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STATUTORY INSTRUMENTS

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**1995 No. 2518**

**The Value Added Tax Regulations 1995**

**PART I U.K.**

**PRELIMINARY**

**Citation and commencement U.K.**

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 U.K.**

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;

[<sup>F1</sup>“alphabetical code” means the alphabetical prefix as set out below which shall be used to identify the member State —

Austria — AT

Belgium — BE

[<sup>F2</sup>Bulgaria — BG]

Cyprus — CY

Czech Republic — CZ

Denmark — DK

Estonia — EE

Finland — FI

France — FR

Germany — DE

Greece — EL

Hungary — HU

Ireland — IE

Italy — IT

Latvia — LV

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*Status: Point in time view as at 01/04/2008.*

*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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Lithuania — LT  
 Luxembourg — LU  
 Malta — MT  
 Netherlands — NL  
 Poland — PL  
 Portugal — PT  
 [<sup>F3</sup>Romania — RO]  
 Slovakia — SK  
 Slovenia — SI  
 Spain — ES  
 Sweden — SE  
 United Kingdom —GB]

“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 [<sup>F4</sup>the Post Office company] and the sender of the packet; or which is received at a post office [<sup>F5</sup>of the Post Office company] in the United Kingdom from a place outside the United Kingdom for transmission and delivery in the United Kingdom [<sup>F6</sup>by that company] as if it were a datapost packet;

[<sup>F7</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;

[<sup>F8</sup>“the Post Office” company has the same meaning as in Part IV of the Postal Services Act 2000;]

“registered person” means a person registered by the Commissioners under [<sup>F9</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\(1\)](#) substituted (1.5.2004) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2004 \(S.I. 2004/1082\)](#), regs. 1, [3](#)
- F2 Words in [reg. 2\(1\)](#) inserted (1.1.2007) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2006 \(S.I. 2006/3292\)](#), regs. 1, [3\(1\)](#)
- F3 Words in [reg. 2\(1\)](#) inserted (1.1.2007) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2006 \(S.I. 2006/3292\)](#), regs. 1, [3\(2\)](#)
- F4 Words in [reg. 2](#) substituted (26.3.2001) by [Postal Services Act 2000 \(c. 26\)](#), s. 130(1), [Sch. 8 para. 23\(a\)](#); S.I. 2001/1148, art. 2, Sch.
- F5 Words in [reg. 2](#) inserted (26.3.2001) by [Postal Services Act 2000 \(c. 26\)](#), s. 130(1), [Sch. 8 para. 23\(b\)](#); S.I. 2001/1148, art. 2, Sch.
- F6 Words in [reg. 2](#) inserted (26.3.2001) by [Postal Services Act 2000 \(c. 26\)](#), s. 130(1), [Sch. 8 para. 23\(c\)](#); S.I. 2001/1148, art. 2, Sch.
- F7 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](#)
- F8 Words in [reg. 2](#) inserted (26.3.2001) by [The Postal Services Act 2000 \(Consequential Modifications No. 1\) Order 2001 \(S.I. 2001/1149\)](#), art. 1(2), [Sch. 1 para. 108](#)
- F9 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 **U.K.**

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 **U.K.**

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](#)

*Status: Point in time view as at 01/04/2008.*

*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 II U.K.

### REGISTRATION AND PROVISIONS FOR SPECIAL CASES

#### [<sup>F10</sup>Registration and notification U.K.]

5.—(1) Where any person is required under paragraph 5(1) [<sup>F11</sup>, 6(1) or 7(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
- (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.]

[<sup>F12</sup>(4) A notification subject to or required by paragraph (1), (2) or (3) may be made instead using an electronic communications system that remains specified for the purpose in a current general direction given by the Commissioners.

A system specified for a purpose of paragraph (1) may modify or dispense with any particular required for that purpose by that paragraph.

(5) The time a notification is made using such a system corresponds to when a fully mechanised feature of that system generates a relevant acknowledgement.

(6) If such a feature does not generate an acknowledgement, but would do so in the circumstances alleged, a relevant notification is not made using that system in those alleged circumstances.

(7) Paragraphs (5) and (6) apply as conclusive presumptions.

(8) Paragraph (4) only applies to a notification that is envisaged by a current direction.

(9) Paragraph (4) does not apply at a notification's deadline if the system specified for that notification is not then functioning.

A notification's deadline is the latest time by which it is required to be made.

(10) The Commissioners need not give a general direction pursuant to paragraph (4).

(11) Any general direction under paragraph (4) must specify both the form of an electronic communications system and the sole circumstances in which it may be used, and may specify different forms or circumstances for different cases.

(12) A system need not include a feature of the type envisaged by paragraph (5) or (6).

(13) A direction is not current for the purposes of paragraphs (4) and (8) to the extent that it is varied, replaced or revoked by another Commissioners' direction.

(14) A notification made under paragraph (4) carries the same consequences as a notification under paragraph (1), (2) or (3) (as appropriate), except in relation to any matter for which alternative or additional provision is made by or under paragraphs (4) to (7).]

#### Textual Amendments

**F10** Reg. 5 substituted (22.3.2000) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2000 \(S.I. 2000/794\)](#), regs. 1, 4

**F11** Words in reg. 5(1) substituted (22.7.2004) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2004 \(S.I. 2004/1675\)](#), regs. 1(1), 2(1)

**F12** Reg. 5(4)-(14) inserted (22.7.2004) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2004 \(S.I. 2004/1675\)](#), regs. 1(1), 2(2)

#### Transfer of a going concern **U.K.**

6. —

(1) Where—

- (a) a business [<sup>F13</sup>or part of 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 [<sup>F14</sup>or part of it] 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 [<sup>F15</sup>or the part transferred],

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 [<sup>F16</sup>or part of a business] has under paragraph (1) above been registered under Schedule 1 to the Act in substitution for the [<sup>F17</sup>transferor of it], 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 [<sup>F18</sup>40] 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>F19</sup>...

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- (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>F20</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, <sup>F21</sup>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]<sup>F22</sup>, and
- (f) any records relating to the business which, by virtue of these Regulations or a direction made by the Commissioners, are required to be preserved for any period after the transfer shall be preserved by the transferee unless the Commissioners, at the request of the transferor, otherwise direct.]
- (4) In addition to the provisions set out in paragraph (3) above, where the transferee of a business <sup>F23</sup>or part of a business] has been registered in substitution for, and with the registration number of, the transferor during a prescribed accounting period <sup>F24</sup>subsequent to that in which the transfer took place] but with effect from <sup>F25</sup>the date of the transfer], 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

- F13** Words in [reg. 6\(1\)\(a\)](#) inserted (1.9.2007 with effect in relation to transfers of going concerns pursuant to contracts entered into on or after that date) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), [regs. 1\(2\)\(b\)](#), **3(a)**
- F14** Words in [reg. 6\(1\)\(c\)](#) inserted (1.9.2007 with effect in relation to transfers of going concerns pursuant to contracts entered into on or after that date) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), [regs. 1\(2\)\(b\)](#), **3(b)**
- F15** Words in [reg. 6\(1\)\(d\)](#) inserted (1.9.2007 with effect in relation to transfers of going concerns pursuant to contracts entered into on or after that date) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), [regs. 1\(2\)\(b\)](#), **3(c)**
- F16** Words in [reg. 6\(3\)](#) inserted (1.9.2007 with effect in relation to transfers of going concerns pursuant to contracts entered into on or after that date) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), [regs. 1\(2\)\(b\)](#), **4(a)**
- F17** Words in [reg. 6\(3\)](#) substituted (1.9.2007 with effect in relation to transfers of going concerns pursuant to contracts entered into on or after that date) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), [regs. 1\(2\)\(b\)](#), **4(b)**
- F18** Word in [reg. 6\(3\)\(a\)](#) substituted (22.7.2004) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2004 \(S.I. 2004/1675\)](#), [regs. 1\(1\)](#), **3**
- F19** 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)**
- F20** [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)**
- F21** Word in [reg. 6\(3\)\(d\)](#) omitted (1.9.2007 with effect in relation to transfers of going concerns pursuant to contracts entered into on or after that date) by virtue of [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), [regs. 1\(2\)\(b\)](#), **4(c)**

- F22** Reg. 6(3)(f) and word inserted (1.9.2007 with effect in relation to transfers of going concerns pursuant to contracts entered into on or after that date) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(b), **4(d)**
- F23** Words in reg. 6(4) inserted (1.9.2007 with effect in relation to transfers of going concerns pursuant to contracts entered into on or after that date) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(b), **5(a)**
- F24** Words in reg. 6(4) substituted (1.9.2007 with effect in relation to transfers of going concerns pursuant to contracts entered into on or after that date) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(b), **5(b)**
- F25** Words in reg. 6(4) substituted (1.9.2007 with effect in relation to transfers of going concerns pursuant to contracts entered into on or after that date) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(b), **5(c)**

**Commencement Information**

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

**Notice by partnership** **U.K.**

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** **U.K.**

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.

**Commencement Information**

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

*Status: Point in time view as at 01/04/2008.*

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

## Death, bankruptcy or incapacity of taxable person **U.K.**

### 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>F26</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 [<sup>F27</sup>entering administration].

#### Textual Amendments

**F26** 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](#)

**F27** Words in [reg. 9\(3\)](#) substituted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), [art. 1\(1\)](#), [Sch. para. 56](#) (with [art. 6](#))

#### Commencement Information

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

## VAT representatives **U.K.**

### 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 [<sup>F28</sup>entering administration].

#### Textual Amendments

**F28** Words in [reg. 10\(6\)](#) substituted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), [art. 1\(1\)](#), [Sch. para. 57](#) (with [art. 6](#))

#### Commencement Information

**I9** [Reg. 10](#) in force at 20.10.1995, see [reg. 1](#)

### Notification of intended section 14(1) supplies by intermediate suppliers **U.K.**

#### 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 **U.K.**

#### 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 **U.K.**

### VAT INVOICES AND OTHER INVOICING REQUIREMENTS

#### <sup>F29</sup> Interpretation of Part 3 **U.K.**

**A13.** In this Part—

- (a) “advanced electronic signature” means an electronic signature which meets the following requirements—
  - (i) it is uniquely linked to the signatory;
  - (ii) it is capable of identifying the signatory;
  - (iii) it is created using means that the signatory can maintain under his sole control; and
  - (iv) it is linked to the data to which it relates in such a manner that any subsequent change of the data is detectable;
- (b) “electronic data interchange” or “EDI” means the electronic transfer, from computer to computer, of commercial and administrative data using an agreed standard to structure an EDI message;
- (c) “EDI message” means a set of segments, structured using an agreed standard, prepared in a computer readable format and capable of being automatically and unambiguously processed;
- (d) “electronic signature” means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication;
- (e) “electronic storage of invoices” means storage using electronic equipment for processing (including digital compression) and storage of data employing wires, radio transmission, optical technologies or other electromagnetic means;
- (f) “electronic transmission” in relation to invoices means transmission or making available to the recipient using electronic equipment employing wires, radio transmission, optical technologies or other electromagnetic means;
- (g) “signatory” means a person who holds a signature-creation device and acts either on his own behalf or on behalf of the natural or legal person or entity he represents.]

#### Textual Amendments

**F29** Reg. A13 inserted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), 3

### Obligation to provide a VAT invoice **U.K.**

#### 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 <sup>F30</sup>... to a person in another member State [<sup>F31</sup>for the purpose of any business activity carried out by that person], 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>F32</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)].

[<sup>F33</sup>(1A) Paragraph (1)(b) above shall not apply where the supply is an exempt supply which is made to a person in a member State which does not require an invoice to be issued for the supply.]

- (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

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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.

[<sup>F34</sup>(3) Where a registered person provides a document to himself (“a self-billed invoice”) that purports to be a VAT invoice in respect of a supply of goods or services to him by another registered person, that document shall be treated as the VAT invoice required to be provided by the supplier under paragraph (1)(a) if it complies with the conditions set out in paragraph (3A) and with any further conditions that may be contained in a notice published by the Commissioners or may be imposed in a particular case.]

[<sup>F35</sup>(3A) The following conditions must be complied with if a self-billed invoice is to be treated as a VAT invoice—

- (a) it must have been provided pursuant to a prior agreement (“a self-billing agreement”) entered into between the supplier of the goods or services to which it relates and the recipient of the goods or services (“the customer”) and which satisfies the requirements in paragraph (3B);
- (b) it must contain the particulars required under regulation 14(1) or (2);
- (c) it must relate to a supply or supplies made by a supplier who is a taxable person.

(3B) A self-billing agreement must—

- (a) authorise the customer to produce self-billed invoices in respect of supplies made by the supplier for a specified period which shall end not later than either—
  - (i) the expiry of a period of 12 months, or
  - (ii) the expiry of the period of any contract between the customer and the supplier for the supply of the particular goods or services to which the self-billing agreement relates;
- (b) specify that the supplier will not issue VAT invoices in respect of supplies covered by the agreement;
- (c) specify that the supplier will accept each self-billed invoice created by the customer in respect of supplies made to him by the supplier;
- (d) specify that the supplier will notify the customer if he ceases to be a taxable person or if he changes his registration number.

(3C) Without prejudice to any term of a self-billing agreement, it shall be treated as having expired when—

- (a) the business of the supplier is transferred as a going concern;
- (b) the business of the customer is transferred as a going concern;
- (c) the supplier ceases to be registered for VAT.

(3D) In addition to the matters set out in paragraph (3B)—

- (a) conditions that must be complied with may be set out in a notice published by the Commissioners;
- (b) the Commissioners may impose further conditions in particular cases.

(3E) Where a customer in another member State provides a document to himself in respect of a supply of goods or services to him by a registered person, that document shall be treated as the VAT invoice required to be provided by the supplier under paragraph 1(b) or (c) if it complies with the conditions set out in paragraph (3A).

(3F) For the purposes of the following, a self-billed invoice will not be treated as issued by the supplier (however the supplier may be described in the provision concerned)—

- (a) regulation 84(2)(b)(ii);
- (b) regulation 85(1)(b);
- (c) regulation 85(2);
- (d) regulation 86(1);
- (e) regulation 86(2)(b);
- (f) regulation 86(3);
- (g) regulation 88(1)(b);
- (h) regulation 89(b)(ii);
- (i) regulation 90(1)(b);
- (j) regulation 90(2);
- (k) regulation 91;
- (l) regulation 92(b);
- (m) regulation 93(1)(b);
- (n) regulation 94B(6)(a).]

(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

- F30** Words in [reg. 13\(1\)\(b\)](#) omitted (1.10.2007) by virtue of [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(c), **6(a)(i)**
- F31** Words in [reg. 13\(1\)\(b\)](#) inserted (1.10.2007) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(c), **6(a)(ii)**
- F32** 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**
- F33** [Reg. 13\(1A\)](#) inserted (1.10.2007) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(c), **6(b)**
- F34** [Reg. 13\(3\)](#) substituted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **4(a)**
- F35** [Reg. 13\(3A\)-\(3F\)](#) inserted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **4(b)**

#### Commencement Information

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

#### <sup>F36</sup>Electronic invoicing **U.K.**

**13A.—(1)** This regulation applies where a document is provided by a registered person by electronic transmission that purports to be a VAT invoice in respect of a supply of goods or services.

(2) The document is not to be treated as the VAT invoice required to be provided by the supplier under regulation 13(1) unless—

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- (a) both the supplier and the customer are able to guarantee the authenticity of the origin and integrity of the contents by one of the following means—
    - (i) an advanced electronic signature;
    - (ii) EDI;
    - (iii) where the document relates to supplies of goods or services made in the United Kingdom, such other electronic means as may be approved by the Commissioners in any particular case;
  - (b) the supplier has complied with any conditions imposed by the Commissioners.
- (3) When the document is a self-billed invoice that purports to be a VAT invoice, paragraph (2) (b) applies as if the reference to the supplier is to the customer.
- (4) Where an invoice has been provided or received that meets the conditions in paragraph (2) the supplier and the customer must preserve the means adopted for guaranteeing the authenticity of the origin and integrity of the contents under paragraph 2(a) for such time as the invoice is preserved.]

**Textual Amendments**  
**F36** Reg. 13A inserted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), 5

[<sup>F37</sup>**13B.** Where a VAT invoice or part of a VAT invoice is in a language other than English the Commissioners may, by notice in writing, require that an English translation of the invoice is provided to them by a person who has received such an invoice in the United Kingdom within 30 days of the date of the notice.]

**Textual Amendments**  
**F37** Reg. 13B inserted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), 6

**Contents of VAT invoice** **U.K.**

**14. —**

(1) Subject to paragraph (2) below and regulation 16<sup>F38</sup> ... [<sup>F39</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—

- [<sup>F40</sup>(a) a sequential number based on one or more series which uniquely identifies the document],
- (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,
- <sup>F41</sup>(f) .....
- (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 [<sup>F42</sup>any currency],
- (i) the gross total amount payable, excluding VAT, expressed in [<sup>F43</sup>any currency],

- (j) the rate of any cash discount offered,
  - <sup>F44</sup>(k) .....
  - (l) the total amount of VAT chargeable, expressed in sterling.
  - <sup>F45</sup>(m) the unit price.]
  - <sup>F46</sup>(n) where a margin scheme is applied under section 50A or section 53 of the Act, a relevant reference or any indication that a margin scheme has been applied,
  - (o) where a VAT invoice relates in whole or part to a supply where the person supplied is liable to pay the tax, a relevant reference or any indication that the supply is one where the customer is liable to pay the tax.]
- <sup>F47</sup>(2) Save as the Commissioners may otherwise allow, where a registered person provides a person in another member State with a VAT invoice or any document that refers to a VAT invoice and is intended to amend it, he must ensure that it states thereon the following particulars—
- (a) the information specified in sub-paragraphs [<sup>F48</sup>(a) to (e), (g), [<sup>F49</sup>(j), (m), (n) and (o)]] 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, <sup>F50</sup> ...
  - (g) where the supply of goods is a taxable supply, the information as specified in [<sup>F51</sup>sub-paragraph (l)] of paragraph (1) above [<sup>F52</sup>, and
  - (h) where the supply is an exempt or zero-rated supply, a relevant reference or any indication that the supply is exempt or zero-rated as appropriate.]
- (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.
- <sup>F53</sup>(5) .....
- <sup>F54</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.]
- <sup>F55</sup>(7) Where a registered person provides <sup>F55</sup>(7) documents in batches to the same recipient by electronic transmission that purport to be VAT invoices in respect of supplies of goods or services

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made to, or received by, him, as an exception to the requirements in regulation 14(1) and 14(2), details common to each such document need only be stated once for each batch file.]

[<sup>F56</sup>(8) In this regulation, a “relevant reference” is—

- (a) a reference to the appropriate provision of Council Directive [2006/112/EC](#), or
- (b) a reference to the corresponding provision of the Act.]

### Textual Amendments

- F38** 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\(1\)](#)
- F39** 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\(1\)](#)
- F40** Words in reg. 14(1)(a) substituted (1.10.2007) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(c), [7\(a\)](#)
- F41** Reg. 14(1)(f) omitted (1.1.2004) by virtue of [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), [7\(a\)](#)
- F42** Words in reg. 14(1)(h) substituted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), [7\(b\)](#)
- F43** Words in reg. 14(1)(i) substituted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), [7\(c\)](#)
- F44** Reg. 14(1)(k) omitted (1.1.2004) by virtue of [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), [7\(a\)](#)
- F45** Reg. 14(1)(m) added (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), [7\(d\)](#)
- F46** Reg. 14(1)(n)(o) inserted (1.10.2007) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(c), [7\(b\)](#)
- F47** Words in reg. 14(2) substituted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), [8\(a\)](#)
- F48** Words in reg. 14(2)(a) substituted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), [8\(b\)](#)
- F49** Words in reg. 14(2)(a) substituted (1.10.2007) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(c), [7\(c\)](#)
- F50** Word in reg. 14(2)(f) omitted (1.10.2007) by virtue of [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(c), [7\(d\)](#)
- F51** Words in reg. 14(2)(g) substituted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), [8\(c\)](#)
- F52** Reg. 14(2)(h) and word inserted (1.10.2007) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(c), [7\(e\)](#)
- F53** Reg. 14(5) omitted (1.10.2007) by virtue of [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(c), [7\(f\)](#)
- F54** Reg. 14(6) inserted (1.1.1996) by [The Value Added Tax \(Amendment\) Regulations 1995 \(S.I. 1995/3147\)](#), regs. 1, [3](#)
- F55** Reg. 14(7) inserted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), [9](#)
- F56** Reg. 14(8) inserted (1.10.2007) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), regs. 1(2)(c), [7\(g\)](#)

### Commencement Information

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

## Change of rate, credit notes **U.K.**

15. Where there is a change in the rate of VAT in force under section 2 [<sup>F57</sup>or 29A] of the Act or in the descriptions of exempt [<sup>F58</sup>, zero-rated or reduced-rate] 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.

### Textual Amendments

**F57** Words in [reg. 15](#) inserted (1.7.2003) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2003 \(S.I. 2003/1485\)](#), [regs. 1\(1\), 3\(a\)](#)

**F58** Words in [reg. 15](#) substituted (1.7.2003) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2003 \(S.I. 2003/1485\)](#), [regs. 1\(1\), 3\(b\)](#)

### Commencement Information

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

## Retailers' invoices **U.K.**

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 for the supply does not exceed [<sup>F59</sup>£250] 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.

### Textual Amendments

**F59** Sum in [reg. 16\(1\)](#) substituted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), [regs. 1\(1\)\(b\), 10](#)

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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)

**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** **U.K.**

**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.

[<sup>F60</sup>(2) An invoice provided under this regulation shall comply with the requirements of regulations 13 and 14.]

**Textual Amendments**

**F60** Reg. 17(2) substituted (1.10.2007) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2007 \(S.I. 2007/2085\)](#), [regs. 1\(2\)\(c\)](#), [8](#)

**Commencement Information**

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

**Section 14(1) supplies by intermediate suppliers** **U.K.**

**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, <sup>F61</sup>...

<sup>F61</sup>(d) .....

