



# Finance Act 1972

## 1972 CHAPTER 41

### PART I

#### VALUE ADDED TAX

##### *Imposition and extent of tax*

#### **1 Value added tax**

- (1) A tax, to be known as value added tax, shall be charged in accordance with the provisions of this Part of this Act on the supply of goods and services in the United Kingdom (including anything treated as such a supply) and on the importation of goods into the United Kingdom.
- (2) The tax shall be under the care and management of the Commissioners.
- (3) All money and securities for money collected or received for or on account of the tax shall—
  - (a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 11 of the Customs and Excise Act 1952 ;
  - (b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.
- (4) The Government of Ireland Act 1920 shall have effect as if the tax were one of the taxes mentioned in section 22(1) of that Act (reserved taxes).
- (5) The Provisional Collection of Taxes Act 1968 shall be amended by inserting in subsection (1) of section 1, after the words " income tax " , the words " value added tax " ; and the Act as so amended shall apply in relation to a resolution of the House of Commons passed before 1st April 1974 and providing for any variation of that tax as it applies in relation to such a resolution as is mentioned in subsection (2)(a) of that section.

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## **2 Scope of tax**

- (1) Except as otherwise provided by this Part of this Act the tax shall be charged and payable as follows.
- (2) Tax on the supply of goods or services shall be charged only where—
  - (a) the supply is a taxable supply; and
  - (b) the goods or services are supplied by a taxable person in the course of a business carried on by him;and shall be payable by the person supplying the goods or services.
- (3) Tax on the importation of goods shall be charged and payable as if it were a duty of customs.
- (4) Any reference in the following provisions of this Part of this Act to the supply by any person of goods or services is a reference to such a supply in the United Kingdom in the course of a business carried on by him.

## **3 Deduction of input tax**

- (1) The following tax (in this Part of this Act referred to as "input tax"), that is to say—
  - (a) tax on the supply to a taxable person of any goods or services for the purpose of a business carried on or to be carried on by him; and
  - (b) tax paid or payable by a taxable person on the importation of any goods used or to be used for the purpose of a business carried on or to be carried on by him;may, at the end of any prescribed accounting period, be deducted by him, so far as not previously deducted and to the extent and subject to the exceptions provided for by or under this section, from the tax chargeable on supplies by him (in this section referred to as "output tax").
- (2) Where the amount of input tax that may be so deducted by any person exceeds the amount of the output tax due from him, the amount of the excess shall be paid to him by the Commissioners.
- (3) Subject to subsection (6) of this section, the input tax that may be deducted by a taxable person shall be—
  - (a) the whole of that tax, if all his supplies of goods or services are taxable supplies; and
  - (b) such part of that tax as, in accordance with regulations under this section, is attributable to taxable supplies, if some but not all of his supplies of goods or services are taxable supplies;and any such regulations may provide for treating all supplies of goods or services by any person as taxable supplies where the tax attributable to exempt supplies would be less than such amount or less than such part of the whole of the tax as may be specified in the regulations or in such other circumstances as may be so specified.
- (4) The Commissioners shall make regulations for securing a fair and reasonable attribution of input tax to taxable supplies, and any such regulations may provide for—
  - (a) determining a proportion of supplies in any prescribed accounting period which is to be taken as consisting of taxable supplies; and
  - (b) provisionally attributing input tax in accordance with the proportion so determined and adjusting the attribution for periods comprising two or more prescribed accounting periods or parts thereof;

and may make different provision for different circumstances and, in particular (but without prejudice to the generality of this provision) for different descriptions of goods or services; and may contain such incidental and supplementary provisions as appear to the Commissioners necessary or expedient.

- (5) Regulations under this section may include provision for enabling a taxable person to deduct as input tax, in such circumstances, to such extent and subject to such conditions as may be specified in the regulations, tax on the supply to him, or paid by him on the importation, of goods notwithstanding that he was not a taxable person at the time of the supply or payment.
- (6) The Treasury may by order make provision for excepting from the preceding provisions of this section input tax chargeable on such supplies and importations as may be specified in the order, and any such provision may be framed by reference to the description of goods or services supplied or goods imported, the persons by whom they are supplied or imported or to whom they are supplied, the purposes for which they are supplied or imported, or any circumstances whatsoever; and any such order may contain provision for consequential relief from output tax.

#### **4 Taxable persons**

- (1) A person who makes or intends to make taxable supplies is a taxable person while he is or is required to be registered under this Part of this Act.
- (2) Schedule 1 to this Act shall have effect with respect to the registration of persons under this Part of this Act.

### *Supply*

#### **5 Supply of goods and services**

- (1) The following provisions apply for determining for the purposes of this Part of this Act what is a supply of goods or services.
- (2) Supply of goods includes all forms of supply and, in particular, the letting of goods on hire and the making of a gift or loan of goods; but supply of services does not include anything done otherwise than for a consideration.
- (3) Where a person produces goods by applying to another person's goods a treatment or process he is treated as supplying goods and not as supplying services.
- (4) The supply of any form of power, heat, refrigeration or ventilation is a supply of goods and not of services.
- (5) Schedule 2 to this Act shall have effect with respect to matters to be treated as a supply of goods.
- (6) The granting, assignment or surrender of a major interest in land shall be treated as a supply of goods.

In this subsection "major interest" means the fee simple or a tenancy for a term certain exceeding twenty-one years, and, in relation to Scotland, means the estate or interest of the proprietor of the dominium utile, or in the case of land not held on feudal tenure, the estate or interest of the owner, or the lessee's interest under a lease for a period exceeding twenty-one years.

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- (7) Subject to the preceding provisions of this section, the Treasury may by order provide with respect to any description of transaction—
- (a) that it is to be treated as a supply of goods and not as a supply of services ; or
  - (b) that it is to be treated as a supply of services and not as a supply of goods ; or
  - (c) that it is to be treated as neither a supply of goods nor a supply of services.
- (8) Subject to the preceding provisions of this section, anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of the whole or part of any right) is a supply of services.

## **6 Self-supply**

- (1) The Treasury may by order make provision for securing, subject to any exceptions provided for by or under the order, that, where in such circumstances as may be specified in the order goods of a description so specified are acquired or produced by a person in the course of a business carried on by him and—
- (a) are neither supplied to another person nor incorporated in other goods produced in the course of that business; but
  - (b) are used by him for the purpose of a business carried on by him;
- the goods are treated for the purposes of this Part of this Act as both supplied to him for the purpose of that business and supplied by him in the course of that business.
- (2) The Treasury may by order make provision for securing, with respect to services of any description specified in the order, that, where—
- (a) a person, in the course of a business carried on by him, does anything for the purpose of that business which is not a supply of services but would, if done for a consideration, be a supply of services of a description specified in the order ; and
  - (b) such other conditions as may be specified in the order are satisfied;
- such services are treated for the purposes of this Part of this Act as being both supplied to him for the purpose of that business and supplied by him in the course of that business.
- (3) For the purposes of this section, where goods are manufactured or produced from any other goods those other goods shall be treated as incorporated in the first-mentioned goods.

## **7 Time of supply**

- (1) The following provisions of this section shall apply for determining the time when a supply of goods or services is to be treated as taking place for the purposes of the charge to tax.
- (2) Subject to the following provisions of this section, a supply of goods shall be treated as taking place—
- (a) if the goods are to be removed, at the time of the removal;
  - (b) if the goods are not to be removed, at the time when they are made available to the person to whom they are supplied;
  - (c) if the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, at the time

when it becomes certain that the supply has taken place, but not later than twelve months after the removal.

