



Value Added Tax Act 1994

1994 CHAPTER 23

PART III

APPLICATION OF ACT IN PARTICULAR CASES

41 Application to the Crown.

(1) This Act shall apply in relation to taxable supplies by the Crown as it applies in relation to taxable supplies by taxable persons.

^{F1}(2)

(3) Where VAT is chargeable on the supply of goods or services to 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 or importation is not for the purpose—

- (a) of any business carried on by the department, or
- (b) of a supply by the department which, by virtue of [^{F2}section 41A,] is treated as a supply in the course or furtherance of a business,

then, if and to the extent that the Treasury so direct and subject to subsection (4) below, the Commissioners shall, on a claim made by the department at such time and in such form and manner as the Commissioners may determine, refund to it the amount of the VAT so chargeable.

(4) The Commissioners may make the refunding of any amount due under subsection (3) above conditional upon compliance by the claimant with requirements with respect to the keeping, preservation and production of records relating to the supply, acquisition or importation in question.

(5) 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 direct, as supplied by that other department and similarly as regards goods or services obtained by or from the Crown Estate Commissioners.

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- (6) In this section “Government department” includes [^{F3}the Scottish Administration][^{F4}, the [^{F5}Welsh Assembly Government],] a Northern Ireland department, a Northern Ireland health and social services body, any body of persons exercising functions on behalf of a Minister of the Crown, including ^{F6}. . . any part of a Government department (as defined in the foregoing) designated for the purposes of this subsection by a direction of the Treasury.
- (7) For the purposes of subsection (6) [^{F7}each of the following is to be regarded as a body of persons exercising functions on behalf of a Minister of the Crown][^{F8}—
- (a) [^{F9}a health service body as defined in section 60(7) of the National Health Service and Community Care Act 1990,
 - [^{F10}(b)] a National Health Service trust established under Part I of that Act] or the ^{M1}National Health Service (Scotland) Act 1978 [^{F11},
 - (c) [^{F12} an NHS foundation trust][^{F13}[^{F14},
 - (d)] a Primary Care Trust][^{F15}[^{F16},
 - (e)] a Local Health Board][^{F17}[^{F18},
 - (f)] a clinical commissioning group,
 - [^{F19}(g)] the Health and Social Care Information Centre,
 - [^{F20}(h)] the National Health Service Commissioning Board][^{F21},
 - (i)] the National Institute for Health and Care Excellence][^{F22},
 - [^{F23}(j)] Health Education England (established by the Care Act 2014), ^{F24}...
 - [^{F25}(k)] the Health Research Authority (also established by that Act),]
 - [^{F26}(l)] a strategic highways company appointed under section 1 of the Infrastructure Act 2015.]
- (8) In subsection (6) “a Northern Ireland health and social services body” means—
- (a) a health and social services body as defined in Article 7(6) of the ^{M2}Health and Personal Social Services (Northern Ireland) Order 1991; and
 - (b) a Health and Social Services trust established under that Order.

Textual Amendments

- F1** S. 41(2) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), s. **198(2)(a)**
- F2** Words in s. 41(3)(b) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), s. **198(2)(b)**
- F3** Words in s. 41(6) inserted (6.5.1999) by [1998 c. 46](#), s. 125, **Sch. 8 para. 30** (with s. 126(3)); S.I. [1998/3178](#), art. 2(2), **Sch. 3**
- F4** Words in s. 41(6) inserted (1.4.1999) by [1998 c. 38](#), s. 125, **Sch. 12 para. 35** (with ss. 139(2), 143(2)); S.I. [1999/782](#), art. 2
- F5** Words in s. 41(6) substituted by [Government of Wales Act 2006 \(c. 32\)](#), ss. 160, 163, Sch. 10 para. 39 (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(1)(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(4)(5) of the amending Act.
- F6** Words in s. 41(6) omitted (8.2.2000) by virtue of S.I. [2000/90](#), art. 3(1), **Sch. 1 para. 29(a)** (with art. 2(5))

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- F7** Words in s. 41(7) inserted (1.4.2015) by Finance Act 2015 (c. 11), s. 67(1)(a)(2)
- F8** Word in s. 41(7) substituted (17.7.2014) by Finance Act 2014 (c. 26), s. 107(2)(a)
- F9** Words in s. 41(7) substituted (8.2.2000) by S.I. 2000/90, art. 3(1), Sch. 1 para. 29(b) (with art. 2(5))
- F10** Word in s. 41(7) substituted (17.7.2014) by Finance Act 2014 (c. 26), s. 107(2)(b)
- F11** Word in s. 41(7) inserted (17.7.2014) by Finance Act 2014 (c. 26), s. 107(2)(c)
- F12** Words in s. 41(7) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 33(3), 199(1), (4); S.I. 2004/759, art. 2
- F13** Words in s. 41(7) inserted (1.4.2000 (E.W.) otherwise 11.5.2001) by 1999 c. 8, s. 65, Sch. 4 para. 86; S.I. 1999/2342, art. 2(4)(b)(iii); S.I. 2001/1985, art. 2(4)
- F14** Word in s. 41(7) substituted (17.7.2014) by Finance Act 2014 (c. 26), s. 107(2)(d)
- F15** Words in s. 41(7) inserted (10.10.2002 for W., 1.3.2007 in so far as not already in force, immediately before the National Health Service Act 2006 comes into force) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), s. 42(3), Sch. 5 para. 40; S.I. 2002/2532, art. 2, Sch.; S.I. 2006/1407, art. 1(1), Sch. 1 para. 12 (with art. 4)
- F16** Word in s. 41(7) substituted (17.7.2014) by Finance Act 2014 (c. 26), s. 107(2)(e)
- F17** Words in s. 41(7) inserted (retrospective to 1.4.2013) by Finance Act 2013 (c. 29), s. 191(1)(2)
- F18** Word in s. 41(7) substituted (17.7.2014) by Finance Act 2014 (c. 26), s. 107(2)(f)
- F19** Word in s. 41(7) inserted (17.7.2014) by Finance Act 2014 (c. 26), s. 107(2)(g)
- F20** Word in s. 41(7) inserted (17.7.2014) by Finance Act 2014 (c. 26), s. 107(2)(h)
- F21** Word in s. 41(7) substituted (17.7.2014) by Finance Act 2014 (c. 26), s. 107(2)(i)
- F22** Words in s. 41(7) inserted (17.7.2014) by Finance Act 2014 (c. 26), s. 107(1)
- F23** Word in s. 41(7) inserted (17.7.2014) by Finance Act 2014 (c. 26), s. 107(2)(j)
- F24** Word in s. 41(7) omitted (1.4.2015) by virtue of Finance Act 2015 (c. 11), s. 67(1)(b)(2)
- F25** Word in s. 41(7) inserted (17.7.2014) by Finance Act 2014 (c. 26), s. 107(2)(k)(l)
- F26** S. 41(7)(l) substituted for words (1.4.2015) by Finance Act 2015 (c. 11), s. 67(1)(c)(2)

Modifications etc. (not altering text)

- C1** S. 41 modified (2.12.1999) by S.I. 1999/3145, art. 8; S.I. 1999/3208, art. 2

Marginal Citations

- M1** 1978 c. 29.
M2 S.I.1991/194.

