

2007 No. 2922

VALUE ADDED TAX

The Value Added Tax (Amendment) (No. 6) Regulations 2007

Made - - - - *10th October 2007*

Laid before the House of Commons *11th October 2007*

Coming into force - - *1st November 2007*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred upon them by paragraph 7(2), (3) and (4) of Schedule 7 to the Value Added Tax Act 1994(a):

1. These Regulations may be cited as the Value Added Tax (Amendment) (No. 6) Regulations 2007 and come into force on 1st November 2007.
2. The Value Added Tax Regulations 1995(b) are amended as follows.
3. After regulation 116 insert—

“PART 15A

**GOODS USED FOR NON-BUSINESS PURPOSES DURING THEIR
ECONOMIC LIFE**

Application

116A. This Part makes provision for calculating the full cost to a person of providing the supply of services (“relevant supply”) that is treated as made pursuant to paragraph 5(4) of Schedule 4 to the Act where goods that are held or used for the purposes of a business are used for private or non-business purposes. Where goods that are held or used for the purposes of a business have an economic life (see regulations 116C, 116D, 116G and 116L) at the time when they are used for private or non-business purposes, the value or part of the value of the relevant supply which is referable to that use on or after 1st November 2007 shall be calculated in accordance with the regulations in this Part.

(a) 1994 c.23; section 96(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise and “regulations” as meaning the regulations made by the Commissioners under the 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 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. Paragraph 7(2), (3) and (4) of the Value Added Tax Act 1994 was inserted by section 99(5) of the Finance Act 2007 (c. 11).

(b) S.I. 1995/2518 to which there are amendments not relevant to these Regulations.

Interpretation of this Part

116B. In this Part—

“full cost of the goods” means the full cost of the goods to the person (being the person making the relevant supply or any of his predecessors) who, in relation to the VAT on the goods mentioned in paragraph 5(5) of Schedule 4 to the Act, is described in that paragraph as being entitled to—

- (a) credit under sections 25 and 26 of the Act; or
- (b) a repayment under the scheme made under section 39 of the Act;

“goods” includes land forming part of the assets of, or held or used for the purposes of a business which is treated as goods for the purposes of paragraph 5 of Schedule 4 to the Act by virtue of paragraph 9 of that Schedule and references to goods being held or used for the purposes of a business shall be construed accordingly;

“predecessor” has the same meaning as it does in paragraph 5 of Schedule 4 to the Act.

Economic life of goods

116C. Goods held or used for the purposes of a business have an economic life being (subject to regulations 116G and 116L) the period of time commencing on the day when they are first used for any purpose after they have been supplied to, or acquired or imported by, a person or any of his predecessors and lasting for a period of—

- (a) 120 months in the case of land, a building or part of a building (but this is subject to regulation 116D); and
- (b) 60 months for all other goods.

116D. Where the economic life of the interest of a person, or any of his predecessors, in land, a building or part of a building commences at a time when that interest has less than 120 months to run at that time, it shall be limited to the number of months remaining before expiry of that interest and element B of the formula in regulation 116E and element D of the formula contained in regulation 116L shall be construed accordingly.

Value of a relevant supply

116E. Subject to regulations 116F, 116H and 116I, the value of a relevant supply is the amount determined using the formula—

$$\frac{A}{B} \times (C \times U\%)$$

where—

A is the number of months in the prescribed accounting period during which the relevant supply occurs which fall within the economic life of the goods concerned;

B is the number of months of the economic life of the goods concerned or, in the case of an economic life commencing on 1st November 2007 by virtue of regulation 116L, what would have been its duration if it had been determined according to regulations 116C or 116G as appropriate;

C is the full cost of the goods excluding any increase resulting from a supply of goods or services giving rise to a new economic life; and

U% is the extent, expressed as a percentage, to which the goods are put to any private use or used, or made available for use, for non-business purposes as compared with the total use made of the goods during the part of the prescribed accounting period occurring within the economic life of the goods.