- (3) Subject to the following provisions of this section, a supply of services shall be treated as taking place at the time when the services are performed.
- (4) If, before the time applicable under subsection (2) or subsection (3) of this section, the person making the supply issues a tax invoice in respect of it or if, before the time applicable under paragraph (a) or (b) of subsection (2) or subsection (3) of this section, he receives a payment in respect of it, the supply shall, to the extent covered by the invoice or payment, be treated as taking place at the time the invoice is issued or the payment is received.
- (5) If, within fourteen days after the time applicable under subsection (2) or subsection (3) of this section, the person making the supply issues a tax invoice in respect of it, then, unless he has notified the Commissioners in writing that he elects not to avail himself of this subsection, the supply shall (notwithstanding the preceding provisions of this section) be treated as taking place at the time the invoice is issued.
- (6) The Commissioners may, at the request of a taxable person, direct that subsection (5) of this section shall apply in relation to supplies made by him (or such supplies made by him as may be specified in the direction) as if for the period of fourteen days there were substituted such longer period as may be specified in the direction.
- (7) Where goods are deemed to be supplied by virtue of paragraph 1 of Schedule 2 to this Act or section 6 of this Act, the supply shall be treated as taking place when they are applied or used as mentioned in that paragraph or section.
- (8) The Commissioners may by regulation make provision with respect to the time at which, notwithstanding the preceding provisions of this section, a supply is to be treated as taking place in cases where goods or services are supplied for a consideration the whole or part of which is determined or payable periodically or at the end of any period or where goods are supplied for a consideration the whole or part of which is determined at the time when the goods are appropriated for any purpose ; and any such regulations may provide—
  - (a) for treating goods supplied on hire for any period as being successively supplied on hire for successive parts of that period ; and
  - (b) for treating services supplied for any period as being successively supplied for successive parts of that period.
- (9) In this section " tax invoice " means such an invoice as is required under section 30(2) of this Act or would be so required if the person to whom the supply is made were a taxable person.

## **8 Place of supply**

- (1) The following provisions of this section shall apply for determining, for the purposes of the charge to tax, whether goods or services are supplied in the United Kingdom.
- (2) If the supply of any goods does not involve their removal from or to the United Kingdom they shall be treated as supplied in the United Kingdom if they are in the United Kingdom and otherwise shall be treated as supplied outside the United Kingdom.

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- (3) If the supply of any goods involves their removal from the United Kingdom they shall be treated as supplied in the United Kingdom and if it involves their removal to the United Kingdom they shall be treated as supplied outside the United Kingdom.
- (4) Subject to subsection (5) of this section, if services might be considered as supplied either in or outside the United Kingdom or as supplied both in and outside the United Kingdom, they shall be treated as supplied in the United Kingdom if the person supplying them has his place of business or principal place of business in the United Kingdom and otherwise shall be treated as supplied outside the United Kingdom; but for the purposes of this subsection any person carrying on a business through a branch or agency in the United Kingdom shall be treated as having his principal place of business in the United Kingdom.
- (5) Where services consist of transport between places of which one is and the other is not in the United Kingdom, so much of the services as consists of transport within the United Kingdom shall be treated as supplied in the United Kingdom and the remainder as supplied outside the United Kingdom.
- (6) The Treasury may by order make provision, with respect to such services as may be specified in the order, for substituting for the provisions contained in subsection (4) or (5) of this section such other provisions as may be specified in the order, either generally or in such circumstances as may be so specified.
- (7) Where a supply of goods is such that subsections (2) and (3) of this section cannot be applied to it, subsections (4) and (6) of this section shall apply to it as they apply to a supply of services.
- (8) For the purposes of this section, where goods, in the course of their removal from a place in the United Kingdom to another place in the United Kingdom, leave and re-enter the United Kingdom the removal shall not be treated as a removal from or to the United Kingdom.

*Rate of tax and determination of value*

**9 Rate of tax**

- (1) Subject to the following provisions of this section, tax shall be charged at the rate of ten per cent., and shall be charged—
  - (a) on the supply of goods or services, by reference to the value of the supply as determined under this Part of this Act; and
  - (b) on the importation of goods, by reference to the value of the goods as determined under this Part of this Act.
- (2) The Treasury may by order made before 1st April 1973 substitute for the rate of ten per cent. a rate not lower than seven and a half per cent. nor higher than twelve and a half per cent.
- (3) The Treasury may by order increase or decrease the rate for the time being in force by such percentage thereof, not exceeding 20 percent., as may be specified in the order, but any such order shall cease to be in force at the expiration of a period of one year from the date on which it takes effect, unless continued in force by a further order under this subsection.

- (4) In relation to an order made under subsection (3) of this section to continue, vary or replace a previous order, the reference in that subsection to the rate for the time being in force is a reference to the rate that would be in force if no order under that subsection had been made.

## **10 Value of supply of goods or services**

- (1) For the purposes of this Part of this Act the value of any supply of goods or services shall be determined as follows.
- (2) If the supply is for a consideration in money its value shall be taken to be such amount as, with the addition of the tax chargeable, is equal to the consideration.
- (3) If the supply is not for a consideration or is for a consideration not consisting or not wholly consisting of money, the value of the supply shall be taken to be its open market value.
- (4) Where a supply of any goods or services is not the only matter to which a consideration in money relates the supply shall be deemed to be for such part of the consideration as is properly attributable to it.
- (5) For the purposes of this Part of this Act the open market value of a supply of goods or services shall be taken to be the amount that would fall to be taken as its value under subsection (2) of this section if the supply were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.
- (6) This section has effect subject to Schedule 3 to this Act

## **11 Value of imported goods**

For the purposes of this Part of this Act the value of any imported goods shall be taken to be the aggregate of the following, that is to say,—

- (a) the amount that would fall to be taken as their value under section 258 of the Customs and Excise Act 1952 if value added tax were a duty of customs; and
- (b) the amount of any customs duty payable on the goods or of any payment or repayment made in order to secure relief from such customs duty under section 35 or section 36 of the Customs and Excise Act 1952 (relief on re-importation); and
- (c) any amount payable on the goods by way of surcharge under section 7 of the Sugar Act 1956 or a levy under section 1 of the Agriculture and Horticulture Act 1964 or payable on the goods under section 6(5) of the European Communities Act 1972 or that section as applied by section 7(1) of that Act.

### *Reliefs*

## **12 Zero-rating**

- (1) Where a taxable person supplies goods or services and the supply is zero-rated, then, whether or not tax would be chargeable on the supply apart from this section,—
- (a) no tax shall be charged on the supply; but

