply to which he wishes section 14(1) of the Act to apply he shall, subject to paragraph (3) below, provide the customer with an invoice.

(2) An invoice provided under this regulation by an intermediate supplier shall—

- (a) comply with the provisions of the law corresponding, in relation to the member State which provided the intermediate supplier with the identification number for VAT purposes used or to be used by him for the purpose of the supply to him by the original supplier of the goods which were subsequently removed to the United Kingdom, to regulation 17,
- (b) be provided no later than 15 days after the time that the supply of the goods would, but for section 14(1) of the Act, have been treated as having taken place by or under section 6 of the Act,
- (c) cover no less than the extent of the supply which would, but for section 14(1) of the Act, have been treated as having taken place by or under section 6 of the Act at the time that such an invoice is provided, and
- (d) bear the legend “VAT: EC ARTICLE 28 SIMPLIFICATION INVOICE”.

(3) Where an intermediate supplier makes a supply such as is mentioned in paragraph (1) above, and he has already provided the customer with an invoice that complies with the requirements of sub-paragraphs (a), (c) and (d) of paragraph (2) above, he shall not be required to provide the customer with a further invoice in relation to that supply.

(4) Where an intermediate supplier makes a supply such as is mentioned in paragraph (1) above and he provides the customer with an invoice such as is described in paragraphs (2) and (3) above, that invoice shall be treated as if it were an invoice for the purpose of regulation 83.

(5) Where an intermediate supplier makes a supply such as is mentioned in paragraph (1) above and he provides the customer with an invoice that complies only with the requirements of paragraph (2)(a) above, that invoice shall, for the purposes of this regulation only, be treated as if it were a VAT invoice.

#### Commencement Information

I17 Reg. 18 in force at 20.10.1995, see [reg. 1](#)

### Section 14(2) supplies by persons belonging in other member States

#### 19. —

(1) On each occasion that a person belonging in another member State makes or intends to make a supply to which he wishes section 14(2) of the Act to apply he shall, subject to paragraph (3) below, provide the registered person with an invoice.

(2) An invoice provided under this regulation by a person belonging in another member State shall—

- (a) comply with the provisions of the law of the member State in which he belongs corresponding in relation to that member State to the provisions of regulation 14,
- (b) be provided no later than 15 days after the time that the supply of the goods would, but for section 14(2) of the Act, have been treated as having taken place by or under section 6 of the Act,
- (c) cover no less than the extent of the supply which would, but for section 14(2) of the Act, have been treated as having taken place by or under section 6 of the Act at the time that such an invoice is provided, and
- (d) bear the legend “SECTION 14(2) VATA INVOICE”.

(3) Where a person belonging in another member State makes a supply such as is mentioned in paragraph (1) above, and he has already provided the registered person with an invoice that complies with the requirements of sub-paragraphs (a), (c) and (d) of paragraph (2) above, he shall not be required to provide the registered person with a further invoice in relation to that supply.

(4) Where a person belonging in another member State makes a supply such as is mentioned in paragraph (1) above and he provides the registered person with an invoice such as is described in paragraphs (2) and (3) above, that invoice shall be treated as if it were an invoice for the purpose of regulation 83.

(5) Where a person belonging in another member State makes a supply such as is mentioned in paragraph (1) above, and he provides the registered person with an invoice that complies only with the requirements of paragraph (2)(a) above, that invoice shall, for the purposes of this regulation only, be treated as if it were a VAT invoice.

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

#### Commencement Information

**I18** Reg. 19 in force at 20.10.1995, see [reg. 1](#)

#### General

**20.** Regulations 13, 14, 15, 16, 17, 18 and 19 shall not apply to the following supplies made in the United Kingdom—

- (a) any zero-rated supply other than a supply for the purposes of an acquisition in another member State,
- (b) any supply to which an order made under section 25(7) of the Act applies,
- (c) any supply on which VAT is charged although it is not made for consideration, or
- (d) any supply to which an order made under section 32 of the Act applies.

#### Commencement Information

**I19** Reg. 20 in force at 20.10.1995, see [reg. 1](#)

## PART IV

### EC SALES STATEMENTS

#### Interpretation of Part IV

**21.** In this Part—

**F13**  
...

“form” means the form numbered 12 in Schedule 1 to these Regulations;

**F13**  
...

“registered in another member State” means registered in accordance with the measures adopted by the competent authority in another member State for the purposes of the common system of VAT and “registered” shall be construed accordingly;

“relevant figure” means the sum of the amount mentioned in paragraph 1(1)(a) of Schedule 1 to the Act and £25,500;

“statement” means the statement which a taxable person is required to submit in accordance with this Part of these Regulations;

“total value” means the consideration for the supply including the costs of any freight transport services and services ancillary to the transport of goods charged by the supplier of the goods to the customer.

#### Textual Amendments

**F13** Words in [reg. 21](#) omitted (1.3.1996) by virtue of [The Value Added Tax \(Amendment\) Regulations 1996 \(S.I. 1996/210\)](#), [regs. 1, 3](#)

### Commencement Information

**I20** Reg. 21 in force at 20.10.1995, see [reg. 1](#)

### Submission of statements

#### 22. —

(1) Subject to paragraph (6) below and save as the Commissioners may otherwise allow or direct, every taxable person who in any period of a quarter has made a supply of, or has dispatched, or has transported, or has transferred, goods to a person who is or was registered in another member State shall in relation to that period submit to the Commissioners, no later than 42 days after the end of that period, a statement in the form numbered 12 in Schedule 1 to these Regulations containing full information as specified in paragraph [F14(3) or (5)] below, as the case may require and a declaration signed by him that the statement is true and complete;

provided that—

- (a) the Commissioners may allow a taxable person to submit those statements in respect of periods of one month;
- (b) where a taxable person satisfies the Commissioners either that—
  - (i) at the end of any month, the value of his taxable supplies in the period of one year then ending is less than the relevant figure, or
  - (ii) at any time, there are reasonable grounds for believing that the value of his taxable supplies in the period of one year beginning at that or any later time will not exceed the relevant figure,

and either that—

- (iii) at the end of any month, the value of his supplies to persons registered in other member States in the period of one year then ending is less than £11,000, or
- (iv) at any time, there are reasonable grounds for believing that the value of his supplies to persons registered in other member States in the period of one year beginning at that or any later time will not exceed £11,000,

the Commissioners may allow that person to submit a statement which relates to the period of the year mentioned in sub-paragraphs (i) to (iv) above and which contains full information as specified in paragraph (3)(a) to (d) below and a declaration signed by him that the statement is true and complete;

- (c) where the Commissioners have allowed a taxable person under regulation 25 to make returns in respect of periods longer than 3 months and that person satisfies the Commissioners either that—
  - (i) at the end of any month, the value of his taxable supplies in the period of one year then ending is less than £145,000, or
  - (ii) at any time, there are reasonable grounds for believing that the value of his taxable supplies in the period of one year beginning at that or any later time will not exceed £145,000,

and either that—

- (iii) at the end of any month, the value of his supplies to persons registered in other member States in the period of one year then ending is less than £11,000, or
- (iv) at any time, there are reasonable grounds for believing that the value of his supplies to persons registered in other member States in the period of one year beginning at that or any later time will not exceed £11,000,

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

the Commissioners may allow that person to submit statements in respect of periods identical to those that have been allowed for the making of his returns and each statement shall contain full information as specified in paragraphs <sup>F15</sup>(3) or (5)] below, as the case may require, and a declaration signed by him that the statement is true and complete; and

(d) where the Commissioners consider it necessary in a particular case, they may allow or direct a taxable person to submit statements to a specified address.

(2) Where the Commissioners allow a statement to be submitted as is mentioned in the proviso to paragraph (1) above, that statement shall be submitted—

(a) where sub-paragraph (a) of the proviso applies, no later than 42 days after the end of the quarter in which the month in question occurs;

(b) where sub-paragraph (b) of the proviso applies, no later than 42 days after the end of the period of the year to which the statement relates; and

(c) where sub-paragraph (c) of the proviso applies, no later than 42 days after the end of the period in respect of which the Commissioners have allowed a return to be furnished.

(3) Save as the Commissioners may otherwise allow or direct, a taxable person shall in any statement such as is mentioned in paragraph (1) above specify—

(a) his name, address and registration number which number shall include the prefix GB,

(b) the date of the submission of the statement,

(c) the date of the last day of the period to which the statement refers,

(d) the registration number of each person acquiring or deemed to have acquired goods in the period, including the alphabetical code of the member State in which each such person is registered, and

(e) the total value of the goods supplied in the period to each person mentioned in sub-paragraph (d) above<sup>F16</sup>....

<sup>F17</sup>(4) .....

(5) Where a taxable person makes a supply such as is mentioned in regulation 18(1), he shall specify in the statement required under paragraph (1) above the following—

(a) the information mentioned in paragraph (3) above,

(b) the figure “2” in the box marked “indicator” on the form numbered 12 in Schedule 1 to these Regulations, and

(c) the total value of the goods supplied by him.

(6) Every taxable person who in any period of a quarter has made a supply of a new means of transport to a person for the purpose of acquisition by him in another member State shall in relation to that period submit to the Commissioners no later than 42 days after the end of that period a statement containing the particulars (including the declaration made by him) set out in the form numbered 13 in Schedule 1 to these Regulations,

provided that where the Commissioners consider it necessary in a particular case, they may allow or direct a taxable person to submit the statement to a specified address.

**Textual Amendments**

**F14** Words in [reg. 22\(1\)](#) substituted (1.3.1996) by [The Value Added Tax \(Amendment\) Regulations 1996 \(S.I. 1996/210\)](#), regs. 1, 4

**F15** Words in [reg. 22\(1\)\(c\)](#) substituted (1.3.1996) by [The Value Added Tax \(Amendment\) Regulations 1996 \(S.I. 1996/210\)](#), regs. 1, 4



- F16** Words in [reg. 22\(3\)\(e\)](#) omitted (1.3.1996) by virtue of [The Value Added Tax \(Amendment\) Regulations 1996 \(S.I. 1996/210\)](#), regs. 1, [5](#)
- F17** [Reg. 22\(4\)](#) omitted (1.3.1996) by virtue of [The Value Added Tax \(Amendment\) Regulations 1996 \(S.I. 1996/210\)](#), regs. 1, [6](#)

**Commencement Information**

- I21** [Reg. 22](#) in force at 20.10.1995, see [reg. 1](#)

**Final statements**

**23.** Any taxable person who ceases to be registered under Schedule 1 to the Act shall, unless another person has been registered with the registration number of and in substitution for him under regulation 6(3), submit to the Commissioners a final statement on either of the forms in Schedule 1 to these Regulations numbered 12 or 13 or both, as the case may require, and unless the Commissioners in any case otherwise allow or direct, any such statement shall contain—

- (a) the information specified in paragraphs [<sup>F18</sup>(3) and (5)] of regulation 22, or the full information required by the form numbered 13 in Schedule 1 to these Regulations or both, as the case may require, and
- (b) a declaration signed by him that the statement is true and complete,

and the statement shall be submitted no later than 42 days after the date with effect from which his registration has been cancelled.

**Textual Amendments**

- F18** Words in [reg. 23\(a\)](#) substituted (1.3.1996) by [The Value Added Tax \(Amendment\) Regulations 1996 \(S.I. 1996/210\)](#), regs. 1, [7](#)

**Commencement Information**

- I22** [Reg. 23](#) in force at 20.10.1995, see [reg. 1](#)

## PART V

### ACCOUNTING, PAYMENT AND RECORDS

**Interpretation of Part V**

**24.** In this Part—

“increase in consideration” means an increase in the consideration due on a supply made by a taxable person which is evidenced by a credit or debit note or any other document having the same effect and “decrease in consideration” is to be interpreted accordingly;

“insolvent person” means—

- (a) an individual who has been adjudged bankrupt;
- (b) a company in relation to which—
  - (i) a voluntary arrangement under Part I of the Insolvency Act 1986(3) has been approved,

(3) 1986 c. 45 .

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- (ii) an administration order has been made,
- (iii) an administrative receiver has been appointed,
- (iv) a resolution for voluntary winding up has been passed, or
- (v) an order for its winding-up has been made by the court at a time when it had not already gone into liquidation by passing a resolution for voluntary winding-up;

[<sup>F19</sup>“investment gold” has the same meaning as that expression has for the purposes of Group 15 of Schedule 9 to the Act;]

“negative entry” means an amount entered into the VAT account as a negative amount;

“positive entry” means an amount entered into the VAT account as a positive amount;

“VAT allowable portion”, “VAT payable portion” and “VAT account” have the meanings given in regulation 33;

“the Removal Order” means the Value Added Tax (Removal of Goods) Order 1992(4);

“the owner” has the same meaning as in article 2 of the Removal Order.

#### Textual Amendments

**F19** Words in [reg. 24](#) inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), [regs. 1, 3](#)

#### Commencement Information

**I23** [Reg. 24](#) in force at 20.10.1995, see [reg. 1](#)

## Making of returns

### 25. —

(1) Every person who is registered or was or is required to be registered shall, in respect of every period of a quarter or in the case of a person who is registered, every period of 3 months ending on the dates notified either in the certificate of registration issued to him or otherwise, not later than the last day of the month next following the end of the period to which it relates, make to the Controller a return on the form numbered 4 in Schedule 1 to these Regulations [<sup>F20</sup>(“Form 4”)] showing the amount of VAT payable by or to him and containing full information in respect of the other matters specified in the form and a declaration, signed by him, that the return is true and complete;

provided that—

- (a) the Commissioners may allow or direct a person to make returns in respect of periods of one month and to make those returns within one month of the periods to which they relate;
- (b) the first return shall be for the period which includes the effective date determined in accordance with [<sup>F21</sup>Schedules 1, 2, 3 and 3A] to the Act upon which the person was or should have been registered, and the said period shall begin on that date;
- (c) where the Commissioners consider it necessary in any particular case to vary the length of any period or the date on which any period begins or ends or by which any return shall be made, they may allow or direct any person to make returns accordingly, whether or not the period so varied has ended;
- (d) where the Commissioners consider it necessary in any particular case, they may allow or direct a person to make returns to a specified address.

(4) [S.I. 1992/3111](#).

(2) Any person to whom the Commissioners give any direction in pursuance of the proviso to paragraph (1) above shall comply therewith.

(3) Where for the purposes of this Part the Commissioners have made a requirement of any person pursuant to regulation 30—

- (a) the period in respect of which taxable supplies were being made by the person who died or became incapacitated shall end on the day previous to the date when death or incapacity took place; and
- (b) subject to sub-paragraph (1)(c) above, a return made on his behalf shall be made in respect of that period no later than the last day of the month next following the end of that period; and
- (c) the next period shall start on the day following the aforesaid period and it shall end, and all subsequent periods shall begin and end, on the dates previously determined under paragraph (1) above.

(4) Any person who—

- (a) ceases to be liable to be registered, or
- (b) ceases to be entitled to be registered under either or both of paragraphs 9 and 10 of Schedule 1 to the Act,

shall, unless another person has been registered with his registration number in substitution for him under regulation 6, make to the Controller a final return on the form numbered 5 in Schedule 1 to these Regulations [<sup>F22</sup>(“Form 5”)] and any such return shall contain full information in respect of the matters specified in the form and a declaration, signed by him, that the return is true and complete and shall be made, in the case of a person who was or is registered, within one month of the effective date for cancellation of his registration, and in the case of any other person, within one month of the date upon which he ceases to be liable to be registered, and in either case shall be in respect of the final period ending on the date aforementioned and be in substitution for the return for the period in which such date occurs.

[<sup>F23</sup>(4A) A person may make a return required by this regulation on an electronic version of Form 4 or Form 5 (as appropriate) using electronic communications.

(4B) Such a method of making a return shall be referred to in this Part as an “electronic return system”.

(4C) A person may only make a return by way of an electronic return system on condition that—

- (a) the electronic return system in question takes a form approved by the Commissioners in a specific or general direction; and
- (b) that person remains authorised by the Commissioners in accordance with paragraph (4G) below.

(4D) No return shall be treated as having been made under paragraph (4A) above unless the conditions imposed by paragraph (4C) above are satisfied.

(4E) An electronic return system shall incorporate an electronic validation process.

(4F) Subject to paragraph (4D) above—

- (a) the use of an electronic return system shall be proved to have resulted in the making of the return to the Controller only if this has been successfully recorded as such by the relevant electronic validation process;
- (b) the time of making the return to the Controller using an electronic return system shall be conclusively presumed to be the time recorded as such by the relevant electronic validation process; and

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*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

- (c) the person making the return to the Controller shall be presumed to be the person identified as such by any relevant feature of the electronic return system.
- (4G) The Commissioners may on application authorise a person to make returns using an electronic return system and may revoke any such authorisation.
- (4H) The Commissioners shall pay proper regard to the following factors before authorising a person or revoking an authorisation under paragraph (4G) above—
- (a) the state of development of any relevant electronic return system;
  - (b) the protection of the revenue;
  - (c) the degree of compliance of the person concerned with this Part; and
  - (d) any other relevant factor.
- (4I) A person shall not be authorised to make returns using an electronic return system only by reason of being—
- (a) registered under regulation 6 above in substitution for a person who has been so authorised (transfer of a going concern); or
  - (b) required by the Commissioners under regulation 30 below to comply with the requirements of this Part (person acting in a representative capacity).
- (4J) The electronic versions of Forms 4 and 5 shall not differ in any material respect from those in Schedule 1 to these Regulations but may include relevant modifications.
- (4K) Paragraphs (1) and (4) above shall have effect in relation to a return made by way of an electronic return system as if the expression “, signed by him,” were omitted.
- (4L) Paragraphs (4A) to (4K) above shall not be taken as affecting any provision except in relation to the means of making a return to the Controller.]
- (5) The Commissioners may allow VAT chargeable in any period to be treated as being chargeable in such later period as they may specify.

#### Textual Amendments

- F20** Words in [reg. 25\(1\)](#) inserted (1.3.2000) by [The Value Added Tax \(Amendment\) Regulations 2000 \(S.I. 2000/258\)](#), regs. 1(2), **3(1)**
- F21** Words in [reg. 25\(1\)\(b\)](#) substituted (22.3.2000) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2000 \(S.I. 2000/794\)](#), regs. 1, **5**
- F22** Words in [reg. 25\(4\)](#) inserted (1.3.2000) by [The Value Added Tax \(Amendment\) Regulations 2000 \(S.I. 2000/258\)](#), regs. 1(2), **3(2)**
- F23** [Reg. 25\(4A\)-\(4L\)](#) inserted (1.3.2000) by [The Value Added Tax \(Amendment\) Regulations 2000 \(S.I. 2000/258\)](#), regs. 1(2), **3(3)**

#### Commencement Information

- I24** [Reg. 25](#) in force at 20.10.1995, see [reg. 1](#)

### Accounting for VAT on an acquisition by reference to the value shown on an invoice

**26.** Where the time of the acquisition of any goods from another member State is determined by reference to the issue of an invoice such as is described in regulation 83, VAT shall be accounted for and paid in respect of the acquisition only on so much of its value as is shown on that invoice.

**Commencement Information**

**I25** Reg. 26 in force at 20.10.1995, see [reg. 1](#)

**Supplies under Schedule 4, paragraph 7**

**27.** Where goods are deemed to be supplied by a taxable person by virtue of paragraph 7 of Schedule 4 to the Act, the auctioneer on a sale by auction or, where the sale is otherwise than by auction, the person selling the goods, shall, whether or not registered under the Act, within 21 days of the sale—

- (a) furnish to the Controller a statement showing—
  - (i) his name and address and, if registered, his registration number,
  - (ii) the name, address and registration number of the person whose goods were sold,
  - (iii) the date of the sale,
  - (iv) the description and quantity of goods sold at each rate of VAT, and
  - (v) the amount for which they were sold and the amount of VAT charged at each rate,
- (b) pay the amount of VAT due, and
- (c) send to the person whose goods were sold a copy of the statement referred to in subparagraph (a) above, and the auctioneer or person selling the goods, as the case may be, and the person whose goods were sold shall exclude the VAT chargeable on that supply of those goods from any return made under these Regulations.

**Commencement Information**

**I26** Reg. 27 in force at 20.10.1995, see [reg. 1](#)

**Estimation of output tax**

**28.** Where the Commissioners are satisfied that a person is not able to account for the exact amount of output tax chargeable in any period, he may estimate a part of his output tax for that period, provided that any such estimated amount shall be adjusted and exactly accounted for as VAT chargeable in the next prescribed accounting period or, if the exact amount is still not known and the Commissioners are satisfied that it could not with due diligence be ascertained, in the next but one prescribed accounting period.

**Commencement Information**

**I27** Reg. 28 in force at 20.10.1995, see [reg. 1](#)

**Claims for input tax**

**29.** —

(1) [<sup>F24C</sup>Subject to paragraphs (1A) and (2) below], and save as the Commissioners may otherwise allow or direct either generally or specially, a person claiming deduction of input tax under section 25(2) of the Act shall do so on a return made by him for the prescribed accounting period in which the VAT became chargeable.

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

[<sup>F25</sup>(1A) The Commissioners shall not allow or direct a person to make any claim for deduction of input tax in terms such that the deduction would fall to be claimed more than 3 years after the date by which the return for the prescribed accounting period in which the VAT became chargeable is required to be made.]

(2) At the time of claiming deduction of input tax in accordance with paragraph (1) above, a person shall, if the claim is in respect of—

- (a) a supply from another taxable person, hold the document which is required to be provided under regulation 13;
- (b) a supply under section 8(1) of the Act, hold the relative invoice from the supplier;
- (c) an importation of goods, hold a document authenticated or issued by the proper officer, showing the claimant as importer, consignee or owner and showing the amount of VAT charged on the goods;
- (d) goods which have been removed from warehouse, hold a document authenticated or issued by the proper officer showing the claimant's particulars and the amount of VAT charged on the goods;
- (e) an acquisition by him from another member State of any goods other than a new means of transport, hold a document required by the authority in that other member State to be issued showing his registration number including the prefix "GB", the registration number of the supplier including the alphabetical code of the member State in which the supplier is registered, the consideration for the supply exclusive of VAT, the date of issue of the document and description sufficient to identify the goods supplied; or
- (f) an acquisition by him from another member State of a new means of transport, hold a document required by the authority in that other member State to be issued showing his registration number including the prefix "GB", the registration number of the supplier including the alphabetical code of the member State in which the supplier is registered, the consideration for the supply exclusive of VAT, the date of issue of the document and description sufficient to identify the acquisition as a new means of transport as specified in section 95 of the Act;

provided that where the Commissioners so direct, either generally or in relation to particular cases or classes of cases, a claimant shall hold, instead of the document or invoice (as the case may require) specified in sub-paragraph (a), (b), (c), (d), (e) or (f) above, such other documentary evidence of the charge to VAT as the Commissioners may direct.

(3) Where the Commissioners are satisfied that a person is not able to claim the exact amount of input tax to be deducted by him in any period, he may estimate a part of his input tax for that period, provided that any such estimated amount shall be adjusted and exactly accounted for as VAT deductible in the next prescribed accounting period or, if the exact amount is still not known and the Commissioners are satisfied that it could not with due diligence be ascertained, in the next but one prescribed accounting period.

#### Textual Amendments

- F24** Words in [reg. 29\(1\)](#) substituted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), [regs. 1, 4\(a\)](#)
- F25** [Reg. 29\(1A\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), [regs. 1, 4\(b\)](#)

#### Commencement Information

- I28** [Reg. 29](#) in force at 20.10.1995, see [reg. 1](#)

## Persons acting in a representative capacity

**30.** Where any person subject to any requirements under this Part dies or becomes incapacitated and control of his assets passes to another person, being a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity, that other person shall, if the Commissioners so require and so long as he has such control, comply with these requirements, provided that any requirement to pay VAT shall only apply to that other person to the extent of the assets of the deceased or incapacitated person over which he has control; and save to the extent aforesaid this Part shall apply to such a person, so acting, in the same way as it would have applied to the deceased or incapacitated person had that person not been deceased or incapacitated.

### Commencement Information

**I29** Reg. 30 in force at 20.10.1995, see [reg. 1](#)

## Records

### **31.** —

(1) Every taxable person shall, for the purpose of accounting for VAT, keep the following records—

- (a) his business and accounting records,
- (b) his VAT account,
- (c) copies of all VAT invoices issued by him,
- (d) all VAT invoices received by him,

[<sup>F26</sup>(da) all certificates—

(i) prepared by him relating to acquisitions by him of goods from other member States,  
or

(ii) given to him relating to supplies by him of goods or services,

provided that, owing to provisions in force which concern fiscal or other warehousing regimes, those acquisitions or supplies are either zero-rated or treated for the purposes of the Act as taking place outside the United Kingdom,]

- (e) documentation received by him relating to acquisitions by him of any goods from other member States,
- (f) copy documentation issued by him relating to the transfer, dispatch or transportation of goods by him to other member States,
- (g) documentation received by him relating to the transfer, dispatch or transportation of goods by him to other member States,
- (h) documentation relating to importations and exportations by him, and
- (i) all credit notes, debit notes, or other documents which evidence an increase or decrease in consideration that are received, and copies of all such documents that are issued by him.

(2) The Commissioners may—

(a) in relation to a trade or business of a description specified by them, or

(b) for the purposes of any scheme established by, or under, Regulations made under the Act, supplement the list of records required in paragraph (1) above by a notice published by them for that purpose.

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*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

(3) Every person who, at a time when he is not a taxable person, acquires in the United Kingdom from another member State any goods which are subject to a duty of excise or consist of a new means of transport shall, for the purposes of accounting for VAT, keep such records with respect to the acquisition as may be specified in any notice published by the Commissioners in pursuance of this regulation.

#### Textual Amendments

**F26** Reg. 31(1)(da) inserted (28.4.1996) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), regs. 1(1)(2), **8**

#### Commencement Information

**I30** Reg. 31 in force at 20.10.1995, see [reg. 1](#)

[<sup>F27</sup>**31A.**—(1) This regulation applies where a person—

- (a) makes a supply of investment gold of a description falling within item 1 of Group 15 of Schedule 9 to the Act, or
- (b) makes a supply of a description falling within item 2 of Group 15 of Schedule 9 to the Act, which subsequently results in the transfer of the possession of the investment gold.

(2) Subject to paragraph (6) below (and save as the Commissioners may otherwise allow in relation to supplies where the value is less than an amount equivalent to 15,000 euro at a rate specified in any notice published by the Commissioners for the purposes of this regulation) in addition to the requirements upon every taxable person under this Part, a person making a supply of a description falling within paragraph (1) above shall—

- (a) without prejudice to regulations 13 and 14, issue an invoice in respect of the supply containing such details as may be specified in a notice published by the Commissioners for the purposes of this regulation;
- (b) keep and maintain a record of the supply containing such details as may be specified in a notice published by the Commissioners for the purposes of this regulation;
- (c) retain such documents in relation to the supply as may be specified in a notice published by the Commissioners for the purposes of this regulation;
- (d) keep and maintain a record of the recipient of the supply containing such particulars pertaining to the recipient as may be specified in a notice published by the Commissioners for the purposes of this regulation;
- (e) keep and maintain such other records and documents as may be specified in a notice published by the Commissioners for the purposes of this regulation to allow the proper identification of each recipient of the supply;
- (f) notify the Commissioners in writing that he is making such supplies within 28 days of the first supply;
- (g) furnish to the Commissioners such information in relation to his making of the supply as may be specified in a notice published by them.

(3) A taxable person shall keep and maintain, together with the account he is required to keep and maintain under regulation 32 below, a record of exempt supplies of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act, that he makes to another taxable person.

(4) Where there is a sale of investment gold, which would if that person were supplying investment gold in the course or furtherance of any business, fall within item 1 or 2 of Group 15 of Schedule 9 to the Act, by a person who is not trading in investment gold, to a person who is so trading, the purchaser shall issue on behalf of the seller an invoice containing such particulars



as may be set out in a notice published by the Commissioners for the purposes of this regulation and the seller shall sign such form of declaration as may be set out in a notice published by the Commissioners for the purposes of this regulation.

(5) The records required to be kept and the documents required to be retained under paragraphs (1) to (4) above shall be preserved for a minimum period of 6 years.

(6) Paragraphs (2) to (5) above shall not apply to any person in respect of a supply by him of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act the value of which does not exceed £5,000, unless the total value of those supplies to any person over the last 12 months exceeds £10,000.