[^{F27}41A Supply of goods or services by public bodies

- (1) This section applies where goods or services are supplied by a body mentioned in Article 13(1) of the VAT Directive (status of public bodies as taxable persons) in the course of activities or transactions in which it is engaged as a public authority.
- (2) If the supply is in respect of an activity listed in Annex I to the VAT Directive (activities in respect of which public bodies are to be taxable persons), it is to be treated for the purposes of this Act as a supply in the course or furtherance of a business unless it is on such a small scale as to be negligible.
- (3) If the supply is not in respect of such an activity, it is to be treated for the purposes of this Act as a supply in the course or furtherance of a business if (and only if) not charging VAT on the supply would lead to a significant distortion of competition.
- (4) In this section “the VAT Directive” means Council Directive 2006/112/EC on the common system of value added tax.]

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Textual Amendments

F27 S. 41A inserted (17.7.2012) by [Finance Act 2012 \(c. 14\), s. 198\(3\)](#)

42 Local authorities.

A local authority which makes taxable supplies is liable to be registered under this Act, whatever the value of the supplies; and accordingly Schedule 1 shall apply, in a case where the value of the taxable supplies made by a local authority in any period of one year does not exceed the sum for the time being specified in paragraph 1(1)(a) of that Schedule, as if that value exceeded that sum.

43 Groups of companies.

(1) Where under [^{F28}sections 43A to 43D] 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 [^{F29}supply which is a supply to which paragraph (a) above does not apply and is a 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 VAT paid or payable by a member of the group on the acquisition of goods from another member State or on the importation of goods from a place outside the member States shall be treated as paid or payable by the representative member and the goods shall be treated—
 - (i) in the case of goods acquired from another member State, for the purposes of section 73(7); and
 - (ii) in the case of goods imported from a place outside the member States, for those purposes and the purposes of section 38,

as acquired or, as the case may be, imported by the representative member;

and all members of the group shall be liable jointly and severally for any VAT due from the representative member.

[^{F30}(1AA) Where—

- (a) it is material, for the purposes of any provision made by or under this Act (“ the relevant provision ”), whether the person by or to whom a supply is made, or the person by whom goods are acquired or imported, is a person of a particular description,
- (b) paragraph (b) or (c) of subsection (1) above applies to any supply, acquisition or importation, and
- (c) there is a difference that would be material for the purposes of the relevant provision between—
 - (i) the description applicable to the representative member, and
 - (ii) the description applicable to the body which (apart from this section) would be regarded for the purposes of this Act as making the supply, acquisition or importation or, as the case may be, as being the person to whom the supply is made,

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the relevant provision shall have effect in relation to that supply, acquisition or importation as if the only description applicable to the representative member were the description in fact applicable to that body.

(1AB) Subsection (1AA) above does not apply to the extent that what is material for the purposes of the relevant provision is whether a person is a taxable person.]

(1A)

(2) An order under section 5(5) or (6) 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 ^{F31}and may provide for that purpose that the representative member is to be treated as a person of such description as may be determined under the order.].

^{F32}(2A) A supply made by a member of a group (“ the supplier ”) to another member of the group (“ the UK member ”) shall not be disregarded under subsection (1)(a) above if—

- (a) it would (if there were no group) be a supply of services ^{F33}to which section 7A(2)(a) applies made] to a person belonging in the United Kingdom;
- (b) those services are not within any of the descriptions specified in Schedule 9;
- (c) the supplier has been supplied (whether or not by a person belonging in the United Kingdom) with ^{F34}any services ^{F35}... which do not fall within any of the descriptions specified in Schedule 9 ^{F36}and section 7A(2)(a) applied to the supply];]
- (d) the supplier belonged outside the United Kingdom when it was supplied with the services mentioned in paragraph (c) above; and
- (e) the services so mentioned have been used by the supplier for making the supply to the UK member.

(2B) Subject to subsection (2C) below, where a supply is excluded by virtue of subsection (2A) above from the supplies that are disregarded in pursuance of subsection (1)(a) above, all the same consequences shall follow under this Act as if that supply—

- (a) were a taxable supply in the United Kingdom by the representative member to itself, and
- (b) without prejudice to that, were made by the representative member in the course or furtherance of its business.

(2C) ^{F37}Except in so far as the Commissioners may by regulations otherwise provide,] a supply which is deemed by virtue of subsection (2B) above to be a supply by the representative member to itself—

- (a) shall not be taken into account as a supply made by the representative member when determining any allowance of input tax under section 26(1) in the case of the representative member;
- (b) shall be deemed for the purposes of paragraph 1 of Schedule 6 to be a supply in the case of which the person making the supply and the person supplied are connected within the meaning of ^{F38}section 1122 of the Corporation Tax Act 2010] (connected persons); and
- (c) subject to paragraph (b) above ^{F39}and paragraph 8A of Schedule 6], shall be taken to be a supply the value and time of which are determined as if it were a supply of services which is treated by virtue of section 8 as made by the person by whom the services are received.

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- (2D) For the purposes of subsection (2A) above where—
- (a) there has been a supply of the assets of a business of a person (“ the transferor ”) to a person to whom the whole or any part of that business was transferred as a going concern (“ the transferee ”),
 - (b) that supply is either—
 - (i) a supply falling to be treated, in accordance with an order under section 5(3), as being neither a supply of goods nor a supply of services, or
 - (ii) a supply that would have fallen to be so treated if it had taken place in the United Kingdom,
 and
 - (c) the transferor was supplied with services ^{F40}... at a time before the transfer when the transferor belonged outside the United Kingdom [^{F41}and section 7A(2)(a) applied to the supply],
- those services, so far as they are used by the transferee for making any supply [^{F42}to which section 7A(2)(a) applies,] shall be deemed to have been supplied to the transferee at a time when the transferee belonged outside the United Kingdom.

- (2E) Where, in the case of a supply of assets falling within paragraphs (a) and (b) of subsection (2D) above—
- (a) the transferor himself acquired any of the assets in question by way of a previous supply of assets falling within those paragraphs, and
 - (b) [^{F43}there is a supply to which section 7A(2)(a) applies of services which, if used by the transferor for making such a supply,] would be deemed by virtue of that subsection to have been supplied to the transferor at a time when he belonged outside the United Kingdom,
- that subsection shall have effect, notwithstanding that the services have not been so used by the transferor, as if the transferor were a person to whom those services were supplied and as if he were a person belonging outside the United Kingdom at the time of their deemed supply to him; and this subsection shall apply accordingly through any number of successive supplies of assets falling within paragraphs (a) and (b) of that subsection.]

- ^{F44}(3)
- (4)
- (5)
- ^{F45}(5A)
- (6)
- (7)
- (8)

[^{F46}(9) Schedule 9A (which makes provision for ensuring that this section is not used for tax avoidance) shall have effect.]

