
STATUTORY INSTRUMENTS

1992 No. 3150

CUSTOMS AND EXCISE

The Revenue Traders (Accounts and Records) Regulations 1992

Made - - - - *10th December 1992*
Laid before Parliament *11th December 1992*
Coming into force - - *1st January 1993*

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by section 118A of the Customs and Excise Management Act 1979(1), 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 Revenue Traders (Accounts and Records) Regulations 1992 and shall come into force on 1st January 1993.

Interpretation

2.—(1) In these Regulations—

“accounting period” means any period for accounting for duty allowed or prescribed by or under the customs and excise Acts;

“adjustment” means such adjustment of the duty payable in any accounting period as is allowed or prescribed by or under the customs and excise Acts with respect to errors in accounting for the duty made in any previous accounting period;

“duty” means any duty of excise;

“duty payable” means duty which is due and payable by a person whether or not payment of the duty may be deferred;

“excise duty account” is the account described in regulation 5;

“excise duty point” (the time when the duty is payable by a person whether or not payment may be deferred) has the meaning given by section 1 of the Finance (No. 2) Act 1992(2);

“excise goods” means any goods of a class or description which is subject to a duty of excise (whether or not duty is chargeable on the goods).

(1) 1979 c. 2; section 118A was inserted by the Finance Act 1991 (c. 31) section 12 and Schedule 5; section 1(1) defines Commissioners
(2) 1992 c. 48.

- (a) (2) (a) The records, excise duty account or the copy specified in paragraph (b) below may be kept or preserved, but without prejudice to the provisions of section 118A(3) and (5) of the Customs and Excise Management Act 1979, in any form, and in particular they may be in documentary or other written form, or be in the form of anything that is commonly called or referred to as an account or a report; and the information which they contain or are to contain may be contained in or be in the form of an item described in Schedule 4 to these Regulations; and
- (b) the records and other items referred to in sub-paragraph (a) above, as being specified in this sub-paragraph, are—
 - (i) the record and other information required by regulation 4 of these Regulations;
 - (ii) the excise duty account required by regulation 5 of these Regulations;
 - (iii) the record described in regulation 6 of these Regulations;
 - (iv) the record containing the information specified in paragraph (b) of regulation 7 of these Regulations; and
 - (v) the copy of an item required by regulation 3 of these Regulations.
- (3) Schedule 1 to these Regulations shall be interpreted in accordance with the notes contained therein (called therein “Notes of interpretation”).

Items and records (including an excise duty account) to be kept and preserved

- 3. A revenue trader who receives, prepares, maintains or issues an item described in Schedule 1 to these Regulations shall—
 - (a) in the case of a received item, keep and preserve the item;
 - (b) in the case of an issued item, keep and preserve a copy of the item; and
 - (c) in the case of an item that is prepared or maintained and which has not been received or which is not issued, preserve the item.
- 4.—(1) A revenue trader shall keep and preserve a record of—
 - (a) the production, buying, selling, importation, exportation, dealing in or handling of any excise goods carried on by him;
 - (b) the goods (whether or not they are excise goods) or services received by him in connection with or to enable him to undertake a transaction or activity described in sub-paragraph (a) of this paragraph; and
 - (c) the financing or the facilitation, made or effected by him, of a transaction or activity described in sub-paragraph (a) of this paragraph (whether or not that transaction or activity was carried on by him).
- (2) The record, required of a revenue trader by paragraph (1) of this Regulation, shall include—
 - (a) in the case of a receipt by him of excise goods, the date of receipt, and the name and address of the supplier of those goods to him;
 - (b) in the case of the disposal by him of excise goods, the name and address, except where disposed of by a retail sale, of the person who acquires them, and the date of that disposal; and
 - (c) in the case of a transaction described in sub-paragraph (c) of paragraph (1) of this regulation (financing or facilitation)—
 - (i) the date of receipt and the name and address of the person making or effecting that transaction, where the revenue trader (keeping and preserving a record as required by paragraph (1) of this regulation) is the recipient of that transaction; and

(ii) the date of making or effecting that transaction and the name and address of the recipient of it, where the revenue trader (keeping and preserving a record as required by paragraph (1) of this regulation) is making or effecting that transaction.

(3) The record, required of a revenue trader by paragraph (1) of this regulation, shall contain sufficient information, by way of cross referencing or otherwise, to enable an officer to trace readily any payments, made or received by that trader in respect of any excise goods or of any financing or facilitation described in sub-paragraph (c) of paragraph (1) of this regulation.

5.—(1) Subject to paragraph (2) of this regulation, a revenue trader who, in an accounting period, is liable to pay an amount of duty shall keep and preserve a record, to be known as the excise duty account, containing the particulars specified in Schedule 2 to these regulations (and this requirement to keep and preserve an excise duty account is called “the obligation” in paragraph (2) of this regulation).

(2) Where two or more revenue traders are liable jointly and severally to pay an amount of duty (called below “the debt”), and one of them (called below “the responsible revenue trader”), with the understanding of the other or, as the case may be, the others, agrees to take on the responsibility as between all of those revenue traders, to pay the debt or a portion of it, the obligation of that other or those others shall be considered, for the purposes of this regulation, to be discharged to the extent, having regard to the amount of the debt, that the debt is discharged through any payment made by the responsible revenue trader.

