

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 18

Section 95

#### VAT AND DISTANCE SELLING: NORTHERN IRELAND

#### PART 1

#### AMENDMENTS TO SCHEDULES 9ZA AND 9ZB TO VATA 1994

##### *Amendments to Part 9 of Schedule 9ZA to VATA 1994*

- 1 Part 9 of Schedule 9ZA to VATA 1994 (value added tax on acquisitions in Northern Ireland from Member States: registration in respect of distance sales) is amended as follows.

##### **Commencement Information**

- I1** Sch. 18 para. 1 in force for specified purposes at Royal Assent, see s. 95(6)(a)  
**I2** Sch. 18 para. 1 in force at 1.7.2021 in so far as not already in force by S.I. 2021/770, reg. 3

- 2 (1) Paragraph 48 (liability to be registered) is amended as follows.
- (2) In sub-paragraph (1), in the words after paragraph (b), for “on any day” to the end substitute “—
- (i) in a case where sub-paragraph (1A) applies, on a day determined in accordance with sub-paragraph (1B), or
  - (ii) in a case where sub-paragraph (1A) does not apply, on any day when the person makes a relevant supply.”
- (3) After that sub-paragraph insert—
- “(1A) This sub-paragraph applies where —
- (a) the person has a single place of establishment, or (where the person does not have a place of establishment) a single place where the person has a permanent address or where the person usually resides, and
  - (b) that place is in a member State or Northern Ireland.
- (1B) The person becomes liable to be registered on any day in a given year if—
- (a) in the period beginning with 1 January of that year and ending with that day, the person makes a relevant supply, and
  - (b) in that period, or in the period beginning with 1 January and ending with 31 December of the year before the year in which that day falls, the person makes European supplies whose value exceeds £8,818.”
- (4) Omit sub-paragraphs (6) and (7).

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

(5) At the end insert—

“(8) For the purposes of this paragraph, a supply of goods or services is a “European supply” if it is—

- (a) a supply of services listed in Article 58(1) of the VAT Directive to a person who is not a taxable person and who is established, or (where the person does not have a place of establishment) who has a permanent address or who usually resides, in a member State or Northern Ireland and that is not the place mentioned in sub-paragraph (1A)(a) (that is, the place in which the person supplying the services is established etc), or
- (b) a supply of goods that would be an “intra-Community distance sale of goods” within the meaning given by Article 14(4) of the VAT Directive if references in that Article to a “Member State” were read as if they included a reference to Northern Ireland (and references to a “third country” and “third territory” were read accordingly as including Great Britain) involving the removal of goods to a member State or Northern Ireland and that is not the place mentioned in sub-paragraph (1A)(a) (that is, the place in which the person supplying the goods is established etc).

(9) For the purposes of sub-paragraph (8)(a), a person is not a taxable person if they are not liable or entitled to register for VAT in accordance with the law of the place where the person to whom the services are supplied is established, has their permanent address or usually resides.

(10) In sub-paragraph (8), “the VAT Directive” means Council Directive [2006/112/EC](#) of 28 November 2006 on the common system of value added tax.”

**Commencement Information**

- I3** [Sch. 18 para. 2](#) in force for specified purposes at Royal Assent, see [s. 95\(6\)\(a\)](#)  
**I4** [Sch. 18 para. 2](#) in force at 1.7.2021 in so far as not already in force by [S.I. 2021/770, reg. 3](#)

3 (1) Paragraph 49 (ceasing to be liable to be registered) is amended as follows.

(2) In sub-paragraph (1)—

- (a) in the words before paragraph (a), after “this Schedule” insert “by virtue of paragraph 48(1)(i) ”;
- (b) in paragraph (a), for “the relevant supplies” substitute “European supplies ”;
- (c) in paragraph (b), for “relevant supplies” substitute “European supplies ”;
- (d) in paragraphs (a) and (b), for “£70,000” in both places it occurs substitute “£8,818 ”.

(3) After that sub-paragraph insert—

“(1A) A person who has become liable to be registered under this Part of this Schedule by virtue of paragraph 48(1)(ii) ceases to be so liable by virtue of that paragraph if at any time paragraph 48(1A) applies in relation to that person.

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

- (1B) A person who has become liable to be registered under this Part of this Schedule by virtue of paragraph 48(3) ceases to be so liable by virtue of that paragraph if at any time the Commissioners are satisfied that the person—
- (a) has ceased to make supplies as mentioned in that paragraph, and
  - (b) will not make such supplies within the period of one year beginning with the day on which the Commissioners are notified or otherwise become aware that the person has ceased to make them.”

- (4) In sub-paragraph (2) after “But” insert “—
- (a) the fact that a person ceases to be liable to be registered under this Part of this Schedule by virtue of one provision does not prevent the person being liable to be registered under this Part of this Schedule by virtue of another provision, and
  - (b)”.

- (5) After sub-paragraph (2) insert—

“(3) Sub-paragraphs (8) to (10) of paragraph 48 apply for the purposes of this paragraph as they apply for the purposes of that paragraph.”

#### Commencement Information

- I5** Sch. 18 para. 3 in force for specified purposes at Royal Assent, see s. 95(6)(a)
- I6** Sch. 18 para. 3 in force at 1.7.2021 in so far as not already in force by S.I. 2021/770, reg. 3

#### *Amendments to Part 5 of Schedule 9ZB to VATA 1994*

- 4 In Part 5 of Schedule 9ZB to VATA 1994 (goods removed to or from Northern Ireland: rules relating to particular supplies), in paragraph 29 (distance selling between EU and Northern Ireland: place of supply)—
- (a) in sub-paragraph (1)(c)—
    - (i) omit the “or” at the end of paragraph (i);
    - (ii) for the “and” at the end of paragraph (ii) substitute “ or ”;
    - (iii) after that paragraph insert—
      - “(iii) is registered under the OSS scheme or a non-UK scheme (within the meaning of Schedule 9ZD), and”;
  - (b) in sub-paragraph (3), after “paragraph 48(2)” insert “ of Schedule 9ZA ”.

#### Commencement Information

- I7** Sch. 18 para. 4 in force for specified purposes at Royal Assent, see s. 95(6)(a)
- I8** Sch. 18 para. 4 in force at 1.7.2021 in so far as not already in force by S.I. 2021/770, reg. 3

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

## PART 2

### AMENDMENTS RELATING TO THE ONE STOP SHOP AND IMPORT ONE STOP SHOP SCHEMES

5 In section 40A of VATA 1994 (Northern Ireland Protocol) after subsection (3) insert—

“(4) Schedule 9ZD—

- (a) establishes a special accounting scheme (“the OSS scheme”) for use by persons making intra-Community distance sales of goods from Northern Ireland to member States, and
- (b) makes provision about corresponding schemes in member States.

(5) Schedule 9ZE—

- (a) establishes a special accounting scheme (“the IOSS scheme”) for use by persons supplying imported goods to Northern Ireland or into the European Union, and
- (b) makes provision about corresponding schemes in member States.

(6) Schedule 9ZF makes provision modifying other provisions of this Act and other enactments in connection with the provision made in Schedules 9ZD and 9ZE.

(7) The Treasury may by regulations—

- (a) amend Schedules 9ZD and 9ZE, and
- (b) amend Parts 1 and 2 of Schedule 9ZF,

(including by inserting provision modifying any provision of an Act whenever passed or made).

(8) The Commissioners may by regulations—

- (a) amend Part 3 of Schedule 9ZF (including by inserting provision modifying any provision of an Act whenever passed or made), and
- (b) make such further provision as they consider appropriate about the administration, collection or enforcement of value added tax due under Schedules 9ZD and 9ZE.

(9) Regulations under subsections (7) and (8) may—

- (a) confer on a person specified in the regulations a discretion to do anything under, or for the purposes of, the regulations;
- (b) make provision by reference to things specified in a notice published in accordance with the regulations;
- (c) make consequential, transitional, transitory, saving, supplementary or incidental provision.”

#### Commencement Information

**I9** Sch. 18 para. 5 in force for specified purposes at Royal Assent, see s. 95(6)(a)

**I10** Sch. 18 para. 5 in force at 1.7.2021 in so far as not already in force by S.I. 2021/770, reg. 3

6 After Schedule 9ZC to VATA 1994 insert—

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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“SCHEDULE  
9ZD

Section 40A

DISTANCE SELLING OF GOODS FROM NORTHERN  
IRELAND: SPECIAL ACCOUNTING SCHEME

**PART 1**

INTRODUCTION

*Overview*

- 1 In this Schedule—
- (a) Parts 2 and 3 establish a special accounting scheme (the One Stop Shop scheme, referred to in this Schedule as the “OSS scheme”) which may be used by persons making intra-Community distance sales of goods from Northern Ireland to member States;
  - (b) Part 4 is about persons participating in schemes in member States that correspond to the OSS scheme;
  - (c) Part 5 is about the collection of non-UK VAT in relation to such corresponding schemes;
  - (d) Part 6 is about appeals;
  - (e) Part 7 contains definitions.

*“Scheme supply”*

- 2 For the purposes of this Schedule, “scheme supply” means a supply of goods that would be an “intra-Community distance sale of goods” within the meaning given by Article 14(4) of the VAT Directive if references in that Article to a “Member State” were read as if they included a reference to Northern Ireland (and references to a “third country” and “third territory” were read accordingly as including Great Britain).

**PART 2**

REGISTRATION

*The register*

- 3 Persons registered under the OSS scheme are to be registered in a single register kept by the Commissioners for the purposes of the scheme.

*Persons who may be registered*

- 4 (1) A person (“P”) may register under the OSS scheme if—
- (a) P makes or intends to make one or more scheme supplies in the course of a business that P carries on,
  - (b) one of the following applies—

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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- (i) P's business is established in Northern Ireland,
  - (ii) P's business is not established in Northern Ireland or a member State but P has a fixed establishment in Northern Ireland, or
  - (iii) P's business is not established in Northern Ireland or a member State and P does not have a fixed establishment in Northern Ireland, but P makes or intends to make scheme supplies from Northern Ireland to a member State and does not have a fixed establishment in a member State, and
- (c) P is not barred from registering by—
- (i) sub-paragraph (2),
  - (ii) the second or third paragraph of Article 369a(2) of the VAT Directive, or
  - (iii) any provision of the Implementing Regulation.
- (2) P may not be registered under the OSS scheme if they are a participant in a non-UK scheme (see para 38(1)).
- (3) P must register under the OSS scheme if P intends to account for VAT on scheme supplies even if P is otherwise registered under this Act.

*Becoming registered*

- 5 (1) The Commissioners must register a person (“P”) under the OSS scheme if P—
- (a) satisfies them that the requirements for registration are met (see paragraph 4), and
  - (b) makes a request in accordance with this paragraph (a “registration request”).
- (2) A registration request must state—
- (a) P's name and postal and electronic addresses (including any websites),
  - (b) whether or not P has begun to make scheme supplies and (if so) the date on which P began to do so, and
  - (c) whether or not P has previously been identified under a non-UK scheme and (if so) the date on which P was first identified under the scheme concerned.
- (3) A registration request must—
- (a) contain any further information, and any declaration about its contents, that the Commissioners may by regulations require, and
  - (b) be made by such electronic means, and in such manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

*Date on which registration takes effect*

- 6 Where a person (“P”) is registered under this Schedule, P's registration takes effect on the date determined in accordance with Article 57d of the Implementing Regulation.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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*Further provision about registration*

- 7 The Commissioners may, by means of a notice published by them, make further provision about registration under this Schedule.

*Notification of changes etc*

- 8 (1) A person (“P”) registered under the OSS scheme must inform the Commissioners of the date when P first makes scheme supplies (unless P has already given the Commissioners that information under paragraph 5(2)(b)).
- (2) That information, and any information P is required to give under Article 57h of the Implementing Regulation (notification of certain changes), must be communicated by such electronic means, and in such manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

*Cancellation of registration*

- 9 The Commissioners must cancel the registration of a person (“P”) under the OSS scheme if—
- (a) P has ceased to make, or no longer intends to make, scheme supplies and has notified the Commissioners of that fact;
  - (b) the Commissioners otherwise determine that P has ceased to make, or no longer intends to make, such supplies;
  - (c) P has ceased to satisfy any of the other requirements for registration in paragraph 4(1) and has notified the Commissioners of that fact,
  - (d) the Commissioners otherwise determine that P has ceased to satisfy any of those conditions, or
  - (e) the Commissioners determine that P has persistently failed to comply with P's obligations in or under this Schedule or the Implementing Regulation.

