



Value Added Tax Act 1994

1994 CHAPTER 23

PART II

RELIEFS, EXEMPTIONS AND REPAYMENTS

Reliefs etc. generally available

30 Zero-rating

- (1) Where a taxable person supplies goods or services and the supply is zero-rated, then, whether or not VAT would be chargeable on the supply apart from this section—
 - (a) no VAT shall be charged on the supply; but
 - (b) it shall in all other respects be treated as a taxable supply;and accordingly the rate at which VAT is treated as charged on the supply shall be nil.
- (2) A supply of goods or services is zero-rated by virtue of this subsection if the goods or services are of a description for the time being specified in Schedule 8 or the supply is of a description for the time being so specified.
- (3) Where goods of a description for the time being specified in that Schedule, or of a description forming part of a description of supply for the time being so specified, are acquired in the United Kingdom from another member State or imported from a place outside the member States, no VAT shall be chargeable on their acquisition or importation, except as otherwise provided in that Schedule.
- (4) The Treasury may by order vary Schedule 8 by adding to or deleting from it any description or by varying any description for the time being specified in it.
- (5) Where a description included in that Schedule (whether by virtue of an order under subsection (4) above or otherwise) is of a transaction which would not otherwise be a supply of goods or services, the transaction shall for the purposes of this Act be treated as a supply of goods or services in the United Kingdom.
- (6) A supply of goods is zero-rated by virtue of this subsection if the Commissioners are satisfied that the person supplying the goods—

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- (a) has exported them to a place outside the member States; or
 - (b) has shipped them for use as stores on a voyage or flight to an eventual destination outside the United Kingdom, or as merchandise for sale by retail to persons carried on such a voyage or flight in a ship or aircraft,

and in either case if such other conditions, if any, as may be specified in regulations or the Commissioners may impose are fulfilled.
- (7) 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.
- (8) Regulations may provide for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where—
 - (a) the Commissioners are satisfied that the goods have been or are to be exported to a place outside the member States or that the supply in question involves both—
 - (i) the removal of the goods from the United Kingdom; and
 - (ii) their acquisition in another member State by a person who is liable for VAT on the acquisition in accordance with provisions of the law of that member State corresponding, in relation to that member State, to the provisions of section 10; and
 - (b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.
- (9) Regulations may provide for the zero-rating of a supply of services which is made where goods are let on hire and the Commissioners are satisfied that the goods have been or are to be removed from the United Kingdom during the period of the letting, and such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.
- (10) Where the supply of any goods has been zero-rated by virtue of subsection (6) above or in pursuance of regulations made under subsection (8) or (9) above and—
 - (a) the goods are found in the United Kingdom after the date on which they were alleged to have been or were to be exported or shipped or otherwise removed from the United Kingdom; or
 - (b) any condition specified in the relevant regulations under subsection (6), (8) or (9) above or imposed by the Commissioners is not complied with,

and the presence of the goods in the United Kingdom after that date or the non-observance of the condition has not been authorised for the purposes of this subsection by the Commissioners, the goods shall be liable to forfeiture under the Management Act and the VAT that would have been chargeable on the supply but for the zero-rating shall become payable forthwith by the person to whom the goods were supplied or by any person in whose possession the goods are found in the United Kingdom; but the Commissioners may, if they think fit, waive payment of the whole or part of that VAT.

31 Exempt supplies and acquisitions

- (1) A supply of goods or services is an exempt supply if it is of a description for the time being specified in Schedule 9 and an acquisition of goods from another member State is an exempt acquisition if the goods are acquired in pursuance of an exempt supply.

- (2) The Treasury may by order vary that Schedule by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it, and the Schedule may be varied so as to describe a supply of goods by reference to the use which has been made of them or to other matters unrelated to the characteristics of the goods themselves.

32 Relief on supply of certain second-hand goods

- (1) The Treasury may by order make provision for securing a reduction of the VAT chargeable on the supply of goods of such descriptions as may be specified in the order in cases where no VAT was chargeable on a previous supply of the goods and such other conditions are satisfied as may be specified in the order or as may be imposed by the Commissioners in pursuance of the order.
- (2) The amount of the reduction that may be secured by an order under this section shall not exceed the amount of VAT that would have been chargeable on the previous supply had VAT been chargeable on it at the same rate as that at which the VAT to be reduced would be chargeable but for the reduction.
- (3) An order under this section making provision for reducing the VAT chargeable on the supply of goods of any description may include provision—
- (a) for giving relief from the VAT chargeable on the acquisition of goods of that description from another member State or the importation of goods of that description from a place outside the member States; and
 - (b) for securing the like reduction where no VAT was chargeable on the acquisition of goods of that description from another member State or the importation of goods of that description from a place outside the member States as where no VAT was chargeable on a previous supply of the goods.
- (4) An order under this section may extend to cases where the previous supply or the acquisition or importation took place before VAT was chargeable on any supply, acquisition or importation.
- (5) The preceding provisions of this section shall, with the necessary modifications, apply in relation to cases where consequential relief from VAT was given on a previous supply by an order under section 25(7) but the relief did not extend to the whole amount of the VAT.
- (6) An order under this section may make different provision for goods of different descriptions and for different circumstances.
- (7) In this section references to a supply on which no VAT was chargeable include references to a transaction treated by virtue of an order under section 5(3) as neither a supply of goods nor a supply of services.