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- (b) it shall in all other respects be treated as a taxable supply;  
and accordingly the rate at which tax is treated as charged on the supply shall be nil.
- (2) A supply of goods or services is zero-rated by virtue of this subsection if the goods or services are of a description for the time being specified in Schedule 4 to this Act or the supply is of a description for the time being so specified.
- (3) Where goods of a description for the time being specified in Schedule 4 to this Act, or of a description forming part of a description of supply for the time being so specified, are imported into the United Kingdom no tax shall be chargeable on their importation, except as otherwise provided in that Schedule.
- (4) The Treasury may by order vary Schedule 4 to this Act by adding to or deleting from it any description or by varying any description for the time being specified in it.
- (5) Where a description included in Schedule 4 to this Act (whether by virtue of an order under the preceding subsection or otherwise) is of a supply of goods or services outside the United Kingdom or of a transaction which would not otherwise be a supply of goods or services the supply or transaction shall for the purposes of this Part of this Act be treated as a supply of goods or services in the United Kingdom.
- (6) A supply of goods is zero-rated by virtue of this subsection if the Commissioners are satisfied that the person supplying the goods—
- (a) has exported them; or
  - (b) has shipped them for use as stores on a voyage or flight to an eventual destination outside the United Kingdom, or as merchandise for sale by retail to persons carried on such a voyage or flight in a ship or aircraft.
- (7) The Commissioners may by regulations make provision for the zero-rating of supplies of goods, or of such goods as may be specified in the regulations, in cases where the Commissioners are satisfied that the goods have been or are to be exported and such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.
- (8) Where the supply of any goods has been zero-rated in pursuance of regulations made under the preceding subsection and—
- (a) the goods are found in the United Kingdom after the date on which they were alleged to have been or were to be exported ; or
  - (b) any condition specified in the regulations or imposed by the Commissioners is not complied with ;
- and the presence of the goods in the United Kingdom after that date or the non-observance of the condition has not been authorised for the purposes of this subsection by the Commissioners, the goods shall be liable to forfeiture under the Customs and Excise Act 1952 and the tax that would have been chargeable on the supply but for the zero-rating shall become payable forthwith by the person to whom the goods were supplied or by any person in whose possession the goods are found in the United Kingdom; but the Commissioners may, if they think fit, waive payment of the whole or part of that tax.

### 13 Exemptions

- (1) A supply of goods or services is an exempt supply if it is of a description for the time being specified in Schedule 5 to this Act.



- (2) The Treasury may by order vary that Schedule by adding to or deleting from it any description of supply or by varying any description of supply for the time being specified in it.

#### **14 Relief on supply of certain second-hand goods**

- (1) The Treasury may by order make provision for securing a reduction of the tax chargeable on the supply of goods of such descriptions as may be specified in the order in cases where no tax was chargeable on a previous supply of the goods and such other conditions are satisfied as may be specified in the order or as may be imposed by the Commissioners in pursuance of the order.
- (2) The amount of the reduction that may be secured by an order under this section shall not exceed the amount of tax that would have been chargeable on the previous supply had tax been chargeable on it at the same rate as that at which the tax to be reduced would be chargeable but for the reduction.
- (3) An order under this section making provision for reducing the tax chargeable on the supply of goods of any description may include provision—
- (a) for giving relief from the tax chargeable on the importation of goods of that description ; and
  - (b) for securing the like reduction where no tax was chargeable on the importation of goods of that description as where no tax was chargeable on a previous supply of the goods.
- (4) An order under this section may extend to cases where the previous supply or the importation took place before tax was chargeable on any supply or importation.
- (5) The preceding provisions of this section shall, with the necessary modifications, apply in relation to cases where consequential relief from tax was given on a previous supply by an order under section 3(6) of this Act but the relief did not extend to the whole amount of the tax.
- (6) An order under this section may make different provision for goods of different descriptions and for different circumstances.

#### **15 Refund of tax in certain cases**

- (1) Subject to the following provisions of this section, where tax is chargeable on the supply of goods or services to, or on the importation of goods by, a body to which this section applies and the supply or importation is not for the purpose of any business carried on by the body, the Commissioners shall, on a claim made by the body at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the tax so chargeable.
- (2) Where goods or services so supplied to or imported by the body cannot be conveniently distinguished from goods or services supplied to or imported by it for the purpose of a business carried on by it, the amount to be refunded under this section shall be such amount as remains after deducting from the whole of the tax chargeable on any supply to or importation by the body such proportion thereof as appears to the Commissioners to be attributable to the carrying on of the business; but where the tax so attributable is or includes tax attributable, in accordance with regulations under section 3 of this Act, to exempt supplies by the body and the tax attributable to the exempt supplies is in

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the opinion of the Commissioners an insignificant proportion of the tax so chargeable they may include it in the tax refunded under this section.

- (3) The bodies to which this section applies are—
- (a) a local authority;
  - (b) a river authority, a river purification board, the Conservators of the River Thames and the Lee Conservancy Catchment Board;
  - (c) a drainage board within the meaning of the Land Drainage Act 1930;
  - (d) any statutory water undertakers within the meaning of the Water Act 1945, and a regional water board and water development board within the meaning of the Water (Scotland) Act 1967 ;
  - (e) the London Transport Executive and a passenger transport authority or executive established under Part II of the Transport Act 1968 ;
  - (f) a port health authority constituted under Part I of the Public Health Act 1936, and a port local authority and joint port local authority constituted under Part X of the Public Health (Scotland) Act 1897;
  - (g) a police authority and the Receiver for the Metropolitan Police District;
  - (h) a development corporation within the meaning of the New Towns Act 1965 or the New Towns (Scotland) Act 1968, a new town commission within the meaning of the New Towns Act (Northern Ireland) 1965 and the Commission for the New Towns;
  - (i) a general lighthouse authority within the meaning of Part XI of the Merchant Shipping Act 1894;
  - (j) the British Broadcasting Corporation;
  - (k) Independent Television News Limited ; and
  - (l) any body specified for the purposes of this section by an order made by the Treasury.
- (4) No tax shall be refunded under this section to a general lighthouse authority which in the opinion of the Commissioners is attributable to activities other than those concerned with the provision, maintenance or management of lights or other navigational aids.
- (5) References in this section to any tax chargeable do not include any tax which, by virtue of an order under section 3(6) of this Act, could not be deducted as input tax.
- (6) In this section " local authority " means the council of a county, borough, county district, district, parish or group of parishes, community or group of communities, the Greater London Council, the Common Council of the City of London, the Council of the Isles of Scilly, and any joint committee or joint board established by two or more of the foregoing and, in relation to Scotland, the council of a county, county of a city, large burgh, small burgh, district and any combination and any joint committee or joint board established by two or more of the foregoing.

## **16 Relief from tax on importation of goods**

- (1) The Treasury may by order make provision for giving relief from the whole or part of the tax chargeable on the importation of goods, subject to such conditions (including conditions prohibiting or restricting the disposal of or dealing with the goods) as may be imposed by or under the order, if and so far as the relief appears to the Treasury to be necessary or expedient, having regard to any international agreement or arrangements.

- (2) The Commissioners may by regulations make provision for remitting or repaying, if they think fit, the whole or part of the tax chargeable on the importation of any goods which are shown to their satisfaction to have been previously exported from the United Kingdom.
- (3) The Commissioners may by regulations make provision for remitting or repaying the whole or part of the tax chargeable on the importation of any goods if they are satisfied that the goods have been or are to be re-exported and they think fit to do so in all the circumstances and having regard to the tax chargeable on the supply of like goods in the United Kingdom.

*Further provisions as to importation of goods*

## **17 Application of customs enactments**

- (1) Subject to the provisions of this section, the Customs and Excise Act 1952 and, except where the contrary intention appears, any other enactments (including provisions of regulations or other instruments having statutory effect) relating to customs generally, whether passed or made before or after the passing of this Act, shall have effect, with such exceptions and adaptations as the Commissioners may by regulations prescribe, as if all goods imported into the United Kingdom were liable to duties of customs and as if those duties included value added tax chargeable on the importation of goods.
- (2) The following provisions of the Customs and Excise Act 1952, that is to say—
  - (a) sections 34(4), 35 and 36 (reimportation);
  - (b) A charge taking effect by virtue of subsection (4) above shall, notwithstanding subsection (5) of section 59 of the Land Registration Act 1925, be a land charge for the purposes of that section, and subsection (2) of that section shall apply accordingly with respect to its protection and realisation.
  - (c) section 43(a) (relief from duty of antiques);
  - (d) section 221(2) (exemption of certain mechanical lighters);
  - (e) section 259 (charge of duty on manufactured or composite articles);
  - (f) section 260(1)(b) (declaration as to duty payable);
  - (g) section 272 (supply of goods without payment of duty to Her Majesty's ships);  
and
  - (h) sections 308 to 311 (Isle of Man);shall be excepted from the enactments which are to have effect as mentioned in subsection (1) of this section.
- (3) Section 258(1) of the Customs and Excise Act 1952 shall have effect, in its application by virtue of subsection (1) of this section, in a case where paragraph (b) or (c) of section 11 of this Act applies, as if the value to be taken as the value of imported goods were increased by the amount mentioned in that paragraph.
- (4) Regulations under section 16 of the Post Office Act 1953 (which provides for the application of customs enactments to postal packets) may make special provision in relation to value added tax.