**PART 3**

LIABILITY, RETURNS, PAYMENT ETC

*Liability to pay non-UK VAT to Commissioners*

- 10 (1) This paragraph applies where a person (“P”)—
- (a) makes a scheme supply, and
  - (b) is registered under the OSS scheme when the supply is made.
- (2) P is liable to pay to the Commissioners the gross amount of VAT on the supply.
- (3) The reference in sub-paragraph (2) to the gross amount of VAT on the supply is to the amount of VAT charged on the supply in accordance with the law of the member State in which the supply is treated as made, without any deduction of VAT pursuant to Article 168 of the VAT Directive.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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*OSS scheme returns*

- 11 (1) A person (“P”) who is or has been registered under the OSS scheme must submit a return (an “OSS scheme return”) to the Commissioners for each reporting period.
- (2) Each quarter for the whole or part of which P is registered under the OSS scheme is a “reporting period” for P.

*OSS scheme returns: further requirements*

- 12 (1) An OSS scheme return is to be made out in sterling.
- (2) Any conversion from one currency into another for the purposes of sub-paragraph (1) is to be made using the exchange rates published by the European Central Bank—
- (a) for the last day of the reporting period to which the OSS scheme return relates, or
  - (b) if no such rate is published for that day, for the next day for which such a rate is published.
- (3) An OSS scheme return—
- (a) must be submitted to the Commissioners before the end of the month following the month in which the last day of the reporting period to which it relates falls;
  - (b) must be submitted by such electronic means, and in such form and manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

*Payment*

- 13 (1) A person who is required to submit an OSS scheme return must pay, by the deadline for submitting the return, the amounts required in accordance with paragraph 10 in respect of scheme supplies made in the reporting period to which the return relates.
- (2) A payment under this paragraph must be made in such manner as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

*Availability of records*

- 14 (1) A person (“P”) who is registered under the OSS scheme must make available to the Commissioners, on request, any obligatory records P is keeping of transactions entered into by P while registered under the scheme.
- (2) The records must be made available by electronic means.
- (3) In sub-paragraph (1) “obligatory records” means records kept in accordance with an obligation imposed in accordance with Article 369k of the VAT Directive.



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*Amounts required to be paid to member States*

- 15 Section 44 of the Commissioners for Revenue and Customs Act 2005 (requirement to pay receipts into the Consolidated Fund) does not apply to any money received for or on account of VAT that is required to be paid to a member State under Article 46 of Council Regulation (EU) No 904/2010.

**PART 4**

PERSONS REGISTERED UNDER NON-UK SPECIAL ACCOUNTING SCHEMES

*Meaning of “a non-UK scheme”*

- 16 (1) In this Schedule “a non-UK scheme” means any provision of the law of a member State which implements Section 3 of Chapter 6 of Title XII of the VAT Directive.
- (2) In relation to a non-UK scheme, references to the “administering member State” are to the member State under whose law the scheme is established.

*Exemption from requirement to register under this Act*

- 17 (1) A participant in a non-UK scheme is not required to be registered under this Act by virtue of making scheme supplies in respect of which the participant is required to make returns under that other scheme.
- (2) Sub-paragraph (1) overrides any contrary provision in this Act.
- (3) Where a participant in a non-UK scheme who is not registered under this Act (“the unregistered person”) makes relevant supplies, it is to be assumed for all purposes of this Act relating to the determination of—
- (a) whether or not VAT is chargeable under this Act on those supplies,
  - (b) how much VAT is chargeable under this Act on those supplies,
  - (c) the time at which those supplies are treated as taking place, and
  - (d) any other matter that the Commissioners may specify by regulations,
- that the unregistered person is registered under this Act.
- (4) Scheme supplies made by the unregistered person are “relevant supplies” if—
- (a) the value of the supplies must be accounted for in a return required to be made by the unregistered person under a non-UK scheme, and
  - (b) the supplies are treated as made in the United Kingdom.

*De-registration*

- 18 (1) Sub-paragraph (2) applies where a person (“P”) who is registered under Schedule 1A or Part 9 of Schedule 9ZA—
- (a) satisfies the Commissioners that P intends to apply for identification under a non-UK scheme, and
  - (b) asks the Commissioners to cancel P's registration under Schedule 1A or Part 9 of Schedule 9ZA (as the case may be).

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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- (2) The Commissioners may cancel P's registration under Schedule 1A or Part 9 of Schedule 9ZA (as the case may be) with effect from—
- (a) the day on which the request is made, or
  - (b) a later date agreed between P and the Commissioners.

*Scheme participants who are also registered under this Act*

- 19 (1) A person (“P”) who—
- (a) is a participant in a non-UK scheme, and
  - (b) is also registered, or required to be registered, under this Act,
- is not required to discharge any obligation placed on them as a taxable person, to the extent that the obligation relates to relevant supplies.
- (2) The reference in sub-paragraph (1) to an obligation placed on P as a taxable person is to an obligation—
- (a) to which P is subject under or by virtue of this Act, and
  - (b) to which P would not be subject if P was neither registered nor required to be registered under this Act.
- (3) A supply made by a participant in a non-UK scheme is a “relevant supply” if—
- (a) the value of the supply must be accounted for in a return required to be made by the participant under that scheme, and
  - (b) the supply is treated as made in the United Kingdom.
- (4) The Commissioners may by regulations specify cases in relation to which sub-paragraph (1) is not to apply.
- (5) In section 25(2) (deduction of input tax from output tax by a taxable person) the reference to output tax that is due from the taxable person does not include any VAT that the taxable person is liable under a non-UK scheme to pay to the tax authorities for the administering member State.

*Value of supplies to connected persons*

- 20 In paragraph 1 of Schedule 6 (valuation: supply to connected person at less than market value) the reference to a supply made by a taxable person is to be read as including a scheme supply that is made by a participant in a non-UK scheme (and is treated as made in the United Kingdom).

*Refund of VAT on supplies of goods and services supplied to scheme participant*

- 21 The power of the Commissioners to make regulations under section 39 (repayment of VAT to those in business overseas) includes power to make provision for giving effect to the second sentence of Article 369j of the VAT Directive (which provides for VAT on certain supplies to participants in special accounting schemes to be refunded in accordance with Directive [2008/9/EC](#)).

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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## PART 5

### COLLECTION OF NON-UK VAT

#### *Assessments: general modifications of section 73*

- 22 (1) For the purposes of this Schedule, section 73 (failure to make returns etc) is to be read as if—
- (a) the reference in subsection (1) of that section to returns required under this Act included relevant non-UK returns, and
  - (b) references in that section to a prescribed accounting period included a tax period.
- (2) See also the modifications in paragraph 23.
- (3) In this Schedule “relevant non-UK return” means a non-UK return (see paragraph 38(1)) that is required to be made (wholly or partly) in respect of scheme supplies that are treated as made in the United Kingdom.

#### *Assessments in connection with increase in consideration: modifications*

- 23 (1) Sub-paragraphs (2) to (4) make modifications of sections 73 and 76 which—
- (a) have effect for the purposes of this Schedule, and
  - (b) are in addition to any other modifications of those sections made by this Schedule.
- (2) Section 73 has effect as if, after subsection (3), there were inserted—
- “(3A) Where a person has failed to make an amendment or notification that the person is required to make under paragraph 33 of Schedule 9ZD in respect of an increase in the consideration for a UK supply (as defined in paragraph 33(7)), the Commissioners may assess the amount of VAT due from the person as a result of the increase to the best of their judgement and notify it to the person.
- (3B) An assessment under subsection (3A)—
- (a) is of VAT due for the tax period mentioned in paragraph 33(1)(a) of Schedule 9ZD;
  - (b) must be made within the time limits provided for in section 77, and must not be made after the end of the period of—
    - (i) 2 years after the end of the tax period referred to in paragraph 33(1)(a) of Schedule 9ZD, or if later,
    - (ii) one year after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.
- (3C) Subject to section 77, where further evidence such as is mentioned in subsection (3B)(b)(ii) comes to the Commissioners' knowledge after they have made an assessment under subsection (3A), another assessment may be made under that subsection, in addition to any earlier assessment.”

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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- (3) The reference in section 73(9) to subsection (1) of that section is taken to include a reference to section 73(3A) (treated as inserted by sub-paragraph (2)).
- (4) Section 76 (assessment of amounts due by way of penalty, interest or surcharge) is to be read as if the reference in subsection (5) of that section to section 73(1) included a reference to section 73(3A) (treated as inserted by sub-paragraph (2)).

*Assessments: consequential modifications*

- 24 References to prescribed accounting periods in the following provisions are to be read in accordance with the modifications made by paragraphs 22 and 23—
  - (a) section 74 (interest on VAT recovered or recoverable by assessment);
  - (b) section 76 (assessment of amounts due by way of penalty, interest or surcharge);
  - (c) section 77 (assessments: time limits etc).

*Deemed amendments of relevant non-UK returns*

- 25 (1) Where a person who has made a relevant non-UK return makes a claim under paragraph 31(7)(b) (overpayments) in relation to an error in the return, the relevant non-UK return is taken for the purposes of this Act to have been amended by the information in the claim.
- (2) Where a person who has made a relevant non-UK return gives the Commissioners a notice relating to the return under paragraph 33(2)(b) (increase or decrease in consideration), the relevant non-UK return is taken for the purposes of this Act to have been amended by that information.
- (3) Where (in a case not falling within sub-paragraph (1) or (2)) a person who has made a relevant non-UK return notifies the Commissioners (after the expiry of the period during which the non-UK return may be amended under Article 61 of the Implementing Regulation) of a change that needs to be made to the return to correct an error, or rectify an omission, in it, the relevant non-UK return is taken for the purposes of this Act to have been amended by that information.

*Interest on VAT: “reckonable date”*

- 26 (1) Sub-paragraph (2) states the “reckonable date” for the purposes of section 74(1) and (2) for any case where an amount carrying interest under that section—
  - (a) is an amount assessed under section 73(2) (refunds etc) in reliance on paragraph 22, or that could have been so assessed, and
  - (b) was correctly paid or credited to the person, but would not have been paid or credited to the person had the facts been as they later turn out to be.
- (2) The “reckonable date” is the first day after the end of the tax period in which the events occurred as a result of which the Commissioners were

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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authorised to make the assessment (that was or could have been made) under section 73(2).

- (3) Sub-paragraph (4) states the “reckonable date” for any other case where an amount carrying interest under section 74 is assessed under section 74(1) or (2) in reliance on paragraph 22, or could have been so assessed.
- (4) The “reckonable date” is taken to be the latest date by which a non- UK return was required to be made for the tax period to which the amount assessed relates.
- (5) Where section 74(1) or (2) (interest on VAT recovered or recoverable by assessment) applies in relation to an amount assessed under section 73(3A) (treated as inserted by paragraph 23(2)), the “reckonable date” for the purposes of section 74(1) or (2) is taken to be the day after the end of the tax period referred to in paragraph 33(2).

*Default surcharge: notice of special surcharge period*

- 27 (1) A person who is required to make a relevant non-UK return for a tax period is regarded for the purposes of this paragraph and paragraph 28 as being in default in respect of that period if either—
  - (a) conditions 1A and 2A are met, or
  - (b) conditions 1B and 2B are met,(but see also paragraph 29).
- (2) The conditions are as follows—
  - (a) condition 1A is that the tax authorities for the administering member State have not received the return by the deadline for submitting it;
  - (b) condition 2A is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the obligation to submit the return;
  - (c) condition 1B is that, by the deadline for submitting the return, those tax authorities have received the return but have not received the amount of VAT shown on the return as payable by the person in respect of the tax period;
  - (d) condition 2B is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the VAT outstanding.
- (3) The Commissioners may serve on a person who is in default in respect of a tax period a notice (a “special surcharge liability notice”) specifying a period—
  - (a) ending on the first anniversary of the last day of that tax period, and
  - (b) beginning on the date of the notice.
- (4) A period specified under sub-paragraph (3) is a “special surcharge period”.
- (5) If a special surcharge liability notice is served in respect of a tax period which ends on or before the day on which an existing special surcharge period ends, the special surcharge period specified in that notice must be expressed as a continuation of the existing special surcharge period (so that the existing period and its extension are regarded as a single special surcharge period).

