



# Finance Act 1990

## 1990 CHAPTER 29

### PART I

#### CUSTOMS AND EXCISE AND VALUE ADDED TAX

### CHAPTER II

#### VALUE ADDED TAX

#### 10 Registration

(1) The Value Added Tax Act 1983 shall be amended as follows.

(2) For paragraph 1(1) to (3) of Schedule 1 (registration) there shall be substituted—

“(1) Subject to sub-paragraphs (3) to (5) below, a person who makes taxable supplies but is not registered becomes liable to be registered—

- (a) at the end of any month, if the value of his taxable supplies in the period of one year then ending has exceeded £25,400; or
- (b) at any time, if there are reasonable grounds for believing that the value of his taxable supplies in the period of thirty days then beginning will exceed £25,400.

(2) Where a business carried on by a taxable person is transferred to another person as a going concern and the transferee is not registered at the time of the transfer, then, subject to sub-paragraphs (3) to (5) below, the transferee becomes liable to be registered at that time if—

- (a) the value of his taxable supplies in the period of one year ending at the time of the transfer has exceeded £25,400; or
- (b) there are reasonable grounds for believing that the value of his taxable supplies in the period of thirty days beginning at the time of the transfer will exceed £25,400.

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- (3) A person does not become liable to be registered by virtue of sub-paragraph (1)(a) or (2)(a) above if the Commissioners are satisfied that the value of his taxable supplies in the period of one year beginning at the time at which, apart from this sub-paragraph, he would become liable to be registered will not exceed £24,400.”
- (3) In paragraph 1(4) of Schedule 1 after “(1)(a)” there shall be inserted “or (2)(a)”.
- (4) In paragraph 1(5) of Schedule 1 after “sub-paragraph (1)” there shall be inserted “or (2)”.
- (5) In paragraph 1(6) of Schedule 1 after “sub-paragraph (1)” there shall be inserted “or (2)”.
- (6) For paragraphs 3 and 4 of Schedule 1 there shall be substituted—
- “3 (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(a) above shall notify the Commissioners of the liability within thirty days of the end of the relevant month.
- (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the end of the month following the relevant month or from such earlier date as may be agreed between them and him.
- (3) In this paragraph “the relevant month”, in relation to a person who becomes liable to be registered, means the month at the end of which he becomes liable to be registered.
- 4 (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(b) above shall notify the Commissioners of the liability before the end of the period by reference to which the liability arises.
- (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the beginning of the period by reference to which the liability arises.
- 4A (1) A person who becomes liable to be registered by virtue of paragraph 1(2) above shall notify the Commissioners of the liability within thirty days of the time when the business is transferred.
- (2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the time when the business is transferred.
- 4B. Where a person becomes liable to be registered by virtue of paragraph 1(1)(a) above and by virtue of paragraph 1(1)(b) or 1(2) above at the same time, the Commissioners shall register him in accordance with paragraph 4(2) or 4A(2) above, as the case may be, rather than paragraph 3(2) above.”
- (7) Section 33(1A) (registration of transferee of business) shall cease to have effect.
- (8) In consequence of the amendment of paragraph 1 of Schedule 1, in section 28(1) (registration of local authorities) for “1(a)(ii)” there shall be substituted “1(1)(a)”.
- (9) Subsections (2) to (5) and (8) above shall be deemed to have come into force on 21st March 1990.

- (10) Subsections (6) and (7) above apply in relation to persons who become liable to be registered after 20th March 1990.

## **11 Bad debts**

- (1) Subsection (2) below applies where—
- (a) on or after 1st April 1989 a person has supplied goods or services for a consideration in money and has accounted for and paid tax on the supply,
  - (b) the whole or any part of the consideration for the supply has been written off in his accounts as a bad debt, and
  - (c) a period of two years (beginning with the date of the supply) has elapsed.
- (2) Subject to the following provisions of this section and to regulations under it the person shall be entitled, on making a claim to the Commissioners, to a refund of the amount of tax chargeable by reference to the outstanding amount.
- (3) In subsection (2) above “the outstanding amount” means—
- (a) if at the time of the claim the person has received no payment by way of the consideration written off in his accounts as a bad debt, an amount equal to the amount of the consideration so written off;
  - (b) if at that time he has received a payment or payments by way of the consideration so written off, an amount by which the payment (or the aggregate of the payments) is exceeded by the amount of the consideration so written off.
- (4) A person shall not be entitled to a refund under subsection (2) above unless—
- (a) the value of the supply is equal to or less than its open market value, and
  - (b) in the case of a supply of goods, the property in the goods has passed to the person to whom they were supplied or to a person deriving title from, through or under that person.
- (5) Regulations under this section may—
- (a) require a claim to be made at such time and in such form and manner as may be specified by or under the regulations;
  - (b) require a claim to be evidenced and quantified by reference to such records and other documents as may be so specified;
  - (c) require the claimant to keep, for such period and in such form and manner as may be so specified, those records and documents and a record of such information relating to the claim and to subsequent payments by way of consideration as may be so specified;
  - (d) require the repayment of a refund allowed under this section where any requirement of the regulations is not complied with;
  - (e) require the repayment of the whole or, as the case may be, an appropriate part of a refund allowed under this section where the claimant subsequently receives any payment (or further payment) by way of the consideration written off in his accounts as a bad debt;
  - (f) include such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section;
  - (g) make different provision for different circumstances.

