

## SCHEDULES

### SCHEDULE 3

#### VALUE ADDED TAX: ABOLITION OF FISCAL FRONTIERS ETC.

#### PART I

#### AMENDMENTS OF THE VALUE ADDED TAX ACT 1983 (C. 55)

##### *Special cases*

- 28 (1) In subsection (2A) of section 27 (application to the Crown), for “or on the importation of goods by, a Government department and the supply” there shall be substituted “a Government department, on the acquisition of any goods by a Government department from another member State or on the importation of any goods by a Government department from a place outside the member States and the supply, acquisition”.
- (2) In subsection (2B) of that section, after “supply” there shall be inserted “acquisition”.
- 29 In paragraph (c) of section 29(1) (tax on importation payable by representative member)—
- (a) for “importation of any goods” there shall be substituted “acquisition of goods from another member State or on the importation of goods from a place outside the member States”; and
  - (b) for the words from “for the purposes” to the end of the paragraph there shall be substituted—
    - “(i) in the case of goods acquired from another member State, for the purposes of paragraph 4(6) of Schedule 7 to this Act; and
    - (ii) in the case of goods imported from a place outside the member States, for those purposes and the purposes of section 25 above,

as acquired or, as the case may be, imported by the representative member;”.
- 30 (1) In subsection (2) of section 29A (supplies to groups), after the word “and”, in the first place where it occurs, there shall be inserted “acquisitions and”.
- (2) In subsection (3) of that section, for “acquired by” there shall be substituted “assets of”.
- (3) In subsection (8) of that section, for “acquisition” there shall be substituted “supply to or acquisition or importation”.
- 31 (1) In subsection (1) of section 30 (partnerships)—

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- (a) after “partnership” there shall be inserted “or carrying on in partnership any other activities in the course or furtherance of which they acquire goods from other member States”; and
  - (b) after “such persons” there shall be inserted “or are acquired by such persons from another member State”.
- (2) In subsection (2) of that section, at the end there shall be inserted “or on the acquisition of goods by the partnership from another member State.”
- (3) In subsection (5) of that section, after the word “period”, in the second place where it occurs, there shall be inserted “or on the acquisition during that period by the firm of any goods from another member State”.
- 32 (1) In subsection (3) of section 31 (business carried on in divisions or by unincorporated bodies etc.), after the word “organisation”, in the third place where it occurs, there shall be inserted “or whether goods are acquired by such a club, association or organisation from another member State”.
- (2) After subsection (5) of that section there shall be inserted the following subsection—
- “(6) References in this section to a business include references to any other activities in the course or furtherance of which any body corporate or any club, association, organisation or other unincorporated body acquires goods from another member State.”
- 33 In section 32 (agents etc.), for subsection (2) there shall be substituted the following subsection—
- “(2) Where—
- (a) goods are acquired from another member State by a person who is not a taxable person and a taxable person acts in relation to the acquisition, and then supplies the goods, as agent for the person by whom they are so acquired; or
  - (b) goods are imported from a place outside the member States by a taxable person who supplies them as agent for a person who is not a taxable person,
- the goods may be treated for the purposes of this Act as acquired and supplied or, as the case may be, imported and supplied by the taxable person as principal.”
- 34 After section 32 there shall be inserted the following sections—

**“32A Tax representatives**

- (1) Where any person—
- (a) is a taxable person for the purposes of this Act or, without being a taxable person, is a person who makes taxable supplies or who acquires goods in the United Kingdom from one or more other member States;
  - (b) does not have any business establishment or other fixed establishment in the United Kingdom; and
  - (c) in the case of an individual, does not have his usual place of residence in the United Kingdom,

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the Commissioners may direct that person to appoint another person (in this Act referred to as a “tax representative”) to act on his behalf in relation to value added tax.

- (2) With the agreement of the Commissioners, any person who has not been required to appoint a tax representative under subsection (1) above may do so if he is a person in relation to whom the conditions specified in paragraphs (a) to (c) of that subsection are satisfied.
- (3) Where any person is appointed by virtue of this section to be the tax representative of another (in this section referred to as his “principal”), then, subject to subsections (4) to (6) below, the tax representative—
  - (a) shall be entitled to act on his principal’s behalf for any of the purposes of this Act, of any other enactment (whenever passed) relating to value added tax or of any subordinate legislation made under this Act or any such enactment;
  - (b) shall, subject to such provisions as may be made by the Commissioners by regulations, secure (where appropriate by acting on his principal’s behalf) his principal’s compliance with and discharge of the obligations and liabilities to which his principal is subject by virtue of this Act, any such other enactment or any such subordinate legislation; and
  - (c) shall be personally liable in respect of—
    - (i) any failure to secure his principal’s compliance with or discharge of any such obligation or liability; and
    - (ii) anything done for purposes connected with acting on his principal’s behalf,as if the obligations and liabilities imposed on his principal were imposed jointly and severally on the tax representative and his principal.
- (4) A tax representative shall not be liable by virtue of subsection (3) above himself to be registered under this Act, but regulations made by the Commissioners may—
  - (a) require the registration of the names of tax representatives against the names of their principals in any register kept for the purposes of this Act; and
  - (b) make it the duty of a tax representative, for the purposes of registration, to notify the Commissioners, within such period as may be prescribed, that his appointment has taken effect or has ceased to have effect.
- (5) A tax representative shall not by virtue of subsection (3) above be guilty of any offence except in so far as—
  - (a) the tax representative has consented to, or connived in, the commission of the offence by his principal;
  - (b) the commission of the offence by his principal is attributable to any neglect on the part of the tax representative; or
  - (c) the offence consists in a contravention by the tax representative of an obligation which, by virtue of that subsection, is imposed both on the tax representative and on his principal.

