

2004 No. 1082

VALUE ADDED TAX

**The Value Added Tax (Amendment) (No. 2) Regulations
2004**

<i>Made</i> - - - -	<i>7th April 2004</i>
<i>Laid before the House of Commons</i>	<i>7th April 2004</i>
<i>Coming into force</i> - -	<i>1st May 2004</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 14(3), 16(1), 25(6), 93(1) and 93(2) of, and paragraphs 2(3) and 2A(2) of Schedule 11 to, the Value Added Tax Act 1994(a), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Value Added Tax (Amendment) (No. 2) Regulations 2004 and shall come into force on 1st May 2004.

Amendment

2. The Value Added Tax Regulations 1995(b) are amended as follows.

Definition of alphabetical code

3. In paragraph (1) of regulation 2 for the definition of “alphabetical code” substitute—
““alphabetical code” means the alphabetical prefix as set out below which shall be used to identify the member State —

Austria	— AT
Belgium	— BE
Cyprus	— CY
Czech Republic	— CZ
Denmark	— DK
Estonia	— EE
Finland	— FI
France	— FR

(a) 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 under the Act: Section 24 of the Finance Act 2002 (c. 23), which inserted paragraph 2A of Schedule 11, was brought into force on 1st December 2003, the day appointed by S.I. 2003/3043 (C.114).
(b) S.I. 1995/2518, amended by S.I. 2003/2318 and S.I. 2003/3220; there are other amending instruments but none is relevant.

Germany	— DE
Greece	— EL
Hungary	— HU
Ireland	— IE
Italy	— IT
Latvia	— LV
Lithuania	— LT
Luxembourg	— LU
Malta	— MT
Netherlands	— NL
Poland	— PL
Portugal	— PT
Slovakia	— SK
Slovenia	— SI
Spain	— ES
Sweden	— SE
United Kingdom	—GB”

Interpretation of Part XVI

4. In regulation 117, after paragraph (10) insert —

“(11) In this Part references to Council Regulation (EEC) No 2913/92(a) (Community Customs Code) and Commission Regulation (EEC) No 2454/93(b) (which contains provisions implementing the Community Customs Code) shall be read as references to those instruments as amended by the Act concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, signed at Athens on 16th April 2003(c).”

Territories to be excluded from or included in the territory of the Community and of the member States

5.—(1) Amend regulation 138 as follows.

(2) For paragraph (1) substitute—

“(1) For the purposes of the Act the territory of the Community shall be treated as excluding—

(a) Austria, Finland and Sweden (the acceding States), and

(b) the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (the enlargement States),

in relation to goods to which this regulation applies.”.

(a) OJ No L 302,19.10.92, p1; relevant amending instruments are the 1994 Act of Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden (OJ No C 241,29.8.94, p21) as adjusted by Council Decision 95/1/EC (OJ No L 1, 1.1.95, p1) and European Parliament and Council Regulation (EC) No 82/97 (OJ No L 17,21.1.97, p1.).

(b) OJ No L 253,11.10.93, p1; relevant amending instruments are the 1994 Act of Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden (OJ No C 241,29.8.94, p21) as adjusted by Council Decision 95/1/EC (OJ No L 1,1.1.95, p1), Commission Regulation (EC) No 75/98 (OJ No L 7,13.1.98, p3), Commission Regulation (EC) No 1677/98(OJ No L 212,30.7.98, p18), Commission Regulation (EC) No 993/2001 (OJ No L 141,28.5.01, p1).

(c) OJ No L 236,23.9.2003, p.33; see Chapter 19 of Annex II to, and Protocol No 3 to, the Act of Accession.

- (3) In paragraph (2) for “paragraph 4” substitute “paragraphs 4 and 5”.
- (4) After paragraph (4) insert —
- “(5) Paragraphs (2), (3) and (4) shall apply to enlargement States subject to the following—
- (a) any reference in paragraphs (2), (3) or (4)—
- (i) to “acceding” shall be read as if there were substituted “enlargement”;
- (ii) to “1st January 1995” or “20th October 1995” shall be read as if there were substituted “1st May 2004”.
- (b) the reference in paragraph 4(c)(i) to “1st January 1987” shall be read as if there were substituted “1st May 1996”.”
- 6.—(1) Amend regulation 139 as follows.
- (2) In paragraph (i) omit “and”.
- (3) In paragraph (ii) after “(United Kingdom)” omit “.” and insert “, and
- (iii) the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia (Cyprus).”.

