

2005 No. 762

VALUE ADDED TAX

The Value Added Tax (Amendment) Regulations 2005

Made - - - - 16th March 2005

Laid before the House of Commons 16th March 2005

Coming into force in accordance with regulation 1

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by sections 26(1), (3) and (4) of the Value Added Tax Act 1994(a), hereby make the following regulations:

1.—(1) These Regulations may be cited as the Value Added Tax (Amendment) Regulations 2005 and, subject to paragraph (2) below, shall come into force on 1st April 2005.

(2) Where 31st March 2005 falls within the prescribed accounting period of a taxable person, the amendments made by regulation 3 below shall not, in relation to that taxable person, have effect until the day after the end of that prescribed accounting period.

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

3.—(1) In regulation 101(4), for “to the next whole number” substitute “as specified in paragraph (5) below”.

(2) After regulation 101(4) add—

“(5) The percentage shall be rounded up—

- (a) where in any prescribed accounting period or longer period which is applied the amount of input tax which is available for attribution under paragraph 2(d) above prior to any such attribution being made does not amount to more than £400,000 per month on average, to the next whole number, and
- (b) in any other case, to two decimal places.”.

4. After regulation 102(4) add—

“(5) Any approval given or direction made under this regulation shall only have effect if it is in writing in the form of a document which identifies itself as being such an approval or direction.

(6) Where a taxable person who is using a method which has been approved or directed under this regulation incurs input tax of the description in paragraph (7) below, that input tax shall be attributed to taxable supplies to the extent that the goods or services are used or to be used in making taxable supplies expressed as a proportion of the whole use or intended use.

(a) 1994 c.23; section 3(1) defines “taxable person” and 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.
(b) S.I. 1995/2518, amended by S.I. 1996/1250; there are other amending instruments but none is relevant.

(7) The input tax referred to in paragraph (6) above is input tax—

- (a) the attribution of which to taxable supplies is not prescribed in whole or in part by the method referred to in paragraph (6) above, and
- (b) which does not fall to be attributed to taxable or other supplies as specified under regulations 103, 103A or 103B.

(8) Where the input tax specified in paragraph (7)(a) above is input tax the attribution of which to taxable supplies is only in part not prescribed by the method, only that part the attribution of which is not so prescribed shall fall within that paragraph.”.

16th March 2005

Michael Hanson
Commissioner of Customs and Excise

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force in accordance with regulation 1, amend the Value Added Tax Regulations 1995 (S.I. 1995/2518) (“the principal Regulations”).

Regulation 3 amends regulation 101 of the principal Regulations (the partial exemption standard method) so as to restrict the degree of rounding up of the recoverable percentage of residual input tax in the case of larger businesses.

Regulation 4 amends regulation 102 of the principal Regulations (use of other methods) by adding new paragraphs (5) to (8).

New paragraph (5) provides that approvals given or directions made by the Commissioners must be in writing.

New paragraphs (6) and (7) provide for a use based method of attribution of input tax where neither the approved or directed method nor any of the principal Regulations specifies a method of attribution. New paragraph (8) provides that, where a method makes partial provision for the attribution of any input tax, only such part as is not covered by the method shall be attributed on the basis of use.

A full regulatory impact assessment of the effect that this instrument will have on the costs of businesses is available at www.hmce.gov.uk.

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