<p>Textual Amendments</p> <p>F28 Words in s. 43(1) substituted (22.7.2004) by Finance Act 2004 (c. 12), s. 20(3)</p>
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- F29** Words in s. 43(1)(b) substituted (1.5.1995 with effect as mentioned in s. 25(5) of the amending Act) by 1995 c. 4, s. 25(2)(5)
- F30** S. 43(1AA)(1AB) inserted (with effect in relation to any supply made after 26.11.1996 and in relation to any acquisition or importation taking place after that date) by 1997 c. 16, s. 40(1)(3)
- F31** Words in s. 43(2) inserted (19.3.1997) by 1997 c. 16, s. 40(2)
- F32** S. 43(2A)-(2E) inserted (with effect in relation to supplies made on or after 26.11.1996) by 1997 c. 16, s. 41(1)(2)
- F33** Words in s. 43(2A)(a) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by Finance Act 2009 (c. 10), Sch. 36 paras. 7(2)(a), 14(2) (with Sch. 36 paras. 14(2), 19)
- F34** Words in s. 43(2A) substituted (19.3.1997) by 1997 c. 16, s. 41(3)(4)
- F35** Words in s. 43(2A)(c) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 36 paras. 7(2)(b)(i), 14(2) (with Sch. 36 paras. 14(2), 19)
- F36** Words in s. 43(2A)(c) inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by Finance Act 2009 (c. 10), Sch. 36 paras. 7(2)(b)(ii), 14(2) (with Sch. 36 paras. 14(2), 19)
- F37** Words in s. 43(2C) inserted (19.3.1997) by 1997 c. 16, s. 41(3)(5)
- F38** Words in s. 43(2C)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 285(a) (with Sch. 2)
- F39** Words in s. 43(2C)(c) inserted (with effect in accordance with s. 200(8) of the amending Act) by Finance Act 2012 (c. 14), s. 200(2)
- F40** Words in s. 43(2D)(c) omitted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by virtue of Finance Act 2009 (c. 10), Sch. 36 paras. 7(3)(a)(i), 14(2) (with Sch. 36 paras. 14(2), 19)
- F41** Words in s. 43(2D)(c) inserted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by Finance Act 2009 (c. 10), Sch. 36 paras. 7(3)(a)(ii), 14(2) (with Sch. 36 paras. 14(2), 19)
- F42** Words in s. 43(2D) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by Finance Act 2009 (c. 10), Sch. 36 paras. 7(3)(b), 14(2) (with Sch. 36 paras. 14(2), 19)
- F43** Words in s. 43(2E)(b) substituted (with effect in accordance with Sch. 36 para. 14(3) of the amending Act) by Finance Act 2009 (c. 10), Sch. 36 paras. 7(4), 14(2) (with Sch. 36 paras. 14(2), 19)
- F44** S 43(3)-(8) repealed (27.7.1999 with effect as mentioned in Sch. 2 para. 6 of the amending Act) by 1999 c. 16, ss. 16, 139, Sch. 2 para. 1(3), Sch. 20 Pt. II(1)
- F45** S. 43(5A) inserted (1.5.1995 with effect as mentioned in s. 25(5) of the amending Act) by 1995 c. 4, s. 25(4)(5)
- F46** S. 43(9) inserted (29.4.1996) by 1996 c. 8, s. 31(1)

[43A] ^{F47}**Groups: eligibility.**

- (1) Two or more bodies corporate are eligible to be treated as members of a group if each is established or has a fixed establishment in the United Kingdom and—
 - (a) one of them controls each of the others,
 - (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.
- (2) 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 section ^{F48}1159 of and Schedule 6 to the Companies Act ^{F48}2006].
- (3) For the purposes of this section 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 ^{F49}those provisions].

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Textual Amendments

- F47** Ss. 43A-43C inserted (27.7.1999) by 1999 c. 16, s. 16, **Sch. 2 para. 2**
- F48** Words in s. 43A(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), **4(1)(j)**
- F49** Words in s. 43A(3) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2009 \(S.I. 2009/1890\)](#), arts. 1(1), **4(3)**

Modifications etc. (not altering text)

- C2** S. 43A modified (1.8.2004) by [The Value Added Tax \(Groups: eligibility\) Order 2004 \(S.I. 2004/1931\)](#), arts. 1, **2**
- C3** Ss. 43A-43D applied (with effect in accordance with Sch. 18 para. 63 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), **Sch. 18 para. 45(3)**

[^{F50} 43AA Power to alter eligibility for grouping

- (1) The Treasury may by order provide for section 43A to have effect with specified modifications in relation to a specified class of person.
- (2) An order under subsection (1) may, in particular—
 - (a) make provision by reference to generally accepted accounting practice;
 - (b) define generally accepted accounting practice for that purpose by reference to a specified document or instrument (and may provide for the reference to be read as including a reference to any later document or instrument that amends or replaces the first);
 - (c) adopt any statutory or other definition of generally accepted accounting practice (with or without modification);
 - (d) make provision by reference to what would be required or permitted by generally accepted accounting practice if accounts, or accounts of a specified kind, were prepared for a person.
- (3) An order under subsection (1) may also, in particular, make provision by reference to—
 - (a) the nature of a person;
 - (b) past or intended future activities of a person;
 - (c) the relationship between a number of persons;
 - (d) the effect of including a person within a group or of excluding a person from a group.
- (4) An order under subsection (1) may—
 - (a) make provision which applies generally or only in specified circumstances;
 - (b) make different provision for different circumstances;
 - (c) include supplementary, incidental, consequential or transitional provision.]

Textual Amendments

- F50** S. 43AA inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), s. **20(1)**

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Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Part III. (See end of Document for details)

Modifications etc. (not altering text)

- C3** Ss. 43A-43D applied (with effect in accordance with Sch. 18 para. 63 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 18 para. 45\(3\)](#)

[^{F51}43B Groups: applications.

- (1) This section applies where an application is made to the Commissioners for two or more bodies corporate, which are eligible [^{F52}by virtue of section 43A], to be treated as members of a group.
- (2) This section also applies where two or more bodies corporate are treated as members of a group and an application is made to the Commissioners—
 - (a) for another body corporate, which is eligible [^{F53}by virtue of section 43A] to be treated as a member of the group, to be treated as a member of the group,
 - (b) for a body corporate to cease to be treated as a member of the group,
 - (c) for a member to be substituted as the group's representative member, or
 - (d) for the bodies corporate no longer to be treated as members of a group.
- (3) An application with respect to any bodies corporate—
 - (a) must be made by one of them or by the person controlling them, and
 - (b) in the case of an application for the bodies to be treated as a group, must appoint one of them as the representative member.
- (4) Where this section applies in relation to an application it shall, subject to subsection (6) below, be taken to be granted with effect from—
 - (a) the day on which the application is received by the Commissioners, or
 - (b) such earlier or later time as the Commissioners may allow.
- (5) The Commissioners may refuse an application, within the period of 90 days starting with the day on which it was received by them, if it appears to them—
 - (a) in the case of an application such as is mentioned in subsection (1) above, that the bodies corporate are not eligible [^{F54}by virtue of section 43A] to be treated as members of a group,
 - (b) in the case of an application such as is mentioned in subsection (2)(a) above, that the body corporate is not eligible [^{F55}by virtue of section 43A] to be treated as a member of the group, or
 - (c) in any case, that refusal of the application is necessary for the protection of the revenue.
- (6) If the Commissioners refuse an application it shall be taken never to have been granted.]