## **18 Importation of goods by taxable persons**

The Commissioners may by regulations make provision for enabling goods imported by a taxable person in the course of a business carried on by him to be delivered or removed, subject to such conditions or restrictions as the Commissioners may impose for the protection of the revenue, without payment of the tax chargeable on the importation, and for that tax to be accounted for together with the tax chargeable on the supply of goods or services by him.

### *Special cases*

## **19 Application to Crown**

- (1) This Part of this Act shall apply in relation to taxable supplies by the Crown as it applies in relation to taxable supplies by taxable persons.
- (2) Where the supply by a Government department of any goods or services does not amount to the carrying on of a business but it appears to the Treasury that similar goods or services are or might be supplied by taxable persons in the course of a business, then, if and to the extent that the Treasury so directs, the supply of those goods or services by that department shall be treated for the purposes of this Part of this Act as a supply in the course of a business carried on by it.
- (3) For the purposes of this section goods or services obtained by one Government department from another Government department shall be treated, if and to the extent that the Treasury so directs, as supplied by that other department and similarly as regards goods or services obtained by or from the Crown Estate Commissioners.
- (4) In this section " Government department" includes a department of the Government of Northern Ireland, any body of persons exercising functions on behalf of a Minister of the Crown, and any part of a Government department (as defined in the foregoing) designated for the purposes of this subsection by a direction of the Treasury.

## **20 Local authorities**

- (1) A local authority which makes taxable supplies is liable to be registered under this Part of this Act, whatever the value of the supplies; and accordingly Schedule 1 to this Act shall apply, in a case where the value of the taxable supplies made by a local authority in any period of one year is £5,000 or less, as if that value exceeded £5,000.
- (2) In this section " local authority " has the same meaning as in section 15 of this Act.

## **21 Groups of companies**

- (1) Where, under the following provisions of this section, any bodies corporate are treated as members of a group any business carried on by a member of the group shall be treated as carried on by the representative member, and—
  - (a) any supply of goods or services by a member of the group to another member of the group shall be disregarded ; and
  - (b) any other supply of goods or services by or to a member of the group shall be treated as a supply by or to the representative member; and
  - (c) any tax paid or payable by a member of the group on the importation of any goods shall be treated as paid or payable by the representative member and

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- the goods shall be treated for the purposes of sections 18 and 31(3) of this Act as imported by the representative member;
- and all members of the group shall be liable jointly and severally for any tax due from the representative member.
- (2) An order under section 6 of this Act may make provision for securing that any goods or services which, if all the members of the group were one person, would fall to be treated under that section as supplied to and by that person, are treated as supplied to and by the representative member.
- (3) Two or more bodies corporate resident in the United Kingdom are eligible to be treated as members of a group if—
- (a) one of them controls each of the others; or
  - (b) one person (whether a body corporate or an individual) controls all of them ; or
  - (c) two or more individuals carrying on a business in partnership control all of them.
- (4) Where an application to that effect is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then, from the beginning of a prescribed accounting period they shall be so treated, and one of them shall be the representative member, unless the Commissioners refuse the application; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue.
- (5) Where any bodies corporate are treated as members of a group and an application to that effect is made to the Commissioners, then, from the beginning of a prescribed accounting period—
- (a) a further body eligible to be so treated shall be included among the bodies so treated ; or
  - (b) a body corporate shall be excluded from the bodies so treated; or
  - (c) another member of the group shall be substituted as the representative member; or
  - (d) the bodies corporate shall no longer be treated as members of a group ;
- unless the application is to the effect mentioned in paragraph (a) or paragraph (c) above and the Commissioners refuse the application ; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue.
- (6) Where a body corporate is treated as a member of a group as being controlled by any person and it appears to the Commissioners that it has ceased to be so controlled, they shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.
- (7) An application under this section with respect to any bodies corporate must be made by one of those bodies or by the person controlling them and must be made not less than ninety days before the date from which it is to take effect, or at such later time as the Commissioners may allow.
- (8) For the purposes of this section a body corporate shall be taken to control another body corporate if it is empowered by statute to control that body's activities or if it is that body's holding company within the meaning of the Companies Act 1948 ; and an individual or individuals shall be taken to control a body corporate if he or they, were he or they a company, would be that body's holding company within the meaning of that Act.

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## **22 Partnerships**

- (1) The registration under this Part of this Act of persons carrying on a business in partnership may be in the name of the firm; and no account shall be taken, in determining whether goods or services are supplied to or by such persons, of any change in the partnership or of a change from the business being carried on by a person on his own to its being carried on by him in partnership or from the business being carried on in partnership to its being carried on by one of the former partners on his own.
- (2) Subsection (1) of this section shall not affect the extent to which, under section 9 of the Partnership Act 1890, a partner is liable for tax owed by the firm; but where a person is a partner in a firm during part only of a prescribed accounting period his liability for tax on the supply by the firm of goods or services during that accounting period shall be such proportion of the firm's liability as may be just.

## **23 Business carried on in divisions or by unincorporated bodies, personal representatives, etc.**

- (1) The registration under this Part of this Act of a body corporate carrying on a business in several divisions may, if the body corporate so requests and the Commissioners see fit, be in the names of those divisions.
- (2) The Commissioners may by regulations make provision for determining by what persons anything required by or under this Part of this Act to be done by a person carrying on a business is to be done where a business is carried on in partnership or by a club or association the affairs of which are managed by its members or a committee or committees of its members.
- (3) The Commissioners may by regulations make provision for persons who carry on a business of a taxable person who has died or become bankrupt or incapacitated to be treated for a limited time as taxable persons, and for securing continuity in the application of this Part of this Act in cases where persons are so treated.

## **24 Agents, etc.**

- (1) Where a person who is accountable for any tax, or on whom any duties are imposed by or under this Part of this Act, is not resident in the United Kingdom, the Commissioners may by notice in writing served on any agent, manager or factor who is resident in the United Kingdom and has acted on behalf of that person in matters by reference to which that person is accountable or the duties are imposed, direct that he shall be substituted for that person as the person accountable for the tax or that he shall be under an obligation to discharge those duties or any of them.
- (2) For the purposes of this Part of this Act goods imported by a taxable person and supplied by him as agent for a person who is not a taxable person may be treated as imported and supplied by the taxable person as principal.
- (3) Where goods or services are supplied through an agent who acts in his own name the Commissioners may, if they think fit, treat the supply both as a supply to the agent and as a supply by the agent.

