

## SCHEDULES

### SCHEDULE 7

Section 20.

#### VALUATION OF ACQUISITIONS FROM OTHER MEMBER STATES: SPECIAL CASES

- 1 (1) Where, in the case of the acquisition of any goods from another member State—
- (a) the relevant transaction is for a consideration in money;
  - (b) the value of the relevant transaction is (apart from this paragraph) less than the transaction's open market value;
  - (c) the supplier and the person who acquires the goods are connected; and
  - (d) that person is not entitled under sections 25 and 26 to credit for all the VAT on the acquisition,
- the Commissioners may direct that the value of the relevant transaction shall be taken to be its open market value.
- (2) A direction under this paragraph shall be given by notice in writing to the person by whom the acquisition in question is made; but no direction may be given more than 3 years after the relevant time.
- (3) A direction given to a person under this paragraph in respect of a transaction may include a direction that the value of any transaction—
- (a) in pursuance of which goods are acquired by him from another member State after the giving of the notice, or after such later date as may be specified in the notice; and
  - (b) as to which the conditions in paragraphs (a) to (d) of sub-paragraph (1) above are satisfied,
- shall be taken to be its open market value.
- (4) For the purposes of this paragraph the open market value of a transaction in pursuance of which goods are acquired from another member State shall be taken to be the amount which would fall to be taken as its value under section 20(3) if it were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.
- (5) For the purposes of this paragraph any question whether a person is connected with another shall be determined in accordance with section 839 of the Taxes Act.
- (6) A direction under this paragraph may be varied or withdrawn by the Commissioners by a further direction given by notice in writing.
- 2 (1) Where, in such cases as the Commissioners may by regulations prescribe, goods acquired in the United Kingdom from another member State—
- (a) are charged in connection with their removal to the United Kingdom with a duty of excise; or
  - (b) on that removal are subject, in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Communities, to any Community customs duty or agricultural levy of the European Community,

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*Status: This is the original version (as it was originally enacted).*

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then the value of the relevant transaction shall be taken for the purposes of this Act to be the sum of its value apart from this paragraph and the amount, so far as not already included in that value, of the duty or, as the case may be, agricultural levy which has been or is to be paid in respect of those goods.

- (2) Sub-paragraph (1) above shall not require the inclusion of any amount of duty or agricultural levy in the value of a transaction in pursuance of which there is an acquisition of goods which, under subsection (4) of section 18, is treated as taking place before the time which is the duty point within the meaning of that section.
- 3 (1) Where goods are acquired from another member State in pursuance of anything which is treated as a supply for the purposes of this Act by virtue of paragraph 5(1) or 6 of Schedule 4, the value of the relevant transaction shall be determined, in a case where there is no consideration, as follows.
- (2) The value of the transaction shall be taken to be—
- (a) such consideration in money as would be payable by the supplier if he were, at the time of the acquisition, to purchase goods identical in every respect (including age and condition) to the goods concerned; or
  - (b) where the value cannot be ascertained in accordance with paragraph (a) above, such consideration in money as would be payable by the supplier if he were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned; or
  - (c) where the value can be ascertained in accordance with neither paragraph (a) nor paragraph (b) above, the cost of producing the goods concerned if they were produced at that time.
- (3) For the purposes of sub-paragraph (2) above the amount of consideration in money that would be payable by any person if he were to purchase any goods shall be taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of VAT on the supply of the goods to that person.
- 4 (1) Subject to the following provisions of this paragraph, where—
- (a) goods are acquired from another member State; and
  - (b) any sum relevant for determining the value of the relevant transaction is expressed in a currency other than sterling,
- then, for the purpose of valuing the relevant transaction, that sum is to be converted into sterling at the market rate which, on the relevant day, would apply in the United Kingdom to a purchase with sterling by the person making the acquisition of that sum in the currency in question.
- (2) Where the Commissioners have published a notice which, for the purposes of this paragraph, specifies—
- (a) rates of exchange; or
  - (b) methods of determining rates of exchange,
- a rate specified in or determined in accordance with the notice, as for the time being in force, shall apply (instead of the rate for which sub-paragraph (1) above provides) in the case of any transaction in pursuance of which goods are acquired by a person who opts, in such manner as may be allowed by the Commissioners, for the use of that rate in relation to that transaction.
- (3) An option for the purposes of sub-paragraph (2) above for the use of a particular rate or method of determining a rate—

- (a) shall not be exercised by any person except in relation to all such transactions in pursuance of which goods are acquired by him from another member State as are of a particular description or after a particular date; and
  - (b) shall not be withdrawn or varied except with the consent of the Commissioners and in such manner as they may require.
- (4) In specifying a method of determining a rate of exchange a notice published by the Commissioners under sub-paragraph (2) above may allow a person to apply to the Commissioners for the use, for the purpose of valuing some or all of the transactions in pursuance of which goods are acquired by him from another member State, of a rate of exchange which is different from any which would otherwise apply.
- (5) On an application made in accordance with provision contained in a notice under sub-paragraph (4) above, the Commissioners may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such transactions and subject to such conditions as they think fit.
- (6) A notice published by the Commissioners for the purposes of this paragraph may be withdrawn or varied by a subsequent notice published by the Commissioners.
- (7) Where goods are acquired from another member State, the appropriate rate of exchange is to be determined for the purpose of valuing the relevant transaction by reference to the relevant time; and, accordingly, the day on which that time falls is the relevant day for the purposes of sub-paragraph (1) above.

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In this Schedule—

“relevant transaction”, in relation to any acquisition of goods from another member State, means the transaction in pursuance of which the goods are acquired;

“the relevant time”, in relation to any such acquisition, means—

- (a) if the person by whom the goods are acquired is not a taxable person and the time of acquisition does not fall to be determined in accordance with regulations made under section 12(3), the time of the event which, in relation to that acquisition, is the first relevant event for the purposes of taxing the acquisition; and
- (b) in any other case, the time of acquisition.