
STATUTORY INSTRUMENTS

2022 No. 1277 (C. 102)

VALUE ADDED TAX

The Finance Act 2009, Finance (No. 3) Act
2010 and Finance Act 2021 (Value Added Tax)
(Interest) (Appointed Days) Regulations 2022

Made - - - - 5th December 2022

The Treasury, in exercise of the powers conferred by section 104(3) and (4) of the Finance Act 2009⁽¹⁾, section 25(2) and (3) of the Finance (No. 3) Act 2010⁽²⁾ and section 120(2) and (3) of the Finance Act 2021⁽³⁾, make the following Regulations.

Citation

1. These Regulations may be cited as the Finance Act 2009, Finance (No. 3) Act 2010 and Finance Act 2021 (Value Added Tax) (Interest) (Appointed Days) Regulations 2022.

Appointed Days

2.—(1) 6th December 2022 is appointed as the day on which section 102(2)(c) of the Finance Act 2009 comes into force for the purposes of making an order under that provision for the purposes of value added tax.

(2) 1st January 2023 is appointed as the day on which—

- (a) Schedule 29 to the Finance Act 2021 (which amends section 102 of, and Schedules 54 and 54A to, the Finance Act 2009) comes into force, except that paragraph 3(3) of that Schedule does not come into force to the extent that it makes provision relating to paragraph 4(1) of Schedule 11 to the Value Added Tax Act 1994⁽⁴⁾;
- (b) sections 101 and 102⁽⁵⁾ of the Finance Act 2009 (late payment interest on sums due to HMRC and repayment interest on sums to be paid by HMRC), so far as the latter is not already in force, come into force for the purposes of value added tax including any penalties assessed in relation to that tax;

(1) 2009 c. 10.
(2) 2010 c. 33.
(3) 2021 c. 26.
(4) 1994 c. 23. Paragraph 4(1) was substituted by section 17(3) of the Finance Act 2003 (c. 14).
(5) Section 102(4) was amended by paragraph 2 of Schedule 29 to the Finance Act 2021.

- (c) paragraphs 1 and 5 of Schedule 9 to the Finance (No. 3) Act 2010 (which amends section 104 of the Finance Act 2009) come into force;
 - (d) paragraphs 4 and 12 of Schedule 9 to the Finance (No. 3) Act 2010 (which insert section 103A and Schedule 54A into the Finance Act 2009) come into force for the purposes of value added tax including any penalties assessed in relation to that tax.
- (3) In this regulation, “value added tax” means—
- (a) value added tax charged in accordance with the Value Added Tax Act 1994, and
 - (b) amounts recoverable under paragraph 5(2) of Schedule 11 to the Value Added Tax Act 1994 (amounts shown on invoices as VAT),

but does not include value added tax on the importation of goods into the United Kingdom unless that tax is required to be accounted for in accordance with the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019(6).

Effect

3.—(1) Regulation 2(2) has effect—

- (a) in respect of amounts of value added tax payable by reference to prescribed accounting periods, in relation to prescribed accounting periods beginning on or after 1st January 2023;
- (b) in respect of amounts assessed under sections 80(4A) and 80B(7) of the Value Added Tax Act 1994 (recovery of excess credit), in relation to assessments which relate to value added tax payable by reference to prescribed accounting periods beginning on or after 1st January 2023;
- (c) in respect of amounts recoverable under paragraph 5(2) of Schedule 11 to the Value Added Tax Act 1994 (amounts shown on invoices as VAT), in relation to amounts shown on invoices issued on or after 1st January 2023;
- (d) in respect of amounts of penalties assessed in respect of value added tax payable by reference to prescribed accounting periods, including those relating to a VAT return, in relation to prescribed accounting periods beginning on or after 1st January 2023;
- (e) in respect of amounts of penalties payable under section 62 of the Value Added Tax Act 1994(8) (incorrect certificates as to zero-rating), in relation to penalties which relate to certificates given on or after 1st January 2023;
- (f) in respect of amounts of penalties payable under section 69(1) of the Value Added Tax Act 1994(9) (breaches of regulatory requirements), in relation to penalties which relate to requirements that arise on or after 1st January 2023;
- (g) in respect of amounts of penalties payable under section 69(2) of the Value Added Tax Act 1994(10) (failure to preserve records), in relation to penalties assessed on or after 1st January 2023;

(6) S.I. 2019/60.

