



Finance Act 1999

1999 CHAPTER 16

PART II

VALUE ADDED TAX

12 Works of art, antiques, etc

- (1) In subsection (4) of section 21 of the Value Added Tax Act 1994 (which treats as reduced for VAT purposes the value of goods falling within subsection (5) of that section and imported from outside the EU)—
 - (a) at the beginning there shall be inserted “Subject to subsection (6D) below,”; and
 - (b) for “14.29 per cent.” there shall be substituted “28.58 per cent.”
- (2) For subsections (5) and (6) of that section there shall be substituted the following subsections—
 - “(5) The goods that fall within this subsection are—
 - (a) any work of art;
 - (b) any antique, not falling within paragraph (a) above or (c) below, that is more than one hundred years old;
 - (c) any collection or collector’s piece that is of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic, numismatic or philatelic interest.
 - (6) In this section “work of art” means, subject to subsections (6A) and (6B) below—
 - (a) any mounted or unmounted painting, drawing, collage, decorative plaque or similar picture that was executed by hand;
 - (b) any original engraving, lithograph or other print which—
 - (i) was produced from one or more plates executed by hand by an individual who executed them without using any mechanical or photomechanical process; and

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- (ii) either is the only one produced from the plate or plates or is comprised in a limited edition;
 - (c) any original sculpture or statuary, in any material;
 - (d) any sculpture cast which—
 - (i) was produced by or under the supervision of the individual who made the mould or became entitled to it by succession on the death of that individual; and
 - (ii) either is the only cast produced from the mould or is comprised in a limited edition;
 - (e) any tapestry or other hanging which—
 - (i) was made by hand from an original design; and
 - (ii) either is the only one made from the design or is comprised in a limited edition;
 - (f) any ceramic executed by an individual and signed by him;
 - (g) any enamel on copper which—
 - (i) was executed by hand;
 - (ii) is signed either by the person who executed it or by someone on behalf of the studio where it was executed;
 - (iii) either is the only one made from the design in question or is comprised in a limited edition; and
 - (iv) is not comprised in an article of jewellery or an article of a kind produced by goldsmiths or silversmiths;
 - (h) any mounted or unmounted photograph which—
 - (i) was printed by or under the supervision of the photographer;
 - (ii) is signed by him; and
 - (iii) either is the only print made from the exposure in question or is comprised in a limited edition;
- (6A) The following do not fall within subsection (5) above by virtue of subsection (6)(a) above, that is to say—
- (a) any technical drawing, map or plan;
 - (b) any picture comprised in a manufactured article that has been hand-decorated; or
 - (c) anything in the nature of scenery, including a backcloth.
- (6B) An item comprised in a limited edition shall be taken to be so comprised for the purposes of subsection (6)(d) to (h) above only if—
- (a) in the case of sculpture casts—
 - (i) the edition is limited so that the number produced from the same mould does not exceed eight; or
 - (ii) the edition comprises a limited edition of nine or more casts made before 1st January 1989 which the Commissioners have directed should be treated, in the exceptional circumstances of the case, as a limited edition for the purposes of subsection (6)(d) above;
 - (b) in the case of tapestries and hangings, the edition is limited so that the number produced from the same design does not exceed eight;
 - (c) in the case of enamels on copper—

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- (i) the edition is limited so that the number produced from the same design does not exceed eight; and
 - (ii) each of the enamels in the edition is numbered and is signed as mentioned in subsection (6)(g)(ii) above;
 - (d) in the case of photographs—
 - (i) the edition is limited so that the number produced from the same exposure does not exceed thirty; and
 - (ii) each of the prints in the edition is numbered and is signed as mentioned in subsection (6)(h)(ii) above.
- (6C) For the purposes of this section a collector's piece is of philatelic interest if—
 - (a) it is a postage or revenue stamp, a postmark, a first-day cover or an item of pre-stamped stationery; and
 - (b) it is franked or (if unfranked) it is not legal tender and is not intended for use as such.
- (6D) Subsection (4) above does not apply in the case of any goods imported from outside the member States if—
 - (a) the whole of the VAT chargeable on their importation falls to be relieved by virtue of an order under section 37(1); or
 - (b) they were exported from the United Kingdom during the period of twelve months ending with the date of their importation.”
- (3) This section has effect in relation to goods imported at any time on or after the day on which this Act is passed.