(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 subparagraphs (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.

<p><b>Textual Amendments</b></p> <p><b>F61</b> Reg. 18(2)(d) and word revoked (1.10.2007) by <a href="#">The Value Added Tax (Amendment) (No. 5) Regulations 2007 (S.I. 2007/2085)</a>, regs. 1(2)(c), <b>9</b></p>
<p><b>Commencement Information</b></p> <p><b>I17</b> Reg. 18 in force at 20.10.1995, see <a href="#">reg. 1</a></p>

**Section 14(2) supplies by persons belonging in other member States** **U.K.**

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, <sup>F62</sup>...

<sup>F62</sup>(d) .....

(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.

<p><b>Textual Amendments</b></p> <p><b>F62</b> Reg. 19(2)(d) and word revoked (1.10.2007) by <a href="#">The Value Added Tax (Amendment) (No. 5) Regulations 2007 (S.I. 2007/2085)</a>, regs. 1(2)(c), <b>10</b></p>
<p><b>Commencement Information</b></p> <p><b>I18</b> Reg. 19 in force at 20.10.1995, see <a href="#">reg. 1</a></p>

*Status: Point in time view as at 01/04/2008.*

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

## General **U.K.**

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 **U.K.**

### EC SALES STATEMENTS

## Interpretation of Part IV **U.K.**

21. In this Part—

**F63**  
...

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

**F63**  
...

“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

**F63** 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 **U.K.**

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 [<sup>F64</sup>(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,

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>F65</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.

*Status: Point in time view as at 01/04/2008.*

*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) 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>F66</sup> ....

<sup>F67</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**

- F64** Words in [reg. 22\(1\)](#) substituted (1.3.1996) by [The Value Added Tax \(Amendment\) Regulations 1996 \(S.I. 1996/210\)](#), [regs. 1, 4](#)
- F65** 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](#)
- F66** 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](#)
- F67** [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 **U.K.**

**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>F68</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

**F68** 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](#)

## [<sup>F69</sup>PART 4A **U.K.**

### REVERSE CHARGE SALES STATEMENTS

### Textual Amendments

**F69** [Pt. 4A](#) inserted (1.6.2007) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 2007 \(S.I. 2007/1418\)](#), regs. 1, 3

## Interpretation of Part 4A **U.K.**

**23A.** In this Part—

“relevant supply” means a supply of goods to which section 55A(6) of the Act applies (customers to account for tax on supplies of goods of a kind used in missing trader intra-community fraud);

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

## Notification of first relevant supply **U.K.**

**23B.**—(1) On the first occasion on which a person makes a relevant supply, he must notify the Commissioners of that fact within 30 days of the day on which the supply is made.

(2) The notification referred to in paragraph (1) must be made on-line by using a portal provided by the Commissioners.

(3) If the portal referred to in paragraph (2) is unavailable for any reason, the Commissioners may allow the notification to be made by email.

*Status: Point in time view as at 01/04/2008.*

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

### Submission of Statements **U.K.**

**23C.**—(1) Every taxable person who, in any prescribed accounting period, has made a relevant supply must, in relation to that period, submit to the Commissioners, no later than the day by which he is required to make a return for that period and in such a form and manner as may be determined by the Commissioners in a notice published by them (or otherwise), a statement containing the following prescribed particulars—

- (a) his registration number;
- (b) the registration number of each person to whom he has made a relevant supply; and
- (c) for each month falling within the prescribed accounting period, the total value of the relevant supplies made to each person mentioned in sub-paragraph (b).

(2) If, in any prescribed accounting period, no relevant supplies are made, a statement to that effect must be submitted to the Commissioners in such form and manner as may be determined by them in a notice published by them (or otherwise).

(3) Sub-paragraph (2) does not apply where a taxable person has notified the Commissioners that he has ceased making relevant supplies without intending subsequently to make such supplies.

(4) A statement must contain a declaration made by the taxable person that it is true and complete.]

### [<sup>F70</sup>N] Notification of cessation and recommencement of relevant supplies **U.K.**

**23D.** Where a person—

- (a) ceases making relevant supplies without intending subsequently to make such supplies, or
- (b) has fallen within paragraph (a) above but nonetheless starts to make relevant supplies again,

he shall, within 30 days of so ceasing or, as the case may be, of so recommencing, notify the Commissioners of that fact in such form and manner as may be determined in a notice published by them (or otherwise).]

#### Textual Amendments

**F70** Reg. 23D inserted (1.7.2007) by [The Value Added Tax \(Amendment\) \(No.4\) Regulations 2007 \(S.I. 2007/1599\)](#), regs. 1, 3

## [<sup>F71</sup>PART 4B **U.K.**

### PROVISION OF INFORMATION RELATING TO ARRIVALS AND DISPATCHES

#### Textual Amendments

**F71** Pt. 4B inserted (1.4.2008) by [The Value Added Tax \(Amendment\) Regulations 2008 \(S.I. 2008/556\)](#), regs. 1, 2(2)

#### *Interpretation of Part 4B*

**23E.**—(1) In this Part—

“establishing Regulation” means the Council and European Parliament Regulation (EC) No. 638/2004;

“implementing Regulation” means the Commission Regulation (EC) No. 1982/2004(3);

“statistics Regulations” means the Statistics of Trade (Customs and Excise) Regulations 1992(4);

(2) In this Part—

“arrivals and dispatches” means those arrivals and dispatches for which a responsible party is required to provide information under the establishing Regulation, implementing Regulation and the statistics Regulations;

“for Intrastat purposes” means for any purpose under the establishing Regulation, implementing Regulation or the statistics Regulations;

“reference period” means the period applicable under Article 6(1) of the establishing Regulation or such other period directed by the Commissioners pursuant to regulation 4(3) of the statistics Regulations;

“responsible party” means a taxable person who is required by Article 7 of the establishing Regulation and regulation 3 of the statistics Regulations to provide information in relation to arrivals and dispatches;

“supplementary declaration” means the relevant form set out in the Schedule to the statistics Regulations;

“delivery terms”, “nature of the transaction”, “partner Member State”, “quantity of the goods” and “value of the goods” shall have the same meaning as in the establishing Regulation and implementing Regulation.

**23F.**—(1) A responsible party shall provide the information in paragraph (2) relating to arrivals and dispatches to the Commissioners.

(2) The information is—

- (a) the registration number of the responsible party,
- (b) the reference period,
- (c) whether the information relates to arrival or dispatch,
- (d) the commodity, identified by the eight digit code of the Combined Nomenclature as defined in Council Regulation (EEC) No.2658/87 of 23 July 1987(5) as amended on the tariff and statistical nomenclature and the Common Customs Tariff,
- (e) the partner Member State,
- (f) the value of the goods,
- (g) the quantity of the goods,
- (h) the nature of the transaction.

(3) A responsible party to whom regulation 4(2) of the statistics Regulations applies shall also provide the delivery terms relating to arrivals and dispatches to the Commissioners.

(4) The information required by paragraphs (2) and (3) shall be provided in the supplementary declaration in which, and for the same reference period as, information is provided relating to those arrivals and dispatches for Intrastat purposes.]

(3) 1986 c. 45 .

(4) S.I. 1992/3111.

(5) S.I. 1992/3152.

*Status: Point in time view as at 01/04/2008.*

*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 V **U.K.**

### ACCOUNTING, PAYMENT AND RECORDS

#### Interpretation of Part V **U.K.**

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<sup>(3)</sup> has been approved,
  - (ii) [<sup>F72</sup>an administrator has been appointed],
  - (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>F73</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 [<sup>F74</sup>32];

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

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

#### Textual Amendments

- F72** Words in [reg. 24\(b\)\(ii\)](#) substituted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), [Sch. para. 58](#) (with art. 6)
- F73** 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](#)
- F74** Word in [reg. 24](#) substituted (1.7.2003) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2003 \(S.I. 2003/1485\)](#), regs. 1(1), [4](#)

#### Commencement Information

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

#### Making of returns **U.K.**

25. —

(3) 1986 c. 45 .

(4) S.I. 1992/3111.

(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>F75</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>F76</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.

(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>F77</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>F78</sup>(4A) A person may make a return required by this regulation <sup>F79</sup>... using electronic communications.

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(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.

[<sup>F80</sup>(4D) A direction under paragraph (4C)(a) may in particular—

- (a) modify or dispense with any requirement of Form 4 or Form 5 (as appropriate);
- (b) specify circumstances in which the electronic return system may be used, or not used, by or on behalf of the person required to make the return.

For the purposes of sub-paragraph (b), the direction may specify different circumstances for different cases.]

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

(4F) Subject to paragraph [<sup>F81</sup>(4J) below] —

- (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
- (c) the person [<sup>F82</sup>delivering] 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).

[<sup>F83</sup>(4J) No return shall be treated as having been made using an electronic return system unless the conditions imposed by paragraph (4C) are satisfied.

The condition in paragraph (4C)(a) incorporates the matters mentioned in paragraph (4D).

(4K) A return made using an electronic return system carries the same consequences as a return made on Form 4 or Form 5 (as appropriate), except in relation to any matter for which alternative or additional provision is made by or under paragraphs (4C) to (4F).

(4L) Additional time is allowed to make a return for which any related payment is made solely by means of electronic communications (see paragraph (1) – time for making return, and regulations 40(2) to 40(4) – payment of VAT).

That additional time is only as the Commissioners may allow in a specific or general direction, and such a direction may allow different times for different means of payment.

The Commissioners need not give a direction pursuant to this paragraph.

(4M) In paragraphs (4C) and (4L) “direction” refers only to a current direction, and a direction is not current to the extent that it is varied, replaced or revoked by another Commissioners' direction.]

(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

- F75** 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)**
- F76** 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**
- F77** 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)**
- F78** [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)**
- F79** Words in [reg. 25\(4A\)](#) omitted (22.7.2004) by virtue of [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2004 \(S.I. 2004/1675\)](#), regs. 1(1), **4(1)**
- F80** [Reg. 25\(4D\)](#) substituted (22.7.2004) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2004 \(S.I. 2004/1675\)](#), regs. 1(1), **4(2)**
- F81** Words in [reg. 25\(4F\)](#) substituted (22.7.2004) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2004 \(S.I. 2004/1675\)](#), regs. 1(1), **4(3)**
- F82** Word in [reg. 25\(4F\)\(c\)](#) substituted (22.7.2004) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2004 \(S.I. 2004/1675\)](#), regs. 1(1), **4(4)**
- F83** [Reg. 25\(4J\)-\(4M\)](#) substituted for [reg. 25\(4J\)-\(4L\)](#) (22.7.2004) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2004 \(S.I. 2004/1675\)](#), regs. 1(1), **4(5)**

#### 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 **U.K.**

**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 **U.K.**

**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

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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)*

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 **U.K.**

**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 **U.K.**

**29.** —

(1) [<sup>F84</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.

[<sup>F85</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 [<sup>F86</sup>or provide] such other <sup>F87</sup>... 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

- F84** Words in [reg. 29\(1\)](#) substituted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, [4\(a\)](#)
- F85** [Reg. 29\(1A\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, [4\(b\)](#)
- F86** Words in [reg. 29\(2\)](#) substituted (16.4.2003) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2003 \(S.I. 2003/1114\)](#), regs. 1, [3](#)
- F87** Word in [reg. 29\(2\)](#) deleted (16.4.2003) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2003 \(S.I. 2003/1114\)](#), regs. 1, [3](#)

#### Commencement Information

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

### Persons acting in a representative capacity **U.K.**

**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

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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 **U.K.**

#### 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>F88</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.

[<sup>F89</sup>(j) a copy of any self-billing agreement within regulation 13(3A) to which he is a party;

- (k) where he is a customer, party to a self-billing agreement within regulation 13(3A), the name, address and VAT registration number of each supplier with whom he has entered into a self-billing agreement.]

(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.

(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

- F88** 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**
- F89** Reg. 31(1)(j)(k) inserted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003](#) (S.I. 2003/3220), regs. 1(1)(b), **11**

#### Commencement Information

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

[<sup>F90</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

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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)*

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

**F90** 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

**F90** 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

**F90** 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 **U.K.**

**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,

[<sup>F91</sup>(ba) a total of the tax which the taxable person is required to account for and pay on behalf of the supplier,]

- (c) every correction or adjustment to the VAT payable portion which is required or allowed by regulation 34, 35 [<sup>F92</sup>, 38 or 38A], 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.
- (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.

#### Textual Amendments

- F91** Reg. 32(3)(ba) inserted (1.6.2007) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 2007 \(S.I. 2007/1418\)](#), regs. 1, **4(a)(i)**
- F92** Words in reg. 32(3)(c) substituted (1.6.2007) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 2007 \(S.I. 2007/1418\)](#), regs. 1, **4(a)(ii)**

#### 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 **U.K.**

#### 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.

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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)*

### Commencement Information

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

<sup>[F93]</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

**F93** [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

**F93** [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 **U.K.**

**34.** —

(1) <sup>[F94]</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>[F95]</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—
- (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

- F94** Words in [reg. 34\(1\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, [5\(a\)](#)
- F95** [Reg. 34\(1A\)\(1B\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, [5\(b\)](#)

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#### 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 **U.K.**

**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](#)

### [<sup>F96</sup>Claims for credit for, or repayment of, overstated or overpaid VAT] **U.K.**

**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.

**Textual Amendments**

- F96** Reg. 37 heading substituted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), 2

**Commencement Information**

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

**Adjustments in the course of business** **U.K.****38.** —

(1) [<sup>F97</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,

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>F98</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.]

[<sup>F99</sup>(1C) Where an increase or decrease in consideration relates to a supply in respect of which it is for the recipient, on the supplier's behalf, to account for and pay the tax, the prescribed accounting period referred to in paragraph (1) is that of the recipient, and not the maker, of the supply.

But this paragraph does not apply to the circumstances referred to in regulation 38A.]

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

(3) [<sup>F100</sup>Subject to paragraph (3A) below,] 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.

[<sup>F101</sup>(3A) Where an increase or decrease in consideration relates to a supply on which the VAT has been accounted for and paid by the recipient of the supply, any entry required to be made under paragraph (3) shall be made in the recipient's VAT account and not that of the supplier.]

(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.

*Status: Point in time view as at 01/04/2008.*

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(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

- F97** 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)**
- F98** Reg. 38(1A)(1B) inserted (1.5.1997) by The Value Added Tax (Amendment) Regulations 1997 (S.I. 1997/1086), regs. 1, **6(b)**
- F99** Reg. 38(1C) inserted (1.6.2007) by The Value Added Tax (Amendment) (No.3) Regulations 2007 (S.I. 2007/1418), regs. 1, **4(b)(i)**
- F100** Words in reg. 38(3) inserted (1.6.2007) by The Value Added Tax (Amendment) (No.3) Regulations 2007 (S.I. 2007/1418), regs. 1, **4(b)(ii)**
- F101** Reg. 38(3A) inserted (1.6.2007) by The Value Added Tax (Amendment) (No.3) Regulations 2007 (S.I. 2007/1418), regs. 1, **4(b)(iii)**

#### Commencement Information

- I37** Reg. 38 in force at 20.10.1995, see **reg. 1**

**[<sup>F102</sup>Adjustments where a supply becomes, or ceases to be, a supply to which section 55A(6) of the Act applies (customers to account for tax on supplies of goods of a kind used in missing trader intra-community fraud) U.K.]**

**38A.—(1)** Where regulation 38 applies and—

- (a) as a result of an increase in consideration for a supply it becomes one to which section 55A(6) of the Act applies; or
- (b) as a result of a decrease in consideration for a supply it ceases to be one to which that section applies,

both the maker, and the recipient, of the supply shall make such entries in the VAT payable portion of their VAT accounts as are necessary to account for that fact.

(2) Paragraphs (5) and (6) of regulation 38 shall apply to any entry required by this regulation as they apply to any entry required by that regulation.

(3) 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

- F102** Reg. 38A inserted (1.6.2007) by The Value Added Tax (Amendment) (No.3) Regulations 2007 (S.I. 2007/1418), regs. 1, **4(c)**

**Calculation of returns U.K.]**

**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 **U.K.**

<sup>[F103]</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,
- <sup>[F104]</sup>(aa) all VAT which he is required to pay on behalf of the supplier.]
- (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>[F105]</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

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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.]

[<sup>F106</sup>(4) A direction under paragraph (3) may in particular allow additional time for a payment mentioned in paragraph (2) that is made by means of electronic communications.

The direction may allow different times for different means of payment.

(5) Later payment so allowed does not of itself constitute a default for the purposes of section 59 of the Act (default surcharge).]

**Textual Amendments**

- F103** 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**
- F104** Reg. 40(1)(aa) inserted (1.6.2007) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 2007](#) (S.I. 2007/1418), regs. 1, **4(d)**
- F105** Reg. 40(2A) inserted (1.3.2000) by [The Value Added Tax \(Amendment\) Regulations 2000](#) (S.I. 2000/258), regs. 1(2), **4**
- F106** Reg. 40(4)(5) inserted (22.7.2004) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2004](#) (S.I. 2004/1675), regs. 1(1), **5**

**Commencement Information**

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

[<sup>F107</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**

- F107** 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 U.K.**

**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>F108</sup>(2) .....

<sup>F108</sup>(3) .....

### Textual Amendments

**F108** 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 **U.K.**

### 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 **U.K.**

### 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(5) in respect of goods which are at a specified warehouse.

[<sup>F109</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—

*Status: Point in time view as at 01/04/2008.*

*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) 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

**F109** 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**

#### Commencement Information

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

## [<sup>F110</sup>PART VA U.K.]

### REIMBURSEMENT ARRANGEMENTS

#### Textual Amendments

**F110** 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 **U.K.**

[<sup>F111</sup>43A]. In this Part—

“claim” means a claim made [<sup>F112</sup>(irrespective of when it was made)] under section 80 of the Act for [<sup>F113</sup>repayment of an amount paid to the Commissioners by way of VAT which was not VAT due to them][<sup>F113</sup>credit of an amount accounted for to the Commissioners or assessed by them as output tax which was not output tax 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 [<sup>F114</sup>repayment][<sup>F114</sup>crediting] 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 [<sup>F115</sup>cost of the original payment of that amount to the Commissioners][<sup>F115</sup>original amount brought into account as output tax that was not output tax due];

“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**

- F111** 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**
- F112** Words in [reg. 43A](#) omitted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by virtue of [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **3(a)(i)**
- F113** Words in [reg. 43A](#) substituted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **3(a)(ii)**
- F114** Word in [reg. 43A](#) substituted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **3(b)(i)**
- F115** Words in [reg. 43A](#) substituted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **3(b)(ii)**

**Reimbursement arrangements—general U.K.**

**[<sup>F111</sup>43B]**. Without prejudice to [<sup>F116</sup>regulation 43H] below, for the purposes of section 80(3) of the Act (defence by the Commissioners that [<sup>F117</sup>repayment][<sup>F117</sup>crediting] 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>F118</sup>regulation 43C] below; and
- (b) are supported by the undertakings described in [<sup>F119</sup>regulation 43G] below.

**Textual Amendments**

- F111** 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**
- F116** Words in [reg. 43B](#) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **4(a)**
- F117** Word in [reg. 43B](#) substituted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **4**
- F118** 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)**
- F119** 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 U.K.**

**[<sup>F111</sup>43C]**. The provisions referred to in [<sup>F120</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 [<sup>F121</sup>repayment][<sup>F121</sup>crediting of the amount] 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;

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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)*

- [ any part of the relevant amount credited to the claimant that is not reimbursed by the time<sup>F122</sup>(d) mentioned in paragraph (a) above will be notified by the claimant to the Commissioners;]
- (da) any part of the relevant amount paid (or repaid) to the claimant 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 [<sup>F123</sup>repaid][<sup>F123</sup>paid (or 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>F124</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>F125</sup>regulation 43F] below.

#### Textual Amendments

- F111** 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**
- F120** Words in [reg. 43C](#) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **5(a)**
- F121** Words in [reg. 43C\(a\)](#) substituted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **5(a)**
- F122** [Reg. 43C\(d\)\(da\)](#) substituted for [reg. 43C\(d\)](#) (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **5(b)**
- F123** Words in [reg. 43C\(e\)](#) substituted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **5(c)**
- F124** 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)**
- F125** 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)**

#### [<sup>F126</sup>Repayments to the Commissioners]Notifications and repayments to the Commissioners **U.K.**

[<sup>F126</sup>The claimant shall give any notification to the Commissioners that he is required to give by virtue of regulation 43C(d) above and, without any prior demand, make any repayment to the Commissioners that he is required to make by virtue of regulation 43C(da) and (e) above within 14 days of the expiration of the 90 days referred to in regulation 43C(a) above.]]

#### Textual Amendments

- F111** 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**
- F126** [Reg. 43D](#) substituted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **6**
- F127** Words in [reg. 43D](#) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **6(a)**

**F128** 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 **U.K.**

[<sup>F111</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

**F111** 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 **U.K.**

[<sup>F111</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>F129</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 [<sup>F130</sup>paid][<sup>F130</sup>credited] the relevant amount to the claimant.

### Textual Amendments

**F111** 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**

**F129** Words in reg. 43F(1) substituted (1.4.1999) by [The Value Added Tax \(Amendment\) Regulations 1999 \(S.I. 1999/438\)](#), regs. 1, **7**

**F130** Word in reg. 43F(2) substituted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **7**

## Undertakings **U.K.**

[<sup>F111</sup>43G].—(1) Without prejudice to [<sup>F131</sup>regulation 43H(b)] below, the undertakings referred to in [<sup>F132</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—

*Status: Point in time view as at 01/04/2008.*

*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) 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 [<sup>F133</sup>repaid][<sup>F133</sup>credited] 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 [<sup>F134</sup>repaid][<sup>F134</sup>paid (or repaid)] to him wholly to the reimbursement of such consumers by no later than 90 days after his receipt of that interest;
- (d) [<sup>F135</sup>he will notify the Commissioners of the whole or such part of the relevant amount credited to him as he fails to apply in accordance with the undertakings mentioned in sub-paragraphs (b) and (c) above;
- (da) he will repay to the Commissioners without demand the whole or such part of the relevant amount paid (or 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 [<sup>F136</sup>regulation 43E] above; and
- (f) he will comply with any notice given to him in accordance with [<sup>F137</sup>regulation 43F] above concerning the production of such records.

