

2006 No. 3292

VALUE ADDED TAX

The Value Added Tax (Amendment) (No. 3) Regulations 2006

Made - - - - *11th December 2006*

Laid before the House of Commons *11th December 2006*

Coming into force - - *1st January 2007*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred 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):

Citations and Commencement

1. These Regulations may be cited as the Value Added Tax (Amendment) (No. 3) Regulations 2006 and shall come into force on 1st January 2007.

Amendment

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

Definition of Alphabetical Code

3. In paragraph (1) of regulation 2 in the definition of "alphabetical code"—

(1) after the entry for Belgium insert —

“Bulgaria — BG”

(2) after the entry for Portugal insert—

“Romania— RO”

Interpretation of Part XVI

4. In regulation 117, for paragraph (11) substitute —

(a) 1994 c. 23; section 96(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise, “prescribed” as meaning prescribed by regulations 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). The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005. Section 50 (1) of that Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(b) S.I. 1995/2518; relevant amending instruments are S.I. 2003/2318 and S.I. 2004/1082.

“(11) In this Part references to Council Regulation (EEC) No. 2913/92(a) (the 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—

- (a) 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),
- (b) amended, modified or otherwise affected by the Act concerning the conditions of Accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded, signed at Luxembourg on 25th April 2005(d) and Council Regulation (EC) No. 1791/2006 (which contains consequential amendments to the Customs Code)(e).”.

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 1995 acceding States”),
- (b) the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia and Slovenia (“the 2004 acceding States”), and
- (c) Bulgaria and Romania (“the 2007 acceding states”)

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

(3) In paragraph (2)—

- (i) for “paragraphs 4 and 5” substitute “paragraph (4)”,
- (ii) in sub-paragraphs (a) and (b) for “1st January 1995” substitute “the date specified in paragraph (5)” and for “20th October 1995” substitute “the date specified in paragraph (6)”.

(4) In paragraph (4)—

- (i) In sub-paragraphs (a), (b) and (c) for “20th October 1995” substitute “the date specified in paragraph (6)”.
- (ii) In sub-paragraph (c)(i) for “1st January 1987” substitute “the date specified in paragraph (7)”.

(a) OJ L 302, 19.10.1992 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, p.21) 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) and 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(OJ No L236, 23.9.03, p33).

(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), 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(OJ No L236, 23.9.03, p33) and Commission Regulation (EC) No 2286/2003 of 18.12.2003 (OJ L 343, 31.12.2003, p1).

(c) OJ No L236, 23.9.03, p33.

(d) OJ No L 157, 21.6.05, p203. See chapter 4 of Annex V to the Act of Accession.

(e) OJ No L . . . See article 1 of, and Chapter 12 of the Annex to, the Regulation.

(5) For paragraph (5) substitute—

“(5) For the purposes of paragraphs (2) and (4) the specified date—

- (a) in relation to the 1995 acceding states is 1st January 1995;
- (b) in relation to the 2004 acceding states is 1st May 2004 ; and
- (c) in relation to the 2007 acceding states is 1st January 2007.

(6) For the purposes of paragraphs (2) and (4) the specified date—

- (a) in relation to the 1995 acceding states is 20th October 1995;
- (b) in relation to the 2004 acceding states 1st May 2004 ; and
- (c) in relation to the 2007 acceding states 1st January 2007.

(7) For the purposes of paragraph (4)(c)(i) the specified date—

- (a) in relation to the 1995 acceding states is 1st January 1987;
- (b) in relation to the 2004 acceding states is 1st May 2006; and
- (c) in relation to the 2007 acceding states is 1st January 1999.”.

Dave Hartnett
Mike Eland

11th December 2006

Two of the Commissioners for Her Majesty’s Revenue and Customs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st January 2007, 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 conditions of Accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded, signed at Luxembourg on 25th April 2005(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 Romania and Bulgaria. The use of the alphabetical code is required by Article 22(1)(d) of Council Directive 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) (“the Implementing Regulation”) as a consequence of modifications made to those instruments by the Act of Accession and by Council Regulation (EC) No. 1791/2006(e). The Act of Accession provides that the Community Customs Code and the Implementing Regulation will apply to Bulgaria and Romania subject to certain modifications contained in the Act of Accession (see chapter 4 of Annex V to the Act of Accession). Council Regulation (EC) No. 1791/2006 amends the Community Customs Code to bring Romania and Bulgaria within the customs territory of the Community (see article 1 of, and chapter 12 of the Annex to, the Regulation).

Regulation 5 amends regulation 138 of the principal Regulations. Regulation 138 implements Article 28p of the Sixth Directive(f). Article 28p introduced transitional arrangements for the taxation of goods from Austria, Finland and Sweden when they joined the European Union in 1995 and was subsequently amended to include transitional arrangements for the 10 member States to join the European Union in 2004. Council Directive 2006/98/EC adapting certain Directives in the field of taxation, by reason of the Accession of Bulgaria and Romania(g) amends Article 28(p) to provide transitional arrangements for Bulgaria and Romania. 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 Bulgaria or Romania before the 1st January 2007 and which arrive in the United Kingdom on or after that date, or those goods which are removed on or after 1st January 2007 from specified customs arrangements or procedures under which they were placed before that date.

(a) OJ No L 157, 21.6.05, p203.

(b) OJ No L 145, 13.6.1977, p1.

(c) OJ L 302, 19.10.1992 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.) and 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 (OJ No L236, 23.9.03, p33).

(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 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 (OJ No L236, 23.9.03, p33) and Commission Regulation (EC) No 2286/2003 (OJ L 343, 31.12.2003, p1).

(e) OJ No L

(f) Article 28p was inserted by EC Council Directive 94/76 (OJ No L 365, 31.12.94, p53).

(g) OJ No. L

A transposition note setting out how these Regulations affect the implementation of the requirements of the Sixth Directive is available at www.hmrc.gov.uk .

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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