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STATUTORY INSTRUMENTS

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**1995 No. 2518**

**The Value Added Tax Regulations 1995**

**PART V**

**ACCOUNTING, PAYMENT AND RECORDS**

**Interpretation of Part V**

**24.** In this Part—

“increase in consideration” means an increase in the consideration due on a supply made by a taxable person which is evidenced by a credit or debit note or any other document having the same effect and “decrease in consideration” is to be interpreted accordingly;

“insolvent person” means—

- (a) an individual who has been adjudged bankrupt;
- (b) a company in relation to which—
  - (i) a voluntary arrangement under Part I of the Insolvency Act 1986<sup>(1)</sup> has been approved,
  - (ii) an administration order has been made,
  - (iii) an administrative receiver has been appointed,
  - (iv) a resolution for voluntary winding up has been passed, or
  - (v) an order for its winding-up has been made by the court at a time when it had not already gone into liquidation by passing a resolution for voluntary winding-up;

“negative entry” means an amount entered into the VAT account as a negative amount;

“positive entry” means an amount entered into the VAT account as a positive amount;

“VAT allowable portion”, “VAT payable portion” and “VAT account” have the meanings given in regulation 33;

“the Removal Order” means the Value Added Tax (Removal of Goods) Order 1992<sup>(2)</sup>;

“the owner” has the same meaning as in article 2 of the Removal Order.

**Making of returns**

**25.** —

(1) Every person who is registered or was or is required to be registered shall, in respect of every period of a quarter or in the case of a person who is registered, every period of 3 months ending on the dates notified either in the certificate of registration issued to him or otherwise, not later than the last day of the month next following the end of the period to which it relates, make to the Controller a return on the form numbered 4 in Schedule 1 to these Regulations showing the amount of VAT

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(1) 1986 c. 45 .

(2) S.I. 1992/3111.

payable by or to him and containing full information in respect of the other matters specified in the form and a declaration, signed by him, that the return is true and complete;

provided that—

- (a) the Commissioners may allow or direct a person to make returns in respect of periods of one month and to make those returns within one month of the periods to which they relate;
- (b) the first return shall be for the period which includes the effective date determined in accordance with Schedules 1, 2 and 3 to the Act upon which the person was or should have been registered, and the said period shall begin on that date;
- (c) where the Commissioners consider it necessary in any particular case to vary the length of any period or the date on which any period begins or ends or by which any return shall be made, they may allow or direct any person to make returns accordingly, whether or not the period so varied has ended;
- (d) where the Commissioners consider it necessary in any particular case, they may allow or direct a person to make returns to a specified address.

(2) Any person to whom the Commissioners give any direction in pursuance of the proviso to paragraph (1) above shall comply therewith.

(3) Where for the purposes of this Part the Commissioners have made a requirement of any person pursuant to regulation 30—

- (a) the period in respect of which taxable supplies were being made by the person who died or became incapacitated shall end on the day previous to the date when death or incapacity took place; and
- (b) subject to sub-paragraph (1)(c) above, a return made on his behalf shall be made in respect of that period no later than the last day of the month next following the end of that period; and
- (c) the next period shall start on the day following the aforesaid period and it shall end, and all subsequent periods shall begin and end, on the dates previously determined under paragraph (1) above.

(4) Any person who—

- (a) ceases to be liable to be registered, or
- (b) ceases to be entitled to be registered under either or both of paragraphs 9 and 10 of Schedule 1 to the Act,

shall, unless another person has been registered with his registration number in substitution for him under regulation 6, make to the Controller a final return on the form numbered 5 in Schedule 1 to these Regulations and any such return shall contain full information in respect of the matters specified in the form and a declaration, signed by him, that the return is true and complete and shall be made, in the case of a person who was or is registered, within one month of the effective date for cancellation of his registration, and in the case of any other person, within one month of the date upon which he ceases to be liable to be registered, and in either case shall be in respect of the final period ending on the date aforementioned and be in substitution for the return for the period in which such date occurs.

(5) The Commissioners may allow VAT chargeable in any period to be treated as being chargeable in such later period as they may specify.

#### **Accounting for VAT on an acquisition by reference to the value shown on an invoice**

**26.** Where the time of the acquisition of any goods from another member State is determined by reference to the issue of an invoice such as is described in regulation 83, VAT shall be accounted for and paid in respect of the acquisition only on so much of its value as is shown on that invoice.

