### STATUTORY INSTRUMENTS

### 2009 No. 1967

## VALUE ADDED TAX

The Value Added Tax (Amendment) (No. 3) Regulations 2009

Made - - - - 21st July 2009
Laid before the House of
Commons - - - - 22nd July 2009
Coming into force - - 15th August 2009

The Commissioners for Her Majesty's Revenue and Customs(1) make the following Regulations in exercise of the powers conferred by sections 6(14) and 35(2) of the Value Added Tax Act 1994(2).

### Citation and commencement

**1.** These Regulations may be cited as the Value Added Tax (Amendment) (No. 3) Regulations 2009 and come into force on 15th August 2009.

### Amendment of the Value Added Tax Regulations 1995

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

### Amendment of Part 11 of the Regulations (time of supply and time of acquisition)

- **3.** In regulation 84(5)(e)(4), for the words from "of the" to the end, substitute— "of the Taxes Act(5); but this is subject to sub-paragraph (f);
  - (f) a company is not connected with another company only because both are under the control of—
    - (i) the Crown,
    - (ii) a Minister of the Crown,

<sup>(1)</sup> Section 96(1) of the Value Added Tax Act 1994 (c. 23) defines "the Commissioners" as meaning the Commissioners of Customs and Excise. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

<sup>(2) 1994</sup> c. 23.

<sup>(3)</sup> S.I. 1995/2518.

<sup>(4)</sup> Regulation 84(5) was substituted by S.I. 2003/1069 and amended by S.I. 2008/1146; there are other amendments to regulation 84 but none is relevant.

<sup>(5)</sup> Section 96(1) of the Value Added Tax Act 1994 (c. 23) defines "the Taxes Act" as the Income and Corporation Taxes Act 1988 (c. 1).

- (iii) a government department, or
- (iv) a Northern Ireland department;
- (g) "company" and "control" have the same meaning as in section 839 of the Taxes Act(6).".
- 4. In regulation 93(15)(7), after "Taxes Act" insert "; but this is subject to paragraph (16).".
- **5.** After regulation 93(15) insert—
  - "(16) For the purposes of this regulation—
    - (a) a company is not connected with another company only because both are under the control of—
      - (i) the Crown,
      - (ii) a Minister of the Crown,
      - (iii) a government department, or
      - (iv) a Northern Ireland department; and
    - (b) "company" and "control" have the same meaning as in section 839 of the Taxes Act"
- 6. For paragraph (4) of regulation 94B(8) substitute—
  - "(4) For the purposes of paragraph (2)—
    - (a) any question whether one person is connected with another shall be determined in accordance with section 839 of the Taxes Act;
    - (b) a company is not connected with another company only because both are under the control of—
      - (i) the Crown,
      - (ii) a Minister of the Crown,
      - (iii) a government department, or
      - (iv) a Northern Ireland department;
    - (c) "company" and "control" have the same meaning as in section 839 of the Taxes Act; and
    - (d) "undertaking" and "group undertaking" have the same meaning as in section 1161 of the Companies Act 2006(9).".

## Amendment of Part 23 of and Schedule 1 to the Regulations (refunds to "do-it-yourself" builders)

- 7. In regulation 201(a), for the words "the form numbered 11 in Schedule 1 to these Regulations" substitute "the relevant form for the purposes of the claim".
  - 8. After regulation 201 insert—
    - "201A. The relevant form for the purposes of a claim is—

<sup>(6) 1988</sup> c. 1; section 839 was amended by the Finance Act 1995 (c. 4), section 74 and Schedule 17, paragraph 20; the Finance Act 2006 (c. 25), section 178, Schedule 13, paragraphs 7 and 25 and Schedule 26, Part 3(15); the Income Tax Act 2007 (c. 3), Schedule 1, paragraphs 1 and 223; and S.I. 2005/3229.

<sup>(7)</sup> Regulation 93 was substituted by S.I. 1999/1374.

<sup>(8)</sup> Regulation 94B was inserted by S.I. 2003/2318 and amended by S.I. 2008/954 and S.I. 2008/1146.

<sup>(9) 2006</sup> c. 46.

- (a) Form 11A in Schedule 1 to these Regulations where the claim relates to works described in section 35(1A)(a) or (b) of the Act(10);
- (b) Form 11B in Schedule 1 to these Regulations where the claim relates to works described in section 35(1A)(c) of the Act.".
- **9.** In Schedule 1, for the form numbered 11 (VAT refunds for DIY builders) substitute the forms numbered 11A (VAT refunds for DIY housebuilders Claim form for new houses) and 11B (VAT refunds for DIY housebuilders Claim form for conversions) contained in the Schedule to these Regulations.

