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STATUTORY INSTRUMENTS

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**1995 No. 2518**

**The Value Added Tax Regulations 1995**

**PART XIV**

**INPUT TAX AND PARTIAL EXEMPTION**

**Interpretation of Part XIV and longer periods**

**99.** —

(1) In this Part—

[<sup>F1</sup>(a) “exempt input tax” means input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him in so far as they are used by him or are to be used by him, or a successor of his, in making exempt supplies, or supplies outside the United Kingdom which would be exempt if made in the United Kingdom, other than any input tax which is allowable under regulation 103 or 103A;

and “successor” in this paragraph has the same meaning as in regulation 107D;]

(b) “prescribed accounting period” means—

(i) a prescribed accounting period such as is referred to in regulation 25, or

(ii) a special accounting period, where the first prescribed accounting period would otherwise be 6 months or longer, save that this paragraph shall not apply where the reference to the prescribed accounting period is used solely in order to identify a particular return;

(c) “special accounting period” means each of a succession of periods of the same length as the next prescribed accounting period which does not exceed 3 months, and—

(i) the last such period shall end on the day before the commencement of that next prescribed accounting period, and

(ii) the first such period shall commence on the effective date of registration determined in accordance with Schedule 1 [<sup>F2</sup>, 2, 3 or 3A] to the Act and end on the day before the commencement of the second such period;

(d) the “tax year” of a taxable person means—

(i) the first period of 12 calendar months commencing on the first day of April, May or June, according to the prescribed accounting periods allocated to him, next following his effective date of registration determined in accordance with Schedule 1 [<sup>F2</sup>, 2, 3 or 3A] to the Act, or

(ii) any subsequent period of 12 calendar months commencing on the day following the end of his first, or any subsequent, tax year,

save that the Commissioners may approve or direct that a tax year shall be a period of other than 12 calendar months or that it shall commence on a date other than that determined in accordance with paragraph (i) or (ii) above;

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- (e) the “registration period” of a taxable person means the period commencing on his effective date of registration determined in accordance with Schedule 1 [<sup>F2</sup>, 2, 3 or 3A] to the Act and ending on the day before the commencement of his first tax year.
- (2) In this Part, any reference to goods or services shall be construed as including a reference to anything which is supplied by way of a supply of goods or a supply of services respectively.
- (3) The provisions of paragraphs (4), (5), (6) and (7) below shall be used for determining the longer period applicable to taxable persons under this Part.
- (4) A taxable person who incurs exempt input tax during any tax year shall have applied to him a longer period which shall correspond with that tax year unless he did not incur exempt input tax during his immediately preceding tax year or registration period, in which case his longer period shall—
- begin on the first day of the first prescribed accounting period in which he incurs exempt input tax, and
  - end on the last day of that tax year,
- except where he incurs exempt input tax only in the last prescribed accounting period of his tax year, in which case no longer period shall be applied to him in respect of that tax year.
- (5) A taxable person who incurs exempt input tax during his registration period shall have applied to him a longer period which shall begin on the first day on which he incurs exempt input tax and end on the day before the commencement of his first tax year.
- (6) In the case of a taxable person ceasing to be taxable during a longer period applicable to him, that longer period shall end on the day when he ceases to be taxable.
- (7) The Commissioners may approve in the case of a taxable person who incurs exempt input tax, or a class of such persons, that a longer period shall apply which need not correspond with a tax year.

#### Textual Amendments

- F1** Reg. 99(1)(a) and words substituted (18.4.2002 in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after that date) by [The Value Added Tax \(Amendment\) Regulations 2002 \(S.I. 2002/1074\)](#), regs. 1, 3
- F2** Words in reg. 99(1)(c)-(e) inserted (22.3.2000) by [The Value Added Tax \(Amendment\) \(No. 3\) Regulations 2000 \(S.I. 2000/794\)](#), regs. 1, 6

#### Commencement Information

- I1** Reg. 99 in force at 20.10.1995, see [reg. 1](#)

### Attribution of input tax to taxable supplies

#### 101. —

- (1) Subject to regulation 102, the amount of input tax which a taxable person shall be entitled to deduct provisionally shall be that amount which is attributable to taxable supplies in accordance with this regulation.
- (2) In respect of each prescribed accounting period—
- goods imported or acquired by and, <sup>F3</sup>... goods or services supplied to, the taxable person in the period shall be identified,
  - there shall be attributed to taxable supplies the whole of the input tax on such of those goods or services as are used or to be used by him exclusively in making taxable supplies,