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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*Further default after service of notice*

- 28 (1) If a person on whom a special surcharge liability notice has been served—
- (a) is in default in respect of a tax period ending within the special surcharge period specified in (or extended by) that notice, and
  - (b) has outstanding special scheme VAT for that tax period,
- the person is to be liable to a surcharge of the amount given by sub-paragraph (2).
- (2) The surcharge is equal to whichever is the greater of—
- (a) £30, and
  - (b) the specified percentage of the person's outstanding special scheme VAT for the tax period.
- (3) The specified percentage depends on whether the tax period is the first, second or third etc period in respect of which the person is in default and has outstanding special scheme VAT, and is—
- (a) for the first such tax period, 2%;
  - (b) for the second such tax period, 5%;
  - (c) for the third such tax period, 10%;
  - (d) for each such tax period after the third, 15%.
- (4) “Special scheme VAT”, in relation to a person, means VAT that the person is liable to pay to the tax authorities for the administering member State under a non-UK scheme in respect of scheme supplies treated as made in the United Kingdom.
- (5) A person has “outstanding special scheme VAT” for a tax period if some or all of the special scheme VAT for which the person is liable in respect of that period has not been paid by the deadline for the person to submit a non-UK return for that period (and the amount unpaid is referred to in sub-paragraph (2)(b) as “the person's outstanding special scheme VAT” for the tax period).

*Default surcharge: exceptions for reasonable excuse etc*

- 29 (1) A person who would otherwise have been liable to a surcharge under paragraph 28(1) is not to be liable to the surcharge if the person satisfies the Commissioners or, on appeal, the tribunal that, in the case of a default which is material to the surcharge—
- (a) the non-UK return or, as the case may be, the VAT shown on that return, was despatched at such a time and in such manner that it was reasonable to expect that it would be received by the tax authorities for the administering member State within the appropriate time limit, or
  - (b) there is a reasonable excuse for the return or the VAT not having been so despatched.
- (2) Where sub-paragraph (1) applies to a person—
- (a) the person is treated as not having been in default in respect of the tax period in question, and

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- (b) accordingly, any special surcharge liability notice the service of which depended on that default is regarded as not having been served.
- (3) A default is “material” to a surcharge if—
  - (a) it is the default which gives rise to the surcharge, under paragraph 28(1), or
  - (b) it is a default which was taken into account in the service of the special surcharge liability notice on which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a tax period ending within the special surcharge period specified in or extended by that notice.
- (4) A default is left out of account for the purposes of paragraphs 27(3) and 28(1) if—
  - (a) the conduct by virtue of which the person is in default is also conduct falling within section 69(1) (breaches of regulatory provisions), and
  - (b) by reason of that conduct the person concerned is assessed to a penalty under that section.
- (5) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a tax period specified in the direction is to be left out of account for the purposes of paragraphs 27(3) and 28(1).
- (6) Section 71(1) (meaning of “reasonable excuse”) applies for the purposes of this paragraph as it applies for the purposes of sections 59 to 70.

*Interest in certain cases of official error*

- 30 (1) Section 78 (interest in certain cases of official error) applies as follows in relation to a case where, due to an error on the part of the Commissioners—
  - (a) a person has accounted under a non-UK scheme for an amount by way of UK VAT that was not UK VAT due from the person, and as a result the Commissioners are liable under paragraph 31 to pay (or repay) an amount to the person, or
  - (b) (in a case not falling within paragraph (a)), a person has paid, in accordance with an obligation under a non-UK scheme, an amount by way of UK VAT that was not UK VAT due from the person and which the Commissioners are in consequence liable to repay to the person.
- (2) Section 78 has effect as if the condition in section 78(1)(a) were met in relation to that person.
- (3) In the application of section 78 as a result of this paragraph, section 78(12) (b) is read as providing that any reference in that section to a return is to a return required to be made under a non-UK scheme.
- (4) In section 78, as it applies as a result of this paragraph, “output tax” has the meaning that expression would have if the reference in section 24(2) to a “taxable person” were to a “person”.

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### *Overpayments*

- 31 (1) A person may make a claim if the person—
- (a) has made a non-UK return for a tax period relating wholly or partly to scheme supplies treated as made in the United Kingdom,
  - (b) has accounted to the tax authorities for the administering member State for VAT in respect of those supplies, and
  - (c) in doing so has brought into account as UK VAT due to those authorities an amount (“the overpaid amount”) that was not UK VAT due to them.
- (2) A person may make a claim if the person has, as a participant in a non-UK scheme, paid (to the tax authorities for the administering member State or to the Commissioners) an amount by way of UK VAT that was not UK VAT due (“the overpaid amount”), otherwise than in the circumstances mentioned in sub-paragraph (1)(c).
- (3) A person who is or has been a participant in a non-UK scheme may make a claim if the Commissioners—
- (a) have assessed the person to VAT for a tax period, and
  - (b) in doing so, have brought into account as VAT an amount (“the amount not due”) that was not VAT due.
- (4) Where a person makes a claim under sub-paragraph (1) or (2), the Commissioners must repay the overpaid amount to the person.
- (5) Where a person makes a claim under sub-paragraph (3), the Commissioners must credit the person with the amount not due.
- (6) Where—
- (a) as a result of a claim under sub-paragraph (3) an amount is to be credited to a person, and
  - (b) after setting any sums against that amount under or by virtue of this Act, some or all of the amount remains to the person's credit,
- the Commissioners must pay (or repay) to the person so much of the amount as remains to the person's credit.
- (7) The reference in sub-paragraph (1) to a claim is to a claim made—
- (a) by correcting, in accordance with Article 61 of the Implementing Regulation, the error in the non-UK return mentioned in sub-paragraph (1)(a), or
  - (b) (after the expiry of the period during which the non-UK return may be amended under Article 61) to the Commissioners.
- (8) Sub-paragraphs (1) and (2) do not require any amount to be repaid except to the extent that is required by Article 63 of the Implementing Regulation.

### *Overpayments: supplementary*

- 32 (1) In section 80 (credit for, or repayment of, overstated or overpaid VAT), subsections (3) to (3C) (unjust enrichment) and (4A), (4C) and (6) (recovery by assessment of amounts wrongly credited) have effect as if—



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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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- (a) a claim—
    - (i) under paragraph 31(1) were a claim under section 80(1),
    - (ii) under paragraph 31(2) were a claim under section 80(1B),
    - and
    - (iii) under paragraph 31(3) were a claim under section 80(1A);
  - (b) references in that section to a prescribed accounting period included a tax period.
- (2) In section 80(3) to (3C), (4A), (4C) and (6), as modified by subparagraph (1), references to the crediting of amounts are to be read as including the payment of amounts.
- (3) The Commissioners are not liable to repay the overpaid amount on a claim made—
  - (a) under paragraph 31(2), or
  - (b) as mentioned in paragraph 31(7)(b),if the claim is made more than 4 years after the relevant date.
- (4) On a claim made under paragraph 31(3), the Commissioners are not liable to credit the amount not due if the claim is made more than 4 years after the relevant date.
- (5) The “relevant date” is—
  - (a) in the case of a claim under paragraph 31(1), the end of the tax period mentioned in paragraph 31(1)(a), except in the case of a claim resulting from an incorrect disclosure;
  - (b) in the case of a claim under paragraph 31(1) resulting from an incorrect disclosure, the end of the tax period in which the disclosure was made;
  - (c) in the case of a claim under paragraph 31(2), the date on which the payment was made;
  - (d) in the case of a claim under paragraph 31(3), the end of the quarter in which the assessment was made.
- (6) A person makes an “incorrect disclosure” where—
  - (a) the person discloses to the tax authorities in question (whether the Commissioners or the tax authorities for the administering member State) that the person has not brought into account for a tax period an amount of UK VAT due for the period (“the disclosed amount”),
  - (b) the disclosure is made in a later tax period, and
  - (c) some or all of the disclosed amount is not in fact VAT due.

*Increase or decrease in consideration for a supply*

- 33 (1) This paragraph applies where—
  - (a) a person makes a non-UK return for a tax period (“the affected tax period”) relating (wholly or partly) to a UK supply, and
  - (b) after the return has been made the amount of the consideration for the UK supply increases or decreases.
- (2) The person must, in the tax period in which the increase or decrease is accounted for in the person's business accounts—

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- (a) amend the non-UK return to take account of the increase or decrease, or
  - (b) (if the period during which the person is entitled under Article 61 of the Implementing Regulation to amend the non-UK return has expired) notify the Commissioners of the adjustment needed to the figures in the non-UK return because of the increase or decrease.
- (3) Where the change to which an amendment or notice under sub-paragraph (2) relates is an increase in the consideration for a UK supply, the person must pay to the tax authorities for the administering member State (in accordance with Article 62 of the Implementing Regulation) or, in a case falling within sub-paragraph (2)(b), the Commissioners, the difference between—
- (a) the amount of VAT that was chargeable on the supply before the increase in consideration, and
  - (b) the amount of VAT that is chargeable in respect of the whole of the increased consideration for the supply.
- (4) Where the change to which an amendment or notice under sub-paragraph (2) relates is a decrease in the consideration for a UK supply, the amendment or notice has effect as a claim; and where a claim is made the Commissioners must repay any VAT paid by the person that would not have been VAT due from the person had the consideration for the supply always been the decreased amount.
- (5) The Commissioners may by regulations specify—
- (a) the latest time by which, and the form and manner in which, a claim or other notice under sub-paragraph (2)(b) must be given;
  - (b) the latest time by which, and the form in which, a payment under sub-paragraph (3) must be made in a case within sub-paragraph (2)(b).
- (6) A payment made under sub-paragraph (3) in a case within sub-paragraph (2)(a) must be made before the end of the tax period referred to in sub-paragraph (2).
- (7) In this paragraph “UK supply” means a scheme supply that is treated as made in the United Kingdom.

#### *Bad debts*

- 34 Where a participant in a non-UK scheme—
- (a) has submitted a non-UK return to the tax authorities for the administering member State, and
  - (b) amends the return to take account of the writing-off as a bad debt of the whole or part of the consideration for a scheme supply that is treated as made in the United Kingdom,
- the amending of the return may be treated as the making of a claim to the Commissioners for the purposes of section 36(2) (bad debts: claim for refund of VAT).

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*Penalties for errors: disclosure*

- 35 Where a person corrects a non-UK return in a way that constitutes telling the tax authorities for the administering member State about—
- (a) an inaccuracy in the return,
  - (b) a supply of false information, or
  - (c) a withholding of information,
- the person is regarded as telling HMRC about that for the purposes of paragraph 9 of Schedule 24 to the Finance Act 2007.

*Set-offs*

- 36 Where a participant in a non-UK scheme is liable to pay UK VAT to the tax authorities for the administering member State in accordance with the scheme, the UK VAT is regarded for the purposes of section 130(6) of the Finance Act 2008 (set-off) as payable to the Commissioners.

**PART 6**

APPEALS

- 37 (1) An appeal lies to the tribunal with respect to any of the following—
- (a) a refusal to register a person under the OSS scheme;
  - (b) the cancellation of the registration of any person under the OSS scheme;
  - (c) a refusal to make a repayment under paragraph 31 (overpayments), or a decision by the Commissioners as to the amount of a repayment due under that provision;
  - (d) a refusal to make a repayment under paragraph 33(4) (decrease in consideration);
  - (e) any liability to a surcharge under paragraph 28 (default surcharge).
- (2) Part 5 of this Act (reviews and appeals), and any order or regulations under that Part, have effect as if an appeal under this paragraph were an appeal which lies to the tribunal under section 83(1) (but not under any particular paragraph of that subsection).
- (3) Where the Commissioners have made an assessment under section 73 in reliance on paragraph 22 or 23—
- (a) section 83(1)(p)(i): (appeals against assessments under section 73(1) etc) applies as if the relevant non-UK return were a return under this Act, and
  - (b) the references in section 84(3) and (5) to the matters mentioned in section 83(1)(p) are to be read accordingly.