Bernadette Kenny
Steve Lamey
Two of the Commissioners for Her Majesty's
Revenue and Customs

21st July 2009

### SCHEDULE

Regulation 9

# Form No. 11A: VAT refunds for DIY housebuilders - Claim form for new houses

		Official use only Claim reference number
claim form. The information you give	at part B will show us whe	to construct your new house, answer the questions on this ther you are eligible to claim back the VAT. Refer to the notes er a question, phone the Helpline on <b>0845 010 9000</b> .
A Personal details     Answer all the questions in this answer blank we may reject yo      Your full name, including your till fa charity, name of charity for with been constructed.	ur claim tle Mr, Mrs, Miss, etc.	B Are you eligible to claim? Refer to the guidance notes  9 Is the property that you have built a new build? By new build we mean a building that has been constructed from scratch which does not incorporate any part of an existing building  No Yes
2 If more than one claimant, title a other claimant(s)	and full name of	No Yes  If you have answered No to questions 9 and 10 you will not be eligible to claim
3 Your daytime contact phone nun	nbers	Has the work been done on a completed dwelling purchased from a developer, builder or private vendor?  No Yes
Postcode Is this the building you are claims No Yes  5 Your National Insurance number If you do not have a completion for the you occupied the building  6 If you or anyone connected with interest or association with a VAT enter the VAT registration number	the building certificate leave blank  DD MM YYYY  DD MM YYYY  this claim have an registered business,	If Yes, you are not eligible to claim  12 Has Planning Permission been granted for your new build  To obtain a WAT refund you must provide evidence that  the works are lawful and send to us a copy of the  Planning Permission  No Yes  13 Do the terms of your Planning Permission (or similar  permission) prevent the separate disposal, or separate use  of the new building from any other pre-existing building?  No Yes  14 Has a Building Regulation Completion Certificate  been granted by the local authority or by an  approved inspector registered with the local authority  building control?  No Yes  If No, give details about what you will be providing instead

Claimant: enter your full name here	
15 Have you got your approved plans from your Local Authority?  No Yes  16 Are you intending to live in the property you are claiming for?  No Yes  If No, provide the address of the new build and explain why you have carried out the work	C Details of the property that has been constructed  18 Type of building For example, a house, bungalow, apartment/flat, etc.  Is the building detached, semi-detached, terraced?  Number of storeys  Number of reception rooms  Number of bathrooms  Number of bathrooms/en-suites  Number of kitchen/utility rooms  If there are other rooms not described above, tell us how many there are and describe their purpose below
No Yes Sive details about the other building(s)?  No Yes Sive details about the other building(s) and explain why	Number of integral  Number of detached  Will you be occupying it/them with the property you are constructing?  No Yes  If No, explain what you will be doing with them

D Details of the goods supplied to you for which you will be claiming back VAT where the VAT amounts are shown separately on the invoice Remember, you can only claim for building materials and you must send in the original invoices. The invoices should be in your name. If they are not in your name, you must explain why. For further advice about how to complete this part, refer to the notes.						
Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	VAT paid		
invoice number						
			D Total			

D Details of the Where the V	he goods supplied VAT amounts are sl	to you for which you will be cl hown separately on the invoice	aiming back VAT • Continued	
Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	VAT paid
			Balance brought forward	

E Date 11 5 ::	h			imant: enter your full n			
E Details of the goods supplied to you for which you will be claiming back VAT at the standard rate where VAT amounts are not shown separately on the invoice Remember, you can only claim for building materials and you must send in the original invoices. The invoices should be in your name. If they are not in your name, you must explain why. For further advice about how to complete this part, refer to the notes.							
Reference/ invoice number	Date of invoice	Description of invoice	item	Supplier's name	Total paid		
			Total paid				
		E	Total VAT cald	culated see notes			

Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	Total paid
invoice number			Balance brought forward	
			Julian Colony in 10111110	

