

## SCHEDULES

### SCHEDULE 3

#### ONLINE SALES BY OVERSEAS PERSONS AND LOW VALUE IMPORTATIONS

##### PART 1

##### MAIN AMENDMENTS

##### *Amendments to the Value Added Tax Act 1994*

- 1 VATA 1994 is amended as follows.
- 2 After section 5 insert—

##### **“5A Supplies of goods facilitated by online marketplaces: deemed supply**

- (1) This section applies where—
  - (a) a person (“P”) makes a taxable supply of goods in the course or furtherance of a business to another person (“R”),
  - (b) that supply is facilitated by an online marketplace, and
  - (c) the imported consignment condition is met.
- (2) For the purposes of this Act—
  - (a) P is to be treated as having supplied the goods to the operator of the online marketplace, and
  - (b) the operator is to be treated as having supplied the goods to R in the course or furtherance of a business carried on by the operator.
- (3) The imported consignment condition is met where—
  - (a) the supply of the goods to R involves those goods being imported,
  - (b) the intrinsic value of the consignment of which the goods are part is not more than £135, and
  - (c) the consignment of which the goods are part—
    - (i) does not contain excepted goods, and
    - (ii) is not a consignment in relation to which a postal operator established outside the United Kingdom has an obligation under an agreement with the Commissioners to pay any import VAT that is chargeable on the importation of that consignment into the United Kingdom.
- (4) For the purposes of subsection (3)(c)(i), “excepted goods” means goods of a class or description subject to any duty of excise whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods.

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- (5) The Commissioners may by regulations substitute a different figure for a figure that is at any time specified in subsection (3)(b).”
- 3 (1) Section 5A (supplies of goods facilitated by online marketplaces: deemed supply) (inserted by paragraph 2 of this Schedule) is amended as follows.
- (2) In subsection (1), for paragraph (c) substitute—
- “(c) one of the following applies—
- (i) the imported consignment condition is met, or
- (ii) the supply of goods to R does not involve those goods being imported, but P is established outside the United Kingdom.”
- (3) After subsection (1) insert—
- “(1A) But this section does not apply in a case where P is established outside the United Kingdom and the imported consignment condition is not met if—
- (a) R is registered under this Act,
- (b) R has provided the operator of the online marketplace with R’s VAT registration number, and
- (c) the operator of the online marketplace has provided P with that number and details of the supply before the end of the relevant period.”
- (4) In subsection (5), after “regulations” insert “—
- (a) specify the details that must be provided for the purposes of subsection (1A)(c);
- (b)”.
- (5) After subsection (5) insert—
- “(6) In this section—
- “relevant period” means the period of 7 days beginning with the day on which the supply is treated as taking place under section 6 or such longer period as the Commissioners may allow in general or specific directions;
- “VAT registration number” means the number allocated by the Commissioners to a person registered under this Act.”
- 4 (1) Section 7 (place of supply of goods) is amended as follows.
- (2) Before subsection (6) insert—
- “(5A) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied outside the United Kingdom where the supply—
- (a) meets the imported consignment condition in section 5A; and
- (b) is deemed to be to the operator of an online marketplace.
- (5B) Goods whose place of supply is not determined under any of the preceding provisions of this section shall be treated as supplied in the United Kingdom where—
- (a) they are supplied by a person in the course or furtherance of a business carried on by that person;
- (b) the supply involves the goods being imported;

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- (c) the intrinsic value of the consignment of which the goods are part is not more than £135; and
- (d) the consignment of which the goods are part—
  - (i) does not contain goods of a class or description subject to any duty of excise whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods; and
  - (ii) is not a consignment in relation to which a postal operator established outside the United Kingdom has an obligation under an agreement with the Commissioners to pay any import VAT that is chargeable on the importation of that consignment into the United Kingdom.”

(3) After subsection (9) insert—

“(9A) The Commissioners may by regulations substitute a different figure for a figure that is at any time specified in subsection (5B)(c).”

