

2005 No. 3290

VALUE ADDED TAX

**The Value Added Tax (Input Tax) (Reimbursement by
Employers of Employees' Business Use of Road Fuel)
Regulations 2005**

Made - - - - *30th November 2005*
Laid before the House of Commons *30th November 2005*
Coming into force - - *1st January 2006*

The Commissioners for Her Majesty's Revenue and Customs make the following regulations in exercise of the powers conferred on them by section 24(6)(a) of the Value Added Tax Act 1994(a):

1. These Regulations may be cited as the Value Added Tax (Input Tax) (Reimbursement by Employers of Employees' Business Use of Road Fuel) Regulations 2005 and come into force on 1st January 2006.

2. Regulation 5 shall apply where—

- (a) road fuel is supplied to a taxable person (employer) in circumstances where it is delivered to and paid for by his employee acting in his name and on his behalf for use by him (the employee) either in whole or in part for the purposes of the taxable person's business; and
- (b) the taxable person has agreed to reimburse and does so reimburse his employee for the cost of the road fuel so used in one of the ways specified in regulations 3 and 4.

3. Where all the road fuel is used for the purposes of the taxable person's business, by payment of the actual cost of the road fuel.

4. Where only part of the road fuel is used for the purposes of the taxable person's business, by payment of either—

- (a) an amount which represents the actual cost of the road fuel so used determined by—
 - (i) the total distances travelled by the vehicle in which the road fuel is used for the purposes of the taxable person's business; and
 - (ii) the cylinder capacity of that vehicle; or
- (b) the actual cost of the road fuel in circumstances where the taxable person will account for output tax on any private use under section 57 of the Value Added Tax Act 1994.

(a) 1994 c.23; section 96(1) defines "the Commissioners" as meaning the Commissioners of Customs and Excise and "regulations" as meaning regulations made by the Commissioners under that Act. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Her Majesty's Revenue and Customs Act 2005 (c.11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

5. Where this regulation applies, subject to regulation 6, the amount of input tax to be deducted by the taxable person under section 24(1) of the Value Added Tax Act 1994 in relation to the supply of road fuel referred to in regulation 2 shall be quantified by reference to the amount paid by him to his employee as reimbursement under regulation 3 or 4, as the case may be.

6. These regulations only apply where the taxable person holds a VAT invoice which contains the details prescribed by regulation 14(1), regulation 14(2) or regulation 16(1) of the Value Added Tax Regulations 1995(a) as may be applicable and, where so required, is made out to him as the recipient of the supply.

7. In these regulations, “use for the purposes of the taxable person’s business” means use for those purposes by the taxable person (employer) in making onward taxable supplies.

David Varney

Dave Hartnett

30th November 2005

Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations, which come into force on 1st January 2006, make provision in relation to the recovery of input tax by a taxable person (employer) in circumstances where road fuel is delivered to and paid for by his employee (acting in his employer’s name and on his behalf) for use either in whole or in part for the purposes of his employer’s business.

Regulation 2 specifies the circumstances in which regulation 5 shall apply, namely that the road fuel must be delivered to and paid for by an employee acting in his employer’s name and on his behalf for use by him in whole or in part for the purposes of his employer’s business in circumstances where there is an agreed reimbursement method in place.

Regulations 3 and 4 specify the reimbursement methods which a taxable person (employer) must use when reimbursing his employee for road fuel paid for on his behalf.

Regulation 5 specifies how much input tax the taxable person (employer) can deduct under section 24(1) of the Value Added Tax Act 1994 and provides that any deduction shall be quantified by reference to the amount which he has reimbursed his employee.

Regulation 6 provides that the regulations can only apply where the taxable person (employer) holds the appropriate VAT invoice which relates to the supply of road fuel in question and, where required, is made out to him as the recipient of the supply.

Regulation 7 explains that “use for the purposes of the taxable person’s business” means use for those purposes by the taxable person (employer) in making onward taxable supplies.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of businesses, charities or voluntary bodies.

(a) S.I. 1995/2518; relevant amending instruments are S.I.1995/3147, S.I. 1996/1250 and S.I. 2003/3220.

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