## **25 Transfers of going concerns**

Where a business carried on by a taxable person is transferred to another person as a going concern, then—

- (a) for the purpose of determining whether the transferee is liable to be registered under this Part of this Act he shall be treated as having carried on the business before as well as after the transfer; and supplies by the transferor shall be treated accordingly ; and
- (b) any records relating to the business which, under section 34 of this Act, are required to be preserved for any period after the transfer shall be preserved by the transferee instead of by the transferor, unless the Commissioners, at the request of the transferor, otherwise direct.

## **26 Terminal markets**

- (1) The Treasury may by order make provision for modifying the provisions of this Part of this Act in their application to dealings on terminal markets and such persons ordinarily engaged in such dealings as may be specified in the order, subject to such conditions as may be so specified.
- (2) Without prejudice to the generality of subsection (1) of this section, an order under this section may include provision—
  - (a) for zero-rating the supply of any goods or services or for treating the supply of any goods or services as exempt;
  - (b) for the registration under this Part of this Act of any body of persons representing persons ordinarily engaged in dealing on a terminal market and for disregarding such dealings by persons so represented in determining liability to be registered under this Part of this Act, and for disregarding such dealings between persons so represented for all the purposes of this Part of this Act;
  - (c) for refunding, to such persons as may be specified by or under the order, input tax attributable to such dealings on a terminal market as may be so specified;and may contain such incidental and supplementary provisions as appear to the Treasury to be necessary or expedient.
- (3) An order under this section may make different provision with respect to different terminal markets and with respect to different commodities.

## **27 Supplies of dutiable goods in warehouse**

- (1) Where goods subject to a duty of customs are supplied while warehoused and before payment of the duty the supply shall be disregarded for the purposes of this Part of this Act.
- (2) Where goods subject to a duty of excise or such goods mixed with goods subject to a duty of customs are supplied while warehoused and before payment of the duty, then—
  - (a) if there is more than one such supply any but the last such supply shall be disregarded for the purposes of this Part of this Act; and
  - (b) the supply or, if more than one, the last such supply shall be treated for the purposes of this Part of this Act as taking place when the duty is paid and the value of the supply shall be treated as including the duty; and

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- (c) the tax on the supply shall be payable, together with the duty, by the person by whom the duty is paid, except as otherwise provided by regulations under this section;

except that, if the goods are permitted to be removed from warehouse without payment of the duty, the supply (or last supply) shall be treated as taking place when the goods are so removed, the value of the supply shall not be treated as including the duty and the tax on the supply shall be payable by the person by whom the goods are removed.

- (3) The Commissioners may by regulations make provision for enabling goods which are supplied as mentioned in subsection (2) of this section, and are so supplied to a taxable person for the purpose of a business carried on by him, to be removed from warehouse without payment of the tax on the supply and for that tax to be accounted for together with the tax chargeable on the supply of goods or services by him.
- (4) Subsection (1) of this section applies in relation to a surcharge under section 7 of the Sugar Act 1956 or any amount payable under section 6(5) of the European Communities Act 1972 or that section as applied by section 7(1) of that Act as it applies in relation to a duty of customs.

## **28 Capital goods**

- (1) The Treasury may by order make provision for the giving of relief, in such cases, to such extent and subject to such exceptions as may be specified in the order, from tax paid on the supply or importation for the purpose of a business carried on by any person of machinery or plant or any specified description of machinery or plant in cases where that tax or part of that tax cannot be deducted under section 3 of this Act and such other conditions are satisfied as may be specified in the order.
- (2) Without prejudice to the generality of subsection (1) of this section, an order under this section may provide for relief to be given by deduction or refunding of tax and for aggregating or excluding the aggregation of value where goods of the same description are supplied or imported together.
- (3) An order under this section may substitute a period exceeding three years but not exceeding six years as the period for which records relating to goods in respect of which relief is given under the order may be required to be preserved under section 34(2) of this Act.

## **29 Trading stamp schemes**

The Commissioners may by regulations make provision for modifying section 10 of this Act and paragraph 5 of Schedule 3 to this Act in their application to the supply of goods under trading stamp schemes within the meaning of the Trading Stamps Act 1964 or the Trading Stamps Act (Northern Ireland) 1965.

### *Collection and enforcement*

## **30 Accounting for and payment of tax**

- (1) Tax on the supply of goods or services shall be accounted for and paid by reference to such periods (in this Part of this Act referred to as "prescribed accounting periods") at such time and in such manner as may be determined by or under regulations made



by the Commissioners; and claims for deduction of input tax or for payments under section 3(2) of this Act shall be made in such manner as may be so determined.

- (2) Regulations under this section may require the keeping of accounts and the making of returns in such form and manner as may be specified in the regulations and may require taxable persons supplying goods or services to other taxable persons to provide them with invoices (to be known as " tax invoices ") containing statements of such particulars as may be so specified of the supply, the tax chargeable on it and the persons by and to whom the goods or services are supplied.
- (3) Regulations under this section may make special provision for such taxable supplies by retailers of any goods or of any description of goods or of services or any description of services as may be determined by or under the regulations and, in particular,—
  - (a) for permitting the value which is to be taken as the value of the supplies in any prescribed accounting period or part thereof to be determined, subject to any limitations or restrictions, by such method or one of such methods as may have been described in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice or as may be agreed with the Commissioners; and
  - (b) for determining the proportion of the value of the supplies which is to be attributed to any description of supplies; and
  - (c) for adjusting that value and proportion for periods comprising two or more prescribed accounting periods or parts thereof.
- (4) Regulations under this section may make provision—
  - (a) for treating tax chargeable in one prescribed accounting period as chargeable in another such period; and
  - (b) for the adjustment of accounts in cases where tax has become chargeable by reference to a consideration and the amount of the consideration is reduced or no consideration becomes payable and in such other circumstances as may be specified in the regulations; and
  - (c) for the correction of errors.
- (5) Regulations under this section may make different provision for different circumstances and may provide for different dates as the commencement of prescribed accounting periods applicable to different persons.
- (6) The provisions made by regulations under this section for cases where goods are treated as supplied by a taxable person by virtue of paragraph 2 of Schedule 2 to this Act may require the tax chargeable on the supply to be accounted for and paid, and particulars thereof to be provided, by such other person and in such manner as may be specified by the regulations.
- (7) Where, at the end of a prescribed accounting period, the amount of tax due from any person or the amount due to any person under section 3(2) of this Act would be less than £1 that amount shall be treated as nil.

### **31 Power of Commissioners to assess tax due**

- (1) Where a taxable person has failed to make any returns required under this Part of this Act or to keep any documents and afford the facilities necessary to verify such returns or where it appears to the Commissioners that such returns are incomplete or incorrect they may assess the amount of tax due from him to the best of their judgment and notify it to him.

