



Finance Act 2002

2002 CHAPTER 23

PART 2

VALUE ADDED TAX

22 Disallowance of input tax where consideration not paid

- (1) In Part 1 of the Value Added Tax Act 1994 (c. 23) (the charge to tax), after section 26 insert—

“26A Disallowance of input tax where consideration not paid

- (1) Where—
- a person has become entitled to credit for any input tax, and
 - the consideration for the supply to which that input tax relates, or any part of it, is unpaid at the end of the period of 6 months following the relevant date,
- he shall be taken, as from the end of that period, not to have been entitled to credit for input tax in respect of the VAT that is referable to the unpaid consideration or part.
- (2) For the purposes of subsection (1) above “the relevant date”, in relation to any sum representing consideration for a supply, is—
- the date of the supply, or
 - if later, the date on which the sum became payable.
- (3) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.
- (4) Regulations under this section may in particular—
- make provision for restoring the whole or any part of an entitlement to credit for input tax where there is a payment after the end of the period mentioned in subsection (1) above;

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- (b) make rules for ascertaining whether anything paid is to be taken as paid by way of consideration for a particular supply;
 - (c) make rules dealing with particular cases, such as those involving payment of part of the consideration or mutual debts.
- (5) Regulations under this section may make different provision for different circumstances.
- (6) 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.”.
- (2) In section 36 of that Act (bad debts), omit subsections (4A) and (5)(ea).
- (3) This section has effect in relation to supplies made on or after such day as the Commissioners of Customs and Excise may appoint by order made by statutory instrument.

23 Flat-rate scheme

- (1) In Part 1 of the Value Added Tax Act 1994 (c. 23) (the charge to tax), after section 26A (inserted by section 22 above) insert—

“26B Flat-rate scheme

- (1) The Commissioners may by regulations make provision under which, where a taxable person so elects, the amount of his liability to VAT in respect of his relevant supplies in any prescribed accounting period shall be the appropriate percentage of his relevant turnover for that period.
- A person whose liability to VAT is to any extent determined as mentioned above is referred to in this section as participating in the flat-rate scheme.
- (2) For the purposes of this section—
- (a) a person’s “relevant supplies” are all supplies made by him except supplies made at such times or of such descriptions as may be specified in the regulations;
 - (b) the “appropriate percentage” is the percentage so specified for the category of business carried on by the person in question;
 - (c) a person’s “relevant turnover” is the total of—
 - (i) the value of those of his relevant supplies that are taxable supplies, together with the VAT chargeable on them, and
 - (ii) the value of those of his relevant supplies that are exempt supplies.
- (3) The regulations may designate certain categories of business as categories in relation to which the references in subsection (1) above to liability to VAT are to be read as references to entitlement to credit for VAT.
- (4) The regulations may provide for persons to be eligible to participate in the flat-rate scheme only in such cases and subject to such conditions and exceptions as may be specified in, or determined by or under, the regulations.
- (5) Subject to such exceptions as the regulations may provide for, a participant in the flat-rate scheme shall not be entitled to credit for input tax.

This is without prejudice to subsection (3) above.

- (6) The regulations may—
- (a) provide for the appropriate percentage to be determined by reference to the category of business that a person is expected, on reasonable grounds, to carry on in a particular period;
 - (b) provide, in such circumstances as may be prescribed, for different percentages to apply in relation to different parts of the same prescribed accounting period;
 - (c) make provision for determining the category of business to be regarded as carried on by a person carrying on businesses in more than one category.
- (7) The regulations may provide for the following matters to be determined in accordance with notices published by the Commissioners—
- (a) when supplies are to be treated as taking place for the purposes of ascertaining a person's relevant turnover for a particular period;
 - (b) the method of calculating any adjustments that fall to be made in accordance with the regulations in a case where a person begins or ceases to participate in the flat-rate scheme.
- (8) The regulations may make provision enabling the Commissioners—
- (a) to authorise a person to participate in the flat-rate scheme with effect from—
 - (i) a day before the date of his election to participate, or
 - (ii) a day that is not earlier than that date but is before the date of the authorisation;
 - (b) to direct that a person shall cease to be a participant in the scheme with effect from a day before the date of the direction.