13 Gold

- (1) Notwithstanding the words preceding paragraph (a) in section 26(3) of the Value Added Tax Act 1994 (input tax allowable against output tax), regulations which—
 - (a) are made under section 26(3), and
 - (b) have effect in respect of exempt supplies which relate to gold,may provide that input tax is allowable, as being attributable to the supplies, only in relation to specified matters.
- (2) An order under section 31(2) of that Act (exempt supplies and acquisitions) which provides for certain supplies which relate to gold to be exempt supplies may—
 - (a) provide that a supply which would be an exempt supply by virtue of the order shall, if the supplier so chooses, be a taxable supply;
 - (b) make provision by reference to notices to be published by the Commissioners.
- (3) An order under section 37(1) of that Act (relief on importation of goods) which gives relief from VAT on certain importations of gold may make provision by reference to notices to be published by the Commissioners.
- (4) Provision made by virtue of subsection (2) or (3) above may be expressed—
 - (a) to apply only in specified circumstances;
 - (b) to apply subject to compliance with specified conditions (which may include conditions relating to general or specific approval of the Commissioners).
- (5) Regulations may—

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- (a) require specified persons to keep specified records in relation to specified transactions concerning gold;
 - (b) require specified persons to give specified information to the Commissioners about specified transactions concerning gold;
 - (c) provide for paragraph 10(2) of Schedule 11 to that Act (entry and inspection of premises) to apply in relation to specified transactions concerning gold as it applies in relation to the supply of goods under taxable supplies.
- (6) The provisions of that Act (including, in particular, section 97 and paragraph 6(2) to (6) of Schedule 11) shall apply in relation to regulations under subsection (5) above as they apply in relation to regulations under paragraph 6(1) of Schedule 11 to that Act.
- (7) In this section “the Commissioners” means the Commissioners of Customs and Excise.

14 Preparations etc. of meat, yeast or egg

Schedule 8 to the Value Added Tax Act 1994 (zero-rating) shall have effect, and be deemed always to have had effect, as if in Group 1 (food), in Note (6) (which provides that certain items which override the exceptions listed in that Group relate only to item 4 of the excepted items (non-alcoholic beverages)) for “Items 4 to 6” there were substituted “Items 4 to 7”.

15 Assignment of debts

- (1) In section 36 of the Value Added Tax Act 1994 (bad debts), for subsection (3) there shall be substituted—
- “(3) In subsection (2) above “the outstanding amount” means—
- (a) if at the time of the claim no part of the consideration written off in the claimant’s accounts as a bad debt has been received, an amount equal to the amount of the consideration so written off;
 - (b) if at that time any part of the consideration so written off has been received, an amount by which that part is exceeded by the amount of the consideration written off;
- and in this subsection “received” means received either by the claimant or by a person to whom has been assigned a right to receive the whole or any part of the consideration written off.”
- (2) In subsection (5)(e) of that section, for the words from “where” to the end of the paragraph there shall be substituted “where any part (or further part) of the consideration written off in the claimant’s accounts as a bad debt is subsequently received either by the claimant or, except in such circumstances as may be prescribed, by a person to whom has been assigned a right to receive the whole or any part of that consideration;”.
- (3) At the end of paragraph 7 of Schedule 11 to that Act (furnishing of information etc.) there shall be added—
- “(9) For the purposes of this paragraph a person to whom has been assigned a right to receive the whole or any part of the consideration for a supply of goods or services shall be treated as a person concerned in the supply.”

- (4) Until such day as the Commissioners may specify in regulations made under section 36 of that Act, Part XIX of the Value Added Tax Regulations 1995 (bad debt relief), except regulation 171, shall be read as if a reference to a payment being received by the claimant were a reference to a payment being received either by the claimant or by a person to whom a right to receive it has been assigned.
- (5) Subsections (1) and (4) above have effect for the purposes of the making of any refund or repayment after 9th March 1999, but do not have effect in relation to anything received on or before that day.

16 Groups of companies

Schedule 2 to this Act (which makes changes to provisions about the treatment of bodies corporate as members of a group) shall have effect.

17 Penalties for incorrect certificates

- (1) For subsections (1) and (2) of section 62 of the Value Added Tax Act 1994 (incorrect certificates as to zero-rating etc.) there shall be substituted the following subsections—

“(1) Subject to subsections (3) and (4) below, where—

(a) a person to whom one or more supplies are, or are to be, made—

(i) gives to the supplier a certificate that the supply or supplies fall, or will fall, wholly or partly within paragraph 1 of Schedule A1, Group 5 or 6 of Schedule 8 or Group 1 of Schedule 9, or

(ii) gives to the supplier a certificate for the purposes of section 18B(2)(d) or 18C(1)(c),

and

(b) the certificate is incorrect,

the person giving the certificate shall be liable to a penalty.