5 After section 7 insert—

**“7AA Reverse charge on goods supplied from abroad**

(1) This section applies where—

- (a) goods are supplied by a person (“A”) to another person (“B”),
- (b) B is registered under this Act,
- (c) the supply involves the goods being imported,
- (d) the intrinsic value of the consignment of which the goods are part is not more than £135, and
- (e) the consignment of which the goods are part—
  - (i) does not contain goods of a class or description subject to any duty of excise whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid on the goods, and
  - (ii) is not a consignment in relation to which a postal operator established outside the United Kingdom has an obligation under an agreement with the Commissioners to pay any import VAT that is chargeable on the importation of that consignment into the United Kingdom.

(2) This Act has effect as if, instead of there being a supply of the goods by A to B—

- (a) there were a supply of the goods by B in the course of furtherance of a business carried on by B, and
- (b) that supply were a taxable supply.

(3) The Commissioners may by regulations substitute a different figure for a figure that is at any time specified in subsection (1)(d).”

6 In section 16A(1) (postal packets) omit “(within the meaning of the Postal Services Act 2000)”.

7 (1) Section 37 (relief from VAT on importation of goods) is amended as follows.

(2) For the heading, substitute “VAT on importation of goods: reliefs etc”.

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- (3) Before subsection (1) insert—
- “(A1) No VAT is chargeable on the importation of goods to which section 7(5B) applies.”
- 8 In section 77B (joint and several liability: sellers identified as non-compliant by the Commissioners) omit subsections (9) and (12).
- 9 In section 77BA (joint and several liability: non-UK sellers in breach of Schedule 1A registration requirement) omit subsection (8).
- 10 In section 77C (joint and several liability under section 77B or 77BA: assessments) omit subsection (9).
- 11 In section 77D (joint and several liability under section 77B or 77BA: interest) omit subsection (8).
- 12 In section 77E (display of VAT registration numbers), in subsection (9) omit the definition of “online marketplace” and “operator”.
- 13 After section 77E insert—

*“Liability of operators of online marketplaces for VAT in cases of deemed supply*

**77F Exception from liability under section 5A**

- (1) This section applies where an amount of VAT is due from the operator of an online marketplace by virtue of section 5A.
- (2) The operator is not liable for any amount of VAT in excess of the amount paid by R (as defined in section 5A) provided that the operator took—
- (a) all reasonable steps to ascertain the matters set out in subsection (3), and
  - (b) all other reasonable steps to satisfy itself that the amount charged was correct.
- (3) The matters are—
- (a) the place of establishment of the person making taxable supplies facilitated by the online marketplace;
  - (b) the location of the goods at the time of their supply.”
- 14 Before section 96 insert—

**“95A Meaning of “online marketplace” and “operator” etc**

- (1) In this Act—
- “online marketplace” means a website, or any other means by which information is made available over the internet, which facilitates the sale of goods through the website or other means by persons other than the operator (whether or not the operator also sells goods through the marketplace);
- “operator”, in relation to an online marketplace, means the person who controls access to, and the contents of, the online marketplace provided that the person is involved in—

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- (a) determining any terms or conditions applicable to the sale of goods,
    - (b) processing, or facilitating the processing, of payment for the goods, and
    - (c) the ordering or delivery, or facilitating the ordering or delivery, of the goods.
  - (2) For the purposes of subsection (1), an online marketplace facilitates the sale of goods if it allows a person to—
    - (a) offer goods for sale, and
    - (b) enter into a contract for the sale of those goods.
  - (3) The Treasury may by regulations amend this section so as to alter the meaning of—
    - “online marketplace”, and
    - “operator”.
- 15 In section 96(1) (other interpretative provisions), at the appropriate places insert—  
““postal operator” means a person who provides—  
(a) the service of conveying postal packets from one place to another by post, or  
(b) any of the incidental services of receiving, collecting, sorting and delivering postal packets;”;  
““postal packet” means a letter, parcel, packet or other article transmissible by post;”.
- 16 (1) Schedule 8 (zero-rating) is amended as follows.  
(2) In Part 1 (index to zero-rated supplies of goods and services), at the appropriate place insert—

“Online marketplaces (deemed supply) | Group 21”.