**PART 7**

INTERPRETATION

- 38 (1) In this Schedule—

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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“administering member State”, in relation to a non-UK scheme, has the meaning given by paragraph 16(2);

“the Implementing Regulation” means Council Implementing Regulation (EU) No 282/2011;

“non-UK return” means a return required to be made, for a tax period, under a non-UK scheme;

“non-UK scheme” has the meaning given by paragraph 16(1);

“OSS scheme” has the meaning given by paragraph 1(a);

“OSS scheme return” has the meaning given by paragraph 11(1);

“participant”, in relation to a non-UK scheme, means a person who is identified under that scheme;

“relevant non-UK return” has the meaning given by paragraph 22(3);

“reporting period” is to be read in accordance with paragraph 11(2);

“scheme supply” has the meaning given by paragraph 2;

“tax period” means a period for which a person is required to make a return under a non-UK scheme;

“UK VAT” means VAT in respect of scheme supplies treated as made in the United Kingdom;

“the VAT Directive” means Council Directive [2006/112/EC](#) of 28 November 2006 on the common system of value added tax.

- (2) In relation to a non-UK scheme (or a non-UK return), references in this Schedule to “the tax authorities” are to the tax authorities for the member State under whose law the scheme is established.
- (3) References in this Schedule to scheme supplies being “treated as made” in the United Kingdom are to their being treated as made in the United Kingdom by paragraph 29(1) of Schedule 9ZB.

## SCHEDULE 9ZE

Section 40A

### DISTANCE SELLING OF GOODS IMPORTED TO NORTHERN IRELAND: SPECIAL ACCOUNTING SCHEME

#### PART 1

##### INTRODUCTION

###### *Overview*

- 1 In this Schedule—
- (a) Parts 2 and 3 establish a special accounting scheme (the Import One Stop Shop scheme, referred to in this Schedule as the “IOSS scheme”) which may be used by certain persons making supplies of

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- goods to Northern Ireland or into the European Union from countries or territories other than Northern Ireland or member States;
- (b) Part 4 makes provision about the collection of UK VAT on such supplies;
- (c) Part 5 makes provision about IOSS representatives;
- (d) Part 6 makes supplementary provision;
- (e) Part 7 is about appeals;
- (f) Part 8 contains definitions.

#### *Qualifying supplies of goods*

- 2 (1) For the purposes of this Schedule, a supply of goods is a “qualifying supply of goods” if—
  - (a) the supply is a distance sale of goods imported from third territories or third countries for the purposes of the second paragraph of Article 14(4) of the VAT Directive (as modified by sub-paragraph (2)),
  - (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 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 those goods.
- (2) For the purposes of sub-paragraph (1)(a), the second paragraph of Article 14(4) of the VAT Directive is to be read as if after “Member State” there were inserted “ or Northern Ireland ”.

## **PART 2**

### REGISTRATION

#### *The register*

- 3 Persons registered under the IOSS scheme are to be registered in a single register kept by the Commissioners for the purposes of the scheme.

#### *Persons who may be registered*

- 4 A person (“P”) may register under the IOSS scheme if—
  - (a) P makes or intends to make one or more qualifying supplies of goods in the course of a business that P carries on,
  - (b) one of the following applies—
    - (i) P is established in Northern Ireland,
    - (ii) P is established in a country or territory with which the EU has concluded an agreement making provision corresponding or similar to that contained in Council Directive 2010/24/EU or Regulation (EU) No 904/2010, or
    - (iii) P is represented by an IOSS representative established in Northern Ireland (see Part 5),

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- (c) P is not identified under any provision of the law of a member State which implements Section 4 of Chapter 6 of Title XII of the VAT Directive, and
- (d) P is not barred from registering by—
  - (i) the second paragraph of Article 369I(3) of the VAT Directive, or
  - (ii) any provision of the Implementing Regulation.

*Becoming registered*

- 5 (1) The Commissioners must register a person (“P”) under the IOSS scheme if P—
- (a) satisfies them that the requirements for registration are met (see paragraph 4), and
  - (b) makes a request in accordance with this paragraph (a “registration request”).
- (2) A registration request must state—
- (a) P's name and postal and electronic addresses (including any websites);
  - (b) the number (if any) P has been allocated by the tax authorities in the country in which P belongs;
  - (c) the date on which P began, or intends to begin, making qualifying supplies of goods.
- (3) A registration request must include a statement—
- (a) that P is not established in a member State, or
  - (b) that P is so established, but is represented by an IOSS representative established in Northern Ireland.
- (4) A registration request must—
- (a) contain any further information, and any declaration about its contents, that the Commissioners may by regulations require, and
  - (b) be made by such electronic means, and in such manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

*Date on which registration takes effect*

- 6 Where a person (“P”) is registered under this Schedule, P's registration takes effect on the date determined in accordance with Article 57d of the Implementing Regulation.

*Further provision about registration*

- 7 (1) Where the Commissioners register a person under the IOSS scheme who is an IOSS representative the Commissioners must also register under the IOSS scheme each person represented by the representative.
- (2) The Commissioners may, by means of a notice published by them, make further provision about registration under this Schedule.

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*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)

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*Notification of changes etc*

- 8 A notification under Article 57h of the Implementing Regulation (notification of certain changes) must be given by such electronic means, and in such manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations prescribe.

*Cancellation of registration*

- 9 The Commissioners must cancel the registration of a person (“P”) under the IOSS scheme if—
- (a) P has ceased to make, or no longer intends to make, qualifying supplies of goods and has notified the Commissioners of that fact,
  - (b) the Commissioners otherwise determine that P has ceased to make, or no longer intends to make, such supplies,
  - (c) P has ceased to satisfy any of the other conditions for registration in paragraph 4 and has notified the Commissioners of that fact,
  - (d) the Commissioners otherwise determine that P has ceased to satisfy any of those conditions,
  - (e) the Commissioners determine that P has persistently failed to comply with P's obligations in or under this Schedule or the Implementing Regulation, or
  - (f) any of the circumstances described in Article 369r(3)(a) to (e) of the VAT Directive occur in relation to P.

**PART 3**

LIABILITY, RETURNS, PAYMENT ETC

*Liability to pay VAT to Commissioners*

- 10 (1) This paragraph applies where a person (“P”)—
- (a) makes a qualifying supply of goods, and
  - (b) is registered under the IOSS scheme when the supply is made.
- (2) P is liable to pay to the Commissioners the VAT on the supply under and in accordance with this Schedule.
- (3) The amount of VAT which a person is liable to pay on the supply is to be determined in accordance with sub-paragraphs (4) to (6), without any deduction of VAT pursuant to Article 168 of the VAT Directive.
- (4) If the supply is treated as made in the United Kingdom, the amount is the amount of VAT charged on the supply under this Act (see paragraph 34(2)) and that amount is to be regarded for the purposes of this Act as VAT charged in accordance with this Act.
- (5) In a case where sub-paragraph (4) applies and—
- (a) P has a business establishment, or some other fixed establishment, in the United Kingdom in relation to a business carried on by P, and

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(b) P is not registered, or liable to be registered, under Schedule 1, no VAT is chargeable on the supply under this Act.

- (6) If the supply is treated as made in a member State, the amount is the amount of VAT charged on the supply in accordance with the law of that member State.

*IOSS scheme returns*

- 11 (1) A person (“P”) who is, or has been, registered under this Schedule must submit a return (an “IOSS scheme return”) to the Commissioners for each reporting period.
- (2) Each month for the whole or any part of which P is registered under this Schedule is a “reporting period” for P.

*IOSS scheme returns: further requirements*

- 12 (1) An IOSS scheme return is to be made out in sterling.
- (2) Any conversion from one currency into another for the purposes of subparagraph (1) is to be made using the exchange rates published by the European Central Bank—
- (a) for the last day of the reporting period to which the IOSS scheme return relates, or
- (b) if no such rate is published for that day, for the next day for which such a rate is published.
- (3) An IOSS scheme return—
- (a) must be submitted to the Commissioners before the end of the calendar month following the month in which the last day of the reporting period to which it relates falls;
- (b) must be submitted by such electronic means, and in such form and manner, as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

*Payment*

- 13 (1) A person who is required to submit an IOSS scheme return must pay, by the deadline for submitting the return, the amounts required in accordance with paragraph 10 in respect of qualifying supplies of goods made in the reporting period to which the return relates.
- (2) A payment under this paragraph must be made in such manner as the Commissioners may direct (by means of a notice published by them or otherwise) or may by regulations require.

*Availability of records*

- 14 (1) A person (“P”) who is registered under the IOSS scheme must make available to the Commissioners, on request, any obligatory records P is keeping of transactions entered into by P while registered under the scheme.
- (2) The records must be made available by electronic means.



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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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- (3) In sub-paragraph (1) “obligatory records” means records kept in accordance with an obligation imposed in accordance with Article 369x of the VAT Directive.

*Amounts required to be paid to member States*

- 15 Section 44 of the Commissioners for Revenue and Customs Act 2005 (requirement to pay receipts into the Consolidated Fund) does not apply to any money received for or on account of VAT that is required to be paid to a member State under Article 46 of Council Regulation (EU) No 904/2010.

## PART 4

### COLLECTION ETC OF UK VAT

*Assessments: general modifications of section 73*

- 16 (1) For the purposes of this Schedule, section 73 (failure to make returns etc) is to be read as if—
- (a) the reference in subsection (1) of that section to returns required under this Act included relevant special scheme returns, and
  - (b) references in that section to a prescribed accounting period included a tax period.
- (2) See also the modifications in paragraph 17.
- (3) In this Schedule “relevant special scheme return” means a special scheme return (see paragraph 43(1)) that is required to be made (wholly or partly) in respect of qualifying supplies of goods that are treated as made in the United Kingdom.

*Assessments in connection with increase in consideration: modifications*

- 17 (1) Sub-paragraphs (2) to (4) make modifications of sections 73 and 76 which—
- (a) have effect for the purposes of this Schedule, and
  - (b) are in addition to any other modifications of those sections made by this Schedule.
- (2) Section 73 has effect as if, after subsection (3), there were inserted—
- “(3A) Where a person has failed to make an amendment or notification that the person is required to make under paragraph 27 of Schedule 9ZE in respect of an increase in the consideration for a UK supply (as defined in paragraph 27(7)), the Commissioners may assess the amount of VAT due from the person as a result of the increase to the best of their judgement and notify it to the person.
- (3B) An assessment under subsection (3A)—
- (a) is of VAT due for the tax period mentioned in paragraph 27(1)(a) of Schedule 9ZE;
  - (b) must be made within the time limits provided for in section 77, and must not be made after the end of the period of—

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- (i) 2 years after the end of the tax period referred to in paragraph 27(1)(a), or if later,
  - (ii) one year after evidence of facts sufficient in the opinion of the Commissioners to justify making the assessment comes to their knowledge.
- (3C) Subject to section 77, where further evidence such as is mentioned in subsection (3B)(b)(ii) comes to the Commissioners' knowledge after they have made an assessment under subsection (3A), another assessment may be made under that subsection, in addition to any earlier assessment.”
- (3) The reference in section 73(9) to subsection (1) of that section is taken to include a reference to section 73(3A) (treated as inserted by sub-paragraph (2)).
- (4) Section 76 (assessment of amounts due by way of penalty, interest or surcharge) is to be read as if the reference in subsection (5) of that section to section 73(1) included a reference to section 73(3A) (treated as inserted by sub-paragraph (2)).

*Assessments: consequential modifications*

- 18 References to prescribed accounting periods in the following provisions are to be read in accordance with the modifications made by paragraphs 16 and 17—
- (a) section 74 (interest on VAT recovered or recoverable by assessment);
  - (b) section 76 (assessment of amounts due by way of penalty, interest or surcharge);
  - (c) section 77 (assessments: time limits etc).

