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STATUTORY INSTRUMENTS

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**1999 No. 3114**

**VALUE ADDED TAX**

**The Value Added Tax (Amendment) (No. 4) Regulations 1999**

	<i>22nd November</i>
<i>Made</i> - - - -	<i>1999</i>
<i>Laid before the House of</i>	<i>22nd November</i>
<i>Commons</i> - - - -	<i>1999</i>
<i>Coming into force</i> - -	<i>1st January 2000</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by section 26(1), (3) and (4) of the Value Added Tax Act 1994<sup>(1)</sup> and section 13(1), (5), (6) and (7) of the Finance Act 1999<sup>(2)</sup> 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 (Amendment) (No. 4) Regulations 1999 and shall come into force on 1st January 2000.

2. The Value Added Tax Regulations 1995<sup>(3)</sup> shall be amended as follows.

3. In regulation 24 after the definition of “insolvent person” there shall be inserted—

““investment gold” has the same meaning as that expression has for the purposes of Group 15 of Schedule 9 to the Act;”.

4. After regulation 31 there shall be inserted—

“**31A.**—(1) This regulation applies where a person—

(a) makes a supply of investment gold of a description falling within item 1 of Group 15 of Schedule 9 to the Act, or

(b) makes a supply of a description falling within item 2 of Group 15 of Schedule 9 to the Act, which subsequently results in the transfer of the possession of the investment gold.

(2) Subject to paragraph (6) below (and save as the Commissioners may otherwise allow in relation to supplies where the value is less than an amount equivalent to 15,000 euro at a rate specified in any notice published by the Commissioners for the purposes of this

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(1) 1994 c. 23; section 96(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise and “regulations” as meaning regulations made by the Commissioners.  
(2) 1999 c. 16; section 13(7) defines “the Commissioners” as meaning the Commissioners of Customs and Excise.  
(3) S.I. 1995/2518; to which there are amendments not relevant to these Regulations.

regulation) in addition to the requirements upon every taxable person under this Part, a person making a supply of a description falling within paragraph (1) above shall—

- (a) without prejudice to regulations 13 and 14, issue an invoice in respect of the supply containing such details as may be specified in a notice published by the Commissioners for the purposes of this regulation;
- (b) keep and maintain a record of the supply containing such details as may be specified in a notice published by the Commissioners for the purposes of this regulation;
- (c) retain such documents in relation to the supply as may be specified in a notice published by the Commissioners for the purposes of this regulation;
- (d) keep and maintain a record of the recipient of the supply containing such particulars pertaining to the recipient as may be specified in a notice published by the Commissioners for the purposes of this regulation;
- (e) keep and maintain such other records and documents as may be specified in a notice published by the Commissioners for the purposes of this regulation to allow the proper identification of each recipient of the supply;
- (f) notify the Commissioners in writing that he is making such supplies within 28 days of the first supply;
- (g) furnish to the Commissioners such information in relation to his making of the supply as may be specified in a notice published by them.

(3) A taxable person shall keep and maintain, together with the account he is required to keep and maintain under regulation 32 below, a record of exempt supplies of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act, that he makes to another taxable person.

(4) Where there is a sale of investment gold, which would if that person were supplying investment gold in the course or furtherance of any business, fall within item 1 or 2 of Group 15 of Schedule 9 to the Act, by a person who is not trading in investment gold, to a person who is so trading, the purchaser shall issue on behalf of the seller an invoice containing such particulars as may be set out in a notice published by the Commissioners for the purposes of this regulation and the seller shall sign such form of declaration as may be set out in a notice published by the Commissioners for the purposes of this regulation.

(5) The records required to be kept and the documents required to be retained under paragraphs (1) to (4) above shall be preserved for a minimum period of 6 years.

(6) Paragraphs (2) to (5) above shall not apply to any person in respect of a supply by him of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act the value of which does not exceed £5,000, unless the total value of those supplies to any person over the last 12 months exceeds £10,000.

**31B.** Where a person receives a supply of a description falling within article 31A(1) above that person shall retain the purchase invoice in relation to that supply for a minimum period of 6 years.