- (c) no part of the input tax on such of those goods or services as are used or to be used by him exclusively in making exempt supplies, or in carrying on any activity other than the making of taxable supplies, shall be attributed to taxable supplies, and
  - (d) there shall be attributed to taxable supplies such proportion of the input tax on such of those goods or services as are used or to be used by him in making both taxable and exempt supplies as bears the same ratio to the total of such input tax as the value of taxable supplies made by him bears to the value of all supplies made by him in the period.
- (3) In calculating the proportion under paragraph (2)(d) above, there shall be excluded—
- (a) any sum receivable by the taxable person in respect of any supply of capital goods used by him for the purposes of his business,
  - (b) any sum receivable by the taxable person in respect of any of the following descriptions of supplies made by him, where such supplies are incidental to one or more of his business activities—
    - (i) any supply which falls within item 1 of Group 5, or item 1 of Group 6, of Schedule 8 to the Act,
    - (ii) any grant which falls within item 1 of Group 1 of Schedule 9 to the Act,
    - (iii) any grant which falls within paragraph (a) of item 1 of Group 1 of Schedule 9 to the Act,
    - (iv) any grant which would fall within item 1 of Group 1 of Schedule 9 to the Act but for an election having effect under paragraph 2 of Schedule 10 to the Act, and
    - (v) any supply which falls within Group 5 of Schedule 9 to the Act,
  - (c) that part of the value of any supply of goods on which output tax is not chargeable by virtue of any order made by the Treasury under section 25(7) of the Act unless the taxable person has imported, acquired or been supplied with the goods for the purpose of selling them, and
  - (d) the value of any supply which, under or by virtue of any provision of the Act, the taxable person makes to himself.
- (4) The ratio calculated for the purpose of paragraph (2)(d) above shall be expressed as a percentage and, if that percentage is not a whole number, it shall be rounded up to the next whole number.

F4(5) .....

<b>Textual Amendments</b>	
<b>F3</b>	Words in <a href="#">reg. 101(2)(a)</a> omitted (28.4.1996) by virtue of <a href="#">The Value Added Tax (Amendment) (No. 3) Regulations 1996 (S.I. 1996/1250)</a> , <a href="#">regs. 1(1)(2)</a> , <b>14(a)</b>
<b>F4</b>	<a href="#">Reg. 101(5)</a> omitted (28.4.1996) by virtue of <a href="#">The Value Added Tax (Amendment) (No. 3) Regulations 1996 (S.I. 1996/1250)</a> , <a href="#">regs. 1(1)(2)</a> , <b>14(b)</b>
<b>Commencement Information</b>	
<b>I2</b>	<a href="#">Reg. 101</a> in force at 20.10.1995, see <a href="#">reg. 1</a>

**Use of other methods**

**102. —**

(1) Subject to paragraph (2) below and regulation 103, the Commissioners may approve or direct the use by a taxable person of a method other than that specified in regulation 101, save that where the

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use of a method was allowed prior to 1st August 1989 there shall not be included in the calculation (if the method in question would otherwise allow it)—

- (a) the value of any supply which, under or by virtue of any provision of the Act, the taxable person makes to himself, and
- (b) the input tax on such a supply.

(2) Notwithstanding any provision of any method approved or directed to be used under this regulation which purports to have the contrary effect, in calculating the proportion of any input tax on goods or services used or to be used by the taxable person in making both taxable and exempt supplies which is to be treated as attributable to taxable supplies, the value of any supply within regulation 101(3) shall be excluded.

(3) A taxable person using a method as approved or directed to be used by the Commissioners under paragraph (1) above shall continue to use that method unless the Commissioners approve or direct the termination of its use.

(4) Any direction under paragraph (1) or (3) above shall take effect from the date upon which the Commissioners give such direction or from such later date as they may specify.

#### Commencement Information

**I3** Reg. 102 in force at 20.10.1995, see [reg. 1](#)

**[<sup>F5</sup>102A.**—(1) Where a taxable person—

- (a) is for the time being using a method approved or directed under regulation 102, and
- (b) that method does not fairly and reasonably represent the extent to which goods or services are used by him or are to be used by him in making taxable supplies,

the Commissioners may serve on him a notice to that effect, setting out their reasons in support of that notification and stating the effect of the notice.