*Deemed amendments of relevant non-UK returns*

- 19 (1) Where a person who has made a relevant special scheme return makes a claim under paragraph 25(7)(b) (overpayments) in relation to an error in the return, the relevant special scheme return is taken for the purposes of this Act to have been amended by the information in the claim.
- (2) Where a person who has made a relevant special scheme return gives the Commissioners a notice relating to the return under paragraph 27(2)(b) (increase or decrease in consideration), the relevant special scheme return is taken for the purposes of this Act to have been amended by that information.
- (3) Where (in a case not falling within sub-paragraph (1) or (2)) a person who has made a relevant special scheme return notifies the Commissioners (after the expiry of the period during which the special scheme return may be amended under Article 61 of the Implementing Regulation) of a change that needs to be made to the return to correct an error, or rectify an omission, in it, the relevant special scheme return is taken for the purposes of this Act to have been amended by that information.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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*Interest on VAT: “reckonable date”*

- 20 (1) Sub-paragraph (2) states the “reckonable date” for the purposes of section 74(1) and (2) for any case where an amount carrying interest under that section—
- (a) is an amount assessed under section 73(2) (refunds etc) in reliance on paragraph 16, or that could have been so assessed, and
  - (b) was correctly paid or credited to the person, but would not have been paid or credited to the person had the facts been as they later turn out to be.
- (2) The “reckonable date” is the first day after the end of the tax period in which the events occurred as a result of which the Commissioners were authorised to make the assessment (that was or could have been made) under section 73(2).
- (3) Sub-paragraph (4) states the “reckonable date” for any other case where an amount carrying interest under section 74 is assessed under section 74(1) or (2) in reliance on paragraph 16, or could have been so assessed.
- (4) The “reckonable date” is taken to be the latest date by which a non- UK return was required to be made for the tax period to which the amount assessed relates.
- (5) Where section 74(1) or (2) (interest on VAT recovered or recoverable by assessment) applies in relation to an amount assessed under section 73(3A) (treated as inserted by paragraph 17(2)), the “reckonable date” for the purposes of section 74(1) or (2) is taken to be the day after the end of the tax period referred to in paragraph 27(2).

*Default surcharge: notice of special surcharge period*

- 21 (1) A person who is required to make a relevant special scheme return for a tax period is regarded for the purposes of this paragraph and paragraph 22 as being in default in respect of that period if either—
- (a) conditions 1A and 2A are met, or
  - (b) conditions 1B and 2B are met,
- (but see also paragraph 23).
- (2) The conditions are as follows—
- (a) condition 1A is that the tax authorities for the administering member State have not received the return by the deadline for submitting it;
  - (b) condition 2A is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the obligation to submit the return;
  - (c) condition 1B is that, by the deadline for submitting the return, those tax authorities have received the return but have not received the amount of VAT shown on the return as payable by the person in respect of the tax period;
  - (d) condition 2B is that those tax authorities have, in accordance with Article 60a of the Implementing Regulation, issued a reminder of the VAT outstanding.

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- (3) The Commissioners may serve on a person who is in default in respect of a tax period a notice (a “special surcharge liability notice”) specifying a period—
  - (a) ending on the first anniversary of the last day of that tax period, and
  - (b) beginning on the date of the notice.
- (4) A period specified under sub-paragraph (3) is a “special surcharge period”.
- (5) If a special surcharge liability notice is served in respect of a tax period which ends on or before the day on which an existing special surcharge period ends, the special surcharge period specified in that notice must be expressed as a continuation of the existing special surcharge period (so that the existing period and its extension are regarded as a single special surcharge period).

*Further default after service of notice*

- 22 (1) If a person on whom a special surcharge liability notice has been served—
  - (a) is in default in respect of a tax period ending within the special surcharge period specified in (or extended by) that notice, and
  - (b) has outstanding special scheme VAT for that tax period,
 the person is to be liable to a surcharge of the amount given by sub-paragraph (2).
- (2) The surcharge is equal to whichever is the greater of—
  - (a) £30, and
  - (b) the specified percentage of the person's outstanding special scheme VAT for the tax period.
- (3) The specified percentage depends on whether the tax period is the first, second or third etc period in respect of which the person is in default and has outstanding special scheme VAT, and is—
  - (a) for the first such tax period, 2%;
  - (b) for the second such tax period, 5%;
  - (c) for the third such tax period, 10%;
  - (d) for each such tax period after the third, 15%.
- (4) “Special scheme VAT”, in relation to a person, means VAT that the person is liable to pay to the tax authorities for the administering member State under a special scheme in respect of qualifying supplies of goods treated as made in the United Kingdom.
- (5) A person has “outstanding special scheme VAT” for a tax period if some or all of the special scheme VAT for which the person is liable in respect of that period has not been paid by the deadline for the person to submit a special scheme return for that period (and the amount unpaid is referred to in sub-paragraph (2)(b) as “the person's outstanding special scheme VAT” for the tax period).

*Default surcharge: exceptions for reasonable excuse etc*

- 23 (1) A person who would otherwise have been liable to a surcharge under paragraph 22(1) is not to be liable to the surcharge if the person satisfies the

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Commissioners or, on appeal, the tribunal that, in the case of a default which is material to the surcharge—

- (a) the special scheme return or, as the case may be, the VAT shown on that return, was despatched at such a time and in such manner that it was reasonable to expect that it would be received by the tax authorities for the administering member State within the appropriate time limit, or
  - (b) there is a reasonable excuse for the return or the VAT not having been so despatched.
- (2) Where sub-paragraph (1) applies to a person—
- (a) the person is treated as not having been in default in respect of the tax period in question, and
  - (b) accordingly, any special surcharge liability notice the service of which depended on that default is regarded as not having been served.
- (3) A default is “material” to a surcharge if—
- (a) it is the default which gives rise to the surcharge, under paragraph 22(1), or
  - (b) it is a default which was taken into account in the service of the special surcharge liability notice on which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a tax period ending within the special surcharge period specified in or extended by that notice.
- (4) A default is left out of account for the purposes of paragraphs 21(3) and 22(1) if—
- (a) the conduct by virtue of which the person is in default is also conduct falling within section 69(1) (breaches of regulatory provisions), and
  - (b) by reason of that conduct the person concerned is assessed to a penalty under that section.
- (5) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a tax period specified in the direction is to be left out of account for the purposes of paragraphs 21(3) and 22(1).
- (6) Section 71(1) (meaning of “reasonable excuse”) applies for the purposes of this paragraph as it applies for the purposes of sections 59 to 70.

*Interest in certain cases of official error*

- 24 (1) Section 78 (interest in certain cases of official error) applies as follows in relation to a case where, due to an error on the part of the Commissioners—
- (a) a person has accounted under a special scheme for an amount by way of UK VAT that was not UK VAT due from the person, and as a result the Commissioners are liable under paragraph 25 to pay (or repay) an amount to the person, or
  - (b) (in a case not falling within paragraph (a)), a person has paid, in accordance with an obligation under a special scheme, an amount by way of UK VAT that was not UK VAT due from the person and which the Commissioners are in consequence liable to repay to the person.

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- (2) Section 78 has effect as if the condition in section 78(1)(a) were met in relation to that person.
- (3) In the application of section 78 as a result of this paragraph, section 78(12)(b) is read as providing that any reference in that section to a return is to a return required to be made under a non-UK special scheme.
- (4) In section 78, as it applies as a result of this section, “output tax” has the meaning that expression would have if the reference in section 24(2) to a “taxable person” were to a “person”.

### *Overpayments*

- 25 (1) A person may make a claim if the person—
- (a) has made a special scheme return for a tax period relating wholly or partly to qualifying supplies of goods treated as made in the United Kingdom,
  - (b) has accounted to the tax authorities for the administering member State for VAT in respect of those supplies, and
  - (c) in doing so has brought into account as UK VAT due to those authorities an amount (“the overpaid amount”) that was not UK VAT due to them.
- (2) A person may make a claim if the person has, as a participant in a special scheme, paid (to the tax authorities for the administering member State or to the Commissioners) an amount by way of UK VAT that was not UK VAT due (“the overpaid amount”), otherwise than in the circumstances mentioned in sub-paragraph (1)(c).
- (3) A person who is or has been a participant in a special scheme may make a claim if the Commissioners—
- (a) have assessed the person to VAT for a tax period, and
  - (b) in doing so, have brought into account as VAT an amount (“the amount not due”) that was not VAT due.
- (4) Where a person makes a claim under sub-paragraph (1) or (2), the Commissioners must repay the overpaid amount to the person.
- (5) Where a person makes a claim under sub-paragraph (3), the Commissioners must credit the person with the amount not due.
- (6) Where—
- (a) as a result of a claim under sub-paragraph (3) an amount is to be credited to a person, and
  - (b) after setting any sums against that amount under or by virtue of this Act, some or all of the amount remains to the person's credit,
- the Commissioners must pay (or repay) to the person so much of the amount as remains to the person's credit.
- (7) The reference in sub-paragraph (1) to a claim is to a claim made—
- (a) by correcting, in accordance with Article 61 of the Implementing Regulation, the error in the special scheme return mentioned in sub-paragraph (1)(a), or

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- (b) (after the expiry of the period during which the special scheme return may be amended under Article 61) to the Commissioners.
- (8) Sub-paragraphs (1) and (2) do not require any amount to be repaid except to the extent that is required by Article 63 of the Implementing Regulation.

*Overpayments: supplementary*

- 26 (1) In section 80 (credit for, or repayment of, overstated or overpaid VAT), subsections (3) to (3C) (unjust enrichment) and (4A), (4C) and (6) (recovery by assessment of amounts wrongly credited) have effect as if—
- (a) a claim—
    - (i) under paragraph 25(1) were a claim under section 80(1),
    - (ii) under paragraph 25(2) were a claim under section 80(1B),
    - and
    - (iii) under paragraph 25(3) were a claim under section 80(1A);
  - (b) references in that section to a prescribed accounting period included a tax period.
- (2) In section 80(3) to (3C), (4A), (4C) and (6), as modified by sub-paragraph (1), references to the crediting of amounts are to be read as including the payment of amounts.
- (3) The Commissioners are not liable to repay the overpaid amount on a claim made—
- (a) under paragraph 25(2), or
  - (b) as mentioned in paragraph 25(7)(b),
- if the claim is made more than 4 years after the relevant date.
- (4) On a claim made under paragraph 25(3), the Commissioners are not liable to credit the amount not due if the claim is made more than 4 years after the relevant date.
- (5) The “relevant date” is—
- (a) in the case of a claim under paragraph 25(1), the end of the tax period mentioned in paragraph 25(1)(a), except in the case of a claim resulting from an incorrect disclosure;
  - (b) in the case of a claim under paragraph 25(1) resulting from an incorrect disclosure, the end of the tax period in which the disclosure was made;
  - (c) in the case of a claim under paragraph 25(2), the date on which the payment was made;
  - (d) in the case of a claim under paragraph 25(3), the end of the quarter in which the assessment was made.
- (6) A person makes an “incorrect disclosure” where—
- (a) the person discloses to the tax authorities in question (whether the Commissioners or the tax authorities for the administering member State) that the person has not brought into account for a tax period an amount of UK VAT due for the period (“the disclosed amount”),
  - (b) the disclosure is made in a later tax period, and
  - (c) some or all of the disclosed amount is not in fact VAT due.