**Textual Amendments**

**F27** Regs. 31A-31C inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), regs. 1, 4

**31B.** Where a person receives a supply of a description falling within article 31A(1) above that person shall retain the purchase invoice in relation to that supply for a minimum period of 6 years.

**Textual Amendments**

**F27** Regs. 31A-31C inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), regs. 1, 4

**31C.** Paragraph 10(2) of Schedule 11 to the Act shall apply in relation to supplies of a description falling within items 1 and 2 of Group 15 of Schedule 9 to the Act as it applies in relation to the supply of goods under taxable supplies.]

**Textual Amendments**

**F27** Regs. 31A-31C inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), regs. 1, 4

**The VAT account**

**32.** —

(1) Every taxable person shall keep and maintain, in accordance with this regulation, an account to be known as the VAT account.

(2) The VAT account shall be divided into separate parts relating to the prescribed accounting periods of the taxable person and each such part shall be further divided into 2 portions to be known as “the VAT payable portion” and “the VAT allowable portion”.

(3) The VAT payable portion for each prescribed accounting period shall comprise—

- (a) a total of the output tax due from the taxable person for that period,
- (b) a total of the output tax due on acquisitions from other member States by the taxable person for that period,
- (c) every correction or adjustment to the VAT payable portion which is required or allowed by regulation 34, 35 or 38, and
- (d) every adjustment to the amount of VAT payable by the taxable person for that period which is required, or allowed, by or under any Regulations made under the Act.

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

- (4) The VAT allowable portion for each prescribed period shall comprise—
- (a) a total of the input tax allowable to the taxable person for that period by virtue of section 26 of the Act,
  - (b) a total of the input tax allowable in respect of acquisitions from other member States by the taxable person for that period by virtue of section 26 of the Act,
  - (c) every correction or adjustment to the VAT allowable portion which is required or allowed by regulation 34, 35 or 38, and
  - (d) every adjustment to the amount of input tax allowable to the taxable person for that period which is required, or allowed, by or under any Regulations made under the Act.

#### Commencement Information

**I31** Reg. 32 in force at 20.10.1995, see [reg. 1](#)

### The register of temporary movement of goods to and from other member States

#### 33. —

(1) Every taxable person shall keep and maintain, in accordance with this regulation, a register to be known as the register of temporary movement of goods to and from other member States.

(2) Where goods have been moved to or received from another member State and they are to be returned within a period of 2 years of the date of their first removal or receipt, as the case may be, the register shall contain the following information—

- (a) the date of removal of goods to another member State,
- (b) the date of receipt of the goods mentioned in sub-paragraph (a) above when they are returned from the member State mentioned in that sub-paragraph or another member State,
- (c) the date of receipt of goods from another member State,
- (d) the date of removal of the goods mentioned in sub-paragraph (c) above when they are returned to the member State mentioned in that sub-paragraph or another member State,
- (e) a description of the goods sufficient to identify them,
- (f) a description of any process, work or other operation carried out on the goods either in the United Kingdom or in another member State,
- (g) the consideration for the supply of the goods, and
- (h) the consideration for the supply of any processing, work or other operation carried out on the goods either in the United Kingdom or another member State.

(3) The Commissioners may in relation to a trade or business of a description specified by them supplement the list of information required in paragraph (2) above by a notice published by them for that purpose.

#### Commencement Information

**I32** Reg. 33 in force at 20.10.1995, see [reg. 1](#)

<sup>[F28]</sup>**33A.** A person making supplies of a description falling within article 4 of the Value Added Tax (Terminal Markets) Order 1973 shall not be required to keep in relation to those supplies the records specified in regulations 31 (save for paragraph (1)(a) of that regulation), 31A, 32 and 33 of these Regulations.

**Textual Amendments**

**F28** Regs. 33A, 33B inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999](#) (S.I. 1999/3114), regs. 1, 5

**33B.** Where a person of a description in article 6 of the Value Added Tax (Terminal Markets) Order 1973 who makes or receives supplies of a description falling within that article, the following Parts of these Regulations shall not apply in relation to those supplies, that is to say—

- (a) Part IV;
- (b) Part V.]

**Textual Amendments**

**F28** Regs. 33A, 33B inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999](#) (S.I. 1999/3114), regs. 1, 5

**Correction of errors**

**34.** —

(1) [<sup>F29</sup>Subject to paragraph (1A) below,] this regulation applies where a taxable person has made a return, or returns, to the Controller which overstated or understated his liability to VAT or his entitlement to a payment under section 25(3) of the Act.

[<sup>F30</sup>(1A) Subject to paragraph (1B) below, any overstatement or understatement in a return where—

- (a) a period of 3 years has elapsed since the end of the prescribed accounting period for which the return was made; and
- (b) the taxable person has not (in relation to that overstatement or understatement) corrected his VAT account in accordance with this regulation before the end of the prescribed accounting period during which that period of 3 years has elapsed,

shall be disregarded for the purposes of this regulation; and in paragraphs (2) to (6) of this regulation “overstatement”, “understatement” and related expressions shall be construed accordingly.

(1B) Paragraph (1A) above does not apply where—

- (a) the overstatement or understatement is discovered in a prescribed accounting period which begins before 1st May 1997; and
- (b) the return for that prescribed accounting period has not been made, and was not required to have been made, before that date.]

(2) In this regulation—

- (a) “under-declarations of liability” means the aggregate of—
  - (i) the amount (if any) by which credit for input tax was overstated in any return, and
  - (ii) the amount (if any) by which output tax was understated in any return;
- (b) “over-declarations of liability” means the aggregate of—
  - (i) the amount (if any) by which credit for input tax was understated in any return, and
  - (ii) the amount (if any) by which output tax was overstated in any return.

(3) Where, in relation to all such overstatements or understatements discovered by the taxable person during a prescribed accounting period, the difference between—

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*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

- (a) under-declarations of liability, and
- (b) over-declarations of liability,

does not exceed £2,000, the taxable person may correct his VAT account in accordance with this regulation.

(4) In the VAT payable portion—

- (a) where the amount of any overstatements of output tax is greater than the amount of any understatements of output tax a negative entry shall be made for the amount of the excess; or
- (b) where the amount of any understatements of output tax is greater than the amount of any overstatements of output tax a positive entry shall be made for the amount of the excess.

(5) In the VAT allowable portion—

- (a) where the amount of any overstatements of credit for input tax is greater than the amount of any understatements of credit for input tax a negative entry shall be made for the amount of the excess; or
- (b) where the amount of any understatements of credit for input tax is greater than the amount of any overstatements of credit for input tax a positive entry shall be made for the amount of the excess.

(6) Every entry required by this regulation shall—

- (a) be made in that part of the VAT account which relates to the prescribed accounting period in which the overstatements or understatements in any earlier returns were discovered,
- (b) make reference to the returns to which it applies, and
- (c) make reference to any documentation relating to the overstatements or understatements.

(7) Where the conditions referred to in paragraph (3) above do not apply, the VAT account may not be corrected by virtue of this regulation.

**35.** Where a taxable person has made an error—

- (a) in accounting for VAT, or
- (b) in any return made by him,

then, unless he corrects that error in accordance with regulation 34, he shall correct it in such manner and within such time as the Commissioners may require.

#### Textual Amendments

**F29** Words in [reg. 34\(1\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), [regs. 1, 5\(a\)](#)

**F30** [Reg. 34\(1A\)\(1B\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), [regs. 1, 5\(b\)](#)

#### Commencement Information

**I33** [Reg. 34](#) in force at 20.10.1995, see [reg. 1](#)

**I34** [Reg. 35](#) in force at 20.10.1995, see [reg. 1](#)

### Notification of acquisition of goods subject to excise duty by non-taxable persons and payment of VAT

**36.** —

(1) Where—

(a) a taxable acquisition of goods subject to excise duty takes place in the United Kingdom,  
(b) the acquisition is not in pursuance of a taxable supply, and  
(c) the person acquiring the goods is not a taxable person at the time of the acquisition,  
the person acquiring the goods shall notify the Commissioners of the acquisition at the time of the acquisition or the arrival of the goods in the United Kingdom, whichever is the later.

(2) The notification shall be in writing in the English language and shall contain the following particulars—

- (a) the name and current address of the person acquiring the goods,
- (b) the time of the acquisition,
- (c) the date when the goods arrived in the United Kingdom,
- (d) the value of the goods including any excise duty payable, and
- (e) the VAT due upon the acquisition.

(3) The notification shall include a declaration, signed by the person who is required to make the notification, that all the information entered in it is true and complete.

(4) Any person required to notify the Commissioners of an acquisition of goods subject to excise duty shall pay the VAT due upon the acquisition at the time of notification and, in any event, no later than the last day on which he is required by this regulation to make such notification.

(5) Where a person required to make notification dies or becomes incapacitated and control of his assets passes to another person, being a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity, that other person shall, so long as he has such control, be required to make the notification referred to in this regulation, provided that the requirement to pay the VAT due upon the acquisition shall apply to that other person only to the extent of the assets of the deceased or incapacitated person over which he has control and, save to the extent aforesaid, this regulation shall apply to such person so acting in the same way as it would have applied to the deceased or incapacitated person had that person not been deceased or incapacitated.

**Commencement Information**

**I35** Reg. 36 in force at 20.10.1995, see [reg. 1](#)

**Claims for recovery of overpaid VAT**

**37.** Any claim under section 80 of the Act shall be made in writing to the Commissioners and shall, by reference to such documentary evidence as is in the possession of the claimant, state the amount of the claim and the method by which that amount was calculated.

**Commencement Information**

**I36** Reg. 37 in force at 20.10.1995, see [reg. 1](#)

**Adjustments in the course of business**

**38.** —

(1) [<sup>F31</sup>Subject to paragraph (1A) below,] this regulation applies where—

- (a) there is an increase in consideration for a supply, or
- (b) there is a decrease in consideration for a supply,

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*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

which includes an amount of VAT and the increase or decrease occurs after the end of the prescribed accounting period in which the original supply took place.

[<sup>F32</sup>(1A) Subject to paragraph (1B) below, this regulation does not apply to any increase or decrease in consideration which occurs more than 3 years after the end of the prescribed accounting period in which the original supply took place.

(1B) Paragraph (1A) above does not apply where—

- (a) the increase or decrease takes place during a prescribed accounting period beginning before 1st May 1997; and
- (b) the return for the prescribed accounting period in which effect is given to the increase or decrease in the business records of the taxable person has not been made, and was not required to have been made, before that date.]

(2) Where this regulation applies, the taxable person shall adjust his VAT account in accordance with the provisions of this regulation.

(3) The maker of the supply shall—

- (a) in the case of an increase in consideration, make a positive entry; or
- (b) in the case of a decrease in consideration, make a negative entry,

for the relevant amount of VAT in the VAT payable portion of his VAT account.

(4) The recipient of the supply, if he is a taxable person, shall—

- (a) in the case of an increase in consideration, make a positive entry; or
- (b) in the case of a decrease in consideration, make a negative entry,

for the relevant amount of VAT in the VAT allowable portion of his VAT account.

(5) Every entry required by this regulation shall, except where paragraph (6) below applies, be made in that part of the VAT account which relates to the prescribed accounting period in which the increase or decrease is given effect in the business accounts of the taxable person.

(6) Any entry required by this regulation to be made in the VAT account of an insolvent person shall be made in that part of the VAT account which relates to the prescribed accounting period in which the supply was made or received.

(7) None of the circumstances to which this regulation applies is to be regarded as giving rise to any application of regulations 34 and 35.

#### Textual Amendments

**F31** Word in [reg. 38\(1\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), [regs. 1, 6\(a\)](#)

**F32** [Reg. 38\(1A\)\(1B\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), [regs. 1, 6\(b\)](#)

#### Commencement Information

**I37** [Reg. 38](#) in force at 20.10.1995, see [reg. 1](#)

### Calculation of returns

**39.** —

(1) Where a person is required by regulations made under the Act to make a return to the Controller, the amounts to be entered on that return shall be determined in accordance with this regulation.

(2) In the box opposite the legend “VAT due in this period on sales and other outputs” shall be entered the aggregate of all the entries in the VAT payable portion of that part of the VAT account which relates to the prescribed accounting period for which the return is made, except that the total of the output tax due in that period on acquisitions from other member States shall be entered instead in the box opposite the legend “VAT due in this period on acquisitions from other EC member States”.

(3) In the box opposite the legend “VAT reclaimed in this period on purchases and other inputs” (including acquisitions from other member States) shall be entered the aggregate of all the entries in the VAT allowable portion of that part of the VAT account which relates to the prescribed accounting period for which the return is made.

(4) Where any correction has been made and a return calculated in accordance with these Regulations then any such return shall be regarded as correcting any earlier returns to which regulations 34 and 35 apply.

**Commencement Information**

**I38** Reg. 39 in force at 20.10.1995, see [reg. 1](#)

**VAT to be accounted for on returns and payment of VAT**

[<sup>F33</sup>40.—(1) Any person making a return shall in respect of the period to which the return relates account in that return for—

- (a) all his output tax,
- (b) all VAT for which he is accountable by virtue of Part XVI of these Regulations,
- (c) all VAT which he is required to pay as a result of the removal of goods from a fiscal warehousing regime, and
- (d) all VAT which he is required to pay as a result of a supply of specified services (performed on or in relation to goods at a time when they are subject to a warehousing regime) being zero-rated under section 18C(1) of the Act where—
  - (i) that warehousing regime is one where goods are stored without payment of any duty of excise,
  - (ii) those goods are subject to a duty of excise,
  - (iii) those goods have been the subject of an acquisition from another member State and the material time for that acquisition was while those goods were subject to that warehousing regime, and,
  - (iv) there was no supply of those goods while they were subject to that warehousing regime.

The amounts to be entered on that return shall be determined in accordance with these Regulations.

(2) Any person required to make a return shall pay to the Controller such amount of VAT as is payable by him in respect of the period to which the return relates not later than the last day on which he is required to make that return.

[<sup>F34</sup>(2A) Where a return is made in accordance with regulation 25 above using an electronic return system, the relevant payment to the Controller required by paragraph (2) above shall be made solely by means of electronic communications that are acceptable to the Commissioners for this purpose.]

(3) The requirements of paragraphs (1) or (2) above shall not apply where the Commissioners allow or direct otherwise.]

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

**Textual Amendments**

- F33** Reg. 40 substituted (28.4.1996) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), regs. 1(1)(2), **9**
- F34** Reg. 40(2A) inserted (1.3.2000) by [The Value Added Tax \(Amendment\) Regulations 2000 \(S.I. 2000/258\)](#), regs. 1(2), **4**

**Commencement Information**

- I39** Reg. 40 in force at 20.10.1995, see [reg. 1](#)

[<sup>F35</sup>**40A.** Where the Commissioners in exercise of their power under section 28(2A) of the Act have directed the manner in which payments on account under section 28 of the Act are to be made, a person who is liable to make such payments shall also pay any amount of VAT payable in respect of a return for any prescribed accounting period in the like manner.]

**Textual Amendments**

- F35** Reg. 40A inserted (1.6.1996) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1996 \(S.I. 1996/1198\)](#), regs. 1, **3**

**Accounting etc. by reference to the duty point, and prescribed accounting period in which VAT on certain supplies is to be treated as being chargeable**

**41. —**

(1) Where in respect of—

- (a) any supply by a taxable person of dutiable goods, or
- (b) an acquisition by any person from another member State of dutiable goods,

the time of supply or acquisition, as the case may be, precedes the duty point in relation to those goods, the VAT in respect of that supply or acquisition shall be accounted for and paid, and any question as to the inclusion of any duty in the value of the supply or acquisition shall be determined, by reference to the duty point or by reference to such later time as the Commissioners may allow.

<sup>F36</sup>(2) .....

<sup>F36</sup>(3) .....

**Textual Amendments**

- F36** Reg. 41(2)(3) omitted (28.4.1996) by virtue of [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), regs. 1(1)(2), **10**

**Commencement Information**

- I40** Reg. 41 in force at 20.10.1995, see [reg. 1](#)

**Accounting for VAT on the removal of goods**

**42. —**

(1) This regulation applies where goods have been removed from a member State to a place in any other member State, and that removal falls within any of paragraphs (d), (f) or (g) of article 4 of the Removal Order.



(2) Except where paragraph (3) below applies in respect of the same prescribed accounting period, the owner shall not make any entry in the VAT payable portion of that part of his VAT account which relates to the prescribed accounting period in which he would be liable to account for any VAT chargeable in respect of the removal.

(3) Where—

- (a) the condition described in article 5 of the Removal Order has not been complied with, and
- (b) an amount of VAT has become payable,

the owner shall make a positive entry for the relevant amount of VAT in the VAT payable portion of that part of his VAT account which relates to the prescribed accounting period in which the condition was not complied with.

#### Commencement Information

**I41** Reg. 42 in force at 20.10.1995, see [reg. 1](#)

### Goods removed from warehousing regime

**43.** —

(1) This regulation applies to a registered person who is an approved person within the meaning of the Excise Duties (Deferred Payment) Regulations 1992<sup>(5)</sup> in respect of goods which are at a specified warehouse.

[<sup>F37</sup>(2) Where a person to whom this regulation applies is—

- (a) the person who is liable under section 18(4)(b) of the Act to pay VAT on a supply of goods while the goods are subject to a warehousing regime, or
- (b) liable under section 18D(2) of the Act to pay VAT on a supply of services to which section 18C(3) of the Act applies (specified services performed on or in relation to goods which are subject to a warehousing regime),

he may pay that VAT at or before the relevant time determined in accordance with paragraph (3) below instead of at the time provided for by sections 18(4)(b) or 18D(2)(a) of the Act.]

(3) For the purposes of paragraph (2) above the relevant time means—

- (a) in relation to hydrocarbon oils, the 15th day of the month immediately following the month in which the hydrocarbon oils were removed from the warehousing regime;
- (b) in relation to any other goods subject to a duty of excise, the day (payment day) on which the registered person is required to pay the excise duty on the goods in accordance with regulation 5 of the Excise Duties (Deferred Payment) Regulations 1992.

(4) Where any goods of a kind chargeable to a duty of excise qualify for any relief of that duty, that relief shall be disregarded for the purposes of determining the relevant time under paragraph (3) above.

#### Textual Amendments

**F37** Reg. 43(2) substituted (28.4.1996) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), [regs. 1\(1\)\(2\)](#), **11**

(5) [S.I. 1992/3152](#).

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#### Commencement Information

**I42** Reg. 43 in force at 20.10.1995, see [reg. 1](#)

## [<sup>F38</sup>PART VA

### REIMBURSEMENT ARRANGEMENTS

#### Textual Amendments

**F38** Pt. 5A inserted (11.2.1998) by [The Value Added Tax \(Amendment\) Regulations 1998 \(S.I. 1998/59\)](#), [regs. 1, 2](#)

#### Interpretation of Part VA

[<sup>F39</sup>43A]. In this Part—

“claim” means a claim made (irrespective of when it was made) under section 80 of the Act for repayment of an amount paid to the Commissioners by way of VAT which was not VAT due to them; and “claimed” and “claimant” shall be construed accordingly;

“reimbursement arrangements” means any arrangements (whether made before, on or after 30th January 1998) for the purposes of a claim which—

- (a) are made by a claimant for the purpose of securing that he is not unjustly enriched by the repayment of any amount in pursuance of the claim; and
- (b) provide for the reimbursement of persons (consumers) who have, for practical purposes, borne the whole or any part of the cost of the original payment of that amount to the Commissioners;

“relevant amount” means that part (which may be the whole) of the amount of a claim which the claimant has reimbursed or intends to reimburse to consumers.

#### Textual Amendments

**F39** Regs. 37A-37H renumbered as regs. 43A-43H (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), [regs. 1, 3](#)

#### Reimbursement arrangements—general

[<sup>F39</sup>43B]. Without prejudice to [<sup>F40</sup>regulation 43H] below, for the purposes of section 80(3) of the Act (defence by the Commissioners that repayment by them of an amount claimed would unjustly enrich the claimant) reimbursement arrangements made by a claimant shall be disregarded except where they—

- (a) include the provisions described in [<sup>F41</sup>regulation 43C] below; and
- (b) are supported by the undertakings described in [<sup>F42</sup>regulation 43G] below.

#### Textual Amendments

**F39** Regs. 37A-37H renumbered as regs. 43A-43H (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), [regs. 1, 3](#)

- F40** Words in reg. 43B substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **4(a)**
- F41** Words in reg. 43B(a) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **4(b)**
- F42** Words in reg. 43B(b) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **4(c)**

### Reimbursement arrangements—provisions to be included

- [<sup>F39</sup>43C]**. The provisions referred to in [<sup>F43</sup>regulation 43B(a)] above are that—
- (a) reimbursement for which the arrangements provide will be completed by no later than 90 days after the repayment to which it relates;
  - (b) no deduction will be made from the relevant amount by way of fee or charge (howsoever expressed or effected);
  - (c) reimbursement will be made only in cash or by cheque;
  - (d) any part of the relevant amount that is not reimbursed by the time mentioned in paragraph (a) above will be repaid by the claimant to the Commissioners;
  - (e) any interest paid by the Commissioners on any relevant amount repaid by them will also be treated by the claimant in the same way as the relevant amount falls to be treated under paragraphs (a) and (b) above; and
  - (f) the records described in [<sup>F44</sup>regulation 43E] below will be kept by the claimant and produced by him to the Commissioners, or to an officer of theirs in accordance with [<sup>F45</sup>regulation 43F] below.

#### Textual Amendments

- F39** Regs. 37A-37H renumbered as regs. 43A-43H (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **3**
- F43** Words in reg. 43C substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **5(a)**
- F44** Words in reg. 43C(f) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **5(b)**
- F45** Words in reg. 43C(f) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **5(c)**

### Repayments to the Commissioners

**[<sup>F39</sup>43D]**. The claimant shall, without prior demand, make any repayment to the Commissioners that he is required to make by virtue of [<sup>F46</sup>regulation 43C(d) and (e)] above within 14 days of the expiration of the period of 90 days referred to in [<sup>F47</sup>regulation 43C(a)] above.

#### Textual Amendments

- F39** Regs. 37A-37H renumbered as regs. 43A-43H (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **3**
- F46** Words in reg. 43D substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **6(a)**

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

**F47** Words in reg. 43D substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **6(b)**

## Records

[<sup>F39</sup>43E]. The claimant shall keep records of the following matters—

- (a) the names and addresses of those consumers whom he has reimbursed or whom he intends to reimburse;
- (b) the total amount reimbursed to each such consumer;
- (c) the amount of interest included in each total amount reimbursed to each consumer;
- (d) the date that each reimbursement is made.

### Textual Amendments

**F39** Regs. 37A-37H renumbered as regs. 43A-43H (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **3**

## Production of records

[<sup>F39</sup>43F].—(1) Where a claimant is given notice in accordance with paragraph (2) below, he shall, in accordance with such notice produce to the Commissioners, or to an officer of theirs, the records that he is required to keep pursuant to [<sup>F48</sup>regulation 43E] above.

(2) A notice given for the purposes of paragraph (1) above shall—

- (a) be in writing;
- (b) state the place and time at which, and the date on which the records are to be produced; and
- (c) be signed and dated by the Commissioners, or by an officer of theirs,

and may be given before or after, or both before and after the Commissioners have paid the relevant amount to the claimant.

### Textual Amendments

**F39** Regs. 37A-37H renumbered as regs. 43A-43H (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **3**

**F48** Words in reg. 43F(1) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **7**

## Undertakings

[<sup>F39</sup>43G].—(1) Without prejudice to [<sup>F49</sup>regulation 43H(b)] below, the undertakings referred to in [<sup>F50</sup>regulation 43B(b)] above shall be given to the Commissioners by the claimant no later than the time at which he makes the claim for which the reimbursement arrangements have been made.

(2) The undertakings shall be in writing, shall be signed and dated by the claimant, and shall be to the effect that—

- (a) at the date of the undertakings he is able to identify the names and addresses of those consumers whom he has reimbursed or whom he intends to reimburse;

- (b) he will apply the whole of the relevant amount repaid to him, without any deduction by way of fee or charge or otherwise, to the reimbursement in cash or by cheque, of such consumers by no later than 90 days after his receipt of that amount (except insofar as he has already so reimbursed them);
- (c) he will apply any interest paid to him on the relevant amount repaid to him wholly to the reimbursement of such consumers by no later than 90 days after his receipt of that interest;
- (d) he will repay to the Commissioners without demand the whole or such part of the relevant amount repaid to him or of any interest paid to him as he fails to apply in accordance with the undertakings mentioned in sub-paragraphs (b) and (c) above;
- (e) he will keep the records described in [F51regulation 43E] above; and
- (f) he will comply with any notice given to him in accordance with [F52regulation 43F] above concerning the production of such records.

#### Textual Amendments

- F39** Regs. 37A-37H renumbered as regs. 43A-43H (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **3**
- F49** Words in reg. 43G(1) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **8(1)(a)**
- F50** Words in reg. 43G(1) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **8(1)(b)**
- F51** Words in reg. 43G(2)(e) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **8(2)(a)**
- F52** Words in reg. 43G(2)(f) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **8(2)(b)**

#### Reimbursement arrangements made before 11th February 1998

[F39**43H**]. Reimbursement arrangements made by a claimant before 11th February 1998 shall not be disregarded for the purposes of section 80(3) of the Act if, not later than 11th March 1998—

- (a) he includes in those arrangements (if they are not already included) the provisions described in [F53regulation 43C] above; and
- (b) gives the undertakings described in [F54regulation 43G] above.]

#### Textual Amendments

- F39** Regs. 37A-37H renumbered as regs. 43A-43H (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **3**
- F53** Words in reg. 43H(a) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **9(a)**
- F54** Words in reg. 43H(b) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **9(b)**

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

## PART VI

### PAYMENTS ON ACCOUNT

#### Interpretation of Part VI

**44.** In this Part—

“body corporate” means a body corporate which is under a duty to make payments on account by virtue of the Value Added Tax (Payments on Account) Order 1993<sup>(6)</sup> and “relevant division” means a division of a body corporate by reference to the business of which that body corporate is under such a duty;

“payments on account” has the same meaning as in the Value Added Tax (Payments on Account) Order 1993.

#### Commencement Information

**I43** Reg. 44 in force at 20.10.1995, see [reg. 1](#)

#### Payments on Account

**45.** Save in a case to which regulation 48 applies, the Commissioners shall give to a taxable person who is under a duty to make payments on account notification in writing of—

- (a) the amounts that he is under a duty to pay,
- (b) how those amounts have been calculated, and
- (c) the times for payment of those amounts.

**46.** Save in a case to which regulation 48 applies, if in respect of a prescribed accounting period the total amount of the payment on account made by the taxable person exceeds the amount of VAT due from him in respect of that period, the amount of excess shall be paid to him by the Commissioners if and to the extent that it is not required by section 81 of the Act to be set against any sum which he is liable to pay to them.

<sup>[F55]</sup>**46A.**—(1) A payment on account and a payment in respect of a return to which regulation 40A above applies shall not be treated as having been made by the last day on which it is required to be made unless it is made in such a manner as secures that all the transactions can be completed that need to be completed before the whole of the amount becomes available to the Commissioners.

(2) For the purposes of this regulation and regulation 47 below, references to a payment being made by any day include references to its being made on that day.]

**47.** Where a taxable person fails to make a payment on account by the last day by which he is required to make it, that payment on account shall be recoverable as if it were VAT due from him.

**48.** —

(1) The Commissioners shall notify a relevant division in writing of—

- (a) the amounts of the payments on account that the body corporate is under a duty to make by reference to the business of that division,
- (b) how those amounts have been calculated, and
- (c) the times for payment of those amounts.

(6) [S.I. 1993/2001](#).

(2) If in respect of a prescribed accounting period the total amount of the payments on account made by a body corporate by reference to the business of a particular relevant division exceeds the amount of VAT due from the body corporate in respect of that period by reference to that business, the amount of the excess shall be paid to the body corporate through that division by the Commissioners if and to the extent that it is not required by section 81 of the Act to be set against any sum which the body corporate is liable to pay to them.

(3) Section 81 of the Act shall not require any amount which is due to be paid by the Commissioners to a body corporate under paragraph (2) above by reference to the business of a particular relevant division to be set against any sum due from the body corporate otherwise than by reference to that business or to the liabilities of the body corporate arising in connection with that division.