(2) The effect of a notice served under this regulation is that regulation 102B shall apply to the person served with the notice in relation to—

- (a) prescribed accounting periods commencing on or after the date of the notice or such later date as may be specified in the notice, and
- (b) longer periods to the extent of that part of the longer period falling on or after the date of the notice or such later date as may be specified in the notice.

#### Textual Amendments

**F5** [Regs. 102A-102C](#) inserted (1.1.2004 with effect in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after 1.1.2004 in accordance with reg. 1(2)) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), [regs. 1\(1\)\(b\)](#), **21**

**102B.**—(1) Where this regulation applies, a taxable person shall calculate the difference between—

- (a) the attribution made by him in any prescribed accounting period or longer period, and
- (b) an attribution which represents the extent to which the goods or services are used by him or are to be used by him in making taxable supplies,

and account for the difference on the return for that prescribed accounting period or on the return on which that longer period adjustment is required to be made, except where the Commissioners allow another return to be used for this purpose.

(2) This regulation shall apply from the date prescribed under regulation 102A(2) or 102C(2), unless or until the method referred to in regulation 102A(1)(a) or 102C(1)(a) is terminated under regulation 102(3).

#### Textual Amendments

**F5** Regs. 102A-102C inserted (1.1.2004 with effect in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after 1.1.2004 in accordance with reg. 1(2)) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **21**

**102C.**—(1) Subject to regulation 102A, where a taxable person—

- (a) is for the time being using a method approved or directed under regulation 102, and
- (b) that method does not fairly and reasonably represent the extent to which goods or services are used by him or are to be used by him in making taxable supplies,

the taxable person may serve on the Commissioners a notice to that effect, setting out his reasons in support of that notification.

(2) Where the Commissioners approve a notice served under this regulation, the effect is that regulation 102B shall apply to the person serving the notice in relation to—

- (a) prescribed accounting periods commencing on or after the date of the notice or such later date as may be specified in the notice, and
- (b) longer periods to the extent of that part of the longer period falling on or after the date of the notice or such later date as may be specified in the notice.]

#### Textual Amendments

**F5** Regs. 102A-102C inserted (1.1.2004 with effect in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after 1.1.2004 in accordance with reg. 1(2)) by [The Value Added Tax \(Amendment\) \(No. 6\) Regulations 2003 \(S.I. 2003/3220\)](#), regs. 1(1)(b), **21**

### Attribution of input tax to foreign and specified supplies

**103.** —

(1) Input tax incurred by a taxable person in any prescribed accounting period on goods imported or acquired by, or goods or services supplied to, him which are used or to be used by him in whole or in part in making—

- (a) supplies outside the United Kingdom which would be taxable supplies if made in the United Kingdom, or
- (b) supplies specified in an Order under section 26(2)(c) of the Act, [<sup>F6</sup>other than supplies of a description falling within regulation 103A below,]

shall be attributed to taxable supplies to the extent that the goods or services are so used or to be used expressed as a proportion of the whole use or intended use.

(2) Where—

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- (a) input tax of the description in paragraph (1) above has been incurred on goods or services which are used or to be used in making both—
  - (i) a supply within item 1 or 6 of Group 5 of Schedule 9 to the Act, and
  - (ii) any other supply, and
- (b) the supply mentioned in sub-paragraph (a)(i) above is incidental to one or more of the taxable person's business activities,

that input tax shall be attributed to taxable supplies in accordance with paragraph (1) above notwithstanding any provision of any method that the taxable person is required or allowed to use under this Part of these Regulations which purports to have the contrary effect.

(3) For the purpose of attributing to taxable supplies any input tax of the description in paragraph (2) above, it shall be deemed to be the only input tax incurred by the taxable person in the prescribed accounting period concerned.

#### Textual Amendments

- F6** Words in [reg. 103\(1\)\(b\)](#) inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), [regs. 1, 7](#)

#### Commencement Information

- I4** [Reg. 103](#) in force at 20.10.1995, see [reg. 1](#)

**[<sup>F7</sup>103A.**—(1) This regulation applies to a taxable person who makes supplies of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act.

