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STATUTORY INSTRUMENTS

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**1995 No. 2518**

The Value Added Tax Regulations 1995

PART XIX

BAD DEBT RELIEF (THE NEW SCHEME)

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

- C1** Pt. 19 modified (except reg. 171) (temp.) (27.7.1999 until 1.12.1999, see [S.I. 1999/3029](#), reg. 5) by [Finance Act 1999 \(c. 16\)](#), s. [15\(4\)\(5\)](#)

**Interpretation of Part XIX**

**165.** In this Part—

“claim” means a claim in accordance with regulations 166 and 167 for a refund of VAT to which a person is entitled by virtue of section 36 of the Act and “claimant” shall be construed accordingly;

“payment” means any payment or part-payment which is made by any person<sup>F1</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).

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**Textual Amendments**

- F1** Words in [reg. 165](#) omitted (1.12.1999) by virtue of [The Value Added Tax Regulations 1999 \(S.I. 1999/3029\)](#), [regs. 1, 3](#)

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**Commencement Information**

- I1** [Reg. 165](#) in force at 20.10.1995, see [reg. 1](#)
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*Status: Point in time view as at 01/12/1999.*

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

## [<sup>F2</sup>Time within which a claim must be made

**165A.**—(1) Subject to paragraph (3) below, a claim shall be made within the period of 3 years and 6 months following the later of—

- (a) the date on which the consideration (or part) which has been written off as a bad debt becomes due and payable to or to the order of the person who made the relevant supply; and
- (b) the date of the supply.

(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

**F2** Reg. 165A and heading inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **10**

## The making of a claim to the Commissioners

**166.** —

(1) Save as the Commissioners may otherwise allow or direct, the claimant shall make a claim to the Commissioners by including the correct amount of the refund in the box opposite the legend “VAT reclaimed in this period on purchases and other inputs” on his return [<sup>F3</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

**F3** 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

**I2** Reg. 166 in force at 20.10.1995, see [reg. 1](#)

## [<sup>F4</sup>Notice to purchaser of claim

**166A.** Where the purchaser is a taxable person the claimant shall not before, but within 7 days from, the day he makes a claim give to the purchaser a notice in writing containing the following information—

- (a) the date of issue of the notice;
- (b) the date of the claim;
- (c) the date and number of any VAT invoice issued in relation to each relevant supply;
- (d) the amount of the consideration for each relevant supply which the claimant has written off as a bad debt;

- (e) the amount of the claim.]

#### Textual Amendments

- F4** Reg. 166A and heading inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **12**

#### Evidence required of the claimant in support of the claim

**167.** Save as the Commissioners may otherwise allow, the claimant, before he makes a claim, shall hold in respect of each relevant supply—

- (a) either—
- (i) a copy of any VAT invoice which was provided in accordance with Part III of these Regulations, or
  - (ii) where there was no obligation to provide a VAT invoice, a document which shows the time, nature and purchaser of the relevant goods and services, and the consideration therefor,
- (b) records or any other documents showing that he has accounted for and paid the VAT thereon, and
- (c) records or any other documents showing that the consideration has been written off in his accounts as a bad debt.

#### Commencement Information

- I3** Reg. 167 in force at 20.10.1995, see [reg. 1](#)

#### Records required to be kept by the claimant

**168.** —

- (1) Any person who makes a claim to the Commissioners shall keep a record of that claim.
- (2) Save as the Commissioners may otherwise allow, the record referred to in paragraph (1) above shall consist of the following information in respect of each claim made—
- (a) in respect of each relevant supply for that claim—
- (i) the amount of VAT chargeable,
  - (ii) the prescribed accounting period in which the VAT chargeable was accounted for and paid to the Commissioners,
  - (iii) the date and number of any invoice issued in relation thereto or, where there is no such invoice, such information as is necessary to identify the time, nature and purchaser thereof, and
  - (iv) any payment received therefor,
- (b) the outstanding amount to which the claim relates,
- (c) the amount of the claim, <sup>F5</sup>...
- (d) the prescribed accounting period in which the claim was made<sup>F6</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 01/12/1999.*

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

#### Textual Amendments

- F5** 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\(a\)](#)
- F6** [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

- I4** Reg. 168 in force at 20.10.1995, see [reg. 1](#)

### Preservation of documents and records and duty to produce

#### 169. —

(1) Save as the Commissioners may otherwise allow, the claimant shall preserve the documents, invoices and records which he holds in accordance with regulations 167 and 168 for a period of 4 years from the date of the making of the claim.

(2) Upon demand made by an authorised person the claimant shall produce or cause to be produced any such documents, invoices and records for inspection by the authorised person and permit him to remove them at a reasonable time and for a reasonable period.

#### Commencement Information

- I5** Reg. 169 in force at 20.10.1995, see [reg. 1](#)

### Attribution of payments

#### 170. —

(1) Where—

- (a) the claimant made more than one supply (whether taxable or otherwise) to the purchaser, and
- (b) a payment is received in relation to those supplies,

the payment shall be attributed to each such supply in accordance with the rules set out in paragraphs (2) and (3) below.

(2) The payment shall be attributed to the supply which is the earliest in time and, if not wholly attributed to that supply, thereafter to supplies in the order of the dates on which they were made, except that attribution under this paragraph shall not be made to any supply if the payment was allocated to that supply by the purchaser at the time of payment and the consideration for that supply was paid in full.