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- (2) An assessment under subsection (1) of this section of an amount of tax due for any prescribed accounting period shall not be made after the later of the following:—
- (a) two years after the end of the prescribed accounting period; or
  - (b) one year after evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge ;
- but may, where further such evidence comes to their knowledge after the making of such an assessment, be made in addition to that assessment.
- (3) Where a taxable person has acquired or imported any goods in the course of a business carried on by him the Commissioners may require him from time to time to account for the goods; and if he fails to prove that the goods have been or are available to be supplied by him or have been lost or destroyed they may assess to the best of their judgment and notify to him the amount of tax that would have been chargeable in respect of the supply of the goods if they had been supplied by him.
- (4) An assessment under subsection (1) or subsection (3) of this section shall not be made more than six years after the end of the prescribed accounting period or importation concerned, nor, if the taxable person has died, more than three years after his death; except that if the Commissioners satisfy a value added tax tribunal that there are reasonable grounds for believing that tax has been or may have been lost through the fraud or wilful default or neglect of any person an assessment may, with the leave of the tribunal, be made at any time, or, if the taxable person has died, at any time not later than six years after the death.
- (5) Members of a value added tax tribunal giving leave for an assessment shall not take part in the proceedings or be present when an appeal against the assessment or against the amount of the assessment is heard or determined.
- (6) Where an amount has been assessed and notified to any person under subsection (1) or subsection (3) of this section it shall, subject to the provisions of this Part of this Act as to appeals, be deemed to be an amount of tax due from him and may be recovered accordingly, unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

### **32 Power to require security and production of evidence**

- (1) The Commissioners may, as a condition of allowing or repaying any input tax to any person, require the production of such documents relating to the tax as may have been supplied to him and may, if they think it necessary for the protection of the revenue, require as a condition of making any payment under section 3(2) of this Act the giving of such security for the amount of the payment as appears to them appropriate.
- (2) Where it appears to the Commissioners requisite to do so for the protection of the revenue they may require a taxable person, as a condition of his supplying goods or services under a taxable supply, to give security, or further security, of such amount and in such manner as they may determine, for the payment of any tax which is or may become due from him.

### **33 Recovery of tax, etc.**

- (1) Tax due from any person shall be recoverable as a debt due to the Crown.

- (2) Any amount shown in an invoice as tax chargeable on a supply of goods or services shall be recoverable as tax due from the person issuing the invoice, whether or not—
  - (a) the invoice is a tax invoice issued in pursuance of section 30(2) of this Act; or
  - (b) that or any amount of tax is chargeable on the supply; or
  - (c) the person issuing the invoice is a taxable person.
- (3) The Commissioners may by regulations make provision for authorising distress to be levied on the goods and chattels of any person refusing or neglecting to pay any tax due from him or any amount recoverable as if it were tax due from him, and for the disposal of any goods or chattels on which distress is levied in pursuance of the regulations.
- (4) In the application of the preceding subsection to Scotland, for the reference to the levying of distress on goods and chattels there shall be substituted a reference to the doing of diligence, and for the expression " chattels " there shall be substituted a reference to corporeal movables.

### **34 Duty to keep records**

- (1) Every taxable person shall keep such records as the Commissioners may require.
- (2) The Commissioners may require any records kept in pursuance of this section to be preserved for such period not exceeding three years as they may require.
- (3) The duty under this section to preserve records may be discharged by the preservation of the information contained therein by such means as the Commissioners may approve; and where that information is so preserved a copy of any document forming part of the records shall, subject to the following provisions of this section, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.
- (4) The Commissioners may, as a condition of approving under subsection (3) of this section any means of preserving information contained in any records, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.
- (5) A statement contained in a document produced by a computer shall not be admissible in evidence by virtue of subsection (3) of this section unless the conditions mentioned in subsection (2) of section 5 of the Civil Evidence Act 1968 or in the corresponding Scottish enactment are satisfied in relation to the statement and the computer; and the other provisions of that section and subsections (1), (2), (3) and (5) of section 6 of that Act (supplementary provisions) and the like provisions of the corresponding Scottish enactment shall, with the necessary modifications, apply in relation to the giving of evidence in pursuance of this section.
- (6) Notwithstanding the preceding provisions of this section, in criminal proceedings the court may, for special cause, require oral evidence to be given of any matter of which evidence could ordinarily be given by means of a certificate under section 5(4) of the Civil Evidence Act 1968 or under the corresponding Scottish enactment as applied by the preceding subsection.
- (7) In subsections (3) and (5) of this section " document ", " copy " and " computer " have the same meanings as, by virtue of section 10 of the Civil Evidence Act 1968, they have in Part I of that Act or as they have in the corresponding Scottish enactment.

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- (8) For the purposes of this section—
- (a) section 13 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 is the corresponding Scottish enactment to section 5 of the Civil Evidence Act 1968 and the provisions of the said section 13 (which are identical in number with the provisions of the said section 5) shall apply accordingly;
  - (b) section 14 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 is the corresponding Scottish enactment to subsections (1), (2), (3) and (5) of section 6 of the Civil Evidence Act 1968 ; and
  - (c) section 17 and Part III of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 are the corresponding Scottish enactments to section 10 and Part I of the Civil Evidence Act 1968.
- (9) In the application of this section to Northern Ireland, for references to any subsection of section 5 or 6 of the Civil Evidence Act 1968 or to section 10 of that Act there shall be substituted references to the same subsection of section 2 or 3 of the Civil Evidence Act (Northern Ireland) 1971 or section 6 of that Act.

### **35 Furnishing of information and production of documents**

- (1) The Commissioners may by regulations make provision for requiring taxable persons to notify to the Commissioners such particulars of changes in circumstances relating to those persons or any business carried on by them as appear to the Commissioners required for, the purpose of keeping the register kept under this Part of this Act up to date.
- (2) Every person who is concerned (in whatever capacity) in the supply of goods in the course of a business or to whom such a supply is made shall—
- (a) furnish to the Commissioners, within such time and in such form as they may require, such information relating to the goods or to the supply as the Commissioners may specify; and
  - (b) upon demand made by an authorised person, produce or cause to be produced any documents relating to the goods or to the supply for inspection by the authorised person and permit him to take copies of or to make extracts from them or to remove them at a reasonable time and for a reasonable period.
- (3) Every person who is concerned (in whatever capacity) in the taxable supply of any services or to whom such a supply is made shall—
- (a) furnish to the Commissioners, within such time and in such form as they may require, such information relating to the consideration for the supply or to the name and address of the person to whom the supply is made as the Commissioners may specify; and
  - (b) upon demand made by an authorised person, produce or cause to be produced any documents relating to the consideration for inspection by the authorised person and permit him to take copies of or to make extracts from them or to remove them at a reasonable time and for a reasonable period.
- (4) For the purposes of this section, the documents relating to the supply of goods, or to the consideration for the supply of services, in the course of a business shall be taken to include any profit and loss account and balance sheet relating to that business.

- (5) Where any documents removed under the powers conferred by this section are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.
- (6) In this section " document " and " copy " have the same meanings—
  - (a) in relation to England and Wales, as, by virtue of section 10 of the Civil Evidence Act 1968, they have in Part I of that Act;
  - (b) in relation to Scotland, as, by virtue of section 17 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, they have in Part III of that Act; and
  - (c) in relation to Northern Ireland, as, by virtue of section 6 of the Civil Evidence Act (Northern Ireland) 1971, they have in Part I of that Act.

### **36 Power to take samples**

- (1) An authorised person, if it appears to him necessary for the protection of the revenue against mistake or fraud, may at any time take, from the goods in the possession of any person who supplies goods, such samples as the authorised person may require with a view to determining how the goods or the materials of which they are made ought to be or to have been treated for the purposes of tax.
- (2) Any sample taken under this section shall be disposed of and accounted for in such manner as the Commissioners may direct.
- (3) Where a sample is taken under this section from the goods in any person's possession and is not returned to him within a reasonable time and in good condition the Commissioners shall pay him by way of compensation a sum equal to the cost of the sample to him or such larger sum as they may determine.