- (2) Input tax incurred by him in any prescribed accounting period in respect of supplies by him of a description falling within paragraph (1) above shall be allowable as being attributable to those supplies only to the following extent, that is to say where it is incurred—
  - (a) on investment gold supplied to him which but for an election made under the Value Added Tax (Investment Gold) Order 1999, or but for Note 4(b) to Group 15 of Schedule 9 to the Act would have fallen within item 1 or 2 of that Group, or on investment gold acquired by him;
  - (b) on a supply to him, an acquisition by him, or on an importation by him of gold other than investment gold which is to be transformed by him or on his behalf into investment gold;
  - (c) on services supplied to him comprising a change of form, weight or purity of gold.
- (3) Where a taxable person produces investment gold or transforms any gold into investment gold he shall also be entitled to credit for input tax incurred by him on any goods or services supplied to him, any acquisitions of goods by him or any importations of goods by him, but only to the extent that they are linked to the production or transformation of that gold into investment gold.
- (4) Where input tax has been incurred on goods or services which are used or to be used in making supplies of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act and any other supply, that input tax shall be attributed to the supplies falling within item 1 or 2 to the extent that the goods or services are so used or to be used, expressed as a proportion of the whole use or intended use.
- (5) Where input tax is attributed to supplies of a description falling within item 1 or 2 of Group 15 to Schedule 9 to the Act under paragraph (4) above, the taxable person shall be entitled to credit for only so much input tax as is reasonably allowable under paragraph (2) or (3) above.

- (6) For the purpose of attributing input tax to supplies of a description falling within item 1 or 2 of Group 15 of Schedule 9 to the Act under paragraph (4) above, any input tax of the description in that paragraph shall be deemed to be the only input tax incurred by the taxable person in the prescribed accounting period concerned.]

#### Textual Amendments

- F7** Reg. 103A inserted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), regs. 1, **8**

#### Attribution of input tax on self-supplies

**104.** Where under or by virtue of any provision of the Act a person makes a supply to himself, the input tax on that supply shall not be allowable as attributable to that supply.

#### Commencement Information

- I5** Reg. 104 in force at 20.10.1995, see [reg. 1](#)

#### Treatment of input tax attributable to exempt supplies as being attributable to taxable supplies

<sup>F8</sup>**105.** . . . . .

[<sup>F9</sup>**106.**—(1) Subject to regulation 106A, where relevant input tax—

- (a) in any prescribed accounting period, or
  - (b) in the case of a longer period, taken together with the amount of any adjustment in respect of that period under regulation 107B—
    - (i) does not amount to more than £625 per month on average, and
    - (ii) does not exceed one half of all his input tax for the period concerned,
- all such input tax in that period shall be treated as attributable to taxable supplies.

(2) In the application of paragraph (1) above to a longer period—

- (a) any treatment of relevant input tax as attributable to taxable supplies in any prescribed accounting period shall be disregarded, and
- (b) no account shall be taken of any amount or amounts which may be deductible or payable under regulation 115.

(3) For the purposes of this regulation, relevant input tax is input tax attributed under regulations 101, 102, 103, 103A and, where the case arises, regulation 107, to exempt supplies or to supplies outside the United Kingdom which would be exempt if made in the United Kingdom (not being supplies specified in an Order made under section 26(2)(c) of the Act).]

#### Textual Amendments

- F8** Reg. 105 omitted (with effect in accordance with reg. 1(3)(4) of the amending S.I.) by virtue of [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/599\)](#), regs. 1(1), **4**
- F9** Reg. 106 substituted (18.4.2002 in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after that date) by [The Value Added Tax \(Amendment\) Regulations 2002 \(S.I. 2002/1074\)](#), regs. 1, **4**

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#### Commencement Information

- I6** Reg. 105 in force at 20.10.1995, see [reg. 1](#)  
**I7** Reg. 106 in force at 20.10.1995, see [reg. 1](#)

**[<sup>F10</sup>106A.—**(1) This regulation applies where regulation 107A applies.

(2) Where, taken together with the amount of any adjustment under regulation 107A, input tax attributed under regulations 101, 103 and 103A to exempt supplies, or to supplies outside the United Kingdom which would be exempt if made in the United Kingdom (in each case not being supplies specified in an Order made under section 26(2)(c) of the Act)—

- (a) does not amount to more than £625 per month on average, and
- (b) does not exceed one half of all his input tax for the period concerned,

all such input tax in that period shall be treated as attributable to taxable supplies.

