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STATUTORY INSTRUMENTS

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**2022 No. 226**

**The Value Added Tax (Enforcement Related to Distance Selling and Miscellaneous Amendments) Regulations 2022**

**PART 2**

Amendments to secondary legislation

**Amendments to the Value Added Tax Regulations 1995**

**27.** The Value Added Tax Regulations 1995(1) are amended in accordance with regulations 28 to 31.

**28.** In Part 16 (importations, exportations and removals in respect of Great Britain), after regulation 121D (modifications and exceptions for the application of returned goods relief) insert—

**“Repayment of import VAT to certain taxable persons**

**121E.**—(1) This regulation applies where—

- (a) a taxable person(2) (“P”) has paid to the Commissioners an amount in respect of import VAT (“the import VAT”) and P is entitled to repayment of that amount because—
  - (i) the import VAT was not due when it was paid;
  - (ii) a reduced duty case within the meaning of Chapter 2 of Part 7 of the Customs (Import Duty) (EU Exit) Regulations 2018(3) applies; or
  - (iii) all or part of the import duty(4) which was included (by virtue of section 21(2)(a) of the Act(5)) in the value of the imported goods has been remitted or repaid; and
- (b) P did not account for the import VAT in accordance with regulation 4 of the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019(6).

(2) P may make a negative entry for the import VAT in the VAT payable portion of P’s VAT account.

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(1) [S.I. 1995/2518](#); relevant amending instruments are [S.I. 2020/1545](#) and [2021/715](#).

(2) “Taxable person” is defined in section 96(1) of VATA.

(3) [S.I. 2018/1248](#); amended by [S.I. 2019/486](#), [2019/1346](#) and [2020/1605](#). There are other amending provisions, but none is relevant.

(4) “Import duty” is defined in section 96(1) of VATA.

(5) “The Act” is defined in regulation 2 of [S.I. 1995/2518](#) as the Value Added Tax Act 1994 (c. 23). Section 21(2) was amended by paragraph 23 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c. 22) (“TCTA”), section 18 of the Finance Act 2006 (c. 25) and section 27 of, and paragraph 1 of Schedule 8 to, the Finance Act 1996 (c. 8).

(6) [S.I. 2019/60](#), amended by [S.I. 2020/1495](#), [2020/1545](#), [2020/715](#) and [2021/1375](#).

(3) Where P has deducted an amount of input tax in respect of the import VAT and makes the entry under paragraph (2), P must also make a negative entry in the VAT allowable portion of P's VAT account for that input tax.

(4) The entries under paragraphs (2) and (3) may be made in the part of P's VAT account which relates to the prescribed accounting period<sup>(7)</sup> in which P becomes aware of P's entitlement to repayment or a later prescribed accounting period.

(5) The entry under paragraph (2) may not be made more than 4 years after the end of the prescribed accounting period in which the importation of the goods took place.

(6) Except as provided by this regulation, no claim for repayment or credit in relation to the import VAT may be made (and, accordingly, section 16(2) of the Act<sup>(8)</sup> does not have effect to the extent that it would apply a different provision about the way in which a claim for repayment or credit in relation to the import VAT may be made).

(7) For the purposes of this regulation—

“import VAT” means VAT chargeable by virtue of section 1(1)(c) of the Act<sup>(9)</sup> as a result of the entry of goods into Great Britain;

“negative entry”, “VAT account”, “VAT allowable portion” and “VAT payable portion” have the same meanings as they do in regulation 24.”.

**29.** Part 16ZA<sup>(10)</sup> (importations, exportations and removals in respect of Northern Ireland) is amended in accordance with regulations 30 and 31.

**30.** After regulation 133AM (export of freight containers from Northern Ireland) insert—

**“Repayments of import VAT to certain persons**

**133AN.**—(1) For the purposes of this regulation and regulations 133AO and 133AP, “import VAT” means VAT chargeable by virtue of section 1(1)(c) of the Act as a result of the entry of goods into Northern Ireland.

(2) Regulations 133AO and 133AP apply where a person (“P”) has paid an amount to the Commissioners in respect of import VAT (“the import VAT”) and P is entitled to repayment of that amount because—

- (a) the import VAT was not due when it was paid;
- (b) the import VAT is liable to be repaid under Union customs legislation<sup>(11)</sup>; or
- (c) all or part of the relevant NI import duty<sup>(12)</sup>, which was included (by virtue of section 21(2)(a) of the Act) in the value of the imported goods, has been remitted or repaid.

**133AO.**—(1) This regulation applies where P—

- (a) is not a taxable person; or
- (b) has paid the import VAT on behalf of a person who is not a taxable person.

(2) P may make an application for the repayment of the import VAT as if P's case were a reduced duty case under Chapter 2 of Part 7 of the Customs (Import Duty) (EU Exit) Regulations 2018 and as if the import VAT was paid in respect of a liability to import duty.

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(7) “Prescribed accounting period” is defined in section 96(1) of VATA.

(8) Section 16 was substituted by paragraph 13 of Schedule 8(1) to TCTA.