### **Supplies under Schedule 4, paragraph 7**

27. Where goods are deemed to be supplied by a taxable person by virtue of paragraph 7 of Schedule 4 to the Act, the auctioneer on a sale by auction or, where the sale is otherwise than by auction, the person selling the goods, shall, whether or not registered under the Act, within 21 days of the sale—

- (a) furnish to the Controller a statement showing—
  - (i) his name and address and, if registered, his registration number,
  - (ii) the name, address and registration number of the person whose goods were sold,
  - (iii) the date of the sale,
  - (iv) the description and quantity of goods sold at each rate of VAT, and
  - (v) the amount for which they were sold and the amount of VAT charged at each rate,
- (b) pay the amount of VAT due, and
- (c) send to the person whose goods were sold a copy of the statement referred to in subparagraph (a) above, and the auctioneer or person selling the goods, as the case may be, and the person whose goods were sold shall exclude the VAT chargeable on that supply of those goods from any return made under these Regulations.

### **Estimation of output tax**

28. Where the Commissioners are satisfied that a person is not able to account for the exact amount of output tax chargeable in any period, he may estimate a part of his output tax for that period, provided that any such estimated amount shall be adjusted and exactly accounted for as VAT chargeable in the next prescribed accounting period or, if the exact amount is still not known and the Commissioners are satisfied that it could not with due diligence be ascertained, in the next but one prescribed accounting period.

### **Claims for input tax**

29. —

(1) Subject to paragraph (2) below, and save as the Commissioners may otherwise allow or direct either generally or specially, a person claiming deduction of input tax under section 25(2) of the Act shall do so on a return made by him for the prescribed accounting period in which the VAT became chargeable.

(2) At the time of claiming deduction of input tax in accordance with paragraph (1) above, a person shall, if the claim is in respect of—

- (a) a supply from another taxable person, hold the document which is required to be provided under regulation 13;
- (b) a supply under section 8(1) of the Act, hold the relative invoice from the supplier;
- (c) an importation of goods, hold a document authenticated or issued by the proper officer, showing the claimant as importer, consignee or owner and showing the amount of VAT charged on the goods;
- (d) goods which have been removed from warehouse, hold a document authenticated or issued by the proper officer showing the claimant's particulars and the amount of VAT charged on the goods;
- (e) an acquisition by him from another member State of any goods other than a new means of transport, hold a document required by the authority in that other member State to be issued showing his registration number including the prefix "GB", the registration number of the supplier including the alphabetical code of the member State in which the supplier

is registered, the consideration for the supply exclusive of VAT, the date of issue of the document and description sufficient to identify the goods supplied; or

- (f) an acquisition by him from another member State of a new means of transport, hold a document required by the authority in that other member State to be issued showing his registration number including the prefix “GB”, the registration number of the supplier including the alphabetical code of the member State in which the supplier is registered, the consideration for the supply exclusive of VAT, the date of issue of the document and description sufficient to identify the acquisition as a new means of transport as specified in section 95 of the Act;

provided that where the Commissioners so direct, either generally or in relation to particular cases or classes of cases, a claimant shall hold, instead of the document or invoice (as the case may require) specified in sub-paragraph (a), (b), (c), (d), (e) or (f) above, such other documentary evidence of the charge to VAT as the Commissioners may direct.

(3) Where the Commissioners are satisfied that a person is not able to claim the exact amount of input tax to be deducted by him in any period, he may estimate a part of his input tax for that period, provided that any such estimated amount shall be adjusted and exactly accounted for as VAT deductible in the next prescribed accounting period or, if the exact amount is still not known and the Commissioners are satisfied that it could not with due diligence be ascertained, in the next but one prescribed accounting period.

### **Persons acting in a representative capacity**

**30.** Where any person subject to any requirements under this Part dies or becomes incapacitated and control of his assets passes to another person, being a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity, that other person shall, if the Commissioners so require and so long as he has such control, comply with these requirements, provided that any requirement to pay VAT shall only apply to that other person to the extent of the assets of the deceased or incapacitated person over which he has control; and save to the extent aforesaid this Part shall apply to such a person, so acting, in the same way as it would have applied to the deceased or incapacitated person had that person not been deceased or incapacitated.

### **Records**

#### **31. —**

(1) Every taxable person shall, for the purpose of accounting for VAT, keep the following records—

- (a) his business and accounting records,
- (b) his VAT account,
- (c) copies of all VAT invoices issued by him,
- (d) all VAT invoices received by him,
- (e) documentation received by him relating to acquisitions by him of any goods from other member States,
- (f) copy documentation issued by him relating to the transfer, dispatch or transportation of goods by him to other member States,
- (g) documentation received by him relating to the transfer, dispatch or transportation of goods by him to other member States,
- (h) documentation relating to importations and exportations by him, and
- (i) all credit notes, debit notes, or other documents which evidence an increase or decrease in consideration that are received, and copies of all such documents that are issued by him.