Textual Amendments

- F51** Ss. 43A-43C inserted (27.7.1999) by [1999 c. 16, s. 16, Sch. 2 para. 2](#)
- F52** Words in s. 43B(1) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 20\(4\)](#)
- F53** Words in s. 43B(2)(a) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 20\(4\)](#)
- F54** Words in s. 43B(5)(a) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 20\(4\)](#)
- F55** Words in s. 43B(5)(b) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 20\(4\)](#)

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Modifications etc. (not altering text)

C3 Ss. 43A-43D applied (with effect in accordance with Sch. 18 para. 63 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 18 para. 45\(3\)](#)

[^{F56}**43C Groups: termination of membership.**

- (1) The Commissioners may, by notice given to a body corporate, terminate its treatment as a member of a group from a date—
 - (a) which is specified in the notice, and
 - (b) which is, or falls after, the date on which the notice is given.
- (2) The Commissioners may give a notice under subsection (1) above only if it appears to them to be necessary for the protection of the revenue.
- (3) Where—
 - (a) a body is treated as a member of a group, and
 - (b) it appears to the Commissioners that the body is not, or is no longer, eligible [^{F57}by virtue of section 43A] to be treated as a member of the group,
 the Commissioners shall, by notice given to the body, terminate its treatment as a member of the group from a date specified in the notice.
- (4) The date specified in a notice under subsection (3) above may be earlier than the date on which the notice is given but shall not be earlier than—
 - (a) the first date on which, in the opinion of the Commissioners, the body was not eligible to be treated as a member of the group, or
 - (b) the date on which, in the opinion of the Commissioners, the body ceased to be eligible to be treated as a member of the group.]

Textual Amendments

F56 Ss. 43A-43C inserted (27.7.1999) by [1999 c. 16, s. 16, Sch. 2 para. 2](#)

F57 Words in s. 43C(3)(b) substituted (22.7.2004) by [Finance Act 2004 \(c. 12\), s. 20\(4\)](#)

Modifications etc. (not altering text)

C3 Ss. 43A-43D applied (with effect in accordance with Sch. 18 para. 63 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 18 para. 45\(3\)](#)

[^{F58}**43D Groups: duplication**

- (1) A body corporate may not be treated as a member of more than one group at a time.
- (2) A body which is a member of one group is not eligible by virtue of section 43A to be treated as a member of another group.
- (3) If—
 - (a) an application under section 43B(1) would have effect from a time in accordance with section 43B(4), but
 - (b) at that time one or more of the bodies specified in the application is a member of a group (other than that to which the application relates),

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the application shall have effect from that time, but with the exclusion of the body or bodies mentioned in paragraph (b).

- (4) If—
- (a) an application under section 43B(2)(a) would have effect from a time in accordance with section 43B(4), but
 - (b) at that time the body specified in the application is a member of a group (other than that to which the application relates),
- the application shall have no effect.
- (5) Where a body is a subject of two or more applications under section 43B(1) or (2)(a) that have not been granted or refused, the applications shall have no effect.]

Textual Amendments

F58 S. 43D inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), s. 20(2)

Modifications etc. (not altering text)

C3 Ss. 43A–43D applied (with effect in accordance with Sch. 18 para. 63 of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [Sch. 18 para. 45\(3\)](#)

44 Supplies to groups.

- (1) Subject to subsections (2) to (4) below, subsection (5) below applies where—
- (a) a business, or part of a business, carried on by a taxable person is transferred as a going concern to a body corporate treated as a member of a group under section 43;
 - (b) on the transfer of the business or part, chargeable assets of the business are transferred to the body corporate; and
 - (c) the transfer of the assets is treated by virtue of section 5(3)(c) as neither a supply of goods nor a supply of services.
- (2) Subsection (5) below shall not apply if the representative member of the group is entitled to credit for the whole of the input tax on supplies to it and acquisitions and importations by it—
- (a) during the prescribed accounting period in which the assets are transferred, and
 - (b) during any longer period to which regulations under section 26(3)(b) relate and in which the assets are transferred.
- (3) Subsection (5) below shall not apply if the Commissioners are satisfied that the assets were assets of the taxable person transferring them more than 3 years before the day on which they are transferred.
- (4) Subsection (5) below shall not apply to the extent that the chargeable assets consist of capital items in respect of which regulations made under section 26(3) and (4), and in force when the assets are transferred, provide for adjustment to the deduction of input tax.
- (5) The chargeable assets shall be treated for the purposes of this Act as being, on the day on which they are transferred, both supplied to the representative member of the

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group for the purpose of its business and supplied by that member in the course or furtherance of its business.

- (6) A supply treated under subsection (5) above as made by a representative member shall not be taken into account as a supply made by him when determining the allowance of input tax in his case under section 26.
- (7) The value of a supply treated under subsection (5) above as made to or by a representative member shall be taken to be the open market value of the chargeable assets.
- (8) For the purposes of this section, the open market value of any chargeable assets shall be taken to be the price that would be paid on a sale (on which no VAT is payable) between a buyer and a seller who are not in such a relationship as to affect the price.
- (9) The Commissioners may reduce the VAT chargeable by virtue of subsection (5) above in a case where they are satisfied that the person by whom the chargeable assets are transferred has not received credit for the full amount of input tax arising on the supply to or acquisition or importation by him of the chargeable assets.
- (10) For the purposes of this section, assets are chargeable assets if their supply in the United Kingdom by a taxable person in the course or furtherance of his business would be a taxable supply (and not a zero-rated supply).

45 Partnerships.

- (1) The registration under this Act of persons—
 - (a) carrying on a business in partnership, or
 - (b) carrying on in partnership any other activities in the course or furtherance of which they acquire goods from other member States,
 may be in the name of the firm; and no account shall be taken, in determining for any purpose of this Act whether goods or services are supplied to or by such persons or are acquired by such persons from another member State, of any change in the partnership.
- (2) Without prejudice to section 36 of the ^{M3}Partnership Act 1890 (rights of persons dealing with firm against apparent members of firm), until the date on which a change in the partnership is notified to the Commissioners a person who has ceased to be a member of a partnership shall be regarded as continuing to be a partner for the purposes of this Act and, in particular, for the purpose of any liability for VAT on the supply of goods or services by the partnership or on the acquisition of goods by the partnership from another member State.
- (3) Where a person ceases to be a member of a partnership during a prescribed accounting period (or is treated as so doing by virtue of subsection (2) above) any notice, whether of assessment or otherwise, which is served on the partnership and relates to, or to any matter arising in, that period or any earlier period during the whole or part of which he was a member of the partnership shall be treated as served also on him.
- (4) Without prejudice to section 16 of the ^{M4}Partnership Act 1890 (notice to acting partner to be notice to the firm) any notice, whether of assessment or otherwise, which is addressed to a partnership by the name in which it is registered by virtue of subsection (1) above and is served in accordance with this Act shall be treated for the purposes of this Act as served on the partnership and, accordingly, where subsection (3) above applies, as served also on the former partner.

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- (5) Subsections (1) and (3) above shall not affect the extent to which, under section 9 of the ^{M5}Partnership Act 1890, a partner is liable for VAT 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 VAT on the supply by the firm of goods or services during that accounting period or on the acquisition during that period by the firm of any goods from another member State shall be such proportion of the firm's liability as may be just.

Marginal Citations

M3 1890 c. 39.

M4 1890 c. 39.

M5 1890 c. 39.