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- (6) The Commissioners may by regulations make provision as to the manner and circumstances in which a person is to be appointed, or is to be treated as having ceased to be, another's tax representative; and regulations under this subsection may include such provision as the Commissioners think fit for the purposes of subsection (4) above with respect to the making or deletion of entries in any register.
- (7) Where a person fails to appoint a tax representative in accordance with any direction under subsection (1) above, the Commissioners may require him to provide such security, or further security, as they may think appropriate for the payment of any tax which is or may become due from him.
- (8) For the purposes of this Act a person shall not be treated as having been directed to appoint a tax representative, or as having been required to provide security under subsection (7) above, unless the Commissioners have either—
  - (a) served notice of the direction or requirement on him; or
  - (b) taken all such other steps as appear to them to be reasonable for bringing the direction or requirement to his attention.

### **32B Overseas suppliers accounting through their customers**

- (1) Where—
  - (a) a person who makes or intends to make taxable supplies of goods requests the Commissioners to allow his supplies to be taxed in accordance with this section; and
  - (b) the Commissioners are satisfied that that person is a person to whom this section applies,

the Commissioners may, if they think fit, allow that person's taxable supplies to be so taxed until it appears to them that the person is no longer a person to whom this section applies or that the request is withdrawn or should, for any other reason, no longer be acted upon.
- (2) This section applies to a person if—
  - (a) he does not have any business establishment or other fixed establishment in the United Kingdom and does not have his usual place of residence in the United Kingdom;
  - (b) he is for the time being neither registered under this Act nor required to be registered under Schedule 1A to this Act;
  - (c) he does not have a tax representative and is not for the time being required under section 32A above to appoint one; and
  - (d) he intends that his taxable supplies should be confined to supplies of goods made to taxable persons who are willing to account for and pay the tax chargeable thereon.
- (3) A person whose taxable supplies for the time being fall to be taxed in accordance with this section—
  - (a) shall be a taxable person for the purposes of this Act; but
  - (b) shall not, by virtue of any provision of this Act, be registered, or be or become liable to be registered, under Schedule 1 to this Act.
- (4) Where—

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- (a) any person's taxable supplies for the time being fall to be taxed in accordance with this section; and
- (b) that person makes a taxable supply of goods to a taxable person who has given, and not withdrawn, an undertaking to account for and pay any tax chargeable on supplies of goods made to him by the supplier in question,

it shall be for the person supplied, on the supplier's behalf, to account for and pay any tax on the supply of those goods, and not for the supplier.

- (5) Where any person's taxable supplies for the time being fall to be taxed in accordance with this section, any acquisition from another member State by that person of any goods the first supply of which after their acquisition is to a person who under this section is required to account for and pay the tax on that supply shall be treated for the purposes of this Act as taking place outside the United Kingdom.

- (6) The Commissioners may by regulations provide—

- (a) for the form and manner in which any request under subsection (1) above, or any undertaking such as is mentioned in subsection (4)(b) above, is to be made or withdrawn;
- (b) for the manner in which the making or withdrawal of any such undertaking is to be notified to the Commissioners;
- (c) for a person whose taxable supplies for the time being fall to be taxed in accordance with this section to be under an obligation to notify the Commissioners if he makes any taxable supply to which subsection (4) above does not apply and which is not zero-rated;
- (d) for prescribed provisions of this Act and of any other enactment (whenever passed) relating to value added tax to have effect, where under this section a person supplied with any goods is required to account for and pay any tax on the supply, as if that tax were on supplies or acquisitions made by him.”