#### Textual Amendments

**F55** Reg. 46A inserted (1.6.1996) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1996 \(S.I. 1996/1198\)](#), regs. 1, 4

#### Commencement Information

**I44** Reg. 45 in force at 20.10.1995, see [reg. 1](#)

**I45** Reg. 46 in force at 20.10.1995, see [reg. 1](#)

**I46** Reg. 47 in force at 20.10.1995, see [reg. 1](#)

**I47** Reg. 48 in force at 20.10.1995, see [reg. 1](#)

## **[<sup>F56</sup>PART VII**

### ANNUAL ACCOUNTING

#### Textual Amendments

**F56** Pt. 7 substituted (with effect in accordance with reg. 1 of the amending S.I.) by [The Value Added Tax \(Annual Accounting\) Regulations 1996 \(S.I. 1996/542\)](#), regs. 1, 3

#### Interpretation of Part VII

**49.** In this Part—

“authorised person” means a person who has been authorised by the Commissioners in accordance with regulation 50(1), and “authorised” and “authorisation” shall be construed accordingly;

“transitional accounting period” means the period commencing on the first day of a person’s prescribed accounting period in which the Commissioners authorise him to use the scheme, and ending on the day immediately preceding the first day of that person’s first current accounting year, and is a prescribed accounting period within the meaning of section 25(1) of the Act;

“current accounting year” means the period of 12 months commencing on a date indicated by the Commissioners in their notification of authorisation of a person, or while a person remains authorised the most recent anniversary thereof, and is a prescribed accounting period within the meaning of section 25(1) of the Act;

“the scheme” means the annual accounting scheme established by regulations 50 and 51;

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“credit transfer” means the transfer of funds from one bank account to another under a mandate given by the payer to the bank making the transfer;

“the quarterly sum” means a sum equal to 20 per cent of the total amount of VAT which a taxable person was liable to pay to the Commissioners in the 12 months—

- (a) immediately preceding the first day of his current accounting year; or
- (b) for the purposes of regulation 51, immediately preceding the first day of his transitional accounting period;

“the agreed quarterly sum” means a sum agreed with the Commissioners, not being less than 20 per cent of a taxable person’s estimated liability for VAT in his current accounting year;

“the monthly sum” means a sum equal to 10 per cent of the total amount of VAT which a taxable person was liable to pay to the Commissioners in the 12 months—

- (a) immediately preceding the first day of his current accounting year; or
- (b) for the purposes of regulation 51, immediately preceding the first day of his transitional accounting period;

“the agreed monthly sum” means a sum agreed with the Commissioners, not being less than 10 per cent of a taxable person’s estimated liability for VAT, in his current accounting year;

“working day” means any day of the week other than Saturday, Sunday, a bank holiday or a public holiday;

“relevant quarterly date” means the last working day of the fourth and, where a period has such months, the seventh and the tenth months of a transitional accounting period;

“relevant monthly date” means the last working day of the fourth and each successive month of a transitional accounting period.

### **Annual accounting scheme**

**50.**—(1) The Commissioners may, subject to the requirements of this Part, authorise a taxable person to pay and account for VAT by reference to any transitional accounting period, and any subsequent current accounting year at such times, and for such amounts, as may be determined in accordance with the scheme.

(2) A taxable person authorised to pay and account for VAT in accordance with the scheme shall—

- (a) pay to the Commissioners by credit transfer—
  - (i) in cases to which paragraph (3) below applies, the quarterly sum, or as the case may be, the agreed quarterly sum, no later than the last working day of each of the fourth, seventh and tenth months of his current accounting year, save that where that sum does not exceed £400 no quarterly payment need be made; or
  - (ii) in all other cases, the monthly sum, or as the case may be, the agreed monthly sum, in nine equal monthly instalments, commencing on the last working day of the fourth month of his current accounting year; and
- (b) make by the last working day of the second month following the end of that current accounting year a return in respect of that year, together with any outstanding payment due to the Commissioners in respect of his liability for VAT for the current accounting year declared on that return.

(3) This paragraph applies where the value of taxable supplies made by a taxable person in the period of 12 months ending on the day before the first day of his current accounting year —

- (a) does not exceed £100,000; or
- (b) where he was paying quarterly sums under the scheme in that period, does not exceed £110,000.



- 51.** An authorised person shall, where in any given case the transitional accounting period is—
- (a) 4 months or more—
    - (i) if the value of his taxable supplies during the period of 12 months immediately preceding the first day of his transitional accounting period did not exceed £100,000, pay to the Commissioners by credit transfer on each relevant quarterly date the quarterly sum, save that where that sum does not exceed £400 no quarterly payment need be made; or
    - (ii) in all other cases, pay to the Commissioners by credit transfer on each relevant monthly date the monthly sum; and
    - (iii) make by the last working day of the second month following the end of his transitional accounting period a return in respect of that period, together with any outstanding payment due to the Commissioners in respect of his liability for VAT declared on that return; or
  - (b) less than 4 months, make by the last working day of the first month following the end of his transitional accounting period a return in respect of that period, together with any outstanding payment due to the Commissioners in respect of his liability for VAT declared on that return.

#### **Admission to the scheme**

- 52.—**(1) A taxable person shall be eligible to apply for authorisation under regulation 50(1) if—
- (a) he has been registered for at least 12 months at the date of his application for authorisation;
  - (b) he has reasonable grounds for believing that the value of taxable supplies made or to be made by him in the period of 12 months beginning on the date of his application for authorisation will not exceed £300,000;
  - (c) his registration is not in the name of a group under section 43(1) of the Act;
  - (d) his registration is not in the name of a division under section 46(1) of the Act; and
  - (e) he has not in the 12 months preceding the date of his application for authorisation ceased to operate the scheme.
- (2) The Commissioners may refuse to authorise a person under regulation 50(1) where they consider it necessary to do so for the protection of the revenue.
- 53.—**(1) An authorised person shall continue to account for VAT in accordance with the scheme until he ceases to be authorised.
- (2) An authorised person ceases to be authorised when—
- (a) at the end of any transitional accounting period or current accounting year the value of taxable supplies made by him in that period or, as the case may be, year has exceeded £375,000; or
  - (b) his authorisation is terminated in accordance with regulation 54 below;
  - (c) he—
    - (i) becomes insolvent and ceases to trade, other than for the purpose of disposing of stocks and assets; or
    - (ii) ceases business or ceases to be registered; or
    - (iii) dies, becomes bankrupt or incapacitated;
  - (d) he ceases to operate the scheme of his own volition.

- 54.—**(1) The Commissioners may terminate an authorisation in any case where—

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- (a) a false statement has been made by or on behalf of an authorised person in relation to his application for authorisation; or
- (b) an authorised person fails to make by the due date a return in accordance with regulation 50(2)(b) or regulation 51(a)(iii) or (b); or
- (c) an authorised person fails to make any payment prescribed in regulation 50 or 51; or
- (d) where they receive a notification in accordance with paragraph (2) below; or
- (e) at any time during an authorised person's transitional accounting period or current accounting year they have reason to believe, that the value of taxable supplies he will make during the period or as the case may be year, will exceed £375,000; or
- (f) it is necessary to do so for the protection of the revenue; or
- (g) an authorised person has not, in relation to a return made by him prior to authorisation, paid to the Commissioners all such sums shown as due thereon; or
- (h) an authorised person has not, in relation to any assessment made under either section 73 or section 76 of the Act, paid to the Commissioners all such sums shown as due thereon.

(2) Where an authorised person has reason to believe that the value of taxable supplies made by him during a transitional accounting period or current accounting year will exceed £375,000, he shall within 30 days notify the Commissioners in writing.

**55.**—(1) The date from which an authorised person ceases to be authorised in accordance with Regulation 53(2) shall be —

- (a) where regulation 53(2)(a) applies, the day following the last day of the relevant transitional accounting period or current accounting year;
- (b) where regulation 53(2)(b) applies, the day on which the Commissioners terminate his authorisation;
- (c) where regulation 53(2)(c) applies, the day on which any one of the events mentioned in that paragraph occurs; and
- (d) where regulation 53(2)(d) applies, the date on which the Commissioners are notified in writing of the authorised persons decision to cease using the scheme.

(2) Where an authorised person ceases to be authorised, he or as the case may be, his representative, shall—

- (a) if his authorisation ceases before the end of his transitional accounting period or current accounting year, make a return within 2 months of the date specified in paragraph (1)(b), (1)(c) or (1)(d) above, together with any outstanding payment due to the Commissioners in respect of his liability for VAT for that part of the period or year arising before the date he ceased to be authorised; or
- (b) if his authorisation ceases at the end of his transitional accounting period or current accounting year, make a return together with any outstanding payment due to the Commissioners in respect of his liability for VAT in accordance with regulation 51 or 50 above; and

in either case, from the day following the day on which he ceases to be authorised, account for and pay VAT as provided for otherwise than under this Part.]

## PART VIII

### CASH ACCOUNTING

#### Interpretation of Part VIII

56. In this Part—

“money” means banknotes or coins;

“notice” means any notice published pursuant to this Part.

#### Commencement Information

I48 Reg. 56 in force at 20.10.1995, see [reg. 1](#)

#### Cash accounting scheme

57. A taxable person may, subject to this Part and to such conditions as are described in a notice published by the Commissioners, account for VAT in accordance with a scheme (hereinafter referred to in this Part as “the scheme”) by which the operative dates for VAT accounting purposes shall be—

- (a) for output tax, the day on which payment or other consideration is received or the date of any cheque, if later; and
- (b) for input tax, the date on which payment is made or other consideration is given, or the date of any cheque, if later.

#### Commencement Information

I49 Reg. 57 in force at 20.10.1995, see [reg. 1](#)

#### Admission to the scheme

<sup>F57</sup>58.—(1) Without prejudice to paragraph (4) below, a taxable person shall be eligible to begin to operate the scheme from the beginning of any prescribed accounting period if—

- (a) he has reasonable grounds for believing that the value of taxable supplies to be made by him in the period of one year then beginning will not exceed £350,000,
- (b) he has made all returns which he is required to make, and has—
  - (i) paid to the Commissioners all such sums shown as due on those returns and on any assessments made either under section 76 of, or Schedule 11 to, the Act, or
  - (ii) agreed an arrangement with the Commissioners for any outstanding amount of such sums as are referred to in sub-paragraph (i) above to be paid in instalments over a specific period, and
- (c) he has not in the period of one year preceding that time—
  - (i) been convicted of any offence in connection with VAT,
  - (ii) made any payment to compound proceedings in respect of VAT under section 152 of the Customs and Excise Management Act 1979,
  - (iii) been assessed to a penalty under section 60 of the Act, or
  - (iv) by virtue of regulation 64(1), ceased to be entitled to continue to operate the scheme.

(2) The scheme shall not apply to—

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- (a) lease purchase agreements;
- (b) hire purchase agreements;
- (c) conditional sale agreements;
- (d) credit sale agreements;
- (e) supplies where a VAT invoice is issued and full payment of the amount shown on the invoice is not due for a period in excess of 6 months from the date of the issue of the invoice; or
- (f) supplies of goods or services in respect of which a VAT invoice is issued in advance of the delivery or making available of the goods or the performance of the services as the case may be.

(3) Sub-paragraph (2) (f) above shall not apply where goods have been delivered or made available in part or where services have been performed in part and the VAT invoice in question relates solely to that part of the goods which have been delivered or made available or that part of the services which have been performed.

(4) A person shall not be entitled to begin to operate the scheme if the Commissioners consider it is necessary for the protection of the revenue that he shall not be so entitled.]

**59.** Without prejudice to the right of a person to withdraw from the scheme, the Commissioners may vary the terms of the scheme by publishing a fresh notice [<sup>F58</sup>or publishing a notice which amends an existing notice].

[<sup>F59</sup>**60.**—(1) Without prejudice to regulation 64 below, a person shall withdraw from the scheme immediately at the end of a prescribed accounting period of his if the value of taxable supplies made by him in the period of one year ending at the end of the prescribed accounting period in question has exceeded £437,500.

(2) Subject to regulations 61 to 63 below a person may withdraw from the scheme at the end of any prescribed accounting period.

(3) The requirement in paragraph (1) above shall not apply where the Commissioners allow or direct otherwise.]

[<sup>F60</sup>**61.** A person who ceases to operate the scheme either of his own volition or because the value of taxable supplies made by him exceeds the level provided for in regulation 60(1), shall account for and pay on a return made for the prescribed accounting period in which he ceased to operate the scheme—

- (a) all VAT which he would have been required to pay to the Commissioners during the time when he operated the scheme, if he had not then been operating the scheme, less
- (b) all VAT accounted for and paid to the Commissioners in accordance with the scheme, subject to any adjustment for credit for input tax.]

[<sup>F61</sup>**62.** Where a person operating the scheme becomes insolvent he shall within 2 months of the date of insolvency account for VAT due on all supplies made and received up to the date of insolvency which has not otherwise been accounted for, subject to any credit for input tax.]

**63.** —

[<sup>F62</sup>(1) Where a person operating the scheme ceases business or ceases to be registered he shall within 2 months or such longer period as the Commissioners may allow, make a return accounting for, and pay, VAT due on all supplies made and received up to the date of cessation which has not otherwise been accounted for, subject to any adjustment for credit for input tax.].

[<sup>F63</sup>(2) Where a business or part of a business carried on by a person operating the scheme is transferred as a going concern and regulation 6(1) does not apply, the transferor shall within 2 months

or such longer period as the Commissioners may allow, make a return accounting for, and pay, VAT due on all supplies made and received which has not otherwise been accounted for, subject to credit for input tax.]

(3) Where a business carried on by a person operating the scheme is transferred in circumstances where regulation [<sup>F64</sup>6(1)] applies, the transferee shall continue to account for and pay VAT as if he were a person operating the scheme on supplies made and received by the transferor prior to the date of transfer.

#### Textual Amendments

- F57** Reg. 58 substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **3**
- F58** Words in reg. 59 inserted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **4**
- F59** Reg. 60 substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **5**
- F60** Reg. 61 substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **6**
- F61** Reg. 62 substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **7**
- F62** Reg. 63(1) substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **8(a)**
- F63** Reg. 63(2) substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **8(b)**
- F64** Word in reg. 63(3) substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **8(c)**

#### Commencement Information

- I50** Reg. 59 in force at 20.10.1995, see [reg. 1](#)
- I51** Reg. 63 in force at 20.10.1995, see [reg. 1](#)

#### Withdrawal from the scheme

[<sup>F65</sup>64.—(1) A person shall not be entitled to continue to operate the scheme where—

- (a) he has, while operating the scheme, been convicted of an offence in connection with VAT or has made a payment to compound such proceedings under section 152 of the Customs and Excise Management Act 1979,
- (b) he has while operating the scheme been assessed to a penalty under section 60 of the Act,
- (c) he has failed to leave the scheme as required by regulation 60(1) above, or
- (d) the Commissioners consider it necessary for the protection of the revenue that he shall not be so entitled.

(2) A person who, by virtue of paragraph (1) above, ceases to be entitled to continue to operate the scheme shall account for and pay on a return made for the prescribed accounting period in which he ceased to be so entitled—

- (a) all VAT which he would have been required to pay to the Commissioners during the time when he operated the scheme, if he had not then been operating the scheme, less
- (b) all VAT accounted for and paid to the Commissioners in accordance with the scheme, subject to any adjustment for credit for input tax.]

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

#### Textual Amendments

**F65** Reg. 64 substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997 \(S.I. 1997/1614\)](#), regs. 1, **9**

#### Accounting

##### 65. —

(1) Except in the circumstances set out in regulations 61 to 63, VAT shall be accounted for and paid to the Commissioners by the due date prescribed for the accounting period in which payment or other consideration for the supply is received.

(2) Input tax may be credited either in the prescribed accounting period in which payment or consideration for a supply is given, or in such later period as may be agreed with the Commissioners.

(3) A person operating the scheme shall obtain and keep for a period of 6 years, or such lesser period as the Commissioners may allow, a receipted and dated VAT invoice from any taxable person to whom he has made a payment in money in respect of a taxable supply, and in such circumstances a taxable person must on request provide such a receipted and dated VAT invoice.

(4) A person operating the scheme shall keep for a period of 6 years, or such lesser period as the Commissioners may allow, a copy of any receipt which he gives under paragraph (3) above.

#### Commencement Information

**I52** Reg. 65 in force at 20.10.1995, see [reg. 1](#)

## PART IX

### SUPPLIES BY RETAILERS

#### Interpretation of Part IX

##### 66. In this Part—

“notice” means any notice or leaflet published by the Commissioners pursuant to this Part;

“scheme” means a method as referred to in regulation 67.

#### Commencement Information

**I53** Reg. 66 in force at 20.10.1995, see [reg. 1](#)

#### Retail schemes

##### 67. —

(1) The Commissioners may permit the value which is to be taken as the value, in any prescribed accounting period or part thereof, of supplies by a retailer which are taxable at other than the zero rate to be determined by a method agreed with that retailer or by any method described in a notice published by the Commissioners for that purpose; and they may publish any notice accordingly.

(2) The Commissioners may vary the terms of any method by—

- (a) publishing a fresh notice,
- (b) publishing a notice which amends an existing notice, or
- (c) adapting any method by agreement with any retailer.

**68.** The Commissioners may refuse to permit the value of taxable supplies to be determined in accordance with a scheme if it appears to them—

- (a) that the use of any particular scheme does not produce a fair and reasonable valuation during any period,
- (b) that it is necessary to do so for the protection of the revenue, or
- (c) that the retailer could reasonably be expected to account for VAT in accordance with regulations made under paragraph 2(1) of Schedule 11 to the Act.

**69.** No retailer may at any time use more than one scheme except as provided for in any notice or as the Commissioners may otherwise allow.

**Commencement Information**

- I54** Reg. 67 in force at 20.10.1995, see [reg. 1](#)
- I55** Reg. 68 in force at 20.10.1995, see [reg. 1](#)
- I56** Reg. 69 in force at 20.10.1995, see [reg. 1](#)

**Notification of use of a scheme**

**F6670.** .....

**Textual Amendments**

- F66** [Reg. 70](#) revoked (1.11.1997) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1997 \(S.I. 1997/2437\)](#), [regs. 1, 2](#)

**Commencement Information**

- I57** Reg. 70 in force at 20.10.1995, see [reg. 1](#)

**Changing schemes**

**71.** Save as the Commissioners may otherwise allow, a retailer who accounts for VAT on the basis of taxable supplies valued in accordance with any scheme shall, so long as he remains a taxable person, continue to do so for a period of not less than one year from the adoption of that scheme by him, and any change by a retailer from one scheme to another shall be made at the end of any complete year reckoned from the beginning of the prescribed accounting period in which he first adopted the scheme.

**Commencement Information**

- I58** Reg. 71 in force at 20.10.1995, see [reg. 1](#)

**Ceasing to use a scheme**

**72.** —

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

(1) A retailer shall notify the Commissioners before ceasing to account for VAT on the basis of taxable supplies valued in accordance with these regulations.

(2) A retailer may be required to pay VAT on such proportion as the Commissioners may consider fair and reasonable of any sums due to him at the end of the prescribed accounting period in which he last used a scheme.

**Commencement Information**

**I59** Reg. 72 in force at 20.10.1995, see [reg. 1](#)

**Supplies under Schedule 8, Group 1**

<sup>F67</sup>73. ....

**Textual Amendments**

**F67** Regs. 73, 74 revoked (1.11.1997) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1997 \(S.I. 1997/2437\)](#), [regs. 1, 2](#)

**Supplies under Schedule 8, Group 12**

<sup>F67</sup>74. ....

**Textual Amendments**

**F67** Regs. 73, 74 revoked (1.11.1997) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1997 \(S.I. 1997/2437\)](#), [regs. 1, 2](#)

**Change in VAT**

75. Where pursuant to any enactment there is a change in the VAT charged on any supply, including a change to or from no VAT being charged on such supply, a retailer using any scheme shall take such steps relating to that scheme as are directed in any notice applicable to him or as may be agreed between him and the Commissioners.

**Commencement Information**

**I60** Reg. 75 in force at 20.10.1995, see [reg. 1](#)

<sup>F68</sup>PART X

TRADING STAMPS

.....



**Textual Amendments**

**F68** Pt. 10 revoked (1.6.1996) by [The Value Added Tax \(Trading Stamps\) Regulations 1995 \(S.I. 1995/3043\)](#), regs. 1, 2

## PART XI

### TIME OF SUPPLY AND TIME OF ACQUISITION

#### Goods for private use and free supplies of services

**81. —**

(1) Where the services referred to in paragraph 5(4) of Schedule 4 to the Act are supplied for any period, they shall be treated as being supplied on the last day of the supplier's prescribed accounting period, or of each such accounting period, in which the goods are made available or used.

(2) Where services specified in an order made by the Treasury under section 5(4) of the Act are supplied for any period, they shall be treated as being supplied on the last day of the supplier's prescribed accounting period, or of each such accounting period, in which the services are performed.

**Commencement Information**

**I61** Reg. 81 in force at 20.10.1995, see [reg. 1](#)

#### Services from outside the United Kingdom

**82.** Services which are treated as made by a taxable person under section 8(1) of the Act shall be treated as being supplied when the supplies are paid for or, if the consideration is not in money, on the last day of the prescribed accounting period in which the services are performed.

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

**C1** [Reg. 82](#) modified (1.7.1997) by [The Value Added Tax \(Reverse Charge\) \(Anti-avoidance\) Order 1997 \(S.I. 1997/1523\)](#), arts. 1, **4(1)**

**Commencement Information**

**I62** Reg. 82 in force at 20.10.1995, see [reg. 1](#)

#### Time of acquisition

**83.** Where the time that goods are acquired from another member State falls to be determined in accordance with section 12(1)(b) of the Act by reference to the day of the issue, in respect of the transaction in pursuance of which the goods are acquired, of an invoice of such description as the Commissioners may by regulations prescribe, the invoice shall be one which is issued by the supplier under the provisions of the law of the member State where the goods were supplied, corresponding in relation to that member State, to the provisions of regulations 13 and 14.

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

#### Commencement Information

**I63** Reg. 83 in force at 20.10.1995, see [reg. 1](#)

### Supplies of land—special cases

#### 84. —

(1) Where by or under any enactment an interest in, or right over, land is compulsorily purchased and, at the time determined in accordance with section 6(2) or (3) of the Act, the person (the grantor) from whom it is purchased does not know the amount of payment that he is to receive in respect of the purchase then goods or, as the case may require, services shall be treated as supplied each time the grantor receives any payment for the purchase.

(2) Where a person (the grantor) grants or assigns the fee simple in any land, and at the time of the grant or assignment, the total consideration for it is not determinable, then goods shall be treated as separately and successively supplied at the following times—

- (a) the time determined in accordance with section 6(2), (4), (5), (6), (9) or (10) of the Act, as the case may require, and
- (b) the earlier of the following times—
  - (i) each time that any part of the consideration which was not determinable at the time mentioned in sub-paragraph (a) above is received by the grantor, or
  - (ii) each time that the grantor issues a VAT invoice in respect of such a part.

#### Commencement Information

**I64** Reg. 84 in force at 20.10.1995, see [reg. 1](#)

### Leases treated as supplies of goods

#### 85. —

(1) Subject to paragraph (2) below, where the grant of a tenancy or lease is a supply of goods by virtue of paragraph 4 of Schedule 4 to the Act, and the whole or part of the consideration for that grant is payable periodically or from time to time, goods shall be treated as separately and successively supplied at the earlier of the following times—

- (a) each time that a part of the consideration is received by the supplier, or
- (b) each time that the supplier issues a VAT invoice relating to the grant.

(2) Where in respect of the grant of a tenancy or lease such as is mentioned in paragraph (1) above the supplier, at or about the beginning of any period not exceeding one year, issues a VAT invoice containing, in addition to the particulars specified in regulation 14, the following particulars—

- (a) the dates on which any parts of the consideration are to become due for payment in the period,
- (b) the amount payable (excluding VAT) on each such date, and
- (c) the rate of VAT in force at the time of the issue of the VAT invoice and the amount of VAT chargeable in accordance with that rate on each of such payments,

goods shall be treated as separately and successively supplied each time that a payment in respect of the tenancy or lease becomes due or is received by the supplier, whichever is the earlier.

(3) Where, on or before any of the dates that a payment is due as stated on an invoice issued as described in paragraph (2) above, there is a change in the VAT chargeable on supplies of the description to which the invoice relates, that invoice shall cease to be treated as a VAT invoice in respect of any such supplies for which payments are due after the change (and not received before the change).

#### Commencement Information

**I65** Reg. 85 in force at 20.10.1995, see [reg. 1](#)

### Supplies of water, gas or any form of power, heat, refrigeration or ventilation

#### 86. —

(1) Except in relation to a supply to which subsections (7) and (8) of section 6 of the Act apply, and subject to paragraphs (2) and (3) below, a supply of—

- (a) water other than—
  - (i) distilled water, deionised water and water of similar purity, and
  - (ii) water comprised in any of the excepted items set out in Group 1 of Schedule 8 to the Act, or
- (b) coal gas, water gas, producer gases or similar gases, or
- (c) petroleum gases, or other gaseous hydrocarbons, in a gaseous state, or
- (d) any form of power, heat, refrigeration or ventilation,

shall be treated as taking place each time that a payment in respect of the supply is received by the supplier, or a VAT invoice relating to the supply is issued by the supplier, whichever is the earlier.

(2) Subject to paragraph (3) below, where the whole or part of the consideration for a supply such as is described in paragraph (1)(a), (b) or (c) above or of power in the form of electricity is determined or payable periodically or from time to time, goods shall be treated as separately and successively supplied at the earlier of the following times—

- (a) each time that a part of the consideration is received by the supplier, or
- (b) each time that the supplier issues a VAT invoice relating to the supply.

(3) Where separate and successive supplies as described in paragraph (2) above are made under an agreement which provides for successive payments, and the supplier at or about the beginning of any period not exceeding one year, issues a VAT invoice containing, in addition to the particulars specified in regulation 14, the following particulars—

- (a) the dates on which payments under the agreement are to become due in the period,
- (b) the amount payable (excluding VAT) on each such date, and
- (c) the rate of VAT in force at the time of issue of the VAT invoice and the amount of VAT chargeable in accordance with that rate on each of such payments,

goods shall be treated as separately and successively supplied each time that payment in respect of the supply becomes due or is received by the supplier, whichever is the earlier.

(4) Where, on or before any of the dates that a payment is due as stated on an invoice issued as described in paragraph (3) above, there is a change in the VAT chargeable on supplies of the description to which the invoice relates, that invoice shall cease to be treated as a VAT invoice in respect of any such supplies for which payments are due after the change (and not received before the change).

*Status: Point in time view as at 22/03/2000.*

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(5) A supply mentioned in paragraph (1)(a), (b), (c) or (d) above to which subsections (7) and (8) of section 6 of the Act apply shall be treated as taking place on the day of the issue of a VAT invoice in respect of the supply.

#### Commencement Information

**I66** Reg. 86 in force at 20.10.1995, see [reg. 1](#)

### Acquisitions of water, gas or any form of power, heat, refrigeration or ventilation

**87.** Where goods described in regulation 86(1)(a), (b), (c) or (d) are acquired from another member State and the whole or part of any consideration comprised in the transaction in pursuance of which the goods are acquired is payable periodically, or from time to time, goods shall be treated as separately and successively acquired on each occasion that the supplier issues, in respect of the transaction, an invoice such as is described in regulation 83.

#### Commencement Information

**I67** Reg. 87 in force at 20.10.1995, see [reg. 1](#)

### Supplier's goods in possession of buyer

**88.** —

(1) Except in relation to a supply mentioned in section 6(2)(c) of the Act, or to a supply to which subsections (7) and (8) of section 6 of the Act apply, where goods are supplied under an agreement whereby the supplier retains the property therein until the goods or part of them are appropriated under the agreement by the buyer and in circumstances where the whole or part of the consideration is determined at that time, a supply of any of the goods shall be treated as taking place at the earliest of the following dates—

- (a) the date of appropriation by the buyer,
- (b) the date when a VAT invoice is issued by the supplier, or
- (c) the date when a payment is received by the supplier.

(2) If, within 14 days after appropriation of the goods or part of them by the buyer as mentioned in paragraph (1) above, the supplier issues a VAT invoice in respect of goods appropriated, the provisions of section 6(5) of the Act shall apply to that supply.