46 Business carried on in divisions or by unincorporated bodies, personal representatives etc.

- (1) The registration under 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 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, association or organisation the affairs of which are managed by its members or a committee or committees of its members.
- (3) The registration under this Act of any such club, association or organisation may be in the name of the club, association or organisation; and in determining whether goods or services are supplied to or by such a club, association or organisation or whether goods are acquired by such a club, association or organisation from another member State, no account shall be taken of any change in its members.
- (4) 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 has had his estate sequestrated or has become incapacitated to be treated for a limited time as taxable persons, and for securing continuity in the application of this Act in cases where persons are so treated.
- (5) In relation to a company which is a taxable person, the reference in subsection (4) above to the taxable person having become bankrupt or having had his estate sequestrated or having become incapacitated shall be construed as a reference to its being in liquidation or receivership or [^{F59}administration].
- (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.

Textual Amendments

F59 Word in s. 46(5) substituted (15.9.2003) by [Enterprise Act 2002 \(Insolvency\) Order 2003 \(S.I. 2003/2096\)](#), art. 1(1), [Sch. para. 25](#) (with art. 6)

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47 Agents etc.

(1) 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,

[^{F60}then, if the taxable person acts in relation to the supply in his own name, the goods shall] 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.

- (2) For the purposes of subsection (1) above a person who is not resident in the United Kingdom and whose place or principal place of business is outside the United Kingdom may be treated as not being a taxable person if as a result he will not be required to be registered under this Act.

[^{F61}(2A) Where, in the case of any supply of goods to which subsection (1) above does not apply, goods are supplied through an agent who acts in his own name, the supply shall be treated both as a supply to the agent and as a supply by the agent.]

- (3) Where ^{F62}. . . services[^{F63}, other than electronically supplied services and telecommunication 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.

[^{F64}(4) Where electronically supplied services or telecommunication services are supplied through an agent, the supply is to be treated both as a supply to the agent and as a supply by the agent.

- (5) For the purposes of subsection (4) “agent” means a person (“A”) who acts in A's own name but on behalf of another person within the meaning of Article 28 of Council Directive [2006/112/EC](#) on the common system of value added tax.

- (6) In this section “electronically supplied services” and “telecommunication services” have the same meaning as in Schedule 4A (see paragraph 9(3) and (4) and paragraph 8(2) of that Schedule.)]

Textual Amendments

F60 Words in s. 47(1) substituted (1.5.1995 with effect as mentioned in s. 23(4)(a) of the amending Act) by [1995 c. 4, s. 23\(1\)](#)

F61 S. 47(2A) inserted (1.5.1995 with effect as mentioned in s. 23(4)(b) of the amending Act) by [1995 c. 4, s. 23\(2\)](#)

F62 Words in s. 47(3) repealed (1.5.1995 with effect as mentioned in s. 23(4)(b) of the amending Act) by [1995 c. 4, ss. 23\(3\), 162, Sch. 29 Pt. VI\(2\)](#) Note

F63 Words in s. 47(3) inserted (with effect in accordance with s. 106(4) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 106\(2\)](#)

F64 S. 47(4)-(6) inserted (with effect in accordance with s. 106(4) of the amending Act) by [Finance Act 2014 \(c. 26\), s. 106\(3\)](#)

48 VAT representatives [^{F65}and security].

- (1) [^{F66}Subsection (1ZA) applies where] any person—

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- (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;
- ^{F67}[(b) is not established, and does not have any fixed establishment, in the United Kingdom;
- (ba) is established in a country or territory in respect of which it appears to the Commissioners that the condition specified in subsection (1A) below is satisfied; and]
- (c) in the case of an individual, does not have his usual place of residence [^{F68}or permanent address] in the United Kingdom,
- ^{F69} ...
- ^{F70}(1ZA) The Commissioners may direct the person to secure that there is a UK-established person who is—
- (a) appointed to act on the person's behalf in relation to VAT, and
- (b) registered against the name of the person in accordance with any regulations under subsection (4).]
- ^{F71}[(1A) The condition mentioned in subsection (1)(ba) above is that—
- (a) the country or territory is neither a member State nor a part of a member State, and
- (b) there is no provision for mutual assistance between the United Kingdom and the country or territory similar in scope to the assistance provided for between the United Kingdom and each other member State by the mutual assistance provisions.
- (1B) In subsection (1A) above “the mutual assistance provisions” means—
- ^{F72}(a) section 87 of the Finance Act 2011 (mutual assistance for recovery of taxes etc) and Schedule 25 to that Act;
- (b) section 173 of the Finance Act 2006 (international tax enforcement arrangements);]
- ^{F73}(c) Council Regulation (EC) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax.]]
- ^{F74}[(2) With the agreement of the Commissioners, a person—
- (a) who has not been [^{F75}given a direction under subsection (1ZA)] , and
- (b) in relation to whom the conditions specified in paragraphs (a), (b) and (c) of [^{F76}subsection (1)] are satisfied,
- may appoint [^{F77}a UK-established] person to act on his behalf in relation to VAT.
- (2A) In this Act “VAT representative” means a person appointed under subsection [^{F78}(1ZA)] or (2) above.]
- (3) Where any person is appointed by virtue of this section to be the VAT representative of another (“his principal”), then, subject to subsections (4) to (6) below, the VAT 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 VAT 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

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- 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 VAT representative and his principal.
- (4) A VAT 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 VAT representatives against the names of their principals in any register kept for the purposes of this Act; ^{F79} ...
 - (b) make it the duty of a VAT 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.
- ^{F80}(c) give the Commissioners power to refuse to register a person as a VAT representative, or to cancel a person's registration as a VAT representative, in such circumstances as may be specified in the regulations.]
- ^{F81}(4A) Regulations under subsection (4) may require a notification under that subsection to be made in such form and manner, and to contain such particulars, as may be specified in the regulations or by the Commissioners in accordance with the regulations.]
- (5) A VAT representative shall not by virtue of subsection (3) above be guilty of any offence except in so far as—
- (a) the VAT 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 VAT representative; or
 - (c) the offence consists in a contravention by the VAT representative of an obligation which, by virtue of that subsection, is imposed both on the VAT representative and on his principal.
- (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 VAT 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) ^{F82}The Commissioners may require a person in relation to whom the conditions specified in paragraphs (a), (b) and (c) of subsection (1) are satisfied] to provide such security, or further security, as they may think appropriate for the payment of any VAT which is or may become due from him.
- ^{F83}(7A) A sum required by way of security under subsection (7) above shall be deemed for the purposes of—
- (a) section 51 of the Finance Act 1997 (enforcement ^{F84}by taking control of goods or, in Northern Ireland,] by distress) and any regulations under that section, and
 - (b) section 52 of that Act (enforcement by diligence),

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to be recoverable as if it were VAT due from the person who is required to provide it.]

[^{F85}(7B) A direction under subsection (1ZA)—

- (a) may specify a time by which it (or any part of it) must be complied with;
- (b) may be varied;
- (c) continues to have effect (subject to any variation) until it is withdrawn or the conditions specified in subsection (1) are no longer satisfied.

(7C) A requirement under subsection (7)—

- (a) may specify a time by which it (or any part of it) must be complied with;
- (b) may be varied;
- (c) continues to have effect (subject to any variation) until it is withdrawn.]

(8) For the purposes of this Act a person shall not be treated as having been directed to appoint a VAT 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.

[^{F86}(8A) For the purposes of subsections (1ZA) and (2)—

- (a) a person is UK-established if the person is established, or has a fixed establishment, in the United Kingdom, and
- (b) an individual is also UK-established if the person's usual place of residence or permanent address is in the United Kingdom.]