(7) Section 80(4A) was inserted by section 47(6) of the Finance Act 1997 (c. 16) and substituted by section 3(9) of the Finance (No. 2) Act 2005 (c. 22). Section 80B was inserted by section 46(2) of Finance Act 1997 and amended by section 4(4) of the Finance (No. 2) Act 2005.

(8) Section 62 was amended by paragraph 8 of Schedule 3 to the Finance Act 1996 (c. 8), section 17 of the Finance Act 1999 (c. 16), paragraph 3 of Schedule 31 to the Finance Act 2001 (c. 9), paragraph 3 of Schedule 7 to the Finance Act 2017 (c. 10) and paragraph 58 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c. 22).

(9) Section 69(1) was amended by section 19(5) of, and paragraph 9 of Schedule 3 to, the Finance Act 2006 (c. 25), paragraph 7 of Schedule 28 to the Finance Act 2012 (c. 14), section 38(2) of the Finance Act 2018 (c. 3), paragraph 61 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 and section 80(3)(a) of the Finance Act 2020 (c. 14).

(10) Section 69(2) was amended by paragraph 7(2) of Schedule 2 to the Taxation (Post-transition Period) Act 2020.

- (h) in respect of amounts of penalties payable under paragraph 1 of Schedule 41 to the Finance Act 2008⁽¹¹⁾ (failure to notify HMRC of liability or change in supplies), in relation to penalties for failures that occur on or after 1st January 2023;
 - (i) in respect of amounts of penalties payable under paragraph 2 of Schedule 41 to the Finance Act 2008 (issue of invoice showing VAT by unauthorised person), in relation to penalties that relate to unauthorised invoices issued on or after 1st January 2023;
 - (j) in respect of any other amount, in relation to amounts in respect of which the liability arises on or after 1st January 2023.
- (2) In this regulation—
- “prescribed accounting periods” has the same meaning as in the Value Added Tax Act 1994⁽¹²⁾;
- “VAT return” means a return required to be made by regulations under the Value Added Tax Act 1994.

5th December 2022

Andrew Stephenson
Steve Double
Two of the Lords Commissioners of His
Majesty’s Treasury

⁽¹¹⁾ 2008 c. 9. Paragraph 1 was amended by paragraph 18 of Schedule 28 to the Finance Act 2012 and paragraph 114(2) of Schedule 8 to the Taxation (Cross-border Trade) Act 2018.

⁽¹²⁾ See section 25(1) of the Value Added Tax Act 1994.

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 commence provisions of the Finance Act 2009 (c. 10) (and amendments to that Act) which provide for late payment interest on sums due to HMRC and repayment interest on sums to be paid by HMRC for the purposes of value added tax.

Regulation 2(1) appoints 6th December 2022 as the date on which section 102(2)(c) of the Finance Act 2009 comes into force for the purposes of making an order under that provision for the purposes of value added tax. Section 102(2)(c) allows the Treasury to specify amounts to which section 102 (repayment interest) does not apply.

Regulation 2(2) appoints 1st January 2023 as the date on which sections 101 and 102 of the Finance Act 2009, paragraphs 1, 4, 5 and 12 of Schedule 9 to the Finance (No. 3) Act 2010 (c. 33) and Schedule 29 to the Finance Act 2021 (c. 26) come into force.

Sections 101 and 102 of the Finance Act 2009 provide for the payment of late payment interest and repayment interest in relation to sums paid to or by HMRC. Paragraphs 4 and 12 of Schedule 9 to the Finance (No. 3) Act 2010 amend the Finance Act 2009 to make further provision for these purposes. Those provisions are further amended by Schedule 29 to the Finance Act 2021. Paragraphs 1 and 5 of Schedule 9 to the Finance (No. 3) Act 2010 make a minor consequential amendment to the Finance Act 2009.

Regulation 3 provides for the effect of regulation 2(2); the timings of the application of the interest provisions in relation to particular amounts of value added tax and penalties.

A Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy and it is appointed day regulations.