#### Commencement Information

**I68** Reg. 88 in force at 20.10.1995, see [reg. 1](#)

### Retention payments

**89.** Where any contract [<sup>F69</sup>(other than one of a description falling within regulation 93 below)] for the supply of goods (other than for a supply to which subsections (7) and (8) of section 6 of the Act apply) or for the supply of services provides for the retention of any part of the consideration by a person pending full and satisfactory performance of the contract, or any part of it, by the supplier, goods or services (as the case may require) shall be treated as separately and successively supplied at the following times—

- (a) the time determined in accordance with section 6(2), (3), (4), (5), (6), (9), (10) or (13) of the Act, as the case may require, and
- (b) the earlier of the following times—
  - (i) the time that a payment in respect of any part of the consideration which has been retained, pursuant to the terms of the contract, is received by the supplier, or
  - (ii) the time that the supplier issues a VAT invoice relating to any such part.

#### Textual Amendments

**F69** Words in [reg. 89](#) inserted (1.1.1998) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 1997 \(S.I. 1997/2887\)](#), [regs. 1, 3](#)

#### Commencement Information

**I69** [Reg. 89](#) in force at 20.10.1995, see [reg. 1](#)

### Continuous supplies of services

**90.** —

(1) Subject to paragraph (2) below, where services [<sup>F70</sup>, except those to which regulation 93 applies,] are supplied for a period for a consideration the whole or part of which is determined or payable periodically or from time to time, they shall be treated as separately and successively supplied at the earlier of the following times—

- (a) each time that a payment in respect of the supplies is received by the supplier, or
- (b) each time that the supplier issues a VAT invoice relating to the supplies.

(2) Where separate and successive supplies of services as described in paragraph (1) above are made under an agreement which provides for successive payments, and the supplier at or about the beginning of any period not exceeding one year, issues a VAT invoice containing, in addition to the particulars specified in regulation 14, the following particulars—

- (a) the dates on which payments under the agreement are to become due in the period,
- (b) the amount payable (excluding VAT) on each such date, and
- (c) the rate of VAT in force at the time of issue of the VAT invoice and the amount of VAT chargeable in accordance with that rate on each of such payments,

services shall be treated as separately and successively supplied each time that a payment in respect of them becomes due or is received by the supplier, whichever is the earlier.

(3) Where, on or before any of the dates that a payment is due as stated on an invoice issued as described in paragraph (2) above, there is a change in the VAT chargeable on supplies of the description to which the invoice relates, that invoice shall cease to be treated as a VAT invoice in respect of any such supplies for which payments are due after the change (and not received before the change).

[<sup>F71</sup>(4) This regulation shall not apply to any relevant services—

- (a) where the period to which a payment falling within paragraph (1), (2) or (3) above relates, ends before 1st July 1997; or
- (b) which are treated as supplied on 1st July 1997 by virtue of regulation 90A below.

(5) In this regulation and in regulations 90A and 90B below, “relevant services” means services within the description contained in paragraph 7A of Schedule 5 to the Act which are treated as

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*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

supplied in the United Kingdom by virtue of [<sup>F72</sup>article 18] of the Value Added Tax (Place of Supply of Services) Order 1992.]

#### Textual Amendments

- F70** Words in reg. 90(1) inserted (1.1.1998) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 1997 \(S.I. 1997/2887\)](#), regs. 1, 4
- F71** Reg. 90(4)(5) added (1.7.1997) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/1525\)](#), regs. 1, 3
- F72** Words in reg. 90(5) substituted (18.3.1998) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1998 \(S.I. 1998/765\)](#), regs. 1, 2

#### Commencement Information

- I70** Reg. 90 in force at 20.10.1995, see [reg. 1](#)

[<sup>F73</sup>90A. Where—

- (a) relevant services are supplied for a period for a consideration the whole or part of which is determined or payable periodically or from time to time;
- (b) the period covered by the payment referred to in sub-paragraph (c) below ends on or after 1st July 1997; and
- (c) a payment in respect of the services was made before 1st July 1997,

the services shall be treated as supplied on 1st July 1997.

#### Textual Amendments

- F73** [Regs. 90A, 90B](#) inserted (1.7.1997) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/1525\)](#), regs. 1, 4

**90B.** Where relevant services are treated as supplied on or after 1st July 1997 by virtue of regulation 90 or 90A above, the supply shall be treated as taking place only to the extent covered by the lower of—

- (a) the payment; and
- (b) so much of the payment as is properly attributable to such part of the period covered by the payment as falls after 30th June 1997.]

#### Textual Amendments

- F73** [Regs. 90A, 90B](#) inserted (1.7.1997) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/1525\)](#), regs. 1, 4

### Royalties and similar payments

**91.** Where the whole amount of the consideration for a supply of services was not ascertainable at the time when the services were performed and subsequently the use of the benefit of those services by a person other than the supplier gives rise to any payment of consideration for that supply which is—

- (a) in whole or in part determined or payable periodically or from time to time or at the end of any period,

- (b) additional to the amount, if any, already payable for the supply, and
- (c) not a payment to which regulation 90 applies,

a further supply shall be treated as taking place each time that a payment in respect of the use of the benefit of those services is received by the supplier or a VAT invoice is issued by the supplier, whichever is the earlier.

**Commencement Information**

I71 Reg. 91 in force at 20.10.1995, see [reg. 1](#)

**Supplies of services by barristers and advocates**

**92.** Services supplied by a barrister, or in Scotland, by an advocate, acting in that capacity, shall be treated as taking place at whichever is the earliest of the following times—

- (a) when the fee in respect of those services is received by the barrister or advocate,
- (b) when the barrister or advocate issues a VAT invoice in respect of them, or
- (c) the day when the barrister or advocate ceases to practise as such.

**Commencement Information**

I72 Reg. 92 in force at 20.10.1995, see [reg. 1](#)

**Supplies in the construction industry**

**[<sup>F74</sup>93.—**(1) Where services, or services together with goods, are supplied in the course of the construction, alteration, demolition, repair or maintenance of a building or any civil engineering work under a contract which provides for payment for such supplies to be made periodically or from time to time, those services or goods and services shall be treated as separately and successively supplied at the earliest of the following times—

- (a) each time that a payment is received by the supplier,
- (b) each time that the supplier issues a VAT invoice, or
- (c) where the services are services to which paragraph (2) below applies, to the extent that they have not already been treated as supplied by virtue of sub-paragraphs (a) and (b) above—
  - (i) if the services were performed on or after 9th December 1997 and before 9th June 1999, the day which falls eighteen months after the date on which those services were performed, or
  - (ii) if the services are performed on or after 9th June 1999, the day on which the services are performed.

(2) This paragraph applies if, at the time the services were, or as the case may require, are performed—

- (a) it was, or as the case may require, is the intention or expectation of—
  - (i) the supplier, or
  - (ii) a person responsible for financing the supplier's cost of supplying the services or services together with goods,

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that relevant land would, or as the case may require, will become (whether immediately or eventually) exempt land or, as the case may be, continue (for a period at least) to be such land, or

(b) the supplier had, or as the case may require, has received (and used in making his supply) any supply of services or of services together with goods the time of supply of which—

(i) was, or

(ii) but for the issue by the supplier of those services or services together with goods of a VAT invoice (other than one which has been paid in full), would have been,

determined by virtue of paragraph (1)(c) above.

(3) For the purposes of this regulation “relevant land” is land on which the building or civil engineering work to which the construction services relate is, or as the case may be, was situated.

(4) In this regulation references to a person’s being responsible for financing the supplier’s cost of supplying the services or goods and services are references to his being a person who, with the intention or in the expectation that relevant land will become, or continue (for a period at least) to be, exempt land—

(a) has provided finance for the supplier’s cost of supplying the services or services together with goods, or

(b) has entered into any agreement, arrangement or understanding (whether or not legally enforceable) to provide finance for the supplier’s cost of supplying the services or services together with goods.

(5) In this regulation references to providing finance for the supplier’s cost of supplying services or services together with goods are references to doing any one or more of the following, that is to say—

(a) directly or indirectly providing funds for meeting the whole or any part of the supplier’s cost of supplying the services or services together with goods,

(b) directly or indirectly procuring the provision of such funds by another,

(c) directly or indirectly providing funds for discharging, in whole or in part any liability that has been or may be incurred by any person for or in connection with the raising of funds to meet the supplier’s cost of supplying the services or services together with goods,

(d) directly or indirectly procuring that any such liability is or will be discharged, in whole or in part, by another.

(6) The references in paragraph (5) above to the provision of funds for a purpose referred to in that paragraph include references to—

(a) the making of a loan of funds that are or are to be used for that purpose,

(b) the provision of any guarantee or other security in relation to such a loan,

(c) the provision of any of the consideration for the issue of any shares or other securities issued wholly or partly for raising those funds, or

(d) any other transfer of assets or value as a consequence of which any of those funds are made available for that purpose,

but do not include references to funds made available to the supplier by paying to him the whole or any part of the consideration payable for the supply of the services or services together with goods.

(7) In this regulation references to the supplier’s cost of supplying the services or services together with goods are to—

(a) amounts payable by the supplier for supplies to him of services or of goods used or to be used by him in making the supply of services or of services together with goods, and



- (b) the supplier's staff and other internal costs of making the supply of services or of services together with goods.
- (8) For the purposes of this regulation relevant land is exempt land if—
- (a) the supplier,
  - (b) a person responsible for financing the supplier's cost of supplying the services or goods and services, or
  - (c) a person connected with the supplier or with a person responsible for financing the supplier's cost of supplying the services or goods and services,
- is in occupation of the land without being in occupation of it wholly or mainly for eligible purposes.
- (9) For the purposes of this regulation, but subject to paragraphs (11) and (13) below, a person's occupation at any time of any land is not capable of being occupation for eligible purposes unless he is a taxable person at that time.
- (10) Subject to paragraphs (11) and (13) below, a taxable person in occupation of any land shall be taken for the purposes of this regulation to be in occupation of that land for eligible purposes to the extent only that his occupation of that land is for the purpose of making supplies which—
- (a) are or are to be made in the course or furtherance of a business carried on by him, and
  - (b) are supplies of such a description that any input tax of his which was wholly attributable to those supplies would be input tax for which he would be entitled to credit.
- (11) For the purposes of this regulation—
- (a) occupation of land by a body to which section 33 of the Act applies is occupation of the land for eligible purposes to the extent that the body occupies the land for purposes other than those of a business carried on by that body, and
  - (b) any occupation of land by a government department (within the meaning of section 41 of the Act) is occupation of the land for eligible purposes.
- (12) For the purposes of this regulation, where land of which a person is in occupation—
- (a) is being held by that person in order to be put to use by him for particular purposes, and
  - (b) is not land of which he is in occupation for any other purpose,
- that person shall be deemed, for so long as the conditions in sub-paragraphs (a) and (b) above are satisfied, to be in occupation of the land for the purposes for which he proposes to use it.
- (13) Paragraphs (9) to (12) above shall have effect where land is in the occupation of a person who—
- (a) is not a taxable person, but
  - (b) is a person whose supplies are treated for the purposes of the Act as supplies made by another person who is a taxable person,
- as if the person in occupation of the land and that other person were a single taxable person.
- (14) For the purposes of this regulation a person shall be taken to be in occupation of any land whether he occupies it alone or together with one or more other persons and whether he occupies all of that land or only part of it.
- (15) For the purposes of this regulation, any question as to whether one person is connected with another shall be determined in accordance with section 839 of the Taxes Act.]

#### **Textual Amendments**

**F74** Reg. 93 substituted (9.6.1999) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1999 \(S.I. 1999/1374\)](#), regs. 1, 2

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## General

94. [<sup>F75</sup>Subject to regulation 90B above, where under this Part] of these Regulations a supply is treated as taking place each time that a payment (however expressed) is received or an invoice is issued, the supply is to be treated as taking place only to the extent covered by the payment or invoice.

### Textual Amendments

**F75** Words in [reg. 94](#) substituted (1.7.1997) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/1525\)](#), regs. 1, [5](#)

### Commencement Information

**I73** [Reg. 94](#) in force at 20.10.1995, see [reg. 1](#)

[<sup>F76</sup>94A. In this Part a reference to receipt of payment (however expressed) includes a reference to receipt by a person to whom a right to receive it has been assigned.]

### Textual Amendments

**F76** [Reg. 94A](#) inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/599\)](#), regs. 1(1), [3](#)

## Supplies spanning change of rate etc.

95. Section 88 of the Act shall apply as if the references in subsection (2) of that section to section 6(4), (5), (6) and (10) of the Act included references to regulations 81, 82, 84, 85, 86(1) to (4) and 88 to 93 of these Regulations.

### Commencement Information

**I74** [Reg. 95](#) in force at 20.10.1995, see [reg. 1](#)

## PART XII

### VALUATION OF ACQUISITIONS

#### Interpretation of Part XII

96. In this Part—

“relevant transaction”, in relation to any acquisition of goods from another member State, and “relevant time” in relation to any such acquisition, have the meanings given in paragraph 5 of Schedule 7 to the Act.

### Commencement Information

**I75** [Reg. 96](#) in force at 20.10.1995, see [reg. 1](#)

## Valuation of acquisitions

### 97. —

(1) Subject to paragraph (2) below, the value of the relevant transaction in relation to any goods acquired in the United Kingdom from another member State where—

- (a) the goods are charged in connection with their removal to the United Kingdom with a duty of excise; or
- (b) on that removal are subject, in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Communities, to any Community customs duty or agricultural levy of the Economic Community,

shall be taken, for the purposes of the Act, to be the sum of its value apart from paragraph 2 of Schedule 7 to the Act and the amount, so far as not already included in that value, of the excise duty, Community customs duty or, as the case may be, agricultural levy which has been or is to be paid in respect of those goods.

(2) Paragraph (1) above does not apply to a transaction in pursuance of which there is an acquisition of goods which, under subsection (4) of section 18 of the Act, is treated as taking place before the duty point within the meaning of that section.

### Commencement Information

**I76** Reg. 97 in force at 20.10.1995, see [reg. 1](#)

## PART XIII

### PLACE OF SUPPLY

#### Distance sales from the United Kingdom

### 98. —

(1) Where a person has exercised an option in the United Kingdom corresponding to an option mentioned in paragraph 1(2) of Schedule 2 to the Act, in respect of supplies involving the removal of goods to another member State, he shall notify the Commissioners in writing of the exercise of that option not less than 30 days before the date on which the first supply to which the option relates is made.

(2) The notification referred to in paragraph (1) above shall contain the name of the member State to which the goods have been, or are to be, removed under the direction or control of the person making the supply.

(3) Any person who has notified the Commissioners in accordance with paragraph (1) above shall within 30 days of the date of the first supply as is mentioned in that paragraph furnish to the Commissioners documentary evidence that he has notified the member State of the exercise of his option.

(4) Where a person has notified the Commissioners in accordance with paragraph (1) above he may withdraw his notification by giving a further written notification but that further notification must specify the date upon which the first notification is to be withdrawn, which date must not be earlier than—

- (a) the 1st January which is, or next follows, the second anniversary of the date of the making of the first supply mentioned above to which the option relates, and

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

(b) the day 30 days after the receipt by the Commissioners of the further notification, and not later than 30 days before the date of the first supply which he intends to make after the withdrawal.

#### Commencement Information

**I77** Reg. 98 in force at 20.10.1995, see [reg. 1](#)

## PART XIV

### INPUT TAX AND PARTIAL EXEMPTION

#### Interpretation of Part XIV and longer periods

**99.** —

(1) In this Part—

<sup>[F77]</sup>(a) “exempt input tax” means—

- (i) input tax or a proportion of input tax, which is attributable to exempt supplies in accordance with the method used under regulation 101, or a method approved or directed to be used under regulation 102 as the case may be, and
- (ii) input tax, or a proportion of input tax, which is attributable to exempt supplies of a description falling within regulation 103A, but not any input tax allowable under that regulation, and
- (iii) input tax, or a proportion of input tax, which is attributable to supplies outside the United Kingdom which would be exempt if made in the United Kingdom, not being supplies specified in an order under section 26(2)(c) of the Act, according to the extent to which the goods or services on which the input tax was incurred are used or to be used in making such supplies or in accordance with a method approved or directed to be used under regulation 102, as the case may be;]

(b) “prescribed accounting period” means—

- (i) a prescribed accounting period such as is referred to in regulation 25, or
- (ii) a special accounting period, where the first prescribed accounting period would otherwise be 6 months or longer, save that this paragraph shall not apply where the reference to the prescribed accounting period is used solely in order to identify a particular return;

(c) “special accounting period” means each of a succession of periods of the same length as the next prescribed accounting period which does not exceed 3 months, and—

- (i) the last such period shall end on the day before the commencement of that next prescribed accounting period, and
- (ii) the first such period shall commence on the effective date of registration determined in accordance with Schedule 1 <sup>[F78]</sup>, 2, 3 or 3A] to the Act and end on the day before the commencement of the second such period;

(d) the “tax year” of a taxable person means—

- (i) the first period of 12 calendar months commencing on the first 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 [<sup>F78</sup>, 2, 3 or 3A] to the Act, or

(ii) any subsequent period of 12 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 12 calendar months or that it shall commence on a date other than that determined in accordance with paragraph (i) or (ii) above;

(e) the “registration period” of a taxable person means the period commencing on his effective date of registration determined in accordance with Schedule 1 [<sup>F78</sup>, 2, 3 or 3A] to the Act and ending on the day before the commencement of his first tax year.

(2) In this Part, 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.

(3) The provisions of paragraphs (4), (5), (6) and (7) below shall be used for determining the longer period applicable to taxable persons under this Part.

(4) 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 incurs exempt input tax only 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.

(5) 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.

(6) 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.

(7) 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.

**100.** Nothing in this Part shall be construed as allowing a taxable person to deduct the whole or any part of VAT on the importation or acquisition by him of goods or the supply to him of goods or services where those goods or services are not used or to be used by him in making supplies in the course or furtherance of a business carried on by him.

#### Textual Amendments

**F77** Reg. 99(1)(a) substituted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999](#) (S.I. 1999/3114), regs. 1, 6

**F78** Words in reg. 99(1)(c)-(e) inserted (22.3.2000) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2000](#) (S.I. 2000/794), regs. 1, 6

#### Commencement Information

**I78** Reg. 99 in force at 20.10.1995, see [reg. 1](#)

**I79** Reg. 100 in force at 20.10.1995, see [reg. 1](#)

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

**Attribution of input tax to taxable supplies**

**101. —**

(1) Subject to regulation 102, 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—

- (a) goods imported or acquired by and, <sup>F79</sup>... 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, and
- (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 5, or item 1 of Group 6, of Schedule 8 to the Act,
  - (ii) any grant which falls within item 1 of Group 1 of Schedule 9 to the Act,
  - (iii) any grant which falls within paragraph (a) of item 1 of Group 1 of Schedule 9 to the Act,
  - (iv) any grant which would fall within item 1 of Group 1 of Schedule 9 to the Act but for an election having effect under paragraph 2 of Schedule 10 to the Act, and
  - (v) any supply which falls within Group 5 of Schedule 9 to the Act,
- (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 25(7) of the Act unless the taxable person has imported, acquired or been supplied with the goods for the purpose of selling them, and
- (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.

<sup>F80</sup>(5) .....

**Textual Amendments**

**F79** Words in reg. 101(2)(a) omitted (28.4.1996) by virtue of [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), regs. 1(1)(2), **14(a)**

**F80** Reg. 101(5) omitted (28.4.1996) by virtue of [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), regs. 1(1)(2), **14(b)**

**Commencement Information**

**I80** Reg. 101 in force at 20.10.1995, see [reg. 1](#)

**Use of other methods**

**102.** —

(1) Subject to paragraph (2) below and regulation 103, the Commissioners may approve or direct the use by a taxable person of a method other than that specified in regulation 101, 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) Notwithstanding any provision of any method approved or directed to be used under this regulation which purports to have the contrary effect, in calculating the proportion of any input tax on goods or services used or to be used by the taxable person in making both taxable and exempt supplies which is to be treated as attributable to taxable supplies, the value of any supply within regulation 101(3) shall be excluded.

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

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

**Commencement Information**

**I81** Reg. 102 in force at 20.10.1995, see [reg. 1](#)

**Attribution of input tax to foreign and specified supplies**

**103.** —

(1) Input tax incurred by a taxable person in any prescribed accounting period on goods imported or acquired by, or goods or services supplied 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 specified in an Order under section 26(2)(c) of the Act, [<sup>F81</sup>other than supplies of a description falling within regulation 103A below,]

shall be attributed to taxable supplies to the extent that the goods or services are so used or to be used expressed as a proportion of the whole use or intended use.

(2) Where—

- (a) input tax of the description in paragraph (1) above has been incurred on goods or services which are used or to be used in making both—
  - (i) a supply within item 1 or 6 of Group 5 of Schedule 9 to the Act, and

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*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

(ii) any other supply, and

(b) the supply mentioned in sub-paragraph (a)(i) above is incidental to one or more of the taxable person's business activities,

that input tax shall be attributed to taxable supplies in accordance with paragraph (1) above notwithstanding any provision of any method that the taxable person is required or allowed to use under this Part of these Regulations which purports to have the contrary effect.

(3) For the purpose of attributing to taxable supplies any input tax of the description in paragraph (2) above, it shall be deemed to be the only input tax incurred by the taxable person in the prescribed accounting period concerned.

#### Textual Amendments

**F81** Words in [reg. 103\(1\)\(b\)](#) inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), [regs. 1, 7](#)

#### Commencement Information

**I82** Reg. 103 in force at 20.10.1995, see [reg. 1](#)

**[<sup>F82</sup>103A.—**(1) This regulation applies to a taxable person who makes supplies of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act.

(2) Input tax incurred by him in any prescribed accounting period in respect of supplies by him of a description falling within paragraph (1) above shall be allowable as being attributable to those supplies only to the following extent, that is to say where it is incurred—

(a) on investment gold supplied to him which but for an election made under the Value Added Tax (Investment Gold) Order 1999, or but for Note 4(b) to Group 15 of Schedule 9 to the Act would have fallen within item 1 or 2 of that Group, or on investment gold acquired by him;

(b) on a supply to him, an acquisition by him, or on an importation by him of gold other than investment gold which is to be transformed by him or on his behalf into investment gold;

(c) on services supplied to him comprising a change of form, weight or purity of gold.

(3) Where a taxable person produces investment gold or transforms any gold into investment gold he shall also be entitled to credit for input tax incurred by him on any goods or services supplied to him, any acquisitions of goods by him or any importations of goods by him, but only to the extent that they are linked to the production or transformation of that gold into investment gold.

(4) Where input tax has been incurred on goods or services which are used or to be used in making supplies of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act and any other supply, that input tax shall be attributed to the supplies falling within item 1 or 2 to the extent that the goods or services are so used or to be used, expressed as a proportion of the whole use or intended use.

(5) Where input tax is attributed to supplies of a description falling within item 1 or 2 of Group 15 to Schedule 9 to the Act under paragraph (4) above, the taxable person shall be entitled to credit for only so much input tax as is reasonably allowable under paragraph (2) or (3) above.

(6) For the purpose of attributing input tax to supplies of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act under paragraph (4) above, any input tax of the description in that paragraph shall be deemed to be the only input tax incurred by the taxable person in the prescribed accounting period concerned.]



**Textual Amendments**

**F82** Reg. 103A inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), regs. 1, **8**

**Attribution of input tax on self-supplies**

**104.** 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.

**Commencement Information**

**I83** Reg. 104 in force at 20.10.1995, see [reg. 1](#)

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

<sup>F83</sup>**105.** . . . . .

**106.** —

(1) Where in any prescribed accounting period or in any longer period the exempt input tax of a taxable person—

- (a) does not amount to more than £625 per month on average, and
- (b) does not exceed one half of all his input tax for the period concerned,

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 115.

**Textual Amendments**

**F83** Reg. 105 omitted (with effect in accordance with reg. 1(3)(4) of the amending S.I.) by virtue of [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/599\)](#), regs. 1(1), **4**

**Commencement Information**

**I84** Reg. 105 in force at 20.10.1995, see [reg. 1](#)

**I85** Reg. 106 in force at 20.10.1995, see [reg. 1](#)

**Adjustment of attribution**

**107.** —

(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

<sup>F84</sup>... 106, and save as the Commissioners may dispense with the following requirement to adjust, he shall—

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*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

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- (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,
  - (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 <sup>F85</sup>... 106, 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.

**108. —**

(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 6 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) Subject to regulation 110 and 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.

**109. —**

(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 6 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) Subject to regulation 110 and 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 which 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.

<sup>F86</sup>**110.**—(1) Subject to paragraph (2) below, in this regulation, in regulations 108 and 109 above and in Part XV of these Regulations—

- (a) “exempt supplies” includes supplies outside the United Kingdom which would be exempt if made in the United Kingdom, other than supplies of a description falling within subparagraph (b) below; and
  - (b) “taxable supplies” includes supplies of a description falling within regulation 103(1) above.
- (2) Subject to paragraph (3) below, for the purposes of identifying the use, or intended use, of goods and services in regulations 108 and 109 above and in Part XV of these Regulations—
- (a) “exempt supplies” shall be construed as including supplies of a description falling within regulation 103A(1) above, but only to the extent that there is, or would be, no credit for input tax on goods and services under that regulation; and
  - (b) “taxable supplies” shall be construed as including supplies of a description falling within regulation 103A(1) above, but only to the extent that there is, or would be, credit for input tax on goods and services under that regulation.
- (3) Any adjustment under regulations 108 and 109 above shall not cause any more or any less input tax to be credited, as the case may be, in respect of supplies of a description falling within regulation 103A(1) above than would be allowed or required under that regulation.
- (4) Subject to regulation 103, where—
- (a) regulation 108 or 109 applies,
  - (b) the use to which the goods or services concerned are put, or to which they are intended to be put, includes the making of any supplies outside the United Kingdom, and
  - (c) at the time when the taxable person was first required to attribute the input tax he was not required to use a method approved or directed under regulation 102 or that method did not provide expressly for the attribution of input tax attributable to supplies outside the United Kingdom,

the amount for which the taxable person shall be liable to account under regulation 108 or the amount which he is entitled to be paid under regulation 109, as the case may be, shall be calculated by reference to the extent to which the goods or services concerned are used or intended to be used in making taxable supplies, expressed as a proportion of the whole use or intended use.]

#### Textual Amendments

**F84** Words in [reg. 107\(1\)](#) omitted (with effect in accordance with [reg. 1\(3\)\(4\)](#) of the amending S.I.) by virtue of [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/599\)](#), [regs. 1\(1\), 5](#)

**F85** Words in [reg. 107\(2\)](#) omitted (with effect in accordance with [reg. 1\(3\)\(4\)](#) of the amending S.I.) by virtue of [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/599\)](#), [regs. 1\(1\), 5](#)

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**F86** Reg. 110 substituted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), regs. 1, 9

#### Commencement Information

**I86** Reg. 107 in force at 20.10.1995, see [reg. 1](#)

**I87** Reg. 108 in force at 20.10.1995, see [reg. 1](#)

**I88** Reg. 109 in force at 20.10.1995, see [reg. 1](#)

**I89** Reg. 110 in force at 20.10.1995, see [reg. 1](#)

### Exceptional claims for VAT relief

#### 111. —

(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) VAT 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 the importation or acquisition of 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, VAT on goods obtained 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 VAT on the importation or acquisition—
  - (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 importation, acquisition or supply a taxable person, and
  - (iii) imported, acquired or was supplied with the goods, or received the 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 a business.

[<sup>F87</sup>(2) No VAT may be treated as if it were input tax under paragraph (1) above—

- (a) in respect of—
  - (i) goods or services which had been supplied, or
  - (ii) save as the Commissioners may otherwise allow, goods which had been consumed, by the relevant person before the date with effect from which the taxable person was, or was required to be, registered;
- (b) subject to paragraph (2A) below, in respect of goods which had been supplied to, or imported or acquired by, the relevant person more than 3 years before the date with effect from which the taxable person was, or was required to be, registered;
- (c) in respect of services performed upon goods to which sub-paragraph (a) or (b) above applies; or
- (d) in respect of services which had been supplied to the relevant person more than 6 months before the date with effect from which the taxable person was, or was required to be, registered.]

[<sup>F88</sup>(2A) Paragraph (2)(b) above does not apply where—

- (a) the taxable person was registered before 1st May 1997; and
- (b) he did not make any returns before that date.

