

SCHEDULES

SCHEDULE 3

VALUE ADDED TAX: ABOLITION OF FISCAL FRONTIERS ETC.

PART I

AMENDMENTS OF THE VALUE ADDED TAX ACT 1983 (C. 55)

Administration, collection and enforcement

- 64 (1) In paragraph 2 of Schedule 7 (regulations about accounting for and paying tax), in sub-paragraph (1)—
- (a) for “to other taxable persons to provide them” there shall be substituted “in such cases, or to persons of such descriptions, as may be so specified to provide the persons supplied”; and
 - (b) for the words from “the tax chargeable” onwards there shall be substituted “and of the persons by and to whom the goods or services are supplied and containing such an indication as may be required by the regulations of whether value added tax is chargeable on the supply under this Act or the law of another member State and such particulars of any value added tax which is so chargeable as may be so specified.”
- (2) In sub-paragraph (2) of that paragraph, for “and may allow for that time to be extended” there shall be substituted “or at such time before the supply is treated as taking place as may be required by the regulations, and may allow for an invoice to be issued later than required by the regulations where it is issued”.
- (3) After sub-paragraph (2) of that paragraph there shall be inserted the following sub-paragraphs—
- “(2A) Regulations under this paragraph may require the submission to the Commissioners by taxable persons, at such times and intervals, in such cases and in such form and manner as may be—
 - (a) specified in the regulations; or
 - (b) determined by the Commissioners in accordance with powers conferred by the regulations,of statements containing such particulars of transactions in which the taxable persons are concerned and which involve the movement of goods between member States, and of the persons concerned in those transactions, as may be prescribed.
 - (2B) Regulations under this paragraph may make provision in relation to cases where—

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- (a) any goods which are subject to a duty of excise or consist in a new means of transport are acquired in the United Kingdom from another member State by any person;
- (b) the acquisition of the goods is a taxable acquisition and is not in pursuance of a taxable supply; and
- (c) that person is not a taxable person at the time of the acquisition, for requiring the person who acquires the goods to give to the Commissioners such notification of the acquisition, and for requiring any tax on the acquisition to be paid, at such time and in such form or manner as may be specified in the regulations.

(2C) Regulations under this paragraph may provide for a notification required by virtue of sub-paragraph (2B) above—

- (a) to contain such particulars relating to the notified acquisition and any tax chargeable thereon as may be specified in the regulations; and
- (b) to be given, in prescribed cases, by the personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who makes that acquisition.”

(4) After sub-paragraph (3A) of that paragraph there shall be inserted the following sub-paragraphs—

“(3B) Regulations under this paragraph may make provision whereby, in such cases and subject to such conditions as may be determined by or under the regulations—

- (a) tax in respect of any supply by a taxable person of dutiable goods or of a chargeable vehicle within the meaning of the Car Tax Act 1983; or
- (b) tax in respect of an acquisition by any person from another member State of dutiable goods or of such a vehicle,

may be accounted for and paid, and any question as to the inclusion of any duty, car tax or agricultural levy in the value of the supply or acquisition determined, by reference to the duty point or, as the case may be, the time when the car tax becomes due or by reference to such later time as the Commissioners may allow.

In this sub-paragraph “dutiable goods” and “duty point” have the same meanings as in section 35 of this Act.

(3C) Regulations under this paragraph may provide for the time when any invoice described in regulations made for the purposes of section 5(3B)(b) or 8B(1)(b) of this Act is to be treated as having been issued and provide for tax accounted for and paid by reference to the date of issue of such an invoice to be confined to tax on so much of the value of the supply or acquisition as is shown on the invoice.”

65 In paragraph 3 of that Schedule (computer records of particulars contained in tax invoices), after sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(2A) Without prejudice to the generality of the powers conferred by virtue of sub-paragraph (3C) of paragraph 2 above, regulations made by virtue

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of that sub-paragraph may provide for the preceding provisions of this paragraph to apply, subject to such exceptions and adaptations as may be prescribed, in relation to any invoice which is described in regulations made for the purposes of section 5(3B)(b) or 8B(1)(b) of this Act, as they apply in relation to tax invoices.”

66 (1) In sub-paragraph (2A) of paragraph 4 of that Schedule (power of Commissioners to assess tax due), after “Schedule 1 to this Act” there shall be inserted “, paragraph 6(2) of Schedule 1A to this Act or paragraph 6(2) or (3) of Schedule 1B to this Act”.

(2) In sub-paragraph (5) of that paragraph (time limits)—

- (a) after the word “period”, in the first place where it occurs, there shall be inserted “must be made within the time limits provided for in section 22 of the Finance Act 1985 (ultimate time limits on assessments) and”; and
- (b) for the words after paragraph (b) there shall be substituted—

“but (subject to that section) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under sub-paragraph (1), (2) or (2A) above, another assessment may be made under that sub-paragraph, in addition to any earlier assessment.”

