



Value Added Tax Act 1983

1983 CHAPTER 55

Special cases

27 Application to Crown

- (1) This Act shall apply in relation to taxable supplies by the Crown as it applies in relation to taxable supplies by taxable persons.
- (2) Where the supply by a Government department of any goods or services does not amount to the carrying on of a business but it appears to the Treasury that similar goods or services are or might be supplied by taxable persons in the course or furtherance of any business, then, if and to the extent that the Treasury so direct, the supply of those goods or services by that department shall be treated for the purposes of this Act as a supply in the course or furtherance of any business carried on by it.
- (3) For the purposes of this section goods or services obtained by one Government department from another Government department shall be treated, if and to the extent that the Treasury so direct, as supplied by that other department and similarly as regards goods or services obtained by or from the Crown Estate Commissioners.
- (4) In this section " Government department" includes a Northern Ireland department, any body of persons exercising functions on behalf of a Minister of the Crown, and any part of a Government department (as defined in the foregoing) designated for the purposes of this subsection by a direction of the Treasury.

28 Local authorities

- (1) A local authority which makes taxable supplies is liable to be registered under this Act, whatever the value of the supplies; and accordingly Schedule 1 to this Act shall apply, in a case where the value of the taxable supplies made by a local authority in any period of one year does not exceed the sum for the time being specified in paragraph 1(a)(ii) of that Schedule, as if that value exceeded that sum.
- (2) In this section " local authority " has the same meaning as in section 20 above.

29 Groups of companies

- (1) Where, under the following provisions of this section, any bodies corporate are treated as members of a group any business carried on by a member of the group shall be treated as carried on by the representative member, and—
 - (a) any supply of goods or services by a member of the group to another member of the group shall be disregarded ; and
 - (b) any other supply of goods or services by or to a member of the group shall be treated as a supply by or to the representative member; and
 - (c) any tax paid or payable by a member of the group on the importation of any goods shall be treated as paid or payable by the representative member and the goods shall be treated for the purposes of section 25 above and paragraph 4(6) of Schedule 7 to this Act as imported by the representative member;and all members of the group shall be liable jointly and severally for any tax due from the representative member.
- (2) An order under section 3(5) or (6) above may make provision for securing that any goods or services which, if all the members of the group were one person, would fall to be treated under that section as supplied to and by that person, are treated as supplied to and by the representative member.
- (3) Two or more bodies corporate resident in the United Kingdom are eligible to be treated as members of a group if—
 - (a) one of them controls each of the others ; or
 - (b) one person (whether a body corporate or an individual) controls all of them ; or
 - (c) two or more individuals carrying on a business in partnership control all of them.
- (4) Where an application to that effect is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then, from the beginning of a prescribed accounting period they shall be so treated, and one of them shall be the representative member, unless the Commissioners refuse the application; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue.
- (5) Where any bodies corporate are treated as members of a group and an application to that effect is made to the Commissioners, then, from the beginning of a prescribed accounting period—
 - (a) a further body eligible to be so treated shall be included among the bodies so treated ; or
 - (b) a body corporate shall be excluded from the bodies so treated; or
 - (c) another member of the group shall be substituted as the representative member ; or
 - (d) the bodies corporate shall no longer be treated as members of a group,unless the application is to the effect mentioned in paragraph (a) or paragraph (c) above and the Commissioners refuse the application ; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue.
- (6) Where a body corporate is treated as a member of a group as being controlled by any person and it appears to the Commissioners that it has ceased to be so controlled, they shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.

- (7) An application under this section with respect to any bodies corporate must be made by one of those bodies or by the person controlling them and must be made not less than 90 days before the date from which it is to take effect, or at such later time as the Commissioners may allow.
- (8) For the purposes of this section a body corporate shall be taken to control another body corporate if it is empowered by statute to control that body's activities or if it is that body's holding company within the meaning of the Companies Act 1948; and an individual or individuals shall be taken to control a body corporate if he or they, were he or they a company, would be that body's holding company within the meaning of that Act.

