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STATUTORY INSTRUMENTS

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**1995 No. 2518**

**The Value Added Tax Regulations 1995**

**PART XXIV**

**FLAT-RATE SCHEME FOR FARMERS**

**Interpretation of Part XXIV**

**202.** In this Part—

“certified person” means a person certified as a flat-rate farmer for the purposes of the flat-rate scheme under regulation 203 and “certified” and “certification” shall be construed accordingly.

**Flat-rate scheme**

**203.** —

(1) The Commissioners shall, if the conditions mentioned in regulation 204 are satisfied, certify that a person is a flat-rate farmer for the purposes of the flat-rate scheme (hereinafter in this Part referred to as “the scheme”).

(2) Where a person is for the time being certified in accordance with this regulation, then (whether or not that person is a taxable person) any supply of goods or services made by him in the course or furtherance of the relevant part of his business shall be disregarded for the purpose of determining whether he is, has become or has ceased to be liable or entitled to be registered under Schedule 1 to the Act.

**Admission to the scheme**

**204.** The conditions mentioned in regulation 203 are that—

- (a) the person satisfies the Commissioners that he is carrying on a business involving one or more designated activities,
- (b) he has not in the 3 years preceding the date of his application for certification—
  - (i) been convicted of any offence in connection with VAT,
  - (ii) made any payment to compound proceedings in respect of VAT under section 152 of the Customs and Excise Management Act 1979<sup>(1)</sup> as applied by section 72(12) of the Act,
  - (iii) been assessed to a penalty under section 60 of the Act,
- (c) he makes an application for certification on the form numbered 14 in Schedule 1 to these Regulations, and
- (d) he satisfies the Commissioners that he is a person in respect of whom the total of the amounts as are mentioned in regulation 209 relating to supplies made in the year following

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(1) 1979 c. 2.

the date of his certification will not exceed by £3,000 or more the amount of input tax to which he would otherwise be entitled to credit in that year.

### **Certification**

**205.** Where the Commissioners certify that a person is a flat-rate farmer for the purposes of the scheme, the certificate issued by the Commissioners shall be effective from—

- (a) the date on which the application for certification is received by the Commissioners,
- (b) with the agreement of the Commissioners, an earlier date to that mentioned in sub-paragraph (a) above, or
- (c) if the person so requests, a later date which is no more than 30 days after the date mentioned in sub-paragraph (a) above,

provided that any certificate shall not be effective from a date before the date when the person's registration under Schedule 1 or 3 to the Act is cancelled and a certificate shall not be effective from a date earlier than 1st January 1993.

### **Cancellation of certificates**

**206.** —

(1) The Commissioners may cancel a person's certificate in any case where—

- (a) a statement false in a material particular was made by him or on his behalf in relation to his application for certification,
- (b) he has been convicted of an offence in connection with VAT or has made a payment to compound such proceedings under section 152 of the Customs and Excise Management Act 1979 as applied by section 72(12) of the Act,
- (c) he has been assessed to a penalty under section 60 of the Act,
- (d) he ceases to be involved in designated activities,
- (e) he dies, becomes bankrupt or incapacitated,
- (f) he is liable to be registered under Schedule 1 or 3 to the Act,
- (g) he makes an application in writing for cancellation,
- (h) he makes an application in writing for registration under Schedule 1 or 3 to the Act, and such application shall be deemed to be an application for cancellation of his certificate,
- (i) they consider it is necessary to do so for the protection of the revenue, or
- (j) they are not satisfied that any of the grounds for cancellation of a certificate mentioned in sub-paragraphs (a) to (h) above do not apply.

(2) Where the Commissioners cancel a person's certificate in accordance with paragraph (1) above, the effective date of the cancellation shall be for each of the cases mentioned respectively in that paragraph as follows—

- (a) the date when the Commissioners discover that such a statement has been made,
- (b) the date of his conviction or the date on which a sum is paid to compound proceedings,
- (c) 30 days after the date when the assessment is notified,
- (d) the date of the cessation of designated activities,
- (e) the date on which he died, became bankrupt or incapacitated,
- (f) the effective date of registration,

- (g) not less than one year after the effective date of his certificate or such earlier date as the Commissioners may agree,
- (h) not less than one year after the effective date of his certificate or such earlier date as the Commissioners may agree,
- (i) the date on which the Commissioners consider a risk to the revenue arises, or
- (j) the date mentioned in sub-paragraphs (a) to (h) above as appropriate.