116F. Where a prescribed accounting period in which a relevant supply occurs immediately follows a prescribed accounting period during which the goods whose use give rise to that supply were not used or made available for use for any purpose, element “A” of the formula in regulation 116E shall (without prejudice to any other element of the formula) comprise the total number of months falling within the economic life concerned covered by—

- (a) the prescribed accounting period in which the relevant supply occurs; and
- (b) all preceding prescribed accounting periods which commence after the end of the prescribed accounting period during which the goods were last used or made available for use for any purpose before the prescribed accounting period in which the relevant supply occurs.

Later increase in the full cost of goods

116G. Where—

- (a) a supply of goods or services is made to a person or any of his predecessors in respect of any goods held or used for the purposes of a business (whether or not the goods have an economic life in relation to that person at that time);
- (b) VAT is chargeable on that supply which is eligible (in whole or part) for credit under sections 25 and 26 of the Act or repayment under section 39 of the Act; and
- (c) by virtue of that supply, the full cost of the goods is greater than their full cost immediately before that supply,

a new economic life shall, without prejudice to any other economic life having effect in relation to those goods, be treated as commencing in respect of them in accordance with regulation 116C as if they had been supplied, acquired or imported at the time when the supply of goods or services is made.

Value of relevant supplies made during a new economic life

116H. Subject to regulation 116I, the calculation of the value of a relevant supply made during a new economic life in accordance with the formula in regulation 116E is varied so that—

C is the increase in the full cost of the goods resulting from the supply of the goods or services giving rise to the new economic life; and

U% is the extent, expressed as a percentage, to which the goods are put to any private use or used, or made available for use, for non-business purposes as compared with the total use made of the goods during the part of the prescribed accounting period occurring during the new economic life of the goods.

Value of relevant supplies of goods which have two or more economic lives

116I. Where a relevant supply occurs in relation to goods that have two or more economic lives at the time when they are put to private use or used, or made available for use, for non-business purposes, the value of that supply shall be such amount as represents the total of the amounts calculated in accordance with regulation 116E (as varied by regulation 116H as appropriate) in respect of those economic lives.

Transitional provisions

116J. Regulation 116L applies to an economic life that—

- (a) would be treated as commencing before 1st November 2007 if that regulation did not apply; and
- (b) relates to goods that, before that day, have been put to any private use or used, or made available for use, for non-business purposes by the person described in

regulation 116K or any of his predecessors (whether or not a relevant supply arising from that use has been treated as made before that day).

116K. The person referred to in regulation 116J(b) is the person who holds or uses the goods concerned for the purposes of his business on 1st November 2007.

116L. An economic life of goods to which this regulation applies shall be treated as commencing on 1st November 2007 and lasting for the period of time determined using the formula—

$$D \times \frac{(E - F)}{E}$$

where—

D is the number of months which would have been the duration of the economic life concerned if it had commenced in accordance with regulation 116C or had been treated as having commenced in accordance with that regulation by virtue of regulation 116G;

E is the value of element “C” of the formula contained in regulation 116E (as varied where appropriate in relation to that economic life by regulation 116H) for the purpose of determining the whole or, where the use occurs at a time when the goods have two or more economic lives at that time, part of the value of a relevant supply arising from the use of the goods during the economic life concerned;

F is the value determined using the formula—

$$\frac{(G \times 100)}{(X\% \times 100)}$$

where—

G is the total value of relevant supplies of the goods on which VAT has been or will be accounted for in respect of such relevant supplies arising from the goods being put to any private use or used, or made available for use, for non-business purposes before 1st November 2007 (whether or not such supplies are treated as made before or after that day) to the extent that the value of the relevant supplies comprised in the total value was determined by reference to the value of element “E” of the formula used in this regulation in respect of the economic life concerned; and

X% is the extent, expressed as a percentage, to which the goods have been put to any private use or used, or made available for use, for non-business purposes during the period described in regulation 116M as compared with the total use made of the goods in that period.

116M. The period referred to in regulation 116L is the period of time commencing at the time when the economic life concerned would have commenced if it had commenced in accordance with regulation 116C or had been treated as having commenced in accordance with that regulation by virtue of regulation 116G and ending immediately before 1st November 2007.