(2B) In paragraph (2) above references to the relevant person are references to—

- (a) the taxable person; or
- (b) in the case of paragraph (1)(b) above, the person to whom the supply had been made, or who had imported or acquired the goods, as the case may be.]

(3) [<sup>F89</sup>Subject to paragraphs (3A) and (3B) below,] a claim under paragraph (1) above shall, save as the Commissioners may otherwise allow, be made on [<sup>F90</sup>the first return the taxable person is required to make] and, as the Commissioners may require, be supported by invoices and other evidence.

[<sup>F91</sup>(3A) Where the taxable person was registered before 1st May 1997 and has not made any returns before that date paragraph (3) above shall have effect as if for the words “the first return the taxable person is required to make” there were substituted the words “the first return the taxable person makes”.

(3B) The Commissioners shall not allow a person to make any claim under paragraph (3) above in terms such that the VAT concerned would fall to be claimed as if it were input tax more than 3 years after the date by which the first return he is required to make is required to be made.]

(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) [<sup>F92</sup>Subject to paragraph (6) below,] 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 VAT 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.

[<sup>F93</sup>(6) Subject to paragraph (7) below, no claim under paragraph (5) above may be made more than 3 years after the date on which the supply of services was made.

(7) Paragraph (6) above does not apply where—

- (a) the person ceased to be, or ceased to be required to be, registered before 1st May 1997; and
- (b) the supply was made before that date.]

#### Textual Amendments

- F87** Reg. 111(2) substituted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **7(a)**
- F88** Reg. 111(2A)(2B) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **7(b)**
- F89** Words in reg. 111(3) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **7(c)**
- F90** Words in reg. 111(3) substituted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **7(d)**
- F91** Reg. 111(3A)(3B) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **7(e)**

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

**F92** Words in [reg. 111\(5\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), [regs. 1, 7\(f\)](#)

**F93** [Reg. 111\(6\)\(7\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), [regs. 1, 7\(g\)](#)

#### Commencement Information

**I90** [Reg. 111](#) in force at 20.10.1995, see [reg. 1](#)

## PART XV

### ADJUSTMENTS TO THE DEDUCTION OF INPUT TAXON CAPITAL ITEMS

#### Interpretation of Part XV

##### 112. —

(1) Any expression used in this Part to which a meaning is given in Part XIV of these Regulations shall, unless the contrary intention appears, have the same meaning in this Part as it has in that Part [<sup>F94</sup>and in particular, exempt supplies and taxable supplies shall be accorded the same meanings as defined in regulation 110 above].

(2) Any reference in this Part to a capital item shall be construed as a reference to a capital item to which this Part applies by virtue of regulation 113, being an item which a person (hereinafter referred to as “the owner”) uses in the course or furtherance of a business carried on by him, and for the purpose of that business, otherwise than solely for the purpose of selling the item.

#### Textual Amendments

**F94** Words in [reg. 112\(1\)](#) added (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), [regs. 1, 10](#)

#### Commencement Information

**I91** [Reg. 112](#) in force at 20.10.1995, see [reg. 1](#)

#### Capital items to which this Part applies

**113.** The capital items to which this Part applies are items of any of the following descriptions—

- (a) a computer or an item of computer equipment of a value of not less than £50,000 supplied to, or imported or acquired by, the owner,
- (b) [<sup>F95</sup>land, a building or part of a building or a civil engineering work or part of a civil engineering work] where the value of the interest therein supplied to the owner, by way of a taxable supply which is not a zero-rated supply, is not less than £250,000 excluding so much of that value as may consist of rent [<sup>F96</sup>(including charges reserved as rent) which is neither payable nor paid more than 12 months in advance nor invoiced for a period in excess of 12 months],
- (c) a building or part of a building where—
  - (i) the owner’s interest in, right over, or licence to occupy, the building or part of the building is treated as supplied to him under paragraph 1(5) of Schedule 10 to the Act, and

- (ii) the value of that supply, determined in accordance with paragraph 1(6)(b) of that Schedule, is not less than £250,000,
- (d) a building or part of a building where—
- (i) the owner's interest in, right over, or licence to occupy, the building or part of the building [<sup>F97</sup>was, on or before 1st March 1997, treated] as supplied to him under paragraph 6(1) of Schedule 10 to the Act, and
- (ii) the value of that supply, determined in accordance with paragraph 6(2) of that Schedule, [<sup>F98</sup>was] not less than £250,000,
- (e) a building other than one falling or capable of falling within paragraphs (c) or (d) above constructed by the owner and first brought into use by him on or after 1st April 1990 where the aggregate of—
- (i) the value of taxable grants relating to the land on which the building is constructed made to the owner on or after 1st April 1990, and
- (ii) the value of all the taxable supplies of goods and services, other than any that are zero-rated, made or to be made to him for or in connection with the construction of the building on or after 1st April 1990,
- is not less than £250,000, <sup>F99</sup> ...
- (f) a building which the owner alters, or an extension or an annex which he constructs, where—
- (i) additional floor area is created in the altered building, extension or annex, of not less than 10 per cent. of the floor area of the building before the alteration in question is carried out, or the extension or annex in question is constructed, and
- (ii) the value of all the taxable supplies of goods and services, other than any that are zero-rated, made or to be made to the owner for or in connection with the alteration, extension or annex in question on or after 1st April 1990, is not less than £250,000 [<sup>F100</sup> ,
- (g) a civil engineering work constructed by the owner and first brought into use by him on or after 3rd July 1997 where the aggregate of—
- (i) the value of the taxable grants relating to the land on which the civil engineering work is constructed made to the owner on or after 3rd July 1997, and
- (ii) the value of all the taxable supplies of goods and services, other than any that are zero-rated, made or to be made to him for or in connection with the construction of the civil engineering work on or after 3rd July 1997,
- is not less than £250,000, and]
- [<sup>F101</sup>(h) a building which the owner refurbishes or fits out where the value of capital expenditure on the taxable supplies of services and of goods affixed to the building, other than any that are zero-rated, made or to be made to the owner for or in connection with the refurbishment or fitting out in question on or after 3rd July 1997 is not less than £250,000]

#### Textual Amendments

- F95** Words in [reg. 113\(b\)](#) substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997 \(S.I. 1997/1614\)](#), [regs. 1](#), [10\(a\)\(i\)](#)
- F96** Words in [reg. 113\(b\)](#) inserted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997 \(S.I. 1997/1614\)](#), [regs. 1](#), [10\(a\)\(ii\)](#)
- F97** Words in [reg. 113\(d\)\(i\)](#) substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997 \(S.I. 1997/1614\)](#), [regs. 1](#), [10\(b\)](#)

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

- F98** Word in reg. 113(d)(ii) substituted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **10(c)**
- F99** Word in reg. 113(e) omitted (3.7.1997) by virtue of The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **10(d)**
- F100** Reg. 113(g) and comma added (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **10(e)**
- F101** Reg. 113(h) added (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **10(e)**

#### Commencement Information

- I92** Reg. 113 in force at 20.10.1995, see **reg. 1**

#### Period of adjustment

##### 114. —

(1) The proportion (if any) of the total input tax on a capital item which may be deducted under Part XIV shall be subject to adjustments in accordance with the provisions of this Part.

(2) Adjustments shall be made over a period determined in accordance with the following paragraphs of this regulation.

(3) The period of adjustment relating to a capital item of a description falling within—

- (a) regulation 113(a) shall consist of 5 successive intervals,
- (b) regulation 113(b), where the interest in the land, building or part of the building [<sup>F102</sup>or civil engineering work or part of the civil engineering work] in question has less than 10 years to run at the time it is supplied to the owner, shall consist of 5 successive intervals, and
- (c) any other description shall consist of 10 successive intervals,

determined in accordance with [<sup>F103</sup>paragraphs (4) to (5B) and (7)] below.

(4) Subject to [<sup>F104</sup>paragraphs (5A), (5B) and (7)] below, the first interval applicable to a capital item shall be determined as follows—

- (a) where the owner is a registered person when he imports, acquires or is supplied with the item as a capital item, the first interval shall commence on the day of the importation, acquisition or supply and shall end on the day before the commencement of his tax year following that day;
- (b) where the owner is a registered person when he appropriates to use an item as a capital item, the first interval shall commence on the day he first so uses it and shall end on the day before the commencement of his tax year following that day;
- (c) where the capital item is of a description falling within regulation 113(c), the first interval shall commence on the day the owner's interest in, right over, or licence to occupy, the building or part of the building is treated as supplied to him under paragraph 1(5) of Schedule 10 to the Act and shall end on the day before the commencement of his tax year following that day;
- (d) where the capital item is of a description falling within regulation 113(d), the first interval shall commence on the later of the following days—

(i) 1st April 1990,

(ii) the day the owner first uses the building (or part of the building),

and shall end on the day before the commencement of his tax year following the day of commencement of the first interval;



- (e) where the capital item is of a description falling within regulation 113 [<sup>F105</sup>(e), (f), (g) or (h)], the first interval shall commence on the day the owner first uses the building or the altered building or the extension or annex [<sup>F106</sup>or the civil engineering work or the building which has been refurbished or fitted out] in question, and shall end on the day before the commencement of his tax year following that day;
- (f) where the owner is not a registered person when he first uses an item as a capital item, and subsequently—
  - (i) becomes a registered person, the first interval shall correspond with his registration period, or
  - (ii) is included among bodies treated as members of a group under section 43 of the Act, the first interval shall correspond with, or be that part still remaining of, the then current tax year of that group.

(5) Subject to [<sup>F107</sup>paragraphs (5A), (5B) and (7)] below, each subsequent interval applicable to a capital item shall correspond with a longer period applicable to the owner, or if no longer period applies to him, a tax year of his.

[<sup>F108</sup>(5A) On the first occasion during the period of adjustment applicable to a capital item that the owner of the item—

- (a) being a registered person subsequently becomes a member of a group under section 43 of the Act;
- (b) being a member of a group under section 43 ceases to be a member of that group (whether or not he becomes a member of another such group immediately thereafter); or
- (c) transfers the item in the course of the transfer of his business or part of his business as a going concern (the item therefore not being treated as supplied) in circumstances where the new owner is not, under regulation 6(1) above, registered with the registration number of and in substitution for the transferor,

the interval then applying shall end on the day before he becomes a member of a group or the day that he ceases to be a member of the group or transfers the business or part of the business (as the case may require) and thereafter each subsequent interval (if any) applicable to the capital item shall end on the successive anniversaries of that day.

(5B) Where the extent to which a capital item is used in making taxable supplies does not change between what would, but for this paragraph, have been the first interval and the first subsequent interval applicable to it and the length of the two intervals taken together does not exceed 12 months the first interval applicable to the capital item shall end on what would have been the day that the first subsequent interval expired.]

<sup>F109</sup>(6) .....

[<sup>F110</sup>(7) Where the owner of a capital item transfers it during the period of adjustment applicable to it in the course of the transfer of his business or a part of his business as a going concern (the item therefore not being treated as supplied) and the new owner is, under regulation 6(1) above, registered with the registration number of, and in substitution for the transferor, the interval applying to the capital item at the time of the transfer shall end on the last day of the longer period applying to the new owner immediately after the transfer or, if no longer period then applies to him, shall end on the last day of his tax year following the day of transfer.]

**Textual Amendments**

**F102** Words in reg. 114(3)(b) inserted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997 \(S.I. 1997/1614\)](#), regs. 1, **11(a)(i)**

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**Changes to legislation:** There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)

- F103** Words in reg. 114(3) substituted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **11(a)(ii)**
- F104** Words in reg. 114(4) substituted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **11(b)(i)**
- F105** Words in reg. 114(4)(e) substituted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **11(b)(ii)**
- F106** Words in reg. 114(4)(e) inserted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **11(b)(ii)**
- F107** Words in reg. 114(5) substituted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **11(c)**
- F108** Reg. 114(5A)(5B) inserted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **11(d)**
- F109** Reg. 114(6) omitted (3.7.1997) by virtue of The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **11(e)**
- F110** Reg. 114(7) substituted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **11(f)**

#### Commencement Information

- I93** Reg. 114 in force at 20.10.1995, see **reg. 1**

#### Method of adjustment

##### 115. —

(1) Where in a subsequent interval applicable to a capital item, the extent to which it is used in making taxable supplies increases from the extent to which it was so used [<sup>F111</sup>or to be used at the time that the original entitlement to deduction of the input tax was determined], the owner may deduct for that subsequent interval an amount calculated as follows—

- (a) where the capital item falls within regulation 114(3)(a) or (b)—

$$\frac{\text{the total input tax on the capital item}}{5} \times \text{the adjustment percentage;}$$

- (b) where the capital item falls within regulation 114(3)(c)—

$$\frac{\text{the total input tax on the capital item}}{10} \times \text{the adjustment percentage.}$$

(2) Where in a subsequent interval applicable to a capital item, the extent to which it is used in making taxable supplies decreases from the extent to which it was so used [<sup>F112</sup>or to be used at the time that the original entitlement to deduction of the input tax was determined], the owner shall pay to the Commissioners for that subsequent interval an amount calculated in the manner described in paragraph (1) above.

(3) Where the whole of the owner's interest in a capital item is supplied by him, or the owner is deemed or, but for the fact that the VAT on the deemed supply (whether by virtue of its value or because it is zero-rated or exempt) would have been not more than [<sup>F113</sup>the sum specified in paragraph 8(1) of Schedule 4 to the Act], would have been deemed to supply a capital item [<sup>F114</sup>pursuant to that paragraph] during an interval other than the last interval applicable to the capital item, then if the supply (or deemed supply) of the capital item is—

- (a) a taxable supply, the owner shall be treated as using the capital item for each of the remaining complete intervals applicable to it wholly in making taxable supplies, or
- (b) an exempt supply, the owner shall be treated as not using the capital item for any of the remaining complete intervals applicable to it in making any taxable supplies,

and the owner shall [<sup>F115</sup>, except where paragraph (3A) below applies,] calculate for each of the remaining complete intervals applicable to it, in accordance with paragraph (1) or (2) above, as the case may require, such amount as he may deduct or such amount as he shall be liable to pay to the Commissioners,

provided that the aggregate of the amounts that he may deduct in relation to a capital item pursuant to this paragraph shall not exceed the output tax chargeable by him on the supply of that capital item.

[<sup>F116</sup>(3A) This paragraph applies if the total amount of input tax deducted or deductible by the owner of a capital item as a result of the initial deduction, any adjustments made under paragraph (1) or (2) above and the adjustment which would apart from this paragraph fall to be made under paragraph (3) above would exceed the output tax chargeable by him on the supply of that capital item.

(3B) Save as the Commissioners may otherwise allow, where paragraph (3A) above applies the owner may deduct, or as the case may require, shall pay to the Commissioners such amount as results in the total amount of input tax deducted or deductible being equal to the output tax chargeable by him on the supply of the capital item.]

(4) If a capital item is—

- (a) irretrievably lost or stolen or is totally destroyed, or
- (b) is of a kind falling within regulation 114(3)(b) and the interest in question expires,

during the period of adjustment applicable to it, no further adjustment shall be made in respect of any remaining complete intervals applicable to it.

(5) For the purposes of this regulation—

[<sup>F117</sup>“the original entitlement to deduction” means the entitlement to deduction determined in accordance with Part XIV of these Regulations;]

“the total input tax on the capital item” means, in relation to a capital item falling within—

- (a) regulation 113(a) or (b), the VAT charged on the supply to, or on the importation or acquisition by, the owner of the capital item, other than VAT charged on rent [<sup>F118</sup>(including charges reserved as rent) which is neither payable nor paid more than 12 months in advance nor invoiced for a period in excess of 12 months] (if any),
- (b) regulation 113(c) or (d), the VAT charged on the supply which the owner is treated as making to himself under paragraph 1(5) or 6(1) of Schedule 10 to the Act, as the case may require,
- (c) regulation 113[<sup>F119</sup>(e), (f), (g) or (h)], the aggregate of the VAT charged on the supplies described in regulation 113[<sup>F119</sup>(e), (f), (g) or (h)], as the case may require, other than VAT charged on rent (if any),

and shall include, in relation to any capital item, any VAT treated as input tax under regulation 111 which relates to the capital item, other than such VAT charged on rent (if any); and for the purposes of this paragraph references to the owner shall be construed as references to the person who incurred the total input tax on the capital item;

“the adjustment percentage” means the difference (if any) between the extent, expressed as a percentage, to which the capital item [<sup>F120</sup>was used or to be used for the making of taxable supplies at the time the original entitlement to deduction of the input tax was determined], and the extent to which it is so used or is treated under paragraph (3) above as being so used in the subsequent interval in question.

(6) [<sup>F121</sup>Subject to paragraph (8) below] a taxable person claiming any amount pursuant to paragraph (1) above, or liable to pay any amount pursuant to paragraph (2) above, shall include such amount in a return for the second prescribed accounting period next following the interval to

*Status: Point in time view as at 22/03/2000.*

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which that amount relates, except where the Commissioners allow another return to be used for this purpose,

provided that where an interval has come to an end under [<sup>F122</sup>regulation 114(5A)]—

- (a) <sup>F123</sup> ... because the owner of the capital item has ceased to be a member of a group under section 43 of the Act, any amount claimable from the Commissioners or payable to them (as the case may be) in respect of that interval shall be included in a return for that group for the second prescribed accounting period after the end of the tax year of the group in which the interval in question fell, or
- (b) <sup>F124</sup> ... because the owner has transferred part of his business as a going concern, and he remains a registered person after the transfer, any amount claimable from the Commissioners or payable to them (as the case may be) in respect of that interval shall be included in a return by him for the second prescribed accounting period after the end of his tax year in which the interval in question fell,

except where the Commissioners allow another return to be used for this purpose.

(7) [<sup>F125</sup>Subject to paragraph (8) below] a taxable person claiming any amount or amounts, or liable to pay any amount or amounts, pursuant to paragraph (3) above, shall include such amount or amounts in a return for the second prescribed accounting period next following the interval in which the supply (or deemed supply) in question takes place except where the Commissioners allow another return to be used for this purpose.

[<sup>F126</sup>(8) The Commissioners shall not allow the taxable person to use a return other than that specified in paragraph (6) above, paragraph (a) or (b) of that paragraph or paragraph (7) above (in each case, “the specified return”), as the case may be, unless it is the return for a prescribed accounting period commencing within 3 years of the end of the prescribed accounting period to which the specified return relates.]

#### Textual Amendments

- F111** Words in [reg. 115\(1\)](#) substituted (with effect in accordance with [reg. 1\(5\)](#) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/599\)](#), [regs. 1\(1\)](#), **6(a)**
- F112** Words in [reg. 115\(2\)](#) substituted (with effect in accordance with [reg. 1\(5\)](#) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/599\)](#), [regs. 1\(1\)](#), **6(a)**
- F113** Words in [reg. 115\(3\)](#) substituted (1.3.2000) by [The Value Added Tax \(Amendment\) Regulations 2000 \(S.I. 2000/258\)](#), [regs. 1\(2\)](#), **5(a)**
- F114** Words in [reg. 115\(3\)](#) substituted (1.3.2000) by [The Value Added Tax \(Amendment\) Regulations 2000 \(S.I. 2000/258\)](#), [regs. 1\(2\)](#), **5(b)**
- F115** Words in [reg. 115\(3\)](#) inserted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997 \(S.I. 1997/1614\)](#), [regs. 1](#), **12(a)**
- F116** [Reg. 115\(3A\)\(3B\)](#) inserted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997 \(S.I. 1997/1614\)](#), [regs. 1](#), **12(b)**
- F117** Words in [reg. 115\(5\)](#) inserted (with effect in accordance with [reg. 1\(5\)](#) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/599\)](#), [regs. 1\(1\)](#), **6(b)(i)**
- F118** Words in [reg. 115\(5\)\(a\)](#) inserted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997 \(S.I. 1997/1614\)](#), [regs. 1](#), **12(c)(i)**
- F119** Words in [reg. 115\(5\)\(c\)](#) substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997 \(S.I. 1997/1614\)](#), [regs. 1](#), **12(c)(ii)**
- F120** Words in [reg. 115\(5\)](#) substituted (with effect in accordance with [reg. 1\(5\)](#) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/599\)](#), [regs. 1\(1\)](#), **6(b)(ii)**
- F121** Words in [reg. 115\(6\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), [regs. 1](#), **8(a)**

- F122** Words in reg. 115(6) inserted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **12(d)(i)**
- F123** Words in reg. 115(6)(a) omitted (3.7.1997) by virtue of The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **12(d)(ii)**
- F124** Words in reg. 115(6)(b) omitted (3.7.1997) by virtue of The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **12(d)(iii)**
- F125** Words in reg. 115(7) inserted (1.5.1997) by The Value Added Tax (Amendment) Regulations 1997 (S.I. 1997/1086), regs. 1, **8(a)**
- F126** Reg. 115(8) added (1.5.1997) by The Value Added Tax (Amendment) Regulations 1997 (S.I. 1997/1086), regs. 1, **8(b)**

#### Commencement Information

- I94** Reg. 115 in force at 20.10.1995, see **reg. 1**

### Ascertainment of taxable use of a capital item

#### 116. —

(1) Subject to regulation 115(3) [<sup>F127</sup>and (3B)] and paragraphs (2) [<sup>F128</sup>, (A2)] 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 XIV 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.

[<sup>F129</sup>(A2) Subject to paragraph (2) below, the attribution of the total input tax on a capital item for subsequent intervals determined in accordance with regulation 114(5A) above shall be determined by such method as is agreed with the Commissioners.]

(2) In any particular case the Commissioners may allow another method by which, or may direct the manner in which, the extent to which a capital item is used in making taxable supplies in any subsequent interval applicable to it is to be ascertained.

(3) Where the owner of a building which is a capital item of his grants or assigns a tenancy or lease in the whole or any part of that building and that grant or assignment is a zero-rated supply to the extent only as provided by—

- (a) note [<sup>F130</sup>(14)] to Group 5 of Schedule 8 to the Act, or
- (b) that note as applied to Group 6 of that Schedule by note [<sup>F131</sup>(3)] to Group 6, or
- (c) paragraph 8 of Schedule 13 to the Act,

any subsequent exempt supply of his arising directly from that grant or assignment shall be disregarded in determining the extent to which the capital item is used in making taxable supplies in any interval applicable to it.

#### Textual Amendments

- F127** Words in reg. 116(1) inserted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **13(a)(i)**
- F128** Word in reg. 116(1) and comma inserted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **13(a)(ii)**
- F129** Reg. 116(A2) inserted (3.7.1997) by The Value Added Tax (Amendment) (No.3) Regulations 1997 (S.I. 1997/1614), regs. 1, **13(b)**
- F130** Word in reg. 116(3)(a) substituted (1.1.1996) by The Value Added Tax (Amendment) Regulations 1995 (S.I. 1995/3147), regs. 1, **5(a)**

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

**F131** Word in reg. 116(3)(b) substituted (1.1.1996) by [The Value Added Tax \(Amendment\) Regulations 1995 \(S.I. 1995/3147\)](#), regs. 1, **5(b)**

**Commencement Information**

**I95** Reg. 116 in force at 20.10.1995, see [reg. 1](#)

## PART XVI

### IMPORTATIONS, EXPORTATIONS AND REMOVALS

#### Interpretation of Part XVI

117. —

(1) In regulation 127 “approved inland clearance depot” means any inland premises approved by the Commissioners for the clearance of goods for customs and excise purposes.

(2) For the purposes of regulation 128 “container” means an article of transport equipment (lift-van, moveable tank or other similar structure)—

- (a) fully or partially enclosed to constitute a compartment intended for containing goods,
- (b) of a permanent character and accordingly strong enough to be suitable for repeated use,
- (c) specially designed to facilitate the carriage of goods, by one or more modes of transport, without intermediate reloading,
- (d) designed for ready handling, particularly when being transferred from one mode of transport to another,
- (e) designed to be easy to fill and to empty, and
- (f) having an internal volume of one cubic metre or more,

and the term “container” shall include the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container, but shall not include vehicles, accessories or spare parts of vehicles, or packaging.

<sup>F132</sup>(3) .....

[<sup>F133</sup>(4) In regulations 130 and 131 “goods” does not include—

- (a) a motor-vehicle, or
- (b) a boat intended to be exported under its own power.]

<sup>F134</sup>(5) .....

<sup>F134</sup>(6) .....

(7) For the purposes of regulation 129 “overseas authority” means any country other than the United Kingdom or any part of or place in such a country or the government of any such country, part or place.

[<sup>F135</sup>(7A) In regulations 130(a)(i) and 131 the words “overseas visitor” refer to a traveller who is not established within the member States.

(7B) For the purposes of paragraph (7A) above, a traveller is not established within the member States only if that traveller’s domicile or habitual residence is situated outside the member States.

(7C) Solely for the purposes of paragraph (7B) above, the traveller’s domicile or habitual residence is the place entered as such in a valid—

- (a) identity document,

- (b) identity card, or
- (c) passport.

(7D) A document referred to in sub-paragraph (a), (b) or (c) of paragraph (7C) above is valid for the purposes of that paragraph only if—

- (a) it is so recognised by the Commissioners; and
- (b) it is not misleading as to the traveller’s true place of domicile or habitual residence.]

(8) In [<sup>F136</sup>regulation 132] “overseas visitor” means a person who, during the 2 years immediately preceding <sup>F137</sup>... the date of the application mentioned in regulation 132, has not been in the member States for more than 365 days, or who, <sup>F137</sup>... during the 6 years immediately preceding the date of the application has not been in the member States for more than 1,095 days.

(9) In regulations 130 and 131 “ship” includes a hovercraft within the meaning of the Hovercraft Act 1968(7).

(10) In regulations 140 and 144 “customs territory of the Community” has the same meaning as it has for the purposes of Council Regulation (EEC) No. 2913/92(8).

#### Textual Amendments

- F132** Reg. 117(3) omitted (1.4.1999) by virtue of [The Value Added Tax \(Amendment\) Regulations 1999](#) (S.I. 1999/438), regs. 1, **10(1)**
- F133** Reg. 117(4) substituted (1.3.1996) by [The Value Added Tax \(Amendment\) Regulations 1996](#) (S.I. 1996/210), regs. 1, **8**
- F134** Reg. 117(5)(6) omitted (1.3.1996) by virtue of [The Value Added Tax \(Amendment\) Regulations 1996](#) (S.I. 1996/210), regs. 1, **9**
- F135** Reg. 117(7A)-(7D) inserted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999](#) (S.I. 1999/438), regs. 1, **10(2)**
- F136** Words in reg. 117(8) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999](#) (S.I. 1999/438), regs. 1, **10(3)(a)**
- F137** Words in reg. 117(8) omitted (1.4.1999) by virtue of [The Value Added Tax \(Amendment\) Regulations 1999](#) (S.I. 1999/438), regs. 1, **10(3)(b)**

#### Commencement Information

- I96** Reg. 117 in force at 20.10.1995, see [reg. 1](#)

#### Enactments excepted

**118.** There shall be excepted from the enactments which are to apply as mentioned in section 16(1) of the Act—

- (a) the Alcoholic Liquor Duties Act 1979(9)—
  - (i) section 7 (exemption from duty on spirits in articles used for medical purposes),
  - (ii) section 8 (repayment of duty on spirits for medical or scientific purposes),
  - (iii) section 9 (remission of duty on spirits for methylation),
  - (iv) section 10 (remission of duty on spirits for use in art or manufacture),

(7) 1968 c. 59 .

(8) OJ No. L302, 19.10.92, p. 1; the territories comprising the customs territory of the Community are defined in Article 3 of Council Regulation (EEC) No. 2913/92 as amended by virtue of the treaty concerning the accession of Austria, Finland and Sweden to the European Union (OJ No. C. 241, 29.8.94, p. 9) and as adjusted by paragraph A1(a) of Part XIII of Annex I to Council Decision 95/1/EC, Euratom, ECSC (OJ No. L1, 1.1.95, p. 1).

(9) 1979 c. 4 ; section 8 was substituted by section 6(1) of the Finance Act 1988 (c. 39) .

