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STATUTORY INSTRUMENTS

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**1995 No. 2518**

The Value Added Tax Regulations 1995

PART V

ACCOUNTING, PAYMENT AND RECORDS

**Interpretation of Part V**

**24.** In this Part—

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

“insolvent person” means—

- (a) an individual who has been adjudged bankrupt;
- (b) a company in relation to which—
  - (i) a voluntary arrangement under Part I of the Insolvency Act 1986<sup>(1)</sup> has been approved,
  - (ii) [<sup>F1</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>F2</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>F3</sup>32];

“the Removal Order” means the Value Added Tax (Removal of Goods) Order 1992<sup>(2)</sup>;

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

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**Textual Amendments**

- F1** 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)

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- F2** 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
- F3** 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

- I1** [Reg. 24](#) in force at 20.10.1995, see [reg. 1](#)

### Making of returns

#### 25. —

(1) Every person who is registered or was or is required to be registered shall, in respect of every period of a quarter or in the case of a person who is registered, every period of 3 months ending on the dates notified either in the certificate of registration issued to him or otherwise, not later than the last day of the month next following the end of the period to which it relates, make to the Controller a return on the form numbered 4 in Schedule 1 to these Regulations [<sup>F4</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>F5</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>F6</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>F7</sup>(4A) A person may make a return required by this regulation on an electronic version of Form 4 or Form 5 (as appropriate) using electronic communications.

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

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

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

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

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

(4F) Subject to paragraph (4D) above—

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

(4G) The Commissioners may on application authorise a person to make returns using an electronic return system and may revoke any such authorisation.

(4H) The Commissioners shall pay proper regard to the following factors before authorising a person or revoking an authorisation under paragraph (4G) above—

- (a) the state of development of any relevant electronic return system;
- (b) the protection of the revenue;
- (c) the degree of compliance of the person concerned with this Part; and
- (d) any other relevant factor.

(4I) A person shall not be authorised to make returns using an electronic return system only by reason of being—

- (a) registered under regulation 6 above in substitution for a person who has been so authorised (transfer of a going concern); or
- (b) required by the Commissioners under regulation 30 below to comply with the requirements of this Part (person acting in a representative capacity).

(4J) The electronic versions of Forms 4 and 5 shall not differ in any material respect from those in Schedule 1 to these Regulations but may include relevant modifications.

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(4K) Paragraphs (1) and (4) above shall have effect in relation to a return made by way of an electronic return system as if the expression “, signed by him,” were omitted.

(4L) Paragraphs (4A) to (4K) above shall not be taken as affecting any provision except in relation to the means of making a return to the Controller.]

(5) The Commissioners may allow VAT chargeable in any period to be treated as being chargeable in such later period as they may specify.

#### Textual Amendments

- F4** 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\(1\)](#)
- F5** 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](#)
- F6** 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\(2\)](#)
- F7** [Reg. 25\(4A\)-\(4L\)](#) inserted (1.3.2000) by [The Value Added Tax \(Amendment\) Regulations 2000 \(S.I. 2000/258\)](#), regs. 1(2), [3\(3\)](#)

#### Commencement Information

- I2** [Reg. 25](#) in force at 20.10.1995, see [reg. 1](#)

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

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

#### Commencement Information

- I3** [Reg. 26](#) in force at 20.10.1995, see [reg. 1](#)

### Supplies under Schedule 4, paragraph 7

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

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

**Commencement Information**

**I4** Reg. 27 in force at 20.10.1995, see [reg. 1](#)

**Estimation of output tax**

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

**Commencement Information**

**I5** Reg. 28 in force at 20.10.1995, see [reg. 1](#)

**Claims for input tax**

**29.** —

(1) [<sup>F8</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>F9</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

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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>F10</sup>or provide] such other <sup>F11</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

- F8** Words in [reg. 29\(1\)](#) substituted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, [4\(a\)](#)
- F9** [Reg. 29\(1A\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, [4\(b\)](#)
- F10** 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](#)
- F11** 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

- I6** [Reg. 29](#) in force at 20.10.1995, see [reg. 1](#)

### Persons acting in a representative capacity

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

#### Commencement Information

- I7** [Reg. 30](#) in force at 20.10.1995, see [reg. 1](#)

