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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 18th April 2002, further amend the Value Added Tax Regulations 1995 (S.I.1995/2518) (“the principal Regulations”) in order to counter avoidance schemes based on the partial exemption method specified in regulation 101 of the principal Regulations and to deal with situations where the result of the method is clearly unreasonable.

Regulation 1 deals with commencement and the application of the Regulations to input tax incurred on or after 18th April 2002.

Regulation 3 substitutes a new definition of “exempt input tax” in regulation 99(1)(a). The new definition provides for exempt input tax to be that incurred on goods and services used, or to be used, to make exempt supplies rather than an amount of input tax attributed to exempt supplies. Intended use by successors is also included where such an intention exists at the time the input tax is incurred.

Regulation 4 substitutes regulation 106 to amend the partial exemption “de minimis” rules in respect of the change of definition of exempt input tax and to take into account any adjustment made under new regulation 107B (see below).

Regulation 5 inserts new regulation 106A which provides for any adjustment made under new regulation 107A (see below) to be taken into account in the partial exemption “de minimis” rules.

Regulation 6 adds to regulation 107 a new paragraph (3) which specifies that, in the case of cancellation of registration, the longer period adjustment is to be accounted for on the final return.

Regulation 7 inserts new regulations 107A to 107E.

New regulation 107A applies where no longer period is applicable to the taxable person.

New regulation 107B applies where a longer period is applicable to the taxable person. Both regulations 107A and 107B provide for an adjustment to be made where the input tax attributed to taxable supplies under the method specified in regulation 101 differs substantially from an attribution based on the use or intended use of the input goods and services.

New regulation 107C defines “substantial” in relation to the difference referred to in new regulations 107A and 107B.

New regulation 107D defines “successor” for the purposes of substituted regulation 99(1)(a) and new regulations 107A and 107B.

New regulation 107E provides for a threshold which is the amount of residual input tax incurred by a taxable person below which new regulations 107A and 107B shall not apply. This regulation also contains a provision whereby this threshold is halved in the case of group undertakings other than members of the same VAT group.