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

- (v) section 22(4) (drawback on exportation of tinctures or spirits of wine), and
- (vi) sections 42 and 43 (drawback on exportation and warehousing of beer),
- (b) the Hydrocarbon Oil Duties Act 1979(**10**)—
  - (i) section 9 (relief for certain industrial uses),
  - (ii) section 15 (drawback of duty on exportation etc. of certain goods),
  - (iii) section 16 (drawback of duty on exportation etc. of power methylated spirits),
  - (iv) section 17 (repayment of duty on heavy oil used by horticultural producers),
  - (v) section 18 (repayment of duty on fuel for ships in home waters),
  - (vi) section 19 (repayment of duty on fuel used in fishing boats etc.),
  - (vii) section 20 (relief from duty on oil contaminated or accidentally mixed in warehouse), and
  - (viii) section 20AA (power to allow reliefs),
- (c) the Customs and Excise Management Act 1979(**11**)—
  - (i) section 43(5) (provisions as to duty on re-imported goods),
  - (ii) section 125(1) and (2) (valuation of goods for the purpose of ad valorem duties),
  - (iii) section 126 (charge of excise duty on manufactured or composite imported articles), and
  - (iv) section 127(1)(b) (determination of disputes as to duties on imported goods),
- (d) the Customs and Excise Duties (General Reliefs) Act 1979(**12**) other than sections 8 and 9(b),
- (e) the Isle of Man Act 1979(**13**), sections 8 and 9 (removal of goods from Isle of Man to United Kingdom), and
- (f) the Tobacco Products Duty Act 1979(**14**), section 2(2) (remission or repayment of duty on tobacco products).

#### Commencement Information

**197** Reg. 118 in force at 20.10.1995, see [reg. 1](#)

#### Regulations excepted

**119.** Regulations 16(4) and (5) and 19(1)(b) of the Excise Warehousing (Etc.) Regulations 1988(**15**) shall be excepted from the subordinate legislation which is to apply as mentioned in section 16(1) of the Act.

#### Commencement Information

**198** Reg. 119 in force at 20.10.1995, see [reg. 1](#)

- (10) 1979 c. 5 .
- (11) 1979 c. 2 .
- (12) 1979 c. 3 .
- (13) 1979 c. 58 .
- (14) 1979 c. 7 .
- (15) S.I. 1988/809.



## Community legislation excepted

### 120. —

(1) Council Regulation (EEC) No. 918/83(16) on conditional reliefs from duty on the final importation of goods, and any implementing Regulations made thereunder shall be excepted from the Community legislation which is to apply as mentioned in section 16(1) of the Act.

(2) The following Articles shall be excepted from the Community legislation which is to apply as mentioned in section 16(1) of the Act—

(a) in Council Regulation (EEC) No. 2913/92(17) establishing the Community Customs Code—

- (i) Articles 126 to 128 (drawback system of inward processing relief),
- (ii) Articles 130 to 136 (processing for free circulation),
- (iii) Article 137 so far as it relates to partial relief on temporary importation, and Article 142,
- (iv) Articles 145 to 160 (outward processing),
- (v) Articles 185 to 187 (returned goods), and
- (vi) Article 229(b) (interest payable on a customs debt),

(b) in Commission Regulation (EEC) No. 2454/93(18) which contains provisions implementing the Community Customs Code—

- (i) Articles 624 to 647 (drawback system of inward processing relief),
- (ii) Articles 650 to 669 (processing for free circulation),
- (iii) Article 690 (partial relief on temporary importation),
- (iv) Articles 748 to 787 (outward processing), and
- (v) Articles 844 to 856 and 882 (returned goods).

(3) Council Regulation (EEC) No. 2658/87(19) on the tariff and statistical nomenclature and on the Common Customs Tariff and implementing Regulations made thereunder (end use relief), save and in so far as the said Regulations apply to goods admitted into territorial waters—

(a) in order to be incorporated into drilling or production platforms, for purposes of the construction, repair, maintenance, alteration or fitting-out of such platforms, or to link such drilling or production platforms to the mainland of the United Kingdom, or

(b) for the fuelling and provisioning of drilling or production platforms,

shall be excepted from the Community legislation which is to apply as mentioned in section 16(1) of the Act.

### Commencement Information

**199** Reg. 120 in force at 20.10.1995, see [reg. 1](#)

(16) OJ No. L 105, 23.4.83, p. 1; implementing Regulations are Commission Regulations (EEC) Numbers 2288/83 OJ No. L 220, 11.8.83, p. 13; 2289/83 OJ No. L 220, 11.8.83, p. 15 and 2290/83 OJ No. L 220, 11.8.83, p. 20.

(17) OJ No. L 302, 19.10.92, p. 1.

(18) OJ No. L 253, 11.10.93, p. 1.

(19) OJ No. L 256, 7.9.87, p. 1.

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

## Adaptations

**121.** Section 125(3) of the Customs and Excise Management Act 1979 shall have effect in its application by virtue of section 16(1) of the Act as if the reference to the preceding subsections of that section included a reference to section 21 of the Act.

### Commencement Information

**I100** Reg. 121 in force at 20.10.1995, see [reg. 1](#)

## Postal importations by registered persons in the course of business

**122.** Goods imported by post from places outside the member States, other than by datapost packet, not exceeding £2,000 in value, or such greater sum as is determined for the time being by the Commissioners, by a registered person in the course of a business carried on by him may, with the authority of the proper officer, be delivered without payment of VAT if—

- (a) the registered person has given such security as the Commissioners may require, and
- (b) his registration number is shown on the customs declaration attached to or accompanying the package,

and save as the Commissioners may otherwise allow he shall account for VAT chargeable on the goods on their importation together with any VAT chargeable on the supply of goods or services by him or on the acquisition of goods by him from another member State in a return furnished by him in accordance with these Regulations for the prescribed accounting period during which the goods were imported.

### Commencement Information

**I101** Reg. 122 in force at 20.10.1995, see [reg. 1](#)

## Temporary importations

**123.** —

(1) Subject to such conditions as the Commissioners may impose, the VAT chargeable on the importation of goods from a place outside the member States shall not be payable where—

- (a) a taxable person makes a supply of goods which is to be zero-rated in accordance with sub-paragraphs (a)(i) and (ii), and (b) of section 30(8) of the Act,
- (b) the goods so imported are the subject of that supply, and
- (c) the Commissioners are satisfied that—
  - (i) the importer intends to remove the goods to another member State, and
  - (ii) the importer is importing the goods in the course of a supply by him of those goods in accordance with the provisions of sub-paragraphs (a)(i) and (ii), and (b) of section 30(8) of the Act and any Regulations made thereunder.

(2) As a condition of granting the relief afforded by paragraph (1) above the Commissioners may require the deposit of security, the amount of which shall not exceed the amount of VAT chargeable on the importation.

(3) The relief afforded by paragraph (1) above shall continue to apply provided that the importer—

- (a) removes the goods to another member State within one month of the date of importation or within such longer period as the Commissioners may allow, and
- (b) supplies the goods in accordance with sub-paragraphs (a)(i) and (ii), and (b) of section 30(8) of the Act and any Regulations made thereunder.

**Commencement Information**

**I102** Reg. 123 in force at 20.10.1995, see [reg. 1](#)

**Reimportation of certain goods by non-taxable persons**

**124.** Subject to such conditions as the Commissioners may impose, the VAT chargeable on the importation of goods from a place outside the member States which have been previously exported from the member States shall not be payable if the Commissioners are satisfied that—

- (a) the importer is not a taxable person or, if he is, the goods are imported otherwise than in the course of his business,
- (b) the goods were last exported from the member States by him or on his behalf,
- (c) the goods—
  - (i) were supplied, acquired in or imported into a member State before their export, and any VAT or other tax due on that supply, acquisition or importation was paid and neither has been, nor will be, refunded, or
  - (ii) are imported by the person who made them,
- (d) the goods were not exported free of VAT by reason of the zero-rating provisions of subsection (6) or (8) of section 30 of the Act or Regulations made thereunder or free of purchase tax or by reason of the provisions of the law of another member State corresponding, in relation to that member State, to those provisions,
- (e) the goods have not been subject to process or repair outside the member States other than necessary running repairs which did not result in any increase in the value of the goods, and
- (f) the goods—
  - (i) were at the time of exportation intended to be reimported, or
  - (ii) have been returned for repair or replacement, or after rejection by a customer outside the member States, or because it was not possible to deliver them to such customer, or
  - (iii) were prior to the time of exportation in private use and possession in the member States.

**Commencement Information**

**I103** Reg. 124 in force at 20.10.1995, see [reg. 1](#)

**Reimportation of certain goods by taxable persons**

**125.** Subject to such conditions as the Commissioners may impose, the VAT chargeable on the importation of goods from a place outside the member States which have been previously exported from the member States shall not be payable if the Commissioners are satisfied that—

- (a) the importer is a taxable person importing the goods in the course of his business,
- (b) the goods were last exported from the member States by him or on his behalf,

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

- (c) the goods have not been subject to process or repair outside the member States other than necessary running repairs which did not result in any increase in the value of the goods,
- (d) the goods—
  - (i) were owned by him at the time of exportation and have remained his property, or
  - (ii) were owned by him at the time of exportation and have been returned after rejection by a customer outside the member States or because it was not possible to deliver them to such a customer, or
  - (iii) have been returned from the continental shelf, and
- (e) if the goods were supplied in, acquired in or imported into a member State before their export, any VAT or other tax chargeable on that supply, acquisition or importation was accounted for or paid and neither has been, nor will be, refunded.

**Commencement Information**

**I104** Reg. 125 in force at 20.10.1995, see [reg. 1](#)

**Reimportation of goods exported for treatment or process**

**126.** Subject to such conditions as the Commissioners may impose, VAT chargeable on the importation of goods from a place outside the member States which have been temporarily exported from the member States and are reimported after having undergone repair, process or adaptation outside the member States, or after having been made up or reworked outside the member States, shall be payable as if such treatment or process had been carried out in the United Kingdom, if the Commissioners are satisfied that—

- (a) at the time of exportation the goods were intended to be reimported after completion of the treatment or process outside the member States, and
- (b) the ownership in the goods was not transferred to any other person at exportation or during the time they were abroad.

**Commencement Information**

**I105** Reg. 126 in force at 20.10.1995, see [reg. 1](#)

**Supplies to export houses**

<sup>F138</sup>**127.** . . . . .

**Textual Amendments**

**F138** Reg. 127 omitted (1.4.1999) by virtue of [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), [regs. 1, 11](#)

**Commencement Information**

**I106** Reg. 127 in force at 20.10.1995, see [reg. 1](#)

## Export of freight containers

**128.** Where the Commissioners are satisfied that a container is to be exported to a place outside the member States, its supply, subject to such conditions as they may impose, shall be zero-rated.

### Commencement Information

**I107** Reg. 128 in force at 20.10.1995, see [reg. 1](#)

## Supplies to overseas persons

**129.** —

(1) Where the Commissioners are satisfied that—

- (a) goods intended for export to a place outside the member States have been supplied, otherwise than to a taxable person, to—
  - (i) a person not resident in the United Kingdom,
  - (ii) a trader who has no business establishment in the United Kingdom from which taxable supplies are made, or
  - (iii) an overseas authority, and
- (b) the goods were exported to a place outside the member States,

the supply, subject to such conditions as they may impose, shall be zero-rated.

(2) This regulation shall not apply in the case of a supply to any person who is a member of the crew of any ship or aircraft departing from the United Kingdom or the Isle of Man.

### Commencement Information

**I108** Reg. 129 in force at 20.10.1995, see [reg. 1](#)

## Supplies to persons departing from the member States

**130.** Where the Commissioners are satisfied that—

- (a) goods have been supplied to, and delivered direct to, a ship or aircraft on behalf of—
  - (i) a member, being an overseas visitor, of the crew of any ship or aircraft departing from the United Kingdom or the Isle of Man to an immediate destination outside the member States, or
  - (ii) a person <sup>F139</sup>... who has been resident in the member States for at least 365 days in the last 2 years immediately preceding the date of the supply of the said goods and who, at the time of the said supply, intends to depart from the United Kingdom or the Isle of Man for an immediate destination outside the member States and remain outside the member States for a period of at least 12 months, and
- (b) save as they may allow, the goods were produced to the proper officer on exportation, and
- (c) the goods were exported in that ship or aircraft or in such other ship or aircraft as the Commissioners may allow,

the supply, subject to such conditions as they may impose, shall be zero-rated.

**131.** —

(1) Where the Commissioners are satisfied that—

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

- (a) goods have been supplied to a person who is an overseas visitor and who, at the time of the supply, intended to depart from the member States [<sup>F140</sup>before the end of the third month following that in which the supply is effected] and that the goods should accompany him,
  - (b) save as they may allow, the goods were produced to the competent authorities for the purposes of the common system of VAT in the member State from which the goods were finally exported to a place outside the member States, and
  - (c) the goods were exported to a place outside the member States,
- the supply, subject to such conditions as they may impose, shall be zero-rated.

(2) This regulation shall not apply in the case of a supply to any person who is a member of the crew of any ship or aircraft departing from the member States.

**132.** The Commissioners may, on application by an overseas visitor who intends to depart from the member States within 15 months and remain outside the member States for a period of at least 6 months, permit him within 12 months of his intended departure to purchase, from a registered person, a new motor vehicle without payment of VAT, for subsequent export, and its supply, subject to such conditions as they may impose, shall be zero-rated.

**133.** The Commissioners may, on application by any person who intends to depart from the member States within 9 months and remain outside the member States for a period of at least 6 months, permit him within 6 months of his intended departure to purchase, from a registered person, a new motor vehicle without payment of VAT, for subsequent export, and its supply, subject to such conditions as they may impose, shall be zero-rated.

#### Textual Amendments

**F139** Words in [reg. 130\(a\)\(ii\)](#) omitted (1.4.1999) by virtue of [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), [regs. 1, 12](#)

**F140** Words in [reg. 131\(1\)\(a\)](#) substituted (1.1.1996) by [The Value Added Tax \(Amendment\) Regulations 1995 \(S.I. 1995/3147\)](#), [regs. 1, 6](#)

#### Commencement Information

**I109** Reg. 130 in force at 20.10.1995, see [reg. 1](#)

**I110** Reg. 131 in force at 20.10.1995, see [reg. 1](#)

**I111** Reg. 132 in force at 20.10.1995, see [reg. 1](#)

**I112** Reg. 133 in force at 20.10.1995, see [reg. 1](#)

### Supplies to persons taxable in another member State

**134.** Where the Commissioners are satisfied that—

- (a) a supply of goods by a taxable person involves their removal from the United Kingdom,
- (b) the supply is to a person taxable in another member State,
- (c) the goods have been removed to another member State, and
- (d) the goods are not goods in relation to whose supply the taxable person has opted, pursuant to section 50A(20) of the Act, for VAT to be charged by reference to the profit margin on the supply,

the supply, subject to such conditions as they may impose, shall be zero-rated.

(20) Section 50A was inserted by section 24 of the Finance Act 1995 (c. 4).

**Commencement Information**

**I113** Reg. 134 in force at 20.10.1995, see [reg. 1](#)

**Supplies of goods subject to excise duty to persons who are not taxable in another member State**

**135.** Where the Commissioners are satisfied that—

- (a) a supply by a taxable person of goods subject to excise duty involves their removal from the United Kingdom to another member State,
- (b) that supply is other than to a person taxable in another member State and the place of supply is not, by virtue of section 7(5) of the Act, treated as outside the United Kingdom,
- (c) the goods have been removed to another member State in accordance with the provisions of the Excise Goods (Holding, Movement, Warehousing and REDS) Regulations 1992(21), and
- (d) the goods are not goods in relation to whose supply the taxable person has opted, pursuant to section 50A of the Act, for VAT to be charged by reference to the profit margin on the supply,

the supply, subject to such conditions as they may impose, shall be zero-rated.

**Commencement Information**

**I114** Reg. 135 in force at 20.10.1995, see [reg. 1](#)

**Territories to be treated as excluded from or included in the territory of the Community and of the member States**

**136.** For the purposes of the Act the following territories shall be treated as excluded from the territory of the Community—

- (a) the Channel Islands,
- (b) Andorra,
- (c) San Marino, and
- (d) the Aland Islands.

**137.** For the purposes of the Act the following territories shall be treated as excluded from the territory of the member States and the territory of the Community—

- (a) the Canary Islands (Kingdom of Spain),
- (b) the overseas departments of the French Republic (Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon and French Guiana), and
- (c) Mount Athos (Hellenic Republic).

**138.** —

(1) For the purposes of the Act the territory of the Community shall be treated as excluding Austria, Finland and Sweden (the acceding States) in relation to goods to which this regulation applies.

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*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

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- (2) Subject to paragraph (4) below, the goods to which this regulation applies are—
- (a) goods which are the subject of a supply made in an acceding State before 1st January 1995 and which in pursuance of that supply are removed to the United Kingdom on or after 20th October 1995 being goods in the case of which provisions of the law of the acceding State in question having effect for purposes corresponding to those of subsection (6)(a) or (so far as it applies to exportations) subsection (8) of section 30 of the Act have prevented VAT from being charged on that supply, and
  - (b) goods which were subject to a suspension regime before 1st January 1995, which by virtue of any Community legislation were to remain, for VAT purposes only, subject to that regime for a period beginning with that date and which cease to be subject to that regime on or after 20th October 1995.
- (3) For the purposes of paragraph (2)(b) above, goods shall be treated as having become subject to a suspension regime if—
- (a) on their entry into the territory of the Community—
    - (i) they were placed under a temporary admission procedure with full exemption from import duties, in temporary storage, in a free zone, or under customs warehousing arrangements or inward processing arrangements, or
    - (ii) they were admitted into the territorial waters of the United Kingdom for the purpose of being incorporated into drilling or production platforms, for the purposes of the construction, repair, maintenance, alteration or fitting-out of such platforms, for the purpose of linking such platforms to the mainland of the United Kingdom, or for the purpose of fuelling or provisioning such platforms, or
  - (b) they were placed under any customs transit procedure in pursuance of a supply made in the course of a business,
- and (in the case in question) the time that any Community customs debt in relation to the goods would be incurred in the United Kingdom if the accession to the European Union of the acceding States were disregarded would fall to be determined by reference to the matters mentioned in subparagraph (a) or (b) above.
- (4) This regulation does not apply to the following goods—
- (a) goods which are exported on or after 20th October 1995 to a place outside the member States,
  - (b) goods which are not means of transport and are removed on or after 20th October 1995 from a temporary admission procedure such as is referred to in paragraph (3)(a)(i) above, in order to be returned to the person in an acceding State who had exported them from that State,
  - (c) means of transport which are removed on or after 20th October 1995 from a temporary admission procedure such as is referred to in paragraph (3)(a)(i) above and which—
    - (i) were first brought into service before 1st January 1987, or
    - (ii) have a value not exceeding £4,000, or
    - (iii) have been charged in an acceding State with VAT which has not been remitted or refunded by reason of their exportation and to such other tax (if any) to which means of transport of that class or description are normally chargeable.
- 139.** For the purposes of the Act the following territories shall be treated as included in the territory of the member States and the territory of the Community—
- (i) the Principality of Monaco (French Republic), and
  - (ii) the Isle of Man (United Kingdom).



#### Commencement Information

- I115 Reg. 136 in force at 20.10.1995, see [reg. 1](#)
- I116 Reg. 137 in force at 20.10.1995, see [reg. 1](#)
- I117 Reg. 138 in force at 20.10.1995, see [reg. 1](#)
- I118 Reg. 139 in force at 20.10.1995, see [reg. 1](#)

### Entry and exit formalities

#### 140. —

(1) Where goods enter the United Kingdom from the territories prescribed in regulation 136 or 137 the formalities relating to the entry of goods into the customs territory of the Community contained in Council Regulation (EEC) No. 2913/92(22), Commission Regulation (EEC) No. 2454/93(23) and the Customs Controls on Importation of Goods Regulations 1991(24), shall be completed.

(2) Where goods are exported from the United Kingdom to the territories prescribed in regulation 136 or 137 the formalities relating to the export of goods to a place outside the customs territory of the Community contained in Council Regulation (EEC) No. 2913/92 and Commission Regulation (EEC) No. 2454/93 shall be completed.

#### Commencement Information

- I119 Reg. 140 in force at 20.10.1995, see [reg. 1](#)

### Use of the internal Community transit procedure

141. Where goods enter the United Kingdom from the territories prescribed in regulation 136 or 137 and the said goods are intended for another member State, or other destination outside the United Kingdom transport of the goods to which destination involves their passage through another member State, the internal Community transit procedure described in Council Regulation (EEC) No. 2913/92 and Commission Regulation (EEC) No. 2454/93 shall apply.

#### Commencement Information

- I120 Reg. 141 in force at 20.10.1995, see [reg. 1](#)

### Customs and excise legislation to be applied

142. Subject to regulation 143, where goods are imported into the United Kingdom from the territories prescribed in regulation 136 or 137 customs and excise legislation shall apply (so far as relevant) in relation to any VAT chargeable upon such importation with the same exceptions and adaptations as are prescribed in regulations 118, 119, 120 and 121 in relation to the application of section 16(1) of the Act.

(22) OJ No. L 302, 19.10.92, p. 1.

(23) OJ No. L 253, 11.10.93, p. 1; this Regulation has been amended by Commission Regulation (EC) No. 3665/93 (OJ No. L 335, 31.12.93, p. 1), Commission Regulation (EC) No. 655/94 (OJ No. L 82, 25.3.94, p. 15), Council Regulation (EC) No. 1500/94 (OJ No. L 162, 30.6.94, p. 1), Commission Regulation (EC) No. 2193/94 (OJ No. L 235, 9.9.94, p. 6) and Commission Regulation (EC) No. 3254/94 (OJ No. L 346, 31.12.94, p. 1).

(24) S.I. 1991/2724, amended by S.I. 1993/3014.

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

**143.** Where goods are imported into the United Kingdom from the territories prescribed in regulation 137, section 4 of the Finance (No. 2) Act 1992<sup>(25)</sup> (enforcement powers) shall apply in relation to any VAT chargeable upon such importation as if references in that section to “member States” excluded the territories prescribed in regulation 137.

**144.** Where goods are exported from the United Kingdom to the territories prescribed in regulation 136 or 137 the provisions relating to the export of goods to a place outside the customs territory of the Community contained in Council Regulation (EEC) No. 2913/92 and Commission Regulation (EEC) No. 2454/93 shall apply for the purpose of ensuring the correct application of the zero rate of VAT to such goods.

**145.** —

(1) Subject to paragraph (2) below, where goods are exported from the United Kingdom to the territories prescribed in regulation 136 or 137 the provisions made by or under the Customs and Excise Management Act 1979<sup>(26)</sup> in relation to the exportation of goods to places outside the member States shall apply (so far as relevant) for the purpose of ensuring the correct application of the zero rate of VAT to such goods.

(2) Where goods are being exported from the United Kingdom to the territories prescribed in regulation 137, section 4 of the Finance (No. 2) Act 1992 (enforcement powers) shall apply to such goods as if references in that section to “member States” excluded the territories prescribed in regulation 137.

#### Commencement Information

- I121** Reg. 142 in force at 20.10.1995, see [reg. 1](#)
- I122** Reg. 143 in force at 20.10.1995, see [reg. 1](#)
- I123** Reg. 144 in force at 20.10.1995, see [reg. 1](#)
- I124** Reg. 145 in force at 20.10.1995, see [reg. 1](#)

## [<sup>F141</sup>PART XVI(A)

### FISCAL AND OTHER WAREHOUSING REGIMES

#### Textual Amendments

- F141** Pt. 16(A) and heading inserted (28.4.1996) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 1996 \(S.I. 1996/1250\)](#), regs. 1(1)(2), [12](#), [13](#)

#### Interpretation of Part XVI(A)

**145A.**—(1) In this Part unless the context otherwise requires—

“eligible goods” has the meaning given by section 18B(6);

“fiscal warehouse” includes all fiscal warehouses kept by the same fiscal warehousekeeper;

“material time” has the meaning given by section 18F(1) in the case of a fiscal warehousing regime and section 18(6) in the case of a warehousing regime;

(25) 1992 c. 48 .

(26) 1979 c. 2 .

“regulation” or “regulations” refers to the relevant regulation or regulations of these Regulations; and,

“section” or “sections” refers to the relevant section or sections of the Act.

(2) For the purposes of this Part, where a fiscal warehousekeeper keeps one or more fiscal warehouses there shall be associated with him a single fiscal warehousing regime; and “relevant fiscal warehousekeeper”, “relevant fiscal warehouse”, “relevant fiscal warehousing regime”, “his fiscal warehouse”, “his fiscal warehousing regime” and similar expressions shall be construed in this light.

### **Fiscal warehousing certificates**

**145B.**—(1) The certificate referred to in section 18B(1)(d) (certificate relating to acquisitions in or intended for fiscal warehousing) and the certificate referred to in section 18B(2)(d) (supplies of goods intended for fiscal warehousing) shall contain the information indicated in the form numbered 17 in Schedule 1 to these Regulations.

(2) A certificate prepared under section 18B(1)(d) by an acquirer who is not a taxable person shall be kept by him for a period of six years commencing on the day the certificate is prepared; and he shall produce it to a proper officer when that officer requests him to do so.

### **Certificates connected with services in fiscal or other warehousing regimes**

**145C.** The certificate referred to in section 18C(1)(c) (certificate required for the zero-rating of certain services performed on or in relation to goods while those goods are subject to a fiscal or other warehousing regime) shall contain the information indicated in the form numbered 18 in Schedule 1 to these Regulations.

### **VAT invoices relating to services performed in fiscal or other warehousing regimes**

**145D.**—(1) This regulation applies to the invoice referred to in section 18C(1)(e) (invoice required for the zero-rating of the supply of certain services performed on or in relation to goods while those goods are subject to a fiscal or other warehousing regime).

(2) The invoice shall be known as a VAT invoice and shall state the following particulars (unless the Commissioners allow any requirement of this paragraph to be relaxed or dispensed with)—

- (a) an identifying number,
- (b) the material time of the supply of the services in question,
- (c) the date of the issue of the invoice,
- (d) the name, an address and the registration number of the supplier,
- (e) the name and an address of the person to whom the services are supplied,
- (f) a description sufficient to identify the nature of the services supplied,
- (g) the extent of the services and the amount payable, excluding VAT, expressed in sterling,
- (h) the rate of any cash discount offered,
- (i) the rate of VAT as zero per cent, and
- (j) a declaration that in respect of the supply of services in question, the requirements of section 18C(1) will be or have been satisfied.

(3) The supplier of the services in question shall issue the invoice to the person to whom the supply is made within thirty days of the material time of that supply of services (or within such longer period as the Commissioners may allow in general or special directions).

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*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

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### **Fiscal warehousing regimes**

**145E.**—(1) Upon any eligible goods entering a fiscal warehouse the relevant fiscal warehousekeeper shall record their entry in his relevant fiscal warehousing record.

- (2) Eligible goods shall only be subject to or in a fiscal warehousing regime at any time—
- (a) while they are allocated to that regime in the relevant fiscal warehousing record;
  - (b) while they are not identified in that record as having been transferred; or,
  - (c) prior to their removal from that regime.

### **The fiscal warehousing record and stock control**

**145F.**—(1) In addition to the records referred to in regulation 31, a fiscal warehousekeeper shall maintain a fiscal warehousing record for any fiscal warehouse in respect of which he is the relevant fiscal warehousekeeper.

(2) The fiscal warehousing record may be maintained in any manner acceptable to the Commissioners. In particular, it shall be capable of—

- (a) ready use by any proper officer in the course of his duties; and
- (b) reproduction into a form suitable for any proper officer to readily use at a place other than the relevant fiscal warehouse.

(3) Subject to paragraph (4) below, the fiscal warehousing record shall have the features and shall comply with the requirements set out in Schedule 1A to these Regulations.

(4) In respect of any goods the relevant fiscal warehousing record shall not be required to record events more than six years following—

- (a) the transfer or removal of those goods from the relevant fiscal warehousing regime; or,
- (b) the exit of those goods from the relevant fiscal warehouse (in the case of goods which were not allocated to the relevant fiscal warehousing regime).

(5) A fiscal warehousekeeper, upon receiving a request to do so from any proper officer, shall—

- (a) produce his fiscal warehousing record to that officer and permit him to inspect or take copies of it or of any part of it (as that officer shall require); or,
- (b) facilitate and permit that officer to inspect any goods which are stored or deposited in his fiscal warehouse (whether or not those goods are allocated to the relevant fiscal warehousing regime).

### **Fiscal warehousing transfers in the United Kingdom**

**145G.**—(1) Subject to paragraphs (2) and (3) below, a fiscal warehousekeeper (“the original fiscal warehousekeeper”) may permit eligible goods which are subject to his fiscal warehousing regime (“the original regime”) to be transferred to another fiscal warehousing regime (“the other regime”) without those goods being treated as removed from the original regime.