New King’s Beam House
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 7th April 2004

M J Hanson
 Commissioner of Customs and Excise

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st May 2004, amend the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the principal Regulations”).

These Regulations implement, in part, the requirements of the Act concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, signed at Athens on 16th April 2003(a)(“the Act of Accession”), so far as they relate to VAT.

Regulation 3 amends the definition of “alphabetical code” in regulation 2(1) of the principal Regulations to take account of the accession to the European Union of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and the Slovak Republic (“the enlargement States”). The use of the alphabetical code is required by Article 22(1)(d) of Council Directive No 77/388/EEC (b) (“the Sixth Directive”).

Regulation 4 updates existing references in the principal Regulations to Council Regulation (EEC) No 2913/92(c) (the Community Customs Code) and Commission Regulation (EEC) No 2454/93(d) (which contains provisions implementing the Community Customs Code)

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- (a) OJ No L 236,23.9.2003, p33; see in particular Chapter 19 of Annex II to, and Protocol No 3 to, the Act of Accession.
- (b) OJ No L 145,13.6.1977, p1); relevant amending instruments are Council Directive No 91/680/EEC (OJ No L 376,31.12.91, p1) and Council Directive 2001/115/EC (OJ No L105,17.01.02, p24).
- (c) OJ No L 302,19.10.92, p1; relevant amending instruments are the 1994 Act of Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden (OJ No C 241,29.8.94, p21) as adjusted by Council Decision 95/1/EC (OJ No L 1, 1.1.95, p1) and European Parliament and Council Regulation (EC) No 82/97 (OJ No L 17,21.1.97, p1.).
- (d) OJ No L 253,11.10.93, p1; relevant amending instruments are the 1994 Act of Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden (OJ No C 241,29.8.94, p21) as adjusted by Council Decision 95/1/EC (OJ No L 1,1.1.95, p1), Commission Regulation (EC) No 75/98 (OJ No L 7,13.1.98, p3), Commission Regulation (EC) No 1677/98(OJ No L 212,30.7.98, p18), Commission Regulation (EC) No 993/2001 (OJ No L 141,28.5.01, p1).

(“the Implementing Regulations”) as a consequence of amendments made to those instruments by the Act of Accession. The Act of Accession amends the definition of “customs territory of the Community” in Article 3(1) of the Community Customs Code so as to include the territories of the enlargement States and makes certain minor consequential amendments to the Implementing Regulations(a). The Act of Accession also amends Article 3(2) of the Community Customs Code to provide that the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia are to be considered part of the customs territory of the Community(b).

Regulation 5 amends regulation 138 of the principal Regulations. Regulation 138 implements Article 28p of the Sixth Directive(c), which introduced transitional arrangements for the taxation of goods from Austria, Finland and Sweden. The Act of Accession amends Article 28(p) by introducing transitional arrangements for the enlargement States(d). The effect of the amended regulation 138 is to treat certain goods as if they were imported into the United Kingdom. Subject to the exceptions in paragraph (4) of the regulation such goods are those supplied, in the course of a tax free export, in an enlargement State before the 1st May 2004 and which arrive in the United Kingdom on or after that date, or those goods which are removed on or after 1st May 2004 from specified customs arrangements or procedures under which they were placed before that date.

Regulation 6 amends regulation 139 of the principal Regulations. The effect of the amended regulation is to treat the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia as included in the territory of the member States and the territory of the Community for the purposes of the Value Added Tax Act 1994 (c. 23). The Act of Accession amends Article 3(4) of the Sixth Directive so as to provide that the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia are not to be treated for the purposes of the application of the Directive as third countries. Transactions originating in or intended for those Areas are to be treated as transactions originating in or intended for Cyprus(e).

A full Regulatory Impact Assessment has not been produced for this instrument as it has no impact on the costs of business, charities or voluntary bodies.

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- (a) See chapter 19 of Annex II to the Act of Accession.
(b) See Part 1 of the Annex to Protocol No 3 to the Act of Accession.
(c) Article 28p was inserted by EC Council Directive 94/76(OJ No L 365,31.12.94, p53).
(d) See chapter 9 of Annex II of the Act of Accession.
(e) See Part 2 of the Annex to Protocol No 3 to the Act of Accession.

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