- (2) The Commissioners may—
- (a) in relation to a trade or business of a description specified by them, or
  - (b) for the purposes of any scheme established by, or under, Regulations made under the Act,
- supplement the list of records required in paragraph (1) above by a notice published by them for that purpose.
- (3) Every person who, at a time when he is not a taxable person, acquires in the United Kingdom from another member State any goods which are subject to a duty of excise or consist of a new means of transport shall, for the purposes of accounting for VAT, keep such records with respect to the acquisition as may be specified in any notice published by the Commissioners in pursuance of this regulation.

### **The VAT account**

#### **32. —**

- (1) Every taxable person shall keep and maintain, in accordance with this regulation, an account to be known as the VAT account.
- (2) The VAT account shall be divided into separate parts relating to the prescribed accounting periods of the taxable person and each such part shall be further divided into 2 portions to be known as “the VAT payable portion” and “the VAT allowable portion”.
- (3) The VAT payable portion for each prescribed accounting period shall comprise—
- (a) a total of the output tax due from the taxable person for that period,
  - (b) a total of the output tax due on acquisitions from other member States by the taxable person for that period,
  - (c) every correction or adjustment to the VAT payable portion which is required or allowed by regulation 34, 35 or 38, and
  - (d) every adjustment to the amount of VAT payable by the taxable person for that period which is required, or allowed, by or under any Regulations made under the Act.
- (4) The VAT allowable portion for each prescribed period shall comprise—
- (a) a total of the input tax allowable to the taxable person for that period by virtue of section 26 of the Act,
  - (b) a total of the input tax allowable in respect of acquisitions from other member States by the taxable person for that period by virtue of section 26 of the Act,
  - (c) every correction or adjustment to the VAT allowable portion which is required or allowed by regulation 34, 35 or 38, and
  - (d) every adjustment to the amount of input tax allowable to the taxable person for that period which is required, or allowed, by or under any Regulations made under the Act.

### **The register of temporary movement of goods to and from other member States**

#### **33. —**

- (1) Every taxable person shall keep and maintain, in accordance with this regulation, a register to be known as the register of temporary movement of goods to and from other member States.
- (2) Where goods have been moved to or received from another member State and they are to be returned within a period of 2 years of the date of their first removal or receipt, as the case may be, the register shall contain the following information—
- (a) the date of removal of goods to another member State,

- (b) the date of receipt of the goods mentioned in sub-paragraph (a) above when they are returned from the member State mentioned in that sub-paragraph or another member State,
- (c) the date of receipt of goods from another member State,
- (d) the date of removal of the goods mentioned in sub-paragraph (c) above when they are returned to the member State mentioned in that sub-paragraph or another member State,
- (e) a description of the goods sufficient to identify them,
- (f) a description of any process, work or other operation carried out on the goods either in the United Kingdom or in another member State,
- (g) the consideration for the supply of the goods, and
- (h) the consideration for the supply of any processing, work or other operation carried out on the goods either in the United Kingdom or another member State.

(3) The Commissioners may in relation to a trade or business of a description specified by them supplement the list of information required in paragraph (2) above by a notice published by them for that purpose.

### **Correction of errors**

#### **34. —**

(1) This regulation applies where a taxable person has made a return, or returns, to the Controller which overstated or understated his liability to VAT or his entitlement to a payment under section 25(3) of the Act.

(2) In this regulation—

- (a) “under-declarations of liability” means the aggregate of—
  - (i) the amount (if any) by which credit for input tax was overstated in any return, and
  - (ii) the amount (if any) by which output tax was understated in any return;
- (b) “over-declarations of liability” means the aggregate of—
  - (i) the amount (if any) by which credit for input tax was understated in any return, and
  - (ii) the amount (if any) by which output tax was overstated in any return.

(3) Where, in relation to all such overstatements or understatements discovered by the taxable person during a prescribed accounting period, the difference between—

- (a) under-declarations of liability, and
- (b) over-declarations of liability,

does not exceed £2,000, the taxable person may correct his VAT account in accordance with this regulation.

(4) In the VAT payable portion—

- (a) where the amount of any overstatements of output tax is greater than the amount of any understatements of output tax a negative entry shall be made for the amount of the excess; or
- (b) where the amount of any understatements of output tax is greater than the amount of any overstatements of output tax a positive entry shall be made for the amount of the excess.