33 Refunds of VAT in certain cases

- (1) Subject to the following provisions of this section, where—
- (a) VAT is chargeable on the supply of goods or services to a body to which this section applies, on the acquisition of any goods by such a body from another member State or on the importation of any goods by such a body from a place outside the member States, and

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- (b) the supply, acquisition or importation is not for the purpose of any business carried on by the body,

the Commissioners shall, on a claim made by the body at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the VAT so chargeable.
- (2) Where goods or services so supplied to or acquired or imported by the body cannot be conveniently distinguished from goods or services supplied to or acquired or imported by it for the purpose of a business carried on by it, the amount to be refunded under this section shall be such amount as remains after deducting from the whole of the VAT chargeable on any supply to or acquisition or importation by the body such proportion thereof as appears to the Commissioners to be attributable to the carrying on of the business; but where—
 - (a) the VAT so attributable is or includes VAT attributable, in accordance with regulations under section 26, to exempt supplies by the body, and
 - (b) the VAT attributable to the exempt supplies is in the opinion of the Commissioners an insignificant proportion of the VAT so chargeable,

they may include it in the VAT refunded under this section.
- (3) The bodies to which this section applies are—
 - (a) a local authority;
 - (b) a river purification board established under section 135 of the Local Government (Scotland) Act 1973, and a water development board within the meaning of section 109 of the Water (Scotland) Act 1980;
 - (c) an internal drainage board;
 - (d) a passenger transport authority or executive within the meaning of Part II of the Transport Act 1968;
 - (e) a port health authority within the meaning of the Public Health (Control of Disease) Act 1984, and a port local authority and joint port local authority constituted under Part X of the Public Health (Scotland) Act 1897;
 - (f) a police authority and the Receiver for the Metropolitan Police District;
 - (g) a development corporation within the meaning of the New Towns Act 1981 or the New Towns (Scotland) Act 1968, a new town commission within the meaning of the New Towns Act (Northern Ireland) 1965 and the Commission for the New Towns;
 - (h) a general lighthouse authority within the meaning of Part XI of the Merchant Shipping Act 1894;
 - (i) the British Broadcasting Corporation;
 - (j) a nominated news provider, as defined by section 31(3) of the Broadcasting Act 1990; and
 - (k) any body specified for the purposes of this section by an order made by the Treasury.
- (4) No VAT shall be refunded under this section to a general lighthouse authority which in the opinion of the Commissioners is attributable to activities other than those concerned with the provision, maintenance or management of lights or other navigational aids.
- (5) No VAT shall be refunded under this section to a nominated news provider which in the opinion of the Commissioners is attributable to activities other than the provision of

news programmes for broadcasting by holders of regional Channel 3 licences (within the meaning of Part I of the Broadcasting Act 1990).

- (6) References in this section to VAT chargeable do not include any VAT which, by virtue of any order under section 25(7), is excluded from credit under that section.

34 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 VAT paid on the supply, acquisition 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 VAT or part of that VAT cannot be credited under section 25 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 VAT and for aggregating or excluding the aggregation of value where goods of the same description are supplied, acquired or imported together.

35 Refund of VAT to persons constructing certain buildings

- (1) Subject to subsection (2) below, where VAT is chargeable on the supply of goods to a person constructing a dwelling lawfully and otherwise than in the course or furtherance of any business, on the acquisition of goods by such a person from another member State or on the importation of goods by such a person from a place outside the member States and—
- (a) those goods are incorporated in the dwelling or its site, and
 - (b) the supply of goods would have been zero-rated by virtue of item 3 of Group 5 of Schedule 8 if they had been supplied by a supplier making to the same person supplies within Item 2 of that Group of services including their use or installation, and any required certificate had been given,
- the Commissioners shall, on a claim made in that behalf, refund to the person the amount of the VAT so chargeable.
- (2) The Commissioners shall not be required to entertain a claim for a refund of VAT under this section unless the claim—
- (a) is made within such time and in such form and manner, and
 - (b) contains such information, and
 - (c) is accompanied by such documents, whether by way of evidence or otherwise, as the Commissioners may by regulations prescribe.
- (3) This section shall have effect—
- (a) as if the reference in subsection (1) above to the VAT chargeable on the supply of any goods included a reference to VAT chargeable on the supply in accordance with the law of another member State; and
 - (b) in relation to VAT chargeable in accordance with the law of another member State, as if references to refunding VAT to any person were references to paying that person an amount equal to the VAT chargeable in accordance with the law of that member State;

and the provisions of this Act and of any other enactment or subordinate legislation (whenever passed or made) so far as they relate to a refund under this section shall be construed accordingly.

