
STATUTORY INSTRUMENTS

2011 No. 86

The Value Added Tax (Buildings and Land) Order 2011

Amendment of Schedule 10 to the Value Added Tax Act 1994

8. For paragraphs 35 to 37 (residential and charitable buildings: change of use etc) and their headings substitute—

“Introductory

35.—(1) This Part of this Schedule applies where one or more relevant zero-rated supplies relating to a building (or part of a building) have been made to a person (“P”).

(2) In this Part of this Schedule—

“relevant zero-rated supply” means a grant or other supply which relates to a building (or part of a building) intended for use solely for—

(a) a relevant residential purpose, or

(b) a relevant charitable purpose,

and which, as a result of Group 5 of Schedule 8(1), is zero-rated (in whole or in part);

“relevant premises” means the building (or part of a building) in relation to which a relevant zero-rated supply has been made to P;

“relevant period”, in relation to relevant premises, means 10 years beginning with the day on which the relevant premises are completed.

(3) Where P is a body corporate treated as a member of a group under sections 43A to 43D(2), any reference in this Part of this Schedule to P includes a reference to any member of that group.

Disposal of interest or change of use following relevant zero-rated supply

36.—(1) Paragraph 37 applies on each occasion during the relevant period when—

(a) there is an increase in the proportion of the relevant premises falling within subparagraph (2) or (3), and

(b) as a result, the proportion of the relevant premises so falling (“R2”) exceeds the maximum proportion of those premises so falling at any earlier time in the relevant period (“R1”).

(2) The relevant premises fall (or part of the relevant premises falls) within this subparagraph if P has, since the beginning of the relevant period, disposed of P’s entire interest in the relevant premises (or part).

(3) The relevant premises fall (or a part of the relevant premises falls) within this subparagraph if—

(1) Group 5 was substituted by the Value Added Tax (Construction of Buildings) Order [SI 1995/280](#)
(2) Sections 43A, B and C were inserted by section 16 of and paragraph 2 of Schedule 2 to the Finance Act 1999 (c. 16), subject to paragraph 6 of Schedule 2 to that Act. Sections 43AA and D were inserted by section 20(2) of the Finance Act 2004 (c. 12). There are also amendments to sections 43A to D which are not relevant to this Order.

- (a) those premises do not (or that part does not) fall within sub-paragraph (2), and
 - (b) those premises are (or that part is) being used for a purpose that is neither a relevant residential purpose nor a relevant charitable purpose.
- (4) Sub-paragraph (5) applies where—
- (a) only a proportion of the use of the relevant premises (or the use of a part of those premises) is for a relevant residential purpose or a relevant charitable purpose, and
 - (b) that use is not confined to a part of those premises (or of that part) which is used solely for a relevant residential purpose or a relevant charitable purpose.
- (5) Where this sub-paragraph applies, sub-paragraph (3) applies as if—
- (a) the same proportion of the relevant premises (or part) were being used for a relevant residential purpose or a relevant charitable purpose, and
 - (b) the remainder of the relevant premises (or part) were being used for a purpose that is neither a relevant residential purpose nor a relevant charitable purpose.
- (6) Where P is a charity using the relevant premises (or a part of the relevant premises) as a village hall or similarly in providing social or recreational facilities for a local community the premises are (or the part is) treated as being used for a relevant charitable purpose whether or not any person in occupation is using the premises (or part) for a relevant charitable purpose.

Charge to VAT

37.—(1) Where this paragraph applies, P's interest, right or licence in the relevant premises held immediately prior to the time when the increase referred to in paragraph 36(1) occurs is treated for the purposes of this Part of this Schedule as—

- (a) supplied to P for the purposes of a business which P carries on, and
- (b) supplied by P in the course or furtherance of that business

immediately prior to the time of that increase.

(2) The supply is taken to be a taxable supply which is not zero-rated as a result of Group 5 of Schedule 8.

(3) The value of the supply is taken to be—

- (a) in the case of the first deemed supply under this paragraph, the amount obtained by the formula—

$$R2 \times Y \times \left(\frac{120 - Z}{120} \right), \text{ and}$$

- (b) in the case of any subsequent deemed supply under this paragraph, the amount obtained by the formula—

$$(R2 - R1) \times Y \times \left(\frac{120 - Z}{120} \right)$$

(4) For the purpose of sub-paragraph (3)—

- (a) R1 and R2 have the meaning given by paragraph 36(1)(b),
- (b) Y is the amount that yields an amount of VAT chargeable on it equal to—
 - (i) the VAT which would have been chargeable on the relevant zero-rated supply, or

- (ii) if there was more than one supply, the aggregate amount of the VAT which would have been chargeable on the supplies, had the relevant premises not been intended for use solely for a relevant residential purpose or a relevant charitable purpose, and
- (c) Z is the number of whole months since the day on which the relevant premises were completed.”