**31C.** Paragraph 10(2) of Schedule 11 to the Act shall apply in relation to supplies of a description falling within items 1 and 2 of Group 15 of Schedule 9 to the Act as it applies in relation to the supply of goods under taxable supplies.”

5. After regulation 33 there shall be inserted:

**“33A.** A person making supplies of a description falling within article 4 of the Value Added Tax (Terminal Markets) Order 1973<sup>(4)</sup> shall not be required to keep in relation to those supplies the records specified in regulations 31 (save for paragraph (1)(a) of that regulation), 31A, 32 and 33 of these Regulations.

**33B.** Where a person of a description in article 6 of the Value Added Tax (Terminal Markets) Order 1973 who makes or receives supplies of a description falling within that article, the following Parts of these Regulations shall not apply in relation to those supplies, that is to say—

- (a) Part IV;
- (b) Part V.”

**6.** For regulation 99(1)(a) there shall be substituted—

““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 101, or a method approved or directed to be used under regulation 102 as the case may be, and
- (ii) input tax, or a proportion of input tax, which is attributable to exempt supplies of a description falling within regulation 103A, but not any input tax allowable under that regulation, and
- (iii) 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 26(2)(c) of the Act, 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 to be used under regulation 102, as the case may be;”

**7.** In regulation 103(1)(b) after “the Act,” there shall be inserted “other than supplies of a description falling within regulation 103A below,”

**8.** After regulation 103 there shall be inserted—

**“103A.—(1)** This regulation applies to a taxable person who makes supplies of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act.

- (2) Input tax incurred by him in any prescribed accounting period in respect of supplies by him of a description falling within paragraph (1) above shall be allowable as being attributable to those supplies only to the following extent, that is to say where it is incurred—
  - (a) on investment gold supplied to him which but for an election made under the Value Added Tax (Investment Gold) Order 1999<sup>(5)</sup>, or but for Note 4(b) to Group 15 of Schedule 9 to the Act would have fallen within item 1 or 2 of that Group, or on investment gold acquired by him;
  - (b) on a supply to him, an acquisition by him, or on an importation by him of gold other than investment gold which is to be transformed by him or on his behalf into investment gold;
  - (c) on services supplied to him comprising a change of form, weight or purity of gold.
- (3) Where a taxable person produces investment gold or transforms any gold into investment gold he shall also be entitled to credit for input tax incurred by him on

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(4) S.I. 1973/173; relevant amending instruments are S.I. 1980/304; 1981/955; 1985/1046; 1999/3114.

(5) S.I. 1999/3116.

any goods or services supplied to him, any acquisitions of goods by him or any importations of goods by him, but only to the extent that they are linked to the production or transformation of that gold into investment gold.

- (4) Where input tax has been incurred on goods or services which are used or to be used in making supplies of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act and any other supply, that input tax shall be attributed to the supplies falling within item 1 or 2 to the extent that the goods or services are so used or to be used, expressed as a proportion of the whole use or intended use.
- (5) Where input tax is attributed to supplies of a description falling within item 1 or 2 of Group 15 to Schedule 9 to the Act under paragraph (4) above, the taxable person shall be entitled to credit for only so much input tax as is reasonably allowable under paragraph (2) or (3) above.
- (6) For the purpose of attributing input tax to supplies of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act under paragraph (4) above, any input tax of the description in that paragraph shall be deemed to be the only input tax incurred by the taxable person in the prescribed accounting period concerned.”.

