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## STATUTORY INSTRUMENTS

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# 1995 No. 2518

## The Value Added Tax Regulations 1995

### PART XI

#### TIME OF SUPPLY AND TIME OF ACQUISITION

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

###### 81. —

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

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

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##### Commencement Information

**I1** Reg. 81 in force at 20.10.1995, see [reg. 1](#)

##### Services from outside the United Kingdom

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

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##### 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)**

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##### Commencement Information

**I2** Reg. 82 in force at 20.10.1995, see [reg. 1](#)

##### Time of acquisition

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

*Status: Point in time view as at 09/06/1999.*

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

#### Commencement Information

**I3** Reg. 83 in force at 20.10.1995, see [reg. 1](#)

### Supplies of land—special cases

#### 84. —

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

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

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

#### Commencement Information

**I4** Reg. 84 in force at 20.10.1995, see [reg. 1](#)

### Leases treated as supplies of goods

#### 85. —

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

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

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

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

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

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

#### Commencement Information

**I5** Reg. 85 in force at 20.10.1995, see [reg. 1](#)

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

**86.** —

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

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

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

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

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

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

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

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

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

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

#### Commencement Information

**I6** Reg. 86 in force at 20.10.1995, see [reg. 1](#)

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

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

#### Commencement Information

**I7** Reg. 87 in force at 20.10.1995, see [reg. 1](#)

### Supplier's goods in possession of buyer

**88.** —

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

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

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

#### Commencement Information

**I8** Reg. 88 in force at 20.10.1995, see [reg. 1](#)

### Retention payments

**89.** Where any contract [<sup>F1</sup>(other than one of a description falling within regulation 93 below)] for the supply of goods (other than for a supply to which subsections (7) and (8) of section 6 of the Act apply) or for the supply of services provides for the retention of any part of the consideration by a person pending full and satisfactory performance of the contract, or any part of it, by the supplier, goods or services (as the case may require) shall be treated as separately and successively supplied at the following times—

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

#### Textual Amendments

**F1** Words in [reg. 89](#) inserted (1.1.1998) by [The Value Added Tax \(Amendment\) \(No. 5\) Regulations 1997 \(S.I. 1997/2887\)](#), [regs. 1, 3](#)

#### Commencement Information

**I9** [Reg. 89](#) in force at 20.10.1995, see [reg. 1](#)

### Continuous supplies of services

**90.** —

(1) Subject to paragraph (2) below, where services [<sup>F2</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>F3</sup>(4) This regulation shall not apply to any relevant services—

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

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

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supplied in the United Kingdom by virtue of [<sup>F4</sup>article 18] of the Value Added Tax (Place of Supply of Services) Order 1992.]

#### Textual Amendments

- F2** 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
- F3** 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
- F4** 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

- I10** Reg. 90 in force at 20.10.1995, see [reg. 1](#)

[<sup>F5</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

- F5** [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

- F5** [Regs. 90A, 90B](#) inserted (1.7.1997) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1997 \(S.I. 1997/1525\)](#), regs. 1, 4

### Royalties and similar payments

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

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

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

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

**Commencement Information**

**I11** Reg. 91 in force at 20.10.1995, see [reg. 1](#)

**Supplies of services by barristers and advocates**

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

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

**Commencement Information**

**I12** Reg. 92 in force at 20.10.1995, see [reg. 1](#)

**Supplies in the construction industry**

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

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

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

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

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

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

(i) was, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

#### **Textual Amendments**

**F6** Reg. 93 substituted (9.6.1999) by [The Value Added Tax \(Amendment\) \(No.3\) Regulations 1999 \(S.I. 1999/1374\)](#), regs. 1, 2

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## General

**94.** [<sup>F7</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

**F7** 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

**I13** [Reg. 94](#) in force at 20.10.1995, see [reg. 1](#)

[<sup>F8</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

**F8** [Reg. 94A](#) inserted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.I.) by [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/599\)](#), regs. 1(1), [3](#)

## Supplies spanning change of rate etc.

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

### Commencement Information

**I14** [Reg. 95](#) in force at 20.10.1995, see [reg. 1](#)

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