



Value Added Tax Act 1994

1994 CHAPTER 23

PART III

APPLICATION OF ACT IN PARTICULAR CASES

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 [^{F1}person] 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 [^{F2}person]; 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 ^{F3}... 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

Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 44. (See end of Document for details)

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 ^{F4}... 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).

Textual Amendments

- F1** Word in s. 44(1)(a) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 10](#); S.I. 2019/1348, reg. 2
- F2** Word in s. 44(1)(b) substituted (1.11.2019) by [Finance Act 2019 \(c. 1\), s. 53\(2\), Sch. 18 para. 10](#); S.I. 2019/1348, reg. 2
- F3** Words in s. 44(2) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 47\(2\)](#) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F4** Words in s. 44(9) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 47\(3\)](#) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

Changes to legislation:

There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 44.