35 For section 35 (supplies of dutiable goods in warehouse) there shall be substituted the following section—

**“35 Goods subject to a warehousing regime**

- (1) Where—

- (a) any goods have been removed from a place outside the member States and have entered the territory of the Community;
- (b) the material time for any acquisition of those goods from another member State or for any supply of those goods is while they are subject to a warehousing regime and before the duty point; and
- (c) those goods are not mixed with any dutiable goods which were produced or manufactured in the United Kingdom or acquired from another member State,

then the acquisition or supply mentioned in paragraph (b) above shall be treated for the purposes of this Act as taking place outside the United Kingdom.

- (2) Subsection (3) below applies where—

- (a) any dutiable goods are acquired from another member State; or

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- (b) any person makes a supply of—
  - (i) any dutiable goods which were produced or manufactured in the United Kingdom or acquired from another member State; or
  - (ii) any goods comprising a mixture of goods falling within subparagraph (i) above and other goods.
  
- (3) Where this subsection applies and the material time for the acquisition or supply mentioned in subsection (2) above is while the goods in question are subject to a warehousing regime and before the duty point, that acquisition or supply shall be treated for the purposes of this Act as taking place outside the United Kingdom if the material time for any subsequent supply of those goods is also while the goods are subject to the warehousing regime and before the duty point.
  
- (4) Where the material time for any acquisition or supply of any goods in relation to which subsection (3) above applies is while the goods are subject to a warehousing regime and before the duty point but the acquisition or supply nevertheless falls, for the purposes of this Act, to be treated as taking place in the United Kingdom—
  - (a) that acquisition or supply shall be treated for the purposes of this Act as taking place at the earlier of the following times, that is to say, the time when the goods are removed from the warehousing regime and the duty point; and
  - (b) in the case of a supply, any tax payable on the supply shall be paid (subject to any regulations under subsection (5) below)—
    - (i) at the time when the supply is treated as taking place under paragraph (a) above; and
    - (ii) by the person by whom the goods are so removed or, as the case may be, together with the duty or agricultural levy, by the person who is required to pay the duty or levy.
  
- (5) The Commissioners may by regulations make provision—
  - (a) for enabling goods to be removed from a warehousing regime by a taxable person without payment of tax chargeable in respect of those goods by virtue of subsection (4)(a) above; and
  - (b) for that tax to be accounted for together with the tax chargeable on supplies of goods and services by that person.
  
- (6) In this section—
  - “dutiable goods” means any goods which are subject—
    - (a) to a duty of excise; or
    - (b) in accordance with any provision for the time being having effect for transitional purposes in connection with the accession of any State to the European Communities, to any Community customs duty or agricultural levy of the Economic Community;
  - “the duty point”, in relation to any goods, means—
    - (a) in the case of goods which are subject to a duty of excise, the time when the requirement to pay the duty on those goods takes effect; and

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- (b) in the case of goods which are not so subject, the time when any Community customs debt in respect of duty on the entry of the goods into the territory of the Community would be incurred or, as the case may be, the corresponding time in relation to any such duty or levy as is mentioned in paragraph (b) of the definition of dutiable goods;

“material time”—

- (a) in relation to any acquisition or supply the time of which is determined in accordance with regulations under section 5(9) or 8B(3) above, means such time as may be prescribed for the purpose of this section by those regulations;
- (b) in relation to any other acquisition, means the time of the event which, in relation to the acquisition, is the first relevant event for the purposes of taxing it; and
- (c) in relation to any other supply, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 4 above if paragraph (c) of that subsection were omitted;

“warehouse” means any warehouse where goods may be stored in any member State without payment of any one or more of the following, that is to say—

- (a) Community customs duty;
- (b) any agricultural levy of the Economic Community;
- (c) value added tax on the importation of the goods into any member State;
- (d) any duty of excise or any duty which is equivalent in another member State to a duty of excise.

- (7) References in this section to goods being subject to a warehousing regime is a reference to goods being kept in a warehouse or being transported between warehouses (whether in the same or different member States) without the payment in a member State of any duty, levy or tax; and references to the removal of goods from a warehousing regime shall be construed accordingly.”

36 (1) In subsection (1) of section 36 (capital goods), after “supply” there shall be inserted “acquisition”.

(2) In subsection (2) of that section, after “supplied” there shall be inserted “acquired”.

37 For section 37 (trading stamp schemes) there shall be substituted the following section—

### **“37 Trading stamp schemes**

The Commissioners may by regulations modify sections 10 and 10A of this Act and Schedules 4 and 4A to this Act for the purpose of providing (in place of the provision for the time being contained in those sections and Schedules) for the manner of determining for the purposes of this Act the value of—

- (a) a supply of goods, or
- (b) a transaction in pursuance of which goods are acquired from another member State,

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in a case where the goods are supplied or acquired under a trading stamp scheme (within the meaning of the Trading Stamps Act 1964 or the Trading Stamps Act (Northern Ireland) 1965) or under any scheme of an equivalent description which is in operation in another member State.”