

**2004 No. 1675**

**VALUE ADDED TAX**

**The Value Added Tax (Amendment) (No. 3) Regulations 2004**

*Made* - - - - *1st July 2004*

*Laid before the House of Commons* *1st July 2004*

*Coming into force* - - *22nd July 2004*

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 3(2), 3(4), 25(1), 49(2), 49(3) and 58 of and Schedule 1 paragraph 17, Schedule 2 paragraph 9, Schedule 3 paragraph 10, Schedule 3A paragraph 8 and Schedule 11 paragraphs 2(1), 2(11) and 7(1) to the Value Added Tax Act 1994(a), sections 133(1), 133(2) and 133(5) of the Finance Act 1999(b), and section 143(1) of and Schedule 38 paragraphs 1(1), 1(2), 2(1), 2(2), 3(1), 3(2), 3(3), 4(1), 4(2), 4(3), 5 and 7(1) to the Finance Act 2000(c), hereby make the following regulations:

1.—(1) These Regulations may be cited as the Value Added Tax (Amendment) (No. 3) Regulations 2004 and come into force on 22nd July 2004.

(2) The Value Added Tax (Electronic Communications) (Incentives) Regulations 2001(d) are revoked (incentive for making VAT return by way of electronic return system).

(3) The Value Added Tax Regulations 1995(e) are amended as follows.

**Electronic registration, etc.**

2.—(1) In regulation 5(1), for “or 6(1)” substitute “, 6(1) or 7(1)”.

(2) After regulation 5(3), insert—

“(4) A notification subject to or required by paragraph (1), (2) or (3) may be made instead using an electronic communications system that remains specified for the purpose in a current general direction given by the Commissioners.

A system specified for a purpose of paragraph (1) may modify or dispense with any particular required for that purpose by that paragraph.

(5) The time a notification is made using such a system corresponds to when a fully mechanised feature of that system generates a relevant acknowledgement.

(6) If such a feature does not generate an acknowledgement, but would do so in the circumstances alleged, a relevant notification is not made using that system in those alleged circumstances.

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(a) 1994 c. 23; section 96(1) provides that “the Commissioners” means the Commissioners of Customs and Excise and that “regulations” means regulations made by the Commissioners under the Act. Schedule 3A was inserted by the Finance Act 2000 (c. 17) section 136(8) and Schedule 36.

(b) 1999 c. 16.

(c) 2000 c. 17.

(d) S.I. 2001/759.

(e) S.I. 1995/2518; relevant amending instruments are S.I. 1996/1250, S.I. 2000/258, S.I. 2000/794.

(7) Paragraphs (5) and (6) apply as conclusive presumptions.

(8) Paragraph (4) only applies to a notification that is envisaged by a current direction.

(9) Paragraph (4) does not apply at a notification's deadline if the system specified for that notification is not then functioning.

A notification's deadline is the latest time by which it is required to be made.

(10) The Commissioners need not give a general direction pursuant to paragraph (4).

(11) Any general direction under paragraph (4) must specify both the form of an electronic communications system and the sole circumstances in which it may be used, and may specify different forms or circumstances for different cases.

(12) A system need not include a feature of the type envisaged by paragraph (5) or (6).

(13) A direction is not current for the purposes of paragraphs (4) and (8) to the extent that it is varied, replaced or revoked by another Commissioners' direction.

(14) A notification made under paragraph (4) carries the same consequences as a notification under paragraph (1), (2) or (3) (as appropriate), except in relation to any matter for which alternative or additional provision is made by or under paragraphs (4) to (7)."

### **Transfers of going concerns**

3. In regulation 6(3)(a), for "41" substitute "40".

### **Electronic returns, etc. and electronic payments**

4.—(1) In regulation 25(4A), omit the expression "on an electronic version of Form 4 or Form 5 (as appropriate)".

(2) For regulation 25(4D), substitute—

"(4D) A direction under paragraph (4C)(a) may in particular—

(a) modify or dispense with any requirement of Form 4 or Form 5 (as appropriate);

(b) specify circumstances in which the electronic return system may be used, or not used, by or on behalf of the person required to make the return.

For the purposes of sub-paragraph (b), the direction may specify different circumstances for different cases."