#### Textual Amendments

- F111** 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**
- F131** 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)**
- F132** 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)**
- F133** Word in reg. 43G(2)(b) substituted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **8(a)**
- F134** Words in reg. 43G(2)(c) substituted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **8(b)**
- F135** Reg. 43G(2)(d)(da) substituted for reg. 43G(2)(d) (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **8(c)**
- F136** 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)**
- F137** 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 **U.K.**

[<sup>F111</sup>**43H**]. [<sup>F138</sup>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 [<sup>F139</sup>regulation 43C] above; and
- (b) gives the undertakings described in [<sup>F140</sup>regulation 43G] above.]]

### Textual Amendments

- F111** 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**
- F138** [Reg. 43H](#) omitted (1.9.2005 in relation to claims made under 1994 c. 23, s. 80 on or after that date) by virtue of [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(2), **9**
- F139** 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)**
- F140** 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)**

## PART VI **U.K.**

### PAYMENTS ON ACCOUNT

#### Interpretation of Part VI **U.K.**

**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 **U.K.**

**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>[F141]</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

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

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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.

(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

**F141** 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>F142</sup>PART VII U.K.]

### ANNUAL ACCOUNTING

#### Textual Amendments

**F142** 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 U.K.

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;

“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;

[<sup>F143</sup>“the quarterly sum” means—

- (a) in the case of a taxable person who has been registered for at least 12 months—
  - (i) immediately preceding the first day of his current accounting year, or
  - (ii) for the purposes of regulation 51, immediately preceding the first day of his transitional accounting period,a sum equal to 25 per cent. of the total amount of VAT that he was liable to pay to the Commissioners in respect of those 12 months; or
- (b) in any other case, a sum equal to 25 per cent. of the total amount of VAT that the Commissioners are satisfied he will be liable to pay to the Commissioners in respect of the next 12 months;]

“the agreed quarterly sum” means a sum agreed with the Commissioners, not being less than [<sup>F144</sup>25 per cent] of a taxable person’s estimated liability for VAT in his current accounting year;

[<sup>F145</sup>“the monthly sum” means—

- (a) in the case of a taxable person who has been registered for at least 12 months—
  - (i) immediately preceding the first day of his current accounting year, or
  - (ii) for the purposes of regulation 51, immediately preceding the first day of his transitional accounting period,a sum equal to 10 per cent. of the total amount of VAT that he was liable to pay to the Commissioners in respect of those 12 months; or
- (b) in any other case, a sum equal to 10 per cent. of the total amount of VAT that the Commissioners are satisfied he will be liable to pay to the Commissioners in respect of the next 12 months;]

“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.

Status: Point in time view as at 01/04/2008.

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**

- F143** Words in reg. 49 substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2002 \(S.I. 2002/1142\)](#), regs. 1(2), **3(a)**
- F144** Words in reg. 49 substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2002 \(S.I. 2002/1142\)](#), regs. 1(2), **3(b)**
- F145** Words in reg. 49 substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2002 \(S.I. 2002/1142\)](#), regs. 1(2), **3(c)**

**Annual accounting scheme U.K.**

**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—

[<sup>F146</sup>(i) where the taxable person and Commissioners agree to such payment pattern, 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;]

(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.

<sup>F147</sup>(3) .....

**51.** An authorised person shall, where in any given case the transitional accounting period is—

(a) 4 months or more—

[<sup>F148</sup>(i) where the taxable person and Commissioners agree to such payment pattern, pay to the Commissioners by credit transfer on each relevant quarterly date the quarterly sum;] 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.

**Textual Amendments**

- F146** Reg. 50(2)(a)(i) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2002 \(S.I. 2002/1142\), regs. 1\(2\), 4\(a\)](#)
- F147** Reg. 50(3) omitted (with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2002 \(S.I. 2002/1142\), regs. 1\(2\), 4\(b\)](#)
- F148** Reg. 51(a)(i) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2002 \(S.I. 2002/1142\), regs. 1\(2\), 5](#)

**Admission to the scheme** **U.K.**

**52.**—(1) A taxable person shall be eligible to apply for authorisation under regulation 50(1) if—

- <sup>F149</sup>(a) .....
- (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 [<sup>F150</sup>£1,350,000];
- (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.

<sup>F151</sup>(1A) .....

(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 [<sup>F152</sup>£1,600,000]; 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—
  - (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

*Status: Point in time view as at 01/04/2008.*

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

- (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 [<sup>F153</sup>£1,600,000]; 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 [<sup>F154</sup>£1,600,000], 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.]

#### Textual Amendments

**F149** Reg. 52(1)(a) omitted (1.4.2006) by virtue of [The Value Added Tax \(Amendment\) Regulations 2006 \(S.I. 2006/587\)](#), regs. 1(2), **2(a)**

**F150** Sum in reg. 53(1)(b) substituted (1.4.2006) by [The Value Added Tax \(Amendment\) Regulations 2006 \(S.I. 2006/587\)](#), regs. 1(2), **3**

**F151** Reg. 52(1A) omitted (1.4.2006) by virtue of [The Value Added Tax \(Amendment\) Regulations 2006 \(S.I. 2006/587\)](#), regs. 1(2), **2(a)**

**F152** Sum in reg. 53(2)(a) substituted (1.4.2006) by [The Value Added Tax \(Amendment\) Regulations 2006 \(S.I. 2006/587\)](#), regs. 1(2), **3**

**F153** Sum in reg. 54(1)(e) substituted (1.4.2006) by [The Value Added Tax \(Amendment\) Regulations 2006 \(S.I. 2006/587\)](#), regs. 1(2), **3**

**F154** Sum in reg. 54(2) substituted (1.4.2006) by [The Value Added Tax \(Amendment\) Regulations 2006 \(S.I. 2006/587\)](#), regs. 1(2), 3

## <sup>F155</sup>PART VIIA **U.K.**

### FLAT-RATE SCHEME FOR SMALL BUSINESSES

#### Textual Amendments

**F155** Pt. 7A inserted (25.4.2002) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2002 \(S.I. 2002/1142\)](#), regs. 1(2), 7

#### Interpretation of Part VIIA **U.K.**

**55A.**—(1) In this Part—

<sup>F156</sup> ...

“capital expenditure goods” means any goods of a capital nature but does not include any goods acquired by a flat-rate trader (whether before he is a flat-rate trader or not)—

- (a) for the purpose of resale or incorporation into goods supplied by him,
- (b) for consumption by him within one year, or
- (c) to generate income by being leased, let or hired;

<sup>F157</sup> ...

<sup>F158</sup>“EDR” means the day with effect from which a person is registered under the Act;]

“end date” has the meaning given in regulation 55Q(2);

“flat-rate trader” means a person who is, for the time being, authorised by the Commissioners in accordance with regulation 55B(1);

“relevant purchase” has the meaning given in regulation 55C;

“start date” has the meaning given in regulation 55B(2);

“the scheme” means the flat-rate scheme for small businesses established by this Part;

“the Table” means the table set out in regulation 55K.

(2) For the purposes of this Part, a person is associated with another person at any time if that other person makes supplies in the course or furtherance of a business carried on by him, and—

- (a) the business of one is under the dominant influence of the other, or
- (b) the persons are closely bound to one another by financial, economic and organisational links.

<sup>F159</sup>(3) For the purposes of this Part, “relevant date”, in relation to a flat-rate trader, means any of the following—

- (a) his start date;
- (b) the first day of the prescribed accounting period current at any anniversary of his start date;
- (c) any day on which he first carries on a new business activity;
- (d) any day on which he no longer carries on an existing business activity;
- (e) any day with effect from which the Table is amended in relation to him;

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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)*

- (f) where regulation 55JB (reduced rate for newly registered period) applies—
- (i) the day that his newly registered period begins, and
  - (ii) the first anniversary of his EDR.]

#### Textual Amendments

- F156** Words in reg. 55A(1) omitted (1.1.2004) by virtue of [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **18(1)(a)**
- F157** Words in reg. 55A(1) omitted (1.1.2004) by virtue of [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **18(1)(a)**
- F158** Words in reg. 55A(1) inserted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **18(1)(b)**
- F159** Reg. 55A(3) inserted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **18(1)(c)**

#### Flat-rate scheme for small businesses **U.K.**

**55B.**—(1) The Commissioners may, subject to the requirements of this Part, authorise a taxable person to account for and pay VAT in respect of his relevant supplies in accordance with the scheme with effect from—

- (a) the beginning of his next prescribed accounting period after the date on which the Commissioners are notified <sup>F160</sup>... of his desire to be so authorised, or
  - (b) such earlier or later date as may be agreed between him and the Commissioners.
- (2) The date with effect from which a person is so authorised shall be known as his start date.
- (3) The Commissioners may refuse to so authorise a person if they consider it is necessary for the protection of the revenue that he is not so authorised.
- (4) A flat-rate trader shall continue to account for VAT in accordance with the scheme until his end date.

#### Textual Amendments

- F160** Words in reg. 55B(1)(a) omitted (1.1.2004) by virtue of [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **17**

#### Relevant supplies and purchases **U.K.**

- 55C.**—(1) Subject to paragraphs (3) [<sup>F161</sup>, (5) and (6)] , any—
- (a) supply of any goods or services to,
  - (b) acquisition of any goods from another member State by, or
  - (c) importation of any goods from a place outside the member States by,
- a flat-rate trader is a relevant purchase of his.
- (2) Subject to the following provisions of this regulation, any supply made by a person when he is not a flat-rate trader is not a relevant supply of his.
- (3) Subject to [<sup>F162</sup>paragraphs (4) and (6)] below, where—
- (a) a supply is made to, or made by, a person at a time when he is not a flat-rate trader, and

(b) the operative date for VAT accounting purposes is, by virtue of regulation 57 (cash accounting scheme), a date when he is a flat-rate trader, that supply is a relevant supply or a relevant purchase of his, as the case may be, if otherwise it would not be by virtue of paragraph (2) above.

(4) Where a person—

- (a) is entitled to any credit for input tax in respect of the supply to, or acquisition or importation by, him of capital expenditure goods,
- (b) claims any such credit, and
- (c) makes a supply of those capital expenditure goods,

the supply made by him is not a relevant supply of his, if otherwise it would be.

(5) Where by virtue of any provision of, or made under, the Act a supply is treated as made by a flat-rate trader, whether to himself or otherwise, that supply is neither a relevant supply nor a relevant purchase of his.

[<sup>F163</sup>(6) Where a supply of goods to which section 55A(6) of the Act applies (customers to account for tax on supplies of goods of a kind used in missing trader intra-community fraud) is made to, or made by, a flat rate trader, that supply is neither a relevant purchase nor a relevant supply of his.]

#### Textual Amendments

- F161** Words in [reg. 55C\(1\)](#) substituted (1.6.2007) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 2007 \(S.I. 2007/1418\)](#), regs. 1, **5(a)**
- F162** Words in [reg. 55C\(3\)](#) substituted (1.6.2007) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 2007 \(S.I. 2007/1418\)](#), regs. 1, **5(b)**
- F163** [Reg. 55C\(6\)](#) inserted (1.6.2007) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 2007 \(S.I. 2007/1418\)](#), regs. 1, **5(c)**

#### Method of accounting **U.K.**

**55D.** Subject to [<sup>F164</sup>regulations 55H and 55JB] below, for any prescribed accounting period of a flat-rate trader, the output tax due from him in respect of his relevant supplies shall be deemed to be the appropriate percentage of his relevant turnover for that period.

#### Textual Amendments

- F164** Words in [reg. 55D](#) substituted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **18(2)**

#### Input tax **U.K.**

**55E.**—(1) For any prescribed accounting period of a flat-rate trader, he is entitled to credit for input tax in respect of any relevant purchase of his of capital expenditure goods with a value, together with the VAT chargeable, of more than £2,000.

(2) Where paragraph (1) above applies, the whole of the input tax on the goods concerned shall be regarded as used or to be used by the flat-rate trader exclusively in making taxable supplies.

(3) Section 26B(5) of the Act shall not apply to prevent a taxable person from being entitled to credit for input tax in respect of any supply, acquisition or importation by him that is not a relevant purchase of his.

*Status: Point in time view as at 01/04/2008.*

*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) Nothing in this regulation gives an entitlement to credit for input tax where such entitlement is excluded by virtue of any order made under section 25(7) of the Act.

### **Exceptional claims for VAT relief** **U.K.**

**55F.**—(1) This regulation applies where—

- (a) the first prescribed accounting period for which a taxable person is authorised to account for and pay VAT in accordance with the scheme is the first prescribed accounting period for which he is, or is required to be, registered under the Act, and
- (b) the taxable person makes a claim in accordance with regulation 111 (exceptional claims for VAT relief).

(2) Where this regulation applies, section 26B(5) of the Act shall not apply to prevent the taxable person from being entitled to credit for input tax in relation to the matters for which he makes the claim described in paragraph (1)(b) above.

(3) Where—

- (a) this regulation applies, and
- (b) the Commissioners authorise the claim described in paragraph (1)(b) above,

the whole of the input tax on the goods or services concerned shall be regarded as used or to be used by the taxable person exclusively in making taxable supplies.

### **Determining relevant turnover** **U.K.**

**55G.**—(1) The Commissioners shall prescribe, in a notice published by them, three methods to determine when supplies are to be treated as taking place for the purpose of ascertaining the relevant turnover of a flat-rate trader for a particular period, as follows—

- (a) “the basic turnover method”, which shall be a method based on consideration for supplies taking place in a period;
- (b) “the cash turnover method”, which shall be a method based on the actual consideration received in a period;
- (c) “the retailer’s turnover method”, which shall be a method based on the daily gross takings of a retailer.

(2) When exercising their power to prescribe these methods, the Commissioners shall prescribe what rules are to apply when a flat-rate trader ceases to use one of the methods and begins to use a different method.

(3) In any prescribed accounting period, a flat-rate trader must use one of the methods to determine the value of his relevant turnover.

### **Appropriate percentage** **U.K.**

<sup>[F165]</sup>**55H.**—(1) The appropriate percentage to be applied by a flat-rate trader for any prescribed accounting period, or part of a prescribed accounting period (as the case may be), shall be determined in accordance with this regulation and regulations 55JB and 55K.

(2) For any prescribed accounting period—

- (a) beginning with a relevant date, the appropriate percentage shall be that specified in the Table for the category of business that he is expected, at the relevant date, on reasonable grounds, to carry on in that period;

- (b) current at his start date but not beginning with his start date, the appropriate percentage shall be that specified in the Table for the category of business that he is expected, at his start date, on reasonable grounds, to carry on in the remainder of the period;
  - (c) not falling within (a) or (b), the appropriate percentage shall be that applicable to his relevant turnover at the end of the previous prescribed accounting period.
- (3) Except that, where a relevant date other than his start date occurs on a day other than the first day of a prescribed accounting period, the following rules shall apply for the remainder of that prescribed accounting period—
- (a) for the remaining portion, the appropriate percentage shall be that specified in the Table for the category of business that he is expected, at the relevant date, on reasonable grounds, to carry on in that period;
  - (b) “remaining portion” means that part of the prescribed accounting period in which the relevant date occurs—
    - (i) starting with the relevant date, and
    - (ii) ending on the last day of that prescribed accounting period;
  - (c) the appropriate percentage specified in sub-paragraph (a) shall be applied to his relevant turnover in the remaining portion described;
  - (d) if the rules set out in paragraphs (a) to (c) apply and then another relevant date occurs in the same prescribed accounting period, then—
    - (i) the existing remaining portion ends on the day before the latest relevant date,
    - (ii) another remaining portion begins on the latest relevant date, and
    - (iii) the rules in paragraph (a) to (c) shall be applied again in respect of the latest remaining portion.]

#### Textual Amendments

**F165** Reg. 55H substituted for 55H-55JA (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **19(1)**

#### [<sup>F166</sup>Reduced appropriate percentage for newly registered period **U.K.**

**55JB.**—(1) This regulation applies where a flat-rate trader’s start date falls within one year of his EDR.

- (2) Except that this regulation does not apply where—
  - (a) the Commissioners received notification of, or otherwise became fully aware of, his liability to be registered more than one year after his EDR, or
  - (b) his end date or the first anniversary of his EDR falls before 1st January 2004.
- (3) At any relevant date on or after 1st January 2004 falling within his newly registered period, the Table shall be read as if each percentage specified in the right-hand column were reduced by one.
- (4) A flat-rate trader’s “newly registered period” is the period—
  - (a) beginning with the later of—
    - (i) his start date; and
    - (ii) the day the Commissioners received notification of, or otherwise became fully aware of, his liability to be registered under the Act, and
  - (b) ending on the day before the first anniversary of his EDR.]

**Status:** Point in time view as at 01/04/2008.

**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**

**F166** Reg. 55JB inserted (1.1.2004) by The Value Added Tax (Amendment) (No. 6) Regulations 2003 (S.I. 2003/3220), regs. 1(1)(b), **19(2)**

**Category of business** **U.K.**

**55K.**—(1) Where, at a relevant date, a flat-rate trader is expected, on reasonable grounds, to carry on business in more than one category in the period concerned, paragraph (3) below shall apply.

<sup>F167</sup>(2) . . . . .

(3) He shall be regarded as being expected, on reasonable grounds, to carry on that category of business which is expected, on reasonable grounds, to be his main business activity in that period.

(4) In paragraph (3) above, his main business activity in a period is to be determined by reference to the respective proportions of his relevant turnover expected, on reasonable grounds, to be generated by each business activity expected, on reasonable grounds, to be carried on in the period.

[<sup>F168</sup>Table

<i>Category of business</i>	<i>Appropriate percentage</i>
[ <sup>F169</sup> Post offices]	2
Retailing food, confectionery, tobacco, newspapers or children’s clothing	
Membership organisation	5.5
<sup>F170</sup> . . . . .	
Pubs	
Wholesaling food	
Farming or agriculture that is not listed elsewhere	6
Retailing that is not listed elsewhere	
Wholesaling agricultural products	
Retailing pharmaceuticals, medical goods, cosmetics or toiletries	7
Retailing vehicles or fuel	
Sport or recreation	
Wholesaling that is not listed elsewhere	

\* “Labour-only building or construction services” means building or construction services where the value of materials supplied is less than 10 per cent. of relevant turnover from such services; any other building or construction services are “general building or construction services”.]

<i>Category of business</i>	<i>Appropriate percentage</i>
Agricultural services	7.5
Library, archive, museum or other cultural activity	
Manufacturing food	
Printing	
Repairing vehicles	
General building or construction services *	8.5
Hiring or renting goods	
Manufacturing that is not listed elsewhere	
Manufacturing yarn, textiles or clothing	
Packaging	
Repairing personal or household goods	
Social work	
Forestry or fishing	9
Mining or quarrying	
[ <sup>F171</sup> Transport or storage, including couriers, freight, removals and taxis]	
Travel agency	
Advertising	9.5
Dealing in waste or scrap	
Hotel or accommodation	
Photography	
Publishing	
Veterinary medicine	
Any other activity not listed elsewhere	10
Investigation or security	

\* "Labour-only building or construction services" means building or construction services where the value of materials supplied is less than 10 per cent. of relevant turnover from such services; any other building or construction services are "general building or construction services".]

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<i>Category of business</i>	<i>Appropriate percentage</i>
Manufacturing fabricated metal products	
Boarding or care of animals	10.5
Film, radio, television or video production	
Business services that are not listed elsewhere	11
Computer repair services	
Entertainment or journalism	
Estate agency or property management services	
Laundry or dry-cleaning services	
Secretarial services	
Financial services	11.5
Catering services, including restaurants and takeaways	12
Hairdressing or other beauty treatment services	
Real estate activity not listed elsewhere	
Architect, civil and structural engineer or surveyor	12.5
Management consultancy	
Accountancy or book-keeping	13
Computer and IT consultancy or data processing	
Lawyer or legal services	
Labour-only building or construction services*	13.5

\* "Labour-only building or construction services" means building or construction services where the value of materials supplied is less than 10 per cent. of relevant turnover from such services; any other building or construction services are "general building or construction services".]

#### Textual Amendments

**F167** Reg. 55K(2) omitted (1.1.2004) by virtue of The Value Added Tax (Amendment) (No. 6) Regulations 2003 (S.I. 2003/3220), regs. 1(1)(b), **18(3)**

**F168** Reg. 55K Table substituted (1.1.2004) by The Value Added Tax (Amendment) (No. 6) Regulations 2003 (S.I. 2003/3220), regs. 1(1)(b), **20**

**F169** Words in reg. 55K Table inserted (1.4.2004) by The Value Added Tax (Amendment) Regulations 2004 (S.I. 2004/767), regs. 1, **6(a)** (with reg. 2)

**F170** Words in reg. 55K Table omitted (1.4.2004) by virtue of The Value Added Tax (Amendment) Regulations 2004 (S.I. 2004/767), regs. 1, **6(b)** (with reg. 2)

**F171** Words in reg. 55K Table substituted (1.4.2004) by [The Value Added Tax \(Amendment\) Regulations 2004 \(S.I. 2004/767\)](#), regs. 1, 6(c) (with reg. 2)

### Admission to scheme **U.K.**

**55L.**—(1) A taxable person shall be eligible to be authorised to account for VAT in accordance with the scheme at any time if—

- (a) there are reasonable grounds for believing that—
  - (i) the value of taxable supplies to be made by him in the period of one year then beginning will not exceed [<sup>F172</sup>£150,000], and
  - (ii) the total value of his income in the period of one year then beginning will not exceed [<sup>F173</sup>£187,500],
- (b) he—
  - (i) is not a tour operator,
  - (ii) is not required to carry out adjustments in relation to a capital item under Part XV, or
  - (iii) does not intend to opt to account for the VAT chargeable on a supply made by him by reference to the profit margin on the supply, in accordance with the provisions of any Order made under section 50A of the Act,
- (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(3),
  - (iii) been assessed to a penalty under section 60 of the Act, or
  - (iv) ceased to operate the scheme, and
- (d) he is not, and has not been within the past 24 months—
  - (i) eligible to be registered for VAT in the name of a group under section 43A of the Act,
  - (ii) registered for VAT in the name of a division under section 46(1) of the Act, or
  - (iii) associated with another person.

