
STATUTORY INSTRUMENTS

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—

(a) “exempt input tax” means—

- (i) input tax, or a proportion of input tax, which is attributable to exempt supplies in accordance with the method used under regulation 101, or a method approved or directed to be used under regulation 102 as the case may be, and
- (ii) input tax, or a proportion of input tax, which is attributable to supplies outside the United Kingdom which would be exempt if made in the United Kingdom, not being supplies specified in an order under section 26(2)(c) of the Act, according to the extent to which the goods or services on which the input tax was incurred are used or to be used in making such supplies or in accordance with a method approved or directed to be used under regulation 102, as the case may be;

(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 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 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;

- (e) the “registration period” of a taxable person means the period commencing on his effective date of registration determined in accordance with Schedule 1 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—

- (a) begin on the first day of the first prescribed accounting period in which he incurs exempt input tax, and
(b) 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.

100. Nothing in this Part shall be construed as allowing a taxable person to deduct the whole or any part of VAT on the importation or acquisition by him of goods or the supply to him of goods or services where those goods or services are not used or to be used by him in making supplies in the course or furtherance of a business carried on by him.

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—

- (a) goods imported or acquired by and, subject to paragraph (5) below, goods or services supplied to, the taxable person in the period shall be identified,
(b) 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.

(5) For the purposes of paragraph (2)(a) above, supplies of goods or services to which regulation 42(2) applies shall be treated as supplied in the period in which the VAT on those supplies is treated by virtue of that regulation as being chargeable.

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 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.

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,

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—

- (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.

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.

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

105. —

(1) Subject to paragraphs (2) and (4) below, there shall be treated as attributable to taxable supplies any exempt input tax attributable to supplies of the following descriptions—

- (a) any deposit of money,
- (b) the grant of any lease or tenancy of, or any licence to occupy, any land where in any longer period—
 - (i) the input tax attributable to all such supplies by the grantor is less than £1,000, and
 - (ii) no exempt input tax is incurred by the grantor in respect of any exempt supply other than a supply of a description specified in this regulation,
- (c) any services comprised in item 3 of Group 2 of Schedule 9 to the Act,
- (d) services of arranging—

- (i) any mortgage, or
- (ii) any hire purchase, credit sale or conditional sale transaction, and
- (e) the assignment of any debt due to the assignor in respect of a supply of goods or services made by him.

(2) Paragraph (1) above shall not apply where the supply is made by the taxable person in the course of carrying on a business of, or a business similar to, any of the following—

- (a) a bank,
- (b) an accepting house,
- (c) an insurance company, agent or broker,
- (d) an investment trust or unit trust,
- (e) an investment company,
- (f) a Stock Exchange broker/dealer or share dealing company,
- (g) a trustee of a pension fund,
- (h) a unit trust management company,
- (i) a building society,
- (j) a discount house,
- (k) a finance house,
- (l) a friendly society,
- (m) a money lender,
- (n) a money broker,
- (o) a mortgage broker,
- (p) a pawnbroker,
- (q) a debt factor, or
- (r) a credit or charge card company.

(3) For the purpose of paragraph (2) above, a taxable person who carries on one or more of the businesses specified in that paragraph shall not be treated as having made the supply in the course of carrying on such a business if he made the supply exclusively in the course of carrying on a business which is not so specified.

(4) Paragraph (1) above shall not apply where the exempt input tax of the taxable person, excluding any exempt input tax attributable to supplies of the descriptions specified in that paragraph, cannot be treated as attributable to taxable supplies under regulation 106.

(5) In this regulation—

“supplies”, except in the expression “taxable supplies”, shall be construed as including supplies outside the United Kingdom which would be exempt if made in the United Kingdom, other than supplies specified in an Order under section 26(2)(c) of the Act, and “supply” shall be construed accordingly.

106. —

(1) Where in any prescribed accounting period or in any longer period the exempt input tax of a taxable person—

- (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.

- (2) In the application of paragraph (1) above to a longer period—
- (a) any treatment of exempt 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.

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 105 or 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 105 or 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.

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.

110. —

(1) In this regulation and regulations 108 and 109—

- (a) “exempt supplies” includes supplies outside the United Kingdom which would be exempt if made in the United Kingdom, other than supplies within sub-paragraph (b) below, and
- (b) “taxable supplies” includes the supplies referred to in regulation 103.

(2) 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 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.

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.
- (2) No VAT may be treated as input tax under paragraph (1) above—
- (a) in respect of goods or services which had been supplied, or, in respect of goods, save as the Commissioners may otherwise allow, consumed—
 - (i) by the taxable person, or
 - (ii) in the case of paragraph (1)(b) above, by the person who imported, acquired or was supplied with the goods or services,
 before the date with effect from which the taxable person was, or was required to be, registered,
 - (b) in respect of services performed upon goods to which sub-paragraph (a) above applies, or
 - (c) in respect of services which had been supplied—
 - (i) to the taxable person, or
 - (ii) in the case of paragraph (1)(b) above, to the person who received the services, more than 6 months before the date of the taxable person's registration.
- (3) A claim under paragraph (1) above shall, save as the Commissioners may otherwise allow, be made on the first return the taxable person makes and, as the Commissioners may require, be supported by invoices and other evidence.
- (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) 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.