

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, PART 2. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 9ZA

VAT ON ACQUISITIONS IN NORTHERN IRELAND FROM MEMBER STATES

Textual Amendments

- F1** Schs. 9ZA, 9ZB inserted (17.12.2020 for specified purposes, 31.12.2020 in so far as not already in force) by [Taxation \(Post-transition Period\) Act 2020](#) (c. 26), s. 11(1)(e), [Sch. 2 para. 2](#) (with s. 3(4), [Sch. 2 para. 7\(7\)-\(10\)](#)) (with savings and transitional provisions in [S.I. 2020/1545, Pt. 4](#)); [S.I. 2020/1642, reg. 9](#)

PART 2

VALUATION OF ACQUISITIONS

Valuation of acquisitions from member States

- 8 (1) For the purposes of this Act the value of any acquisition of goods from a member State is taken to be the value of the transaction in pursuance of which they are acquired.
- (2) Where goods are acquired from a member State otherwise than in pursuance of a taxable supply, the value of the transaction in pursuance of which they are acquired is to be determined for the purposes of sub-paragraph (1) in accordance with this Part, and for those purposes—
- (a) sub-paragraphs (3) to (5) have effect subject to paragraphs 9 to 13, and
 - (b) section 19 and Schedule 6 do not apply in relation to the transaction.
- (3) If the transaction is for a consideration in money, its value is taken to be such amount as is equal to the consideration.
- (4) If the transaction is for a consideration not consisting or not wholly consisting of money, its value is taken to be such amount in money as is equivalent to the consideration.
- (5) Where a transaction in pursuance of which goods are acquired from a member State is not the only matter to which a consideration in money relates, the transaction is deemed to be for such part of the consideration as is properly attributable to it.

Transactions below market value

- 9 (1) Where, in the case of the acquisition of any goods from a member State—
- (a) the relevant transaction (see paragraph 13) is for a consideration in money,
 - (b) the value of the relevant transaction is (apart from this paragraph) less than the transaction’s open market value,

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- (c) the supplier and the person who acquires the goods are connected, and
 - (d) that person is not entitled under sections 25 and 26 to credit for all the VAT on the acquisition,
- the Commissioners may direct that the value of the relevant transaction is taken to be its open market value.
- (2) A direction under this paragraph must be given—
 - (a) by notice in writing to the person by whom the acquisition in question is made, and
 - (b) within the period of 3 years commencing with the relevant time (see paragraph 13).
 - (3) A direction given to a person under this paragraph in respect of a transaction may include a direction that the value of any transaction—
 - (a) in pursuance of which goods are acquired by the person from a member State after the giving of the notice, or after such later date as may be specified in the notice, and
 - (b) as to which the conditions in paragraphs (a) to (d) of sub-paragraph (1) are satisfied,
 is to be taken to be its open market value.
 - (4) For the purposes of this paragraph, the open market value of a transaction in pursuance of which goods are acquired from a member State is to be taken to be the amount which would fall to be taken as its value under paragraph 8(3) if it were for such consideration in money as would be payable by a person standing in no such relationship with any person as would affect that consideration.
 - (5) Section 1122 of the Corporation Tax Act 2010 (“connected” persons) applies for the purpose of determining whether a person is connected with another for the purposes of this paragraph.
 - (6) A direction under this paragraph may be varied or withdrawn by the Commissioners by a further direction given by notice in writing.

Value where goods subject to excise duty etc

- 10 (1) This paragraph applies, in such cases as the Commissioners may by regulations prescribe, to an acquisition—
 - (a) of goods acquired in Northern Ireland from a member State,
 - (b) where those goods are charged with a relevant duty, and
 - (c) that is not an acquisition that is treated, by virtue of paragraph 16(7) of Schedule 9ZB, as taking place before the time which is the duty point (within the meaning given by paragraph 16(11) of that Schedule).
- (2) The value of the relevant transaction in relation to an acquisition to which this paragraph applies is the sum of the value of that transaction (apart from this paragraph) and the total amount of relevant duty charged that is not already reflected in the value of that transaction.
- (3) In this paragraph “relevant duty” in relation to an acquisition means—
 - (a) a duty of excise charged in connection with the removal of goods to Northern Ireland;

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- (b) any EU customs duty or agricultural levy of the European Union charged on that removal 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 Union.