(3) Where, in accordance with regulations 101, 103 and 103A, a taxable person has attributed an amount of input tax to exempt supplies, or to supplies outside the United Kingdom which would be exempt if made in the United Kingdom (in each case not being supplies specified in an Order made under section 26(2)(c) of the Act) and, after applying regulation 107A, he is entitled to treat all his input tax as attributable to taxable supplies under paragraph (2) above, he shall—

- (a) calculate the difference between—
  - (i) the total amount of input tax for that prescribed accounting period, and
  - (ii) the amount of input tax deducted in that prescribed accounting period, taken together with the amount of any adjustment under regulation 107A, and
- (b) include this difference as an under-deduction in a return for the first prescribed accounting period next following the prescribed accounting period referred to in regulation 107A(1), except where the Commissioners allow another return to be used for this purpose.

(4) Where in a prescribed accounting period a taxable person has treated input tax as attributable to taxable supplies under regulation 106(1) but is not entitled to do so because of the operation of paragraph (2) above, he shall include the amount so treated as an over-deduction in a return for the first prescribed accounting period next following the prescribed accounting period referred to in regulation 107A(1), except where the Commissioners allow another return to be used for this purpose.

(5) But where a registered person has his registration cancelled at or before the end of the prescribed accounting period referred to in regulation 107A(1), he shall account for any adjustment under this regulation on his final return.]

#### Textual Amendments

- F10** [Reg. 106A](#) inserted (18.4.2002 in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after that date) by [The Value Added Tax \(Amendment\) Regulations 2002 \(S.I. 2002/1074\)](#), [regs. 1, 5](#)

#### Adjustment of attribution

**107. —**

(1) Where a taxable person to whom a longer period is applicable has provisionally attributed an amount of input tax to taxable supplies in accordance with a method, and where all his exempt input tax in that longer period cannot be treated as attributable to taxable supplies under regulation



<sup>F11</sup>... 106, and save as the Commissioners may dispense with the following requirement to adjust, he shall—

- (a) determine for the longer period the amount of input tax which is attributable to taxable supplies according to the method used in the prescribed accounting periods,
- (b) ascertain whether there has been, overall, an over-deduction or an under-deduction of input tax, having regard to the above-mentioned determination and to the sum of the amounts of input tax, if any, which were deducted in the returns for the prescribed accounting periods, and
- (c) include any such amount of over-deduction or under-deduction in a return for the first prescribed accounting period next following the longer period, except where the Commissioners allow another return to be used for this purpose.

(2) Where a taxable person to whom a longer period is applicable has provisionally attributed an amount of input tax to taxable supplies in accordance with a method, and where all his exempt input tax in that longer period can be treated as attributable to taxable supplies under regulation <sup>F12</sup>... 106, he shall—

- (a) calculate the difference between the total amount of his input tax for that longer period and the sum of the amounts of input tax deducted in the returns for the prescribed accounting periods, and
- (b) include any such amount of under-deduction in a return for the first prescribed accounting period next following the longer period, except where the Commissioners allow another return to be used for this purpose.

[<sup>F13</sup>(3) But where a registered person has his registration cancelled at or before the end of a longer period, he shall account for any adjustment under this regulation on his final return.]

[<sup>F14</sup>**107A.**—(1) This regulation applies where a taxable person has made an attribution under regulation 101(2)(b) and (d) and the prescribed accounting period does not form part of a longer period, and the attribution differs substantially from one which represents the extent to which the goods or services are used by him or are to be used by him, or a successor of his, in making taxable supplies.

(2) Where this regulation applies, the taxable person shall calculate the difference and account for it on the return for the first prescribed accounting period next following the prescribed accounting period referred to in paragraph (1) above, except where the Commissioners allow another return to be used for this purpose.

(3) But where a registered person has his registration cancelled at or before the end of the prescribed accounting period referred to in paragraph (1) above, he shall account for any adjustment under this regulation on his final return.

**107B.**—(1) This regulation applies where a taxable person has made an attribution under regulation 107(1)(a) according to the method specified in regulation 101 and that attribution differs substantially from one which represents the extent to which the goods or services are used by him or are to be used by him, or a successor of his, in making taxable supplies.

(2) Where this regulation applies the taxable person shall—

- (a) calculate the difference, and
- (b) in addition to any amount required to be included under regulation 107(1)(c), account for the amount so calculated on the return for the first prescribed accounting period next following the longer period, except where the Commissioners allow another return to be used for this purpose.