(9) Section 1(1)(c) was substituted by section 42(2)(b) of TCTA.

(10) Part 16ZA was inserted by [S.I. 2020/1545](#).

(11) “Union customs legislation” is defined in paragraph 1(8) of Schedule 9ZB to VATA. Schedule 9ZB to VATA was inserted by paragraph 2 of Schedule 2(1) to the Taxation (Post-transition Period) Act 2020 (c. 26).

(12) “Relevant NI import duty” is defined in paragraph 1(8) of Schedule 9ZB to VATA.

(3) Except as provided by this regulation, no claim for repayment in relation to the import VAT may be made (and, accordingly, paragraph 1(4) of Schedule 9ZB to the Act does not have effect to the extent that it would apply a different provision about the way in which a claim for repayment in relation to the import VAT may be made).

**133AP.**—(1) This regulation applies where—

- (a) P is a taxable person; and
- (b) P did not account for the import VAT in accordance with regulation 4 of the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019.

(2) P may make a negative entry for the import VAT in the VAT payable portion of P's VAT account.

(3) Where P has deducted an amount of input tax in respect of the import VAT and makes the entry under paragraph (2), P must also make a negative entry in the VAT allowable portion of P's VAT account for that input tax.

(4) The entries under paragraphs (2) and (3) may be made in the part of P's VAT account which relates to the prescribed accounting period in which P becomes aware of P's entitlement to repayment or a later prescribed accounting period.

(5) The entry under paragraph (2) may not be made more than 4 years after the end of the prescribed accounting period in which the importation of the goods took place.

(6) Except as provided by this regulation, no claim for repayment or credit in relation to the import VAT may be made (and, accordingly, paragraph 1(4) of Schedule 9ZB to the Act does not have effect to the extent that it would apply a different provision about the way in which a claim for repayment or credit in relation to the import VAT may be made).

(7) For the purposes of this regulation, “negative entry”, “VAT account”, “VAT allowable portion” and “VAT payable portion” have the same meanings as they do in regulation 24.”.

**31.** In regulation 133E (supplies to persons departing from the relevant states), for paragraph (1) substitute—

“(1) The Commissioners may, on application by any person who intends to depart from the relevant states within 9 months and remain outside the relevant states for a period of at least 6 months, permit that person within 6 months (or 30 days if the motor vehicle is to be removed to Great Britain) of the person's intended departure to purchase, from a registered person, a motor vehicle located in Northern Ireland at the time of purchase without payment of VAT, for subsequent export, and its supply, subject to such conditions as they may impose, shall be zero-rated.”.

### **Amendments to the Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020**

**32.** The Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020(13) are amended in accordance with regulations 33 to 35.

**33.** Part 4 (accounting for VAT on removals: non-taxable persons) is amended in accordance with regulations 34 and 35.

**34.** In the heading omit “: non-taxable persons”.

**35.** After regulation 19 (credit for VAT on goods removed from Great Britain to Northern Ireland) insert—

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(13) [S.I. 2020/1546](#), to which there are amendments not relevant to these Regulations.

## **“Credit for VAT on goods imported into Great Britain for removal to Northern Ireland**

**19A.**—(1) Paragraph (2) applies where—

- (a) goods are imported into the United Kingdom as a result of their entry into Great Britain or are imported into the Isle of Man and a person (“P”) is liable for the VAT payable as a result of that importation (“the importation”);
- (b) the goods are imported in order to be delivered to an address in Northern Ireland;
- (c) following the importation the goods are removed to Northern Ireland and VAT is payable as a result of their entry into Northern Ireland (“the NI entry”); and
- (d) the goods are not altered, modified or supplied for consideration after the importation and prior to the NI entry.

(2) Where this paragraph applies and subject to paragraph (4)—

- (a) P (and only P) is to be treated as having imported the goods into Northern Ireland for the purposes of paragraph 4 of Schedule 9ZB to VATA(14);
- (b) P is granted a credit (“the credit”) in accordance with paragraph (3); and
- (c) P is deemed to have made a payment equal to the credit in respect of the VAT payable as a result of the NI entry.

(3) The credit is the VAT payable as a result of the importation but only to the extent it does not exceed the VAT payable as a result of the NI entry.

(4) If the amount of the VAT due on the NI entry exceeds the amount of credit, P must account for and pay the balance in such form and manner, and at such time, as may be specified by the Commissioners in a public notice(15), or as they may direct in a particular case.

(5) This regulation is to be treated, for the purposes of VATA, as if it had been made under that Act.”.

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(14) Regulation 2 of the Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 provides that the Value Added Tax Act 1994 is referred to in those Regulations as “VATA”.

(15) A public notice made under regulation 19A(4) of the Value Added Tax (Northern Ireland) (EU Exit) Regulations 2020 will be made available on the [www.gov.uk](http://www.gov.uk) website as described in that link. Free of charge hard copies will be available on request from the HMRC helpline on 0300 200 3700 (+44 2920 501 2621 for outside the UK requests) or by writing to— BT VAT, HM Revenue and Customs, BX9 1WR, United Kingdom.