(5) In the VAT allowable portion—

- (a) where the amount of any overstatements of credit for input tax is greater than the amount of any understatements of credit for input tax a negative entry shall be made for the amount of the excess; or

- (b) where the amount of any understatements of credit for input tax is greater than the amount of any overstatements of credit for input tax a positive entry shall be made for the amount of the excess.
- (6) Every entry required by this regulation shall—
  - (a) be made in that part of the VAT account which relates to the prescribed accounting period in which the overstatements or understatements in any earlier returns were discovered,
  - (b) make reference to the returns to which it applies, and
  - (c) make reference to any documentation relating to the overstatements or understatements.
- (7) Where the conditions referred to in paragraph (3) above do not apply, the VAT account may not be corrected by virtue of this regulation.

**35.** Where a taxable person has made an error—

- (a) in accounting for VAT, or
- (b) in any return made by him,

then, unless he corrects that error in accordance with regulation 34, he shall correct it in such manner and within such time as the Commissioners may require.

#### **Notification of acquisition of goods subject to excise duty by non-taxable persons and payment of VAT**

**36.** —

(1) Where—

- (a) a taxable acquisition of goods subject to excise duty takes place in the United Kingdom,
- (b) the acquisition is not in pursuance of a taxable supply, and
- (c) the person acquiring the goods is not a taxable person at the time of the acquisition,

the person acquiring the goods shall notify the Commissioners of the acquisition at the time of the acquisition or the arrival of the goods in the United Kingdom, whichever is the later.

(2) The notification shall be in writing in the English language and shall contain the following particulars—

- (a) the name and current address of the person acquiring the goods,
- (b) the time of the acquisition,
- (c) the date when the goods arrived in the United Kingdom,
- (d) the value of the goods including any excise duty payable, and
- (e) the VAT due upon the acquisition.

(3) The notification shall include a declaration, signed by the person who is required to make the notification, that all the information entered in it is true and complete.

(4) Any person required to notify the Commissioners of an acquisition of goods subject to excise duty shall pay the VAT due upon the acquisition at the time of notification and, in any event, no later than the last day on which he is required by this regulation to make such notification.

(5) Where a person required to make notification dies or becomes incapacitated and control of his assets passes to another person, being a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity, that other person shall, so long as he has such control, be required to make the notification referred to in this regulation, provided that the requirement to pay the VAT due upon the acquisition shall apply to that other person only to the extent of the assets of the deceased or incapacitated person over which he has control and, save to the

extent aforesaid, this regulation shall apply to such person so acting in the same way as it would have applied to the deceased or incapacitated person had that person not been deceased or incapacitated.

### **Claims for recovery of overpaid VAT**

**37.** Any claim under section 80 of the Act shall be made in writing to the Commissioners and shall, by reference to such documentary evidence as is in the possession of the claimant, state the amount of the claim and the method by which that amount was calculated.

### **Adjustments in the course of business**

**38.** —

(1) This regulation applies where—

- (a) there is an increase in consideration for a supply, or
- (b) there is a decrease in consideration for a supply,

which includes an amount of VAT and the increase or decrease occurs after the end of the prescribed accounting period in which the original supply took place.

(2) Where this regulation applies, the taxable person shall adjust his VAT account in accordance with the provisions of this regulation.

(3) The maker of the supply shall—

- (a) in the case of an increase in consideration, make a positive entry; or
- (b) in the case of a decrease in consideration, make a negative entry,

for the relevant amount of VAT in the VAT payable portion of his VAT account.

(4) The recipient of the supply, if he is a taxable person, shall—

- (a) in the case of an increase in consideration, make a positive entry; or
- (b) in the case of a decrease in consideration, make a negative entry,

for the relevant amount of VAT in the VAT allowable portion of his VAT account.

(5) Every entry required by this regulation shall, except where paragraph (6) below applies, be made in that part of the VAT account which relates to the prescribed accounting period in which the increase or decrease is given effect in the business accounts of the taxable person.

(6) Any entry required by this regulation to be made in the VAT account of an insolvent person shall be made in that part of the VAT account which relates to the prescribed accounting period in which the supply was made or received.

(7) None of the circumstances to which this regulation applies is to be regarded as giving rise to any application of regulations 34 and 35.

### **Calculation of returns**

**39.** —

(1) Where a person is required by regulations made under the Act to make a return to the Controller, the amounts to be entered on that return shall be determined in accordance with this regulation.