The day mentioned in paragraph (a)(i) above may be a day before the date on which the regulations come into force.

- (9) Regulations under this section—
- (a) may make different provision for different circumstances;
 - (b) may make such incidental, supplemental, consequential or transitional provision as the Commissioners think fit, including provision disapplying or applying with modifications any provision contained in or made under this Act.”.

- (2) In section 83 of that Act (appeals), after paragraph (f) insert—

- “(fza) a decision of the Commissioners—
- (i) refusing or withdrawing authorisation for a person's liability to pay VAT (or entitlement to credit for VAT) to be determined as mentioned in subsection (1) of section 26B;
 - (ii) as to the appropriate percentage or percentages (within the meaning of that section) applicable in a person's case.”.

- (3) In section 84 of that Act (further provisions relating to appeals), after subsection (4) insert—

“(4ZA) Where an appeal is brought—

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- (a) against such a decision as is mentioned in section 83(fza), or
 - (b) to the extent that it is based on such a decision, against an assessment,
- the tribunal shall not allow the appeal unless it considers that the Commissioners could not reasonably have been satisfied that there were grounds for the decision.”.

(4) This section shall be deemed to have come into force on 24th April 2002.

24 Invoices

- (1) In the Value Added Tax Act 1994 (c. 23) omit the following (which are superseded by the provision inserted by subsection (2))—
- (a) subsection (9) of section 6 (time of supply);
 - (b) in paragraph 2 (VAT invoices etc) of Schedule 11 (administration, collection and enforcement)—
 - (i) in the heading, the words “, VAT invoices”;
 - (ii) in sub-paragraph (1), the words from “and may require” to the end;
 - (iii) sub-paragraphs (2) and (2A).

(2) After paragraph 2 of Schedule 11 to that Act insert—

“VAT invoices

- 2A (1) Regulations may require a taxable person supplying goods or services to provide an invoice (a “VAT invoice”) to the person supplied.
- (2) A VAT invoice must give—
- (a) such particulars as may be prescribed of the supply, the supplier and the person supplied;
 - (b) such an indication as may be prescribed of whether VAT is chargeable on the supply under this Act or the law of another member State;
 - (c) such particulars of any VAT that is so chargeable as may be prescribed.
- (3) Regulations may confer power on the Commissioners to allow the requirements of any regulations as to the information to be given in a VAT invoice to be relaxed or dispensed with.
- (4) Regulations may—
- (a) provide that the VAT invoice that is required to be provided in connection with a particular description of supply must be provided within a prescribed time after the supply is treated as taking place, or at such time before the supply is treated as taking place as may be prescribed;
 - (b) allow for the invoice to be issued later than required by the regulations where it is issued in accordance with general or special directions given by the Commissioners.
- (5) Regulations may—
- (a) make provision about the manner in which a VAT invoice may be provided, including provision prescribing conditions that must be

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- complied with in the case of an invoice issued by a third party on behalf of the supplier;
 - (b) prescribe conditions that must be complied with in the case of a VAT invoice that relates to more than one supply;
 - (c) make, in relation to a document that refers to a VAT invoice and is intended to amend it, such provision corresponding to that which may be made in relation to a VAT invoice as appears to the Commissioners to be appropriate.
- (6) Regulations may confer power on the Commissioners to require a person who has received in the United Kingdom a VAT invoice that is (or part of which is) in a language other than English to provide them with an English translation of the invoice (or part).
- (7) Regulations under this paragraph—
- (a) may be framed so as to apply only in prescribed cases or only in relation to supplies made to persons of prescribed descriptions;
 - (b) may make different provision for different circumstances.