	Claimant: enter your full name here
F Sending in your claim Summary, checklist and declaration  Summary To check what is needed here, refer to the notes  Total amount of VAT claimed from part D	If any of the invoices have not been made out in your name, explain why in the box provided below
£  Total amount of VAT claimed from part E  £  Total amount of VAT to claim back from parts D + E	24 Do you give your authority for us to discuss your claim with your agent or accountant?  No Yes
£  Bank account details  Give us details of the account into which you would	If Yes, give details of your agent or accountant here
prefer us to send your VAT refund  Full name(s) of account holder(s)	
Sort code  Account number  Must be at least 8 digits. Lead with zeros if less	25 Declaration  If you give incomplete or inaccurate information in this claim, we may charge you a financial penalty or prosecute you.  I declare that:  I am only reclaiming VAT which was correctly charged to me and which I paid on goods I bought or imported from a VAT registered supplier  all the details and information on this form and any
Make sure you send all documents as requested to help us deal with your claim quickly. If you do not provide us with the correct documents we may reject your claim. Have you enclosed the following documents?  Full Planning Permission No Yes	Accompanying documents are correct     I have read the attached guidance notes.  VAT registered persons I confirm no other claim has been or will be made for these supplies and where the purchase of goods has been invoiced to my VAT registered business, I have not and will not claim this VAT through my VAT return.
Outline Planning Permission and Approval of Reserved Matters No Yes Note: both documents are needed And	Charity builders  The building being claimed for is to be used solely for the purpose of the charity named in question 1 of this claim form.
Completion Certificate or other acceptable evidence No Yes	Signature(s)
A full set of building plans No Yes	
Original invoices filed in the same order as listed on the schedules No Yes	Date DD MM YYYY

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# Form No. 11B: VAT refunds for DIY housebuilders - Claim form for conversions



### VAT refunds for DIY housebuilders Claim form for conversions

	Official use only Claim reference number
claim back the VAT you have paid on building materials and se nim form. The information you give at part 8 will show us whetl at came with this claim form. If you are not sure how to answer	her you are eligible to claim back the VAT. Refer to the notes
A Personal details Answer all the questions in this part. If you leave any answer blank we may reject your claim  1 Your full name, including your title Mr, Mrs, Miss, etc.  2 If more than one claimant, title and full name of other claimant(s)	B Are you eligible to claim?  Refer to the guidance notes  9 Have you converted a non-residential building?  By conversion we mean converting a non-residential building into a dwelling  No Yes  10 Have you carried out works to a building that has previously been lived in?
Your daytime contact phone numbers	No Yes Have you got evidence that the building has been empty for 10 years or more before works started?  No Yes If No, you are not eligible to claim
4 Your address	Are you 'fitting out or finishing' a converted non-residential building?  No Yes
Postcode Is this the building you are claiming for?	13 Has work been done on a completed dwelling purchased from a developer, builder or private vendor?  No Yes If Yes, you are not eligible to claim
Your National Insurance number     Certified date of completion for the building     If you do not have a completion certificate leave blank	Has Ptanning Permission been granted for your conversion/renovation/alteration works?     To obtain a VAT refund you must provide evidence that the works are lawful and send to us a copy of the Planning Permission
DD MM YYYY  Date you occupied the building	If No. explain the reason why below
If you or anyone connected with this claim have an interest or association with a VAT registered business, enter the VAT registration number(s) below:	

Do the terms of your Planning Permission (or similar	C Details of the property that has
permission) prevent the separate disposal, or separate use, of the converted property from any other pre-existing building?	been converted  20 What was the building before you started your works?
No Wes	
Has a Building Regulation Completion Certificate been granted by the local authority or an approved inspector registered with the local authority	Type of building For example, barn conversion, house, apartment/flat, etc.
building control?  No Yes	is the building detached, semi-detached, terraced?
If No, refer to notes and give details about what you will be providing instead	Number of storeys
	Number of reception rooms
	Number of bedrooms
	Number of bathrooms/en-suites
7 Have you got your approved plans from your	Number of kitchen/utility rooms  If there are other rooms not described above, tell us how
Local Authority?	many there are and describe their purpose below
8 Are you intending to live in the property you are	
claiming for?	
If No, provide the address of the conversion and explain why you have carried out the works	
	21 How many garages do you have (or intend to have)?
	Number of integral  Number of detached
9 Are you claiming for any other building(s)?	22 Will you be occupying it/them with the property you
No Ves	are converting?
If Yes, give details about the other building(s) and explain why	No Yes If No, explain what you will be doing with them
ntinue to complete the rest of this claim form only if you ve answered questions 9 to 19, have checked the notes d are sure that you qualify for a VAT refund using	

Details of the goods and services for which you will be claiming back VAT where the VAT amounts are shown separately on the invoice Remember, you must send in the original invoices. The invoices should be in your name. If they are not in your name, you must explain why. For further advice about how to complete this part, refer to the notes.					
Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	VAT paid	
				-	
				-	
				-	

Reference/	Date of invoice	Description of invoice item	Supplier's name	VAT paid
invoice number			Balance brought forward	
			batance brought forward	

E Details of t	he goods and servi	ices for which you will be claimin	Claimant: enter your full nar ng back VAT at the	ne nere		
standard rate where VAT amounts are not shown separately on the invoice  Remember, you must send in the original invoices. The invoices should be in your name.  If they are not in your name, you must explain why.  For further advice about how to complete this part, refer to the notes.						
Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	Total paid		
				-		
		Total paid				
			calculated see notes			

E Details of the standard ra	he goods and servi te where VAT amo	ces supplied to you for which unts are not shown separately	you will be claiming back VAT on the invoice <i>Continued</i>	at the
Reference/ invoice number	Date of invoice	Description of invoice item	Supplier's name	Total paid
			Balance brought forward	
		Total o	ald	
		Total p	aid .	