[^{F87}(9) The Treasury may by order amend the definition of “the mutual assistance provisions” in subsection (1B) above.]

Textual Amendments

- F65** Words in s. 48 heading inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(2\)](#)
- F66** Words in s. 48(1) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(3\)\(a\)](#)
- F67** S. 48(1)(b)(ba) substituted for s. 48(1)(b) (31.12.2001) by [2001 c. 9, s. 100\(1\)\(4\)](#)
- F68** Words in s. 48(1)(c) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(3\)\(b\)](#)
- F69** Words in s. 48(1) omitted (15.9.2016) by virtue of [Finance Act 2016 \(c. 24\), s. 123\(3\)\(c\)](#)
- F70** S. 48(1ZA) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(4\)](#)
- F71** S. 48(1A)(1B) inserted (31.12.2001) by [2001 c. 9, s. 100\(2\)\(4\)](#)
- F72** [S. 48\(1B\)\(a\)\(b\)](#) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(5\)](#)
- F73** S. 48(1B)(c) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 29 para. 6\(2\)](#)
- F74** S. 48(2)(2A) substituted for s. 48(2) (31.12.2001) by [2001 c. 9, s. 100\(3\)\(4\)](#)
- F75** Words in s. 48(2)(a) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(6\)\(a\)](#)
- F76** Words in s. 48(2)(b) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(6\)\(b\)](#)
- F77** Words in s. 48(2) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(6\)\(c\)](#)
- F78** Word in s. 48(2A) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(7\)](#)
- F79** Word in s. 48(4)(a) omitted (15.9.2016) by virtue of [Finance Act 2016 \(c. 24\), s. 123\(8\)\(a\)](#)
- F80** S. 48(4)(c) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(8\)\(b\)](#)
- F81** S. 48(4A) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 29 para. 6\(3\)](#)
- F82** Words in s. 48(7) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(9\)](#)
- F83** S. 48(7A) inserted (1.7.1997) by [1997 c. 16, s. 53\(6\)](#); [S.I. 1997/1432, art. 2](#)
- F84** Words in s. 48(7A) inserted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), s. 148, Sch. 13 para. 118](#) (with s. 89); [S.I. 2014/768, art. 2\(1\)\(b\)](#)

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- F85** S. 48(7B)(7C) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(10\)](#)
F86 S. 48(8A) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 123\(11\)](#)
F87 S. 48(9) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\), s. 197\(7\)\(b\)](#)

49 Transfers of going concerns.

- (1) Where a business [^{F88}, or part of 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 Act he shall be treated as having carried on the business [^{F89} or part of the business] before as well as after the transfer and supplies by the transferor shall be treated accordingly; ^{F90} ...
- ^{F90}(b)
- (2) Without prejudice to subsection (1) above, the Commissioners may by regulations make provision for securing continuity in the application of this Act in cases where a business [^{F91}, or part of a business,] carried on by a taxable person is transferred to another person as a going concern and the transferee is registered under this Act in substitution for the transferor.
- [^{F92}(2A) Regulations under subsection (2) above may, in particular, provide for the duties under this Act of the transferor to preserve records relating to the business or part of the business for any period after the transfer to become duties of the transferee unless the Commissioners, at the request of the transferor, otherwise direct.]
- (3) Regulations under subsection (2) above may, in particular, provide—
- (a) for liabilities and duties under this Act (excluding sections 59 to 70) of the transferor [^{F93} (other than the duties mentioned in subsection (2A) above)] to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee; and
- (b) for any right of either of them to repayment or credit in respect of VAT to be satisfied by making a repayment or allowing a credit to the other;
- but no such provision as is mentioned in paragraph (a) or (b) of this subsection shall have effect in relation to any transferor and transferee unless an application in that behalf has been made by them under the regulations.
- [^{F94}(4) Subsection (5) below applies where—
- (a) a business, or part of a business, carried on by a taxable person is transferred to another person as a going concern, and
- (b) the transferor continues to be required under this Act to preserve for any period after the transfer any records relating to the business or part of the business.
- (5) So far as is necessary for the purpose of complying with the transferee's duties under this Act, the transferee (“E”) may require the transferor—
- (a) to give to E, within such time and in such form as E may reasonably require, such information contained in the records as E may reasonably specify,
- (b) to give to E, within such time and in such form as E may reasonably require, such copies of documents forming part of the records as E may reasonably specify, and
- (c) to make the records available for E's inspection at such time and place as E may reasonably require (and permit E to take copies of, or make extracts from, them).

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- (6) Where a business, or part of a business, carried on by a taxable person is transferred to another person as a going concern, the Commissioners may disclose to the transferee any information relating to the business when it was carried on by the transferor for the purpose of enabling the transferee to comply with the transferee's duties under this Act.]

Textual Amendments

- F88** Words in s. 49(1) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(2\)\(a\)](#)
- F89** Words in s. 49(1)(a) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(2\)\(b\)](#)
- F90** S. 49(1)(b) and word omitted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(2\)\(c\)](#), [Sch. 27 Pt. 6\(2\)](#)
- F91** Words in s. 49(2) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(3\)](#)
- F92** S. 49(2A) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(4\)](#)
- F93** Words in s. 49(3)(a) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(5\)](#)
- F94** S. 49(4)-(6) inserted (with effect in accordance with s. 100(10) of the amending Act) by [Finance Act 2007 \(c. 11\), s. 100\(6\)](#)

50 Terminal markets.

- (1) The Treasury may by order make provision for modifying the provisions 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) above, 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 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 Act, and for disregarding such dealings between persons so represented for all the purposes 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.

[^{F95}50A Margin schemes.

- (1) The Treasury may by order provide, in relation to any such description of supplies to which this section applies as may be specified in the order, for a taxable person to be

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entitled to opt that, where he makes supplies of that description, VAT is to be charged by reference to the profit margin on the supplies, instead of by reference to their value.

- (2) This section applies to the following supplies, that is to say—
 - (a) supplies of works of art, antiques or collectors' items;
 - (b) supplies of motor vehicles;
 - (c) supplies of second-hand goods; and
 - (d) any supply of goods through a person who acts as an agent, but in his own name, in relation to the supply.
- (3) An option for the purposes of an order under this section shall be exercisable, and may be withdrawn, in such manner as may be required by such an order.
- (4) Subject to subsection (7) below, the profit margin on a supply to which this section applies shall be taken, for the purposes of an order under this section, to be equal to the amount (if any) by which the price at which the person making the supply obtained the goods in question is exceeded by the price at which he supplies them.
- (5) For the purposes of this section the price at which a person has obtained any goods and the price at which he supplies them shall each be calculated in accordance with the provisions contained in an order under this section; and such an order may, in particular, make provision stipulating the extent to which any VAT charged on a supply, acquisition or importation of any goods is to be treated as included in the price at which those goods have been obtained or are supplied.
- (6) An order under this section may provide that the consideration for any services supplied in connection with a supply of goods by a person who acts as an agent, but in his own name, in relation to the supply of the goods is to be treated for the purposes of any such order as an amount to be taken into account in computing the profit margin on the supply of the goods, instead of being separately chargeable to VAT as comprised in the value of the services supplied.
- (7) An order under this section may provide for the total profit margin on all the goods of a particular description supplied by a person in any prescribed accounting period to be calculated by—
 - (a) aggregating all the prices at which that person obtained goods of that description in that period together with any amount carried forward to that period in pursuance of paragraph (d) below;
 - (b) aggregating all the prices at which he supplies goods of that description in that period;
 - (c) treating the total profit margin on goods supplied in that period as being equal to the amount (if any) by which, for that period, the aggregate calculated in pursuance of paragraph (a) above is exceeded by the aggregate calculated in pursuance of paragraph (b) above; and
 - (d) treating any amount by which, for that period, the aggregate calculated in pursuance of paragraph (b) above is exceeded by the aggregate calculated in pursuance of paragraph (a) above as an amount to be carried forward to the following prescribed accounting period so as to be included, for the period to which it is carried forward, in any aggregate falling to be calculated in pursuance of paragraph (a) above.
- (8) An order under this section may—
 - (a) make different provision for different cases; and

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- (b) make provisions of the order subject to such general or special directions as may, in accordance with the order, be given by the Commissioners with respect to any matter to which the order relates.]