30 Partnerships

- (1) The registration under this Act of persons carrying on a business in partnership may be in the name of the firm; and no account shall be taken, in determining for any purpose of this Act whether goods or services are supplied to or by such persons, of any change in the partnership.
- (2) Without prejudice to section 36 of the Partnership Act 1890 (rights of persons dealing with firm against apparent members of firm), until the date on which a change in the partnership is notified to the Commissioners a person who has ceased to be a member of a partnership shall be regarded as continuing to be a partner for the purposes of this Act and, in particular, for the purpose of any liability for tax on the supply of goods or services by the partnership.
- (3) Where a person ceases to be a member of a partnership during a prescribed accounting period (or is treated as so doing by virtue of subsection (2) above) any notice, whether of assessment or otherwise, which is served on the partnership and relates to, or to any matter arising in, that period or any earlier period during the whole or part of which he was a member of the partnership shall be treated as served also on him.
- (4) Without prejudice to section 16 of the Partnership Act 1890 (notice to acting partner to be notice to the firm) any notice, whether of assessment or otherwise, which is addressed to a partnership by the name in which it is registered by virtue of subsection (1) above and is served in accordance with this Act shall be treated for the purposes of this Act as served on the partnership and, accordingly, where subsection (3) above applies, as served also on the former partner.
- (5) Subsections (1) and (3) above shall not affect the extent to which, under section 9 of the Partnership Act 1980, a partner is liable for tax owed by the firm; but where a person is a partner in a firm during part only of a prescribed accounting period his liability for tax on the supply by the firm of goods or services during that accounting period shall be such proportion of the firm's liability as may be just.

31 Business carried on in divisions or by unincorporated bodies, personal representatives, etc.

- (1) The registration under this Act of a body corporate carrying on a business in several divisions may, if the body corporate so requests and the Commissioners see fit, be in the names of those divisions.
- (2) The Commissioners may by regulations make provision for determining by what persons anything required by or under this Act to be done by a person carrying on

a business is to be done where a business is carried on in partnership or by a club, association or organisation the affairs of which are managed by its members or a committee or committees of its members.

- (3) The registration under this Act of any such club, association or organisation may be in the name of the club, association or organisation; and in determining whether goods or services are supplied to or by such a club, association or organisation, no account shall be taken of any change in its members.
- (4) The Commissioners may by regulations make provision for persons who carry on a business of a taxable person who has died or become bankrupt or incapacitated to be treated for a limited time as taxable persons, and for securing continuity in the application of this Act in cases where persons are so treated.

32 Agents, etc.

- (1) Where a person who is accountable for any tax, or on whom any duties are imposed by or under this Act, is not resident in the United Kingdom, the Commissioners may by notice in writing served on any agent, manager or factor who is resident in the United Kingdom and has acted on behalf of that person in matters by reference to which that person is accountable or the duties are imposed, direct that he shall be substituted for that person as the person accountable for the tax or that he shall be under an obligation to discharge those duties or any of them.
- (2) For the purposes of this Act goods imported by a taxable person and supplied by him as agent for a person who is not a taxable person may be treated as imported and supplied by the taxable person as principal.
- (3) For the purposes of subsection (2) above a person who is not resident in the United Kingdom and whose place or principal place of business is outside the United Kingdom may be treated as not being a taxable person if as a result he will not be required to be registered under this Act.
- (4) Where goods or services are supplied through an agent who acts in his own name the Commissioners may, if they think fit, treat the supply both as a supply to the agent and as a supply by the agent.

33 Transfers of going concerns

- (1) Where a business carried on by a taxable person is transferred to another person as a going concern, then—
 - (a) for the purpose of determining whether the transferee is liable to be registered under this Act he shall be treated as having carried on the business before as well as after the transfer and supplies by the transferor shall be treated accordingly; and
 - (b) any records relating to the business which, under paragraph 7 of Schedule 7 to this Act, are required to be preserved for any period after the transfer shall be preserved by the transferee instead of by the transferor, unless the Commissioners, at the request of the transferor, otherwise direct.
- (2) Without prejudice to subsection (1) above, the Commissioners may by regulations make provision for securing continuity in the application of this Act in cases where a business carried on by a taxable person is transferred to another person as a going concern and the transferee is registered under this Act in substitution for the transferor.