### Records

**31.** —

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

- (a) his business and accounting records,
- (b) his VAT account,

- (c) copies of all VAT invoices issued by him,
- (d) all VAT invoices received by him,
- [<sup>F12</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>F13</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**

**F12** 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**

**F13** 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**

**I8** Reg. 31 in force at 20.10.1995, see [reg. 1](#)

- [<sup>F14</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

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- (b) makes a supply of a description falling within item 2 of Group 15 of Schedule 9 to the Act, which subsequently results in the transfer of the possession of the investment gold.
- (2) Subject to paragraph (6) below (and save as the Commissioners may otherwise allow in relation to supplies where the value is less than an amount equivalent to 15,000 euro at a rate specified in any notice published by the Commissioners for the purposes of this regulation) in addition to the requirements upon every taxable person under this Part, a person making a supply of a description falling within paragraph (1) above shall—
- (a) without prejudice to regulations 13 and 14, issue an invoice in respect of the supply containing such details as may be specified in a notice published by the Commissioners for the purposes of this regulation;
  - (b) keep and maintain a record of the supply containing such details as may be specified in a notice published by the Commissioners for the purposes of this regulation;
  - (c) retain such documents in relation to the supply as may be specified in a notice published by the Commissioners for the purposes of this regulation;
  - (d) keep and maintain a record of the recipient of the supply containing such particulars pertaining to the recipient as may be specified in a notice published by the Commissioners for the purposes of this regulation;
  - (e) keep and maintain such other records and documents as may be specified in a notice published by the Commissioners for the purposes of this regulation to allow the proper identification of each recipient of the supply;
  - (f) notify the Commissioners in writing that he is making such supplies within 28 days of the first supply;
  - (g) furnish to the Commissioners such information in relation to his making of the supply as may be specified in a notice published by them.
- (3) A taxable person shall keep and maintain, together with the account he is required to keep and maintain under regulation 32 below, a record of exempt supplies of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act, that he makes to another taxable person.
- (4) Where there is a sale of investment gold, which would if that person were supplying investment gold in the course or furtherance of any business, fall within item 1 or 2 of Group 15 of Schedule 9 to the Act, by a person who is not trading in investment gold, to a person who is so trading, the purchaser shall issue on behalf of the seller an invoice containing such particulars as may be set out in a notice published by the Commissioners for the purposes of this regulation and the seller shall sign such form of declaration as may be set out in a notice published by the Commissioners for the purposes of this regulation.
- (5) The records required to be kept and the documents required to be retained under paragraphs (1) to (4) above shall be preserved for a minimum period of 6 years.
- (6) Paragraphs (2) to (5) above shall not apply to any person in respect of a supply by him of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act the value of which does not exceed £5,000, unless the total value of those supplies to any person over the last 12 months exceeds £10,000.

#### Textual Amendments

**F14** 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

**F14** 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

**F14** Regs. 31A-31C inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999](#) (S.I. 1999/3114), regs. 1, 4

### The VAT account

#### 32. —

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

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

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

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

(4) The VAT allowable portion for each prescribed period shall comprise—

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

#### Commencement Information

**I9** Reg. 32 in force at 20.10.1995, see [reg. 1](#)

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

#### 33. —

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

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

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

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

#### Commencement Information

**I10** Reg. 33 in force at 20.10.1995, see [reg. 1](#)

<sup>[F15]</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

**F15** [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

**F15** [Regs. 33A, 33B](#) inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999](#) (S.I. 1999/3114), [regs. 1, 5](#)

## Correction of errors

### 34. —

(1) [<sup>F16</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>F17</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

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- (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

- F16** Words in [reg. 34\(1\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, [5\(a\)](#)
- F17** [Reg. 34\(1A\)\(1B\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, [5\(b\)](#)

#### Commencement Information

- I11** Reg. 34 in force at 20.10.1995, see [reg. 1](#)
- I12** Reg. 35 in force at 20.10.1995, see [reg. 1](#)

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

**36.** —

- (1) Where—
- (a) a taxable acquisition of goods subject to excise duty takes place in the United Kingdom,
  - (b) the acquisition is not in pursuance of a taxable supply, and
  - (c) the person acquiring the goods is not a taxable person at the time of the acquisition,

the person acquiring the goods shall notify the Commissioners of the acquisition at the time of the acquisition or the arrival of the goods in the United Kingdom, whichever is the later.