(2) The original fiscal warehousekeeper shall not allow eligible goods to exit from his fiscal warehouse in pursuance of this regulation before he receives a written undertaking from the fiscal warehousekeeper in relation to that other fiscal warehousing regime (“the other fiscal warehousekeeper”) that, in respect of those eligible goods, the other fiscal warehousekeeper will comply with the requirements of paragraph (3) below.

(3) The other fiscal warehousekeeper, upon the entry of the goods to his fiscal warehouse, shall—

- (a) record that entry in his fiscal warehousing record; and,
- (b) allocate those goods to his fiscal warehousing regime.

Furthermore, within 30 days commencing with the day on which those goods left the original fiscal warehouse, he shall—

- (c) deliver or cause to be delivered to the original fiscal warehousekeeper a certificate in a form acceptable to the Commissioners confirming that he has recorded the entry of those goods to his fiscal warehouse and allocated them to his fiscal warehousing regime; and,
- (d) retain a copy of that certificate as part of his fiscal warehousing record.

### **Removal of goods from a fiscal warehousing regime and transfers overseas**

**145H.**—(1) Without prejudice to sections 18F(5), 18F(6) and the following paragraphs of this regulation, eligible goods which are allocated to a fiscal warehousing regime shall only be removed from that regime at the time and in any of the following circumstances—

- (a) when an entry in respect of those eligible goods is made in the relevant fiscal warehousing record which indicates the time and date of their removal from that regime;
- (b) when the eligible goods are moved outside the fiscal warehouse in respect of which they are allocated to a fiscal warehousing regime (except in the case of movements between fiscal warehouses kept by the same fiscal warehousekeeper); or,
- (c) at the time immediately preceding a retail sale of those eligible goods.

The person who shall be treated as the person who removes or causes the removal of the relevant goods from the relevant fiscal warehousing regime in any of the circumstances described above shall be, as the case requires, either the person who causes any of those circumstances to occur or, in the case of sub-paragraph (c), the person who makes the retail sale referred to there.

(2) Subject to paragraph (3) below, eligible goods which are subject to a fiscal warehousing regime shall not be treated as removed from that regime but shall be treated as transferred or as being in the process of transfer, as the case requires, in any of the following circumstances—

- (a) where the goods in question are transferred or are in the process of transfer to another fiscal warehousing regime in pursuance of regulation 145G(1) above;
- (b) where the goods in question are transferred or are in the process of transfer to arrangements which correspond in effect, under the law of another member State, to section 18B(3) (fiscal warehousing) whether or not those arrangements also correspond in effect to section 18C(1) (zero-rating of certain specified services performed in a fiscal or other warehousing regime);
- (c) where the goods in question are exported or are in the process of being exported to a place outside the member States; or,
- (d) where the goods in question are moved temporarily to a place other than the relevant fiscal warehouse for repair, processing, treatment or other operations (subject to the prior agreement of and to conditions to be imposed by the Commissioners).

(3) Where any relevant document referred to in paragraph (4) below is not received by the relevant fiscal warehousekeeper within the time period indicated there (commencing on the day on which the relevant eligible goods leave his fiscal warehouse), he shall—

- (a) make an entry by way of adjustment to his fiscal warehousing record to show the relevant goods as having been removed from his fiscal warehousing regime at the time and on the day when they left;
- (b) identify in his fiscal warehousing record the person on whose instructions he allowed the goods to leave his fiscal warehouse as the person removing those goods and that person's address and registration number (if any); and,

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*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

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- (c) notify the person on whose instructions he allowed the goods to leave his fiscal warehouse that the relevant document has not been received by him in time.
- (4) The document and time period referred to in paragraph (3) above is, as the case requires, either—
  - (a) the certificate referred to in regulation 145G(3)(c) confirming the completion of a transfer of eligible goods from the relevant fiscal warehousing regime to another fiscal warehousing regime (30 days);
  - (b) a document evidencing the completion of the transfer of the eligible goods from the relevant fiscal warehousing regime directly to arrangements which correspond, in another member State, to fiscal warehousing (60 days); or,
  - (c) a document evidencing the export of the eligible goods from the relevant fiscal warehousing regime to a place outside the member States (60 days).

**145I.**—(1) A fiscal warehousekeeper shall not remove or allow the removal of any eligible goods from his fiscal warehousing regime at any time before—

- (a) he has inspected and placed on his fiscal warehousing record a copy of the relevant document issued by the Commissioners under regulation 145J(1) (removal document); or,
- (b) he is provided with the registration number of a person registered under the Act and a written undertaking from that person that any VAT payable by that person as the result of any removal of eligible goods from that fiscal warehousing regime will be accounted for on that person's return in accordance with regulation 40(1)(c).

(2) Without prejudice to section 18E, where a fiscal warehousekeeper allows the removal of any eligible goods to take place from his fiscal warehousing regime otherwise than in accordance with this regulation, he shall be jointly and severally liable with the person who removes the goods for the payment of the VAT payable under section 18D(2) to the Commissioners.

(3) Paragraphs (1) and (2) above shall not apply to a removal which is the result of an entry in the relevant fiscal warehousing record made by the relevant fiscal warehousekeeper in compliance with regulation 145H(3)(a) (non-receipt of a document following transfer or export).

#### **Payment on removal of goods from a fiscal warehousing regime**

**145J.**—(1) The Commissioners may, in respect of a person who is seeking to remove or cause the removal of eligible goods from a fiscal warehousing regime,—

- (a) accept from or on behalf of that person payment of the VAT payable (if any) as a result of that removal, and
- (b) issue to that person a document bearing a reference or identification number.

(2) The Commissioners need not act in accordance with paragraph (1) above unless, as the case requires, they are satisfied as to—

- (a) the value and material time of any supply of the relevant goods in the fiscal warehousing regime which is treated as taking place in the United Kingdom under section 18B(4) and the status of the person who made that supply;
- (b) the nature and quantity of the relevant eligible goods;
- (c) the value of any relevant self-supplies of specified services treated as made under section 18C(3) in the course or furtherance of his business by the person who is to remove the relevant goods, or by the person on whose behalf the goods are to be removed, at the time they are removed from the fiscal warehousing regime; and,
- (d) the nature and material time of any relevant supplies of specified services in respect of which the self-supplies referred to in sub-paragraph (c) above are treated as being identical

(certain supplies of services on or in relation to goods while those goods are subject to the fiscal warehousing regime).

- (3) In paragraph (2)(a) above “status” is a reference to whether the person in question—
- (a) is or is required to be registered under the Act, or
  - (b) would be required to be registered under the Act were it not for paragraph 1(9) of Schedule 1 to the Act, paragraph 1(7) of Schedule 2 to the Act, paragraph 1(6) of Schedule 3 to the Act, or any of those provisions.]

## PART XVII

### NEW MEANS OF TRANSPORT

#### Interpretation of Part XVII

**146.** In this Part—

“claim” means a claim for a refund of VAT made pursuant to section 40 of the Act and “claimant” shall be construed accordingly;

“competent authority” means an authority having powers under the laws in force in any member State to register a vehicle for road use in that member State;

“first entry into service” in relation to a new means of transport means the time determined in relation to that means of transport under regulation 147;

“registration” means registration for road use in a member State corresponding in relation to that member State to registration in accordance with the Vehicles Excise and Registration Act 1994(27).

#### Commencement Information

**I125** Reg. 146 in force at 20.10.1995, see [reg. 1](#)

#### First entry into service of a means of transport

**147.** —

(1) For the purposes of section 95 of the Act a means of transport is to be treated as having first entered into service—

- (a) in the case of a ship or aircraft—
  - (i) when it is delivered from its manufacturer to its first purchaser or owner, or on its first being made available to its first purchaser or owner, whichever is the earlier, or
  - (ii) if its manufacturer takes it into use for demonstration purposes, on its being first taken into such use, and
- (b) in the case of a motorised land vehicle—
  - (i) on its first registration for road use by the competent authority in the member State of its manufacture or when a liability to register for road use is first incurred in the member State of its manufacture, whichever is the earlier,

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

- (ii) if it is not liable to be registered for road use in the member State of its manufacture, on its removal by its first purchaser or owner, or on its first delivery or on its being made available to its first purchaser, whichever is the earliest, or
- (iii) if its manufacturer takes it into use for demonstration purposes, on its first being taken into such use.

(2) Where the times specified in paragraph (1) above cannot be established to the Commissioners' satisfaction, a means of transport is to be treated as having first entered into service on the issue of an invoice relating to the first supply of the means of transport.

#### **Commencement Information**

**I126** Reg. 147 in force at 20.10.1995, see [reg. 1](#)

### **Notification of acquisition of new means of transport by non-taxable persons and payment of VAT**

**148.** —

(1) Where—

- (a) a taxable acquisition of a new means of transport takes place in the United Kingdom,
- (b) the acquisition is not in pursuance of a taxable supply, and
- (c) the person acquiring the goods is not a taxable person at the time of the acquisition,

the person acquiring the goods shall notify the Commissioners of the acquisition within 7 days of the time of the acquisition or the arrival of the goods in the United Kingdom, whichever is the later.

(2) The notification shall be in writing in the English language and shall contain the following particulars—

- (a) the name and current address of the person acquiring the new means of transport,
- (b) the time of the acquisition,
- (c) the date when the new means of transport arrived in the United Kingdom,
- (d) a full description of the new means of transport which shall include any registration mark allocated to it by any competent authority in another member State prior to its arrival in the United Kingdom and any chassis, hull or airframe identification number and engine number,
- (e) the consideration for the transaction in pursuance of which the new means of transport was acquired,
- (f) the name and address of the supplier in the member State from which the new means of transport was acquired,
- (g) the place where the new means of transport can be inspected, and
- (h) the date of notification.

(3) The notification shall include a declaration, signed by the person who is required to make the notification or a person authorised in that behalf in writing, that all the information entered in it is true and complete.

(4) The notification shall be made at, or sent to, any office designated by the Commissioners for the receipt of such notifications.



(5) Any person required to notify the Commissioners of an acquisition of a new means of transport shall pay the VAT due upon the acquisition at the time of notification or within 30 days of the Commissioners issuing a written demand to him detailing the VAT due and requesting payment.

#### **Commencement Information**

**I127** Reg. 148 in force at 20.10.1995, see [reg. 1](#)

#### **Refunds in relation to new means of transport**

**149.** A claimant shall make his claim in writing no earlier than one month and no later than 14 days prior to making the supply of the new means of transport by virtue of which the claim arises.

**150.** The claim shall be made at, or sent to, any office designated by the Commissioners for the receipt of such claims.

**151.** The claim shall contain the following information—

- (a) the name, current address and telephone number of the claimant,
- (b) the place where the new means of transport is kept and the times when it may be inspected,
- (c) the name and address of the person who supplied the new means of transport to the claimant,
- (d) the price paid by the claimant for the supply to him of the new means of transport excluding any VAT,
- (e) the amount of any VAT paid by the claimant on the supply to him of the new means of transport,
- (f) the amount of any VAT paid by the claimant on the acquisition of the new means of transport from another member State or on its importation from a place outside the member States,
- (g) the name and address of the proposed purchaser, the member State to which the new means of transport is to be removed, and the date of the proposed purchase,
- (h) the price to be paid by the proposed purchaser,
- (i) a full description of the new means of transport including, in the case of motorised land vehicles, its mileage since its first entry into service and, in the case of ships and aircraft, its hours of use since its first entry into service,
- (j) in the case of a ship, its length in metres,
- (k) in the case of an aircraft, its take-off weight in kilograms,
- (l) in the case of a motorised land vehicle powered by a combustion engine, its displacement or cylinder capacity in cubic centimetres, and in the case of an electrically propelled motorised land vehicle, its maximum power output in kilowatts, described to the nearest tenth of a kilowatt, and
- (m) the amount of the refund being claimed.

**152.** The claim shall be accompanied by the following documents—

- (a) the invoice issued by the person who supplied the new means of transport to the claimant or such other documentary evidence of purchase as is satisfactory to the Commissioners,
- (b) in respect of a new means of transport imported from a place outside the member States by the claimant, documentary evidence of its importation and of the VAT paid thereon, and

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

- (c) in respect of a new means of transport acquired by the claimant from another member State, documentary evidence of the VAT paid thereon.

**153.** The claim shall include a declaration, signed by the claimant or a person authorised by him in that behalf in writing, that all the information entered in or accompanying it is true and complete.

**154.** The claim shall be completed by the submission to the Commissioners of—

- (a) the sales invoice or similar document identifying the new means of transport and showing the price paid by the claimant's customer, and
- (b) documentary evidence that the new means of transport has been removed to another member State.

#### Commencement Information

- I128** Reg. 149 in force at 20.10.1995, see [reg. 1](#)
- I129** Reg. 150 in force at 20.10.1995, see [reg. 1](#)
- I130** Reg. 151 in force at 20.10.1995, see [reg. 1](#)
- I131** Reg. 152 in force at 20.10.1995, see [reg. 1](#)
- I132** Reg. 153 in force at 20.10.1995, see [reg. 1](#)
- I133** Reg. 154 in force at 20.10.1995, see [reg. 1](#)

#### Supplies of new means of transport to persons departing to another member State

**155.** The Commissioners may, on application by a person who is not taxable in another member State and who intends—

- (a) to purchase a new means of transport in the United Kingdom, and
- (b) to remove that new means of transport to another member State,

permit that person to purchase a new means of transport without payment of VAT, for subsequent removal to another member State within 2 months of the date of supply and its supply, subject to such conditions as they may impose, shall be zero-rated.

#### Commencement Information

- I134** Reg. 155 in force at 20.10.1995, see [reg. 1](#)

## <sup>F142</sup>PART XVIII

### BAD DEBT RELIEF (THE OLD SCHEME)

#### Textual Amendments

- F142** Pt. 18 revoked (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, [9](#)

## PART XIX

### BAD DEBT RELIEF (THE NEW SCHEME)

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

- C2** Pt. 19 modified (except reg. 171) (temp.) (27.7.1999 until 1.12.1999, see S.I. 1999/3029, reg. 5) by Finance Act 1999 (c. 16), s. 15(4)(5)

#### Interpretation of Part XIX

**165.** In this Part—

“claim” means a claim in accordance with regulations 166 and 167 for a refund of VAT to which a person is entitled by virtue of section 36 of the Act and “claimant” shall be construed accordingly;

“payment” means any payment or part-payment which is made by any person <sup>F143</sup>... by way of consideration for a supply regardless of whether such payment extinguishes the purchaser’s debt to the claimant or not;

“purchaser” means a person to whom the claimant made a relevant supply;

“refunds for bad debts account” has the meaning given in regulation 168;

“relevant supply” means any taxable supply upon which a claim is based;

“return” means the return which the claimant is required to make in accordance with regulation 25;

“security” means—

- (a) in relation to England, Wales and Northern Ireland, any mortgage, charge, lien or other security, and
- (b) in relation to Scotland, any security (whether heritable or moveable), any floating charge and any right of lien or preference and right of retention (other than a right of compensation or set-off).

#### Textual Amendments

- F143** Words in reg. 165 omitted (1.12.1999) by virtue of The Value Added Tax Regulations 1999 (S.I. 1999/3029), regs. 1, 3

#### Commencement Information

- I135** Reg. 165 in force at 20.10.1995, see reg. 1

#### <sup>F144</sup>Time within which a claim must be made

**165A.**—(1) Subject to paragraph (3) below, a claim shall be made within the period of 3 years and 6 months following the later of—

- (a) the date on which the consideration (or part) which has been written off as a bad debt becomes due and payable to or to the order of the person who made the relevant supply; and
- (b) the date of the supply.

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

(2) A person who is entitled to a refund by virtue of section 36 of the Act, but has not made a claim within the period specified in paragraph (1) shall be regarded for the purposes of this Part as having ceased to be entitled to a refund accordingly.

(3) This regulation does not apply insofar as the date mentioned at sub-paragraph (a) or (b) of paragraph (1) above, whichever is the later, falls before 1st May 1997.]

#### Textual Amendments

**F144** Reg. 165A and heading inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997](#) (S.I. 1997/1086), regs. 1, **10**

### The making of a claim to the Commissioners

**166.** —

(1) Save as the Commissioners may otherwise allow or direct, the claimant shall make a claim to the Commissioners by including the correct amount of the refund in the box opposite the legend “VAT reclaimed in this period on purchases and other inputs” on his return [<sup>F145</sup>for the prescribed accounting period in which he becomes entitled to make the claim or, subject to regulation 165A, any later return].

(2) If at a time the claimant becomes entitled to a refund he is no longer required to make returns to the Commissioners he shall make a claim to the Commissioners in such form and manner as they may direct.

#### Textual Amendments

**F145** Words in [reg. 166\(1\)](#) added (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997](#) (S.I. 1997/1086), regs. 1, **11**

#### Commencement Information

**I136** Reg. 166 in force at 20.10.1995, see [reg. 1](#)

### [<sup>F146</sup>Notice to purchaser of claim

**166A.** Where the purchaser is a taxable person the claimant shall not before, but within 7 days from, the day he makes a claim give to the purchaser a notice in writing containing the following information—

- (a) the date of issue of the notice;
- (b) the date of the claim;
- (c) the date and number of any VAT invoice issued in relation to each relevant supply;
- (d) the amount of the consideration for each relevant supply which the claimant has written off as a bad debt;
- (e) the amount of the claim.]

#### Textual Amendments

**F146** Reg. 166A and heading inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997](#) (S.I. 1997/1086), regs. 1, **12**

### Evidence required of the claimant in support of the claim

167. Save as the Commissioners may otherwise allow, the claimant, before he makes a claim, shall hold in respect of each relevant supply—

- (a) either—
  - (i) a copy of any VAT invoice which was provided in accordance with Part III of these Regulations, or
  - (ii) where there was no obligation to provide a VAT invoice, a document which shows the time, nature and purchaser of the relevant goods and services, and the consideration therefor,
- (b) records or any other documents showing that he has accounted for and paid the VAT thereon, and
- (c) records or any other documents showing that the consideration has been written off in his accounts as a bad debt.

#### Commencement Information

I137 Reg. 167 in force at 20.10.1995, see [reg. 1](#)

### Records required to be kept by the claimant

168. —

- (1) Any person who makes a claim to the Commissioners shall keep a record of that claim.
- (2) Save as the Commissioners may otherwise allow, the record referred to in paragraph (1) above shall consist of the following information in respect of each claim made—
  - (a) in respect of each relevant supply for that claim—
    - (i) the amount of VAT chargeable,
    - (ii) the prescribed accounting period in which the VAT chargeable was accounted for and paid to the Commissioners,
    - (iii) the date and number of any invoice issued in relation thereto or, where there is no such invoice, such information as is necessary to identify the time, nature and purchaser thereof, and
    - (iv) any payment received therefor,
  - (b) the outstanding amount to which the claim relates,
  - (c) the amount of the claim, <sup>F147</sup>...
  - (d) the prescribed accounting period in which the claim was made<sup>F148</sup>, and
  - (e) a copy of the notice required to be given in accordance with regulation 166A]
- (3) Any records created in pursuance of this regulation shall be kept in a single account to be known as the “refunds for bad debts account”.

#### Textual Amendments

F147 Word in [reg. 168\(2\)\(c\)](#) omitted (1.5.1997) by virtue of [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), [regs. 1, 13\(a\)](#)

F148 [Reg. 168\(2\)\(e\)](#) and word added (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), [regs. 1, 13\(b\)](#)

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

#### Commencement Information

**I138** Reg. 168 in force at 20.10.1995, see [reg. 1](#)

### Preservation of documents and records and duty to produce

#### 169. —

(1) Save as the Commissioners may otherwise allow, the claimant shall preserve the documents, invoices and records which he holds in accordance with regulations 167 and 168 for a period of 4 years from the date of the making of the claim.

(2) Upon demand made by an authorised person the claimant shall produce or cause to be produced any such documents, invoices and records for inspection by the authorised person and permit him to remove them at a reasonable time and for a reasonable period.

#### Commencement Information

**I139** Reg. 169 in force at 20.10.1995, see [reg. 1](#)

### Attribution of payments

#### 170. —

(1) Where—

- (a) the claimant made more than one supply (whether taxable or otherwise) to the purchaser, and
- (b) a payment is received in relation to those supplies,

the payment shall be attributed to each such supply in accordance with the rules set out in paragraphs (2) and (3) below.

(2) The payment shall be attributed to the supply which is the earliest in time and, if not wholly attributed to that supply, thereafter to supplies in the order of the dates on which they were made, except that attribution under this paragraph shall not be made to any supply if the payment was allocated to that supply by the purchaser at the time of payment and the consideration for that supply was paid in full.

(3) Where—

- (a) the earliest supply and other supplies to which the whole of the payment could be attributed under this regulation occur on one day, or
- (b) the supplies to which the balance of the payment could be attributed under this regulation occur on one day,

the payment shall be attributed to those supplies by multiplying, for each such supply, the payment received by a fraction of which the numerator is the outstanding consideration for that supply and the denominator is the total outstanding consideration for those supplies.

#### Commencement Information

**I140** Reg. 170 in force at 20.10.1995, see [reg. 1](#)

### Repayment of a refund

#### 171. —

- (1) Where a claimant—
  - (a) has received a refund upon a claim, and
  - (b) either—
    - (i) a payment for the relevant supply is subsequently received, or
    - (ii) a payment is, by virtue of regulation 170, treated as attributed to the relevant supply, he shall repay to the Commissioners such an amount as equals the amount of the refund, or the balance thereof, multiplied by a fraction of which the numerator is the amount so received or attributed, and the denominator is the amount of the outstanding consideration.
- (2) The claimant shall repay to the Commissioners the amount referred to in paragraph (1) above by including that amount in the box opposite the legend “VAT due in this period on sales and other outputs” on his return for the prescribed accounting period in which the payment is received.
- (3) Save as the Commissioners may otherwise allow, where the claimant fails to comply with the requirements of regulation 167, 168, 169 or 170 he shall repay to the Commissioners the amount of the refund obtained by the claim to which the failure to comply relates; and he shall repay the amount by including that amount in the box opposite the legend “VAT due in this period on sales and other outputs” on his return for the prescribed accounting period which the Commissioners shall designate for that purpose.
- (4) If at the time the claimant is required to repay any amount, he is no longer required to make returns to the Commissioners, he shall repay such amount to the Commissioners at such time and in such form and manner as they may direct.
- [<sup>F149</sup>(5) For the purposes of this regulation a reference to payment shall not include a reference to a payment received by a person to whom a right to receive it has been assigned.]

#### Textual Amendments

**F149** Reg. 171(5) inserted (1.12.1999) by The Value Added Tax Regulations 1999 (S.I. 1999/3029), regs. 1, 4

#### Commencement Information

**I141** Reg. 171 in force at 20.10.1995, see [reg. 1](#)

## Writing off debts

### 172. —

(1) This regulation shall apply for the purpose of ascertaining whether, and to what extent, the consideration is to be taken to have been written off as a bad debt.

[<sup>F150</sup>(1A) Neither the whole nor any part of the consideration for a supply shall be taken to have been written off in accounts as a bad debt until a period of not less than six months has elapsed from the time when such whole or part first became due and payable to or to the order of the person who made the [<sup>F151</sup>relevant supply].]

[<sup>F152</sup>(2) Subject to paragraph (1A) the whole or any part of the consideration for a [<sup>F153</sup>relevant supply] shall be taken to have been written off as a bad debt when an entry is made in relation to that supply in the refunds for bad debt account in accordance with regulation 168.]

(3) Where the claimant owes an amount of money to the purchaser which can be set off, the consideration written off in the accounts shall be reduced by the amount so owed.

(4) Where the claimant holds in relation to the purchaser an enforceable security, the consideration written off in the accounts of the claimant shall be reduced by the value of that security.

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

#### Textual Amendments

- F150** Reg. 172(1A) added (17.12.1996) by [The Value Added Tax \(Amendment\) \(No.5\) Regulations 1996](#) (S.I. 1996/2960), regs. 1, **2(a)**
- F151** Words in reg. 172(1A) substituted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997](#) (S.I. 1997/1086), regs. 1, **14(a)**
- F152** Reg. 172(2) substituted (17.12.1996) by [The Value Added Tax \(Amendment\) \(No.5\) Regulations 1996](#) (S.I. 1996/2960), regs. 1, **2(b)**
- F153** Words in reg. 172(2) substituted for word (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997](#) (S.I. 1997/1086), regs. 1, **14(b)**

#### Commencement Information

- I142** Reg. 172 in force at 20.10.1995, see [reg. 1](#)

### [<sup>F154</sup>Writing off debts—margin schemes

**172A.**—(1) This regulation applies where, by virtue of the claimant's having exercised an option under an order made under section 50A of the Act, the VAT chargeable on the relevant supply is charged by reference to the profit margin.

(2) Where this regulation applies the consideration for the relevant supply which is to be taken to have been written off as a bad debt shall not exceed the relevant amount.

(3) For the purposes of paragraph (2) above the relevant amount is—

(a) where either—

(i) no payment has been received in relation to the relevant supply, or

(ii) the total of such payments as have been received does not exceed the non-profit element,

the profit margin; or

(b) where the total of such payments as have been received exceeds the non-profit element, the amount (if any) by which the consideration for the relevant supply exceeds that total.

(4) In paragraph (3) above—

“non-profit element” means the consideration for the relevant supply less the profit margin.

#### Textual Amendments

- F154** [Regs. 172A, 172B](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997](#) (S.I. 1997/1086), regs. 1, **15**

### Writing off debts—tour operators margin scheme

**172B.**—(1) This regulation applies where, by virtue of an order under section 53 of the Act, the value of the relevant supply falls to be determined otherwise than in accordance with section 19 of the Act.

(2) Where this regulation applies the consideration for the relevant supply which is to be taken to have been written off as a bad debt shall not exceed the relevant amount.

(3) For the purposes of paragraph (2) above the relevant amount is—

(a) where either—

(i) no payment has been received in relation to the relevant supply, or



- (ii) the total of any such payments as have been received does not exceed the non-profit element,  
the profit element; or
  - (b) where the total of such payments as have been received exceeds the non-profit element, the amount (if any) by which the consideration for the relevant supply exceeds that total.
- (4) In this regulation—
- “non-profit element” means the consideration for the relevant supply less the profit element;
  - “profit element” means the sum of—
    - (a) the value of the relevant supply; and
    - (b) the VAT chargeable on the relevant supply.]

**Textual Amendments**

**F154** Regs. 172A, 172B inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **15**

[<sup>F155</sup>PART XIXA

REPAYMENT OF INPUT TAX WHERE CLAIM MADE UNDER PART XIX

**Textual Amendments**

**F155** Pt. 19A inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **16**

**Interpretation of Part XIXA**

**172C.** Any expression used in this Part to which a meaning is given in Part XIX of these Regulations shall, unless the contrary intention appears, have the same meaning in this Part as it has in that Part.

**Repayment of input tax**

**172D.**—(1) Where—

- (a) a claim has been made; and
- (b) the purchaser has claimed deduction of the whole or part of the VAT on the relevant supply as input tax (“the deduction”),

the purchaser shall make an entry in his VAT account in accordance with paragraphs (2) and (3) below.

(2) The purchaser shall make a negative entry in the VAT allowable portion of that part of his VAT account which relates to the prescribed accounting period of his in which the claim has been made.

(3) The amount of the negative entry referred to in paragraph (2) above shall be such amount as is found by multiplying the amount of the deduction by a fraction of which the numerator is the amount of the claim and the denominator is the total VAT chargeable on the relevant supply.

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*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

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(4) None of the circumstances to which this regulation applies is to be regarded as giving rise to any application of regulations 34 and 35.

### **Restoration of an entitlement to credit for input tax**

**172E.**—(1) Where—

- (a) the purchaser has made an entry in his VAT account in accordance with regulation 172D (“the input tax repayment”);
- (b) he has made the return for the prescribed accounting period concerned, and has paid any VAT payable by him in respect of that period; and
- (c) the claimant has made a repayment in accordance with regulation 171 in relation to the claim concerned,

the purchaser shall make an entry in his VAT account in accordance with paragraphs (2) and (3) below.

(2) The purchaser shall make a positive entry in the VAT allowable portion of that part of his VAT account which relates to the prescribed accounting period of his in which the repayment has been made.