- (3) In Part 2 (the groups), after Group 20 insert—

#### “GROUP 21

#### ONLINE MARKETPLACES (DEEMED SUPPLY)

##### Item No.

- 1 A supply by a person established outside the United Kingdom that is deemed to be a supply to an operator of an online marketplace by virtue of section 5A, provided that the supply does not involve the goods being imported for the purposes of that section.”
- 17 (1) In Schedule 11 (administration, collection and enforcement), paragraph 6 (record keeping) is amended as follows.  
(2) Before sub-paragraph (5) insert—  
“(4A) In relation to a relevant taxable person, a duty under this paragraph to preserve records relating to a relevant taxable supply must be

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discharged by at least preserving the information contained in the records electronically.

(4B) A relevant taxable person must make available to the Commissioners electronically on request any records preserved in accordance with sub-paragraph (4A).

(4C) In sub-paragraph (4A) “relevant taxable supply” means a supply of goods where—

- (a) that supply is deemed to be a supply by an operator of an online marketplace by virtue of section 5A, or
- (b) the place of supply of those goods is determined by section 7(5B).

(4D) In sub-paragraphs (4A) and (4B) “relevant taxable person” means a person who is a taxable person and who—

- (a) is the operator of an online marketplace,
- (b) is a person making taxable supplies of goods facilitated by an online marketplace, or
- (c) makes taxable supplies, the place of supply of which is determined by section 7(5B).”

(3) In sub-paragraph (5), after “may by regulations make” insert “further”.

*Amendment to the Value Added Tax (Imported Goods) Relief Order 1984*

18 In Schedule 2 to the Value Added Tax (Imported Goods) Relief Order 1984 (S.I. 1984/746) (reliefs for goods of certain descriptions), omit Item 8 and Notes (2) and (3) in Group 8 (low value consignment relief).

*Amendments to the Value Added Tax Regulations 1995*

19 The Value Added Tax Regulations 1995 (S.I. 1995/2518) are amended as follows.

20 In regulation 13(1) (obligation to supply a VAT invoice), before sub-paragraph (2) insert—

“(1C) Save as otherwise provided in these Regulations, where a registered person makes a taxable supply of goods to a person who is not a taxable person, if—

- (a) that supply is deemed to be a supply by an operator of an online marketplace by virtue of section 5A of the Act, or
- (b) the place of supply of those goods is determined by section 7(5B) of the Act,

the registered person must provide the other person with a VAT invoice.”

21 (1) Regulation 13A (electronic invoicing) is amended as follows.

(2) In paragraph (1) for “goods or services” substitute “services or relevant goods”.

(3) After paragraph (4) insert—

“(5) In this regulation, “relevant goods” means all goods other than goods—

- (a) the supply of which is deemed to be a supply by an operator of an online marketplace by virtue of section 5A of the Act, or
- (b) the place of supply of which is determined by section 7(5B) of the Act.”

- 22 (1) Regulation 15 (change of rate, credit notes) is amended as follows.
- (2) The existing text becomes paragraph (1).
- (3) In that paragraph, after “relates to a” insert “relevant”.
- (4) After that paragraph insert—
- “(2) In this regulation, “relevant supply” means a supply of goods or services other than a supply of goods to a person who is not a taxable person.”
- 23 (1) Regulation 15C (changes in consideration: debit notes and credit notes) is amended as follows.
- (2) In paragraph (1), at the end insert “, subject to paragraph (1A)”.
- (3) After paragraph (1) insert—
- “(1A) This regulation does not apply in relation to a case where the original supply was a supply of goods to a person who was not a taxable person.”
- 24 After regulation 16A insert—

**Retailers’ and simplified invoices: exceptions**

- “16B Regulations 16 and 16A do not apply in relation to a supply of goods if—
- (a) that supply is deemed to be a supply by an operator of an online marketplace by virtue of section 5A of the Act, or
- (b) the place of supply of those goods is determined by section 7(5B) of the Act.”