(3) Where—

- (a) the earliest supply and other supplies to which the whole of the payment could be attributed under this regulation occur on one day, or
- (b) the supplies to which the balance of the payment could be attributed under this regulation occur on one day,

the payment shall be attributed to those supplies by multiplying, for each such supply, the payment received by a fraction of which the numerator is the outstanding consideration for that supply and the denominator is the total outstanding consideration for those supplies.

**Commencement Information**

**I6** Reg. 170 in force at 20.10.1995, see [reg. 1](#)

**Repayment of a refund**

**171.** —

(1) Where a claimant—

- (a) has received a refund upon a claim, and
- (b) either—

- (i) a payment for the relevant supply is subsequently received, or

- (ii) a payment is, by virtue of regulation 170, treated as attributed to the relevant supply, he shall repay to the Commissioners such an amount as equals the amount of the refund, or the balance thereof, multiplied by a fraction of which the numerator is the amount so received or attributed, and the denominator is the amount of the outstanding consideration.

(2) The claimant shall repay to the Commissioners the amount referred to in paragraph (1) above by including that amount in the box opposite the legend “VAT due in this period on sales and other outputs” on his return for the prescribed accounting period in which the payment is received.

(3) Save as the Commissioners may otherwise allow, where the claimant fails to comply with the requirements of regulation 167, 168, 169 or 170 he shall repay to the Commissioners the amount of the refund obtained by the claim to which the failure to comply relates; and he shall repay the amount by including that amount in the box opposite the legend “VAT due in this period on sales and other outputs” on his return for the prescribed accounting period which the Commissioners shall designate for that purpose.

(4) If at the time the claimant is required to repay any amount, he is no longer required to make returns to the Commissioners, he shall repay such amount to the Commissioners at such time and in such form and manner as they may direct.

[<sup>F7</sup>(5) For the purposes of this regulation a reference to payment shall not include a reference to a payment received by a person to whom a right to receive it has been assigned.]

**Textual Amendments**

**F7** [Reg. 171\(5\)](#) inserted (1.12.1999) by [The Value Added Tax Regulations 1999 \(S.I. 1999/3029\)](#), [regs. 1, 4](#)

**Commencement Information**

**I7** Reg. 171 in force at 20.10.1995, see [reg. 1](#)

**Writing off debts**

**172.** —

(1) This regulation shall apply for the purpose of ascertaining whether, and to what extent, the consideration is to be taken to have been written off as a bad debt.

[<sup>F8</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>F9</sup>relevant supply].]

*Status: Point in time view as at 01/12/1999.*

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[<sup>F10</sup>(2) Subject to paragraph (1A) the whole or any part of the consideration for a [<sup>F11</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.

#### Textual Amendments

- F8** 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)**
- F9** 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)**
- F10** 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)**
- F11** 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

- I8** Reg. 172 in force at 20.10.1995, see [reg. 1](#)

#### [<sup>F12</sup>Writing off debts—margin schemes

**172A.**—(1) This regulation applies where, by virtue of the claimant's having exercised an option under an order made under section 50A of the Act, the VAT chargeable on the relevant supply is charged by reference to the profit margin.

(2) Where this regulation applies the consideration for the relevant supply which is to be taken to have been written off as a bad debt shall not exceed the relevant amount.

(3) For the purposes of paragraph (2) above the relevant amount is—

(a) where either—

(i) no payment has been received in relation to the relevant supply, or

(ii) the total of such payments as have been received does not exceed the non-profit element,

the profit margin; or

(b) where the total of such payments as have been received exceeds the non-profit element, the amount (if any) by which the consideration for the relevant supply exceeds that total.

(4) In paragraph (3) above—

“non-profit element” means the consideration for the relevant supply less the profit margin.

#### Textual Amendments

- F12** [Regs. 172A, 172B](#) inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997](#) (S.I. 1997/1086), regs. 1, **15**

### **Writing off debts—tour operators margin scheme**

**172B.**—(1) This regulation applies where, by virtue of an order under section 53 of the Act, the value of the relevant supply falls to be determined otherwise than in accordance with section 19 of the Act.

(2) Where this regulation applies the consideration for the relevant supply which is to be taken to have been written off as a bad debt shall not exceed the relevant amount.

(3) For the purposes of paragraph (2) above the relevant amount is—

(a) where either—

(i) no payment has been received in relation to the relevant supply, or

(ii) the total of any such payments as have been received does not exceed the non-profit element,

the profit element; or

(b) where the total of such payments as have been received exceeds the non-profit element, the amount (if any) by which the consideration for the relevant supply exceeds that total.

(4) In this regulation—

“non-profit element” means the consideration for the relevant supply less the profit element;

“profit element” means the sum of—

(a) the value of the relevant supply; and

(b) the VAT chargeable on the relevant supply.]

#### **Textual Amendments**

**F12** Regs. 172A, 172B inserted (1.5.1997) by [The Value Added Tax \(Amendment\) Regulations 1997 \(S.I. 1997/1086\)](#), regs. 1, **15**

**Status:**

Point in time view as at 01/12/1999.

**Changes to legislation:**

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