F Details of the goods and services for which you will be claiming back VAT at the reduced rate where VAT amounts are not shown separately on the invoice Remember, you must send in the original invoices. The invoices should be in your name. If they are not in your name, you must explain why.  For further advice about how to complete this part, refer to the notes.				
Reference/	Date of invoice	Description of invoice item	Supplier's name	Total paid
invoice number				
				-
				-
		Total paid		

Reference/ woice number	Date of invoice	Description of invoice item	Supplier's name	Total paid
roice number			Balance brought forward	
		Total pa		

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

	Claimant: enter your full name here
G Sending in your claim Summary, checklist and declaration	If any of the invoices have not been made out in your name, explain why in the box below
23 Summary To check what is needed here, refer to the notes	
Total amount of VAT claimed from part D	
£	
Total amount of VAT claimed from part E	
£	
Total amount of VAT claimed from part F	26 Do you give your authority for us to discuss your claim
£	with your agent or accountant?
	. e No Yes
Total amount of VAT to claim back from parts D + E	If Yes, give details of your agent or accountant here
£	
24 Bank account details	
Give us details of the account into which you would	
prefer us to send your VAT refund	
Full name(s) of account holder(s)	
Sort code	27 Declaration
	If you give incomplete or inaccurate information in
	this claim, we may charge you a financial penalty or
Account number  Must be at least 8 digits. Lead with zeros if less	prosecute you. I declare that:
milist be at least o digits, bead with zeros it less	I am only reclaiming VAT which was correctly charge
	to me and which I paid on goods/services I bought of
25 Checklist	imported from a VAT registered supplier <ul> <li>all the details and information on this form and any</li> </ul>
Make sure you send all documents as requested to	
deal with your claim quickly. If you do not provide	I have read the attached guidance notes.
us with the correct documents we may reject your	Claim. VAT registered persons
Have you enclosed the following documents?	I confirm no other claim has been or will be made for
Evidence that the building has	these supplies and where the purchase of goods has
been empty for 10 years or more before you started your works No Ye	been invoiced to my VAT registered business, I have no and will not claim this VAT through my VAT return.
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	and will not claim this VAL through my WAT return.
Full Planning Permission No Ye	Signature(s)
Or	
Outline Planning Permission and Approval of Reserved Matters No Ye	
Note: both documents are needed	
And	
Completion Certificate or	
other acceptable evidence No Ye	Date DD MM YYYY
A full set of building plans No Ye	
Original invoices filed in the same	

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### EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Value Added Tax Regulations 1995 (1995/2518) ("the Regulations").

Regulations 3 to 5 amend regulations 84(5)(e) and 93(15) and insert regulations 84(5)(f) and (g) and 93(16) so that, when applying section 839 of the Income and Corporation Taxes Act 1988 (c. 1) ("the Taxes Act"), a company is not connected with another company for the purposes of regulations 84 and 93 only because both are under the control of the Crown, a Minister of the Crown, a government department or a Northern Ireland department.

Regulation 6 substitutes regulation 94B(4) so that, for the purposes of regulation 94B(2), any question whether one person is connected with another will be determined in accordance with section 839 of the Taxes Act but subject to the qualification that a company is not connected with another company for the purposes of that regulation only because both are under the control of the Crown, a Minister of the Crown, a government department or a Northern Ireland department. Regulation 94B(4)(d) defines "undertaking" and "group undertaking".

Regulations 7 and 8 amend regulation 201(a) and insert regulation 201A so that a claim for refund of VAT under section 35 of the Value Added Tax Act 1994 (c. 23) (refund of VAT to persons constructing certain buildings) must be made on Form 11A or Form 11B in Schedule 1 to the Regulations. Form 11A must be used for refunds in respect of works relating to the construction of building designed as a dwelling or number of dwellings or for use solely for certain residential or charitable purposes. Form 11B must be used for refunds in respect of works relating to the conversion of a non-residential building or a non-residential part of a building into a building designed as a dwelling or number of dwellings or for use solely for certain residential purposes.

Regulation 9 and the Schedule to these Regulations amend Schedule 1 by substituting Forms 11A and 11B for Form 11.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.