



# Finance Act 2006

## 2006 CHAPTER 25

### PART 2

#### VALUE ADDED TAX

##### *Avoidance and fraud*

#### **21 Directions to keep records where belief VAT might not be paid**

- (1) VATA 1994 is amended as follows.
- (2) After section 69A (breach of record-keeping requirements etc in relation to transactions in gold) insert—

##### **“69B Breach of record-keeping requirements imposed by directions**

- (1) If any person fails to comply with a requirement imposed under paragraph 6A(1) of Schedule 11, the person is liable to a penalty.
- (2) The amount of the penalty is equal to £200 multiplied by the number of days on which the failure continues (up to a maximum of 30 days).
- (3) If any person fails to comply with a requirement to preserve records imposed under paragraph 6A(6) of Schedule 11, the person is liable to a penalty of £500.
- (4) If it appears to the Treasury that there has been a change in the value of money since—
  - (a) the day on which the Finance Act 2006 is passed, or
  - (b) (if later) the last occasion when the power conferred by this subsection was exercised,

they may by order substitute for the sums for the time being specified in subsections (2) and (3) such other sums as appear to them to be justified by the change.

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*Changes to legislation: There are currently no known outstanding effects  
for the Finance Act 2006, Section 21. (See end of Document for details)*

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- (5) But any such order does not apply to a failure which began before the date on which the order comes into force.
- (6) A failure by any person to comply with any requirement mentioned in subsection (1) or (3) does not give rise to a liability to a penalty under this section if the person concerned satisfies—
- (a) the Commissioners, or
  - (b) on appeal, a tribunal,
- that there is a reasonable excuse for the failure.
- (7) If by reason of conduct falling within subsection (1) or (3) a person—
- (a) is assessed to a penalty under section 60, or
  - (b) is convicted of an offence (whether under this Act or otherwise),
- that conduct does not also give rise to a penalty under this section.”.
- (3) In section 76(1) (assessment of amounts due by way of penalty, interest or surcharge) for “69A”, in both places, substitute “ 69B ”.
- (4) In section 83 (appeals)—
- (a) in paragraph (n) (penalties or surcharges by virtue of any of sections 59 to 69A) for “69A” substitute “ 69B ” and
  - (b) after paragraph (z) (conditions imposed by virtue of paragraph 2B(2)(c) or 3(1) of Schedule 11) insert—
- “(zza) a direction under paragraph 6A of Schedule 11;”.
- (5) In section 84 (further provision relating to appeals) after subsection (7A) (appeals against directions mentioned in section 83(wa)) insert—
- “(7B) Where there is an appeal against a decision to make such a direction as is mentioned in section 83(zza)—
- (a) the tribunal shall not allow the appeal unless it considers that the Commissioners could not reasonably have been satisfied that there were grounds for making the direction;
  - (b) the direction shall have effect pending the determination of the appeal.”.
- (6) In Schedule 11 (administration, collection and enforcement), after paragraph 6 (duty to keep records) insert—
- “6A (1) The Commissioners may direct any taxable person named in the direction to keep such records as they specify in the direction in relation to such goods as they so specify.
- (2) A direction under this paragraph may require the records to be compiled by reference to VAT invoices or any other matter.
- (3) The Commissioners may not make a direction under this paragraph unless they have reasonable grounds for believing that the records specified in the direction might assist in identifying taxable supplies in respect of which the VAT chargeable might not be paid.
- (4) The taxable supplies in question may be supplies made by—

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- (a) the person named in the direction, or
  - (b) any other person.
- (5) A direction under this paragraph—
- (a) must be given by notice in writing to the person named in it,
  - (b) must warn that person of the consequences under section 69B of failing to comply with it, and
  - (c) remains in force until it is revoked or replaced by a further direction.
- (6) The Commissioners may require any records kept in pursuance of this paragraph to be preserved for such period not exceeding 6 years as they may require.
- (7) Sub-paragraphs (4) to (6) of paragraph 6 (preservation of information by means approved by the Commissioners) apply for the purposes of this paragraph as they apply for the purposes of that paragraph.
- (8) This paragraph is without prejudice to the power conferred by paragraph 6(1) to make regulations requiring records to be kept.
- (9) Any records required to be kept by virtue of this paragraph are in addition to any records required to be kept by virtue of paragraph 6.”.

**Changes to legislation:**

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