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(3) But where a registered person has his registration cancelled at or before the end of a longer period, he shall account for any adjustment under this regulation on his final return.

**107C.** For the purposes of regulations 107A and 107B, a difference is substantial if it exceeds—

- (a) £50,000; or
- (b) 50% of the amount of input tax falling to be apportioned under regulation 101(2)(d) within the prescribed accounting period referred to in regulation 107A(1), or longer period, as the case may be, but is not less than £25,000.

**107D.** For the purposes of regulations 107A and 107B a person is the successor of another if he is a person to whom that other person has—

- (a) transferred assets of his business by a transfer of that business, or part of it, as a going concern; and
- (b) the transfer of the assets is one falling by virtue of an Order under section 5(3) of the Act to be treated as neither a supply of goods nor a supply of services;

and the reference in this regulation to a person's successor includes references to the successors of his successors through any number of transfers.

**107E.—**(1) Regulations 107A and 107B shall not apply where the amount of input tax falling to be apportioned under regulation 101(2)(d) within the prescribed accounting period referred to in regulation 107A(1), or longer period, as the case may be, does not exceed—

- (a) in the case of a person who is a group undertaking in relation to one or more other undertakings (other than undertakings which are treated under sections 43A to 43C of the Act as members of the same group as the person), £25,000 per annum, adjusted in proportion for a period that is not 12 months; or
- (b) in the case of any other person, £50,000 per annum, adjusted in proportion for a period that is not 12 months.

(2) For the purposes of paragraph (1) above, “undertaking” and “group undertaking” have the same meaning as in section 259 of the Companies Act 1985.]

**108. —**

(1) This regulation applies where a taxable person has deducted an amount of input tax which has been attributed to taxable supplies because he intended to use the goods or services in making either—

- (a) taxable supplies, or
- (b) both taxable and exempt supplies,

and during a period of 6 years commencing on the first day of the prescribed accounting period in which the attribution was determined and before that intention is fulfilled, he uses or forms an intention to use the goods or services concerned in making exempt supplies or, in the case of an attribution within sub-paragraph (a) above, in making both taxable and exempt supplies.

(2) Subject to regulation 110 and save as the Commissioners otherwise allow, where this regulation applies the taxable person shall on the return for the prescribed accounting period in which the use occurs or the intention is formed, as the case may be, account for an amount equal to the input tax which has ceased to be attributable to taxable supplies in accordance with the method which he was required to use when the input tax was first attributed and he shall repay the said amount to the Commissioners.

(3) For the purposes of this regulation any question as to the nature of any supply shall be determined in accordance with the provisions of the Act and any Regulations or Orders made thereunder in force at the time when the input tax was first attributed.

**109.** —

(1) This regulation applies where a taxable person has incurred an amount of input tax which has not been attributed to taxable supplies because he intended to use the goods or services in making either—

- (a) exempt supplies, or
- (b) both taxable and exempt supplies,

and during a period of 6 years commencing on the first day of the prescribed accounting period in which the attribution was determined and before that intention is fulfilled, he uses or forms an intention to use the goods or services concerned in making taxable supplies or, in the case of an attribution within sub-paragraph (a) above, in making both taxable and exempt supplies.

(2) Subject to regulation 110 and where this regulation applies, the Commissioners shall, on receipt of an application made by the taxable person in such form and manner and containing such particulars as they may direct, pay to him an amount equal to the input tax which has become attributable to taxable supplies in accordance with the method which he was required to use when the input tax was first attributed.

(3) For the purposes of this regulation any question as to the nature of any supply shall be determined in accordance with the provisions of the Act and any Regulations or Orders made thereunder in force at the time when the input tax was first attributed.