9.—(1) For regulation 110 there shall be substituted—

“110.—(1) Subject to paragraph (2) below, in this regulation, in regulations 108 and 109 above and in Part XV of these Regulations—

- (a) “exempt supplies” includes supplies outside the United Kingdom which would be exempt if made in the United Kingdom, other than supplies of a description falling within subparagraph (b) below; and
- (b) “taxable supplies” includes supplies of a description falling within regulation 103(1) above.
- (2) Subject to paragraph (3) below, for the purposes of identifying the use, or intended use, of goods and services in regulations 108 and 109 above and in Part XV of these Regulations—
  - (a) “exempt supplies” shall be construed as including supplies of a description falling within regulation 103A(1) above, but only to the extent that there is, or would be, no credit for input tax on goods and services under that regulation; and
  - (b) “taxable supplies” shall be construed as including supplies of a description falling within regulation 103A(1) above, but only to the extent that there is, or would be, credit for input tax on goods and services under that regulation.
- (3) Any adjustment under regulations 108 and 109 above shall not cause any more or any less input tax to be credited, as the case may be, in respect of supplies of a description falling within regulation 103A(1) above than would be allowed or required under that regulation.
- (4) Subject to regulation 103, where—
  - (a) regulation 108 or 109 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 102 or

that method did not provide expressly for the attribution of input tax attributable to supplies outside the United Kingdom,

the amount for which the taxable person shall be liable to account under regulation 108 or the amount which he is entitled to be paid under regulation 109, 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.”.

**10.** In regulation 112(1), after “in that Part” there shall be added “and in particular, exempt supplies and taxable supplies shall be accorded the same meanings as defined in regulation 110 above”.

New King’s Beam House,22 Upper  
Ground,London,SE1 9PJ  
22nd November 1999

*Martin Brown*  
Commissioner of Customs and Excise

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1st January 2000, further amend the Value Added Tax Regulations 1995 (S.I.1995/2518) (“the principal Regulations”).

These Regulations implement record keeping and accounting requirements for traders making supplies involving investment gold, simplified record keeping arrangements for supplies involving investment gold traded on regulated bullion markets and the input tax deduction provisions of Council Directive 98/80/EC of 12th October 1998—Special scheme for investment gold—amending Directive 77/388/EEC.

Article 3 defines “investment gold” for the purposes of Part V of the principal Regulations, as having the same meaning as in Group 15 of Schedule 9 to the Value Added Tax Act 1994.

Article 4 inserts new regulations 31A, 31B and 31C. New regulation 31A sets out the special record keeping, accounting and notification requirements for traders in investment gold. It also allows for certain further detailed requirements to be specified in a notice. New regulation 31B provides for the records to be retained by purchasers of investment gold. New regulation 31C applies paragraph 10(2) of Schedule 11 to the Value Added Tax Act 1994 (entry and inspection of premises) to exempt supplies involving investment gold in the same way as that provision applies to taxable supplies.

Article 5 inserts new regulations 33A and 33B. New regulation 33A dispenses with the record keeping requirements of VAT for supplies between members of the London Bullion Market Association involving investment gold. New regulation 33B prevents taxable persons who are not required to notify their liability to be registered under the article 6 of the Value Added Tax (Terminal Markets) Order 1973 (S.I. 1973/173) from having to keep records or submit returns and EC sales lists. Therefore, although they are taxable persons for the purposes of section 55 of the Act (customers to account for tax on supplies of gold) they will be treated in other respects as not liable to be registered.

Article 6 makes consequential amendments to regulation 99(1) (interpretation of exempt input tax for the purposes of Part XIV of the principal Regulations).

Article 7 makes consequential amendments to regulation 103 as a result of an additional article being added during the consolidation of the Specified Supplies Order (S.I. 1999/ ).

Article 8 inserts a new regulation 103A which defines the extent to which input tax can be deducted when incurred in the course of making supplies involving investment gold.

Article 9 makes consequential amendments to regulation 110, to ensure that for the purposes of adjustment under regulations 108 and 109 and Part XV of the principal Regulations (The Capital Goods Scheme), the definitions of “exempt supplies” and “taxable supplies” include supplies of a description falling within regulation 103A. This article also ensures that the limited right to deduct available under regulation 103A is taken into consideration when making these adjustments.

Article 10 makes consequential amendments to regulation 112, to make it clear in Part XV of the principal Regulations (The Capital Goods Scheme) that any adjustment under that Part must take account of the additional meanings given to “exempt supplies” and “taxable supplies” in regulation 110.