36 Bad debts

- (1) Subsection (2) below applies where—
 - (a) a person has supplied goods or services for a consideration in money and has accounted for and paid VAT 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 6 months (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 VAT 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.

- (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) Section 6 shall apply for determining the time when a supply is to be treated as taking place for the purposes of construing this section.

Imports, overseas businesses etc

37 Relief from VAT on importation of goods

- (1) The Treasury may by order make provision for giving relief from the whole or part of the VAT chargeable on the importation of goods from places outside the member States, subject to such conditions (including conditions prohibiting or restricting the disposal of or dealing with the goods) as may be imposed by or under the order, if and so far as the relief appears to the Treasury to be necessary or expedient, having regard to any international agreement or arrangements.
- (2) In any case where—
 - (a) it is proposed that goods which have been imported from a place outside the member States by any person (“the original importer”) with the benefit of relief under subsection (1) above shall be transferred to another person (“the transferee”), and
 - (b) on an application made by the transferee, the Commissioners direct that this subsection shall apply,this Act shall have effect as if, on the date of the transfer of the goods (and in place of the transfer), the goods were exported by the original importer and imported by the transferee and, accordingly, where appropriate, provision made under subsection (1) above shall have effect in relation to the VAT chargeable on the importation of the goods by the transferee.
- (3) The Commissioners may by regulations make provision for remitting or repaying, if they think fit, the whole or part of the VAT chargeable on the importation of any goods from places outside the member States which are shown to their satisfaction to have been previously exported from the United Kingdom or removed from any member State.
- (4) The Commissioners may by regulations make provision for remitting or repaying the whole or part of the VAT chargeable on the importation of any goods from places

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outside the member States if they are satisfied that the goods have been or are to be re-exported or otherwise removed from the United Kingdom and they think fit to do so in all the circumstances and having regard—

- (a) to the VAT chargeable on the supply of like goods in the United Kingdom;
- (b) to any VAT which may have become chargeable in another member State in respect of the goods.

38 Importation of goods by taxable persons

The Commissioners may by regulations make provision for enabling goods imported from a place outside the member States by a taxable person in the course or furtherance of any business carried on by him to be delivered or removed, subject to such conditions or restrictions as the Commissioners may impose for the protection of the revenue, without payment of the VAT chargeable on the importation, and for that VAT to be accounted for together with the VAT chargeable on the supply of goods or services by him or on the acquisition of goods by him from other member States.

39 Repayment of VAT to those in business overseas

- (1) The Commissioners may, by means of a scheme embodied in regulations, provide for the repayment, to persons to whom this section applies, of VAT on supplies to them in the United Kingdom or on the importation of goods by them from places outside the member States which would be input tax of theirs if they were taxable persons in the United Kingdom.
- (2) This section—
 - (a) applies to persons carrying on business in another member State, and
 - (b) shall apply also to persons carrying on business in other countries, if, pursuant to any Community Directive, rules are adopted by the Council of the Communities about refunds of VAT to persons established elsewhere than in the member States,
 but does not apply to persons carrying on business in the United Kingdom.
- (3) Repayment shall be made in such cases only, and subject to such conditions, as the scheme may prescribe (being conditions specified in the regulations or imposed by the Commissioners either generally or in particular cases); and the scheme may provide—
 - (a) for claims and repayments to be made only through agents in the United Kingdom;
 - (b) either generally or for specified purposes—
 - (i) for the agents to be treated under this Act as if they were taxable persons; and
 - (ii) for treating claims as if they were returns under this Act and repayments as if they were repayments of input tax; and
 - (c) for generally regulating the methods by which the amount of any repayment is to be determined and the repayment is to be made.

40 Refunds in relation to new means of transport supplied to other member States

- (1) Subject to subsection (2) below, where a person who is not a taxable person makes such a supply of goods consisting in a new means of transport as involves the removal

of the goods to another member State, the Commissioners shall, on a claim made in that behalf, refund to that person, as the case may be—

- (a) the amount of any VAT on the supply of that means of transport to that person, or
 - (b) the amount of any VAT paid by that person on the acquisition of that means of transport from another member State or on its importation from a place outside the member States.
- (2) The amount of VAT refunded under this section shall not exceed the amount that would have been payable on the supply involving the removal if it had been a taxable supply by a taxable person and had not been zero-rated.
- (3) The Commissioners shall not be entitled to entertain a claim for refund of VAT under this section unless the claim—
- (a) is made within such time and in such form and manner;
 - (b) contains such information; and
 - (c) is accompanied by such documents, whether by way of evidence or otherwise,
- as the Commissioners may by regulations prescribe.