Transfer or disposal for no consideration

- 11 (1) Where goods are acquired from a member State in pursuance of anything which is treated as a supply for the purposes of this Act as a result of paragraph 5(1) of Schedule 4 or paragraph 30 of Schedule 9ZB and there is no consideration, sub-paragraph (3) applies for determining the value of the relevant transaction.
- (2) Sub-paragraph (3) also applies for determining the value of the relevant transaction in the case of an acquisition by a supplier that is deemed to take place as a result of paragraph 60(2)(c) or 61(2)(c).
- (3) The value of the relevant transaction is taken to be—
- (a) such consideration in money as would be payable by the supplier if the supplier were, at the time of the acquisition, to purchase goods identical in every respect (including age and condition) to the goods concerned,
 - (b) where the value cannot be ascertained in accordance with paragraph (a), such consideration in money as would be payable by the supplier if the supplier were, at that time, to purchase goods similar to, and of the same age and condition as, the goods concerned, or
 - (c) where the value cannot be ascertained in accordance with paragraph (a) or (b), the cost of producing the goods concerned if they were produced at that time.
- (4) For the purposes of sub-paragraph (3), the amount of consideration in money that would be payable by any person if the person were to purchase any goods is taken to be the amount that would be so payable after the deduction of any amount included in the purchase price in respect of VAT on the supply of the goods to that person.

Foreign currency transactions

- 12 (1) Subject to the following provisions of this paragraph, where—
- (a) goods are acquired from a member State, and
 - (b) any sum relevant for determining the value of the relevant transaction is expressed in a currency other than sterling,
- then, for the purpose of valuing the relevant transaction, that sum is to be converted into sterling at the market rate which, on the relevant day, would apply in the United Kingdom to a purchase with sterling of that sum in the currency in question by the person making the acquisition.
- (2) Where the Commissioners have published a notice which, for the purposes of this paragraph, specifies—
- (a) rates of exchange, or
 - (b) methods of determining rates of exchange,
- a rate specified in or determined in accordance with the notice, as for the time being in force, applies (instead of the rate for which sub-paragraph (1) provides) in the case of any transaction in pursuance of which goods are acquired by a person who opts,

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in such manner as may be allowed by the Commissioners, for the use of that rate in relation to that transaction.

- (3) An option for the purposes of sub-paragraph (2) for the use of a particular rate or method of determining a rate—
 - (a) may not be exercised by any person except in relation to all such transactions in pursuance of which goods are acquired by the person from a member State as are of a particular description or after a particular date, and
 - (b) may not be withdrawn or varied except with the consent of the Commissioners and in such manner as they may require.
- (4) In specifying a method of determining a rate of exchange, a notice published by the Commissioners under sub-paragraph (2) may allow a person to apply to the Commissioners for the use, for the purpose of valuing some or all of the transactions in pursuance of which goods are acquired by the person from a member State, of a rate of exchange which is different from any which would otherwise apply.
- (5) On an application made in accordance with provision contained in a notice under sub-paragraph (4), the Commissioners may authorise the use with respect to the applicant of such a rate of exchange, in such circumstances, in relation to such transactions and subject to such conditions as they think fit.
- (6) A notice published by the Commissioners for the purposes of this paragraph may be withdrawn or varied by a subsequent notice published by the Commissioners.
- (7) Where goods are acquired from a member State, the appropriate rate of exchange is to be determined for the purpose of valuing the relevant transaction by reference to the relevant time; and, accordingly, the day on which that time falls is the relevant day for the purposes of sub-paragraph (1).

Meaning of “relevant transaction” and “relevant time”

13 In this Part of this Schedule—

“relevant transaction”, in relation to any acquisition of goods from a member State, means the transaction in pursuance of which the goods are acquired;

“the relevant time”, in relation to any such acquisition, means—

- (a) if the person by whom the goods are acquired is not a taxable person and the time of acquisition does not fall to be determined in accordance with regulations made under paragraph 4(2)(b), the time of the first removal of the goods (see paragraph 4(5)), and
- (b) in any other case, the time of acquisition.]

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