

1980 No. 1537

VALUE ADDED TAX

**The Value Added Tax (Repayment to Community Traders)
Regulations 1980**

<i>Made</i> - - - -	14th October 1980
<i>Laid before the House of Commons</i> -	27th October 1980
<i>Coming into Operation</i>	1st January 1981

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by section 5(1) of the Finance Act 1972(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Value Added Tax (Repayment to Community Traders) Regulations 1980 and shall come into operation on 1st January 1981.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Finance Act 1972;

“calendar year” means the period of twelve months beginning with the first day of January in any year;

“claimant” means a person by whom or on whose behalf a claim is made under these Regulations;

“official authority” means the authority in a member State designated to issue the certificate referred to in regulation 7(1)(b)(i) of these Regulations.

(2) For the purposes of these Regulations, a person is treated as being established in a country if—

(a) he has there an establishment from which business transactions are effected; or

(b) he has no such establishment (there or elsewhere) but his usual place of residence is there.

(3) For the purposes of these Regulations—

(a) a person carrying on business through a branch or agency in any country is treated as having there an establishment from which business transactions are effected; and

(b) “usual place of residence”, in relation to a body corporate, means the place where it is legally constituted.

(a) 1972 c. 41, as amended by section 14 of and Schedule 6 to the Finance Act 1977 (c. 36).

Repayment of tax

3. Subject to the following provisions of these Regulations, tax on a supply in the United Kingdom of goods or services to which these Regulations apply, to a person to whom these Regulations apply, shall on a claim made by him be repaid to him by the Commissioners if that tax would be input tax of his were he a taxable person in the United Kingdom.

Persons to whom these Regulations apply

4. These Regulations apply to a person carrying on business in a member State other than the United Kingdom but do not apply to such a person in any period referred to in regulation 8 if during that period he—

- (a) was established in the United Kingdom; or
- (b) made supplies in the United Kingdom of goods or services other than—
 - (i) transport of freight outside the United Kingdom or to or from a place outside the United Kingdom or services ancillary thereto, and
 - (ii) services where the tax on the supply is payable solely by the person to whom they are supplied as provided for in section 8B of the Act.

Supplies to which these Regulations apply

5. These Regulations apply to a supply of goods or services made on or after 1st January 1981 but do not apply to any supply of goods or services which—

- (a) the claimant has used or intends to use for the purpose of any supply by himself in the United Kingdom; or
- (b) have been exported or are intended for exportation from the United Kingdom by or on behalf of the claimant.

Tax which will not be repaid

6.—(1) The following tax shall not be repaid—

- (a) tax charged on a supply which if made to a taxable person would be excluded from any credit under section 3 of the Act;
- (b) tax charged on a supply to a travel agent which is for the direct benefit of a traveller other than the travel agent or his employee.

(2) In this regulation a travel agent includes a tour operator and any person who purchases and resupplies services of a kind enjoyed by travellers.

Method of claiming

7.—(1) A person claiming a repayment of tax under these Regulations shall—

- (a) complete in English and send to the Commissioners either the form numbered 1 in the Schedule hereto, or a form designed for the purpose by any official authority, containing full information in respect of all the matters specified in the said form and a declaration as therein set out; and
- (b) at the same time furnish—
 - (i) a certificate of status issued by the official authority of the member State in which the claimant is established either on the form numbered 2 in the Schedule hereto or on the form designed by the official authority for the purpose; and

- (ii) the document relating to the supply on which the tax is claimed and which is required by regulations^(a) made pursuant to section 3 of the Act to be held by a taxable person claiming a deduction of input tax.

(2) Where the Commissioners are in possession of a certificate of status issued not more than 12 months before the date of the claim, the claimant shall not be required to furnish a further such certificate.

(3) The Commissioners shall refuse to accept any document referred to in paragraph (1)(b)(ii) of this regulation if it bears an official stamp indicating that it was furnished at the same time as an earlier claim.

Time within which a claim must be made

8.—(1) A claim shall be made not later than six months after the end of the calendar year in which the tax claimed was charged and shall be in respect of tax charged on supplies made during a period of not less than three months and not more than one calendar year:

provided that a claim may be made in respect of tax charged on supplies made during a period of less than three months where that period represents the final part of a calendar year.

(2) No claim shall be made for less than £16.