(3) In regulation 25(4F), for "(4D) above" substitute "(4J) below".

(4) In regulation 25(4F)(c), for "making" substitute "delivering".

(5) For regulations 25(4J) to 25(4L), substitute—

"(4J) No return shall be treated as having been made using an electronic return system unless the conditions imposed by paragraph (4C) are satisfied.

The condition in paragraph (4C)(a) incorporates the matters mentioned in paragraph (4D).

(4K) A return made using an electronic return system carries the same consequences as a return made on Form 4 or Form 5 (as appropriate), except in relation to any matter for which alternative or additional provision is made by or under paragraphs (4C) to (4F).

(4L) Additional time is allowed to make a return for which any related payment is made solely by means of electronic communications (see paragraph (1) – time for making return, and regulations 40(2) to 40(4) – payment of VAT).

That additional time is only as the Commissioners may allow in a specific or general direction, and such a direction may allow different times for different means of payment.

The Commissioners need not give a direction pursuant to this paragraph.

(4M) In paragraphs (4C) and (4L) "direction" refers only to a current direction, and a direction is not current to the extent that it is varied, replaced or revoked by another Commissioners' direction."

5. After regulation 40(3), insert—

“(4) A direction under paragraph (3) may in particular allow additional time for a payment mentioned in paragraph (2) that is made by means of electronic communications.

The direction may allow different times for different means of payment.

(5) Later payment so allowed does not of itself constitute a default for the purposes of section 59 of the Act (default surcharge).”.

**Standard returns**

6.—(1) For “Form No 4: VAT Return” in Schedule 1, substitute form 1 in the Schedule to these Regulations.

(2) For “Form No 5: Final VAT Return” in Schedule 1, substitute form 2 in the Schedule to these Regulations.

New King’s Beam House  
22 Upper Ground  
London  
SE1 9PJ  
1st July 2004

*Michael Hanson*  
Commissioner of Customs and Excise

# SCHEDULE

Regulation 6

## FORM 1



### Value Added Tax Return For the period to

For Official Use

Registration number	Period
<input type="text"/>	<input type="text"/>

If your completed return and all the VAT payable are not received by the due date you will be in default and may be liable to a financial penalty

Due Date:

For official use D O R only	<input type="text"/>
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Before you fill in this form please read the notes on the back and the VAT leaflets "Filling in your VAT return" and "Flat rate scheme for small businesses", if you use that scheme. Fill in all boxes clearly in ink, and write 'none' where necessary. Don't put a dash or leave any box blank. If there are no pence write "00" in the pence column. Do not enter more than one amount in any box.

		£		p
For official use	VAT due in this period on sales and other outputs	1	<input type="text"/>	<input type="text"/>
	VAT due in this period on acquisitions from other EC Member States	2	<input type="text"/>	<input type="text"/>
	Total VAT due (the sum of boxes 1 and 2)	3	<input type="text"/>	<input type="text"/>
	VAT reclaimed in this period on purchases and other inputs (including acquisitions from the EC)	4	<input type="text"/>	<input type="text"/>
	Net VAT to be paid to Customs or reclaimed by you (Difference between boxes 3 and 4)	5	<input type="text"/>	<input type="text"/>
	Total value of sales and all other outputs excluding any VAT. Include your box 8 figure	6	<input type="text"/>	00
	Total value of purchases and all other inputs excluding any VAT. Include your box 9 figure	7	<input type="text"/>	00
	Total value of all supplies of goods and related costs, excluding any VAT, to other EC Member States	8	<input type="text"/>	00
	Total value of all acquisitions of goods and related costs, excluding any VAT, from other EC Member States	9	<input type="text"/>	00

<p>If you are enclosing a payment please tick this box.</p> <input type="checkbox"/>	<p>DECLARATION: You, or someone on your behalf, must sign below.</p> <p>I, ..... declare that the (Full name of signatory in BLOCK LETTERS) information given above is true and complete.</p> <p>Signature ..... Date .....</p> <p style="text-align: center;"><b>A false declaration can result in prosecution</b></p>
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<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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# FORM 2



## Final Value Added Tax Return For the period to

For Official Use

Registration number

Period

**If your completed return and all the VAT payable are not received by the due date you will be in default and may be liable to a financial penalty**