Textual Amendments

F95 S. 50A inserted (1.5.1995) by 1995 c. 4, s. 24(1)

51 Buildings and land.

- (1) Schedule 10 shall have effect with respect to buildings and land.
(2) The Treasury may by order amend Schedule 10.

[^{F96}**51B Face-value vouchers**

Schedule 10A shall have effect with respect to face-value vouchers.]

Textual Amendments

F96 S. 51B inserted (with application in accordance with Sch. 1 para. 4 of the amending Act) by Finance Act 2003 (c. 14), Sch. 1 para. 1

52 Trading stamp schemes.

The Commissioners may by regulations modify sections 19 and 20 and Schedules 6 and 7 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,

in a case where the goods are supplied or acquired under a trading stamp scheme (within the meaning of the ^{M6}Trading Stamps Act 1964 or the ^{M7}Trading Stamps Act (Northern Ireland) 1965) or under any scheme of an equivalent description which is in operation in another member State.

Marginal Citations

M6 1964 c. 71.
M7 1965 c. 6 (N.I.).

53 Tour operators.

- (1) The Treasury may by order modify the application of this Act in relation to supplies of goods or services by tour operators or in relation to such of those supplies as may be determined by or under the order.
(2) Without prejudice to the generality of subsection (1) above, an order under this section may make provision—

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- (a) for two or more supplies of goods or services by a tour operator to be treated as a single supply of services;
 - (b) for the value of that supply to be ascertained, in such manner as may be determined by or under the order, by reference to the difference between sums paid or payable to and sums paid or payable by the tour operator;
 - (c) for account to be taken, in determining the VAT chargeable on that supply, of the different rates of VAT that would have been applicable apart from this section;
 - (d) excluding any body corporate from the application of section 43;
 - (e) as to the time when a supply is to be treated as taking place.
- (3) In this section “tour operator” includes a travel agent acting as principal and any other person providing for the benefit of travellers services of any kind commonly provided by tour operators or travel agents.
- (4) Section 97(3) shall not apply to an order under this section, notwithstanding that it makes provision for excluding any VAT from credit under section 25.

54 Farmers etc.

- (1) The Commissioners may, in accordance with such provision as may be contained in regulations made by them, certify for the purposes of this section any person who satisfies them—
- (a) that he is carrying on a business involving one or more designated activities;
 - (b) that he is of such a description and has complied with such requirements as may be prescribed; and
 - (c) where an earlier certification of that person has been cancelled, that more than the prescribed period has elapsed since the cancellation or that such other conditions as may be prescribed are satisfied.
- (2) Where a person is for the time being certified under this section, then (whether or not that person is a taxable person) so much of any supply by him of any goods or services as, in accordance with provision contained in regulations, is allocated to the relevant part of his business shall be disregarded for the purpose of determining whether he is, has become or has ceased to be liable or entitled to be registered under Schedule 1 [F97 or is, has become or has ceased to be liable to be registered under Schedule 1A].
- (3) The Commissioners may by regulations provide for an amount included in the consideration for any taxable supply which is made—
- (a) in the course or furtherance of the relevant part of his business by a person who is for the time being certified under this section;
 - (b) at a time when that person is not a taxable person; and
 - (c) to a taxable person,
- to be treated, for the purpose of determining the entitlement of the person supplied to credit under sections 25 and 26, as VAT on a supply to that person.
- (4) The amount which, for the purposes of any provision made under subsection (3) above, may be included in the consideration for any supply shall be an amount equal to such percentage as the Treasury may by order specify of the sum which, with the addition of that amount, is equal to the consideration for the supply.
- (5) The Commissioners’ power by regulations under section 39 to provide for the repayment to persons to whom that section applies of VAT which would be input tax of

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theirs if they were taxable persons in the United Kingdom includes power to provide for the payment to persons to whom that section applies of sums equal to the amounts which, if they were taxable persons in the United Kingdom, would be input tax of theirs by virtue of regulations under this section; and references in that section, or in any other enactment, to a repayment of VAT shall be construed accordingly.

- (6) Regulations under this section may provide—
- (a) for ^{F98}... an application for certification under this section, or for the cancellation of any such certification, [^{F99}to be made in the form and manner specified in the regulations or by the Commissioners in accordance with the regulations];
 - (b) for the cases and manner in which the Commissioners may cancel a person’s certification;
 - (c) for entitlement to a credit such as is mentioned in subsection (3) above to depend on the issue of an invoice containing such particulars as may be prescribed, or as may be notified by the Commissioners in accordance with provision contained in regulations; and
 - (d) for the imposition on certified persons of obligations with respect to the keeping, preservation and production of such records as may be prescribed and of obligations to comply with such requirements with respect to any of those matters as may be so notified;
- and regulations made by virtue of paragraph (b) above may confer on the Commissioners power, if they think fit, to refuse to cancel a person’s certification, and to refuse to give effect to any entitlement of that person to be registered, until the end of such period after the grant of certification as may be prescribed.
- (7) In this section references, in relation to any person, to the relevant part of his business are references—
- (a) where the whole of his business relates to the carrying on of one or more designated activities, to that business; and
 - (b) in any other case, to so much of his business as does so relate.
- (8) In this section “designated activities” means such activities, being activities carried on by a person who, by virtue of carrying them on, falls to be treated as a farmer for the purposes of Article 25 of the directive of the Council of the European Communities dated 17th May 1977 No.77/388/EEC (common flat-rate scheme for farmers), as the Treasury may by order designate.

Textual Amendments

- F97** Words in s. 54(2) inserted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 4](#)
- F98** Words in s. 54(6)(a) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 7\(a\)](#)
- F99** Words in s. 54(6)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 29 para. 7\(b\)](#)

55 Customers to account for tax on supplies of gold etc.

- [(1) Where any person makes a supply of gold to another person and that supply is a taxable supply but not a zero rated supply, the supply shall be treated for purposes of ^{F100}Schedules 1 and 1A] —

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- (a) as a taxable supply of that other person (as well as a taxable supply of the person who makes it); and
- (b) in so far as that other person is supplied in connection with the carrying on by him of any business, as a supply made by him in the course or furtherance of that business;

but nothing in paragraph (b) above shall require any supply to be disregarded for the purposes of [F101Schedule 1] on the grounds that it is a supply of capital assets of that other person's business.

