
STATUTORY INSTRUMENTS

1999 No. 599

VALUE ADDED TAX

The Value Added Tax (Amendment) (No. 2) Regulations 1999

Made - - - - 9th March 1999
Laid before the House of
Commons - - - - 9th March 1999
Coming into force in accordance with regulation 1

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 6(14) and 26(1), (3) and (4) of the Value Added Tax Act 1994⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations:

1.—(1) These Regulations may be cited as the Value Added Tax (Amendment) (No. 2) Regulations 1999 and shall, subject to the following paragraphs of this regulation, come into force on 10th March 1999.

(2) Regulation 3 shall have effect in respect of payments received on or after 10th March 1999.

(3) In relation to a taxable person whose registration period (as defined by regulation 99(1)(e) of the Value Added Tax Regulations 1995⁽²⁾) commenced before 10th March 1999 and ends after that day, regulations 4 and 5 shall have effect from the commencement of his first tax year (as defined by regulation 99(1)(d)(i) of the Value Added Tax Regulations 1995).

(4) In relation to a taxable person—

(a) who was registered before 10th March 1999, and

(b) to whom paragraph (3) above does not apply, and

(c) who does not have a tax year (as defined by regulation 99(1)(d) of the Value Added Tax Regulations 1995) commencing on 10th March 1999,

regulations 4 and 5 shall have effect from the first day of the first of his tax years commencing after that day.

(5) Regulation 6 shall have effect in respect of subsequent adjustment intervals (within the meaning of Part XV of the Value Added Tax Regulations 1995) commencing on or after 10th March 1999.

2. The Value Added Tax Regulations 1995 shall be amended as follows.

(1) 1994 c. 23; section 96(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise and “regulations” as meaning regulations made by the Commissioners.

(2) S.I. 1995/2518; relevant amending instruments are S.I. 1995/3147, 1997/1086, 1997/1614.

3. After regulation 94 there shall be inserted—
 - “94A. In this Part a reference to receipt of payment (however expressed) includes a reference to receipt by a person to whom a right to receive it has been assigned.”.
4. Regulation 105 shall be omitted.
5. In each of paragraphs (1) and (2) of regulation 107, “105 or” shall be omitted.
6. In regulation 115—
 - (a) in each of paragraphs (1) and (2) for “in the first interval applicable to it” there shall be substituted “or to be used at the time that the original entitlement to deduction of the input tax was determined”; and
 - (b) in paragraph (5)—
 - (i) before the definition of “the total input tax on the capital item” there shall be inserted ““the original entitlement to deduction” means the entitlement to deduction determined in accordance with Part XIV of these Regulations;”; and
 - (ii) in the definition of “the adjustment percentage” for “is used (or is regarded as being used) in making taxable supplies in the first interval applicable to it” there shall be substituted “was used or to be used for the making of taxable supplies at the time the original entitlement to deduction of the input tax was determined”.

New King’s Beam House,
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9th March 1999

Martin Brown
Commissioner of Customs and Excise

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 10th March 1999, further amend the Value Added Tax Regulations 1995 (S.I.1995/2518) (“the principal Regulations”).

Regulation 3 inserts a new regulation 94A in Part XI of the principal Regulations in order to prevent potential avoidance. As a result, in Part XI (the regulations determining when a supply is treated as taking place), receipt of payment expressly includes receipt by someone to whom the right to receive the payment has been assigned. This ensures that a payment received by an assignee has the same effect for determining the time of a supply as receipt of such payment by the supplier.

Regulation 4 omits regulation 105 from the principal Regulations to block misuse of the partial exemption arrangements, to make their operation simpler and to address distortions in competition. As a result, exempt input tax can no longer be treated as attributable to taxable supplies unless it fulfils the conditions of regulation 106.

Regulation 5 makes amendments to regulation 107 of the principal Regulations in consequence of regulation 4 of these Regulations.

Regulation 6 amends regulation 115 of the principal Regulations, in order to prevent potential avoidance by VAT-registered businesses when calculating adjustments of input tax on items falling within the capital goods scheme. Under the scheme, input tax deducted on certain capital items must be adjusted periodically if there are later variations in the extent to which the items are used in making taxable supplies. The amendments to paragraphs (1) and (2) require adjustments to be calculated by comparing the use of the capital item in the interval concerned, with the use or intended use which gave rise to the original entitlement to claim input tax. These changes will apply to adjustments made in respect of capital goods scheme adjustment intervals which commence on or after 10th March 1999.

In addition, regulation 6 makes consequential amendments to paragraph (5) of regulation 115, which defines terms used in that regulation.