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- (6) The provisions which may be included in regulations by virtue of subsection (5)(f) above may include rules for ascertaining—
- (a) whether, when and to what extent consideration is to be taken to have been written off in accounts as a bad debt;
  - (b) whether a payment is to be taken as received by way of consideration for a particular supply;
  - (c) whether, and to what extent, a payment is to be taken as received by way of consideration written off in accounts as a bad debt.
- (7) The provisions which may be included in regulations by virtue of subsection (5)(f) above may include rules dealing with particular cases, such as those involving part payment or mutual debts; and in particular such rules may vary the way in which the following amounts are to be calculated—
- (a) the outstanding amount mentioned in subsection (2) above, and
  - (b) the amount of any repayment where a refund has been allowed under this section.
- (8) No claim for a refund may be made under subsection (2) above in relation to a supply as regards which a refund is claimed, whether before or after the passing of this Act, under section 22 of the Value Added Tax Act 1983 (existing provision for refund in cases of bad debts).
- (9) Section 22 of that Act shall not apply in relation to any supply made after the day on which this Act is passed.
- (10) Sections 4 and 5 of that Act shall apply for determining the time when a supply is to be treated as taking place for the purposes of construing this section.
- (11) That Act shall be amended as follows—
- (a) in section 39(1A)(b) after the word “above” there shall be inserted the words “or section 11 of the Finance Act 1990”;
  - (b) in section 40(1)(f) after the words “section 22 above” there shall be inserted the words “or section 11 of the Finance Act 1990”.
- (12) In section 13(2) of the Finance Act 1985, the word “and” at the end of paragraph (b) shall be omitted and after paragraph (c) there shall be inserted the words “and
- (d) a refund under section 11 of the Finance Act 1990”.

## **12 Domestic accommodation**

- (1) Section 14 of the Value Added Tax Act 1983 (credit for input tax against output tax) shall be amended as follows.
- (2) The following subsection shall be inserted after subsection (3) (definition of “input tax”)—
- “(3A) For the purposes of subsection (3) above, where goods or services supplied to, or goods imported by, a company are used or to be used in connection with the provision of accommodation by the company, they shall not be treated as used or to be used for the purpose of any business carried on by the company to the extent that the accommodation is used or to be used for domestic purposes by—
- (a) a director of the company, or

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(b) a person connected with a director of the company.”

(3) The following subsection shall be inserted at the end—

“(11) For the purposes of this section “director” means—

- (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body;
- (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person;
- (c) in relation to a company whose affairs are managed by the members themselves, a member of the company;

and a person is connected with a director if that person is the director’s wife or husband, or is a relative, or the wife or husband of a relative, of the director or of the director’s wife or husband.”

(4) This section applies in relation to goods or services supplied, and goods imported, on or after the day on which this Act is passed.

### **13 Goods shipped as stores**

(1) In section 16 of the Value Added Tax Act 1983 (zero-rating) the following subsection shall be inserted after subsection (6) (goods shipped for use as stores etc)—

“(6A) Subsection (6)(b) above shall not apply in the case of goods shipped for use as stores on a voyage or flight to be made by the person to whom the goods were supplied and to be made for a purpose which is private.”

(2) This section applies in relation to supplies made after the day on which this Act is passed.

### **14 Supplies to groups**

(1) Section 29A of the Value Added Tax Act 1983 (supplies to groups) shall be amended as follows.

(2) In subsection (1) for “and (3)” there shall be substituted “to (3A)”.

(3) The following subsection shall be inserted after subsection (3)—

“(3A) Subsection (4) below shall not apply to the extent that the chargeable assets consist of capital items in respect of which regulations made under section 15(3) and (4) above, and in force when the assets are transferred, provide for adjustment to the deduction of input tax.”

(4) This section shall have effect in relation to transfers of assets made on or after 1st April 1990.

### **15 Power to assess.1983 c. 55**

(1) In paragraph 4(2) of Schedule 7 to the Value Added Tax Act 1983 after the words “so paid or credited,” there shall be inserted the words “or which would not have been so paid or credited had the facts been known or been as they later turn out to be,”.

(2) This section shall apply in relation to an amount paid or credited to a person after the day on which this Act is passed.

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## **16 Interest on tax etc. recovered or recoverable by assessment**

- (1) Section 18 of the Finance Act 1985 (interest on tax etc. recovered or recoverable by assessment) shall be amended as follows.
- (2) In subsection (1) for the words from “tax” to “rate” there shall be substituted the words “whole of the amount assessed shall carry interest at the prescribed rate from the reckonable date”.
- (3) In subsection (3) for the words from “that tax” to “rate” there shall be substituted the words “the whole of the amount paid shall carry interest at the prescribed rate from the reckonable date”.
- (4) Subsections (4) and (5) shall cease to have effect.
- (5) In subsection (7) for “(4) and (5)” there shall be substituted “(1) and (3)”.
- (6) This section applies in relation to assessments made on or after the day on which this Act is passed.