(2) In determining the value of a person's taxable supplies or income for the purposes of paragraph (1)(a)—

- (a) any supply of goods or services that are capital assets of the business in the course or furtherance of which they are supplied, and
- (b) any supply of services treated as made by the recipient by virtue of section 8 of the Act (reverse charge on supplies from abroad),

shall be disregarded.

- (3) Notwithstanding the above, where a person has been—
- (a) eligible to be registered for VAT in the name of a group under section 43A of the Act,
  - (b) registered for VAT in the name of a division under section 46(1) of the Act, or
  - (c) associated with another person,

in the period of 24 months before the date of his application, he shall not be eligible to be authorised, unless the Commissioners are satisfied that such authorisation poses no risk to the revenue.

**Status:** Point in time view as at 01/04/2008.

**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

- F172** Word in reg. 55L(1)(a)(i) substituted (10.4.2003) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2003 \(S.I. 2003/1069\)](#), regs. 1(1), **7(1)(a)**
- F173** Word in reg. 55L(1)(a)(ii) substituted (10.4.2003) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2003 \(S.I. 2003/1069\)](#), regs. 1(1), **7(1)(b)**

### Withdrawal from the scheme **U.K.**

**55M.**—(1) Subject to paragraph (2) below, a flat-rate trader ceases to be eligible to be authorised to account for VAT in accordance with the scheme where—

- (a) at any anniversary of his start date, the total value of his income in the period of one year then ending is more than [<sup>F174</sup>£225,000],
- (b) there are reasonable grounds to believe that the total value of his income in the period of 30 days then beginning will exceed [<sup>F174</sup>£225,000],
- (c) he becomes a tour operator,
- (d) he intends to acquire, construct or otherwise obtain a capital item within the meaning of regulation 112(2),
- (e) he opts to account for the VAT chargeable on a supply made by him by reference to the profit margin on the supply, in accordance with the provisions of any Order made under section 50A of the Act,
- (f) he becomes—
  - (i) eligible to be registered for VAT in the name of a group under section 43A of the Act,
  - (ii) registered for VAT in the name of a division under section 46(1) of the Act, or
  - (iii) associated with another person,
- (g) he opts to withdraw from the scheme, or
- (h) his authorisation is terminated in accordance with regulation 55P below.

(2) A flat-rate trader does not cease to be eligible to be authorised by virtue of paragraph (1)(a) above if the Commissioners are satisfied that the total value of his income in the period of one year then beginning will not exceed [<sup>F175</sup>£187,500].

(3) In determining the value of a flat-rate trader's income for the purposes of paragraphs (1)(a) and (b) and (2) above, any supply of goods or services that are capital assets of the business in the course or furtherance of which they are supplied, shall be disregarded.

### Textual Amendments

- F174** Word in reg. 55M(1)(a)(b) substituted (10.4.2003) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2003 \(S.I. 2003/1069\)](#), regs. 1(1), **7(2)(a)**
- F175** Word in reg. 55M(2) substituted (10.4.2003) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2003 \(S.I. 2003/1069\)](#), regs. 1(1), **7(2)(b)**

### Notification **U.K.**

**55N.**—<sup>F176</sup>(1) Where—

- (a) at the first day of the prescribed accounting period current at any anniversary of his start date,

(b) the appropriate percentage to be applied by a flat-rate trader in accordance with regulation 55H(2)(a) for the prescribed accounting period just beginning differs from that applicable to his relevant turnover at the end of the previous prescribed accounting period, he must notify the Commissioners of that fact within 30 days of the first day of the prescribed accounting period current at the anniversary of his start date.

(2) Where a flat-rate trader begins to carry on a new business activity or ceases to carry on an existing business activity, he must notify the Commissioners of—

- (a) that fact,
- (b) the date that is the relevant date described by regulation 55A(3)(c) or (d) (as the case may be), and
- (c) the appropriate percentage to be applied to the period immediately before that relevant date and immediately after it,

within 30 days of that relevant date.]

(3) Where any of sub-paragraphs (a) to (g) of regulation 55M(1) apply, the flat-rate trader shall notify the Commissioners of that fact within 30 days.

(4) Any notification required by this regulation shall be given in writing.

#### **Textual Amendments**

**F176** Reg. 55N(1)(2) substituted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **18(4)**

#### **Termination by the Commissioners** **U.K.**

**55P.** The Commissioners may terminate the authorisation of a flat-rate trader at any time if—

- (a) they consider it necessary to do so for the protection of the revenue, or
- (b) a false statement was made by, or on behalf of, him in relation to his application for authorisation.

#### **Date of withdrawal from the scheme** **U.K.**

**55Q.**—(1) The date on which a flat-rate trader ceases to be authorised to account for VAT in accordance with the scheme shall be—

- (a) where regulation 55M(1)(a) applies—
  - (i) in the case of a person who is authorised in accordance with regulation 50(1) (annual accounting scheme), the end of the prescribed accounting period in which the relevant anniversary occurred, or the end of the month next following, whichever is the earlier, or
  - (ii) in all other cases, the end of the prescribed accounting period in which the relevant anniversary occurred,
- (b) where regulation 55M(1)(b) applies, the beginning of the period of 30 days in question,
- (c) where regulation 55M(1)(c), (d), or (f) applies, the date the event occurred,
- (d) where regulation 55M(1)(e) applies, the beginning of the prescribed accounting period for which he makes the election described by that provision,
- (e) where regulation 55M(1)(g) applies, the date on which the Commissioners are notified in writing of his decision to cease using the scheme, or such earlier or later date as may be agreed between them and him, and

*Status: Point in time view as at 01/04/2008.*

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

(f) where regulation 55M(1)(h) applies, the date of issue of a notice of termination by the Commissioners or such earlier or later date as may be directed in the notification.

(2) The date with effect from which a person ceases to be so authorised shall be known as his end date.

#### **Self-supply on withdrawal from scheme** U.K.

**55R.**—(1) This regulation applies where—

- (a) a person continues to be a taxable person after his end date,
- (b) for any prescribed accounting period for which he was a flat-rate trader, he was entitled to, and claimed, credit for input tax in respect of any capital expenditure goods, and
- (c) he did not, whilst he was a flat-rate trader, make a supply of those goods.

(2) Where this regulation applies, those goods shall be treated for the purposes of the Act as being, on the day after his end date, both supplied to him for the purpose of his business and supplied by him in the course or furtherance of his business.

(3) The value of a supply of goods treated under paragraph (2) above as made to or by a person shall be determined as though it were a supply falling within paragraph 6(1) of Schedule 6 to the Act.

#### **Adjustments in respect of stock on hand at withdrawal from scheme** U.K.

**55S.**—(1) This regulation applies where—

- (a) a person continues to be a taxable person after his end date,
- (b) at his end date, he has stock on hand in respect of which he is not entitled to credit for input tax, and
- (c) the value of the stock on hand referred to in sub-paragraph (b) above exceeds the value of his stock on hand in respect of which he was entitled to credit for input tax, at his start date.

(2) Where this regulation applies, the taxable person, for the prescribed accounting period following that in which his end date falls, is entitled to credit for input tax in respect of his stock on hand in such amount as may be determined in accordance with a notice published by the Commissioners.

#### **Amendment by notice** U.K.

**55T.** The Commissioners may vary the terms of any method prescribed by them for the purposes of regulations 55G or 55S by publishing a fresh notice or publishing a notice that amends an existing notice.

#### **Reverse charges** U.K.

**55U.** Section 8 of the Act (reverse charge on supplies from abroad) shall not apply to any relevant supply or relevant purchase of a flat-rate trader.

#### **Bad debt relief** U.K.

**55V.**—(1) This regulation applies where—

- (a) a person has made a relevant supply,
- (b) he has used the cash turnover method to determine the value of his relevant turnover for the prescribed accounting period in which the relevant supply was made,
- (c) he has not accounted for and paid VAT on the supply,

- (d) the whole or any part of the consideration for the supply has been written off in his accounts as a bad debt, and
  - (e) a period of 6 months (beginning with the date of the supply) has elapsed.
- (2) Where this regulation applies—
- (a) section 36 of the Act(4) (bad debts) and any regulations made thereunder shall apply as if the conditions set out in subsection (1) of that section are satisfied, and
  - (b) the amount of refund of VAT to which the person is entitled under that section shall be the VAT chargeable on the relevant supply described in paragraph (1) above less the flat-rate amount.
- (3) In paragraph (2)(b) above, the flat-rate amount is—

$A \times B$

where—

A is the appropriate percentage applicable for the prescribed accounting period, or part thereof, in which the relevant supply was made, and

B is the value of the relevant supply together with the VAT chargeable thereon.]

## PART VIII U.K.

### CASH ACCOUNTING

#### Interpretation of Part VIII U.K.

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 U.K.

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](#)

(4) S.I. 1992/3111.

*Status: Point in time view as at 01/04/2008.*

*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>F177</sup>57A.—(1) A person shall not account for VAT in accordance with the scheme in respect of any relevant supplies or relevant purchases of his.

(2) In this regulation, “relevant supplies” and “relevant purchases” have the same meanings as in Part VIIA (flat-rate scheme for small businesses).]

#### Textual Amendments

**F177** Reg. 57A inserted (25.4.2002) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2002 \(S.I. 2002/1142\)](#), regs. 1(2), 8

#### Admission to the scheme **U.K.**

[<sup>F178</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 [<sup>F179</sup>£1,350,000],
- (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—

- (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; <sup>F180</sup>...
- (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 [<sup>F181</sup>]; or
- (g) supplies of goods in respect of which it is for the recipient, on the supplier’s behalf, to account for and pay the VAT.]

(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>F182</sup>or publishing a notice which amends an existing notice].

<sup>F183</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 [<sup>F184</sup>£1,600,000].

(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>F185</sup>**61.**—(1) Subject to paragraph (2), 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), must—

- (a) settle up, or
- (b) apply transitional arrangements.

(2) Where the value of taxable supplies made by a person in the period of three months ending at the end of the prescribed accounting period in which he ceased to operate the scheme has exceeded [<sup>F186</sup>£1,350,000], he may not apply transitional arrangements.

(3) In paragraph (1)(a), “settle up” means account for and pay on a return made for the prescribed accounting period in which he ceased to operate the scheme—

- (a) all VAT that 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, minus
- (b) all VAT accounted for and paid to the Commissioners in accordance with the scheme, subject to any adjustment for credit for input tax.

(4) In paragraph (1)(b), “apply transitional arrangements” means continue to operate the scheme in respect of his scheme supplies for 6 months after the end of the prescribed accounting period in which he ceased to operate the scheme.

(5) In paragraph (4), “scheme supplies” means supplies made and received while he operated the scheme that are not excluded from the scheme by virtue of regulation 57A or 58 or conditions described in a notice.

(6) Where a person chooses to apply transitional arrangements, he shall account for and pay on a return made for the first prescribed accounting period that ends 6 months or more after the end of the prescribed accounting period in which he ceased to operate the scheme—

- (a) all VAT that 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, minus
- (b) all VAT accounted for and paid to the Commissioners in accordance with the scheme (including any VAT accounted for and paid because he applied transitional arrangements), subject to any adjustment for credit for input tax.]

<sup>F187</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.]

*Status: Point in time view as at 01/04/2008.*

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

### 63. —

[<sup>F188</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>F189</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>F190</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

- F178** Reg. 58 substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **3**
- F179** Sum in reg. 58(1)(a) substituted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007](#) (S.I. 2007/768), regs. 1, **3**
- F180** Word in reg. 58(2)(e) omitted (1.6.2007) by virtue of [The Value Added Tax \(Amendment\) \(No.3\) Regulations 2007](#) (S.I. 2007/1418), regs. 1, **6**
- F181** Reg. 58(2)(g) and word inserted (1.6.2007) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 2007](#) (S.I. 2007/1418), regs. 1, **6**
- F182** 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**
- F183** Reg. 60 substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **5**
- F184** Sum in reg. 60(1) substituted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007](#) (S.I. 2007/768), regs. 1, **4**
- F185** Reg. 61 substituted (1.4.2004) by [The Value Added Tax \(Amendment\) Regulations 2004](#) (S.I. 2004/767), regs. 1, **9**
- F186** Sum in reg. 61(2) substituted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007](#) (S.I. 2007/768), regs. 1, **5**
- F187** Reg. 62 substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997](#) (S.I. 1997/1614), regs. 1, **7**
- F188** 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)**
- F189** 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)**
- F190** 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 **U.K.**

[<sup>F191</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.]

**Textual Amendments**

**F191** Reg. 64 substituted (3.7.1997) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1997 \(S.I. 1997/1614\)](#), regs. 1, **9**

**[<sup>F192</sup>Bad debt relief U.K.]**

**64A.** Where a person accounts for and pays VAT in relation to a supply in accordance with regulation 61(3) or (6) or 64(2), he shall be treated for the purposes of section 36(1)(a) of the Act as having accounted for and paid VAT on the supply in the prescribed accounting period in which he ceased to operate the scheme.]

**Textual Amendments**

**F192** Reg. 64A inserted (1.4.2004) by [The Value Added Tax \(Amendment\) Regulations 2004 \(S.I. 2004/767\)](#), regs. 1, **10**

**Accounting U.K.]**

**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.

*Status: Point in time view as at 01/04/2008.*

*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

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

## PART IX **U.K.**

### SUPPLIES BY RETAILERS

#### Interpretation of Part IX **U.K.**

**66.** In this Part—

[<sup>F193</sup>“flat-rate trader” has the meaning given in regulation 55A;]

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

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

#### Textual Amendments

**F193** Words in Pt. 9 inserted (25.4.2002) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2002](#) (S.I. 2002/1142), regs. 1(2), **9(a)**

#### Commencement Information

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

#### Retail schemes **U.K.**

**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.

[<sup>F194</sup>**69A.** No retailer may use a scheme at any time for which he is a flat-rate trader.]

**Textual Amendments**

**F194** Reg. 69A inserted (25.4.2002) by The Value Added Tax (Amendment) (No. 2) Regulations 2002 (S.I. 2002/1142), regs. 1(2), **9(b)**

**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** **U.K.**

<sup>F195</sup>**70.** .....

**Textual Amendments**

**F195** 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** **U.K.**

**71.**—<sup>F196</sup>(1) 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.

<sup>F197</sup>(2) Paragraph (1) shall not apply where a retailer ceases to operate a scheme solely because he becomes a flat-rate trader.]

**Textual Amendments**

- F196** Reg. 71 renumbered as reg. 71(1) (25.4.2002) by The Value Added Tax (Amendment) (No. 2) Regulations 2002 (S.I. 2002/1142), regs. 1(2), **9(c)**
- F197** Reg. 71(2) inserted (25.4.2002) by The Value Added Tax (Amendment) (No. 2) Regulations 2002 (S.I. 2002/1142), regs. 1(2), **9(c)**

**Commencement Information**

- I58** Reg. 71 in force at 20.10.1995, see **reg. 1**

**Ceasing to use a scheme** **U.K.**

**72.** —

(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.

*Status: Point in time view as at 01/04/2008.*

*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 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** **U.K.**

<sup>F198</sup>**73.** . . . . .

**Textual Amendments**

**F198** [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** **U.K.**

<sup>F198</sup>**74.** . . . . .

**Textual Amendments**

**F198** [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** **U.K.**

**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>F199</sup>**PART X** **U.K.**

**TRADING STAMPS**

**Textual Amendments**

**F199** [Pt. 10](#) revoked (1.6.1996) by [The Value Added Tax \(Trading Stamps\) Regulations 1995 \(S.I. 1995/3043\)](#), [regs. 1, 2](#)

## PART XI U.K.

### TIME OF SUPPLY AND TIME OF ACQUISITION

#### Goods for private use and free supplies of services U.K.

##### 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 U.K.

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](#)

#### [<sup>F200</sup>Goods supplied by persons outside the United Kingdom U.K.]

82A. Goods which are treated as supplied by a person under section 9A of the Act shall be treated as being supplied when the goods are paid for or, if the consideration is not in money, on the last day of the prescribed accounting period in which the goods are removed or made available.]

#### Textual Amendments

F200 [Reg. 82A](#) inserted (with effect in accordance with [reg. 2\(1\)](#) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), [regs. 2\(1\), 4](#)

#### Time of acquisition U.K.

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 [<sup>F201</sup>or the customer and which, in either case, is issued under the provisions of the law of

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the member State where the goods were supplied, corresponding in relation to that member State to the provisions of regulations 13, 13A and 14.]

#### Textual Amendments

**F201** Words in [reg. 83](#) substituted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), [regs. 1\(1\)\(b\)](#), [12](#)

#### Commencement Information

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

### Supplies of land—special cases **U.K.**

**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) <sup>F202</sup>Subject to paragraphs (3) to (5)] 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)<sup>F203</sup>... 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.

<sup>F204</sup>(3) Paragraph (2) above shall not apply in relation to a grant or assignment falling within item 1(a) of Group 1 of Schedule 9 to the Act where any of the persons specified in paragraph (4) below intend or expect to occupy the land on a date before a date ten years after completion of the building or civil engineering work on the land, without being in occupation of it wholly or mainly for eligible purposes.

(4) The persons referred to in paragraph (3) above are—

- (a) the grantor;
  - (b) any person who, with the intention or in the expectation that occupation of the land on a date before a date ten years after completion of the building or civil engineering work would not be wholly or mainly for eligible purposes—
    - (i) provides finance for the grantor's development of the land, or
    - (ii) has entered into any agreement arrangement or understanding (whether or not legally enforceable) to provide finance for the grantor's development of the land;
  - (c) any person who is connected with any person of a description within sub-paragraph (a) or (b) above.
- (5) For the purposes of this regulation—
- (a) Note (2) to Group 1 of Schedule 9 to the Act shall apply in determining when a building or civil engineering work is completed;

- (b) paragraph 3A(8) to (13) of Schedule 10 to the Act shall have effect for determining the meaning of “eligible purposes” and “occupation”;
- (c) “the grantor’s development of the land” means any acquisition by the grantor of an interest in the land, building or civil engineering work and includes the construction of the building or civil engineering work;
- (d) “providing finance” has the same meaning as in paragraph 3A(4) of Schedule 10 to the Act, subject to any appropriate modifications, but does not include paying the consideration for the grantor’s grant or assignment within paragraph (3) above;
- (e) any question whether one person is connected with another shall be determined in accordance with section 839 of the Income and Corporation Taxes Act 1988.]

#### Textual Amendments

- F202** Words in [reg. 84\(2\)](#) substituted (with effect in accordance with [reg. 1\(3\)](#) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2003 \(S.I. 2003/1069\)](#), [regs. 1\(1\), 8](#)
- F203** Word in [reg. 84\(2\)\(a\)](#) omitted (1.1.2004) by virtue of [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), [regs. 1\(1\)\(b\), 13](#)
- F204** [Reg. 84\(3\)-\(5\)](#) substituted for [reg. 84\(3\)-\(9\)](#) (with effect in accordance with [reg. 1\(3\)](#) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2003 \(S.I. 2003/1069\)](#), [regs. 1\(1\), 9](#)

#### Commencement Information

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

### Leases treated as supplies of goods **U.K.**

#### 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).

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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)*

### 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 **U.K.**

**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).

(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 **U.K.**

**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 [<sup>F205</sup>an invoice such as is described in regulation 83 is issued.].

#### Textual Amendments

**F205** Words in [reg. 87](#) substituted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), [regs. 1\(1\)\(b\)](#), [14](#)

#### Commencement Information

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

### Supplier's goods in possession of buyer **U.K.**

**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 [<sup>F206</sup>or a self-billed invoice fulfilling the conditions in regulation 13(3A) is issued by the customer], the provisions of section 6(5) of the Act shall apply to that supply.

#### Textual Amendments

**F206** Words in [reg. 88\(2\)](#) inserted (1.1.2004) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), [regs. 1\(1\)\(b\)](#), [15](#)

#### Commencement Information

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

*Status: Point in time view as at 01/04/2008.*

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

## Retention payments **U.K.**

**89.** Where any contract [<sup>F207</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), <sup>F208</sup>... (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

**F207** 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](#)

**F208** Word in [reg. 89\(a\)](#) omitted (1.1.2004) by virtue of [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), [regs. 1\(1\)\(b\), 16](#)

### Commencement Information

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

## Continuous supplies of services **U.K.**

**90.** —

(1) Subject to paragraph (2) below, where services [<sup>F209</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>F210</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 supplied in the United Kingdom by virtue of [<sup>F211</sup>article 18] of the Value Added Tax (Place of Supply of Services) Order 1992.]

#### Textual Amendments

**F209** 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](#)

**F210** [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](#)

**F211** 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>F212</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

**F212** [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

**F212** [Regs. 90A, 90B](#) inserted (1.7.1997) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/1525\)](#), [regs. 1, 4](#)

*Status: Point in time view as at 01/04/2008.*

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

## Royalties and similar payments **U.K.**

**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 **U.K.**

**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 **U.K.**

<sup>[F213]</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, 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,

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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**

**F213** Reg. 93 substituted (9.6.1999) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1999 \(S.I. 1999/1374\)](#), regs. 1, 2

**General** **U.K.**

**94.** [<sup>F214</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**

**F214** 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>F215</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**

**F215** [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

[<sup>F216</sup>**94B.**—(1) This regulation applies in relation to the following supplies where they are provided in the circumstances referred to in paragraph (2) below—

- (a) supplies falling within regulation 85 above (leases treated as supplies of goods) other than any supply which is exempt by virtue of Group 1 of Schedule 9 to the Act or would be exempt but for the operation of paragraph 2(1) of Schedule 10 to the Act;
  - (b) supplies falling within regulation 86(1) to (4) above (supplies of water, gas or any form of power, heat, refrigeration or ventilation);
  - (c) supplies falling within regulation 90 above (continuous supplies of services) other than any supply which is exempt by virtue of Group 1 of Schedule 9 to the Act or would be exempt but for the operation of paragraph 2(1) of Schedule 10 to the Act.
- (2) The circumstances referred to in paragraph (1) above are—
- (a) that the person making the supply and the person to whom it is made are connected with each other, or
  - (b) one of those persons is an undertaking in relation to which the other is a group undertaking (except where both undertakings are treated under sections 43A to 43C of the Act as members of the same group), and
  - (c) the supply is subject to the rates of VAT prescribed in section 2 or section 29A of the Act.