<sup>[F15]</sup>**110.**—(1) Subject to paragraph (2) below, in this regulation, in regulations 108 and 109 above and in Part XV of these Regulations—

- (a) “exempt supplies” includes supplies outside the United Kingdom which would be exempt if made in the United Kingdom, other than supplies of a description falling within subparagraph (b) below; and
  - (b) “taxable supplies” includes supplies of a description falling within regulation 103(1) above.
- (2) Subject to paragraph (3) below, for the purposes of identifying the use, or intended use, of goods and services in regulations 108 and 109 above and in Part XV of these Regulations—
- (a) “exempt supplies” shall be construed as including supplies of a description falling within regulation 103A(1) above, but only to the extent that there is, or would be, no credit for input tax on goods and services under that regulation; and
  - (b) “taxable supplies” shall be construed as including supplies of a description falling within regulation 103A(1) above, but only to the extent that there is, or would be, credit for input tax on goods and services under that regulation.
- (3) Any adjustment under regulations 108 and 109 above shall not cause any more or any less input tax to be credited, as the case may be, in respect of supplies of a description falling within regulation 103A(1) above than would be allowed or required under that regulation.
- (4) Subject to regulation 103, where—
- (a) regulation 108 or 109 applies,
  - (b) the use to which the goods or services concerned are put, or to which they are intended to be put, includes the making of any supplies outside the United Kingdom, and
  - (c) at the time when the taxable person was first required to attribute the input tax he was not required to use a method approved or directed under regulation 102 or that method did not provide expressly for the attribution of input tax attributable to supplies outside the United Kingdom,

the amount for which the taxable person shall be liable to account under regulation 108 or the amount which he is entitled to be paid under regulation 109, as the case may be, shall be calculated by

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reference to the extent to which the goods or services concerned are used or intended to be used in making taxable supplies, expressed as a proportion of the whole use or intended use.]

#### Textual Amendments

- F11** Words in [reg. 107\(1\)](#) omitted (with effect in accordance with [reg. 1\(3\)\(4\)](#) of the amending S.I.) by virtue of [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/599\)](#), [regs. 1\(1\)](#), [5](#)
- F12** Words in [reg. 107\(2\)](#) omitted (with effect in accordance with [reg. 1\(3\)\(4\)](#) of the amending S.I.) by virtue of [The Value Added Tax \(Amendment\) \(No. 2\) Regulations 1999 \(S.I. 1999/599\)](#), [regs. 1\(1\)](#), [5](#)
- F13** [Reg. 107\(3\)](#) inserted (18.4.2002 in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after that date) by [The Value Added Tax \(Amendment\) Regulations 2002 \(S.I. 2002/1074\)](#), [regs. 1](#), [6](#)
- F14** [Regs. 107A-107E](#) inserted (18.4.2002 in relation to input tax incurred by a taxable person on goods imported or acquired by, or goods or services supplied to, him on or after that date) by [The Value Added Tax \(Amendment\) Regulations 2002 \(S.I. 2002/1074\)](#), [regs. 1](#), [7](#)
- F15** [Reg. 110](#) substituted (1.1.2000) by [The Value Added Tax \(Amendment\) \(No. 4\) Regulations 1999 \(S.I. 1999/3114\)](#), [regs. 1](#), [9](#)

#### Commencement Information

- I8** [Reg. 107](#) in force at 20.10.1995, see [reg. 1](#)
- I9** [Reg. 108](#) in force at 20.10.1995, see [reg. 1](#)
- I10** [Reg. 109](#) in force at 20.10.1995, see [reg. 1](#)
- I11** [Reg. 110](#) in force at 20.10.1995, see [reg. 1](#)

#### Exceptional claims for VAT relief

##### 111. —

(1) Subject to paragraphs (2) and (4) below, on a claim made in accordance with paragraph (3) below, the Commissioners may authorise a taxable person to treat as if it were input tax—

- (a) VAT on the supply of goods or services to the taxable person before the date with effect from which he was, or was required to be, registered, or paid by him on the importation or acquisition of goods before that date, for the purpose of a business which either was carried on or was to be carried on by him at the time of such supply or payment, and
- (b) in the case of a body corporate, VAT on goods obtained for it before its incorporation, or on the supply of services before that time for its benefit or in connection with its incorporation, provided that the person to whom the supply was made or who paid VAT on the importation or acquisition—
- (i) became a member, officer or employee of the body and was reimbursed, or has received an undertaking to be reimbursed, by the body for the whole amount of the price paid for the goods or services,
- (ii) was not at the time of the importation, acquisition or supply a taxable person, and
- (iii) imported, acquired or was supplied with the goods, or received the services, for the purpose of a business to be carried on by the body and has not used them for any purpose other than such a business.