- (3) Regulations under subsection (2) above may, in particular, provide—
- (a) for liabilities and duties under this Act of the transferor to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee; and
 - (b) for any right of either of them to repayment or credit in respect of tax to be satisfied by making a repayment or allowing a credit to the other;
- but no such provision as is mentioned in paragraph (a) or (b) of this subsection shall have effect in relation to any transferor and transferee unless an application in that behalf has been made by them under the regulations.

34 Terminal markets

- (1) The Treasury may by order make provision for modifying the provisions of this Act in their application to dealings on terminal markets and such persons ordinarily engaged in such dealings as may be specified in the order, subject to such conditions as may be so specified.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may include provision—
- (a) for zero-rating the supply of any goods or services or for treating the supply of any goods or services as exempt;
 - (b) for the registration under this Act of any body of persons representing persons ordinarily engaged in dealing on a terminal market and for disregarding such dealings by persons so represented in determining liability to be registered under this Act, and for disregarding such dealings between persons so represented for all the purposes of this Act;
 - (c) for refunding, to such persons as may be specified by or under the order, input tax attributable to such dealings on a terminal market as may be so specified, and may contain such incidental and supplementary provisions as appear to the Treasury to be necessary or expedient.
- (3) An order under this section may make different provision with respect to different terminal markets and with respect to different commodities.

35 Supplies of dutiable goods in warehouse

- (1) Where imported goods subject to a duty of customs or excise or a duty of customs and a duty of excise are supplied while warehoused, the supply shall be disregarded for the purposes of this Act if the goods are supplied before payment of the duty to which they are subject or, where they are subject to a duty of customs and a duty of excise, of the duty of excise.
- (2) Where goods produced or manufactured in the United Kingdom subject to a duty of excise or such goods mixed with imported goods subject to a duty (whether of customs or excise) are supplied while warehoused and before payment of the duty, then—
- (a) if there is more than one such supply, any but the last such supply shall be disregarded for the purposes of this Act; and
 - (b) the supply or, if more than one, the last such supply shall be treated for the purposes of this Act as taking place when the duty is paid and the value of the supply shall be treated as including the duty ; and

- (c) the tax on the supply shall be payable, together with the duty, by the person by whom the duty is paid, except as otherwise provided by regulations under this section,

except that, if the goods are permitted to be removed from warehouse without payment of the duty, the supply (or last supply) shall be treated as taking place when the goods are so removed, the value of the supply shall not be treated as including the duty and the tax on the supply shall be payable by the person by whom the goods are removed.

- (3) The Commissioners may by regulations make provision for enabling goods which are supplied as mentioned in subsection (2) above, and are so supplied to a taxable person for the purpose of a business carried on by him, to be removed from warehouse without payment of the tax on the supply and for that tax to be accounted for together with the tax chargeable on the supply of goods or services by him.
- (4) Subsection (1) above applies in relation to any amount payable under section 6(5) of the European Communities Act 1972 as it applies in relation to a duty of customs.
- (5) For the purposes of subsection (2)(b) above the amount of any duty shall be taken to be the amount with any addition or deduction falling to be made under section 1 of the Excise Duties (Surcharges or Rebates) Act 1979 (surcharges and rebates in respect of excise duties).

36 Capital goods

- (1) The Treasury may by order make provision for the giving of relief, in such cases, to such extent and subject to such exceptions as may be specified in the order, from tax paid on the supply or importation for the purpose of a business carried on by any person of machinery or plant or any specified description of machinery or plant in cases where that tax or part of that tax cannot be credited under section 14 above and such other conditions are satisfied as may be specified in the order.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may provide for relief to be given by deduction or refunding of tax and for aggregating or excluding the aggregation of value where goods of the same description are supplied or imported together.
- (3) An order under this section may substitute a period exceeding three years but not exceeding six years as the period for which records relating to goods in respect of which relief is given under the order may be required to be preserved under paragraph 7(2) of Schedule 7 to this Act.

37 Trading stamp schemes

The Commissioners may by regulations make provision for modifying section 10 above and paragraph 6 of Schedule 4 to this Act in their application to the supply of goods under trading stamp schemes within the meaning of the Trading Stamps Act 1964 or the Trading Stamps Act (Northern Ireland) 1965.