*Status: Point in time view as at 01/04/2008.*

*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) But this regulation does not apply where a person can show that a person to whom he has made a supply of a description falling within paragraph (1) above is entitled under sections 25 and 26 of the Act to credit for all of the VAT on that supply.

(4) For the purposes of paragraph (2) above, any question whether a person is connected with another shall be determined in accordance with section 839 of the Income and Corporation Taxes Act 1988 and “undertaking” and “group undertaking” have the same meaning as in section 259 of the Companies Act 1985.

(5) Where this regulation applies, goods or services shall, to the extent that they have not already been treated as supplied by virtue of the regulations specified in paragraph (1) above (or any provision of the Act or other regulations made under the Act), and to the extent that they have been provided, be treated as separately and successively supplied—

- (a) in the case of supplies the provision of which commenced on or before 1st October 2003, at the end of the period of twelve months after that date;
- (b) in the case of supplies the provision of which commenced after 1st October 2003, at the end of the period of twelve months after the supplies commenced; or
- (c) where the Commissioners are satisfied that each category of supply has been adequately identified, on such other period end date nominated for each category and falling within the period specified in sub-paragraph (5)(a) or (b) above as may be notified by the taxable person to the Commissioners in writing,

and thereafter at the end of each subsequent period of twelve months.

(6) But where the person making the supply, within the period of six months after the time applicable under paragraph (5) above either—

- (a) issues a VAT invoice in respect of it, or
- (b) receives a payment in respect of it,

the supply shall, to the extent that it has not been treated as taking place at some other time by virtue of the regulations specified in paragraph (1) above (or any provision of the Act or other regulations made under the Act), be treated as taking place at the time the invoice is issued or the payment is received, unless the person making the supply has notified the Commissioners in writing that he elects not to avail himself of this paragraph.

(7) The Commissioners may, at the request of a taxable person, allow paragraph (6) above to apply in relation to supplies made by him (or such supplies as may be specified) as if for the period of six months there were substituted such other period as may be prescribed by them.

(8) A taxable person may after the start of any period to be established under paragraph (5) above—

- (a) in relation to some or all of his supplies, and
- (b) where the Commissioners give their approval,

select an alternative period end date falling before the end of that period (which end date but for this paragraph would be established under paragraph (5) above), from which date subsequent periods of twelve months will end.

(9) A date selected and approved under paragraph (8) above shall be the date which establishes the end of the taxable person’s current period.

(10) For the purposes of paragraph (8) above, a reference to a period end established under paragraph (5) above includes a reference to a period end established by an earlier application of paragraph (8) above.

(11) Where the supply is one of the leasing of assets, and that leasing depends on one or more other leases of those assets (the superior lease or leases), then the reference in paragraph (2) above to the person making the supply includes a reference to any lessor of a superior lease.

(12) For the purposes of paragraph (11) above, a reference to the leasing of assets includes a reference to any letting, hiring or rental of assets however described, and “lessor” shall be construed accordingly.

(13) For the purposes of this regulation, goods or services are provided at the time when and to the extent that, the recipient receives the benefit of them.

(14) Where this regulation applies, the regulations specified in paragraph (1) above shall not apply to the extent that supplies have been treated as having taken place under this regulation.]

#### Textual Amendments

**F216** Reg. 94B inserted (1.10.2003) by The Value Added Tax (Amendment) (No. 5) Regulations 2003 (S.I. 2003/2318), regs. 1(2), 3 (with reg. 1(2))

#### Supplies spanning change of rate etc. **U.K.**

**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, [<sup>F217</sup>82A,] 84, 85, 86(1) to (4) [<sup>F218</sup>, ][<sup>F219</sup>and 94B] of these Regulations.

#### Textual Amendments

**F217** Word in reg. 95 inserted (with effect in accordance with reg. 2(1) of the amending S.I.) by The Value Added Tax (Amendment) (No. 4) Regulations 2004 (S.I. 2004/3140), regs. 2(1), 5

**F218** Comma in reg. 95 substituted for word (1.10.2003) by The Value Added Tax (Amendment) (No. 5) Regulations 2003 (S.I. 2003/2318), regs. 1(2), 4 (with reg. 1(2))

**F219** Words in reg. 95 inserted (1.10.2003) by The Value Added Tax (Amendment) (No. 5) Regulations 2003 (S.I. 2003/2318), regs. 1(2), 4 (with reg. 1(2))

#### Commencement Information

**I74** Reg. 95 in force at 20.10.1995, see **reg. 1**

## PART XII **U.K.**

### VALUATION OF ACQUISITIONS

#### Interpretation of Part XII **U.K.**

**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**

*Status: Point in time view as at 01/04/2008.*

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

## Valuation of acquisitions **U.K.**

### 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 **U.K.**

### PLACE OF SUPPLY

## Distance sales from the United Kingdom **U.K.**

### 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

(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 U.K.**

**INPUT TAX AND PARTIAL EXEMPTION**

**Interpretation of Part XIV and longer periods U.K.**

**99.** —

(1) In this Part—

- <sup>[F220]</sup>(a) <sup>[F221]</sup>“exempt input tax” means input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him in so far as they are used by him or are to be used by him, or a successor of his, in making exempt supplies, or supplies outside the United Kingdom which would be exempt if made in the United Kingdom, other than any input tax which is allowable under regulation <sup>[F222]</sup>102,<sup>[F223]</sup>103, 103A or 103B); and “successor” in this paragraph has the same meaning as in regulation 107D;]
- (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>[F224]</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>[F224]</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;

*Status: Point in time view as at 01/04/2008.*

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

(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>F224</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

- F220** 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
- F221** Reg. 99(1)(a) and words substituted (18.4.2002 in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after that date) by [The Value Added Tax \(Amendment\) Regulations 2002](#) (S.I. 2002/1074), regs. 1, 3
- F222** Word in reg. 99(1)(a) inserted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007](#) (S.I. 2007/768), regs. 1, 6
- F223** Words in reg. 99(1)(a) substituted (3.12.2004) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004](#) (S.I. 2004/3140), regs. 2(3), 9
- F224** 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](#)

**Attribution of input tax to taxable supplies U.K.**

**101. —**

(1) Subject to regulation 102 [<sup>F225</sup>and 103B], 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>F226</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—
  - [<sup>F227</sup>(i) any supply of a description falling within Group 5 of Schedule 9 to the Act,,
  - (ii) any other financial transaction, and
  - (iii) any real estate transaction,]
- (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 [<sup>F228</sup>as specified in paragraph (5) below].

<sup>F229</sup>(5) .....

[<sup>F230</sup>(5) The percentage shall be rounded up—

- (a) where in any prescribed accounting period or longer period which is applied the amount of input tax which is available for attribution under paragraph 2(d) above prior to any such attribution being made does not amount to more than £400,000 per month on average, to the next whole number, and
- (b) in any other case, to two decimal places.]

[<sup>F231</sup>(6) For the purposes of this regulation, a “real estate transaction” includes any grant, assignment (including any transfer, disposition or sale), surrender or reverse surrender of any interest in, right over or licence to occupy land.]

*Status: Point in time view as at 01/04/2008.*

*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

- F225** Words in [reg. 101\(1\)](#) inserted (3.12.2004) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), [regs. 2\(3\)](#), **10**
- F226** 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)**
- F227** [Reg. 101\(3\)\(b\)\(i\)-\(iii\)](#) substituted for [reg. 101\(3\)\(b\)\(i\)-\(v\)](#) (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), [regs. 1](#), **7(a)**
- F228** Words in [reg. 101\(4\)](#) substituted (1.4.2005) by [The Value Added Tax \(Amendment\) Regulations 2005 \(S.I. 2005/762\)](#), [regs. 1\(1\)](#), **3(1)** (with [reg. 1\(2\)](#))
- F229** [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)**
- F230** [Reg. 101\(5\)](#) added (1.4.2005) by [The Value Added Tax \(Amendment\) Regulations 2005 \(S.I. 2005/762\)](#), [regs. 1\(1\)](#), **3(2)** (with [reg. 1\(2\)](#))
- F231** [Reg. 101\(6\)](#) inserted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), [regs. 1](#), **7(b)**

### Commencement Information

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

## Use of other methods **U.K.**

### 102. —

(1) Subject to [<sup>F232</sup>paragraphs (2) and (9)] below and [<sup>F233</sup>regulations 103, 103A and 103B], the Commissioners may approve or direct the use by a taxable person of a method other than that specified in regulation 101<sup>F234</sup> ...

[<sup>F235</sup>(1A) A method approved or directed under paragraph (1) above—

- (a) shall be in writing,
- (b) may attribute input tax which would otherwise fall to be attributed under regulation 103 provided that, where it attributes any such input tax, it shall attribute it all, and
- (c) shall identify the supplies in respect of which it attributes input tax by reference to the relevant paragraph or paragraphs of section 26(2) of the Act.]

(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 [<sup>F236</sup>of a description falling within regulation 101(3) whether made within or outside the United Kingdom] 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.

[<sup>F237</sup>(5) Any approval given or direction made under this regulation shall only have effect if it is in writing in the form of a document which identifies itself as being such an approval or direction.

(6) Where a taxable person who is using a method which has been approved or directed under this regulation incurs input tax of the description in paragraph (7) below, that input tax shall be attributed

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

(7) The input tax referred to in paragraph (6) above is input tax—

- (a) the attribution of which to taxable supplies is not prescribed in whole or in part by the method referred to in paragraph (6) above, and
- (b) which does not fall to be attributed to taxable or other supplies as specified under regulations 103, 103A or 103B.

(8) Where the input tax specified in paragraph (7)(a) above is input tax the attribution of which to taxable supplies is only in part not prescribed by the method, only that part the attribution of which is not so prescribed shall fall within that paragraph.]

[<sup>F238</sup>(9) With effect from 1st April 2007 the Commissioners shall not approve the use of a method under this regulation unless the taxable person has made a declaration to the effect that to the best of his knowledge and belief the method fairly and reasonably represents the extent to which goods or services are used by or are to be used by him in making taxable supplies.

(10) The declaration referred to in paragraph (9) above shall—

- (a) be in writing,
- (b) be signed by the taxable person or by a person authorised to sign it on his behalf, and
- (c) include a statement that the person signing it has taken reasonable steps to ensure that he is in possession of all relevant information.

(11) Where it appears to the Commissioners that a declaration made under this regulation is incorrect in that—

- (a) the method does not fairly and reasonably represent the extent to which goods or services are used by or are to be used by the taxable person in making taxable supplies, and
- (b) the person who signed the declaration knew or ought reasonably to have known this at the time when the declaration was made by the taxable person,

they may subject to paragraph (12) below serve on the taxable person a notice to that effect setting out their reasons in support of that notification and stating the effect of the notice.

(12) The Commissioners shall not serve a notice under this regulation unless they are satisfied that the overall result of the application of the method is an over-deduction of input tax by the taxable person.

(13) Subject to paragraph (14) below, the effect of a notice served under this regulation is that regulation 102B(1) shall apply to the person served with the notice in relation to—

- (a) prescribed accounting periods commencing on or after the effective date of the method, and
- (b) longer periods to the extent of that part of the longer period falling on or after the effective date of the method, save that no adjustment shall be required in relation to any part of any prescribed accounting period,

unless or until the method is terminated under regulation 102(3).

(14) In relation to any past prescribed accounting periods, the Commissioners may assess the amount of VAT due to the best of their judgement and notify it to the taxable person unless they allow him to account for the difference in such manner and within such time as they may require.

(15) The service of a notice on a taxable person under this regulation shall be without prejudice to the Commissioners' powers to serve a notice on him under regulation 102A and any notice served under regulation 102A shall take priority in relation to the periods which it covers.

(16) In this regulation “the effective date of the method” is the date when the method to which the declaration relates first takes effect and may predate the date when the declaration was made.

*Status: Point in time view as at 01/04/2008.*

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

(17) In this regulation and in regulations 102A, 102B, 102C and 107, where paragraph (1A)(b) above applies, “taxable supplies” includes supplies of a description falling within regulation 103.]

#### Textual Amendments

- F232** Words in [reg. 102\(1\)](#) substituted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), [regs. 1, 8\(a\)](#)
- F233** Words in [reg. 102\(1\)](#) substituted (3.12.2004) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), [regs. 2\(3\), 11](#)
- F234** Words in [reg. 102\(1\)](#) omitted (1.4.2007) by virtue of [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), [regs. 1, 8\(b\)](#)
- F235** [Reg. 102\(1A\)](#) inserted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), [regs. 1, 8\(c\)](#)
- F236** Words in [reg. 102\(2\)](#) substituted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), [regs. 1, 8\(d\)](#)
- F237** [Reg. 102\(5\)-\(8\)](#) added (1.4.2005) by [The Value Added Tax \(Amendment\) Regulations 2005 \(S.I. 2005/762\)](#), [regs. 1\(1\), 4](#)
- F238** [Reg. 102\(9\)-\(17\)](#) inserted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), [regs. 1, 8\(e\)](#)

#### Commencement Information

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

[<sup>F239</sup>**102A.**—(1) [<sup>F240</sup>Notwithstanding the Commissioners’ powers to serve a notice under regulation 102,] where a taxable person—

- (a) is for the time being using a method approved or directed under regulation 102, and
- (b) that method does not fairly and reasonably represent the extent to which goods or services are used by him or are to be used by him in making taxable supplies,

the Commissioners may serve on him a notice to that effect, setting out their reasons in support of that notification and stating the effect of the notice.

(2) The effect of a notice served under this regulation is that regulation 102B shall apply to the person served with the notice in relation to—

- (a) prescribed accounting periods commencing on or after the date of the notice or such later date as may be specified in the notice, and
- (b) longer periods to the extent of that part of the longer period falling on or after the date of the notice or such later date as may be specified in the notice.

#### Textual Amendments

- F239** [Regs. 102A-102C](#) inserted (1.1.2004 with effect in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after 1.1.2004 in accordance with [reg. 1\(2\)](#)) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), [regs. 1\(1\)\(b\), 21](#)
- F240** Words in [reg. 102A\(1\)](#) inserted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), [regs. 1, 9](#)

**102B.**—(1) Where this regulation applies, a taxable person shall calculate the difference between—

- (a) the attribution made by him in any prescribed accounting period or longer period, and

(b) an attribution which represents the extent to which the goods or services are used by him or are to be used by him in making taxable supplies,  
and account for the difference on the return for that prescribed accounting period or on the return on which that longer period adjustment is required to be made, except where the Commissioners allow another return to be used for this purpose.

(2) This regulation shall apply from the date prescribed under regulation 102A(2) or 102C(2), unless or until the method referred to in regulation 102A(1)(a) or 102C(1)(a) is terminated under regulation 102(3).

#### Textual Amendments

**F239** Regs. 102A-102C inserted (1.1.2004 with effect in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after 1.1.2004 in accordance with reg. 1(2)) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **21**

**102C.**—(1) Subject to regulation 102A, where a taxable person—

- (a) is for the time being using a method approved or directed under regulation 102, and
- (b) that method does not fairly and reasonably represent the extent to which goods or services are used by him or are to be used by him in making taxable supplies,

the taxable person may serve on the Commissioners a notice to that effect, setting out his reasons in support of that notification.

(2) Where the Commissioners approve a notice served under this regulation, the effect is that regulation 102B shall apply to the person serving the notice in relation to—

- (a) prescribed accounting periods commencing on or after the date of the notice or such later date as may be specified in the notice, and
- (b) longer periods to the extent of that part of the longer period falling on or after the date of the notice or such later date as may be specified in the notice.]

#### Textual Amendments

**F239** Regs. 102A-102C inserted (1.1.2004 with effect in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after 1.1.2004 in accordance with reg. 1(2)) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **21**

### Attribution of input tax to foreign and specified supplies **U.K.**

**103.** —

<sup>F241</sup>(...) [<sup>F242</sup>Other than where it falls to be attributed under a method approved or directed by the Commissioners under regulation 102,] 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>F243</sup>other than supplies of a description falling within regulation 103A below,]

*Status: Point in time view as at 01/04/2008.*

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

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.

<sup>F244</sup>(2) .....

<sup>F244</sup>(3) .....

#### Textual Amendments

**F241** Reg. 103 para. number (1) omitted (3.12.2004) by virtue of [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), regs. 2(3), 7

**F242** Words in reg. 103 inserted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), regs. 1, **10**

**F243** 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

**F244** Reg. 103(2)(3) omitted (3.12.2004) by virtue of [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), regs. 2(3), 7

#### Commencement Information

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

#### <sup>F245</sup>Attribution of input tax to investment gold] **U.K.**

<sup>F246</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

**F245** Reg. 103A heading inserted (1.4.2007) by [The Value Added Tax \(Amendment\) \(No.2\) Regulations 2007 \(S.I. 2007/768\)](#), regs. 1, **11**

**F246** Reg. 103A inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), regs. 1, **8**

#### [<sup>F247</sup> Attribution of input tax incurred on services and related goods used to make financial supplies **U.K.**

**103B.**—(1) This regulation applies to a taxable person who incurs input tax in the circumstances specified in paragraph (2) below.

(2) Where—

- (a) input tax has been incurred by a taxable person in any prescribed accounting period on supplies to him of any of the services specified in paragraph (4) below and of any related goods, and
- (b) those services and related goods are used or to be used by the taxable person in making both a relevant supply and any other supply, and
- (c) the relevant supply is incidental to one or more of the taxable person's business activities,

that input tax shall be attributed to taxable supplies to the extent that the services or related goods are so used or to be used expressed as a proportion of the whole use or intended use, notwithstanding any provision of any input tax attribution method that the taxable person is required or allowed to use which purports to have the contrary effect.

(3) In this regulation—

- (a) “relevant supply” means a supply of a description falling within item 1 or 6 of Group 5 of Schedule 9 to the Act and any supply of the same description which is made in another member State; and
- (b) “taxable supplies” includes supplies of a description falling within regulation 103.

(4) The services referred to in paragraph (2)(a) above are services supplied by—

- (a) accountants;
- (b) advertising agencies;
- (c) bodies which provide listing and registration services;
- (d) financial advisers;
- (e) lawyers;
- (f) marketing consultants;
- (g) persons who prepare and design documentation; and
- (h) any person or body which provides similar services to those specified in sub-paragraphs (a) to (g) above.]

*Status: Point in time view as at 01/04/2008.*

*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

**F247** Reg. 103B inserted (with effect in accordance with reg. 2(2) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), regs. 2(3), **8**

#### Attribution of input tax on self-supplies **U.K.**

**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 **U.K.**

<sup>F248</sup>**105.** . . . . .

[<sup>F249</sup>**106.**—(1) Subject to regulation 106A, where relevant input tax—

- (a) in any prescribed accounting period, or
- (b) in the case of a longer period, taken together with the amount of any adjustment in respect of that period under regulation 107B—
  - (i) does not amount to more than £625 per month on average, and
  - (ii) 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 relevant 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.

(3) For the purposes of this regulation, relevant input tax is input tax attributed under regulations 101, 102, 103, 103A [<sup>F250</sup>, 103B] and, where the case arises, regulation 107, to exempt supplies or to supplies outside the United Kingdom which would be exempt if made in the United Kingdom (not being supplies specified in an Order made under section 26(2)(c) of the Act.)]

#### Textual Amendments

**F248** 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**

**F249** Reg. 106 substituted (18.4.2002 in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after that date) by [The Value Added Tax \(Amendment\) Regulations 2002 \(S.I. 2002/1074\)](#), regs. 1, **4**

**F250** Word in reg. 106(3) inserted (3.12.2004) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), regs. 2(3), **12**

### 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](#)

<sup>[F251]</sup>**106A.**—(1) This regulation applies where regulation 107A applies.

(2) Where, taken together with the amount of any adjustment under regulation 107A, input tax attributed under regulations 101, 103 <sup>[F252]</sup>, 103A and 103B] to exempt supplies, or to supplies outside the United Kingdom which would be exempt if made in the United Kingdom (in each case not being supplies specified in an Order made under section 26(2)(c) of the Act)—

(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.

(3) Where, in accordance with regulations 101, 103 <sup>[F252]</sup>, 103A and 103B], a taxable person has attributed an amount of input tax to exempt supplies, or to supplies outside the United Kingdom which would be exempt if made in the United Kingdom (in each case not being supplies specified in an Order made under section 26(2)(c) of the Act) and, after applying regulation 107A, he is entitled to treat all his input tax as attributable to taxable supplies under paragraph (2) above, he shall—

(a) calculate the difference between—

(i) the total amount of input tax for that prescribed accounting period, and

(ii) the amount of input tax deducted in that prescribed accounting period, taken together with the amount of any adjustment under regulation 107A, and

(b) include this difference as an under-deduction in a return for the first prescribed accounting period next following the prescribed accounting period referred to in regulation 107A(1), except where the Commissioners allow another return to be used for this purpose.

(4) Where in a prescribed accounting period a taxable person has treated input tax as attributable to taxable supplies under regulation 106(1) but is not entitled to do so because of the operation of paragraph (2) above, he shall include the amount so treated as an over-deduction in a return for the first prescribed accounting period next following the prescribed accounting period referred to in regulation 107A(1), except where the Commissioners allow another return to be used for this purpose.

(5) But where a registered person has his registration cancelled at or before the end of the prescribed accounting period referred to in regulation 107A(1), he shall account for any adjustment under this regulation on his final return.]