(3) In sub-paragraph (6) of that paragraph (deficiency of goods)—

- (a) for the words from “acquired” to the word “him”, in the first place where it occurs, there shall be substituted “in the course or furtherance of a business carried on by him, been supplied with any goods, acquired any goods from another member State or otherwise obtained possession or control of any goods or has, in the course or furtherance of such a business, imported any goods from a place outside the member States,”; and
- (b) for “from the United Kingdom otherwise than” there shall be substituted “or otherwise removed from the United Kingdom without being exported or so removed”.

67 After paragraph 4 of that Schedule there shall be inserted the following paragraph—

“Assessment of tax on acquisitions of certain goods by non-taxable persons

4A (1) Where a person who has, at a time when he was not a taxable person, acquired in the United Kingdom from another member State any goods subject to a duty of excise or consisting in a new means of transport and—

- (a) no notification of that acquisition has been given to the Commissioners by the person who is required to give one by regulations under paragraph 2(2B) above;
- (b) the Commissioners are not satisfied that the particulars relating to the acquisition in any notification given to them are accurate and complete; or
- (c) there has been a failure to supply the Commissioners with the information necessary to verify the particulars contained in any such notification,

they may assess the amount of tax due on the acquisition to the best of their judgment and notify their assessment to that person.

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(2) An assessment under this paragraph must be made within the time limits provided for in section 22 of the Finance Act 1985 (ultimate time limits on assessments) and shall not be made after whichever is the later of the following—

- (a) two years after the time when a notification of the acquisition of the goods in question is given to the Commissioners by the person who is required to give one by regulations under paragraph 2(2B) above;
- (b) one year after evidence of the facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge,

but (subject to that section) where further such evidence comes to the Commissioners' knowledge after the making of an assessment under this paragraph, another assessment may be made under this paragraph, in addition to any earlier assessment.

(3) Where an amount has been assessed and notified to any person under this paragraph, it shall, subject to the provisions of this Act as to appeals, be deemed to be an amount of tax due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(4) For the purposes of this paragraph notification to a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity in relation to the person who made the acquisition in question shall be treated as notification to the person in relation to whom he so acts.”

68 In paragraph 5(2) of that Schedule (requirement of security), at the beginning there shall be inserted “Without prejudice to their power under section 32A(7) of this Act,”.

69 In paragraph 6 of that Schedule (enforcement and recovery of tax), after sub-paragraph (9) there shall be inserted the following sub-paragraph—

“(10) The preceding provisions of this paragraph shall have effect as if any sum required by way of security under section 32A(7) of this Act were recoverable as if it were tax due from the person who is required to provide it.”

70 In paragraph 7(1) of that Schedule (duty to keep records), at the end there shall be inserted “and every person who, at a time when he is not a taxable person, acquires in the United Kingdom from another member State any goods which are subject to a duty of excise or consist in a new means of transport shall keep such records with respect to the acquisition (if it is a taxable acquisition and is not in pursuance of a taxable supply) as the Commissioners may so require.”

71 (1) In sub-paragraph (2) of paragraph 8 of that Schedule (furnishing of information and production of documents)—

- (a) after the word “made”, in the first place where it occurs, there shall be inserted “every person who is concerned (in whatever capacity) in the acquisition of goods from another member State”;
- (b) after the word “goods”, in the second place where it occurs, there shall be inserted “from a place outside the member States”;

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- (c) in paragraph (a) and in the words after paragraph (b), after the word “supply”, in each place, there shall be inserted “acquisition”.
- (2) In sub-paragraph (4) of that paragraph, for the words from “or the importation of goods” onwards there shall be substituted “to the acquisition of goods from another member State or to the importation of goods from a place outside the member States shall be taken to include any profit and loss account and balance sheet relating to the business in the course of which the goods or services are supplied or the goods are imported or (in the case of an acquisition from another member State) relating to any business or other activities of the person by whom the goods are acquired.”
- 72 In paragraph 9(1) of that Schedule (power to take samples), after “supplies goods” there shall be inserted “or acquires goods from another member State”.
- 73 In paragraph 10(2) of that Schedule (power of entry to premises used in connection with taxable supplies)—
- (a) after “supplies” there shall be inserted “or with the acquisition of goods under taxable acquisitions from other member States”; and
 - (b) after “supplied” there shall be inserted “or acquired”.
- 74 In paragraph 11(1) of that Schedule (evidence by certificate), after paragraph (b) there shall be inserted the following paragraph—
- “(ba) that any statement or notification required to be submitted or given to the Commissioners in accordance with any regulations under paragraph 2(2A) or (2B) above has not been submitted or given or had not been submitted or given at any date; or”.