
STATUTORY INSTRUMENTS

1995 No. 2518

The Value Added Tax Regulations 1995

PART XXI

REPAYMENTS TO THIRD COUNTRY TRADERS

Interpretation of Part XXI

185. —

(1) In this Part—

“claimant” means a person making a claim under this Part or a person on whose behalf a claim is made and any agent acting on his behalf as his VAT representative;

“official authority” means any government body or agency in any country which is recognised by the Commissioners as having authority to act for the purposes of this Part;

“prescribed year” means the period of 12 months beginning on the first day of July in any year;

“VAT representative” means any person established in the United Kingdom and registered for VAT purposes in accordance with the provisions of Schedule 1 to the Act who acts as agent on behalf of a claimant;

“third country” means a country other than those comprising the member States of the European Community;

“trader” means a person carrying on a business who is established in a third country and who is not a taxable person in the United Kingdom.

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

(a) he has there a business establishment, or

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

(3) For the purposes of this Part—

(a) a person carrying on business through a branch or agency in any country is treated as being established there, and

(b) where the person is a body corporate its usual place of residence shall be the place where it is legally constituted.

Repayments of VAT

186. Subject to the other provisions of this Part a trader shall be entitled to be repaid VAT charged on goods imported by him into the United Kingdom in respect of which no other relief is available or on supplies made to him in the United Kingdom if that VAT would be input tax of his were he a taxable person in the United Kingdom.

VAT representatives

187. The Commissioners may, as a condition of allowing a repayment under this Part, require a trader to appoint a VAT representative to act on his behalf.

Persons to whom this Part applies

188. —

(1) Save as the Commissioners may otherwise allow, a trader to whom this Part applies who is established in a third country having a comparable system of turnover taxes will not be entitled to any refunds under this Part unless that country provides reciprocal arrangements for refunds to be made to taxable persons who are established in the United Kingdom.

(2) This Part shall apply to any trader but not if during any period determined under regulation 192—

- (a) he was established in any of the member States of the European Community, or
- (b) he made supplies in the United Kingdom of goods or services other than—
 - (i) transport of freight outside the United Kingdom to or from a place outside the United Kingdom or services ancillary thereto,
 - (ii) services where the VAT on the supply is payable solely by the person to whom they are supplied in accordance with the provisions of section 8 of the Act, and
 - (iii) goods where the VAT on the supply is payable solely by the person to whom they are supplied.

Supplies and importations to which this Part applies

189. This Part applies to any supply of goods or services made in the United Kingdom or to any importation of goods into the United Kingdom on or after 1st July 1994 but does not apply to any supply or importation which—

- (a) the trader has used or intends to use for the purpose of any supply by him in the United Kingdom, or
- (b) has been exported or is intended for exportation from the United Kingdom by or on behalf of the trader.

VAT which will not be repaid

190. —

(1) The following VAT shall not be repaid—

- (a) VAT charged on a supply which if made to a taxable person would be excluded from any credit under section 25 of the Act,
- (b) VAT 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 or any person who purchases and resupplies services of a kind enjoyed by travellers.

Method of claiming

191. —

(1) A person claiming a repayment of VAT under this Part shall—

- (a) complete in the English language and send to the Commissioners either the form numbered 9 in Schedule 1 to these Regulations, or a like form produced 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 third country in which the trader is established either on the form numbered 10 in Schedule 1 to these Regulations or on a like form produced by the official authority, and
 - (ii) such documentary evidence of an entitlement to deduct input tax as may be required of a taxable person claiming a deduction of input tax in accordance with the provisions of regulation 29.
- (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) above if it bears an official stamp indicating that it had been furnished in support of an earlier claim.

Time within which a claim must be made

192. —

- (1) A claim shall be made not later than 6 months after the end of the prescribed year in which the VAT claimed was charged and shall be in respect of VAT charged on supplies or on importations made during a period of not less than 3 months and not more than 12 months, provided that a claim may be made in respect of VAT charged on supplies or on importations made during a period of less than 3 months where that period represents the final part of the prescribed year.
- (2) No claim shall be made for less than £16.
- (3) No claim shall be made for less than £130 in respect of VAT charged on supplies or on importations made during a period of less than the prescribed year except where that period represents the final part of the prescribed year.

Deduction of bank charges

193. 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

194. For the purposes of section 73 of the Act any claim made under this Part shall be treated as a return required under paragraph 2 of Schedule 11 to the Act.

195. For the purpose of section 83(c) of the Act repayments claimed under this Part shall be treated as the amount of any input tax which may be credited to a person.

False, altered or incorrect claims

196. If any claimant furnishes or sends to the Commissioners for the purposes of this Part any document which is false or which has been altered after issue to that person, the Commissioners may refuse to repay any VAT claimed by that claimant for the period of 2 years from the date when the claim, in respect of which the false or altered documents were furnished or sent, was made.

197. 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.