### **37 Entry and search of premises and persons**

- (1) For the purpose of exercising any powers under this Part of this Act an authorised person may at any reasonable time enter premises used in connection with the carrying on of a business.
- (2) Where an authorised person has reasonable cause to believe that any premises are used in connection with the supply of goods under taxable supplies and that goods to be so supplied are on those premises, he may at any reasonable time enter and inspect those premises and inspect any goods found on them.
- (3) If a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that an offence in connection with the tax is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, he may issue a warrant in writing authorising any authorised person to enter those premises, if necessary by force, at any time within fourteen days from the time of the issue of the warrant and search them ; and any person who enters the premises under the authority of the warrant may—
  - (a) take with him such other persons as appear to him to be necessary;
  - (b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of such an offence; and

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- (c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to have committed or be about to commit such an offence or to be in possession of any such documents or other things; but no woman or girl shall be searched except by a woman.
- (4) In the application of this section to Scotland, the reference to a justice of the peace includes a reference to the sheriff and a magistrate.

### **38 Offences and penalties**

- (1) If any person is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by him or any other person, he shall be liable to a penalty of £1,000 or three times the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding two years, or to both.
- (2) If any person—
  - (a) with intent to deceive produces, furnishes or sends for the purposes of this Part of this Act or otherwise makes use for those purposes of any document which is false in a material particular ; or
  - (b) in furnishing any information for the purposes of this Part of this Act makes any statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular;
 he shall be liable to a penalty of £1,000 or to imprisonment for a term not exceeding two years, or to both.
- (3) Where a person's conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this section, then, whether or not the particulars of that offence or those offences are known, he shall, by virtue of this subsection, be guilty of an offence and liable to a penalty of £1,000 or, if greater, three times the amount of any tax that was or was intended to be evaded by his conduct, or to imprisonment for a term not exceeding two years, or to both.
- (4) If any person acquires possession of or deals with any goods, or accepts the supply of any services, having reason to believe that tax on the supply of the goods or services or on the importation of the goods has been or will be evaded, he shall be liable to a penalty of £1,000 or three times the amount of the tax, whichever is the greater.
- (5) If any person fails to comply with the requirements of Schedule 1 to this Act or supplies goods or services in contravention of section 32(2) of this Act he shall be liable to a penalty of £1,000 or, if greater, three times the amount of the tax evaded by the failure or contravention.
- (6) If a person other than—
  - (a) a person registered under this Part of this Act; or
  - (b) a body corporate treated for the purposes of section 21 of this Act as a member of a group ; or
  - (c) a person treated as a taxable person under regulations made under section 23(3) of this Act; or
  - (d) a person authorised to do so under regulations made under section 30(6) of this Act; or
  - (e) a person acting on behalf of the Crown ;

issues an invoice showing an amount as being tax or as being attributable to tax he shall be liable to a penalty of £1,000 or three times the amount so shown, whichever is the greater.

- (7) If any person fails to comply with any requirement imposed under section 34 or 35 of this Act or any regulations or rules made under this Part of this Act, he shall be liable to a penalty of £100, together with a penalty of £10 for each day on which the failure continues.
- (8) Sections 281 to 291 of the Customs and Excise Act 1952 (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under this Part of this Act (which include any act or omission in respect of which a penalty is imposed) and penalties imposed under this Part of this Act as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act; and accordingly in section 290(2) as it applies by virtue of this subsection the reference to duty shall be construed as a reference to the tax.

### **39 Evidence by certificate, etc.**

- (1) A certificate of the Commissioners—
  - (a) that a person was or was not, at any date, registered under this Part of this Act; or
  - (b) that any return required by or under this Part of this Act has not been made or had not been made at any date; or
  - (c) that any tax shown as due in any return or assessment made in pursuance of this Part of this Act has not been paid;shall be sufficient evidence of that fact until the contrary is proved.
- (2) A photograph of any document furnished to the Commissioners for the purposes of this Part of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.
- (3) Any document purporting to be a certificate under subsection (1) or subsection (2) of this section shall be deemed to be such a certificate until the contrary is proved.

### *Appeals*

### **40 Appeals**

- (1) An appeal shall lie to a value added tax tribunal constituted in accordance with Schedule 6 to this Act against the decision of the Commissioners with respect to any of the following matters:—
  - (a) the registration or cancellation of registration of any person under this Part of this Act;
  - (b) an assessment under section 31 of this Act or the amount of such an assessment;
  - (c) the tax chargeable on the supply of any goods or services or, subject to subsection (5) of this section, on the importation of any goods;
  - (d) the amount of any input tax which may be deducted by a person;
  - (e) the proportion of any supplies that is to be taken as consisting of taxable supplies ;

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- (f) any refusal to permit the value of supplies to be determined by a method described in a notice published under section 30(3) of this Act;
  - (g) any refusal of an application under section 21 of this Act;
  - (h) any direction under paragraph 1 or paragraph 2 of Schedule 3 to this Act;
  - (i) the requirement of any security under section 32(2) of this Act.
- (2) An appeal under this section shall not be entertained unless the appellant has made all the returns which he was required to make under section 30(2) of this Act and has paid the amounts shown in those returns as payable by him.
- (3) Where the appeal is against a decision with respect to any of the matters mentioned in paragraph (b) or (c) of subsection (1) of this section it shall not be entertained unless—
- (a) the amount which the Commissioners have determined to be payable as tax has been paid or deposited with them; or
  - (b) on being satisfied that the appellant would otherwise suffer hardship the Commissioners agree or the value added tax tribunal decides that it should be entertained notwithstanding that that amount has not been so paid or deposited.
- (4) Where on an appeal under this section it is found—
- (a) that the whole or part of any amount paid or deposited in pursuance of subsection (3) of this section is not due; or
  - (b) that the whole or part of any amount due to the appellant under section 3(2) of this Act has not been paid;
- so much of that amount as is found not to be due or not to have been paid shall be repaid (or, as the case may be, paid) with interest at such rate as the value added tax tribunal may determine; and where the appeal has been entertained notwithstanding that an amount determined by the Commissioners to be payable as tax has not been paid or deposited and it is found on the appeal that that amount is due the tribunal may, if it thinks fit, direct that that amount shall be paid with interest at such rate as may be specified in the direction.
- (5) No appeal shall lie under this section with respect to any matter that has been or could have been referred to arbitration under section 260 of the Customs and Excise Act 1952 as applied by section 17 of this Act.

### *Supplementary*

#### **41 Priority of tax in bankruptcy, winding-up, etc.**

- (1) There shall be included among the debts which—
- (a) under section 33 of the Bankruptcy Act 1914 are to be paid in priority to all other debts in the distribution of the property of a bankrupt or person dying insolvent; or
  - (b) under section 118 of the Bankruptcy (Scotland) Act 1913 are to be paid in priority to all other debts in the division of a bankrupt's estate; or
  - (c) under section 1 of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964 are to be paid in priority to all other debts in the distribution of the property of a bankrupt, arranging debtor or person dying insolvent; or



(d) under section 319 of the Companies Act 1948 or section 287 of the Companies Act (Northern Ireland) 1960 are to be paid in priority to all other debts in the winding up of a company, or under section 94 of the Act of 1948 or section 92 of the Act of 1960 are on an appointment of a receiver on behalf of debenture holders or taking of possession by or on behalf of debenture holders to be paid in priority to any claim for principal or interest in respect of the debentures; the amount of any tax due at the relevant date from the bankrupt, debtor, person dying or company and having become due within the twelve months next before that date.

(2) In this section " the relevant date "—

- (a) in relation to section 33 of the Act of 1914, means the date of the receiving order or of the death, as the case may be;
- (b) in relation to section 118 of the Act of 1913, means the date mentioned in subsection (4) of that section;
- (c) in relation to section 1 of the Act of 1964, means the date of the order of adjudication, the date of the filing of a petition for arrangement or of the death, as the case may be;
- (d) in relation to section 319 of the Act of 1948, or section 287 of the Act of 1960, has the meaning assigned to it by that section, and in relation to section 94 of the Act of 1948 or section 92 of the Act of 1960, means the date of the appointment of the receiver or taking of possession ;

and for the purposes of this section the tax having become due within the twelve months mentioned therein in respect of any prescribed accounting period falling partly within and partly outside those twelve months shall be taken to be such part of the tax due for the whole of that accounting period as is proportionate to the part of that period falling within those twelve months.