- (2) Where a taxable person makes a supply of gold to a person who—
 - (a) is himself a taxable person at the time when the supply is made; and
 - (b) is supplied in connection with the carrying on by him of any business,
 it shall be for the person supplied, on the supplier's behalf, to account for and pay tax on the supply, and not for the supplier.
- (3) So much of this Act and of any other enactment or any subordinate legislation as has effect for the purposes of, or in connection with, the enforcement of any obligation to account for and pay VAT shall apply for the purposes of this section in relation to any person who is required under subsection (2) above to account for and pay any VAT as if that VAT were VAT on a supply made by him.
- (4) Section 6(4) to (10) shall not apply for determining when any supply of gold is to be treated as taking place.]
- (5) References in this section to a supply of gold are references to—
 - [F102(a) any supply of goods consisting in fine gold, in gold grain of any purity or in gold coins of any purity; or]. . .
 - (b) any supply of goods containing gold where the consideration for the supply (apart from any VAT) is, or is equivalent to, an amount which does not exceed, or exceeds by no more than a negligible amount, the open market value of the gold contained in the goods [F103; or.
 - (c) any supply of services consisting in the application to another person's goods of a treatment or process which produces goods a supply of which would fall within paragraph (a) above.]
- (6) The Treasury may by order provide for this section to apply, as it applies to the supplies specified in subsection (5) above, to such other supplies of—
 - (a) goods consisting in or containing any precious or semi-precious metal or stones; or
 - (b) services relating to, or to anything containing, any precious or semi-precious metal or stones,
 as may be specified or described in the order.

Textual Amendments

F100 Words in s. 55(1) substituted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 28 para. 5\(a\)](#)

F101 Words in s. 55(1) substituted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\), Sch. 28 para. 5\(b\)](#)

F102 S. 55(5)(a) substituted (29.4.1996 with application in relation to any supply after 28.11.1995) by [1996 c. 8, s. 32\(1\)\(2\)](#)

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F103 S. 55(5)(c) inserted (29.4.1996 with application to supplies made on or after 1.1.1996) by 1996 c. 8, s. 29(3)(5)

Modifications etc. (not altering text)

C4 S. 55(1)-(4) applied (1.1.2000) by S.I. 1999/3116, art. 4

C5 S. 55(2) excluded (1.1.2000) by S.I. 1973/173, art. 7 (as added (1.1.2000) by S.I. 1999/3117, art. 8)

[^{F104}55A Customers to account for tax on supplies of goods [^{F105}or services] of a kind used in missing trader intra-community fraud

- (1) Subsection (3) applies if—
 - (a) a taxable (but not a zero-rated) supply of goods [^{F105}or services] (“the relevant supply”) is made to a person (“the recipient”),
 - (b) the relevant supply is of goods [^{F105}or services] to which this section applies (see subsection (9)),
 - (c) the relevant supply is not an excepted supply (see subsection (10)), and
 - (d) the total value of the relevant supply, and of corresponding supplies made to the recipient in the month in which the relevant supply is made, exceeds £1,000 (“the disregarded amount”).
- (2) For this purpose a “corresponding supply” means a taxable (but not a zero-rated) supply of goods [^{F105}or services] which—
 - (a) is a supply of goods [^{F105}or services] to which this section applies, and
 - (b) is not an excepted supply.
- (3) The relevant supply, and the corresponding supplies made to the recipient in the month in which the relevant supply is made, are to be treated for the purposes of [^{F106}Schedules 1 and 1A]—
 - (a) as taxable supplies of the recipient (as well as taxable supplies of the person making them), and
 - (b) in so far as the recipient is supplied in connection with the carrying on by him of any business, as supplies made by him in the course or furtherance of that business,

but the relevant supply, and those corresponding supplies, are to be so treated only in so far as their total value exceeds the disregarded amount.

- (4) Nothing in subsection (3)(b) requires any supply to be disregarded for the purposes of Schedule 1 on the grounds that it is a supply of capital assets of the recipient's business.
- (5) For the purposes of subsections (1) and (3), the value of a supply is determined on the basis that no VAT is chargeable on the supply.
- (6) If—
 - (a) a taxable person makes a supply of goods [^{F105}or services] to a person (“the recipient”) at any time,
 - (b) the supply is of goods [^{F105}or services] to which this section applies and is not an excepted supply, and
 - (c) the recipient is a taxable person at that time and is supplied in connection with the carrying on by him of any business,

it is for the recipient, on the supplier's behalf, to account for and pay tax on the supply and not for the supplier.

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- (7) The relevant enforcement provisions apply for the purposes of this section, in relation to any person required under subsection (6) to account for and pay any VAT, as if that VAT were VAT on a supply made by him.
- (8) For this purpose “the relevant enforcement provisions” means so much of—
- (a) this Act and any other enactment, and
 - (b) any subordinate legislation,
- as has effect for the purposes of, or in connection with the enforcement of, any obligation to account for and pay VAT.
- (9) For the purposes of this section, goods^{F105} or services] are goods [^{F105} or services] to which this section applies if they are of a description specified in an order made by the Treasury.
- (10) For the purposes of this section, an “excepted supply” means a supply which is of a description specified in, or determined in accordance with, provision contained in an order made by the Treasury.
- (11) Any order made under subsection (10) may describe a supply of goods [^{F105} or services] by reference to—
- (a) the use which has been made of the goods [^{F105} or services], or
 - (b) other matters unrelated to the characteristics of the goods [^{F105} or services] themselves.
- (12) The Treasury may by order substitute for the sum for the time being specified in subsection (1)(d) such greater sum as they think fit.
- (13) The Treasury may by order make such amendments of any provision of this Act as they consider necessary or expedient for the purposes of this section or in connection with this section.
- An order under this subsection may confer power on the Commissioners to make regulations or exercise any other function, but no order may be made under this subsection on or after 22nd March 2009.
- (14) Any order made under this section (other than one under subsection (12)) may—
- (a) make different provision for different cases, and
 - (b) contain supplementary, incidental, consequential or transitional provisions.]

Textual Amendments

F104 S. 55A inserted (1.6.2007) by [Finance Act 2006 \(c. 25\)](#), s. **19(1)(8)**; S.I. 2007/1419, art. 2

F105 Words in s. 55A inserted (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), s. **50(1)**

F106 Words in s. 55A(3) substituted (with effect in accordance with [Sch. 28 para. 19](#) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 28 para. 6](#)

Modifications etc. (not altering text)

C6 S. 55A applied (1.7.2014) by [The Value Added Tax \(Section 55A\) \(Specified Goods and Excepted Supplies\) Order 2014 \(S.I. 2014/1458\)](#), arts. 1(2), **3(1)**, 4 (with art. 1(2))

C7 S. 55A applied (with effect in accordance with art. 1(2) of the amending S.I.) by [The Value Added Tax \(Section 55A\) \(Specified Services and Excepted Supplies\) Order 2016 \(S.I. 2016/12\)](#), arts. 1(2), **3(1)**

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F107 56 Fuel for private use.

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Textual Amendments

F107 S. 56 omitted (with effect in accordance with Sch. 38 para. 7 of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 38 para. 4](#)

F108 57 Determination of consideration for fuel supplied for private use.

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Textual Amendments

F108 S. 57 omitted (with effect in accordance with Sch. 38 para. 7(1) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 38 para. 4](#)

Status:

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Changes to legislation:

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