(2) In the box opposite the legend “VAT due in this period on sales and other outputs” shall be entered the aggregate of all the entries in the VAT payable portion of that part of the VAT account which relates to the prescribed accounting period for which the return is made, except that the total of the output tax due in that period on acquisitions from other member States shall be entered instead in the box opposite the legend “VAT due in this period on acquisitions from other EC member States”.



(3) In the box opposite the legend “VAT reclaimed in this period on purchases and other inputs” (including acquisitions from other member States) shall be entered the aggregate of all the entries in the VAT allowable portion of that part of the VAT account which relates to the prescribed accounting period for which the return is made.

(4) Where any correction has been made and a return calculated in accordance with these Regulations then any such return shall be regarded as correcting any earlier returns to which regulations 34 and 35 apply.

#### **VAT to be accounted for on returns and payment of VAT**

**40.** Save as the Commissioners may otherwise allow or direct—

- (a) any person making a return shall account therein for all his output tax and all VAT for which he is accountable by virtue of Part XVI of these Regulations in respect of the period to which the return relates, and the amounts to be entered on that return shall be determined in accordance with these Regulations; and
- (b) any person required to make a return shall pay to the Controller such amount of VAT as is payable by him in respect of the period to which the return relates not later than the last day on which he is required to make that return.

#### **Accounting etc. by reference to the duty point, and prescribed accounting period in which VAT on certain supplies is to be treated as being chargeable**

**41.** —

(1) Where in respect of—

- (a) any supply by a taxable person of dutiable goods, or
- (b) an acquisition by any person from another member State of dutiable goods,

the time of supply or acquisition, as the case may be, precedes the duty point in relation to those goods, the VAT in respect of that supply or acquisition shall be accounted for and paid, and any question as to the inclusion of any duty in the value of the supply or acquisition shall be determined, by reference to the duty point or by reference to such later time as the Commissioners may allow.

(2) Any VAT chargeable on a supply of goods or services by one member of a group to another to which section 43(1)(a) of the Act does not apply because the person making the supply and the person supplied do not continue to be members of that group until the time specified in paragraph (3) below shall be treated as chargeable (if it would otherwise be chargeable in an earlier period) in the first prescribed accounting period in which either the body making the supply or the body supplied (or both) no longer continue to be members of that group.

(3) The time referred to in paragraph (2) above is—

- (a) in the case of a supply of goods which are to be removed in pursuance of the supply, a time after the removal,
- (b) in the case of any other supply of goods, a time after the goods have been made available, in pursuance to the supply, to the body supplied, or
- (c) in the case of a supply of services, a time after the services have been performed.

#### **Accounting for VAT on the removal of goods**

**42.** —

(1) This regulation applies where goods have been removed from a member State to a place in any other member State, and that removal falls within any of paragraphs (d), (f) or (g) of article 4 of the Removal Order.

(2) Except where paragraph (3) below applies in respect of the same prescribed accounting period, the owner shall not make any entry in the VAT payable portion of that part of his VAT account which relates to the prescribed accounting period in which he would be liable to account for any VAT chargeable in respect of the removal.

(3) Where—

- (a) the condition described in article 5 of the Removal Order has not been complied with, and
- (b) an amount of VAT has become payable,

the owner shall make a positive entry for the relevant amount of VAT in the VAT payable portion of that part of his VAT account which relates to the prescribed accounting period in which the condition was not complied with.

### **Goods removed from warehousing regime**

**43. —**

(1) This regulation applies to a registered person who is an approved person within the meaning of the Excise Duties (Deferred Payment) Regulations 1992(3) in respect of goods which are at a specified warehouse.

(2) Where a person to whom this regulation applies is the person who is liable under section 18(4)(b) of the Act to pay VAT on a supply of goods while the goods are subject to a warehousing regime, he may pay that VAT at or before the relevant time determined in accordance with paragraph (3) below instead of at the time provided for by the said section 18(4)(b).

(3) For the purposes of paragraph (2) above the relevant time means—

- (a) in relation to hydrocarbon oils, the 15th day of the month immediately following the month in which the hydrocarbon oils were removed from the warehousing regime;
- (b) in relation to any other goods subject to a duty of excise, the day (payment day) on which the registered person is required to pay the excise duty on the goods in accordance with regulation 5 of the Excise Duties (Deferred Payment) Regulations 1992.

(4) Where any goods of a kind chargeable to a duty of excise qualify for any relief of that duty, that relief shall be disregarded for the purposes of determining the relevant time under paragraph (3) above.