(3) No claim for less than £130 shall be made in respect of tax charged on supplies made during a period of less than one calendar year except where that period represents the final part of a calendar year.

Deduction of bank charges

9. Where any repayment is to be made to a claimant in the country in which he is established the Commissioners may reduce the amount of the repayment by the amount of any bank charges or costs incurred as a result thereof.

Treatment of claim and repayment claimed

10. For the purposes of section 31 of the Act any claim under these Regulations shall be treated as a return required under Part I of the Act.

11. For the purposes of section 40(1)(d) of the Act repayments claimed under these Regulations shall be treated as the amount of any input tax which may be credited to a person.

False, altered or incorrect claims

12. If any claimant furnishes or sends to the Commissioners for the purposes of these Regulations any document which is false or which has been altered after issue to that person, the Commissioners may refuse to repay any tax claimed by that claimant for the period of two years from the date when the claim in respect of which the false or altered documents were furnished or sent was made.

13. Where any sum has been repaid to a claimant as a result of an incorrect claim the amount of any subsequent repayment to that claimant may be reduced by the said sum.

^(a) The present regulation is regulation 55 of the Value Added Tax (General) Regulations 1980 (S.I. 1980/1536).

14th October 1980
King's Beam House,
Mark Lane,
London EC3R 7HE.

H. Scholes,
Commissioner of Customs and Excise.

Regulation 7(1)(a)

Form No 1

SCHEDULE

Regulation 7(1)(a)



Competent authority to which the application is addressed

Is this your first application? If not, please give Tax Reference No.

Receipt stamp

APPLICATION
by a taxable person not established in the country for
REFUND OF
VALUE ADDED TAX
(Please read the explanatory notes before filling in)

1	Surname and forenames or name of firm of applicant	
	Street and house number	
	Postal code, place and country	
2	Nature of applicant's business	
3	Particulars of the Tax Office and VAT Registration No. in the country in which the applicant is established or has his domicile or normal place of residence	
4	Period to which the application refers	from month year month year
5	Total amount of refund requested (in figures) (see overleaf for itemized list)	
6	The applicant requests the refund of the amount shown in heading 5 in the manner described in heading 7	
7	Method of settlement requested (*)	Bank account <input type="checkbox"/> Postal account <input type="checkbox"/>
	Account number	Code number of financial body
	Account in the name of	
	Name and address of the financial body	
8	No. of documents enclosed: Invoices Import documents	
9	The applicant hereby declares	
	(a) that the goods or services specified overleaf were used for his activities as a taxable person during:	
	(b) that in the country in which the refund is being requested, and during the period covered by this application, he engaged in	
	<input type="checkbox"/>	(*) no supply of goods or services
	<input type="checkbox"/>	(*) only the provision of services in respect of which tax is payable solely by the person to whom they are supplied
	<input type="checkbox"/>	(*) only in the provision of certain exempted transport services and services ancillary thereto
	(c) that the particulars given in this application are true	

(*) Insert x in the appropriate box

(*) Insert x in the appropriate box

At on
(Place) (Date) (Signature)

NOTE: Box 10 overleaf MUST be completed

10. STATEMENT Itemizing VAT amounts relating to the period covered by this application.

Number	Nature of goods or service	Name, VAT Registration Number if known, and address of supplier of goods or services	Date and number of Invoice or Import document	Amount of tax refund applied for	FOR OFFICIAL USE ONLY
TOTAL :					

FOR OFFICIAL USE ONLY

Regulation 7(1)(b)(i)
Form No 2



CERTIFICATE OF STATUS OF
TAXABLE PERSON

The undersigned

.....
(Name and address of competent authority)

certifies that

.....
(Name of taxable person)

.....

.....
(Nature of activity)

.....
(Address of the Establishment)

is a taxable person for the purposes of Value Added Tax, *his Registration number
being

--	--	--	--	--	--

Date

Office stamp

Signature

.....
(Name and grade)

*If the applicant does not have a Registration number, the competent authority shall state the reason for this.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations are made under section 5 of the Finance Act 1972, as amended. They implement in the United Kingdom a scheme which will operate throughout the Community for the refund of value added tax incurred by registered taxable persons in member States other than those in which they are registered. The scheme has its origin in Council Directive 79/1072/EEC (OJ No L331, 27.12.79, p. 11) which was adopted in Brussels on 6th December 1979.

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