
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 11th December 2003 (for the purposes of Part 5 – bad debt relief) and 1st January 2004 (for all other purposes), further amend the Value Added Tax Regulations 1995 (S.I.1995/2518) (“the principal Regulations”).

Regulation 1 makes discrete provision in relation to commencement.

Invoicing

Part 2 of these Regulations makes amendments to the principal Regulations to implement Council Directive 2001/115/EC (OJ L015,17.01.02 p.24). A transposition note in respect of this implementation is available at www.hmce.gov.uk.

Regulation 3 inserts an interpretation provision at the beginning of Part 3 of the principal Regulations (new regulation A13).

Regulation 4 makes amendments relating to self-billed invoices and the time of supply in relation to self-billing.

Regulation 5 inserts a new Regulation 13A, relating to the electronic transmission and storage of invoices.

Regulation 6 inserts a new regulation 13B enabling the Commissioners of Customs and Excise, by notice, to require an invoice received in the United Kingdom to be translated into English.

Regulation 7 makes amendments to the list of items of information required by regulation 14(1) to be shown on a VAT invoice.

Regulation 8 makes amendments to regulation 14(2) relating to VAT invoices provided to persons in other member States.

Regulation 9 amends regulation 14 by providing that the information required to be shown on a VAT invoice need only be shown once where a batch of invoices is sent to a single recipient.

Regulation 10 amends regulation 16(1) by increasing the amount below which a retailer need not provide a VAT invoice from £100 to £250.

Regulation 11 amends regulation 31 (records). Firstly a party to a self-billing agreement is required to retain a copy of any such agreement. Secondly all customers who are party to self-billing agreements must retain details of the name, address and registration number of every supplier with whom they have such an agreement.

Regulation 12 amends regulation 83 of the principal Regulations to provide, in relation to an acquisition of goods from another member State that, in addition to the time the supplier issues an invoice, the time of acquisition may be the time that an invoice of the necessary description is issued by the customer.

Regulations 13 and 16 make consequential amendments to regulations 84 and 89 respectively to remove references to section 6(9) of the Act (which was repealed by section 24(1)(a) of the Finance Act 2002 (c. 23)).

Regulation 14 makes a consequential amendment to regulation 87 following the amendment made in regulation 12 to regulation 83.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 15 amends regulation 88(2) to provide that, in addition to the existing circumstances, a self-billed invoice may create the time of supply.

A full regulatory impact assessment of the effect that implementation of the Directive will have on the costs of business was published on 1st November 2001 and is available at www.hmce.gov.uk.

Flat-rate scheme for small businesses

Part 3 of these Regulations makes provision in respect of the flat-rate scheme for small businesses established by Part 7A of the principal Regulations (“FRS”).

Regulation 17 amends regulation 55B of the principal Regulations so that the date with effect from which a person is authorised to operate the FRS is (unless he and the Commissioners agree to the contrary) determined by reference to the date of his request for authorisation, whether or not that request is made in writing.

Regulation 19 substitutes a new regulation 55H for regulations 55H to 55JA of the principal Regulations and also inserts a new regulation 55JB. The new regulation 55H sets out the basic rules regarding how a person operating the FRS must determine which appropriate percentage he must apply. These rules are not substantively changed, but are rewritten as a consequence of the new regulation 55JB. The new regulation 55JB provides for a reduction in the appropriate percentage for flat-rate traders in their first year of VAT registration.

Regulation 18 makes consequential amendments, including the addition of new definitions of “EDR” and “relevant date” for the purposes of the FRS.

Regulation 20 substitutes a new Table of categories of business and appropriate percentages in regulation 55K of the principal Regulations. Most of the categories and all of the appropriate percentages differ from those set out in the previous Table.

A full regulatory impact assessment on the changes to the FRS was published on 10th December 2003 and is available at www.hmce.gov.uk.

Partial Exemption

Part 4 of these Regulations deals with situations where the use of the partial exemption special method approved or directed under regulation 102 of the principal Regulations does not produce a result that is fair and reasonable. It applies to input tax incurred on or after 1 January 2004.

Regulation 21 inserts new regulations 102A to 102C into the principal Regulations.

New regulation 102A allows the Commissioners, where they consider a taxable person’s attribution of input tax according to his method in force under regulation 102 does not fairly and reasonably represent an attribution based on the use or intended use of the input goods and services, to serve on him a notice to that effect. Subsequently the taxable person must follow the procedure laid down in new regulation 102B.

New regulation 102B provides for an adjustment to be made where the input tax attributed to taxable supplies according to the method in force under regulation 102 differs from an attribution based on the use or intended use of the input goods and services. The procedure laid down in this regulation applies unless or until the Commissioners approve or direct a method under regulation 102, or allow the method specified in regulation 101 to be used.

New regulation 102C allows taxpayers to serve a notice on the Commissioners in the same circumstances as described in new regulation 102A. Where the Commissioners approve such a notice, the taxpayer must follow the procedure laid down in new regulation 102B.

A full regulatory impact assessment has not been produced for Part 4 of this instrument as it has no impact on the costs of business.

Bad Debt Relief

Part 5 of these Regulations amends regulation 171 of the principal Regulations in order to prevent potential avoidance.

Regulation 171 requires a person who has received a refund upon a claim for bad debt relief to repay this to the Commissioners of Customs and Excise to the extent that a payment for the relevant supply is subsequently received. However, by virtue of regulation 171(5), “payment” does not include a payment received by a person to whom a right to receive it has been assigned.

Part 5 of these Regulations limits the scope of the exclusion contained in regulation 171(5) by inserting new paragraphs (6), (7) and (8). These provide that, where the right to receive a payment is assigned on or after 11th December 2003, regulation 171(5) does not apply if the claimant and assignee are connected, as determined by section 839 of the [Income and Corporation Taxes Act 1988 \(c.1\)](#).

A full regulatory impact assessment has not been produced for Part 5 of this instrument as it has no impact on the costs of business.