
EXPLANATORY NOTE

(This note is not part of the Regulations)

- (i) (i) Regulations 4, 6, 8, 9, 11, 12, 13, 15 and 16 amend the Value Added Tax Regulations 1995 (S.I.1995/2518) (the principal Regulations) with a view to assisting in the implementation of provisions of the directive of the Council of the European Communities dated 17th May 1977 No.77/388/EEC (OJ No. L145, 13.6.77, p.1) (the Sixth VAT Directive) as amended by the directive of that Council dated 10th April 1995 No. 95/7/EC (OJ No. L102, 5.5.95, p.18). They set out the administrative procedures for the fiscal warehousing regime and contain consequential changes to the treatment of services performed on or in relation to goods subject to a fiscal or other warehousing regime.
 - (ii) Regulations 10 and 14 make changes to the principal Regulations in relation to groups of companies.
 - (iii) Regulation 5 makes an amendment to the provision of the principal Regulations dealing with death, bankruptcy or incapacity of a taxable person.
 - (iv) Regulation 7 makes amendments to the provisions of the principal Regulations dealing with the contents of VAT invoices.
- B.** Regulation 1 contains the commencement provisions.
- C.** Regulation 2 defines certain words to avoid repetition in the body of the instrument.
- D.** Regulation 3 introduces the amendments.
- E.** Regulation 4 amends regulation 2(1) (“Interpretation-general”) to include a definition of “fiscal or other warehousing regime”.
- F.** Regulation 5 amends regulation 9(2) of the principal Regulations. It now requires anyone who carries on the business after a taxable person has been made bankrupt to notify the Commissioners of the date on which the bankruptcy order was made. This should be done within 21 days of starting to carry on the business.
- G.** Regulation 6 amends regulation 13(1) (“Obligation to provide a VAT invoice”) to provide for persons entitled to issue a VAT invoice under section 18C(1)(e) (“Warehouses and fiscal warehouses: services”) of the Value Added Tax Act 1994 (“the Act”).
- H.** Regulation 7 amends regulations 14(1) and 14(2) of the principal Regulations. These amendments provide the Commissioners with a discretion to relax or dispense with the strict requirements as to the information to be shown on certain VAT invoices. (This discretion will only be exercised ordinarily when the Commissioners are satisfied that there is no risk to the revenue and that genuine compliance difficulty is experienced.)
- I.** Regulation 8 amends regulation 31(1) (“Records”) to include certificates issued under provisions concerning fiscal or other warehousing regimes.
- J.** Regulation 9 replaces regulation 40 (“VAT to be accounted for on returns and payment of VAT”) with regulations 40(1), 40(2) and 40(3) thereby allowing VAT payable as a result of the removal of goods from a fiscal warehousing regime to be accounted for on the VAT return. It also aligns the position of certain VAT payable in respect of services performed on excise goods which

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have been acquired from another member State and placed in an excise warehouse with any payment of VAT required on the acquisition (i.e. both are included on the VAT return).

K. Regulations 10, 14(a) and 14(b), in accordance with regulation 1(1), come into force on 1st June 1996, except where a taxable person's prescribed accounting period which includes 28th April 1996 (being the day before the day on which the Finance Act 1996 came into force) ends on or after 1 June 1996. In such cases regulations 10, 14(a) and 14(b) shall come into force on the day after the end of that first prescribed accounting period in accordance with regulation 1(2).

Regulation 10 deletes paragraphs (2) and (3) of regulation 41 of the principal Regulations. Paragraphs (2) and (3) of regulation 41 of the principal Regulations provide that any VAT chargeable on a supply of goods or services by one member of a group to another which is not disregarded under section 43(1)(a) of the Act, because the body making the supply and the body supplied were not members of that group at the time specified in subsection 43(1A) of the Act, shall be treated as chargeable in the first prescribed accounting period in which the body making the supply or the body supplied (or both) cease to be members of that group.

Subsection (5) of section 31 of the Finance Act 1996 provides that subsection 43(1A) of the Act shall not have effect in relation to supplies on or after 29 April 1996. As a consequence, paragraphs (2) and (3) of regulation 41 of the principal Regulations have no relevance for such supplies and regulation 10 removes what is a redundant provision, with effect from 1 June 1996.

For supplies made before 29 April 1996, regulation 10, in conjunction with regulation 1(2), provides that paragraphs (2) and (3) of regulation 41 of the principal Regulations shall continue to have effect in individual cases until the end of the prescribed accounting period in which VAT on the supply becomes chargeable.

Regulation 14(a) amends regulation 101(2)(a) of the principal Regulations and is a consequential amendment arising from the changes introduced by regulation 14(b).

Regulation 14(b) deletes paragraph (5) of regulation 101 of the principal Regulations which will not be required after those prescribed accounting periods in which 28th April 1996 falls. That paragraph provides for input tax on supplies that have not been disregarded under section 43(1)(a) of the Act to be attributed in the period in which the tax was treated as chargeable by regulation 41(2).

L. Regulation 11 replaces regulation 43(2) ("Goods removed from warehousing regime") with a new regulation 43(2), allowing deferred payment of VAT due on a supply of services which was relieved from VAT while the relevant goods were in a warehousing regime.

M. Regulation 12 inserts a new Part XVI(A) to be known as "Fiscal and other warehousing regimes".

N. Regulation 13 sets out the detail of Part XVI(A) which inserts new regulations 145A–145J into the principal Regulations.

Regulation 145A defines certain terms used in Part XVI(A).

Regulation 145B concerns the content of the certificates relating to acquisitions or purchases intended for fiscal warehousing and the retention period for an acquirer who is not a taxable person.

Regulation 145C concerns the content of the certificate required for zero-rating certain services performed on or in relation to goods subject to a fiscal or other warehousing regime.

Regulation 145D concerns the information to be shown on the invoice required for zero-rating the supply of certain services performed on or in relation to goods subject to a fiscal or other warehousing regime and sets out the time within which such invoices should be issued.

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Regulation 145E requires a fiscal warehousekeeper to record the entry of eligible goods to his fiscal warehousing record and sets out the conditions under which eligible goods are in a fiscal warehousing regime.

Regulation 145F requires a fiscal warehousekeeper to maintain a fiscal warehousing record and sets out its minimum period of retention and the fiscal warehousekeeper's obligation to produce it, or goods, when requested.

Regulation 145G sets out the requirements for fiscal warehousekeepers when transferring goods from one fiscal warehousing regime to another within the United Kingdom.

Regulation 145H sets out when eligible goods are treated as removed from a fiscal warehousing regime, the person who is treated as removing them, the circumstances in which they are treated as transferred and not removed from the regime and the documents required to support such removals and transfers.

Regulation 145I sets out the fiscal warehousekeeper's responsibilities in respect of removals of goods from his fiscal warehousing regime and makes him jointly liable for any VAT which is payable where he has failed to meet those responsibilities.

Regulation 145J enables the Commissioners of Customs and Excise to issue to an unregistered person a document which may allow the removal of goods from a fiscal warehousing regime.

O. Regulation 15 amends Schedule 1 to the principal Regulations by showing the form of the certificates referred to in the new regulations 145B and 145C.

P. Regulation 16 introduces Schedule 1A into the principal Regulations. This sets out the features and requirements of the fiscal warehousing record referred to in the new regulation 145F.