
STATUTORY INSTRUMENTS

2022 No. 226

The Value Added Tax (Enforcement Related to Distance Selling and Miscellaneous Amendments) Regulations 2022

PART 2

Amendments to secondary legislation

Amendments to the Value Added Tax Regulations 1995

28. In Part 16 (importations, exportations and removals in respect of Great Britain), after regulation 121D (modifications and exceptions for the application of returned goods relief) insert—

“Repayment of import VAT to certain taxable persons

121E.—(1) This regulation applies where—

- (a) a taxable person⁽¹⁾ (“P”) has paid to the Commissioners an amount in respect of import VAT (“the import VAT”) and P is entitled to repayment of that amount because—
 - (i) the import VAT was not due when it was paid;
 - (ii) a reduced duty case within the meaning of Chapter 2 of Part 7 of the Customs (Import Duty) (EU Exit) Regulations 2018⁽²⁾ applies; or
 - (iii) all or part of the import duty⁽³⁾ which was included (by virtue of section 21(2)(a) of the Act⁽⁴⁾) in the value of the imported goods has been remitted or repaid; and
- (b) P did not account for the import VAT in accordance with regulation 4 of the Value Added Tax (Accounting Procedures for Import VAT for VAT Registered Persons and Amendment) (EU Exit) Regulations 2019⁽⁵⁾.

(2) P may make a negative entry for the import VAT in the VAT payable portion of P’s VAT account.

(3) Where P has deducted an amount of input tax in respect of the import VAT and makes the entry under paragraph (2), P must also make a negative entry in the VAT allowable portion of P’s VAT account for that input tax.

(1) “Taxable person” is defined in section 96(1) of VATA.

(2) S.I. 2018/1248; amended by S.I. 2019/486, 2019/1346 and 2020/1605. There are other amending provisions, but none is relevant.

(3) “Import duty” is defined in section 96(1) of VATA.

(4) “The Act” is defined in regulation 2 of S.I. 1995/2518 as the Value Added Tax Act 1994 (c. 23). Section 21(2) was amended by paragraph 23 of Schedule 8 to the Taxation (Cross-border Trade) Act 2018 (c. 22) (“TCTA”), section 18 of the Finance Act 2006 (c. 25) and section 27 of, and paragraph 1 of Schedule 8 to, the Finance Act 1996 (c. 8).

(5) S.I. 2019/60, amended by S.I. 2020/1495, 2020/1545, 2020/715 and 2021/1375.

(4) The entries under paragraphs (2) and (3) may be made in the part of P's VAT account which relates to the prescribed accounting period⁽⁶⁾ in which P becomes aware of P's entitlement to repayment or a later prescribed accounting period.

(5) The entry under paragraph (2) may not be made more than 4 years after the end of the prescribed accounting period in which the importation of the goods took place.

(6) Except as provided by this regulation, no claim for repayment or credit in relation to the import VAT may be made (and, accordingly, section 16(2) of the Act⁽⁷⁾ does not have effect to the extent that it would apply a different provision about the way in which a claim for repayment or credit in relation to the import VAT may be made).

(7) For the purposes of this regulation—

“import VAT” means VAT chargeable by virtue of section 1(1)(c) of the Act⁽⁸⁾ as a result of the entry of goods into Great Britain;

“negative entry”, “VAT account”, “VAT allowable portion” and “VAT payable portion” have the same meanings as they do in regulation 24.”.

⁽⁶⁾ “Prescribed accounting period” is defined in section 96(1) of VATA.

⁽⁷⁾ Section 16 was substituted by paragraph 13 of Schedule 8(1) to TCTA.

⁽⁸⁾ Section 1(1)(c) was substituted by section 42(2)(b) of TCTA.