#### **42 Adjustment of contracts on changes in tax**

- (1) Where, after the making of a contract for the supply of goods or services and before the goods or services are supplied, there is a change in the tax charged on the supply, then, unless the contract otherwise provided, there shall be added to or deducted from the consideration for the supply an amount equal to the change.
- (2) References in this section to a change in the tax charged on a supply include references to a change to or from no tax being charged on the supply.

#### **43 Orders, rules and regulations**

- (1) Any order under this Part of this Act may be varied or revoked by a subsequent order.
- (2) Any order made by the Treasury and any regulations or rules under this Part of this Act shall be made by statutory instrument.
- (3) Any statutory instrument made under this Part of this Act shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament, except an Order in Council and an order making such provision as is mentioned in subsection (4) of this section.
- (4) An order under this Part of this Act making provision—
  - (a) for increasing the rate of tax in force at the time of the making of the order; or

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- (b) for excepting any input tax from the provisions of subsections (1) to (5) of section 3 of this Act; or
- (c) for varying Schedule 4 or Schedule 5 to this Act so as to abolish the zero-rating of a supply or to abolish the exemption of a supply without zero-rating it;

shall be laid before the Commons House of Parliament; and unless it is approved by that House before the expiration of a period of twenty-eight days beginning with the date on which it was made, it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done thereunder or to the making of a new order. In reckoning any such period no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the Commons House of Parliament is adjourned for more than four days.

#### **44 Service of notices**

A notice to be served on any person for any of the purposes of this Part of this Act may be served by sending it by post in a letter addressed to that person at his last or usual residence or place of business.

#### **45 Meaning of " business ", etc.**

- (1) In this Part of this Act "business" includes any trade, profession or vocation ; and—
  - (a) the provision by the Independent Broadcasting Authority of broadcasting services ; and
  - (b) the provision by a club or by an association to which this paragraph applies of the facilities available to its members; and
  - (c) the provision by an organisation to which this paragraph applies of the advantages of membership; and
  - (d) the admission, for a consideration, of persons to any premises;
 shall be deemed to be the carrying on of a business.
- (2) Paragraph (b) of the preceding subsection applies to any association providing facilities for its members but shall not be taken to apply to an organisation of workers (within the meaning of section 61 of the Industrial Relations Act 1971 as extended by section 86 of that Act); and paragraph (c) of that subsection applies to any organisation of persons carrying on a trade, profession or vocation and to any association of such organisations, but only if the organisation or association so elects by notice in writing given to the Commissioners.
- (3) Where a person, in the course of carrying on a trade, profession or vocation, accepts an office, other than a public office, any services supplied by him as holder of the office shall be treated for the purposes of this Part of this Act as supplied in the course of a business carried on by him.

#### **46 Interpretation**

- (1) In this Part of this Act—
  - " assignment ", in relation to Scotland, means assignation;
  - " authorised person " means any person acting under the authority of the Commissioners;
  - " invoice " includes any document similar to an invoice;
  - " input tax " has the meaning assigned to it by section 3 of this Act;

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" money " includes currencies other than sterling;  
" prescribed accounting period " has the meaning assigned to it by section 30(1) of this Act;  
" quarter " means a period of three months ending at the end of March, June, September or December;  
" ship " includes hovercraft;  
" tax " means value added tax ;  
" taxable person " has the meaning assigned to it by section 4 of this Act;  
" taxable supply " means any supply of goods or services in the United Kingdom other than an exempt supply;  
" the Commissioners" means the Commissioners of Customs and Excise.

- (2) Schedules 4 and 5 to this Act shall be interpreted in accordance with the notes contained therein; and accordingly the powers conferred by this Act to vary those Schedules include a power to add to, delete or vary those notes.
- (3) The descriptions of Groups in those Schedules are for ease of reference only and shall not affect the interpretation of the descriptions of items in those Groups.
- (4) References in this Part of this Act to the United Kingdom include the territorial sea of the United Kingdom.

#### **47 Commencement**

- (1) Tax shall not be charged on any supply or importation taking place before 1st April 1973.
- (2) Notwithstanding anything in section 7 of this Act or in section 79 of the Customs and Excise Act 1952 as applied by section 17 of this Act—
  - (a) a payment made before 1st April 1973 may be disregarded in determining for the purposes of this section whether a supply takes place before that date if, or to the extent that, it appears to the Commissioners that it would not have been so made but for the tax; and
  - (b) goods of which entry is made under section 28 of the Customs and Excise Act 1952 shall be treated for the purposes of this section as imported on the date on which entry is so made, except that if the entry is for warehousing the goods shall be treated for the purposes of this section as imported on the date on which they are removed from warehouse.

#### **48 Television sets supplied on hire at commencement of tax**

The Treasury may by order make provision for securing that where a television set—

- (a) is supplied on hire for a period beginning before 1st April 1973 ; and
- (b) is treated by virtue of regulations made under section 7 of this Act as supplied for successive parts of that period;

and such other conditions are satisfied as may be specified in the order, the tax on the supply for such a part ending on or before 31st March 1975 shall be chargeable as if the consideration for the supply were reduced to such extent as may be specified in the order; and different provision may be so made for different parts so ending and for different circumstances.

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#### **49 Vehicles brought back to U.K. after remission of purchase tax**

Where a vehicle in respect of which purchase tax has been remitted under section 23 of the Purchase Tax Act 1963 (vehicles acquired for use outside United Kingdom) is brought back to the United Kingdom, the vehicle shall not, when brought back, be treated as imported for the purpose of value added tax chargeable on the importation of goods.

#### **50 Isle of Man**

(1) If an Act of Tynwald makes provision similar to the provision made with respect to value added tax by this Act, Her Majesty may by Order in Council make provision for securing that—

- (a) tax is charged under either Act as if references therein to the United Kingdom or the Isle of Man included both the United Kingdom and the Isle of Man, but is not charged under both Acts in respect of the same transaction; and
- (b) persons who are taxable persons for the purposes of either Act are treated as taxable persons for the purposes also of the other; and
- (c) a removal of goods from the United Kingdom into the Isle of Man or from the Isle of Man into the United Kingdom is not treated for the purposes of either Act as an importation or exportation of the goods;

and for making such modifications in those Acts and orders rules and regulations made thereunder as may be requisite for those purposes; and similarly with respect to any Act passed after this Act and relating to value added tax.

(2) An Order in Council under this section may include provision for section 2 of the Isle of Man Act 1958 (Isle of Man share of certain duties) to apply as if value added tax and the tax for which provision is made by Act of Tynwald were included among the duties mentioned in subsection (4) of that section and as if the reference in subsection (2)(a) of that section to goods consumed or used in the Isle of Man included a reference to services supplied in the Island.

#### **51 Refund of tax to Government of Northern Ireland**

The Commissioners shall refund to the Government of Northern Ireland the amount of the tax charged on the supply of goods or services to, or on the importation of goods by, that Government, after deducting therefrom so much of that amount as may be agreed between them and the Ministry of Finance for Northern Ireland as attributable to supplies and importations for the purpose of a business carried on by the Government of Northern Ireland.