

**2020 No. 1384**

**VALUE ADDED TAX**

**The Value Added Tax (Amendment) Regulations 2020**

*Made* - - - - *30th November 2020*

*Laid before the House of Commons* *1st December 2020*

*Coming into force* - - *1st January 2021*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 54(1) and (6)(a) and (b) of the Value Added Tax Act 1994(a).

**Citation and commencement**

1. These Regulations may be cited as the Value Added Tax (Amendment) Regulations 2020 and come into force on 1st January 2021.

**Amendment of the Value Added Tax Regulations 1995**

2.—(1) The Value Added Tax Regulations 1995(b) are amended as follows.

(2) In regulation 202—

(a) the existing text becomes paragraph (1);

(b) in paragraph (1), before the definition of “certified person” insert—

““certification anniversary” means, in relation to a person, an anniversary of the date on which that person’s certification takes effect pursuant to regulation 205;”;

(c) after paragraph (1) insert—

“(2) For the purposes of this Part, a person is associated with another person at any time if that other person makes supplies in the course or furtherance of a business carried on by the other person and—

(a) the business of one is under the dominant influence of the other, or

(b) the persons are closely bound to one another by financial, economic and organisational links.”.

(3) In regulation 204—

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(a) 1994 c. 23 (“the Act”); section 96(1) of the Act defines “the Commissioners” as meaning “the Commissioners of Customs and Excise”, “prescribed” as meaning prescribed by regulations and “regulations” as meaning 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(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11), section 50(1) of which 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. Section 54 of the Act was amended by paragraph 4 of Schedule 28, and paragraph 7 of Schedule 29 to the Finance Act 2012 (c. 14). There is an amendment to section 54 made by paragraph 54 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c. 22) which has yet to be commenced.

(b) S.I. 1995/2518; amended by S.I. 2012/1899; there are other amending instruments but none is relevant.

- (a) omit “and” at the end of paragraph (c);
  - (b) for paragraph (d) substitute—
    - “(d) he satisfies the Commissioners that the total value of taxable supplies made by him in the course or furtherance of the relevant part of his business in the period of one year ending with the date of the application is £150,000 or less, and
    - (e) he is not, and has not been within the past 24 months—
      - (i) eligible to be registered for VAT in the name of a group under section 43A of the Act,
      - (ii) registered for VAT in the name of a division under section 46(1) of the Act, or
      - (iii) associated with another person.”.
- (4) In regulation 206—
- (a) in paragraph (1)—
    - (i) for sub-paragraph (i) substitute—
      - “(i) the total value of taxable supplies made by him in the course or furtherance of the relevant part of his business in the period of one year ending on a certification anniversary is more than £230,000,
      - (ia) at the end of any month, the total value of taxable supplies made by him in the course or furtherance of the relevant part of his business in the period of 30 days then ending is more than £230,000,
      - (ib) he becomes—
        - (i) eligible to be registered for VAT in the name of a group under section 43A of the Act,
        - (ii) registered for VAT in the name of a division under section 46(1) of the Act, or
        - (iii) associated with another person, or”;
      - (ii) in sub-paragraph (j), for “(h)” substitute “(ib)”;
  - (b) in paragraph (2)—
    - (i) for sub-paragraph (i) substitute—
      - “(i) the certification anniversary on which the total value of taxable supplies made by him in the course or furtherance of the relevant part of his business for a period of one year then ending is more than £230,000,
      - (ia) the date on which the total value of taxable supplies made by him in the course or furtherance of the relevant part of his business in the period of 30 days then ending is more than £230,000,
      - (ib) the date he becomes—
        - (i) eligible to be registered for VAT in the name of a group under section 43A of the Act,
        - (ii) registered for VAT in the name of a division under section 46(1) of the Act, or
        - (iii) associated with another person, or”;
      - (ii) in sub-paragraph (j), for “(h)” substitute “(ib)”.
- (5) After regulation 206 insert—

**“Notification to Commissioners**

**206A.**— (1) A person must notify the Commissioners in writing if—

- (a) on any certification anniversary, the total value of taxable supplies made in the course or furtherance of the relevant part of that person’s business in the period of one year then ending is more than £230,000,
  - (b) at the end of any month, the total value of taxable supplies made in the course or furtherance of the relevant part of that person’s business in the period of 30 days then ending is more than £230,000, or
  - (c) that person becomes—
    - (i) eligible to be registered for VAT in the name of a group under section 43A of the Act,
    - (ii) registered for VAT in the name of a division under section 46(1) of the Act, or
    - (iii) associated with another person.
- (2) If a person is required to notify the Commissioners under this regulation, that person must do so within 30 days of—
- (a) in the case of paragraph (1)(a), the relevant certification anniversary,
  - (b) in the case of paragraph (1)(b), the end of the relevant month, or
  - (c) in the case of paragraph (1)(c), the date on which the relevant event occurs.”.

*Jim Harra*  
*Angela MacDonald*

30th November 2020

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

### **EXPLANATORY NOTE**

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

These Regulations amend Part 24 of the Value Added Tax Regulations 1995 (“the VAT Regulations”) in relation to the agricultural flat-rate scheme (“AFRS”).

Regulation 2(2) makes changes in relation to regulation 202 of the VAT Regulations by inserting a new definition of certification anniversary and a new definition to outline the circumstances in which a person is associated with another person.

Regulation 2(3) replaces existing regulation 204(d) of the VAT Regulations with two new conditions which a person must satisfy in order to be certified for the AFRS. These conditions are that the total value of their taxable supplies for the relevant part of their business is £150,000 or less and they are not eligible to be registered for VAT in the name of a group, registered for VAT in the name of a division or associated with another person.

Regulation 2(4) amends regulation 206 of the VAT Regulations, which concerns the circumstances in which the Commissioners for Her Majesty’s Revenue and Customs may cancel a person’s AFRS certificate, by substituting, in both paragraphs (1) and (2), existing sub-paragraphs (i) and inserting new sub-paragraphs (ia) and (ib). These new provisions provide that the Commissioners may cancel a person’s certificate if the total value of a person’s taxable supplies for the relevant part of their business exceeds £230,000 in the period of one year ending with the anniversary of their certification for the AFRS, or if this amount is exceeded in a 30 day period at the end of a month, as well as if the person becomes eligible to be registered for VAT in the name of a group, registered for VAT in the name of a division or associated with another person.

Regulation 2(5) inserts new regulation 206A in the VAT Regulations, which provides that persons certified under the AFRS must notify the Commissioners in writing within 30 days if the circumstances in new regulation 206(1)(i), (ia) or (ib) apply to them.

A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

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