### Textual Amendments

**F251** [Reg. 106A](#) inserted (18.4.2002 in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after that date) by [The Value Added Tax \(Amendment\) Regulations 2002 \(S.I. 2002/1074\)](#), [regs. 1, 5](#)

**F252** Words in [reg. 106A\(2\)\(3\)](#) substituted (3.12.2004) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), [regs. 2\(3\), 13](#)

### Adjustment of attribution **U.K.**

**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

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input tax in that longer period cannot be treated as attributable to taxable supplies under regulation <sup>F253</sup>... 106, and save as the Commissioners may dispense with the following requirement to adjust, he shall—

- (a) determine for the longer period the amount of input tax which is attributable to taxable supplies according to the method used in the prescribed accounting periods,
- (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>F254</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.

<sup>F255</sup>(3) But where a registered person has his registration cancelled at or before the end of a longer period, he shall account for any adjustment under this regulation on his final return.]

<sup>F256</sup>**107A.**—(1) This regulation applies where a taxable person has made an attribution under regulation 101(2)(b) and (d) and the prescribed accounting period does not form part of a longer period, and the attribution differs substantially from one which represents the extent to which the goods or services are used by him or are to be used by him, or a successor of his, in making taxable supplies.

(2) Where this regulation applies, the taxable person shall calculate the difference and account for it on the return for the first prescribed accounting period next following the prescribed accounting period referred to in paragraph (1) above, except where the Commissioners allow another return to be used for this purpose.

(3) But where a registered person has his registration cancelled at or before the end of the prescribed accounting period referred to in paragraph (1) above, he shall account for any adjustment under this regulation on his final return.

**107B.**—(1) This regulation applies where a taxable person has made an attribution under regulation 107(1)(a) according to the method specified in regulation 101 and that attribution differs substantially from one which represents the extent to which the goods or services are used by him or are to be used by him, or a successor of his, in making taxable supplies.

(2) Where this regulation applies the taxable person shall—

- (a) calculate the difference, and
- (b) in addition to any amount required to be included under regulation 107(1)(c), account for the amount so calculated on the 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.

(3) But where a registered person has his registration cancelled at or before the end of a longer period, he shall account for any adjustment under this regulation on his final return.

**107C.** For the purposes of regulations 107A and 107B, a difference is substantial if it exceeds—

- (a) £50,000; or
- (b) 50% of the amount of input tax falling to be apportioned under regulation 101(2)(d) within the prescribed accounting period referred to in regulation 107A(1), or longer period, as the case may be, but is not less than £25,000.

**107D.** For the purposes of regulations 107A and 107B a person is the successor of another if he is a person to whom that other person has—

- (a) transferred assets of his business by a transfer of that business, or part of it, as a going concern; and
- (b) the transfer of the assets is one falling by virtue of an Order under section 5(3) of the Act to be treated as neither a supply of goods nor a supply of services;

and the reference in this regulation to a person's successor includes references to the successors of his successors through any number of transfers.

**107E.—**(1) Regulations 107A and 107B shall not apply where the amount of input tax falling to be apportioned under regulation 101(2)(d) within the prescribed accounting period referred to in regulation 107A(1), or longer period, as the case may be, does not exceed—

- (a) in the case of a person who is a group undertaking in relation to one or more other undertakings (other than undertakings which are treated under sections 43A to 43C of the Act as members of the same group as the person), £25,000 per annum, adjusted in proportion for a period that is not 12 months; or
- (b) in the case of any other person, £50,000 per annum, adjusted in proportion for a period that is not 12 months.

(2) For the purposes of paragraph (1) above, “undertaking” and “group undertaking” have the same meaning as in section 259 of the Companies Act 1985.]

**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.

*Status: Point in time view as at 01/04/2008.*

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

**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>[F257]</sup>**110.**—(1) Subject to paragraph (2) below, in this regulation, in regulations <sup>[F258]</sup>103B,] 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 <sup>[F259]</sup>103] 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 <sup>[F260]</sup>regulations 103 and 103B], 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

- F253** 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](#)
- F254** 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](#)
- F255** [Reg. 107\(3\)](#) inserted (18.4.2002 in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after that date) by [The Value Added Tax \(Amendment\) Regulations 2002 \(S.I. 2002/1074\)](#), [regs. 1](#), [6](#)
- F256** [Regs. 107A-107E](#) inserted (18.4.2002 in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after that date) by [The Value Added Tax \(Amendment\) Regulations 2002 \(S.I. 2002/1074\)](#), [regs. 1](#), [7](#)
- F257** [Reg. 110](#) substituted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), [regs. 1](#), [9](#)
- F258** Word in [reg. 110\(1\)](#) substituted (3.12.2004) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), [regs. 2\(3\)](#), [14\(1\)](#)
- F259** Word in [reg. 110\(1\)\(b\)](#) substituted (3.12.2004) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), [regs. 2\(3\)](#), [14\(2\)](#)
- F260** Words in [reg. 110\(4\)](#) substituted (3.12.2004) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), [regs. 2\(3\)](#), [14\(3\)](#)

#### 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 **U.K.**

#### 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.

*Status: Point in time view as at 01/04/2008.*

*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>F261</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>F262</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>F263</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>F264</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>F265</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>F266</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>F267</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

- F261** Reg. 111(2) substituted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **7(a)**
- F262** Reg. 111(2A)(2B) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **7(b)**
- F263** 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)**
- F264** 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)**
- F265** Reg. 111(3A)(3B) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **7(e)**
- F266** 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)**
- F267** 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 **U.K.**

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

#### Interpretation of Part XV **U.K.**

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>F268</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

- F268** 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**

*Status: Point in time view as at 01/04/2008.*

*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

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

### Capital items to which this Part applies **U.K.**

**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>F269</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>F270</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>F271</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>F272</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>F273</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>F274</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>F275</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

- F269** 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\(a\)\(i\)](#)
- F270** 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\(a\)\(ii\)](#)
- F271** 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\(b\)](#)
- F272** 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\(c\)](#)
- F273** 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\(d\)](#)
- F274** [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\(e\)](#)
- F275** [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 **U.K.**

**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>F276</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>F277</sup>paragraphs (4) to (5B) and (7)] below.

(4) Subject to [<sup>F278</sup>paragraphs (5A), (5B) and (7)] below, the first interval applicable to a capital item shall be determined as follows—

*Status: Point in time view as at 01/04/2008.*

*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) 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 [F279(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 [F280 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 [F281 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.

[F282(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>F283</sup>(6) .....

[<sup>F284</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**

- F276** 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\(a\)\(i\)](#)
- F277** 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\(a\)\(ii\)](#)
- F278** 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\(b\)\(i\)](#)
- F279** 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\(b\)\(ii\)](#)
- F280** 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\(b\)\(ii\)](#)
- F281** 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\(c\)](#)
- F282** [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\(d\)](#)
- F283** [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\(e\)](#)
- F284** [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** U.K.

**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>F285</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)—

*Status: Point in time view as at 01/04/2008.*

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

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

(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>F286</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>F287</sup>the sum specified in paragraph 8(1) of Schedule 4 to the Act], would have been deemed to supply a capital item [<sup>F288</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>F289</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>F290</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>F291</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>F292</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>[F293]</sup>(e), (f), (g) or (h)], the aggregate of the VAT charged on the supplies described in regulation 113<sup>[F293]</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>[F294]</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>[F295]</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 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>[F296]</sup>regulation 114(5A)]—

- (a) <sup>F297</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>F298</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>[F299]</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>[F300]</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

**F285** 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\(a\)](#)

*Status: Point in time view as at 01/04/2008.*

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

- F286** 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)**
- F287** 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)**
- F288** 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)**
- F289** 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)**
- F290** 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)**
- F291** 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)**
- F292** 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)**
- F293** 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)**
- F294** 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)**
- F295** 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)**
- F296** 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)**
- F297** 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)**
- F298** 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)**
- F299** 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)**
- F300** 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 **U.K.**

#### 116. —

(1) Subject to regulation 115(3) [<sup>F301</sup>and (3B)] and paragraphs (2) [<sup>F302</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>F303</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 [F304(14)] to Group 5 of Schedule 8 to the Act, or
- (b) that note as applied to Group 6 of that Schedule by note [F305(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

- F301** 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)**
- F302** 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)**
- F303** 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)**
- F304** 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)**
- F305** 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](#)

## [F306] PART 15A **U.K.**

### GOODS USED FOR NON-BUSINESS PURPOSES DURING THEIR ECONOMIC LIFE

#### Textual Amendments

- F306** Pt. 15A inserted (1.11.2007) by [The Value Added Tax \(Amendment\) \(No. 7\) Regulations 2007 \(S.I. 2007/3099\)](#), regs. 1(2)(b), **4**

#### Application **U.K.**

**116A.** This Part makes provision for calculating the full cost to a person of providing the supply of services (“relevant supply”) that is treated as made pursuant to paragraph 5(4) of Schedule 4 to the Act where goods that are held or used for the purposes of a business are used for private or non-business purposes. Where goods that are held or used for the purposes of a business have an economic life (see regulations 116C, 116D, 116G and 116L) at the time when they are used for private or non-business purposes, the value or part of the value of the relevant supply which is referable to that use on or after 1st November 2007 shall be calculated in accordance with the regulations in this Part.

*Status: Point in time view as at 01/04/2008.*

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

## Interpretation of this Part **U.K.**

### 116B.—(1) In this Part—

“full cost of the goods” means the full cost of the goods to the person (being the person making the relevant supply or any of his predecessors) who, in relation to the VAT on the goods mentioned in paragraph 5(5) of Schedule 4 to the Act, is described in that paragraph as being entitled to—

- (a) credit under sections 25 and 26 of the Act; or
- (b) a repayment under the scheme made under section 39 of the Act;

“goods” includes land forming part of the assets of, or held or used for the purposes of, a business which is treated as goods for the purposes of paragraph 5 of Schedule 4 to the Act by virtue of paragraph 9 of that Schedule and references to goods being held or used for the purposes of a business shall be construed accordingly;

“predecessor” has the same meaning as it does in paragraph 5 of Schedule 4 to the Act.

(2) In this Part, references to a period of time comprising a number of months shall be computed to two decimal places where that period does not comprise a whole number of months.

## Economic life of goods **U.K.**

**116C.** Goods held or used for the purposes of a business have an economic life being (subject to regulations 116G and 116L) the period of time commencing on the day when they are first used for any purpose after they have been supplied to, or acquired or imported by, a person or any of his predecessors and lasting for a period of

- (a) 120 months in the case of land, a building or part of a building (but this is subject to regulation 116D);
- (b) 60 months for all other goods.

**116D.** Where the economic life of the interest of a person, or any of his predecessors, in land, a building or part of a building commences at a time when that interest has less than 120 months to run at that time, it shall be limited to the number of months remaining before expiry of that interest and element B of the formula in regulation 116E and element D of the formula in regulation 116L shall be construed accordingly.

## Value of a relevant supply **U.K.**

**116E.** Subject to regulations 116F, 116H and 116I, the value of a relevant supply is the amount determined using the formula

$$AB \times (C \times U\%)$$

where—

A is the number of months in the prescribed accounting period during which the relevant supply occurs which fall within the economic life of the goods concerned;

B is the number of months of the economic life of the goods concerned or, in the case of an economic life commencing on 1st November 2007 by virtue of regulation 116L, what would have been its duration if it had been determined according to regulation 116C or 116G as appropriate;

C is the full cost of the goods excluding any increase resulting from a supply of goods or services giving rise to a new economic life; and

U% is the extent, expressed as a percentage, to which the goods are put to any private use or used, or made available for use, for non-business purposes as compared with the total use

made of the goods during the part of the prescribed accounting period occurring within the economic life of the goods.

**116F.** Where a prescribed accounting period in which a relevant supply occurs immediately follows a prescribed accounting period during which the goods whose use gives rise to that supply were not used or made available for use for any purpose, element “A” of the formula in regulation 116E shall (without prejudice to any other element of the formula) comprise the total number of months falling within the economic life concerned covered by

- (a) the prescribed accounting period in which the relevant supply occurs; and
- (b) all preceding prescribed accounting periods which commence after the end of the prescribed accounting period during which the goods were last used or made available for use for any purpose before the prescribed accounting period in which the relevant supply occurs.

#### **Later increase in the full cost of goods** U.K.

**116G.** Where

- (a) a supply of goods or services is made to a person or any of his predecessors in respect of any goods held or used for the purposes of a business (whether or not the goods have an economic life in relation to that person at that time);
- (b) VAT is chargeable on that supply which is eligible (in whole or part) for credit under sections 25 and 26 of the Act or repayment under section 39 of the Act; and
- (c) by virtue of that supply, the full cost of the goods is greater than their full cost immediately before that supply,

a new economic life shall, without prejudice to any other economic life having effect in relation to those goods, be treated as commencing in respect of them in accordance with regulation 116C as if they had been supplied, acquired or imported at the time when the supply of goods or services is made.

#### **Value of relevant supplies made during a new economic life** U.K.

**116H.** Subject to regulation 116I, the calculation of the value of a relevant supply made during a new economic life in accordance with the formula in regulation 116E is varied so that

C is the increase in the full cost of the goods resulting from the supply of the goods or services giving rise to the new economic life; and

U% is the extent, expressed as a percentage, to which the goods are put to any private use or used, or made available for use, for non-business purposes as compared with the total use made of the goods during the part of the prescribed accounting period occurring during the new economic life of the goods.

#### **Value of relevant supplies of goods which have two or more economic lives** U.K.

**116I.** Where a relevant supply occurs in relation to goods that have two or more economic lives at the time when they are put to private use or used, or made available for use, for non-business purposes, the value of that supply shall be such amount as represents the total of the amounts calculated in accordance with regulation 116E (as varied by regulation 116H as appropriate) in respect of those economic lives.

#### **Transitional provisions** U.K.

**116J.** Regulation 116L applies to an economic life that

*Status: Point in time view as at 01/04/2008.*

*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) would be treated as commencing before 1st November 2007 if that regulation did not apply; and
- (b) relates to goods that, before that day, have been put to any private use or used, or made available for use, for non-business purposes by the person described in regulation 116K or any of his predecessors (whether or not a relevant supply arising from that use has been treated as made before that day).

**116K.** The person referred to in regulation 116J(b) is the person who holds or uses the goods concerned for the purposes of his business on 1st November 2007.

**116L.** An economic life of goods to which this regulation applies shall be treated as commencing on 1st November 2007 and lasting for the period of time determined using the formula

$$D \times (E - F) E$$

where—

D is the number of months which would have been the duration of the economic life concerned if it had commenced in accordance with regulation 116C or had been treated as having commenced in accordance with that regulation by virtue of regulation 116G;

E is the value of element “C” of the formula contained in regulation 116E (as varied where appropriate in relation to that economic life by regulation 116H) for the purpose of determining the whole or, where the use occurs at a time when the goods have two or more economic lives at that time, part of the value of a relevant supply arising from the use of the goods during the economic life concerned;

F is the value determined using the formula—

$$G \times 100X\% \times 100$$

where—

G is the total value of relevant supplies of the goods on which VAT has been or will be accounted for in respect of such relevant supplies arising from the goods being put to any private use or used, or made available for use, for non-business purposes before 1st November 2007 (whether or not such supplies are treated as made before or after that day) to the extent that the value of the relevant supplies comprised in the total value was determined by reference to the value of element “E” of the formula used in this regulation in respect of the economic life concerned; and

X% is the extent, expressed as a percentage, to which the goods have been put to any private use or used, or made available for use, for non-business purposes during the period described in regulation 116M as compared with the total use made of the goods in that period.

**116M.** The period referred to in regulation 116L is the period of time commencing at the time when the economic life concerned would have commenced if it had commenced in accordance with regulation 116C or had been treated as having commenced in accordance with that regulation by virtue of regulation 116G and ending immediately before 1st November 2007.

**116N.** Where a person has claimed deduction of input tax on goods which was incurred within the period of two years ending on 21st March 2007, he may withdraw that claim in whole or part as if it were made in error (but not so as to render him liable to any penalty or payment of interest in respect of that claim) provided that

- (a) the goods have not been used for any purpose before the claim is withdrawn;
- (b) he intends or expects that the goods will be put to private or non-business purposes during their economic life;
- (c) the withdrawal is in respect of-
  - (i) all of the input tax claimed on the goods; or

- (ii) the part of the input tax claimed on the goods which is referable to his intended use of those goods for purposes other than those of his business; and
- (d) the withdrawal is made in accordance with regulation 35 (whatever the amount of the claim that is withdrawn) before 1st February 2008.]

## PART XVI U.K.

### IMPORTATIONS, EXPORTATIONS AND REMOVALS

#### Interpretation of Part XVI U.K.

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>F307</sup>(3) .....

[<sup>F308</sup>(4) In [<sup>F309</sup>regulation] 131 “goods” does not include—

- (a) a motor-vehicle, or
- (b) a boat intended to be exported under its own power.]

<sup>F310</sup>(5) .....

<sup>F310</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>F311</sup>(7A) In [<sup>F312</sup>regulation] 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

*Status: Point in time view as at 01/04/2008.*

*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) 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>F313</sup>regulation 132] “overseas visitor” means a person who, during the 2 years immediately preceding <sup>F314</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>F314</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.

<sup>F315</sup>(9) .....

(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(7).

[<sup>F316</sup>(11) In this Part references to Council Regulation (EEC) No. 2913/92 (the Community Customs Code) and Commission Regulation (EEC) No. 2454/93 (which contains provisions implementing the Community Customs Code) shall be read as references to those instruments as—

- (a) amended by the Act concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, signed at Athens on 16th April 2003,
- (b) amended, modified or otherwise affected by the Act concerning the conditions of Accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded, signed at Luxembourg on 25th April 2005 and Council Regulation (EC) No. 1791/2006 (which contains consequential amendments to the Customs Code).]

#### Textual Amendments

- F307** 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)**
- F308** Reg. 117(4) substituted (1.3.1996) by The Value Added Tax (Amendment) Regulations 1996 (S.I. 1996/210), regs. 1, **8**
- F309** Word in reg. 117(4) substituted (1.7.2003) by The Value Added Tax (Amendment) (No. 4) Regulations 2003 (S.I. 2003/1485), regs. 1(1), **5(a)** (with reg. 1(2))
- F310** 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**
- F311** Reg. 117(7A)-(7D) inserted (1.4.1999) by The Value Added Tax (Amendment) Regulations 1999 (S.I. 1999/438), regs. 1, **10(2)**
- F312** Word in reg. 117(7A) substituted (1.7.2003) by The Value Added Tax (Amendment) (No. 4) Regulations 2003 (S.I. 2003/1485), regs. 1(1), **5(b)** (with reg. 1(2))
- F313** 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)**
- F314** 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)**
- F315** Reg. 117(9) omitted (1.7.2003) by virtue of The Value Added Tax (Amendment) (No. 4) Regulations 2003 (S.I. 2003/1485), regs. 1(1), **5(c)** (with reg. 1(2))

(7) 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 1 to Council Decision 95/1/EC, Euratom, ECSC (OJ No. L1, 1.1.95, p. 1).

**F316** Reg. 117(11) substituted (1.1.2007) by The Value Added Tax (Amendment) (No. 3) Regulations 2006 (S.I. 2006/3292), regs. 1, 4

**Commencement Information**

**I96** Reg. 117 in force at 20.10.1995, see [reg. 1](#)

**Enactments excepted** **U.K.**

**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~~(8)~~—
  - (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),
  - (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~~(9)~~—
  - (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~~(10)~~—
  - (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~~(11)~~ other than sections 8 and 9(b),
- (e) the Isle of Man Act 1979~~(12)~~, sections 8 and 9 (removal of goods from Isle of Man to United Kingdom),<sup>F317</sup> ...

**(8)** 1979 c. 4 ; section 8 was substituted by section 6(1) of the Finance Act 1988 (c. 39) .

**(9)** 1979 c. 5 .

**(10)** 1979 c. 2 .

**(11)** 1979 c. 3 .

**(12)** 1979 c. 58 .

*Status: Point in time view as at 01/04/2008.*

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

- (f) the Tobacco Products Duty Act 1979(13), section 2(2) (remission or repayment of duty on tobacco products) [<sup>F318</sup>, and
- (g) the Finance Act 1999, sections 126 and 127 (interest on unpaid customs debts and on certain repayments relating to customs duty)]

#### Textual Amendments

**F317** Word in reg. 118(e) omitted (1.4.2000) by virtue of [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2000 \(S.I. 2000/634\)](#), regs. 1, **3(1)**

**F318** [Reg. 118\(g\)](#) and word inserted (1.4.2000) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2000 \(S.I. 2000/634\)](#), regs. 1, **3(2)**

#### Commencement Information

**I97** Reg. 118 in force at 20.10.1995, see [reg. 1](#)

#### [<sup>F319</sup>Regulations excepted **U.K.**

**119.** The provision made by or under the following subordinate legislation shall be excepted from applying as mentioned in section 16(1) of the Act—

(a) regulations 16(4) and (5) and 19(1)(b) of the Excise Warehousing (Etc) Regulations 1988 (certain removals from warehouse);

(b) any regulations made under section 197(2)(f) of the Finance Act 1996 (rate of interest on overdue customs duty and on repayments of amounts paid by way of customs duty).]

#### Textual Amendments

**F319** [Reg. 119](#) substituted (1.4.2000) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2000 \(S.I. 2000/634\)](#), regs. 1, **4**

#### Community legislation excepted **U.K.**

**120.** —

(1) Council Regulation ([EEC](#)) [No. 918/83](#)(14) 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](#)(15) establishing the Community Customs Code—

(i) Articles 126 to 128 (drawback system of inward processing relief),

<sup>F320</sup>(ii) . . . . .

(iii) Article 137 so far as it relates to partial relief on temporary importation, and Article 142,

(13) 1979 c. 7 .

(14) 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.

(15) OJ No. L 302, 19.10.92, p. 1.