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*Increase or decrease in consideration for a supply*

- 27 (1) This paragraph applies where—
- (a) a person makes a special scheme return for a tax period (“the affected tax period”) relating (wholly or partly) to a UK supply, and
  - (b) after the return has been made the amount of the consideration for the UK supply increases or decreases.
- (2) The person must, in the tax period in which the increase or decrease is accounted for in the person's business accounts—
- (a) amend the special scheme return to take account of the increase or decrease, or
  - (b) (if the period during which the person is entitled under Article 61 of the Implementing Regulation to amend the special scheme return has expired) notify the Commissioners of the adjustment needed to the figures in the special scheme return because of the increase or decrease.
- (3) Where the change to which an amendment or notice under sub-paragraph (2) relates is an increase in the consideration for a UK supply, the person must pay to the tax authorities for the administering member State (in accordance with Article 62 of the Implementing Regulation) or, in a case falling within sub-paragraph (2)(b), the Commissioners, the difference between—
- (a) the amount of VAT that was chargeable on the supply before the increase in consideration, and
  - (b) the amount of VAT that is chargeable in respect of the whole of the increased consideration for the supply.
- (4) Where the change to which an amendment or notice under sub-paragraph (2) relates is a decrease in the consideration for a UK supply, the amendment or notice has effect as a claim; and where a claim is made the Commissioners must repay any VAT paid by the person that would not have been VAT due from the person had the consideration for the supply always been the decreased amount.
- (5) The Commissioners may by regulations specify—
- (a) the latest time by which, and the form and manner in which, a claim or other notice under sub-paragraph (2)(b) must be given;
  - (b) the latest time by which, and the form in which, a payment under sub-paragraph (3) must be made in a case within sub-paragraph (2)(b).
- (6) A payment made under sub-paragraph (3) in a case within sub-paragraph (2)(a) must be made before the end of the tax period referred to in sub-paragraph (2).
- (7) In this paragraph “UK supply” means a qualifying supply of goods that is treated as made in the United Kingdom.

*Bad debts*

- 28 Where a participant in a special scheme—



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- (a) has submitted a special scheme return to the tax authorities for the administering member State, and
- (b) amends the return to take account of the writing-off as a bad debt of the whole or part of the consideration for a qualifying supply of goods that is treated as made in the United Kingdom,

the amending of the return may be treated as the making of a claim to the Commissioners for the purposes of section 36(2) (bad debts: claim for refund of VAT).

*Penalties for errors: disclosure*

- 29 Where a person corrects a special scheme return in a way that constitutes telling the tax authorities for the administering member State about—
- (a) an inaccuracy in the return,
  - (b) a supply of false information, or
  - (c) a withholding of information,

the person is regarded as telling HMRC about that for the purposes of paragraph 9 of Schedule 24 to the Finance Act 2007 (reductions for disclosure).

*Set-offs*

- 30 Where a participant in a special scheme is liable to pay UK VAT to the tax authorities for the administering member State in accordance with the scheme, the UK VAT is regarded for the purposes of section 130(6) of the Finance Act 2008 (set-off) as payable to the Commissioners.

## PART 5

### IOSS REPRESENTATIVES

*Eligibility and representation*

- 31 (1) A person may register as an IOSS representative for the purposes of the IOSS scheme if the person is established in Northern Ireland.
- (2) A person may not be represented by more than one IOSS representative at a time.

*Register*

- 32 (1) Before a person (“R”) can be registered as an IOSS representative, R must provide to the Commissioners the information required by Article 369p(2) and (3) of the VAT Directive.
- (2) The Commissioners may by regulations or by means of a notice published by them make further provision about the registration of a person as an IOSS representative.
- (3) The provision that may be made under sub-paragraph (2) includes provision—

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- (a) requiring the registration of the names of IOSS representatives against the names of the person (or persons) they represent in the register kept for the purposes of this Schedule;
- (b) imposing requirements to be met before a person may be registered in that register as an IOSS representative or before such registration may be cancelled;
- (c) making it the duty of an IOSS representative, for the purposes of registration, to notify the Commissioners, within such period as may be prescribed, that the representative's appointment has taken effect or has ceased to have effect;
- (d) allowing the Commissioners to refuse to register a person as an IOSS representative, or to cancel a person's registration as an IOSS representative, in such circumstances as may be specified in the regulations;
- (e) as to the manner and circumstances in which a person is to be appointed, or is to be treated as having ceased to be, an IOSS representative;
- (f) about the making or deletion of entries relating to IOSS representatives in the register kept for the purposes of this Schedule.

*Duties and obligations*

- 33 Where a person registered under the IOSS scheme (“P”) is represented by an IOSS representative (“R”), R—
- (a) may act on P's behalf in relation to the IOSS scheme,
  - (b) must secure (where appropriate by acting on P's behalf) P's compliance with and discharge of the obligations and liabilities to which P is subject by virtue of or under this Schedule, and
  - (c) is personally liable in respect of—
    - (i) any failure to secure P's compliance with or discharge of any such obligation or liability, and
    - (ii) anything done for purposes connected with acting on P's behalf,
 as if the obligations and liabilities imposed on P were imposed jointly and severally on R and P.

**PART 6**

SUPPLEMENTARY PROVISION

*Registration under this Act*

- 34 (1) Notwithstanding any provision in this Act to the contrary (apart from paragraph 1(1A) of Schedule 1 as it has effect in accordance with paragraph 7 of Schedule 9ZF), a participant in a special scheme is not required to be registered under this Act by virtue of making qualifying supplies of goods.
- (2) Where a participant in a special scheme (“the scheme participant”) makes relevant supplies, it is to be assumed for all purposes of this Act relating to the determination of—

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- (a) whether or not VAT is chargeable under this Act on those supplies,
  - (b) how much VAT is chargeable under this Act on those supplies, and
  - (c) any other matter that the Commissioners may specify by regulations, that the scheme participant is registered under this Act.
- (3) Supplies of scheme services made by the scheme participant are “relevant supplies” if—
- (a) the value of the supplies must be accounted for in a special scheme return, and
  - (b) the supplies are treated as made in the United Kingdom.
- (4) References in this Schedule to a person being registered under this Act do not include a reference to that person being registered under the IOSS scheme.

#### *De-registration*

- 35 Where a person (“P”) who is registered under Schedule 1 or 1A solely by virtue of the fact that P makes or intends to make qualifying supplies of goods satisfies the Commissioners that P intends to apply for—
- (a) registration under this Schedule, or
  - (b) identification under any provision of the law of a member State which implements Section 4 of Chapter 6 of Title XII of the VAT Directive,
- the Commissioners may, if P so requests, cancel P’s registration under Schedule 1 or, as the case may be, 1A with effect from the day on which the request is made or from such later date as may be agreed between P and the Commissioners.

#### *Scheme participants who are also registered under this Act*

- 36 (1) A person who—
- (a) is a participant in a special scheme, and
  - (b) is also registered, or required to be registered, under this Act,
- is not required to discharge any obligation placed on the person as a taxable person, so far as the obligation relates to relevant supplies unless the obligation is an input tax obligation.
- (2) The reference in sub-paragraph (1) to an obligation placed on the person as a taxable person is to an obligation—
- (a) to which the person is subject under or by virtue of this Act, and
  - (b) to which the person would not be subject if the person were neither registered nor required to be registered under this Act.
- (3) A supply made by a participant in a special scheme is a “relevant supply” if—
- (a) the value of the supply must be accounted for in a return required to be made by the participant under the special scheme, and
  - (b) the supply is treated as made in the United Kingdom.
- (4) In section 25(2) (deduction of input tax from output tax by a taxable person) the reference to output tax that is due from the taxable person does not

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include any VAT that the taxable person is liable under a special scheme to pay to the tax authorities for the administering member State.

- (5) In this paragraph, “input tax obligation” means an obligation imposed on a taxable person relating to a claim to deduct under section 25(2) or to the payment of a VAT credit.

*No import VAT chargeable on qualifying supplies of goods*

- 37 No charge to VAT occurs on the importation of goods into the United Kingdom as a result of their entry into Northern Ireland, or their removal to Northern Ireland from Great Britain, where—
- (a) that importation is in the course of a supply of those goods which is a qualifying supply of goods, and
  - (b) the person making the supply is registered under the IOSS scheme.

*Time and place of supply of goods*

- 38 (1) Sub-paragraphs (3) and (4) apply (instead of sections 6 and 7) for the purposes of determining when and where a supply of goods within sub-paragraph (2) takes place.
- (2) A supply of goods is within this sub-paragraph where—
- (a) the supply of those goods is a qualifying supply of goods,
  - (b) the supply is not facilitated by an online marketplace,
  - (c) the person making the supply is registered under the IOSS scheme, and
  - (d) the goods are supplied to a person in Northern Ireland or a member State.
- (3) The supply of goods is to be treated as taking place at the time when payment for the goods has been accepted, within the meaning of Article 61b of the Implementing Regulation.
- (4) The goods are to be treated as supplied—
- (a) in the case of goods supplied to a person in Northern Ireland, in the United Kingdom;
  - (b) in the case of goods supplied to a person in a member State, in that member State.

*Place of supply of goods: supplies facilitated by online marketplaces*

- 39 (1) Sub-paragraph (2) applies (instead of section 6) to a supply of goods deemed to have taken place by section 5B(2)(a) or (b) as it has effect in accordance with paragraph 1B of Schedule 9ZC.
- (2) The supply of goods is to be treated as taking place at the time when payment for the goods has been accepted within the meaning of Article 41a of the Implementing Regulation.
- (3) Sub-paragraph (4) applies (instead of section 7) to a supply of goods deemed to have taken place by section 5B(2)(a) where the operator of the online

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marketplace that facilitated the supply of goods from P to R (within the meaning of that section) is registered under the IOSS scheme.

- (4) The supply of goods is to be treated as taking place outside the United Kingdom.
- (5) Sub-paragraph (6) applies (instead of section 7) to a supply of goods deemed to have taken place by section 5B(2)(b) where the operator of the online marketplace that facilitated the supply of goods from P to R (within the meaning of that section) is registered under the IOSS scheme.
- (6) The supply of goods is to be treated as taking place in the United Kingdom.

#### *VAT representatives*

- 40 Section 48(1ZA) (VAT representatives) does not permit the Commissioners to direct a participant in a special scheme to appoint a VAT representative.

#### *Refund of UK VAT*

- 41 (1) Part 21 of the Value Added Tax Regulations 1995 (S.I. 1995/2518) has effect in relation to a person registered under the IOSS scheme as it applies to a trader (within the meaning of those Regulations) subject to the following modifications.
- (2) Regulation 186 (repayments of VAT) has effect as if after “imported by him into the United Kingdom” there were inserted “by virtue of their entry into Northern Ireland”.
  - (3) That Part has effect as if regulations 187, 188(1) and 188(2)(b) were omitted (VAT representatives and persons to whom Part 21 applies).

## **PART 7**

### **APPEALS**

#### *Appeals*

- 42 (1) An appeal lies to the tribunal with respect to any of the following—
- (a) a refusal to register a person under the IOSS scheme;
  - (b) the cancellation of the registration of any person under the IOSS scheme;
  - (c) a refusal to make a repayment under paragraph 25 (overpayments), or a decision by the Commissioners as to the amount of a repayment due under that provision;
  - (d) a refusal to make a repayment under paragraph 27(4) (decrease in consideration);
  - (e) any liability to a surcharge under paragraph 22 (default surcharge).
- (2) Part 5 of this Act (reviews and appeals), and any order or regulations under that Part, have effect as if an appeal under this paragraph were an appeal which lies to the tribunal under section 83(1) (but not under any particular paragraph of that subsection).

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- (3) Where the Commissioners have made an assessment under section 73 in reliance on paragraph 16 or 17—
- (a) section 83(1)(p)(i) (appeals against assessments under section 73(1) etc) applies as if the special scheme return were a return under this Act, and
  - (b) the references in section 84(3) and (5) to the matters mentioned in section 83(1)(p) are to be read accordingly.