**Due Date:**

<b>For official use D O R only</b>	
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**Before you fill in this form please read the notes on the back and the VAT leaflets "Filling in your VAT return" and "Flat rate scheme for small businesses", if you use that scheme. Fill in all boxes clearly in ink, and write 'none' where necessary. Don't put a dash or leave any box blank. If there are no pence write "00" in the pence column. Do not enter more than one amount in any box.**

	£	p
<b>For official use</b>	1	00
VAT due in this period on <b>sales</b> and other outputs		
VAT due in this period on <b>acquisitions</b> from other <b>EC Member States</b>	2	00
<b>Total VAT due (the sum of boxes 1 and 2)</b>	3	00
VAT reclaimed in this period on <b>purchases</b> and other inputs (including acquisitions from the EC)	4	00
<b>Net VAT to be paid to Customs or reclaimed by you (Difference between boxes 3 and 4)</b>	5	00
<b>Total value of sales</b> and all other outputs excluding any VAT. <b>Include your box 8 figure</b>	6	00
<b>Total value of purchases</b> and all other inputs excluding any VAT. <b>Include your box 9 figure</b>	7	00
<b>Total value of all supplies</b> of goods and related costs, excluding any VAT, to other <b>EC Member States</b>	8	00
<b>Total value of all acquisitions</b> of goods and related costs, excluding any VAT, from other <b>EC Member States</b>	9	00

If you are enclosing a payment please tick this box.  <input style="width: 30px; height: 20px;" type="checkbox"/>	<p><b>DECLARATION:</b> You, or someone on your behalf, must sign below.</p> <p>I, ..... declare that the                  (Full name of signatory in BLOCK LETTERS)                  information given above is true and complete.</p> <p>Signature ..... Date .....</p> <p style="text-align: center;"><b>A false declaration can result in prosecution</b></p>
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## EXPLANATORY NOTE

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

Regulation 1(2) revokes the Value Added Tax (Electronic Communications) (Incentives) Regulations 2001 (S.I. 2001/759)(a).

Regulation 1(3) and the subsequent regulations amend the Value Added Tax Regulations 1995 (S.I. 1995/2518)(b).

### **Regulations 2 and 3 – VAT registration and register**

Regulation 2(2) enables businesses to notify VAT registrability or VAT register information using functioning electronic communication systems specified by HM Customs and Excise. Mechanised acknowledgements forming part of a system are conclusive as to whether or when a notification is made using that system. Electronic notifications otherwise carry the ordinary consequences.

Regulation 2(1) aligns the registrability notification procedure for transferees of a going concern with the practice for other registrability notifications. Regulation 3 makes a typographical correction relating to liabilities following a transfer of a going concern.

### **Regulations 4, 5 and 6 - VAT returns and payment**

Regulations 4(1) and 4(2) remove the requirement for an electronic VAT return system to mirror the paper forms. Regulation 4(2) also enables HM Customs and Excise to specify the circumstances in which a business may arrange for an intermediary to deliver an electronic return.

Regulations 4(5) and 5 enable HM Customs and Excise to allow extra time for paying VAT due, and for making VAT returns, depending on the electronic means of payment used.(c)

Regulation 6 substitutes new standard paper VAT returns.

### **Regulatory impact assessment**

A full regulatory impact assessment of the effect that this instrument will have on the costs of businesses, charities or voluntary bodies is available from HM Customs and Excise, New King's Beam House, 22 Upper Ground, London SE1 9PJ or <http://www.hmce.gov.uk> .

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(a) Regulations about incentive payment for making VAT returns by way of an electronic return system.

(b) Implementing, in part, Articles 22.1, 22.4 and 22.5 of the Sixth Council Directive of 17th May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – common system of value added tax: uniform basis of assessment (OJ No L 145, 13.6.77, p 1) (including the relevant amendments made by Article 2 of Council Directive 2002/38/EC of 7th May 2002 (OJ No L 128, 15.5.02, p 41)). A transposition note is available from HM Customs and Excise, New King's Beam House, 22 Upper Ground, London SE1 9PJ or <http://www.hmce.gov.uk> .

(c) Regulations 4(3), 4(4) and 4(5) make or also make consequential changes.



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