- (iv) Articles 145 to 160 (outward processing),
- <sup>F321</sup>(v) . . . . .
- (vi) Article 229(b) (interest payable on a customs debt),
- <sup>F322</sup>(vii) Articles 232(1)(b), (2) and (3) (interest on arrears of duty), and
- (viii) Article 241, second and third sentences only (interest on certain repayments by the authorities),]
- <sup>F323</sup>(b) in Commission Regulation (EEC) No 2454/93 which contains provisions implementing the Community Customs Code—
- (i) Articles 496 to 523, Articles 536 to 544 and Article 550 (but only to the extent that these Articles apply to the drawback system of inward processing relief),
- (ii) Article 519 (compensatory interest),
- (iii) Articles 585 to 592 (outward processing) (and Articles 496 to 523 to the extent that they are relevant to outward processing),
- <sup>F324</sup>(iv) . . . . .]
- (3) Council Regulation (EEC) No. 2658/87(16) 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.

#### Textual Amendments

- F320** Reg. 120(2)(a)(ii) omitted (1.4.2001) by virtue of The Value Added Tax (Amendment) Regulations 2001 (S.I. 2001/630), regs. 1, **3(1)** (with reg. 4)
- F321** Reg. 120(2)(a)(v) revoked (6.4.2006) by The Value Added Tax (Amendment) Regulations 2006 (S.I. 2006/587), regs. 1(3), **5**
- F322** Reg. 120(2)(a)(vii)(viii) added (1.4.2000) by The Value Added Tax (Amendment) (No. 2) Regulations 2000 (S.I. 2000/634), regs. 1, **5(2)**
- F323** Reg. 120(2)(b) substituted (1.10.2003) by The Value Added Tax (Amendment) (No. 5) Regulations 2003 (S.I. 2003/2318), regs. 1(1), **5**
- F324** Reg. 120(2)(b)(iv) revoked (6.4.2006) by The Value Added Tax (Amendment) Regulations 2006 (S.I. 2006/587), regs. 1(3), **5**

#### Commencement Information

- I98** Reg. 120 in force at 20.10.1995, see **reg. 1**

#### <sup>F325</sup> Adaptations **U.K.**

**121.**—(1) The provision made by the following enactments shall apply, as mentioned in section 16(1) of the Act, subject to the adaptations prescribed by this regulation.

*Status: Point in time view as at 01/04/2008.*

*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) Section 125(3) of the Customs and Excise Management Act 1979 (valuation of goods) shall have effect as if the reference to the preceding subsections of that section included a reference to section 21 of the Act.

(3) Section 129 of the Finance Act 1999 (recovery of certain amounts by the Commissioners) shall be regarded as providing for the recovery of a repayment of any relevant VAT (import VAT).]

#### Textual Amendments

**F325** Reg. 121 substituted (1.4.2000) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2000 \(S.I. 2000/634\)](#), regs. 1, 6

<sup>F326</sup>**121A.**—(1) The application of the Customs Duties (Deferred Payment) Regulations 1976 in relation to any VAT chargeable on the importation of goods from places outside the member States is subject to the following prescribed adaptations.

(2) In regulation 4(1) (application for approval), regard “security” as being “appropriate security (which may be nil if there is no risk to the payment)”.

(3) In regulation 4(2) (security and payment arrangements), regard there being a second sub-paragraph as follows—

“Provided that the amount in question may exceed that of the security in the case of nil security.”.

(4) For regulation 4(3) (variations and revocations of approval), regard any Commissioners' variation consequent on the adaptations prescribed by this regulation as only being able to have effect after 30th November 2003.

(5) Before “and” at the end of regulation 8(a) (deemed payment for certain purposes at time deferment granted), regard there being—

“(aa) Article 74(1) of Council Regulation [\(EEC\) No 2913/92](#) (Community Customs Code) (no release of goods unless customs debt paid or secured);”.

#### Textual Amendments

**F326** Regs. 121A-121C inserted (1.10.2003) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2003 \(S.I. 2003/2318\)](#), regs. 1(1), 6

**121B.**—(1) The application of Council Regulation [\(EEC\) No 2913/92](#) (Community Customs Code) in relation to any VAT chargeable on the importation of goods from places outside the member States is subject to the following prescribed adaptations.

(2) But the adaptation in paragraph (5) only applies to the extent that the Commissioners grant deferment of payment of the relevant VAT with nil security.

(3) In Article 218(1) second sub-paragraph (single entry in the accounts), after “secured” regard there being “if required”.

(4) In Article 225 first sub-paragraph (deferment of payment conditional on security), after “applicant” regard there being “(but the customs authorities may waive this condition if there is no risk to the payment)”.

(5) Regard Article 225 as not being subject to Article 192 (fixing amount of security).

**Textual Amendments**

**F326** Regs. 121A-121C inserted (1.10.2003) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2003 \(S.I. 2003/2318\)](#), regs. 1(1), 6

**121C.**—(1) The application of Commission Regulation [\(EEC\) No 2454/93](#) (implementation of Community Customs Code) in relation to any VAT chargeable on the importation of goods from places outside the member States is subject to the following prescribed adaptations.

(2) But the adaptations in paragraphs (3) and (4) only apply to the extent that the Commissioners grant deferment of payment of the relevant VAT with nil security.

(3) Regard Articles 244, 248(1), 257(3), 257(4), 258, 262(1) and 876a(1) (circumstances in which duties have to be or are taken as having to be secured) as providing that the provision of security is at the discretion of the customs authorities.

(4) Regard Articles 244, 248(1), 257(3), 257(4) and 876a(1) (circumstances in which duties have to be secured) as not being subject to Article 192 of Council Regulation [\(EEC\) No 2913/92](#) (Community Customs Code) (fixing amount of security).]

**Textual Amendments**

**F326** Regs. 121A-121C inserted (1.10.2003) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 2003 \(S.I. 2003/2318\)](#), regs. 1(1), 6

[<sup>F327</sup> **Adaptations and exceptions for the application of returned goods relief** **U.K.**

**121D.**—(1) The application of Council Regulation [\(EEC\) No 2913/92](#) (Community Customs Code) and Commission Regulation [\(EEC\) No 2454/93](#) (implementation Regulation) in relation to any VAT chargeable on the importation of goods from places outside the member States is subject to the following prescribed adaptations.

(2) Regard—

- (a) Articles 185 to 187 of the Community Customs Code (returned Community goods and returned compensating products), and
- (b) Articles 844 to 856 and Article 882 of the implementation Regulation (returned Community goods and returned compensating products),

as only applying in the case and to the extent of a reimportation to the United Kingdom by the person who originally exported or re-exported the relevant Community goods or compensating products from the VAT territory of the Community.

That VAT territory is the territorial application of Council Directive [77/388/EEC](#) in accordance with Title III of that Directive (territorial application).

(3) Regard the amount of the relief mentioned in Article 186 of the Community Customs Code (returned Community goods) as reduced by the amount of any unpaid VAT.

(4) Regard the amount legally owed in Article 187 of the Community Customs Code (returned compensating products) as reduced by the amount of any paid VAT.

(5) For the purposes of paragraphs (3) and (4)—

- (a) “VAT” includes value added tax charged in accordance with the law of another member State (see sections 92(1), 92(2) and 96(1) of the Act);
- (b) “unpaid” refers to any part of the VAT charged and due on—

*Status: Point in time view as at 01/04/2008.*

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

- (i) a supply or acquisition of the goods in a member State before the reimportation, or
- (ii) an importation of the goods from outside the member States before the reimportation, but repaid, remitted or otherwise not paid;
- (c) “paid” refers to any part of the VAT charged, due and paid on—
  - (i) a supply or acquisition of the goods in a member State before the reimportation, or
  - (ii) an importation of the goods from outside the member States before the reimportation, and without any actual, or prospect of, repayment or remission;
- (d) a sum for which there is or was under the law of a member State an entitlement or right to a deduction or refund within Article 17 of Council Directive [77/388/EEC](#) (origin and scope of the right to deduct) is neither “unpaid” nor “paid”.
- (6) In the circumstances described by paragraph (7) or (8)—
  - (a) Articles 185 to 187 of the Community Customs Code (returned goods), and
  - (b) Articles 844 to 856 and Article 882 of the implementation Regulation (returned goods),
 are excepted from the Community legislation which is to apply as mentioned in section 16(1) of the Act (application of customs legislation in relation to import VAT).
- (7) These circumstances are that—
  - (a) the reimporter contemplated by those Articles makes a supply of, or concerning, the goods whilst under the inward processing procedure or in the course of, or after, the relevant exportation, re-exportation or reimportation,
  - (b) the place of that supply for the purposes of VAT is determined by or under section 7 of the Act (place of supply) as being outside the United Kingdom, and
  - (c) the goods nevertheless are or may be stored or physically used in the United Kingdom by or under the direction of that reimporter or the person to whom that supply is made (“recipient”).

For these purposes, “reimporter” and “recipient” include someone connected with either person or both persons as determined in accordance with section 839 of the Taxes Act.

(8) These circumstances are that the goods in question were supplied at any time to any person pursuant to regulations 131 to 133 (supplies to persons departing from the member States) or pursuant to any corresponding provision of the Isle of Man.

(9) For the purposes of the Articles of the Community Customs Code and implementation Regulation mentioned in paragraph (2)—

- (a) regard the description of the customs territory of the Community in Article 3 of the Community Customs Code as being substituted with a description of the VAT territory (see paragraph (2));
- (b) regard the following references as including a reference to the completion of the formalities referred to in Article 33a(1)(a) of Council Directive [77/388/EEC](#) (formalities relating to entry of goods into VAT territory from territory considered a third territory)—
  - (i) “released for free circulation” in the definition of “Community goods” in Article 4(7), second indent and Article 185(1) of the Community Customs Code;
  - (ii) “entered” and “declared” for “release for free circulation” in, or for the purposes of, Articles 844(4), 848(1), 848(2), 849(1) and 849(5) of the implementation Regulation;
- (c) regard the following references as including a reference to the completion of the formalities referred to in Article 33a(2)(a) of Council Directive [77/388/EEC](#) (or to a

declaration under those formalities) (formalities relating to dispatch or transport of goods from Member State to territory considered a third territory)—

- (i) “customs export formalities” in Articles 844(1), 849(1), 849(2) and 849(3) of the implementation Regulation;
  - (ii) “export declaration” in Article 848(1) of that Regulation;
  - (iii) “customs formalities relating to their exportation” in Articles 844(4) and 849(1) of that Regulation;
- (d) regard—
- (i) the definition of “import duties” in Article 4(10) of the Community Customs Code as defining instead VAT charged on the importation of goods from places outside the member States in accordance with the Act; and
  - (ii) the references to “import duty” and “duty” in Article 185(1), second sub-paragraph, second indent and Article 187 of the Community Customs Code as references to such VAT.

(10) The references to Council Directive [77/388/EEC](#) in paragraphs (2), (5)(d), (9)(b) and (9)(c) embrace relevant amendments up to and including 6th April 2006 only.]

#### Textual Amendments

**F327** [Reg. 121D](#) inserted (6.4.2006) by [The Value Added Tax \(Amendment\) Regulations 2006 \(S.I. 2006/587\)](#), regs. 1(3), 4 (with [reg. 1\(4\)](#))

### Postal importations by registered persons in the course of business **U.K.**

**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

**I99** [Reg. 122](#) in force at 20.10.1995, see [reg. 1](#)

### Temporary importations **U.K.**

**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—

**Status:** Point in time view as at 01/04/2008.

**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) 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**

**I100** Reg. 123 in force at 20.10.1995, see [reg. 1](#)

**Reimportation of certain goods by non-taxable persons** **U.K.**

<sup>F328</sup>**124.** . . . . .

**Textual Amendments**

**F328** [Reg. 124](#) revoked (6.4.2006) by [The Value Added Tax \(Amendment\) Regulations 2006 \(S.I. 2006/587\)](#), [regs. 1\(3\), 5](#)

**Commencement Information**

**I101** Reg. 124 in force at 20.10.1995, see [reg. 1](#)

**Reimportation of certain goods by taxable persons** **U.K.**

<sup>F329</sup>**125.** . . . . .

**Textual Amendments**

**F329** [Reg. 125](#) revoked (6.4.2006) by [The Value Added Tax \(Amendment\) Regulations 2006 \(S.I. 2006/587\)](#), [regs. 1\(3\), 5](#)

**Commencement Information**

**I102** Reg. 125 in force at 20.10.1995, see [reg. 1](#)

**Reimportation of goods exported for treatment or process** **U.K.**

**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**

**I103** Reg. 126 in force at 20.10.1995, see [reg. 1](#)

**Supplies to export houses** **U.K.**

<sup>F330</sup>**127.** . . . . .

**Textual Amendments**

**F330** 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**

**I104** Reg. 127 in force at 20.10.1995, see [reg. 1](#)

**Export of freight containers** **U.K.**

**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**

**I105** Reg. 128 in force at 20.10.1995, see [reg. 1](#)

**Supplies to overseas persons** **U.K.**

**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

*Status: Point in time view as at 01/04/2008.*

*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 goods were exported to a place outside the member States, the supply, subject to such conditions as they may impose, shall be zero-rated.

<sup>F331</sup>(2) .....

**Textual Amendments**  
**F331** Reg. 129(2) omitted (1.7.2003) by virtue of [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2003 \(S.I. 2003/1485\)](#), regs. 1(1), **6** (with reg. 1(2))

**Commencement Information**  
**I106** Reg. 129 in force at 20.10.1995, see [reg. 1](#)

**Supplies to persons departing from the member States** **U.K.**

<sup>F332</sup>**130.** .....

**131.** —

(1) Where the Commissioners are satisfied that—

- (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>F333</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.

<sup>F334</sup>(2) .....

**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 <sup>F335</sup>... 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 <sup>F336</sup>... 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**  
**F332** Reg. 130 omitted (1.7.2003) by virtue of [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2003 \(S.I. 2003/1485\)](#), regs. 1(1), **6** (with reg. 1(2))  
**F333** 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**  
**F334** Reg. 131(2) omitted (1.7.2003) by virtue of [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2003 \(S.I. 2003/1485\)](#), regs. 1(1), **6** (with reg. 1(2))  
**F335** Word in reg. 132 omitted (1.4.2000) by [The Value Added Tax \(Amendment\) Regulations 2000 \(S.I. 2000/258\)](#), regs. 1(3), **6**

**F336** Word in [reg. 133](#) omitted (1.4.2000) by [The Value Added Tax \(Amendment\) Regulations 2000 \(S.I. 2000/258\)](#), [regs. 1\(3\), 6](#)

**Commencement Information**

**I107** [Reg. 130](#) in force at 20.10.1995, see [reg. 1](#)

**I108** [Reg. 131](#) in force at 20.10.1995, see [reg. 1](#)

**I109** [Reg. 132](#) in force at 20.10.1995, see [reg. 1](#)

**I110** [Reg. 133](#) in force at 20.10.1995, see [reg. 1](#)

**Supplies to persons taxable in another member State** **U.K.**

**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\(17\)](#) 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**

**I111** [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** **U.K.**

**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\(18\)](#), 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**

**I112** [Reg. 135](#) in force at 20.10.1995, see [reg. 1](#)

(17) [Section 50A](#) was inserted by [section 24](#) of the [Finance Act 1995 \(c. 4\)](#) .

(18) [S.I. 1992/3135](#).

*Status: Point in time view as at 01/04/2008.*

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

## **Territories to be treated as excluded from or included in the territory of the Community and of the member States **U.K.****

**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.** —

[<sup>F337</sup>(1) For the purposes of the Act the territory of the Community shall be treated as excluding—

- (a) Austria, Finland and Sweden (“the 1995 acceding States”),
- (b) the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia and Slovenia (“the 2004 acceding States”), and
- (c) Bulgaria and Romania (“the 2007 acceding states”)

in relation to goods to which this regulation applies.]

(2) Subject to [<sup>F338</sup>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 [<sup>F339</sup>the date specified in paragraph (5)] and for “20th October 1995” substitute “the date specified in paragraph (6)] 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 [<sup>F340</sup>the date specified in paragraph (5)] and for “20th October 1995” substitute “the date specified in paragraph (6)], 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 [<sup>F341</sup>the date specified in paragraph (6)] to a place outside the member States,
- (b) goods which are not means of transport and are removed on or after [<sup>F342</sup>the date specified in paragraph (6)] 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 [<sup>F343</sup>the date specified in paragraph (6)] 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 [<sup>F344</sup>the date specified in paragraph (7)], 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.

[<sup>F345</sup>(5) For the purposes of paragraphs (2) and (4) the specified date—

- (a) in relation to the 1995 acceding states is 1st January 1995;
- (b) in relation to the 2004 acceding states is 1st May 2004 ; and
- (c) in relation to the 2007 acceding states is 1st January 2007.

(6) For the purposes of paragraphs (2) and (4) the specified date—

- (a) in relation to the 1995 acceding states is 20th October 1995;
- (b) in relation to the 2004 acceding states 1st May 2004 ; and
- (c) in relation to the 2007 acceding states 1st January 2007.

(7) For the purposes of paragraph (4)(c)(i) the specified date—

- (a) in relation to the 1995 acceding states is 1st January 1987;
- (b) in relation to the 2004 acceding states is 1st May 2006; and
- (c) in relation to the 2007 acceding states is 1st January 1999.]

**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), <sup>F346</sup>...
- (ii) the Isle of Man (United Kingdom) <sup>F347</sup>... [<sup>F348</sup>, and
- (iii) the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia (Cyprus).]

*Status: Point in time view as at 01/04/2008.*

*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

- F337** Reg. 138(1) substituted (1.1.2007) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2006 \(S.I. 2006/3292\)](#), regs. 1, **5(2)**
- F338** Words in reg. 138(2) substituted (1.1.2007) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2006 \(S.I. 2006/3292\)](#), regs. 1, **5(3)(i)**
- F339** Words in reg. 138(2)(a) substituted (1.1.2007) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2006 \(S.I. 2006/3292\)](#), regs. 1, **5(3)(ii)**
- F340** Words in reg. 138(2)(b) substituted (1.1.2007) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2006 \(S.I. 2006/3292\)](#), regs. 1, **5(3)(ii)**
- F341** Words in reg. 138(4)(a) substituted (1.1.2007) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2006 \(S.I. 2006/3292\)](#), regs. 1, **5(4)(i)**
- F342** Words in reg. 138(4)(b) substituted (1.1.2007) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2006 \(S.I. 2006/3292\)](#), regs. 1, **5(4)(i)**
- F343** Words in reg. 138(4)(c) substituted (1.1.2007) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2006 \(S.I. 2006/3292\)](#), regs. 1, **5(4)(i)**
- F344** Words in reg. 138(4)(c)(i) substituted (1.1.2007) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2006 \(S.I. 2006/3292\)](#), regs. 1, **5(4)(ii)**
- F345** Reg. 138(5)-(7) substituted for reg. 138(5) (1.1.2007) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2006 \(S.I. 2006/3292\)](#), regs. 1, **5(5)**
- F346** Word in reg. 139(i) omitted (1.5.2004) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2004 \(S.I. 2004/1082\)](#), regs. 1, **6(2)**
- F347** Full-stop in reg. 139(ii) omitted (1.5.2004) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2004 \(S.I. 2004/1082\)](#), regs. 1, **6(3)**
- F348** Reg. 139(iii) and word inserted (1.5.2004) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2004 \(S.I. 2004/1082\)](#), regs. 1, **6(3)**

### Commencement Information

- I113** Reg. 136 in force at 20.10.1995, see [reg. 1](#)
- I114** Reg. 137 in force at 20.10.1995, see [reg. 1](#)
- I115** Reg. 138 in force at 20.10.1995, see [reg. 1](#)
- I116** Reg. 139 in force at 20.10.1995, see [reg. 1](#)

## Entry and exit formalities **U.K.**

### 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(19), Commission Regulation (EEC) No. 2454/93(20) and the Customs Controls on Importation of Goods Regulations 1991(21), 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.

(19) OJ No. L 302, 19.10.92, p. 1.

(20) 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).

(21) S.I. 1991/2724, amended by S.I. 1993/3014.

**Commencement Information**

**I117** Reg. 140 in force at 20.10.1995, see [reg. 1](#)

**Use of the internal Community transit procedure** **U.K.**

**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**

**I118** Reg. 141 in force at 20.10.1995, see [reg. 1](#)

**Customs and excise legislation to be applied** **U.K.**

**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.

**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(**22**) (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(**23**) 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**

**I119** Reg. 142 in force at 20.10.1995, see [reg. 1](#)

(22) 1992 c. 48 .

(23) 1979 c. 2 .

*Status: Point in time view as at 01/04/2008.*

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

- I120** Reg. 143 in force at 20.10.1995, see [reg. 1](#)  
**I121** Reg. 144 in force at 20.10.1995, see [reg. 1](#)  
**I122** Reg. 145 in force at 20.10.1995, see [reg. 1](#)

## [<sup>F349</sup>PART XVI(A) U.K.]

### FISCAL AND OTHER WAREHOUSING REGIMES

#### Textual Amendments

- F349** 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) U.K.

**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;

“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 U.K.

**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 U.K.

**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 **U.K.**

**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).

### Fiscal warehousing regimes **U.K.**

**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 **U.K.**

**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,

*Status: Point in time view as at 01/04/2008.*

*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 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** **U.K.**

**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** **U.K.**

**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,
- (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

*Status: Point in time view as at 01/04/2008.*

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

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** **U.K.**

**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.]

#### **[<sup>F350</sup>Place of supply of goods subject to warehousing regime** **U.K.**

**145K.**—(1) Section 18(1) (supply of goods subject to warehousing regime and before duty point treated as taking place outside the United Kingdom) shall not apply in the following prescribed circumstances.

(2) The circumstances are—

- (a) that there is a supply of goods that would but for this regulation be treated for the purposes of the Act as taking place outside the United Kingdom by virtue of section 18(1);
- (b) the whole or part of the business carried on by the supplier of those goods consists in supplying to a number of persons goods to be sold, by them or others, by retail;
- (c) that supplier is a taxable person (or would be a taxable person but for section 18(1)); and
- (d) that supply is to a person who is not a taxable person, and
  - (i) consists in a supply of goods to that person to be sold, by that person, by retail, or
  - (ii) consists in a supply of goods to that person by retail.]