### **Death, bankruptcy or incapacity of certified person**

#### **207. —**

(1) If a certified person dies or becomes bankrupt or incapacitated, the Commissioners may, from the date on which he died or became bankrupt or incapacitated treat as a certified person any person carrying on those designated activities until some other person is certified in respect of the designated activities or the incapacity ceases, as the case may be; and the provisions of the Act and of any Regulations made thereunder shall apply to any person so treated as though he were a certified person.

(2) Any person carrying on such designated activities shall, within 30 days of commencing to do so, inform the Commissioners in writing of that fact and of the date of the death, or of the nature of the incapacity and the date on which it began.

(3) In relation to a company which is a certified person, the references in regulation 206(1)(e) and (2)(e) and in paragraph (1) above to the certified person becoming bankrupt or incapacitated shall be construed as references to its going into liquidation or receivership or to an administration order being made in relation to it.

### **Further certification**

**208.** Where a person who has been certified and is no longer so certified makes a further application under regulation 204, that person shall not be certified for a period of 3 years from the date of the cancellation of his previous certificate except—

- (a) the Commissioners may certify from the date of his further application a person who has not been registered under Schedule 1 or 3 to the Act at any time since the cancellation of his previous certificate; and
- (b) where the circumstances as are mentioned in paragraph 8(1)(c) of Schedule 4 to the Act apply, the Commissioners may certify the person mentioned in that paragraph on a date after the expiry of one year from the date of the cancellation of his previous certificate.

### **Claims by taxable persons for amounts to be treated as credits for input tax**

#### **209. —**

(1) The amount referred to in section 54(4) of the Act and included in the consideration for any taxable supply which is made—

- (a) in the course or furtherance of the relevant part of his business by a person who is for the time being certified under this part,
- (b) at a time when that person is not a taxable person, and
- (c) to a taxable person,

shall be treated, for the purpose of determining the entitlement of the person supplied to credit under sections 25 and 26 of the Act, as VAT on a supply to that person.

(2) Subject to paragraph (3) below and save as the Commissioners may otherwise allow or direct generally or specially, a taxable person claiming entitlement to a credit of an amount as is mentioned

in paragraph (1) above shall do so on the return made by him for the prescribed accounting period in which the invoice specified in paragraph (3) below is issued by a certified person.

(3) A taxable person shall not be entitled to credit as is mentioned in paragraph (1) above unless there has been issued an invoice containing the following particulars—

- (a) an identifying number,
- (b) the name, address and certificate number of the certified person by whom the invoice is issued,
- (c) the name and address of the person to whom the goods or services are supplied,
- (d) the time of the supply,
- (e) a description of the goods or services supplied,
- (f) the consideration for the supply or, in the case of any increase or decrease in the consideration, the amount of that increase or decrease excluding the amount as is mentioned in paragraph (1) above, and
- (g) the amount as is mentioned in paragraph (1) above which amount shall be entitled “Flat-rate Addition” or “FRA”.

#### **Duty to keep records**

**210.** —

(1) Every certified person shall, for the purposes of the scheme, keep and preserve the following records—

- (a) his business and accounting records, and
- (b) copies of all invoices specified in regulation 209(3) issued by him or on his behalf.

(2) Every certified person shall comply with such requirements with respect to the keeping, preservation and production of records as the Commissioners may notify to him.

(3) Every certified person shall keep and preserve such records as are required by paragraph (1) above or by notification for a period of 6 years or such lesser period as the Commissioners may allow.

#### **Production of records**

**211.** —

(1) Every certified person shall—

- (a) upon demand made by an authorised person, produce or cause to be produced for inspection by that person—
  - (i) at the principal place of business of the person upon whom the demand is made or at such other place as the authorised person may reasonably require, and
  - (ii) at such time as the authorised person may reasonably require,any documents specified in regulation 210(1), and
- (b) permit an authorised person to take copies of, or make extracts from, or remove at a reasonable time and for a reasonable period, any document produced under paragraph (1) (a) above.

(2) Where a document removed by an authorised person under paragraph (1)(b) above is reasonably required for the proper conduct of a business, he shall, as soon as practicable, provide a copy of that document, free of charge, to the person by whom it was produced or caused to be produced.

(3) Where any documents removed under paragraph (1)(b) above are lost or damaged, the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.