6. A revenue trader shall keep and preserve such records as the Commissioners may specify for any case or cases, in a notice published by them and not withdrawn by a further notice.

Time of recording and period of preservation of items and records (including an excise duty account)

7. A revenue trader required by or under these Regulations to keep a record (including an item or copy of an item governed by regulation 3 of these Regulations) or an excise duty account shall—

- (a) do so at the time of or as soon as possible after—
 - (i) the happening of the event that is required by these Regulation to be recorded; and
 - (ii) in any other case, the moment when the information, that is by virtue of these Regulations to be recorded, is first known to him; and
- (b) include in the record or the excise duty account sufficient information, by way of cross referencing or otherwise, to enable an officer to ascertain readily the particulars specified in Schedule 3 to these Regulations.

8. Anything that is required by or under these Regulations to be preserved by a revenue trader shall be preserved for a period of six years, or such lesser period as the Commissioners may allow, starting, on the day that the obligation to preserve arises.

New King’s Beam House 22 Upper Ground
London SE1 9PJ
10th December 1992

Leonard Harris
Commissioner of Customs and Excise

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SCHEDULE 1

Regulation 3

RECEIVED, PREPARED, MAINTAINED OR ISSUED ITEMS

1. An invoice.
2. A credit note.
3. A debit note.
4. A record relating to an importation or to an exportation.
5. A statement of account.
6. A record of payment or of receipt.
7. A journal or a ledger.
8. A profit and loss account, trading account, management account, management report or balance sheet.
9. An internal or an external auditor's report.
10. A record relating to any drawback, repayment or reimbursement of duty.
11. A record required, other than by virtue of these Regulations, by or under the customs and excise Acts.
12. Any other record maintained for a trading or business purpose.

Notes of interpretation

1. In paragraph 1 to 12 above the item, described therein, includes anything in any form that it may take when the information, to which the item relates, is received, or, as the case may be, when that information is dealt with for the purpose of preparing, maintaining or issuing an item, and which it may take subsequently whilst it is being preserved by the revenue trader who received it or, as the case may be, prepared or maintained it or issued it.
2. In note (1) above "anything" includes—
 - (a) an item described in Schedule 4 to these Regulations containing the information which is expressly or impliedly described in paragraph 1 to 12 above or which is obtained for a purpose described in those paragraphs; and
 - (b) anything which is commonly called or referred to as an account or a report.
3. In note 1 above "form" includes documentary or other written form.
4. In paragraph 4, 6 and 10 above "record" means anything containing the information expressly or impliedly described, respectively, in those paragraphs, irrespective of its form.
5. In paragraph 11 above "record" means anything containing information which is required by or under the legislation specified therein, irrespective of its form.
6. In paragraph 12 above "record" means anything that is maintained for the purposes specified therein, irrespective of its form.

SCHEDULE 2

Regulation 5

PARTICULARS OF THE EXCISE DUTY ACCOUNT

1. The amount, before adjustment, of any duty payable by the revenue trader in each accounting period.
2. The amount of any adjustment in each accounting period.
3. The amount, after any adjustment, of any duty payable by the revenue trader in each accounting period.
4. The amount, date and method of payment of any duty paid by the revenue trader.

SCHEDULE 3

Regulation 7

PARTICULARS TO BE READILY ASCERTAINABLE

1. The particulars specified at paragraph 2 below are to be kept by reference to each accounting period of the revenue trader, and in respect of each transaction, involving excise goods, that gives rise to a joint or several liability on the part of that revenue trader to pay (and the amount of duty for which the revenue trader is liable jointly or severally is called in paragraph 2 below “the amount of duty”).
 - 2.—(1) Particulars showing how the amount of duty was calculated, including the nature, quantity and value of the excise goods for the purpose of that calculation, and the applicable rate of that duty.
 - (2) Particulars of the circumstances and of the reasons relied on by the revenue trader for the making of an adjustment.
 - (3) Particulars of the excise duty point.

SCHEDULE 4

Regulation 2(2) and Schedule 1

1. A drawing, graph, map or plan.
2. A photocopy.
3. A disc, sound track, tape, or other device in which sounds or other data (not being visual images) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom.
4. Any film, microfilm, negative, tape or other device in which one or more visual images are recorded so as to be capable (as aforesaid) of being reproduced therefrom.
5. A transcript or reproduction.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require revenue traders to keep and preserve records containing information about their businesses and about their dealings in excise and other goods and services. The Regulations are designed to assist HM Customs and Excise, when carrying out periodic audits of a revenue trader's business, to collect and protect the revenues derived from excise duties. In particular the Regulations are intended to facilitate the audits carried out by HM Customs and Excise for protection of the excise duties arising in the Single Market of the European Communities, which comes into existence on 1st January 1993.

Regulation 2 is concerned with interpretation and the form that the required records may take.

Regulations 3 and 4 set out requirements for keeping commercial records generally and in relation to certain activities of revenue traders; give examples of the records with which the Regulations are concerned; and specify certain information that must be recorded.

Regulation 5 requires a revenue trader who pays excise duty to keep an excise duty account.

Regulation 6 enables the Commissioners to specify in a notice additional and alternative records to be kept and preserved.

Regulation 7 describes the time when the obligation to keep records commences and the nature of the information required by the previous Regulations.

Regulation 8 requires revenue traders to preserve their records for a period of six years or such lesser period as the Commissioners may allow.