## PART 8

### INTERPRETATION

#### *Interpretation*

43 (1) In this Schedule—

“administering member State”, in relation to a special scheme, means the member State under whose law the scheme is established;

“the Implementing Regulation” means Council Implementing Regulation (EU) No 282/2011;

“IOSS scheme” has the meaning given by paragraph 1(a);

“IOSS scheme return” has the meaning given by paragraph 11(1);

“participant in a special scheme” means a person who—

- (a) is registered under the IOSS scheme, or
- (b) is identified under any provision of the law of a member State which implements Section 4 of Chapter 6 of Title XII of the VAT Directive;

“qualifying supply of goods” has the meaning given by paragraph 2;

“registration request” is to be construed in accordance with paragraph 5(1)(b);

“relevant special scheme return” has the meaning given by paragraph 16(3);

“reporting period” is to be read in accordance with paragraph 11(2);

“special scheme” means—

- (a) the accounting scheme under this Schedule, or
- (b) any other scheme, under the law of a member State, implementing Section 4 of Chapter 6 of Title XII of the VAT Directive;

“special scheme return” means—

- (a) an IOSS scheme return, or
- (b) a value added tax return submitted to the tax authorities of a member State;

“tax period” means—

- (a) a reporting period (under the accounting scheme under this Schedule), or

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(b) any other period for which a person is required to make a return under a special scheme;

“UK VAT” means VAT which a person is liable to pay (whether in the United Kingdom or a member State) in respect of qualifying supplies treated as made in the United Kingdom at a time when the person is or was a participant in a special scheme;

“value added tax return”, in relation to a member State, means any value added tax return required to be submitted under any provision of the law of that member State which implements Article 369s of the VAT Directive;

“the VAT Directive” means Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

(2) References in this Schedule to qualifying supplies of goods being “treated as made”—

- (a) in the United Kingdom are to their being treated as made in the United Kingdom by paragraph 38 or 39;
- (b) in a member State are to their being treated as made in that member State by virtue of any provision of the law of that member State which gives effect to Article 33(c) of the VAT Directive.

## SCHEDULE 9ZF

Section 40A

### MODIFICATIONS ETC IN CONNECTION WITH SCHEDULES 9ZD AND 9ZE

#### PART 1

##### MODIFICATIONS OF THIS ACT

- 1 This Act has effect subject to the following modifications.
- 2 In section 4 (scope of VAT on taxable supplies), after subsection (1) insert—

“(1A) But a person is not a “taxable person” for the purposes of subsection (1) merely by virtue of the person being registered under Schedule 9ZD (the OSS scheme).”
- 3 (1) Section 76 (assessment of amounts due by way of penalty, interest or surcharge) has effect subject to the following modifications.
  - (2) Subsection (1)(a) has effect as if for “or 59A,” there were substituted “ , section 59A, paragraph 28 of Schedule 9ZD or paragraph 22 of Schedule 9ZE, ”.
  - (3) That section has effect as if after subsection (3) there were inserted—

“(3A) In the case of a surcharge under paragraph 28 of Schedule 9ZD or paragraph 22 of Schedule 9ZE, the assessment under this section is of an amount due in respect of “the relevant period”, that is to say, the tax period (see section 76A) in respect of which the person is in default and in respect of which the surcharge arises.”

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4 This Act has effect as if after section 76 there were inserted—

**“76A Section 76: cases involving special accounting schemes**

(1) References in section 76 to a prescribed accounting period are to be read as including a tax period so far as that is necessary for the purposes of the references in section 76(1)(a) to paragraph 28 of Schedule 9ZD and paragraph 22 of Schedule 9ZE (assessment of surcharge in certain cases involving special accounting schemes).

(2) References in section 77 to a prescribed accounting period are to be read accordingly.

(3) In this section and section 76 “tax period” means a tax period as defined in paragraph 38 of Schedule 9ZD or paragraph 43 of Schedule 9ZE, as the case may be.”

5 Section 80 (credit for, or repayment of, overstated or overpaid VAT) has effect as if in subsection (7), after “this section” there were inserted “ (and paragraph 31 of Schedule 9ZD and paragraph 25 of Schedule 9ZE) ”.

6 Section 84 (further provision about appeals) has effect as if in subsection (6), after “section 70” there were inserted “ or (as the case may be) paragraph 28 of Schedule 9ZD or paragraph 22 of Schedule 9ZE ”.

7 Schedule 1 (registration in respect of taxable supplies: UK establishment) has effect as if in paragraph 1 (liability to be registered), after subparagraph (1) there were inserted—

“(1A) Where the person is UK-established and registered under Schedule 9ZE, in determining the value of a person's supplies for the purpose of subparagraph (1), any qualifying supply of goods (within the meaning of that Schedule) made by the person that is treated as supplied in the United Kingdom by virtue of paragraph 38 of that Schedule is to be taken into account.”

8 Schedule 1A (registration in respect of taxable supplies: non-UK establishment) has effect as if after paragraph 11 there were inserted—

“12 Paragraphs 8 to 11 are subject to paragraph 18 of Schedule 9ZD and paragraph 35 of Schedule 9ZE (cancellation of registration of persons seeking to be registered under the Schedule concerned).”

## PART 2

### MODIFICATIONS ETC OF OTHER ACTS

#### *Finance Act 2007*

9 In Schedule 24 to FA 2007, Part 1 (error in taxpayer's document) has effect as if—

(a) in the table, after the entry relating to a VAT return, statement or declaration in connection with a claim there were inserted—



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**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)

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“VAT Return under a special accounting scheme.”;

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(b) before sub-paragraph (5) there were inserted—

“(4A) In this paragraph “return under a special accounting scheme” means any of the following, so far as relating to supplies of goods treated as made in the United Kingdom—

- (a) an OSS scheme return or a relevant non-UK return under Schedule 9ZD to VATA 1994 (see paragraphs 11 and 22(3) of that Schedule);
- (b) a relevant special scheme return under Schedule 9ZE to VATA 1994 (see paragraphs 11 and 16(3) of that Schedule).”

#### *Finance Act 2009*

10 FA 2009 has effect subject to the following modifications.

11 Section 101 (late payment interest on sums due to HMRC) has effect as if after subsection (9) there were inserted—

“(10) The reference in subsection (1) to amounts payable to HMRC includes—

- (a) amounts of UK VAT payable under a non-UK scheme;
- (b) amounts of UK VAT payable under a special scheme;

and references in Schedule 53 to amounts due or payable to HMRC are to be read accordingly.

(11) In subsection (10)—

- (a) expressions used in paragraph (a) have the same meaning as in Schedule 9ZD to VATA 1994 (the OSS scheme);
- (b) expressions used in paragraph (b) have the same meaning as in Schedule 9ZE to VATA 1994 (the IOSS scheme).”

12 Section 108 (suspension of penalties during currency of agreement for deferred payment) has effect as if in the table in subsection (5), in the entry relating to value added tax, in the second column, after “1994” there were inserted, “ or under paragraph 28 of Schedule 9ZD or paragraph 22 of Schedule 9ZE, to that Act ”.

#### *Taxation (Cross-border Trade) Act 2018*

13 (1) Section 54 of the Taxation (Cross-border Trade) Act 2018 (prohibition on collection of certain taxes or duties on behalf of country or territory without reciprocity) does not apply in relation to VAT collected by HMRC under Schedule 9ZD or 9ZE.

(2) But sub-paragraph (1) is not to be read as having any bearing on whether or not, in the absence of that sub-paragraph, accounting for VAT collected under those Schedules would otherwise have been authorised.

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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### PART 3

#### MODIFICATIONS OF SECONDARY LEGISLATION

##### *Value Added Tax Regulations 1995*

- 14 The Value Added Tax Regulations 1995 (S.I. 1995/2518) have effect subject to the following modifications.
- 15 In Part 5A (reimbursement arrangements), regulation 43A (interpretation of Part 5A) has effect as if, in the definition of “claim”, after paragraph (a) there were inserted—
- “(b) a claim made under paragraph 31 of Schedule 9ZD, or paragraph 25 of Schedule 9ZE, to the Act (claims which have effect for the purpose of section 80(3) of the Act as if they were section 80 claims).”
- 16 (1) Part 19 (bad debt relief (the new scheme)) has effect subject to the following modifications.
- (2) Regulation 165 (interpretation of Part 19) has effect as if—
- (a) in the definition of “claim”, after “regulations 166” there were inserted “ or 166A ”;
- (b) in the definition of “return”, after “regulation 25” there were inserted “but “relevant non-UK return” has the meaning given by paragraph 22(3) of Schedule 9ZD to the Act and “relevant special scheme return” has the meaning given by paragraph 16(3) of Schedule 9ZE to the Act”;
- (c) at the appropriate place there were inserted—
- ““tax period” has the meaning given by paragraph 38 of Schedule 9ZD or paragraph 43 of Schedule 9ZE (as the case may be) to the Act”.
- (3) Regulation 166 (the making of a claim to the Commissioners) has effect as if, at the beginning of paragraph (1) there were inserted “Subject to regulation 166A, and”.
- (4) That Part has effect as if after regulation 166 there were inserted—

*“The making of a claim to the Commissioners: special accounting schemes*

- 166A(1) This regulation applies where the VAT on the relevant supply was accounted for on a relevant non-UK return or a relevant special scheme return.
- (2) Where this regulation applies, the claimant must make the claim by—
- (a) amending, in accordance with Article 61 of the Implementing Regulation, that relevant non-UK return or relevant special scheme return, or

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- (b) (where the period during which a person is entitled to make such an amendment has expired) notifying the Commissioners of the claim in writing in English.”
- (5) Regulation 168 (records required to be kept by the claimant) has effect as if after paragraph (3) there were inserted—
- “(4) Where regulation 166AA applies, “prescribed accounting period” in this regulation is to be read as “tax period”.”
- (6) Regulation 171 (repayment of a refund) has effect as if at—
- (a) at the beginning of paragraph (1) there were inserted “Subject to regulation 171A,”;
- (b) at the beginning of paragraph (2) there were inserted “Subject to regulation 171B,”;
- (c) at the beginning of paragraph (3) there were inserted “subject to regulation 171B and,”.
- (7) Those Regulations have effect as if after regulation 171 there were inserted—

*“Calculation of repayment where reduction  
in consideration: special accounting schemes*

171A In a case falling within sub-paragraph (b)(iii) of regulation 171(1) where the VAT on the relevant supply was accounted for on a relevant non-UK return or a relevant special scheme return, the amount to be repaid is such an amount as is equal to the amount by which the VAT chargeable on the relevant supply is reduced.

*Timing and method of repayments: special accounting schemes*

- 171B) Where—
- (a) the VAT on the relevant supply was accounted for on a relevant non-UK return or a relevant special scheme return, and
- (b) a repayment is required by regulation 171(1),
- that repayment must be made no later than twenty days after the end of the tax period in which the payment for the relevant supply is received or the reduction in consideration is accounted for in the claimant's business accounts.
- (2) Where—
- (a) the VAT on the relevant supply was accounted for on a relevant non-UK return or a relevant special scheme return, and
- (b) a repayment is required by regulation 171(3),
- that repayment must be made no later than twenty days after the end of the tax period in which the failure to comply first occurred.
- (3) In either case the repayment must be made by—
- (a) amending the relevant non-UK return or the relevant special scheme return for the tax period in which the VAT on the relevant supply was brought into account, or

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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- (b) (where the relevant period has expired) sending the sum due to the Commissioners.
- (4) In sub-paragraph (3)(b), the “relevant period” is the period of 3 years beginning with the day on which the relevant non-UK return or the relevant special scheme return for the tax period in which the VAT on the relevant supply was brought into account was required to be submitted.”
- 17 (1) Part 20A of those Regulations (Repayments to EU traders incurring VAT on goods in Northern Ireland) has effect subject to the following modifications.
- (2) Regulation 184D has effect as if, in the alternative version of regulation 173B(2)(c), after “Northern Ireland” there were inserted “, unless it is a supply or importation—
- (a) that is a scheme supply for the purposes of Schedule 9ZD to the Act, and
- (b) that is made by a person who is registered under that Schedule when the supply is made”;
- (3) Regulation 184I has effect as if, in the alternative version of regulation 173L(2), after “Northern Ireland” there were inserted “, unless it is a supply—
- (a) that is a scheme supply for the purposes of Schedule 9ZD of the Act, and
- (b) that is made by a person who is registered under that Schedule when the supply is made”.
- 18 The Regulations have effect as if after regulation 213 there were inserted—

## “PART 26

UK OSS AND IOSS SPECIAL ACCOUNTING SCHEMES:  
 REGISTRATION, NOTIFICATION OF CHANGES AND RETURNS

### *Interpretation*

214 (1) In this Part—

“applicant” means a person making a registration request under paragraph 5 of Schedule 9ZD or paragraph 5 of Schedule 9ZE to the Act;

“principal VAT Directive” means Council Directive [2006/112/EC](#) of 28 November on the common system of value added tax;

“relevant place” means Northern Ireland or a member State.