[<sup>F16</sup>(2) No VAT may be treated as if it were input tax under paragraph (1) above—

- (a) in respect of—
- (i) goods or services which had been supplied, or
- (ii) save as the Commissioners may otherwise allow, goods which had been consumed,

by the relevant person before the date with effect from which the taxable person was, or was required to be, registered;

- (b) subject to paragraph (2A) below, in respect of goods which had been supplied to, or imported or acquired by, the relevant person more than 3 years before the date with effect from which the taxable person was, or was required to be, registered;
- (c) in respect of services performed upon goods to which sub-paragraph (a) or (b) above applies; or
- (d) in respect of services which had been supplied to the relevant person more than 6 months before the date with effect from which the taxable person was, or was required to be, registered.]

[<sup>F17</sup>(2A) Paragraph (2)(b) above does not apply where—

- (a) the taxable person was registered before 1st May 1997; and
- (b) he did not make any returns before that date.

(2B) In paragraph (2) above references to the relevant person are references to—

- (a) the taxable person; or
- (b) in the case of paragraph (1)(b) above, the person to whom the supply had been made, or who had imported or acquired the goods, as the case may be.]

(3) [<sup>F18</sup>Subject to paragraphs (3A) and (3B) below,] a claim under paragraph (1) above shall, save as the Commissioners may otherwise allow, be made on [<sup>F19</sup>the first return the taxable person is required to make] and, as the Commissioners may require, be supported by invoices and other evidence.

[<sup>F20</sup>(3A) Where the taxable person was registered before 1st May 1997 and has not made any returns before that date paragraph (3) above shall have effect as if for the words “the first return the taxable person is required to make” there were substituted the words “the first return the taxable person makes”.

(3B) The Commissioners shall not allow a person to make any claim under paragraph (3) above in terms such that the VAT concerned would fall to be claimed as if it were input tax more than 3 years after the date by which the first return he is required to make is required to be made.]

(4) A taxable person making a claim under paragraph (1) above shall compile and preserve for such period as the Commissioners may require—

- (a) in respect of goods, a stock account showing separately quantities purchased, quantities used in the making of other goods, date of purchase and date and manner of subsequent disposals of both such quantities, and
- (b) in respect of services, a list showing their description, date of purchase and date of disposal, if any.

(5) [<sup>F21</sup>Subject to paragraph (6) below,] if a person who has been, but is no longer, a taxable person makes a claim in such manner and supported by such evidence as the Commissioners may require, they may pay to him the amount of any VAT on the supply of services to him after the date with effect from which he ceased to be, or to be required to be, registered and which was attributable to any taxable supply made by him in the course or furtherance of any business carried on by him when he was, or was required to be, registered.

[<sup>F22</sup>(6) Subject to paragraph (7) below, no claim under paragraph (5) above may be made more than 3 years after the date on which the supply of services was made.

(7) Paragraph (6) above does not apply where—

- (a) the person ceased to be, or ceased to be required to be, registered before 1st May 1997; and

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(b) the supply was made before that date.]

#### **Textual Amendments**

- F16** Reg. 111(2) substituted (1.5.1997) by The Value Added Tax (Amendment) Regulations 1997 (S.I. 1997/1086), regs. 1, **7(a)**
- F17** Reg. 111(2A)(2B) inserted (1.5.1997) by The Value Added Tax (Amendment) Regulations 1997 (S.I. 1997/1086), regs. 1, **7(b)**
- F18** Words in reg. 111(3) inserted (1.5.1997) by The Value Added Tax (Amendment) Regulations 1997 (S.I. 1997/1086), regs. 1, **7(c)**
- F19** Words in reg. 111(3) substituted (1.5.1997) by The Value Added Tax (Amendment) Regulations 1997 (S.I. 1997/1086), regs. 1, **7(d)**
- F20** Reg. 111(3A)(3B) inserted (1.5.1997) by The Value Added Tax (Amendment) Regulations 1997 (S.I. 1997/1086), regs. 1, **7(e)**
- F21** Words in reg. 111(5) inserted (1.5.1997) by The Value Added Tax (Amendment) Regulations 1997 (S.I. 1997/1086), regs. 1, **7(f)**
- F22** Reg. 111(6)(7) inserted (1.5.1997) by The Value Added Tax (Amendment) Regulations 1997 (S.I. 1997/1086), regs. 1, **7(g)**

#### **Commencement Information**

- I12** Reg. 111 in force at 20.10.1995, see **reg. 1**

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