116N. Where a person has claimed deduction of input tax on goods which was incurred within the period of two years ending on 21st March 2007, he may withdraw that claim in whole or part as if it were made in error (but not so as to render him liable to any penalty or payment of interest in respect of that claim) provided that—

- (a) the goods have not been used for any purpose before the claim is withdrawn;
- (b) he intends or expects that the goods will be put to private or non-business purposes during their economic life;

- (c) the withdrawal is in respect of—
 - (i) all of the input tax claimed on the goods; or
 - (ii) the part of the input tax claimed on the goods which is referable to his intended use of those goods for purposes other than those of his business; and
- (d) the withdrawal is made in accordance with regulation 35 (whatever the amount of the claim that is withdrawn) before 1st February 2008.”.

Mike Eland
Steve Lamey

10th October 2007

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 in to force on 1st November 2007 amend the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the Regulations”).

Paragraph 5(4) of Schedule 4 to the Value Added Tax Act 1994 (“the Act”) treats a supply of services (“relevant supply”) as occurring where goods, which are used for business purposes and on which VAT has been deducted by the business, are used for private or non-business purposes. These regulations insert Part 15A of the Regulations (regulations 116A to 116N) and provide for the calculation of the value of relevant supplies.

Regulation 116A provides that where a relevant supply of goods occurs during their economic life, the whole or part of the value of the supply which is referable to the use of the goods on or after 1st November 2007 is calculated in accordance with Part 15A of the Regulations.

Regulation 116B provides for the interpretation of Part 15A. The meaning of “goods” is extended to include land held or used for business purposes and references in the regulations to the ‘full cost of the goods’ is defined by reference of the cost of the goods upon which credit or repayment of VAT has been made by the person making the relevant supply or a predecessor.

Regulations 116C and 116D provide for the duration of the economic life of goods. The economic life of goods is 60 months. The economic life of land is 120 months but this is limited to the duration of the maker of the relevant supply’s interest in the land where that is less than 120 months at the time when first use of the land occurs.

Regulation 116E determines the value of a relevant supply. The calculation is by reference to a formula that applies the proportion of private or non-business use of the goods made during the prescribed accounting period in which the supply occurs to the proportion of the total cost of the goods attributable to the part of that period occurring within the economic life of the goods.

Regulation 116F varies the formula contained in regulation 116E for determining the value of a relevant supply where the accounting period in which the relevant supply occurs is preceded by one or more prescribed accounting periods when the goods were not used or made available for use for any purpose.

Regulation 116G provides for the commencement of a new economic life where a supply of goods or services is made which increases the full cost of the goods from that applying immediately before the supply. The commencement of a new economic life upon the first use of the goods after the supply giving rise to that life will not prejudice any existing economic life and will run concurrently with it for the remainder of the existing economic life.

Regulations 116H and 116I make provision for the value of relevant supplies of goods during their new economic life. Regulation 116H varies the formula in regulation 116E so that the value of a relevant supply made in respect of the goods is determined only by reference to the increase in the full cost of the goods resulting from the supply giving rise to the new economic life and the private or non-business use made of them during the new economic life. Regulation 116I provides that where a relevant supply occurs in relation to land or a building which has two or more economic lives at that time, the value of the supply is the total of the amounts calculated in accordance with regulation 116E as varied by regulation 116H as appropriate.

Regulation 116J provides that regulation 116L applies in relation to an economic life in respect of goods which have been put to private use or used, or made available for use, for non-business purposes before 1st November 2007 by the person described in regulation 116K or any of his predecessors. The person described in regulation 116K is the person who holds or uses the goods concerned for the purposes of his business on 1st November 2007.

Regulations 116L and 116M determine the duration of an economic life treated by that regulation as commencing on 1st November 2007 by reference to a formula that takes into account the value of relevant supplies arising from the use of the goods before 1st November 2007.

Regulation 116N permits a person who, within 2 years ending on 21st March 2007, has claimed VAT in respect of goods which he intends or expects will be put to private or non-business use during their economic life to withdraw whole of the claim (or the part referable to non-business use) provided the goods have not been used and the withdrawal is made in accordance with regulation 35 of the Regulations before 1st February 2008.

A full regulatory impact assessment of the effect that the change made by this Order will have on the costs of business is available at www.hmrc.gov.uk.

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