(2) In regulations 215 and 216, references to a number allocated under Article 362 of the principal VAT Directive mean a number allocated at any time under that Article.

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**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)

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*Registration requests: OSS scheme*

- 215 A registration request under paragraph 5 of Schedule 9ZD to the Act must contain details of—
- (a) any VAT identification number or tax reference number by which the applicant is identified for VAT purposes by any relevant place in accordance with Article 214, Article 239 or Article 240 of the principal VAT Directive, and the name of that relevant place,
  - (b) any number previously allocated to the applicant by a member State or the United Kingdom under Article 362 of the principal VAT Directive, or otherwise for the purposes of Article 369d of the principal VAT Directive, and the name of that relevant place,
  - (c) where the applicant has previously been identified under a non-UK scheme (within the meaning of Schedule 9ZD to the Act), the date the applicant ceased to be so identified,
  - (d) whether the applicant is treated as a member of a group under any of sections 43A to 43D of the Act, and
  - (e) the name of any relevant place in which the applicant has a fixed establishment, and the address of each such fixed establishment.

*Registration requests: IOSS scheme*

- 216 A registration request under paragraph 5 of Schedule 9ZE to the Act must contain details of—
- (a) any VAT identification number or tax reference number by which the applicant is identified for VAT purposes by any relevant place in accordance with Article 214, Article 239 or Article 240 of the principal VAT Directive, and the name of that relevant place, and
  - (b) any number previously allocated to the applicant by a member State or the United Kingdom under Article 362 of the principal VAT Directive, or otherwise for the purposes of Article 369q of the principal VAT Directive, and the name of that relevant place.

*Registration requests: declaration*

- 217 A registration request under paragraph 5 of Schedule 9ZD or paragraph 5 of Schedule 9ZE to the Act must also contain a declaration by the applicant that the information the applicant has provided in the registration request is accurate and complete to the best of the applicant's knowledge.

*Requirement to use electronic portal*

- 218 The following communications must be made by using the electronic portal set up by the Commissioners for the purposes of implementing

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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Sections 3 and 4 of Chapter 6 of Title XII to the principal VAT Directive—

- (a) a registration request under paragraph 5 of Schedule 9ZD or paragraph 5 of Schedule 9ZE to the Act;
- (b) the information required by paragraph 8 of Schedule 9ZD or paragraph 8 of Schedule 9ZE to the Act;
- (c) a return required under paragraph 11 of Schedule 9ZD or paragraph 11 of Schedule 9ZE to the Act.

## PART 27

NON-UK OSS AND IOSS SPECIAL ACCOUNTING SCHEMES:  
 ADJUSTMENTS, CLAIMS AND ERROR CORRECTION

### *Meaning of “tax period”*

- 219 In this Part, “tax period” has the meaning given by paragraph 38 of Schedule 9ZD or paragraph 43 of Schedule 9ZE (as the case may be) to the Act.

### *Amending a special accounting scheme return*

- 219(A) Any amendment to a return under a special accounting scheme for a tax period in which a relevant supply was brought into account must—

- (a) be made in a subsequent return under a special accounting scheme of the same type,
- (b) be made before the end of the period of three years beginning with the day on which the return for the tax period in which the relevant supply was brought into account was required to be submitted, and
- (c) include details of—
  - (i) the member State in which the relevant supply was made;
  - (ii) the tax period to which the amendment relates;
  - (iii) the amount of VAT concerned.

- (2) In this regulation, “return under a special accounting scheme” means any of the following, so far as relating to supplies of goods treated as made in the United Kingdom—

- (a) an OSS scheme return or a relevant non-UK return under Schedule 9ZD to the Act (see paragraphs 11 and 22(3) of that Schedule);
- (b) an IOSS scheme return or a relevant special scheme return under Schedule 9ZE to VATA 1994 (see paragraphs 11 and 16(3) of that Schedule).

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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*Correction of errors on non-UK and special scheme returns more than 3 years after the date the original return was required to be made*

- 220 (1) In this regulation “notice” means a notice given under paragraph 25(3) of Schedule 9ZD or paragraph 19(3) of Schedule 9ZE to the Act.
- (2) A person giving a notice (P) must do so—
- (a) no later than 4 years after the end of the tax period in respect of which the return identified in the notice was required to be made; and
  - (b) in writing in English.
- (3) P must also provide such documentary evidence in support of the notice as P possesses.

*Claims in respect of overpaid VAT*

- 221 (1) A person making a claim under paragraph 31(1) of Schedule 9ZD, or paragraph 25(1) of Schedule 9ZE, to the Act must provide to the Commissioners at the time of making the claim a statement in writing in English explaining how the claim is calculated.
- (2) A person making a claim under any other provision of paragraph 31 of Schedule 9ZD, or paragraph 25 of Schedule 9ZE to the Act must—
- (a) make that claim to the Commissioners, and
  - (b) provide to the Commissioners at the time of making the claim a statement in writing in English explaining how the claim is calculated.

*Increases or decreases in consideration occurring more than 3 years after the end of the affected tax period*

- 222 (1) A claim or other notice made under paragraph 33(2)(b) of Schedule 9ZD or paragraph 27(2)(b) of Schedule 9ZE to the Act must be made in writing in English.
- (2) A person making a payment—
- (a) under paragraph 33(3) of Schedule 9ZD to the Act in a case falling within paragraph 33(2)(b) of that Schedule, or
  - (b) under paragraph 27(3) of Schedule 9ZE to the Act in a case falling within paragraph 27(2)(b) of that Schedule,
- must do so no later than twenty days after the end of the tax period in which the increase in consideration is accounted for in the person's business accounts.

*Scheme participants who are also taxable persons: disapplication of paragraph 19(1)*

- 223 (1) Paragraph 19(1) of Schedule 9ZD to the Act is not to apply in the case of an input tax obligation.

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

- (2) In this regulation “input tax obligation” means an obligation imposed on a taxable person relating to a claim to deduction under section 25(2) of the Act or to payment of a VAT credit.””

**Commencement Information**

- I11** Sch. 18 para. 6 in force for specified purposes at Royal Assent, see s. 95(6)(a)  
**I12** Sch. 18 para. 6 in force at 1.7.2021 for specified purposes by S.I. 2021/770, regs. 3, 4 (with regs. 5-7)  
**I13** Sch. 18 para. 6 in force at 1.3.2024 for specified purposes by S.I. 2024/130, regs. 3, 4

**PART 3**

OMISSION OF PART 2 OF SCHEDULE 9ZC TO VATA 1994

- 7 In Schedule 9ZC to VATA 1994 (online sales by overseas persons and low value importations: modifications relating to the Northern Ireland Protocol) omit Part 2 (modifications of the Value Added Tax (Imported Goods) Relief Order 1984).

**Commencement Information**

- I14** Sch. 18 para. 7 in force for specified purposes at Royal Assent, see s. 95(6)(a)  
**I15** Sch. 18 para. 7 in force at 1.7.2021 in so far as not already in force by S.I. 2021/770, reg. 3

**PART 4**

AMENDMENTS RELATING TO SUPPLIES OF GOODS BY PERSONS ESTABLISHED  
 OUTSIDE THE UNITED KINGDOM THAT ARE FACILITATED BY ONLINE MARKETPLACES

- 8 (1) Schedule 9ZC to VATA 1994 is amended as follows.

- (2) Before paragraph 2 insert—

“1B This Act has effect as if after section 5A there were inserted—

**“5B Supplies of goods in Northern Ireland 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) the supply is facilitated by an online marketplace, and
- (c) either the IOSS scheme condition or the Union goods 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.



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- (3) The IOSS scheme condition is met where—
- (a) R belongs in Northern Ireland and is not a taxable person,
  - (b) the supply is a qualifying supply of goods within the meaning of Schedule 9ZE, and
  - (c) the operator of the online marketplace is registered under that Schedule.
- (4) But the IOSS scheme condition is not met where—
- (a) P is established in the United Kingdom, and
  - (b) the supply involves the removal of goods from Great Britain to Northern Ireland.
- (5) The Union goods condition is met where—
- (a) P is not established in Northern Ireland or a member State,
  - (b) R either—
    - (i) belongs in Northern Ireland and is not a taxable person, or
    - (ii) belongs in a member State and is not liable or entitled to be registered for VAT in accordance with the law of that member State, and
  - (c) the supply is a supply of Union goods that are located in Northern Ireland at the time they are supplied.
- (6) But the Union goods condition is not met where—
- (a) P is established in Great Britain, and
  - (b) R belongs in Northern Ireland.
- (7) In this section, “Union goods” has the same meaning as in Regulation (EU) 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (see Article 5(23) of that Regulation).”

(3) After paragraph 2 insert—

“2A In Part 2 of Schedule 8 (zero-rating: the groups), Group 21 (online marketplaces: deemed supply) has effect as if after Item 1 there were inserted—

“2 A supply by a person not established in Northern Ireland or a member State that is deemed to be a supply to an operator of an online marketplace by virtue of section 5B (as it has effect in accordance with paragraph 1B of this Schedule).”

(4) In paragraph 3, after sub-paragraph (1) insert—

“(1A) Sub-paragraph (1) has effect as if at the start there were inserted “Subject to paragraph 6ZA,”.

(5) After paragraph 3 insert—

“3A Schedule 11 has effect as if after paragraph 6 there were inserted—

“6ZA(1) An operator of an online marketplace must preserve and make available records relating to a relevant taxable supply in accordance

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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)*

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with the requirements of Article 242a of the VAT Directive and Article 54c of the Implementing Regulation.

(2) In this paragraph—

“the Implementing Regulation” has the same meaning as in Schedule 9ZE;

“relevant taxable supply” means a supply of goods where that supply is deemed to be a supply by an operator of an online marketplace by virtue of section 5B (as it has effect in accordance with paragraph 1B of this Schedule);

“the VAT Directive” has the same meaning as in Schedule 9ZE.”

3B (1) Sub-paragraph (2) applies (instead of section 6) to a supply of goods deemed to have taken place by section 5B(2)(a) or (b) (as it has effect in accordance with paragraph 1B of this Schedule).

(2) The supply of goods is to be treated as taking place at the time when payment for the goods has been accepted within the meaning of Article 41a of the Implementing Regulation.

(3) In this paragraph, “the Implementing Regulation” has the same meaning as in Schedule 9ZE.”

(6) Before Part 3 insert—

## “PART 2A

### MODIFICATION OF THE VALUE ADDED TAX REGULATIONS 1995

5A (1) In the Value Added Tax Regulations 1995 (S.I. 1995/2518), Part 3 (VAT invoices and other invoicing requirements) has effect subject to the following modifications.

(2) In regulation 13 (obligation to provide a VAT invoice), paragraph (1C) has effect as if—

(a) in sub-paragraph (a), after “section 5A” there were inserted “ or 5B (as it has effect in accordance with paragraph 1B of Schedule 9ZC to the Act) ”;

(b) in sub-paragraph (b), after “section 7(5B) of” there were inserted “ , or paragraph 38 of Schedule 9ZE to, ”.

(3) In regulation 13A (electronic invoicing), paragraph (5) has effect as if—

(a) in sub-paragraph (a), after “section 5A” there were inserted “ or 5B (as it has effect in accordance with paragraph 1B of Schedule 9ZC to the Act) ”;

(b) in sub-paragraph (b), after “section 7(5B) of” there were inserted “ , or paragraph 38 of Schedule 9ZE to, ”.

(4) Regulation 16B (retailers' and simplified invoices: exceptions), has effect as if—

(a) in sub-paragraph (a), after “section 5A” there were inserted “ or 5B (as it has effect in accordance with paragraph 1B of Schedule 9ZC to the Act) ”;

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**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18. (See end of Document for details)

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- (b) in sub-paragraph (b), after “section 7(5B) of” there were inserted “, or paragraph 38 of Schedule 9ZE to, ”.

**Commencement Information**

**I16** Sch. 18 para. 8 in force for specified purposes at Royal Assent, see s. 95(6)(a)

**I17** Sch. 18 para. 8 in force at 1.7.2021 in so far as not already in force by S.I. 2021/770, reg. 3

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2021, SCHEDULE 18.