(3) The amount of the positive entry referred to in paragraph (2) above shall be such amount as is found by multiplying the amount of the input tax repayment by a fraction of which the numerator is the amount repaid by the claimant and the denominator is the total amount of the claim.

(4) None of the circumstances to which this regulation applies is to be regarded as giving rise to any application of regulations 34 and 35.]

## **PART XX**

### **REPAYMENTS TO COMMUNITY TRADERS**

#### **Interpretation of Part XX**

**173.** —

(1) In this Part—

“calendar year” means the period of 12 months beginning with the first day of January in any year;

“claimant” means a person making a claim under this Part or a person on whose behalf such a claim is made;

“official authority” means the authority in a member State designated to issue the certificate referred to in regulation 178(1)(b)(i).

(2) For the purposes of this Part, a person is treated as being established in a country if—

- (a) he has there an establishment from which business transactions are effected, or
- (b) he has no such establishment (there or elsewhere) but his usual place of residence is there.

(3) For the purposes of this Part—

- (a) a person carrying on business through a branch or agency in any country is treated as having there an establishment from which business transactions are effected, and
- (b) “usual place of residence”, in relation to a body corporate, means the place where it is legally constituted.

**Commencement Information**

**I143** Reg. 173 in force at 20.10.1995, see [reg. 1](#)

**Repayment of VAT**

**174.** Subject to the other provisions of this Part a person to whom this Part applies shall be entitled to be repaid VAT charged on goods imported by him from a place outside the member States in respect of which no other relief is available or on supplies made to him in the United Kingdom if that VAT would be input tax of his were he a taxable person in the United Kingdom.

**Commencement Information**

**I144** Reg. 174 in force at 20.10.1995, see [reg. 1](#)

**Persons to whom this Part applies**

**175.** This Part applies to a person carrying on business in a member State other than the United Kingdom but does not apply to such a person in any period referred to in regulation 179 if during that period—

- (a) he was established in the United Kingdom, or
- (b) he made supplies in the United Kingdom of goods or services other than—
  - (i) transport of freight outside the United Kingdom or to or from a place outside the United Kingdom or services ancillary thereto,
  - (ii) services where the VAT on the supply is payable solely by the person to whom the services are supplied in accordance with the provisions of section 8 of the Act, and
  - (iii) goods where the VAT on the supply is payable solely by the person to whom they are supplied as provided for in section 14 of the Act.

**Commencement Information**

**I145** Reg. 175 in force at 20.10.1995, see [reg. 1](#)

**Supplies and importations to which this Part applies**

**176.** This Part applies to any supply of goods or services made in the United Kingdom or to any importation of goods from a place outside the member States but does not apply to—

- (a) a supply or importation of goods or a supply of services which the claimant has used or intends to use for the purpose of any supply by him in the United Kingdom, or
- (b) a supply or importation of goods which the claimant has removed or intends to remove to another member State, or which he has exported or intends to export to a place outside the member States.

**Commencement Information**

**I146** Reg. 176 in force at 20.10.1995, see [reg. 1](#)

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

## VAT which will not be repaid

177. —

- (1) The following VAT shall not be repaid—
- (a) VAT charged on a supply which if made to a taxable person would be excluded from any credit under section 25 of the Act,
  - (b) VAT charged on a supply to a travel agent which is for the direct benefit of a traveller other than the travel agent or his employee.
- (2) In this regulation a travel agent includes a tour operator and any person who purchases and resupplies services of a kind enjoyed by travellers.

### Commencement Information

**I147** Reg. 177 in force at 20.10.1995, see [reg. 1](#)

## Method of claiming

178. —

- (1) A person claiming a repayment of VAT under this Part shall—
- (a) complete in the English language and send to the Commissioners either the form numbered 15 in Schedule 1 to these Regulations, or a form designed for the purpose by any official authority, containing full information in respect of all the matters specified in the said form and a declaration as therein set out, and
  - (b) at the same time furnish—
    - (i) a certificate of status issued by the official authority of the member State in which the claimant is established either on the form numbered 16 in Schedule 1 to these Regulations or on the form designed by the official authority for the purpose, and
    - (ii) such documentary evidence of an entitlement to deduct VAT as may be required of a taxable person claiming a deduction of input tax in accordance with the provisions of regulation 29.
- (2) Where the Commissioners are in possession of a certificate of status issued not more than 12 months before the date of the claim, the claimant shall not be required to furnish a further certificate.
- (3) The Commissioners shall refuse to accept any document referred to in paragraph (1)(b)(ii) above if it bears an official stamp indicating that it had been furnished in support of an earlier claim.

### Commencement Information

**I148** Reg. 178 in force at 20.10.1995, see [reg. 1](#)

## Time within which a claim must be made

179. —

- (1) A claim shall be made not later than 6 months after the end of the calendar year in which the VAT claimed was charged and shall be in respect of VAT charged on supplies or on importations from a place outside the member States made during a period of not less than 3 months and not more than one calendar year, provided that a claim may be in respect of VAT charged on supplies or on importations from a place outside the member States made during a period of less than 3 months where that period represents the final part of a calendar year.

(2) No claim shall be made for less than £16.

(3) No claim shall be made for less than £130 in respect of VAT charged on supplies or on importations from a place outside the member States made during a period of less than one calendar year except where that period represents the final part of a calendar year.

**Commencement Information**

**I149** Reg. 179 in force at 20.10.1995, see [reg. 1](#)

**Deduction of bank charges**

**180.** Where any repayment is to be made to a claimant in the country in which he is established, the Commissioners may reduce the amount of the repayment by the amount of any bank charges or costs incurred as a result thereof.

**Commencement Information**

**I150** Reg. 180 in force at 20.10.1995, see [reg. 1](#)

**Treatment of claim and repayment claimed**

**181.** For the purposes of section 73 of the Act any claim made under this Part shall be treated as a return required under paragraph 2 of Schedule 11 to the Act.

**182.** For the purpose of section 83(c) of the Act repayments claimed under this Part shall be treated as the amount of any input tax which may be credited to a person.

**Commencement Information**

**I151** Reg. 181 in force at 20.10.1995, see [reg. 1](#)

**I152** Reg. 182 in force at 20.10.1995, see [reg. 1](#)

**False, altered or incorrect claims**

**183.** If any claimant furnishes or sends to the Commissioners for the purposes of this Part any document which is false or which has been altered after issue to that person, the Commissioners may refuse to repay any VAT claimed by that claimant for the period of 2 years from the date when the claim, in respect of which the false or altered document was furnished or sent, was made.

**184.** Where any sum has been repaid to a claimant as a result of an incorrect claim, the amount of any subsequent repayment to that claimant may be reduced by the said sum.

**Commencement Information**

**I153** Reg. 183 in force at 20.10.1995, see [reg. 1](#)

**I154** Reg. 184 in force at 20.10.1995, see [reg. 1](#)

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

## PART XXI

### REPAYMENTS TO THIRD COUNTRY TRADERS

#### Interpretation of Part XXI

##### 185. —

(1) In this Part—

“claimant” means a person making a claim under this Part or a person on whose behalf a claim is made and any agent acting on his behalf as his VAT representative;

“official authority” means any government body or agency in any country which is recognised by the Commissioners as having authority to act for the purposes of this Part;

“prescribed year” means the period of 12 months beginning on the first day of July in any year;

“VAT representative” means any person established in the United Kingdom and registered for VAT purposes in accordance with the provisions of Schedule 1 to the Act who acts as agent on behalf of a claimant;

“third country” means a country other than those comprising the member States of the European Community;

“trader” means a person carrying on a business who is established in a third country and who is not a taxable person in the United Kingdom.

(2) For the purposes of this Part, a person is treated as being established in a country if—

(a) he has there a business establishment, or

(b) he has no such establishment (there or elsewhere) but his permanent address or usual place of residence is there.

(3) For the purposes of this Part—

(a) a person carrying on business through a branch or agency in any country is treated as being established there, and

(b) where the person is a body corporate its usual place of residence shall be the place where it is legally constituted.

#### Commencement Information

**I155** Reg. 185 in force at 20.10.1995, see [reg. 1](#)

#### Repayments of VAT

**186.** Subject to the other provisions of this Part a trader shall be entitled to be repaid VAT charged on goods imported by him into the United Kingdom in respect of which no other relief is available or on supplies made to him in the United Kingdom if that VAT would be input tax of his were he a taxable person in the United Kingdom.

#### Commencement Information

**I156** Reg. 186 in force at 20.10.1995, see [reg. 1](#)

## VAT representatives

**187.** The Commissioners may, as a condition of allowing a repayment under this Part, require a trader to appoint a VAT representative to act on his behalf.

### Commencement Information

**I157** Reg. 187 in force at 20.10.1995, see [reg. 1](#)

## Persons to whom this Part applies

**188.** —

(1) Save as the Commissioners may otherwise allow, a trader to whom this Part applies who is established in a third country having a comparable system of turnover taxes will not be entitled to any refunds under this Part unless that country provides reciprocal arrangements for refunds to be made to taxable persons who are established in the United Kingdom.

(2) This Part shall apply to any trader but not if during any period determined under regulation 192—

- (a) he was established in any of the member States of the European Community, or
- (b) he made supplies in the United Kingdom of goods or services other than—
  - (i) transport of freight outside the United Kingdom to or from a place outside the United Kingdom or services ancillary thereto,
  - (ii) services where the VAT on the supply is payable solely by the person to whom they are supplied in accordance with the provisions of section 8 of the Act, and
  - (iii) goods where the VAT on the supply is payable solely by the person to whom they are supplied.

### Commencement Information

**I158** Reg. 188 in force at 20.10.1995, see [reg. 1](#)

## Supplies and importations to which this Part applies

**189.** This Part applies to any supply of goods or services made in the United Kingdom or to any importation of goods into the United Kingdom on or after 1st July 1994 but does not apply to any supply or importation which—

- (a) the trader has used or intends to use for the purpose of any supply by him in the United Kingdom, or
- (b) has been exported or is intended for exportation from the United Kingdom by or on behalf of the trader.

### Commencement Information

**I159** Reg. 189 in force at 20.10.1995, see [reg. 1](#)

## VAT which will not be repaid

**190.** —

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

- (1) The following VAT shall not be repaid—
- (a) VAT charged on a supply which if made to a taxable person would be excluded from any credit under section 25 of the Act,
  - (b) VAT charged on a supply to a travel agent which is for the direct benefit of a traveller other than the travel agent or his employee.
- (2) In this regulation a travel agent includes a tour operator or any person who purchases and resupplies services of a kind enjoyed by travellers.

#### **Commencement Information**

**I160** Reg. 190 in force at 20.10.1995, see [reg. 1](#)

### **Method of claiming**

#### **191. —**

- (1) A person claiming a repayment of VAT under this Part shall—
- (a) complete in the English language and send to the Commissioners either the form numbered 9 in Schedule 1 to these Regulations, or a like form produced by any official authority, containing full information in respect of all the matters specified in the said form and a declaration as therein set out, and
  - (b) at the same time furnish—
    - (i) a certificate of status issued by the official authority of the third country in which the trader is established either on the form numbered 10 in Schedule 1 to these Regulations or on a like form produced by the official authority, and
    - (ii) such documentary evidence of an entitlement to deduct input tax as may be required of a taxable person claiming a deduction of input tax in accordance with the provisions of regulation 29.
- (2) Where the Commissioners are in possession of a certificate of status issued not more than 12 months before the date of the claim, the claimant shall not be required to furnish a further such certificate.
- (3) The Commissioners shall refuse to accept any document referred to in paragraph (1)(b)(ii) above if it bears an official stamp indicating that it had been furnished in support of an earlier claim.

#### **Commencement Information**

**I161** Reg. 191 in force at 20.10.1995, see [reg. 1](#)

### **Time within which a claim must be made**

#### **192. —**

- (1) A claim shall be made not later than 6 months after the end of the prescribed year in which the VAT claimed was charged and shall be in respect of VAT charged on supplies or on importations made during a period of not less than 3 months and not more than 12 months, provided that a claim may be made in respect of VAT charged on supplies or on importations made during a period of less than 3 months where that period represents the final part of the prescribed year.
- (2) No claim shall be made for less than £16.



(3) No claim shall be made for less than £130 in respect of VAT charged on supplies or on importations made during a period of less than the prescribed year except where that period represents the final part of the prescribed year.

**Commencement Information**

**I162** Reg. 192 in force at 20.10.1995, see [reg. 1](#)

**Deduction of bank charges**

**193.** Where any repayment is to be made to a claimant in the country in which he is established, the Commissioners may reduce the amount of the repayment by the amount of any bank charges or costs incurred as a result thereof.

**Commencement Information**

**I163** Reg. 193 in force at 20.10.1995, see [reg. 1](#)

**Treatment of claim and repayment claimed**

**194.** For the purposes of section 73 of the Act any claim made under this Part shall be treated as a return required under paragraph 2 of Schedule 11 to the Act.

**195.** For the purpose of section 83(c) of the Act repayments claimed under this Part shall be treated as the amount of any input tax which may be credited to a person.

**Commencement Information**

**I164** Reg. 194 in force at 20.10.1995, see [reg. 1](#)

**I165** Reg. 195 in force at 20.10.1995, see [reg. 1](#)

**False, altered or incorrect claims**

**196.** If any claimant furnishes or sends to the Commissioners for the purposes of this Part any document which is false or which has been altered after issue to that person, the Commissioners may refuse to repay any VAT claimed by that claimant for the period of 2 years from the date when the claim, in respect of which the false or altered documents were furnished or sent, was made.

**197.** Where any sum has been repaid to a claimant as a result of an incorrect claim, the amount of any subsequent repayment to that claimant may be reduced by the said sum.

**Commencement Information**

**I166** Reg. 196 in force at 20.10.1995, see [reg. 1](#)

**I167** Reg. 197 in force at 20.10.1995, see [reg. 1](#)

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

## PART XXII

### REPAYMENT SUPPLEMENT

#### Computation of period

**198.** In computing the period of 30 days referred to in section 79(2)(b) of the Act, periods referable to the following matters shall be left out of account—

- (a) the raising and answering of any reasonable inquiry relating to the requisite return or claim,
- (b) the correction by the Commissioners of any errors or omissions in that requisite return or claim, and
- (c) in any case to which section 79(1)(a) of the Act applies, the following matters, namely—
  - (i) any such continuing failure to submit returns as is referred to in section 25(5) of the Act, and
  - (ii) compliance with any such condition as is referred to in paragraph 4(1) of Schedule 11 to the Act.

#### Commencement Information

**I168** Reg. 198 in force at 20.10.1995, see [reg. 1](#)

#### Duration of period

**199.** For the purpose of determining the duration of the periods referred to in regulation 198, the following rules shall apply—

- (a) in the case of the period mentioned in regulation 198(a), it shall be taken to have begun on the date when the Commissioners first raised the inquiry and it shall be taken to have ended on the date when they received a complete answer to their inquiry;
- (b) in the case of the period mentioned in regulation 198(b), it shall be taken to have begun on the date when the error or omission first came to the notice of the Commissioners and it shall be taken to have ended on the date when the error or omission was corrected by them;
- (c) in the case of the period mentioned in regulation 198(c)(i), it shall be determined in accordance with a certificate of the Commissioners under paragraph 14(1)(b) of Schedule 11 to the Act;
- (d) in the case of the period mentioned in regulation 198(c)(ii), it shall be taken to have begun on the date of the service of the written notice of the Commissioners which required the production of documents or the giving of security, and it shall be taken to have ended on the date when they received the required documents or the required security.

#### Commencement Information

**I169** Reg. 199 in force at 20.10.1995, see [reg. 1](#)

## PART XXIII

### REFUNDS TO “DO-IT-YOURSELF” BUILDERS

#### Interpretation of Part XXIII

**200.** In this Part—

“claim” means a claim for refund of VAT made pursuant to section 35 of the Act, and  
“claimant” shall be construed accordingly;

“relevant building” means a building in respect of which a claimant makes a claim.

#### Commencement Information

**I170** Reg. 200 in force at 20.10.1995, see [reg. 1](#)

#### Method and time for making claim

**201.** A claimant shall make his claim in respect of a relevant building by—

- (a) furnishing to the Commissioners no later than 3 months after the completion of the building the form numbered 11 in Schedule 1 to these Regulations containing the full particulars required therein, and
- (b) at the same time furnishing to them—
  - (i) a certificate of completion obtained from a local authority or such other documentary evidence of completion of the building as is satisfactory to the Commissioners,
  - (ii) an invoice showing the registration number of the person supplying the goods, whether or not such an invoice is a VAT invoice, in respect of each supply of goods on which VAT has been paid which have been incorporated into the building or its site,
  - (iii) in respect of imported goods which have been incorporated into the building or its site, documentary evidence of their importation and of the VAT paid thereon,
  - (iv) documentary evidence that planning permission for the building had been granted, and
  - (v) a certificate signed by a quantity surveyor or architect that the goods shown in the claim were or, in his judgement, were likely to have been, incorporated into the building or its site.

#### Commencement Information

**I171** Reg. 201 in force at 20.10.1995, see [reg. 1](#)

## PART XXIV

### FLAT-RATE SCHEME FOR FARMERS

#### Interpretation of Part XXIV

**202.** In this Part—

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

“certified person” means a person certified as a flat-rate farmer for the purposes of the flat-rate scheme under regulation 203 and “certified” and “certification” shall be construed accordingly.

**Commencement Information**

**I172** Reg. 202 in force at 20.10.1995, see [reg. 1](#)

**Flat-rate scheme**

**203.** —

(1) The Commissioners shall, if the conditions mentioned in regulation 204 are satisfied, certify that a person is a flat-rate farmer for the purposes of the flat-rate scheme (hereinafter in this Part referred to as “the scheme”).

(2) Where a person is for the time being certified in accordance with this regulation, then (whether or not that person is a taxable person) any supply of goods or services made by him in the course or furtherance of the relevant part of his business shall be disregarded for the purpose of determining whether he is, has become or has ceased to be liable or entitled to be registered under Schedule 1 to the Act.

**Commencement Information**

**I173** Reg. 203 in force at 20.10.1995, see [reg. 1](#)

**Admission to the scheme**

**204.** The conditions mentioned in regulation 203 are that—

- (a) the person satisfies the Commissioners that he is carrying on a business involving one or more designated activities,
- (b) he has not in the 3 years preceding the date of his application for certification—
  - (i) been convicted of any offence in connection with VAT,
  - (ii) made any payment to compound proceedings in respect of VAT under section 152 of the Customs and Excise Management Act 1979(28) as applied by section 72(12) of the Act,
  - (iii) been assessed to a penalty under section 60 of the Act,
- (c) he makes an application for certification on the form numbered 14 in Schedule 1 to these Regulations, and
- (d) he satisfies the Commissioners that he is a person in respect of whom the total of the amounts as are mentioned in regulation 209 relating to supplies made in the year following the date of his certification will not exceed by £3,000 or more the amount of input tax to which he would otherwise be entitled to credit in that year.

**Commencement Information**

**I174** Reg. 204 in force at 20.10.1995, see [reg. 1](#)

## Certification

**205.** Where the Commissioners certify that a person is a flat-rate farmer for the purposes of the scheme, the certificate issued by the Commissioners shall be effective from—

- (a) the date on which the application for certification is received by the Commissioners,
- (b) with the agreement of the Commissioners, an earlier date to that mentioned in sub-paragraph (a) above, or
- (c) if the person so requests, a later date which is no more than 30 days after the date mentioned in sub-paragraph (a) above,

provided that any certificate shall not be effective from a date before the date when the person's registration under Schedule 1 or 3 to the Act is cancelled and a certificate shall not be effective from a date earlier than 1st January 1993.

### Commencement Information

**I175** Reg. 205 in force at 20.10.1995, see [reg. 1](#)

## Cancellation of certificates

**206.** —

- (1) The Commissioners may cancel a person's certificate in any case where—
- (a) a statement false in a material particular was made by him or on his behalf in relation to his application for certification,
  - (b) he has been convicted of an offence in connection with VAT or has made a payment to compound such proceedings under section 152 of the Customs and Excise Management Act 1979 as applied by section 72(12) of the Act,
  - (c) he has been assessed to a penalty under section 60 of the Act,
  - (d) he ceases to be involved in designated activities,
  - (e) he dies, becomes bankrupt or incapacitated,
  - (f) he is liable to be registered under Schedule 1 or 3 to the Act,
  - (g) he makes an application in writing for cancellation,
  - (h) he makes an application in writing for registration under Schedule 1 or 3 to the Act, and such application shall be deemed to be an application for cancellation of his certificate,
  - (i) they consider it is necessary to do so for the protection of the revenue, or
  - (j) they are not satisfied that any of the grounds for cancellation of a certificate mentioned in sub-paragraphs (a) to (h) above do not apply.
- (2) Where the Commissioners cancel a person's certificate in accordance with paragraph (1) above, the effective date of the cancellation shall be for each of the cases mentioned respectively in that paragraph as follows—
- (a) the date when the Commissioners discover that such a statement has been made,
  - (b) the date of his conviction or the date on which a sum is paid to compound proceedings,
  - (c) 30 days after the date when the assessment is notified,
  - (d) the date of the cessation of designated activities,
  - (e) the date on which he died, became bankrupt or incapacitated,
  - (f) the effective date of registration,

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

- (g) not less than one year after the effective date of his certificate or such earlier date as the Commissioners may agree,
- (h) not less than one year after the effective date of his certificate or such earlier date as the Commissioners may agree,
- (i) the date on which the Commissioners consider a risk to the revenue arises, or
- (j) the date mentioned in sub-paragraphs (a) to (h) above as appropriate.

#### Commencement Information

**I176** Reg. 206 in force at 20.10.1995, see [reg. 1](#)

### Death, bankruptcy or incapacity of certified person

#### 207. —

(1) If a certified person dies or becomes bankrupt or incapacitated, the Commissioners may, from the date on which he died or became bankrupt or incapacitated treat as a certified person any person carrying on those designated activities until some other person is certified in respect of the designated activities or the incapacity ceases, as the case may be; and the provisions of the Act and of any Regulations made thereunder shall apply to any person so treated as though he were a certified person.

(2) Any person carrying on such designated activities shall, within 30 days of commencing to do so, inform the Commissioners in writing of that fact and of the date of the death, or of the nature of the incapacity and the date on which it began.

(3) In relation to a company which is a certified person, the references in regulation 206(1)(e) and (2)(e) and in paragraph (1) above to the certified person becoming bankrupt or incapacitated shall be construed as references to its going into liquidation or receivership or to an administration order being made in relation to it.

#### Commencement Information

**I177** Reg. 207 in force at 20.10.1995, see [reg. 1](#)

### Further certification

**208.** Where a person who has been certified and is no longer so certified makes a further application under regulation 204, that person shall not be certified for a period of 3 years from the date of the cancellation of his previous certificate except—

- (a) the Commissioners may certify from the date of his further application a person who has not been registered under Schedule 1 or 3 to the Act at any time since the cancellation of his previous certificate; and
- (b) where the circumstances as are mentioned in paragraph 8(1)(c) of Schedule 4 to the Act apply, the Commissioners may certify the person mentioned in that paragraph on a date after the expiry of one year from the date of the cancellation of his previous certificate.

#### Commencement Information

**I178** Reg. 208 in force at 20.10.1995, see [reg. 1](#)

## Claims by taxable persons for amounts to be treated as credits for input tax

### 209. —

(1) The amount referred to in section 54(4) of the Act and included in the consideration for any taxable supply which is made—

- (a) in the course or furtherance of the relevant part of his business by a person who is for the time being certified under this part,
- (b) at a time when that person is not a taxable person, and
- (c) to a taxable person,

shall be treated, for the purpose of determining the entitlement of the person supplied to credit under sections 25 and 26 of the Act, as VAT on a supply to that person.

(2) Subject to paragraph (3) below and save as the Commissioners may otherwise allow or direct generally or specially, a taxable person claiming entitlement to a credit of an amount as is mentioned in paragraph (1) above shall do so on the return made by him for the prescribed accounting period in which the invoice specified in paragraph (3) below is issued by a certified person.

(3) A taxable person shall not be entitled to credit as is mentioned in paragraph (1) above unless there has been issued an invoice containing the following particulars—

- (a) an identifying number,
- (b) the name, address and certificate number of the certified person by whom the invoice is issued,
- (c) the name and address of the person to whom the goods or services are supplied,
- (d) the time of the supply,
- (e) a description of the goods or services supplied,
- (f) the consideration for the supply or, in the case of any increase or decrease in the consideration, the amount of that increase or decrease excluding the amount as is mentioned in paragraph (1) above, and
- (g) the amount as is mentioned in paragraph (1) above which amount shall be entitled “Flat-rate Addition” or “FRA”.

### Commencement Information

**I179** Reg. 209 in force at 20.10.1995, see [reg. 1](#)

## Duty to keep records

### 210. —

(1) Every certified person shall, for the purposes of the scheme, keep and preserve the following records—

- (a) his business and accounting records, and
- (b) copies of all invoices specified in regulation 209(3) issued by him or on his behalf.

(2) Every certified person shall comply with such requirements with respect to the keeping, preservation and production of records as the Commissioners may notify to him.

(3) Every certified person shall keep and preserve such records as are required by paragraph (1) above or by notification for a period of 6 years or such lesser period as the Commissioners may allow.

*Status: Point in time view as at 22/03/2000.*

*Changes to legislation: There are currently no known outstanding effects for the The Value Added Tax Regulations 1995. (See end of Document for details)*

**Commencement Information**

**I180** Reg. 210 in force at 20.10.1995, see [reg. 1](#)

**Production of records**

**211.** —

(1) Every certified person shall—

(a) upon demand made by an authorised person, produce or cause to be produced for inspection by that person—

(i) at the principal place of business of the person upon whom the demand is made or at such other place as the authorised person may reasonably require, and

(ii) at such time as the authorised person may reasonably require,

any documents specified in regulation 210(1), and

(b) permit an authorised person to take copies of, or make extracts from, or remove at a reasonable time and for a reasonable period, any document produced under paragraph (1) (a) above.

(2) Where a document removed by an authorised person under paragraph (1)(b) above is reasonably required for the proper conduct of a business, he shall, as soon as practicable, provide a copy of that document, free of charge, to the person by whom it was produced or caused to be produced.

(3) Where any documents removed under paragraph (1)(b) above are lost or damaged, the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

**Commencement Information**

**I181** Reg. 211 in force at 20.10.1995, see [reg. 1](#)

**PART XXV**

**DISTRESS AND DILIGENCE**

[<sup>F156</sup>**A212.** In this Part—

“Job Band” followed by a number between “1” and “12” means the band for the purposes of pay and grading in which the job an officer performs is ranked in the system applicable to Customs and Excise.]

**Textual Amendments**

**F156** Reg. A212 inserted (2.9.1996) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1996 \(S.I. 1996/2098\)](#), regs. 1, 3

**Distress**

<sup>F157</sup>**212.** . . . . .



### Textual Amendments

**F157** Reg. 212 revoked (1.7.1997) by [The Distress for Customs and Excise Duties and Other Indirect Taxes Regulations 1997 \(S.I. 1997/1431\)](#), reg. 1, [Sch. 3](#)

### Diligence

**213.** In Scotland, the following provisions shall have effect—

- (a) where the Commissioners are empowered to apply to the Sheriff for a warrant to authorise a Sheriff Officer to recover any amount of VAT or any sum recoverable as if it were VAT remaining due and unpaid, any application, and any certificate required to accompany that application, may be made on their behalf by a Collector of Customs and Excise or an officer of rank not below that of [<sup>F158</sup>Job Band 7];
- (b) where, during the course of a pouncing and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987(**29**) the Commissioners are entitled as a creditor to do any acts, then any such acts, with the exception of the exercise of the power contained in paragraph 18(3) of that Schedule, may be done on their behalf by a Collector of Customs and Excise or an officer of rank not below that of [<sup>F159</sup>Job Band 7].

### Textual Amendments

**F158** Words in [reg. 213\(a\)](#) substituted (2.9.1996) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1996 \(S.I. 1996/2098\)](#), regs. 1, 4

**F159** Words in [reg. 213\(b\)](#) substituted (2.9.1996) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1996 \(S.I. 1996/2098\)](#), regs. 1, 4

### Commencement Information

**I182** Reg. 213 in force at 20.10.1995, see [reg. 1](#)

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Commissioner of Customs and Excise

**Status:**

Point in time view as at 22/03/2000.

**Changes to legislation:**

There are currently no known outstanding effects for the The Value Added Tax Regulations 1995.