
STATUTORY INSTRUMENTS

1993 No. 1639

VALUED ADDED TAX

**The Value Added Tax (General)
(Amendment) (No. 5) Regulations 1993**

<i>Made</i>	- - - -	<i>30th June 1993</i>
<i>Laid before the House of Commons</i>	- - - -	<i>2nd July 1993</i>
<i>Coming into force</i>	- -	<i>1st August 1993</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by section 15(1), (3) and (4) of the Value Added Tax Act 1983(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

1. These Regulations may be cited as the Value Added Tax (General) (Amendment) (No. 5) Regulations 1993 and shall come into force on 1st August 1993.

2. The Value Added Tax (General) Regulations 1985(2) shall be amended in accordance with these Regulations.

3. In paragraph (1) of regulation 29, for the definition of “exempt input tax” there shall be substituted the following—

““exempt input tax” means—

- (i) input tax, or a proportion of input tax, which is attributable to exempt supplies in accordance with the method used under regulation 30 or approved or directed under regulation 31, as the case may be; and
- (ii) input tax, or a proportion of input tax, which is attributable to supplies outside the United Kingdom which would be exempt if made in the United Kingdom, not being supplies specified in an order under section 15(2)(ba) of the Act(3), according to the extent to which the goods or services on which the input tax was incurred are used or to be used in making such supplies or in accordance with a method approved or directed under regulation 31, as the case may be;”.

4. After regulation 29 there shall be inserted the following—

(1) 1983 c. 55; section 15(1) and (3) were substituted by section 12 of the Finance Act 1987 (c. 16); section 15(1) was amended by section 14(2) of, and paragraph 16(1) of Schedule 3 to, the Finance (No. 2) Act 1992 (c. 48); section 15(3) was amended by section 26 of the Finance Act 1989 (c. 26); section 48(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise and “regulations” as meaning regulations made by the Commissioners.

(2) S.I.1985/886; relevant amendments have been made by S.I. 1989/1132, 1992/645, 1992/3102 and 1993/119.

(3) Section 15(2)(ba) was inserted by section 14(2) of, and paragraph 16(2) of Schedule 3 to, the Finance (No. 2) Act 1992 (c. 48).

“**29A.** Nothing in this Part of these Regulations shall be construed as allowing a taxable person to deduct the whole or any part of tax on the importation or acquisition by him of goods or the supply to him of goods or services where those goods or services are not used or to be used by him in making supplies in the course or furtherance of a business carried on by him.”.

5. In regulation 32—

- (a) for the words “importations or acquisitions by or supplies to him” there shall be substituted “goods imported or acquired by or goods or services supplied to him”;
- (b) for the words “importations, acquisitions or supplies” there shall be substituted “goods or services”.

6. After paragraph (4) of regulation 33 there shall be added the following—

“(5) In this regulation—

“supplies”, except in the expression “taxable supplies”, shall be construed as including supplies outside the United Kingdom which would be exempt if made in the United Kingdom, other than supplies specified in an order under section 15(2)(ba) of the Act(4), and “supply” shall be construed accordingly.”.

7. At the beginning of paragraph (2) of each of regulations 35 and 36 there shall be inserted “Subject to regulation 36A below and”.

8. After regulation 36 there shall be inserted the following—

“**36A.**—(1) In this regulation and regulations 35 and 36 above—

- (a) “exempt supplies” includes supplies outside the United Kingdom which would be exempt if made in the United Kingdom, other than supplies within subparagraph (b) below;
- (b) “taxable supplies” includes the supplies referred to in regulation 32 above.

(2) Where—

- (a) regulation 35 or 36 above applies;
- (b) the use to which the goods or services concerned are put or to which they are intended to be put includes the making of any supplies outside the United Kingdom; and
- (c) at the time when the taxable person was first required to attribute the input tax he was not required to use a method approved or directed under regulation 31 above or that method did not provide expressly for the attribution of input tax attributable to supplies outside the United Kingdom;

under regulation 35 or the amount which he is entitled to be paid under regulation 36, as the case may be, shall be calculated by reference to the extent to which the goods or services concerned are used or intended to be used in making taxable supplies, expressed as a proportion of the whole use or intended use.”.

(4) Section 15(2)(ba) was inserted by section 14(2) of, and paragraph 16(2) of Schedule 3 to, the Finance (No. 2) Act 1992 (c. 48).

New King's Beam House,
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30th June 1993

Leonard Harris
Commissioner of Customs and Excise

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st August 1993, make a number of amendments to Part V of the Value Added Tax (General) Regulations 1985 (“the principal Regulations”).

Regulation 3 amends the definition of “exempt input tax” in regulation 29(1) of the principal Regulations so as to include input tax on goods and services used in the making of supplies outside the United Kingdom which would be exempt if made in the United Kingdom, where that input tax is not deductible.

Regulation 4 inserts a new regulation 29A. This regulation clarifies the scope of Part V of the principal Regulations, and confirms the close link which exists between the supplies made in the course of a business and the deduction of input tax.

Regulation 5 merely amends the wording of regulation 32 so as to make it consistent with that of other regulations in Part V of the principal Regulations.

Regulation 6 amends regulation 33 by extending its scope so as to include the input tax which regulation 3 of these Regulations has brought within the definition of “exempt input tax” in regulation 29(1) of the principal Regulations.

Regulation 7 amends regulations 35 and 36 of the principal Regulations to cater for the new regulation 36A which is introduced by regulation 8.

Regulation 8 inserts a new regulation 36A. This brings supplies outside the United Kingdom within the scope of regulations 35 and 36. The effect of this is that such supplies as do not give rise to the right to deduct input tax are differentiated from those supplies which do, irrespective of where the supplies take place.