(1A) Subject to subsections (3) and (4) below, where—

(a) a person who makes, or is to make, an acquisition of goods from another member State prepares a certificate for the purposes of section 18B(1)(d), and

(b) the certificate is incorrect,

the person preparing the certificate shall be liable to a penalty.

(2) The amount of the penalty shall be equal to—

(a) in a case where the penalty is imposed by virtue of subsection (1) above, the difference between—

(i) the amount of the VAT which would have been chargeable on the supply or supplies if the certificate had been correct; and

(ii) the amount of VAT actually chargeable;

(b) in a case where it is imposed by virtue of subsection (1A) above, the amount of VAT actually chargeable on the acquisition.”

- (2) Subsection (1) above has effect in relation to certificates given or, as the case may be, prepared on or after the day on which this Act is passed.

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18 EC sales statements: time limits for assessments to penalties

- (1) For section 77(2) of the Value Added Tax Act 1994 (time limits for assessments under section 76) there shall be substituted the following subsections—
- “(2) Subject to subsection (5) below, an assessment under section 76 of an amount due by way of any penalty, interest or surcharge referred to in subsection (3) of that section may be made at any time before the expiry of the period of 2 years beginning with the time when the amount of VAT due for the prescribed accounting period concerned has been finally determined.
- (2A) Subject to subsection (5) below, an assessment under section 76 of a penalty under section 65 or 66 may be made at any time before the expiry of the period of 2 years beginning with the time when facts sufficient in the opinion of the Commissioners to indicate, as the case may be—
- (a) that the statement in question contained a material inaccuracy, or
- (b) that there had been a default within the meaning of section 66(1), came to the Commissioners' knowledge.”
- (2) Subsection (1) above has effect in relation to any amount by way of penalty, interest or surcharge which becomes due on or after the day on which this Act is passed.

19 Period before repayment supplement payable

- (1) Section 79 of the Value Added Tax Act 1994 (repayment supplement) shall be amended as follows.
- (2) In subsection (2)(b), for “the period of 30 days beginning on the date of the receipt by the Commissioners of that return or claim” there shall be substituted “the relevant period”.
- (3) After subsection (2) there shall be inserted—
- “(2A) The relevant period in relation to a return or claim is the period of 30 days beginning with the later of—
- (a) the day after the last day of the prescribed accounting period to which the return or claim relates, and
- (b) the date of the receipt by the Commissioners of the return or claim.”
- (4) In subsections (3) and (7), for “subsection (2)(b)” there shall be substituted “subsection (2A)”; and regulations under subsection (3) shall be construed accordingly.
- (5) This section has effect in relation to returns and claims received by the Commissioners on or after 9th March 1999.

20 Meaning of “business”

- (1) Section 94(3) of the Value Added Tax Act 1994 (meaning of “business”: public organisations) shall cease to have effect.
- (2) This section shall come into force in accordance with such provision as the Commissioners of Customs and Excise may make by order made by statutory instrument.

21 Accounting for VAT by Government departments

- (1) Where—
- (a) a Government department makes supplies of goods or services that are taxable supplies for the purposes of the Value Added Tax Act 1994, and
 - (b) its receipts include amounts paid to it in respect of the making of those supplies,
- the receipts of the department to be paid into the Consolidated Fund shall be confined to the amounts remaining after deducting, from the amounts otherwise falling to be paid into that Fund, all such amounts in respect of the department's liabilities to pay value added tax to the Commissioners of Customs and Excise as the department may be authorised to deduct in accordance with arrangements made by the Treasury.
- (2) Arrangements made by the Treasury for the purposes of this section shall apply only to such Government departments and in such cases, and shall have effect subject to such conditions and to the compliance by the department with such accounting and other requirements, as may be provided for in the arrangements.
- (3) In this section “Government department” includes any person or body of persons carrying out functions on behalf of the Crown or of any Minister of the Crown and any part of a Government department (as so defined) which is designated for the purposes of section 41 of the Value Added Tax Act 1994.
- (4) This section has effect in relation to the financial year beginning with 1st April 1999 and subsequent financial years and shall be deemed to have had effect in relation to earlier financial years.
- (5) For the purposes of applying this section in relation to the financial year beginning with 1st April 1999 or in relation to any earlier financial year, any arrangements applying to a Government department which—
- (a) were made or approved before the passing of this Act, and
 - (b) allowed that department to deduct amounts in respect of value added tax liabilities before making payments into the Consolidated Fund,
- shall be deemed to have been made by the Treasury for the purposes of this section.