Finance Act 2003

2003 CHAPTER 14

PART 2

VALUE ADDED TAX

17 Requirement of evidence or security

(1) The Value Added Tax Act 1994 (c. 23) is amended as follows.

(2) In section 24(6)(a) (regulations about input tax etc: requirement of documentary evidence) after "documents" insert "or other information".

(3) In paragraph 4 of Schedule 11 (power to require security and production of documents) for sub-paragraph (1) substitute—

"(1) The Commissioners may, as a condition of allowing or repaying input tax to any person, require the production of such evidence relating to VAT as they may specify.

(1A) If they think it necessary for the protection of the revenue, the Commissioners may require, as a condition of making any VAT credit, the giving of such security for the amount of the payment as appears to them appropriate.".

(4) For sub-paragraph (2) of that paragraph substitute—

"(2) If they think it necessary for the protection of the revenue, the Commissioners may require a taxable person, as a condition of his supplying or being supplied with goods or services under a taxable supply, to give security, or further security, for the payment of any VAT that is or may become due from—

(a) the taxable person, or

(b) any person by or to whom relevant goods or services are supplied.

(3) In sub-paragraph (2) above "relevant goods or services" means goods or services supplied by or to the taxable person.

(4) Security under sub-paragraph (2) above shall be of such amount, and shall be given in such manner, as the Commissioners may determine.

(5) The powers conferred on the Commissioners by sub-paragraph (2) above are without prejudice to their powers under section 48(7).".

(5) In section 72(11) (penalty for supplying goods in contravention of paragraph 4(2) of Schedule 11) after "supplies" insert "or is supplied with".

(6) In section 83(l) (right of appeal against requirement of security under paragraph 4(2) of Schedule 11 etc) for "paragraph 4(2)" substitute "paragraph 4(1A) or (2)".

(7) In section 84 (further provisions relating to appeals) after subsection (4D) insert—

"(4E) Where an appeal is brought against a requirement imposed under paragraph 4(2)(b) of Schedule 11 that a person give security, the tribunal shall allow the appeal unless the Commissioners satisfy the tribunal that—

(a) there has been an evasion of, or an attempt to evade, VAT in relation to goods or services supplied to or by that person, or

(b) it is likely, or without the requirement for security it is likely, that VAT in relation to such goods or services will be evaded.

(4F) A reference in subsection (4E) above to evading VAT includes a reference to obtaining a VAT credit that is not due or a VAT credit in excess of what is due.".

(8) This section shall be deemed to have come into force on 10th April 2003.

18 Joint and several liability for unpaid VAT of another trader

(1) In Part 4 of the Value Added Tax Act 1994 (c. 23) (administration, collection and enforcement), after section 77 insert—

"Liability for unpaid VAT of another

77A Joint and several liability of traders in supply chain where tax unpaid

(1) This section applies to goods of any of the following descriptions—

(a) telephones and any other equipment, including parts and accessories, made or adapted for use in connection with telephones or telecommunication;

(b) computers and any other equipment, including parts, accessories and software, made or adapted for use in connection with computers or computer systems.

(2) Where—

(a) a taxable supply of goods to which this section applies has been made to a taxable person, and

(b) at the time of the supply the person knew or had reasonable grounds to suspect that some or all of the VAT payable in respect of that supply, or on any previous or subsequent supply of those goods, would go unpaid,

the Commissioners may serve on him a notice specifying the amount of the VAT so payable that is unpaid, and stating the effect of the notice.

(3) The effect of a notice under this section is that—

(a) the person served with the notice, and

(b) the person liable, apart from this section, for the amount specified in the notice,

are jointly and severally liable to the Commissioners for that amount.

(4) For the purposes of subsection (2) above the amount of VAT that is payable in respect of a supply is the lesser of—

(a) the amount chargeable on the supply, and

(b) the amount shown as due on the supplier's return for the prescribed accounting period in question (if he has made one) together with any amount assessed as due from him for that period (subject to any appeal by him).

(5) The reference in subsection (4)(b) above to assessing an amount as due from a person includes a reference to the case where, because it is impracticable to do so, the amount is not notified to him.

(6) For the purposes of subsection (2) above, a person shall be presumed to have reasonable grounds for suspecting matters to be as mentioned in paragraph (b) of that subsection if the price payable by him for the goods in question—

(a) was less than the lowest price that might reasonably be expected to be payable for them on the open market, or

(b) was less than the price payable on any previous supply of those goods.