Self-billed invoices

- 2B (1) This paragraph applies where a taxable person provides to himself a document (a “self-billed invoice”) that purports to be a VAT invoice in respect of a supply of goods or services to him by another taxable person.
- (2) Subject to compliance with such conditions as may be—
- (a) prescribed,
 - (b) specified in a notice published by the Commissioners, or
 - (c) imposed in a particular case in accordance with regulations,
- a self-billed invoice shall be treated as the VAT invoice required by regulations under paragraph 2A above to be provided by the supplier.
- (3) For the purposes of section 6(4) (under which the time of supply can be determined by the prior issue of an invoice) a self-billed invoice shall not be treated as issued by the supplier.
- (4) For the purposes of section 6(5) and (6) (under which the time of supply can be determined by the subsequent issue of an invoice) a self-billed invoice in relation to which the conditions mentioned in subparagraph (2) are complied with shall, subject to compliance with such further conditions as may be prescribed, be treated as issued by the supplier.
- In such a case, any notice of election given or request made for the purposes of section 6(5) or (6) by the person providing the self-billed invoice shall be treated for those purposes as given or made by the supplier.
- (5) Regulations under this paragraph—
- (a) may be framed so as to apply only in prescribed cases or only in relation to supplies made to persons of prescribed descriptions;
 - (b) may make different provision for different circumstances.”.

- (3) For paragraph 3 of that Schedule substitute—

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“Electronic communication and storage of VAT invoices etc

- 3 (1) Regulations may prescribe, or provide for the Commissioners to impose in a particular case, conditions that must be complied with in relation to—
- (a) the provision by electronic means of any item to which this paragraph applies;
 - (b) the preservation by electronic means of any such item or of information contained in any such item.
- (2) The items to which this paragraph applies are—
- (a) any VAT invoice;
 - (b) any document that refers to a VAT invoice and is intended to amend it;
 - (c) any invoice described in regulations made for the purposes of section 6(8)(b) or 12(1)(b).
- (3) Regulations under this paragraph may make different provision for different circumstances.”.
- (4) The following amendments to the Value Added Tax Act 1994 (c. 23) are consequential on other amendments made by this section—
- (a) in section 6(15), for “paragraph 2(1)” substitute “paragraph 2A”;
 - (b) in section 83 (appeals), for paragraph (z) substitute—
 - “(z) any conditions imposed by the Commissioners in a particular case by virtue of paragraph 2B(2)(c) or 3(1) of Schedule 11”;
 - (c) in section 88 (supplies spanning change of rate etc)—
 - (i) in subsection (5), for “paragraph 2” substitute “paragraph 2A”;
 - (ii) in subsection (6), for “section 6(9) or paragraph 7 of Schedule 4” substitute “paragraph 7 of Schedule 4 or paragraph 2B(4) of Schedule 11”.
- (5) This section comes into force on such day as the Treasury may by order made by statutory instrument appoint, and different days may be appointed for different provisions or different purposes.
- (6) An order under subsection (5) may contain such transitional provisions and savings as appear to the Treasury necessary or expedient in connection with the provisions brought into force.

25 Relief from VAT on acquisition if importation would attract relief

In Part 2 of the Value Added Tax Act 1994 (reliefs, exemptions and repayments), after section 36 insert—

“Acquisitions

36A Relief from VAT on acquisition if importation would attract relief

- (1) The Treasury may by order make provision for relieving from VAT the acquisition from another member State of any goods if, or to the extent that,

relief from VAT would be given by an order under section 37 if the acquisition were an importation from a place outside the member States.

- (2) An order under this section may provide for relief to be subject to such conditions as appear to the Treasury to be necessary or expedient.

These may—

- (a) include conditions prohibiting or restricting the disposal of or dealing with the goods concerned;
- (b) be framed by reference to the conditions to which, by virtue of any order under section 37 in force at the time of the acquisition, relief under such an order would be subject in the case of an importation of the goods concerned.

- (3) Where relief from VAT given by an order under this section was subject to a condition that has been breached or not complied with, the VAT shall become payable at the time of the breach or, as the case may be, at the latest time allowed for compliance.”.