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

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

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

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

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

#### Commencement Information

**I13** Reg. 36 in force at 20.10.1995, see [reg. 1](#)

### Claims for recovery of overpaid VAT

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

#### Commencement Information

**I14** Reg. 37 in force at 20.10.1995, see [reg. 1](#)

### Adjustments in the course of business

**38.** —

(1) [<sup>F18</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>F19</sup>(1A) Subject to paragraph (1B) below, this regulation does not apply to any increase or decrease in consideration which occurs more than 3 years after the end of the prescribed accounting period in which the original supply took place.

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

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

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

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- (3) The maker of the supply shall—
- (a) in the case of an increase in consideration, make a positive entry; or
  - (b) in the case of a decrease in consideration, make a negative entry,
- for the relevant amount of VAT in the VAT payable portion of his VAT account.
- (4) The recipient of the supply, if he is a taxable person, shall—
- (a) in the case of an increase in consideration, make a positive entry; or
  - (b) in the case of a decrease in consideration, make a negative entry,
- for the relevant amount of VAT in the VAT allowable portion of his VAT account.
- (5) Every entry required by this regulation shall, except where paragraph (6) below applies, be made in that part of the VAT account which relates to the prescribed accounting period in which the increase or decrease is given effect in the business accounts of the taxable person.
- (6) Any entry required by this regulation to be made in the VAT account of an insolvent person shall be made in that part of the VAT account which relates to the prescribed accounting period in which the supply was made or received.
- (7) None of the circumstances to which this regulation applies is to be regarded as giving rise to any application of regulations 34 and 35.

#### Textual Amendments

- F18** Word in [reg. 38\(1\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, [6\(a\)](#)
- F19** [Reg. 38\(1A\)\(1B\)](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, [6\(b\)](#)

#### Commencement Information

- I15** [Reg. 38](#) in force at 20.10.1995, see [reg. 1](#)

### Calculation of returns

#### 39. —

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

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

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

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

**Commencement Information**

**I16** Reg. 39 in force at 20.10.1995, see [reg. 1](#)

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

[<sup>F20</sup>40.—(1) Any person making a return shall in respect of the period to which the return relates account in that return for—

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

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

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

[<sup>F21</sup>(2A) Where a return is made in accordance with regulation 25 above using an electronic return system, the relevant payment to the Controller required by paragraph (2) above shall be made solely by means of electronic communications that are acceptable to the Commissioners for this purpose.]

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

**Textual Amendments**

**F20** 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**

**F21** Reg. 40(2A) inserted (1.3.2000) by [The Value Added Tax \(Amendment\) Regulations 2000 \(S.I. 2000/258\)](#), regs. 1(2), **4**

**Commencement Information**

**I17** Reg. 40 in force at 20.10.1995, see [reg. 1](#)

[<sup>F22</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.]

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**Textual Amendments**

**F22** Reg. 40A inserted (1.6.1996) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1996 \(S.I. 1996/1198\)](#), regs. 1, 3

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

**41. —**

(1) Where in respect of—

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

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

<sup>F23</sup>(2) .....

<sup>F23</sup>(3) .....

**Textual Amendments**

**F23** 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**

**I18** Reg. 41 in force at 20.10.1995, see [reg. 1](#)

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

**42. —**

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

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

(3) Where—

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

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



### Commencement Information

**I19** Reg. 42 in force at 20.10.1995, see [reg. 1](#)

### Goods removed from warehousing regime

**43.** —

(1) This regulation applies to a registered person who is an approved person within the meaning of the Excise Duties (Deferred Payment) Regulations 1992(3) in respect of goods which are at a specified warehouse.

[<sup>F24</sup>(2) Where a person to whom this regulation applies is—

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

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

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

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

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

### Textual Amendments

**F24** 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

**I20** Reg. 43 in force at 20.10.1995, see [reg. 1](#)

**Status:**

Point in time view as at 01/05/2004.

**Changes to legislation:**

There are currently no known outstanding effects for the The Value Added Tax Regulations 1995, PART V.