(7) The presumption provided for by subsection (6) above is rebuttable on proof that the low price payable for the goods was due to circumstances unconnected with failure to pay VAT.

(8) Subsection (6) above is without prejudice to any other way of establishing reasonable grounds for suspicion.

(9) The Treasury may by order amend subsection (1) above; and any such order may make such incidental, supplemental, consequential or transitional provision as the Treasury think fit.

(10) For the purposes of this section—

(a) "goods" includes services;

(b) an amount of VAT counts as unpaid only to the extent that it exceeds the amount of any refund due.".

(2) In section 83 of that Act (appeals) after paragraph (r) insert—

"(ra) any liability arising by virtue of section 77A;".

(3) In section 84(3) of that Act (appeals not to be entertained unless the VAT has been paid or deposited, except where that would cause hardship) for "or (q)" substitute ", (q) or (ra)".

(4) This section shall be deemed to have come into force on 10th April 2003 except subsection (3) which applies in relation to any appeal notice of which is given on or after the day on which this Act is passed.

19 Face-value vouchers

Schedule 1 to this Act (VAT: face-value vouchers) has effect.

20 Supplies arising from prior grant of fee simple

(1) In section 96 of the Value Added Tax Act 1994 (c. 23) (interpretative provisions), after subsection (10A) (time for determining status of supplies arising from prior grant of interest etc) insert—

"(10B) Notwithstanding subsection (10A) above—

(a) item 1 of Group 1 of Schedule 9 does not make exempt any supply that arises for the purposes of this Act from the prior grant of a fee simple falling within paragraph (a) of that item; and

(b) that paragraph does not prevent the exemption of a supply that arises for the purposes of this Act from the prior grant of a fee simple not falling within that paragraph.".

(2) This section applies in relation to any supply that arises for the purposes of the Value Added Tax Act 1994 (c. 23) from the prior grant of a fee simple made on or after 9th April 2003.

21 Business gifts

(1) In Schedule 4 to the Value Added Tax Act 1994 (matters to be treated as supply of goods or services), paragraph 5 (business gifts etc) is amended as follows.

(2) In sub-paragraph (2) (cases where sub-paragraph (1) does not apply), for paragraph (a) substitute—

"(a) a business gift the cost of which, together with the cost of any other business gifts made to the same person in the same year, was not more than £50.".

(3) After that sub-paragraph insert—

"(2ZA) In sub-paragraph (2) above—

"business gift" means a gift of goods that is made in the course or furtherance of the business in question;

"cost", in relation to a gift of goods, means the cost to the donor of acquiring or, as the case may be, producing the goods;

"the same year", in relation to a gift, means any period of twelve months that includes the day on which the gift is made.".

(4) This section applies in relation to gifts made on or after 1st October 2003.

22 Non-business use of business property

(1) In paragraph 5 of Schedule 4 to the Value Added Tax Act 1994 (matters to be treated as supply of goods or services), after sub-paragraph (4) (non-business use of business asset treated as supply of services) insert—

"(4A) Notwithstanding paragraph 9(1) below, sub-paragraph (4) above does not apply to—

(a) any interest in land,

(b) any building or part of a building,

(c) any civil engineering work or part of such a work, or

(d) any goods incorporated or to be incorporated in a building or civil engineering work (whether by being installed as fixtures or fittings or otherwise).”.

(2) This section shall be deemed to have come into force on 9th April 2003.

(3) This section does not apply in relation to any asset in respect of which the person in question or any of his predecessors became entitled before that date to a credit or repayment as mentioned in paragraph 5(5)(a) or 5(5)(b) of Schedule 4 to the Value Added Tax Act 1994 (c. 23).

(4) In subsection (3)—

(a) “the person in question” means the person carrying on the business referred to in sub-paragraph (4) of paragraph 5 of that Schedule;

(b) “predecessor” has the same meaning as in that paragraph;

(c) the reference to an “asset” is to anything falling within any of paragraphs (a) to (d) of the sub-paragraph (4A) inserted into that paragraph by subsection (1).

23 Supply of electronic services in member States: special accounting scheme

(1) Schedule 2 to this Act (scheme enabling persons who supply certain electronic services in any member State, but who are not established in a member State, to account for and pay VAT in the United Kingdom on those supplies) has effect.

(2) The amendments made by that Schedule have effect in relation to qualifying supplies made on or after 1st July 2003.