### Textual Amendments

**F350** Reg. 145K inserted (1.9.2005) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 2005 \(S.I. 2005/2231\)](#), regs. 1(3), **10**

## PART XVII **U.K.**

### NEW MEANS OF TRANSPORT

#### Interpretation of Part XVII **U.K.**

**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(24).

### Commencement Information

**I123** Reg. 146 in force at 20.10.1995, see [reg. 1](#)

#### First entry into service of a means of transport **U.K.**

**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,

(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

*Status: Point in time view as at 01/04/2008.*

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

(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

**I124** 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 **U.K.**

**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

**1125** Reg. 148 in force at 20.10.1995, see [reg. 1](#)

### Refunds in relation to new means of transport **U.K.**

**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
- (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.

*Status: Point in time view as at 01/04/2008.*

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

- 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

- I126** Reg. 149 in force at 20.10.1995, see [reg. 1](#)  
**I127** Reg. 150 in force at 20.10.1995, see [reg. 1](#)  
**I128** Reg. 151 in force at 20.10.1995, see [reg. 1](#)  
**I129** Reg. 152 in force at 20.10.1995, see [reg. 1](#)  
**I130** Reg. 153 in force at 20.10.1995, see [reg. 1](#)  
**I131** Reg. 154 in force at 20.10.1995, see [reg. 1](#)

#### Supplies of new means of transport to persons departing to another member State **U.K.**

**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

- I132** Reg. 155 in force at 20.10.1995, see [reg. 1](#)

### <sup>F351</sup>PART XVIII **U.K.**

#### BAD DEBT RELIEF (THE OLD SCHEME)

#### Textual Amendments

- F351** Pt. 18 revoked (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, [9](#)

## PART XIX **U.K.**

### 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 **U.K.**

**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>F352</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

- F352** 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

- I133** Reg. 165 in force at 20.10.1995, see [reg. 1](#)

#### <sup>F353</sup>Time within which a claim must be made **U.K.**

**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 01/04/2008.*

*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

**F353** 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 **U.K.**

**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>F354</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

**F354** 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

**I134** Reg. 166 in force at 20.10.1995, see [reg. 1](#)

### [<sup>F355</sup>Notice to purchaser of claim **U.K.**

**166A.** Where the purchaser is a taxable person [<sup>F356</sup>, and the relevant supply was made before 1st January 2003,] 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

**F355** Reg. 166A and heading inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997](#) (S.I. 1997/1086), regs. 1, **12**

**F356** Words in [reg. 166A](#) inserted (1.1.2003) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2002 \(S.I. 2002/3027\)](#), [regs. 1, 3](#)

### Evidence required of the claimant in support of the claim **U.K.**

**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

**I135** Reg. 167 in force at 20.10.1995, see [reg. 1](#)

### Records required to be kept by the claimant **U.K.**

**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>F357</sup>...
  - (d) the prescribed accounting period in which the claim was made<sup>F358</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”.

*Status: Point in time view as at 01/04/2008.*

*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

**F357** 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)**

**F358** 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)**

#### Commencement Information

**I136** Reg. 168 in force at 20.10.1995, see [reg. 1](#)

### Preservation of documents and records and duty to produce **U.K.**

#### 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

**I137** Reg. 169 in force at 20.10.1995, see [reg. 1](#)

### Attribution of payments **U.K.**

#### 170. —

(1) [<sup>F359</sup>Subject to regulation 170A below, 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.

### Textual Amendments

**F359** Words in [reg. 170\(1\)](#) substituted (1.1.2003) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2002 \(S.I. 2002/3027\)](#), [regs. 1, 4](#)

### Commencement Information

**I138** Reg. 170 in force at 20.10.1995, see [reg. 1](#)

## [<sup>F360</sup> Attribution of payments received under certain credit agreements **U.K.**

[<sup>F361</sup> **170A.**—(1) This regulation applies where—

- (a) the claimant made a supply of goods and, in connection with that supply, a supply of credit;
- (b) those supplies were made under a hire purchase, conditional sale or credit sale agreement; and
- (c) a payment is received in relation to those supplies (other than a payment of an amount upon which interest is not charged).

(2) Where the supply of goods was made before 1st September 2006 the payment shall be attributed in accordance with the rule set out in paragraph (5).

(3) Where the supply of goods was made on or after 1st September 2006 and before 1st September 2007 the payment may be attributed in accordance with the rule set out in paragraph (5) or (6).

(4) Where the supply of goods was made on or after 1st September 2007 the payment shall be attributed in accordance with the rule set out in paragraph (6).

(5) Where this paragraph applies, the payment shall be attributed —

- (a) as to the amount obtained by multiplying it by the fraction

$\frac{A}{A+B}$ , to the supply of credit; and

- (b) as to the balance, to the supply of goods,

where—

*A* is the total of the interest on the credit provided under the agreement under which the supplies are made (determined as at the date of the making of the agreement); and

*B* is the total amount payable under the agreement, less any amount upon which interest is not charged.

(6) Where this paragraph applies, the payment shall be attributed —

- (a) in respect of payments made on or before termination of the agreement,

- (i) as to the amount obtained by multiplying it by the fraction

$\frac{A}{A+B}$ , to the supply of credit; and

- (ii) as to the balance, to the supply of goods,

where—

*A* is the total of the interest on the credit provided under the agreement, less any rebate of interest granted, less any interest attributable to any unpaid instalments prior to the termination; and

*Status: Point in time view as at 01/04/2008.*

*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* is the total amount payable under the agreement being the total of *A* plus the total for the goods.

“Total for the goods” means the amount due for the goods under the agreement, less any reduction as a consequence of termination, less any amount upon which interest is not charged, less any part of the total due for the goods which is unpaid at the time of termination.

- (b) in respect of payments made after termination of the agreement, between the supply of goods and the supply of credit according to the proportion of the balances due at the time the payment is made.

(7) Where an agreement provides for a variation of the rate of interest after the date of the making of the agreement then, for the purposes of the calculation in paragraph (5), it shall be assumed that the rate is not varied.]]

#### Textual Amendments

**F360** Reg. 170A inserted (1.1.2003) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2002 \(S.I. 2002/3027\)](#), regs. 1, 5

**F361** Reg. 170A substituted (1.3.2007) by [The Value Added Tax \(Amendment\) Regulations 2007 \(S.I. 2007/313\)](#), regs. 1, 3

#### Repayment of a refund **U.K.**

171. —

[<sup>F362</sup>(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 or 170A, treated as attributed to the relevant supply, or
  - (iii) the consideration for any relevant supply upon which the claim to refund is based is reduced after the claim is made,

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, or such an amount as is equal to the negative entry made in the VAT allowable portion of his VAT account as provided for in regulation 38.]

(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 [<sup>F363</sup>, 170 or 170A] 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>F364</sup>(5) For the purposes of this regulation [<sup>F365</sup>, but subject to paragraph (6) below,] 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.]

[<sup>F366</sup>(6) Paragraph (5) above does not apply where any person to whom the right to receive a payment has been assigned (whether by the claimant or any other person) is connected to the claimant.

(7) Any question for the purposes of paragraph (6) above whether any person is connected to the claimant shall be determined in accordance with section 839 of the Taxes Act.

(8) Paragraphs (6) and (7) above apply where the right to receive a payment is assigned on or after 11th December 2003.]

#### Textual Amendments

**F362** Reg. 171(1) substituted (1.3.2007) by The Value Added Tax (Amendment) Regulations 2007 (S.I. 2007/313), regs. 1, 4

**F363** Words in reg. 171(3) substituted (1.1.2003) by The Value Added Tax (Amendment) (No. 4) Regulations 2002 (S.I. 2002/3027), regs. 1, 6(b)

**F364** Reg. 171(5) inserted (1.12.1999) by The Value Added Tax Regulations 1999 (S.I. 1999/3029), regs. 1, 4

**F365** Words in reg. 171(5) inserted (11.12.2003) by The Value Added Tax (Amendment) (No. 6) Regulations 2003 (S.I. 2003/3220), regs. 1(1)(a), 22

**F366** Reg. 171(6)-(8) inserted (11.12.2003) by The Value Added Tax (Amendment) (No. 6) Regulations 2003 (S.I. 2003/3220), regs. 1(1)(a), 23

#### Commencement Information

**I139** Reg. 171 in force at 20.10.1995, see reg. 1

## Writing off debts **U.K.**

### 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>F367</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>F368</sup>relevant supply].]

[<sup>F369</sup>(2) Subject to paragraph (1A) the whole or any part of the consideration for a [<sup>F370</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 01/04/2008.*

*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

- F367** 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)**
- F368** 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)**
- F369** 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)**
- F370** 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

- I140** Reg. 172 in force at 20.10.1995, see [reg. 1](#)

### [<sup>F371</sup>Writing off debts—margin schemes **U.K.**

**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

- F371** [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 **U.K.**

**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**

**F371** Regs. 172A, 172B inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **15**

[<sup>F372</sup>**PART XIXA U.K.**

**REPAYMENT OF INPUT TAX WHERE CLAIM MADE UNDER PART XIX**

**Textual Amendments**

**F372** Pt. 19A inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **16**

[<sup>F373</sup>**Application U.K.**

**172ZC.** This Part applies where the relevant supply was made before 1st January 2003.]

**Textual Amendments**

**F373** Reg. 172ZC inserted (1.1.2003) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2002 \(S.I. 2002/3027\)](#), regs. 1, **7**

**Interpretation of Part XIXA U.K.**

**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 U.K.**

**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”),

*Status: Point in time view as at 01/04/2008.*

*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 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.

(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 **U.K.**

**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.]

## [<sup>F374</sup>PART XIXB **U.K.**

### REPAYMENT OF INPUT TAX WHERE CONSIDERATION NOT PAID

#### Textual Amendments

**F374** Pt. 19B inserted (1.1.2003) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2002 \(S.I. 2002/3027\)](#), regs. 1, 8

### Application **U.K.**

**172F.** This Part applies where the supply in relation to which a person has claimed credit for input tax was made on or after 1st January 2003.

### Interpretation **U.K.**

**172G.** In this Part—

“relevant period” means 6 months following—

- (i) the date of the supply, or
- (ii) if later, the date on which the consideration for the supply, or (as the case may be) the unpaid part of it, became payable.

**Repayment of input tax U.K.**

**172H.**—(1) Subject to paragraph (5) below, where a person—

- (a) has not paid the whole or any part of the consideration for a supply by the end of the relevant period; and
- (b) has claimed deduction of the whole or part of the VAT on the supply as input tax (“the deduction”),

he shall make an entry in his VAT account in accordance with paragraphs (2) and (3) below.

(2) The person 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 end of the relevant period falls.

(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 consideration for the supply which has not been paid before the end of the relevant period and the denominator is the total consideration for the supply.

(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.

(5) This regulation does not apply where, for input tax, the operative date for VAT accounting purposes is the date mentioned in regulation 57(b) above.

**Restoration of an entitlement to credit for input tax U.K.**

**172I.**—(1) Where a person—

- (a) has made an entry in his VAT account in accordance with regulation 172H (“the input tax repayment”);
- (b) 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) after the end of the relevant period, has paid the whole or part of the consideration for the supply in relation to which the input tax repayment was made,

he shall make an entry in his VAT account in accordance with paragraphs (2) and (3) below in respect of each such payment made.

(2) The person 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 payment of the whole or part of the consideration was 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 of the payment referred to in paragraph (1) (c) above and the denominator is [<sup>F375</sup>that consideration for the supply which was not paid before the end of the relevant period].

(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.

<sup>F376</sup>(5) .....

*Status: Point in time view as at 01/04/2008.*

*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

- F375** Words in [reg. 172I\(3\)](#) substituted (1.4.2003) by [The Value Added Tax \(Amendment\) Regulations 2003 \(S.I. 2003/532\)](#), regs. 1, [3](#)
- F376** [Reg. 172I\(5\)](#) omitted (1.4.2003) by virtue of [The Value Added Tax \(Amendment\) Regulations 2003 \(S.I. 2003/532\)](#), regs. 1, [4](#)

#### Attribution of payments **U.K.**

**172J.** The rules on the attribution of payments in regulation 170 and, as the case may be, [<sup>F377</sup>170A(5)] above shall apply for determining whether anything paid is to be taken as paid by way of consideration for a particular supply.]

#### Textual Amendments

- F377** Word in [reg. 172J](#) substituted (1.3.2007) by [The Value Added Tax \(Amendment\) Regulations 2007 \(S.I. 2007/313\)](#), regs. 1, [5](#)

## [<sup>F378</sup>PART 19C **U.K.**

### ADJUSTMENT OF OUTPUT TAX IN RESPECT OF SUPPLIES TO WHICH SECTION 55A (6) OF THE ACT APPLIES

#### Textual Amendments

- F378** [Pt. 19C](#) inserted (1.6.2007) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 2007 \(S.I. 2007/1418\)](#), regs. 1, [7](#)

**172K.** This Part applies where a person is entitled, by virtue of section 26AB(2) of the Act, to make an adjustment to the amount of VAT which he is required to account for and pay under section 55A(6) of the Act (“the adjustment”).

#### Adjustment of output tax **U.K.**

**172L.**—(1) The person must make the adjustment by making a negative entry in the VAT payable portion of that part of his VAT account which relates to the same prescribed accounting period of his as that in which he is required to make an entry in accordance with regulation 172H(2).

(2) The amount of the negative entry referred to in paragraph (1) above must be equal to the amount of the entry that is required to be made in accordance with regulation 172H(2).

#### Readjustment of output tax **U.K.**

**172M.**—(1) Where a person—

- (a) has made an entry in his VAT account in accordance with regulation 172L; and
- (b) in relation to the same supply, he subsequently makes an entry in his VAT account in accordance with regulation 172I,

he must make an entry in his VAT account in accordance with paragraphs (2) and (3) below.

(2) The person must make a positive entry in the VAT payable portion of that part of his VAT account which relates to the same prescribed accounting period of his as that in which he makes an entry in accordance with regulation 172I.

(3) The amount of the positive entry referred to in paragraph (2) above must be equal to the amount of the entry he makes in accordance with regulation 172I.

**172N.** None of the circumstances to which this Part applies is to be regarded as giving rise to any application of regulations 34 and 35.]

## PART XX **U.K.**

### REPAYMENTS TO COMMUNITY TRADERS

#### Interpretation of Part XX **U.K.**

**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

**I141** Reg. 173 in force at 20.10.1995, see [reg. 1](#)

#### Repayment of VAT **U.K.**

**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

**I142** Reg. 174 in force at 20.10.1995, see [reg. 1](#)

*Status: Point in time view as at 01/04/2008.*

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

### Persons to whom this Part applies **U.K.**

**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 [<sup>F379</sup>9A or] 14 of the Act.

#### Textual Amendments

**F379** Words in [reg. 175\(b\)\(iii\)](#) inserted (with effect in accordance with [reg. 2\(1\)](#) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), [regs. 2\(1\), 6](#)

#### Commencement Information

**I143** Reg. 175 in force at 20.10.1995, see [reg. 1](#)

### Supplies and importations to which this Part applies **U.K.**

**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

**I144** Reg. 176 in force at 20.10.1995, see [reg. 1](#)

### VAT which will not be repaid **U.K.**

**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**

**I145** Reg. 177 in force at 20.10.1995, see [reg. 1](#)

**Method of claiming** **U.K.**

**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**

**I146** Reg. 178 in force at 20.10.1995, see [reg. 1](#)

**Time within which a claim must be made** **U.K.**

**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**

**I147** Reg. 179 in force at 20.10.1995, see [reg. 1](#)

*Status: Point in time view as at 01/04/2008.*

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

### Deduction of bank charges **U.K.**

**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

**I148** Reg. 180 in force at 20.10.1995, see [reg. 1](#)

### Treatment of claim and repayment claimed **U.K.**

**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

**I149** Reg. 181 in force at 20.10.1995, see [reg. 1](#)

**I150** Reg. 182 in force at 20.10.1995, see [reg. 1](#)

### False, altered or incorrect claims **U.K.**

**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

**I151** Reg. 183 in force at 20.10.1995, see [reg. 1](#)

**I152** Reg. 184 in force at 20.10.1995, see [reg. 1](#)

## PART XXI **U.K.**

### REPAYMENTS TO THIRD COUNTRY TRADERS

#### Interpretation of Part XXI **U.K.**

**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**

**I153** Reg. 185 in force at 20.10.1995, see [reg. 1](#)

**Repayments of VAT** **U.K.**

**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**

**I154** Reg. 186 in force at 20.10.1995, see [reg. 1](#)

**VAT representatives** **U.K.**

**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**

**I155** Reg. 187 in force at 20.10.1995, see [reg. 1](#)

**Persons to whom this Part applies** **U.K.**

**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

*Status: Point in time view as at 01/04/2008.*

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

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

**I156** Reg. 188 in force at 20.10.1995, see [reg. 1](#)

#### Supplies and importations to which this Part applies **U.K.**

**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

**I157** Reg. 189 in force at 20.10.1995, see [reg. 1](#)

#### VAT which will not be repaid **U.K.**

**190.** —

(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.
- <sup>F380</sup>(c) VAT charged on a supply used or to be used in making supplies of a description falling within article 3 of the Value Added Tax (Input Tax) (Specified Supplies) Order 1999.]

(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.

**Textual Amendments**

**F380** Reg. 190(1)(c) added (with effect in accordance with reg. 2(4) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 2004 \(S.I. 2004/3140\)](#), regs. 2(4), **15**

**Commencement Information**

**I158** Reg. 190 in force at 20.10.1995, see [reg. 1](#)

**Method of claiming** **U.K.**

**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**

**I159** Reg. 191 in force at 20.10.1995, see [reg. 1](#)

**Time within which a claim must be made** **U.K.**

**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.

*Status: Point in time view as at 01/04/2008.*

*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

**I160** Reg. 192 in force at 20.10.1995, see [reg. 1](#)

#### Deduction of bank charges **U.K.**

**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

**I161** Reg. 193 in force at 20.10.1995, see [reg. 1](#)

#### Treatment of claim and repayment claimed **U.K.**

**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

**I162** Reg. 194 in force at 20.10.1995, see [reg. 1](#)

**I163** Reg. 195 in force at 20.10.1995, see [reg. 1](#)

#### False, altered or incorrect claims **U.K.**

**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

**I164** Reg. 196 in force at 20.10.1995, see [reg. 1](#)

**I165** Reg. 197 in force at 20.10.1995, see [reg. 1](#)

## PART XXII **U.K.**

### REPAYMENT SUPPLEMENT

#### Computation of period **U.K.**

**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**

**I166** Reg. 198 in force at 20.10.1995, see [reg. 1](#)

**Duration of period** **U.K.**

**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**

**I167** Reg. 199 in force at 20.10.1995, see [reg. 1](#)

**PART XXIII** **U.K.**

**REFUNDS TO “DO-IT-YOURSELF” BUILDERS**

**Interpretation of Part XXIII** **U.K.**

**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.

*Status: Point in time view as at 01/04/2008.*

*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

**I168** Reg. 200 in force at 20.10.1995, see [reg. 1](#)

#### Method and time for making claim **U.K.**

**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

**I169** Reg. 201 in force at 20.10.1995, see [reg. 1](#)

## PART XXIV **U.K.**

### FLAT-RATE SCHEME FOR FARMERS

#### Interpretation of Part XXIV **U.K.**

**202.** In this Part—

“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

**I170** Reg. 202 in force at 20.10.1995, see [reg. 1](#)

#### Flat-rate scheme **U.K.**

**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

I171 Reg. 203 in force at 20.10.1995, see [reg. 1](#)

### Admission to the scheme **U.K.**

**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(25) 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

I172 Reg. 204 in force at 20.10.1995, see [reg. 1](#)

### Certification **U.K.**

**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,

*Status: Point in time view as at 01/04/2008.*

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

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

**I173** Reg. 205 in force at 20.10.1995, see [reg. 1](#)

### Cancellation of certificates **U.K.**

#### 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,
- (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**

**I174** Reg. 206 in force at 20.10.1995, see [reg. 1](#)

**Death, bankruptcy or incapacity of certified person** **U.K.**

**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 [<sup>F381</sup>entering administration].

**Textual Amendments**

**F381** Words in [reg. 207\(3\)](#) substituted (15.9.2003) by [The Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), [Sch. para. 59](#) (with art. 6)

**Commencement Information**

**I175** Reg. 207 in force at 20.10.1995, see [reg. 1](#)

**Further certification** **U.K.**

**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**

**I176** 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** **U.K.**

**209.** —

*Status: Point in time view as at 01/04/2008.*

*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 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

**I177** Reg. 209 in force at 20.10.1995, see [reg. 1](#)

#### Duty to keep records **U.K.**

##### **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.

#### Commencement Information

**I178** Reg. 210 in force at 20.10.1995, see [reg. 1](#)

**Production of records** U.K.

**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**

**I179** Reg. 211 in force at 20.10.1995, see [reg. 1](#)

**PART XXV** U.K.

**DISTRESS AND DILIGENCE**

[<sup>F382</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**

**F382** [Reg. A212](#) inserted (2.9.1996) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1996](#) (S.I. 1996/2098), [regs. 1, 3](#)

**Distress** U.K.

<sup>F383</sup>**212.** . . . . .

**Textual Amendments**

**F383** [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](#)

**Status:** Point in time view as at 01/04/2008.

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

## Diligence **U.K.**

**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>F384</sup>Job Band 7];
- (b) where, during the course of a poinding and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987<sup>(26)</sup> 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>F385</sup>Job Band 7].

### Textual Amendments

**F384** 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](#)

**F385** 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

**I180** Reg. 213 in force at 20.10.1995, see [reg. 1](#)

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*Leonard Harris*  
Commissioner of Customs and Excise

**Status:**

Point in time view as at 01/04/2008.

**Changes to legislation:**

There are currently no known outstanding effects for the The Value Added Tax Regulations 1995.